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65-3321. Definitions. As used in K.S.A. 65-3321 through 65-3329:

- (a) "Fund" means the Kansas water pollution control revolving fund established by K.S.A. 65-3322 of this act.
- (b) "Municipality" means any city, county, township, sewer district, improvement district, or other political subdivision of the state, or any combination thereof, which is authorized by law to construct, operate, and maintain wastewater treatment works.
- (c) "Wastewater treatment works" means any treatment works, as defined in the federal act, which is publicly owned.
- (d) "Project" means the acquisition, construction, improvement, repair, rehabilitation, or extension of a wastewater treatment works.
- (e) "Project costs" means all costs or expenses which are necessary or incident to a project and which are directly attributable thereto.
- (f) "Federal act" means the federal clean water act as amended by the federal water quality act of 1987.
- (g) "Administrator" means the administrator of the United States environmental protection agency.
- (h) "Secretary" means the secretary of health and environment.

History: L. 1988, ch. 320, § 1; July 1.

65-3322. Kansas water pollution control revolving fund established; sources of revenue; use of moneys credited to fund. (a) There is hereby established in the state treasury a fund to be maintained in perpetuity and to be known as the Kansas water pollution control revolving fund. The fund shall consist of:

- (1) Amounts awarded or otherwise made available to this state under the federal act for the purposes of the fund;
- (2) amounts appropriated or otherwise made available by the legislature for the purposes of the fund;
- (3) the proceeds, if any, derived from the sale of bonds issued by the Kansas development finance authority for the purposes of the fund to the extent provided in any agreement entered into by the secretary and the authority;
- (4) amounts of repayments made by municipalities of loans received under K.S.A. 65-3321 through 65-3329, and amendments thereto, together with payments of interest thereon, in accordance with agreements entered into by such municipalities and the secretary;

(5) amounts earned on moneys in the fund; and

(6) amounts contributed or otherwise made available by any public or private entity for use in effectuating the purposes of the fund.

(b) Subject to the conditions and in accordance with requirements of the federal act and the provisions of K.S.A. 65-3321 through 65-3329, and amendments thereto, the fund may be used only:

(1) To make loans to municipalities for payment of all or a part of project costs;

(2) to carry out planning for wastewater treatments works;

(3) for implementation of nonpoint source pollution control programs;

(4) as a source of revenue or security for the payment of principal and interest on bonds issued by the Kansas development finance authority if, and to the extent that, the proceeds of the sale of such bonds are deposited in the fund;

(5) as a source of revenue or security for the payment of principal and interest on bonds issued by the Kansas development finance authority pursuant to the provisions of K.S.A. 65-163d through 65-163u, and amendments thereto;

(6) to earn interest on moneys in the fund;

(7) to make grants to qualifying projects as authorized by the federal appropriation act of 1996 (P.L. 104-134), in accordance with the rural communities hardship grants program implementation guidelines (Federal Register, March 20, 1997);

(8) to make grants to qualifying projects as authorized by the consolidated appropriations act of 2001 (P.L. 106-554), in accordance with the wet weather water quality act of 2000; and

(9) for the reasonable costs, in amounts not to exceed 4% of all amounts awarded to the state for the fund under title VI of the federal act, of administering the fund and conducting activities under K.S.A. 65-3321 through 65-3329, and amendments thereto, and for reasonable costs after amounts cease to be awarded by the federal government under title VI of the federal act, as determined by the secretary, of administering the fund and conducting activities under K.S.A. 65-3321 through 65-3329, and amendments thereto. Such costs shall be identified annually in development of the intended use plan as described in K.S.A. 65-3325, and amendments thereto.

(c) On or before the 10th of each month, the director of accounts and reports shall transfer from the state general fund to the Kansas water pollution control revolving fund interest earnings based on:

(1) The average daily balance of moneys in the Kansas water pollution control revolving fund for the preceding month; and

(2) the net earnings rate of the pooled money investment portfolio for the preceding month.

(d) All payments and disbursements from the fund shall be made upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary or by a person or persons designated by the secretary. All payments and disbursements from the fund, and beginning and ending balances thereof, shall be subject each year to post audit in accordance with article 11 of chapter 46 of the Kansas Statutes Annotated.

History: L. 1988, ch. 320, § 2; L. 1992, ch. 272, § 6; L. 1996, ch. 253, § 14; L. 2001, ch. 70, § 1; L. 2006, ch. 100, § 2; July 1.

65-3323. Powers and duties of secretary of health and environment. The secretary shall administer the provisions of K.S.A. 65-3321 through 65-3329, shall be responsible for administration and management of the fund, and is hereby authorized to:

- (a) Enter into agreements with the administrator, which agreements shall include but not be limited to the specific requirements of the federal act;
- (b) establish jointly with the administrator a schedule of payments under which the administrator will pay to the state the amounts made available under the federal act;
- (c) accept amounts paid to the state in accordance with the schedule of payments and cause such amounts to be deposited in the state treasury and credited to the fund;
- (d) enter into binding commitments for the provision of loans in accordance with the requirements of the federal act and the provisions of K.S.A. 65-3321 through 65-3329;
- (e) review applications of municipalities for loans and select the projects for which loans will be made available each year;
- (f) provide the administrator, the governor and the legislature with the annual report prepared in accordance with K.S.A. 65-3328 and with copies of the audit required under K.S.A. 65-3322; and
- (g) adopt rules and regulations necessary for effectuation of the provisions of K.S.A. 65-3321 through 65-3329.

History: L. 1988, ch. 320, § 3; July 1.

65-3324. Project priority list; development; loans available to municipalities having population of 5,000 or less. (a) The secretary shall develop a priority system for projects, establish ranking criteria therefor, review applications of municipalities for loans, and prepare an annual project priority list. The project priority list shall be in conformance with applicable provisions of the federal act and shall include a description of each project, the purpose, cost and construction schedule therefor, and the municipality to be served or benefited thereby. After preparation of the project priority list, the secretary shall select from such list the projects for which loans will be made available.

(b) In performing the functions and duties required by subsection (a), the secretary shall ensure that a fair proportion, at least but not limited to 10%, of the total dollar amount of loans to be made available to municipalities from the fund in each year will be made available for projects of municipalities having a population of 5,000 or less. In the event the municipalities to which this subsection applies are unable to utilize the total amount made available

under this subsection, the secretary is authorized to make the unused amount available for projects of other municipalities on the project priority list.

History: L. 1988, ch. 320, § 4; July 1.

65-3325. Intended use plan; preparation. After providing for public comment and review each year, the secretary shall prepare a plan identifying the intended uses of the moneys available in the fund. The intended use plan shall include, but not be limited to:

- (a) The project priority list;
- (b) a list of activities, if any, for which the fund is authorized to be used under subsection (b)(3) of K.S.A. 65-3322;
- (c) a description of the short- and long-term goals and objectives of the fund;
- (d) information on the projects and activities to be supported, including a description thereof, terms of loans to be provided, and municipalities to be served or benefited;
- (e) assurances and specific proposals for meeting the requirements of the federal act; and
- (f) the criteria and method established for the provision of loans to be made from the fund.

History: L. 1988, ch. 320, § 5; July 1.

65-3326. Application for loan; form; agreements with municipality; contents; repayment; effect of failure of municipality to enter into agreement; assistance to municipality. (a) Municipalities which desire the provision of a loan under K.S.A. 65-3321 through 65-3329 shall submit an application therefor to the secretary. Applications shall be in such form and shall include such information as the secretary shall require and shall be submitted in a manner and at a time to be determined by the secretary.

(b) The secretary may enter into agreements with any municipality for the provision of a loan thereto for payment of all or a part of project costs and any municipality may enter into such an agreement and may accept such loan when so authorized by its governing body. The purposes of the loan to be provided, the amount thereof, the interest rate thereon, and the repayment terms and conditions thereof, all of which may vary among municipalities, shall be included in the agreements. Loans shall be provided at or below market interest rates and may be provided interest free. All such agreements shall require that municipalities establish a dedicated source of revenue for repayment of the loans as provided in K.S.A. 65-3327. Such agreements shall further provide that repayment of any loan received shall begin not later than one year after completion of the project and that such loan shall be repaid in full no later than 20 years thereafter.

(c) In the event any municipality to which a loan is made available under K.S.A. 65-3321 through 65-3329 fails to enter into an agreement with the secretary for the provision of such loan in accordance with the requirements of such

statutes, the secretary is authorized to make the amount of the loan available for one or more other projects on the project priority list.

(d) The secretary shall provide any municipality, upon its request, with technical advice and assistance regarding a project or an application for a loan for the payment of all or a part of project costs.

History: L. 1988, ch. 320, § 6; July 1.

65-3327. Repayment of loans; dedicated revenue sources; user charges; failure of municipality to meet repayment terms; project accounts; repayment from federal grants; loan not part of bonded indebtedness. (a) The dedicated source of revenue for repayment of the loans may include service charges, connection fees, special assessments, property taxes, grants or any other source of revenue lawfully available to the municipality for such purpose. In order to ensure repayment by municipalities of the amounts of loans provided under K.S.A. 65-3321 through 65-3329, and amendments thereto, the secretary, after consultation with the governing body of any municipality which receives a loan, may adopt charges to be levied against users of the project. Any such charges shall remain in effect until the total amount of the loan, and any interest thereon, has been repaid. The charges shall, insofar as is practicable, be equitably assessed and may be in the form of a surcharge to the existing charges of the municipality. The governing body of any municipality which receives a loan under K.S.A. 65-3321 through 65-3329, and amendments thereto, shall collect any charges established by the secretary and shall pay the moneys collected therefrom to the secretary in accordance with procedures established by the secretary.

(b) Upon the failure of a municipality to meet the repayment terms and conditions of the agreement, the secretary may order the treasurer of the county in which the municipality is located to pay to the secretary such portion of the municipality's share of the local ad valorem tax reduction fund as may be necessary to meet the terms of the agreement, notwithstanding the provisions of K.S.A. 79-2960 and 79-2961 and amendments thereto. Upon the issuance of such an order, the municipality shall not be required to make the tax levy reductions otherwise required by K.S.A. 79-2960 and 79-2961 and amendments thereto.

(c) Municipalities which are provided with loans under K.S.A. 65-3321 through 65-3329, and amendments thereto, shall maintain project accounts in accordance with generally accepted government accounting standards.

(d) Municipalities which receive a grant and an allowance under the federal act with respect to project costs for which a loan was provided under K.S.A. 65-3321 through 65-3329, and amendments thereto, shall promptly repay such loan to the extent of the allowance received under the federal act.

(e) Any loans received by a municipality under the provisions of K.S.A. 65-3321 through 65-3329, and amendments thereto, shall be construed to be bonds for the purposes of K.S.A. 10-1116 and 79-5028, and amendments thereto, and the amount of such loans shall not be included within any limitation on the bonded indebtedness of the municipality.

History: L. 1988, ch. 320, § 7; L. 1990, ch. 66, § 43; L. 1991, ch. 195, § 1; Apr. 18.

65-3328. Annual report. The secretary shall prepare an annual report describing how the state has met the goals and objectives for the previous year as identified in the intended use plan prepared pursuant to K.S.A. 65-3325. The secretary shall submit the annual report to the administrator, the governor, and the legislature.

History: L. 1988, ch. 320, § 8; July 1.

65-3329. Activities of department of health and environment under act and issuance of bonds by Kansas development finance authority under act approved for purposes of K.S.A. 74-8905. The activities of the department of health and environment in administering and performing the powers, duties and functions prescribed by the provisions of K.S.A. 65-3321 through 65-3329 and providing for the payment of the matching grant requirements under the federal act from the proceeds of revenue bonds issued for such purpose by the Kansas development finance authority are hereby approved for the purposes of subsection (b) of K.S.A. 74-8905 and amendments thereto and the authorization of the issuance of such bonds by the Kansas development finance authority in accordance with that statute. The provisions of subsection (a) of K.S.A. 74-8905 and amendments thereto shall not prohibit the issuance of bonds for such purposes when so authorized and any such issuance of bonds is exempt from the provisions of subsection (a) of K.S.A. 74-8905 and amendments thereto.

History: L. 1988, ch. 320, § 9; July 1.