Session of 2020

HOUSE BILL No. 2534

By Committee on Appropriations

1-30

 AN ACT concerning abandoned oil and gas wells; relating to the state corporation commission; abolishing the well plugging assurance fund; transferring assets and liabilities to the abandoned oil and gas well fund; amending K.S.A. 27-118, 55-161, 55-168, 55-179, 55-180, 55-192 and 75-3036 and K.S.A. 2019 Supp. 55-155 and repealing the existing sections; also repealing K.S.A. 55-166 and 55-167 and K.S.A. 2019 Supp. 55-193.

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9 Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 27-118 is hereby amended to read as follows: 27-11 118. All moneys received by the state of Kansas from the United States under the mineral leasing act as the state's share shall be deposited in the state treasury by the state treasurer, and 50% of all such moneys shall be credited to the state general fund, and the remaining 50% shall be credited to the abandoned oil and gas well fund established by K.S.A.-2000 Supp. 55-192, and amendments thereto.

17 Sec. 2. K.S.A. 2019 Supp. 55-155 is hereby amended to read as 18 follows: 55-155. (a) Operators and contractors shall be licensed by the 19 commission pursuant to this section.

20 (b) Every operator and contractor shall file an application or a 21 renewal application with the commission. Application and renewal 22 application forms shall be prescribed, prepared and furnished by the 23 commission.

(c) No application or renewal application shall be approved until theapplicant has:

26 (1) Provided sufficient information, as required by the commission,27 for purposes of identification;

(2) submitted evidence that all current and prior years' taxes forproperty associated with the drilling or servicing of wells have been paid;

30 (3) demonstrated to the commission's satisfaction that the applicant 31 complies with all requirements of chapter 55 of the Kansas Statutes 32 Annotated, and amendments thereto, all rules and regulations adopted 33 thereunder and all commission orders and enforcement agreements, if the 34 applicant is registered with the federal securities and exchange 35 commission;

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(4) demonstrated to the commission's satisfaction that the following

comply with all requirements of chapter 55 of the Kansas Statutes 1 2 Annotated, and amendments thereto, all rules and regulations adopted 3 thereunder and all commission orders and enforcement agreements, if the 4 applicant is not registered with the federal securities and exchange 5 commission: (A) The applicant; (B) any officer, director, partner or 6 member of the applicant; (C) any stockholder owning in the aggregate 7 more than 5% of the stock of the applicant; and (D) any spouse, parent, 8 brother, sister, child, parent-in-law, brother-in-law or sister-in-law of the 9 foregoing;

(5) paid an annual license fee of \$100, except that an applicant for a
license who is operating one or more gas wells used strictly for personal
use on the property where such gas wells are located shall pay an annual
license fee of \$25;

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(6) complied with subsection (d); and

(7) paid an annual license fee of \$25 for each rig operated by the
applicant. The commission shall issue an identification tag for each such
rig which shall be displayed on such rig at all times.

(d) In order to assure financial responsibility, each operator shallannually demonstrate compliance with one of the following provisions:

(1) The operator has obtained an individual performance bond or
letter of credit, in an amount equal to \$.75 times the total aggregate depth
of all wells, including active, inactive, injection or disposal, of the
operator.

(2) The operator has obtained a blanket performance bond or letter of
 credit in an amount equal to the following, according to the number of
 wells, including active, inactive, injection or disposal, of the operator:

(A) Wells less than 2,000 feet in depth: 1 through 5 wells, \$7,500; 6
through 25 wells, \$15,000; and over 25 wells, \$30,000.

(B) Wells 2,000 or more feet in depth: 1 through 5 wells, \$15,000; 6
through 25 wells, \$30,000; and over 25 wells, \$45,000.

31 (3) The operator: (A) Has an acceptable record of compliance, as 32 demonstrated during the preceding 36 months, with commission rules and 33 regulations regarding safety and pollution or with commission orders 34 issued pursuant to such rules and regulations; (B) has no outstanding 35 undisputed orders issued by the commission or unpaid fines, penalties or 36 costs assessed by the commission and has no officer or director that has 37 been or is associated substantially with another operator that has any such 38 outstanding orders or unpaid fines, penalties or costs; and (C) pays a 39 nonrefundable fee of \$100 per year.

40 (4) The operator pays a nonrefundable fee equal to 6% of the amount 41 of the bond or letter of credit that would be required by subsection (d)(2).

42 (5) The state has a first lien on tangible personal property associated 43 with oil and gas production of the operator that has a salvage value equal 1 to not less than the amount of the bond or letter of credit that would be 2 required by subsection (d)(1) or by subsection (d)(2).

3 (6) The operator has provided other financial assurance approved by 4 the commission.

5 (e) Upon the approval of the application or renewal application, the 6 commission shall issue to such applicant a license which shall be in full 7 force and effect until one year from the date of issuance or until 8 surrendered, suspended or revoked as provided in K.S.A. 55-162, and 9 amendments thereto. No new license shall be issued to any applicant who 10 has had a license revoked until the expiration of one year from the date of 11 such revocation.

12 (f) If an operator transfers responsibility for the operation of a well or 13 gas gathering system or for underground porosity storage of natural gas to another person, such operator shall file a notice of transfer of operator with 14 the commission in accordance with rules and regulations of the 15 16 commission. The commission shall, upon receipt of such notice, send a 17 copy of such notice to the surface owner, as well as the contact 18 information, including name, address, phone number, fax or email address, 19 for a designated representative of the operator. The commission need not 20 send such information if the operator verifies that the notice filed with the 21 commission has been delivered to the surface owner. The commission 22 need not send a copy of notice to the surface owner for transfers of 23 responsibility for the operation of a gas gathering system or for 24 underground porosity storage of natural gas to another person.

(g) The commission shall remit all moneys received from fees assessed pursuant to subsection (c)(7)-of 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 and credit 10% of each such deposit to the state general fund with the balance credited to the conservation fee fund created by K.S.A. 55-143, and amendments thereto.

(h) The commission shall remit all moneys received pursuant to subsections (d)(3) and (d)(4) 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 well plugging assurance fundabandoned oil and gas well fund established pursuant to K.S.A. 55-192, and amendments thereto.

Sec. 3. K.S.A. 55-161 is hereby amended to read as follows: 55-161. The commission shall investigate abandoned wells, and, based on actual or potential pollution problems, may select abandoned wells to be drilled out by the commission in order to test the integrity of the plugs. The cost of such testing shall be paid from the well plugging assurance fund or the 1 abandoned oil and gas well fund, as appropriate established pursuant to

2 *K.S.A.* 55-192, and amendments thereto.

3 Sec. 4. K.S.A. 55-168 is hereby amended to read as follows: 55-168. 4 Whenever there are insufficient moneys in the well plugging assurance 5 fund or the abandoned oil and gas well fund established pursuant to K.S.A. 6 55-192, and amendments thereto, to pay the liabilities of such fund, such 7 liabilities shall be and are hereby imposed on the conservation fee fund, 8 established pursuant to K.S.A. 55-143, and amendments thereto, provided 9 such liabilities were incurred in accordance with the prioritization 10 schedules schedule established pursuant to-subsection (b)(2) of K.S.A. 55-166, and amendments thereto, and subsection (b)(2) of K.S.A. 55-192, and 11 12 amendments thereto.

Sec. 5. K.S.A. 55-179 is hereby amended to read as follows: 55-179. (a) Upon receipt of any complaint filed pursuant to K.S.A. 55-178, and amendments thereto, the commission shall make an investigation for the purpose of determining whether such abandoned well is polluting or is likely to pollute any usable water strata or supply or causing the loss of usable water, or the commission may initiate such investigation on its own motion. If the commission determines:

20 (1) That such abandoned well is causing or likely to cause such 21 pollution or loss; and

22 (2) (A) that no person is legally responsible for the proper care and 23 control of such well; or (B) that the person legally responsible for the care 24 and control of such well is dead, is no longer in existence, is insolvent or 25 cannot be found, then, after completing its investigation, and as funds are available, the commission shall plug, replug or repair such well, or cause it 26 27 to be plugged, replugged or repaired, in such a manner as to prevent any 28 further pollution or danger of pollution of any usable water strata or supply 29 or loss of usable water, and shall remediate pollution from the well, 30 whenever practicable and reasonable. The cost of the investigation; the 31 plugging, replugging or repair; and the remediation shall be paid by the 32 commission from the well plugging assurance fund or the abandoned oil 33 and gas well fund, as appropriate established pursuant to K.S.A. 55-192, 34 and amendments thereto.

35 (b) For the purposes of this section, a person who is legally 36 responsible for the proper care and control of an abandoned well shall 37 include, but is not limited to, one or more of the following: Any operator 38 of a waterflood or other pressure maintenance program deemed to be 39 causing pollution or loss of usable water; the current or last operator of the 40 lease upon which such well is located, irrespective of whether such operator plugged or abandoned such well; the original operator who 41 plugged or abandoned such well; and any person who without 42 43 authorization tampers with or removes surface equipment or downhole 1 equipment from an abandoned well.

2 (c) Whenever the commission determines that a well has been 3 abandoned and is causing or is likely to cause pollution of any usable 4 water strata or supply or loss of usable water, and whenever the 5 commission has reason to believe that a particular person is legally 6 responsible for the proper care and control of such well, the commission 7 shall cause such person to come before it at a hearing held in accordance 8 with the provisions of the Kansas administrative procedure act to show 9 cause why the requisite care and control has not been exercised with 10 respect to such well. After such hearing, if the commission finds that the person is legally responsible for the proper care and control of such well 11 12 and that such well is abandoned, in fact, and is causing or is likely to cause 13 pollution of any usable water strata or supply or loss of usable water, the 14 commission may make any order or orders prescribed in K.S.A. 55-162, 15 and amendments thereto. Proceedings for reconsideration and judicial review of any of the commission's orders may be held pursuant to K.S.A. 16 17 55-606, and amendments thereto.

(d) For the purpose of this section, any well which has been
abandoned, in fact, and has not been plugged pursuant to the rules and
regulations in effect at the time of plugging such well shall be and is
hereby deemed likely to cause pollution of any usable water strata or
supply.

(e) For the purpose of this section, the person legally responsible for
the proper care and control of an abandoned well shall not include the
landowner or surface owner unless the landowner or surface owner has
operated or produced the well, has deliberately altered or tampered with
such well thereby causing the pollution or has assumed by written contract
such responsibility.

Sec. 6. K.S.A. 55-180 is hereby amended to read as follows: 55-180. 29 30 (a) The fact that any person has initiated or supported a proceeding before 31 the commission, or has remedied or attempted to remedy the condition of 32 any well under the authority of this act, shall not be construed as an 33 admission of liability or received in evidence against such person in any 34 action or proceeding wherein responsibility for or damages from surface or 35 subsurface pollution, or injury to any usable water or oil-bearing or gas-36 bearing formation, is or may become an issue; nor shall such fact be 37 construed as releasing or discharging any action, cause of action or claim 38 against such person existing in favor of any third person for damages to 39 property resulting from surface or subsurface pollution, or injury to any 40 usable water or oil-bearing or gas-bearing formation.

(b) The commission, on its own motion, may initiate an investigation
into any pollution problem related to oil and gas activity. In taking such
action the commission may require or perform the testing, sampling,

monitoring or disposal of any source of groundwater pollution related to
 oil and gas activities.

3 (c) The commission or any other person authorized by the 4 commission who has no obligation to plug, replug or repair any abandoned 5 well, but who does so in accordance with the provisions of this act, shall 6 have a cause of action for the reasonable cost and expense incurred in 7 plugging, replugging or repairing the well against any person who is 8 legally responsible for the proper care and control of such well pursuant to the provisions of K.S.A. 55-179, and amendments thereto, and the 9 commission or other person shall have a lien upon the interest of such 10 obligated person in and to the oil and gas rights in the land and equipment 11 12 located thereon.

13 (d) Any moneys recovered by the commission in an action pursuant 14 to subsection (c) shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt 15 16 of each such remittance, the state treasurer shall deposit the entire amount 17 in the state treasury to the credit of the conservation fee fund, wellplugging assurance fund established pursuant to K.S.A. 55-143, and 18 19 amendments thereto, or the abandoned oil and gas well fund established 20 pursuant to K.S.A. 55-192, and amendments thereto, as appropriate based 21 on the fund from which the costs incurred by the commission were paid.

Sec. 7. K.S.A. 55-192 is hereby amended to read as follows: 55-192.
(a) There is hereby established in the state treasury the abandoned oil and gas well fund.

25 (b) Moneys in the abandoned oil and gas well fund shall be used only for the purpose of paying the costs of: (1) Investigation and remediation of 26 contamination sites; (2) investigation of abandoned wells, and their well 27 28 sites, drilling of which began before July 1, 1996; and (3) plugging, 29 replugging or repairing abandoned wells; and remediation of the well sites; drilling of which began before July 1, 1996, in accordance with a 30 31 prioritization schedule adopted by the commission and based on the degree of threat to public health or the environment. No moneys credited to the 32 33 fund shall be used to pay administrative expenses of the commission or to 34 pay compensation or other expenses of employing personnel to carry out 35 the duties of the commission.

(c) On or before the 10th day of each month, the director of accounts
and reports shall transfer from the state general fund to the abandoned oil
and gas well fund interest earnings based on: (1) The average daily balance
of moneys in the abandoned oil and gas well fund for the preceding month;
and (2) the net earnings rate for the pooled money investment portfolio for
the preceding month.

42 (d) All expenditures from the abandoned oil and gas well fund shall 43 be made in accordance with appropriations acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by
 the chairperson of the state corporation commission or a person designated
 by the chairperson.

4 (e) On July 1, 2020: (1) The director of accounts and reports shall 5 transfer all moneys in the well plugging assurance fund established 6 pursuant to K.S.A. 55-166, prior to its repeal, to the abandoned oil and 7 gas well fund; (2) all liabilities of the well plugging assurance fund are 8 hereby transferred to and imposed on the abandoned oil and gas well 9 fund; and (3) the well plugging assurance fund is hereby abolished.

Sec. 8. K.S.A. 75-3036 is hereby amended to read as follows: 75-10 3036. (a) The state general fund is exclusively defined as the fund into 11 12 which shall be placed all public moneys and revenue coming into the state 13 treasury not specifically authorized by the constitution or by statute to be 14 placed in a separate fund, and not given or paid over to the state treasurer 15 in trust for a particular purpose, which unallocated public moneys and 16 revenue shall constitute the general fund of the state. Moneys received or 17 to be used under constitutional or statutory provisions or under the terms 18 of a gift or payment for a particular and specific purpose are to be kept as 19 separate funds and shall not be placed in the general fund or ever become a 20 part of it.

21 (b) The following funds shall be used for the purposes set forth in the 22 statutes concerning such funds and for no other governmental purposes. It 23 is the intent of the legislature that the following funds and the moneys 24 deposited in such funds shall remain intact and inviolate for the purposes 25 set forth in the statutes concerning such funds: Board of accountancy fee fund, K.S.A. 1-204 and 75-1119b, and amendments thereto, and special 26 27 litigation reserve fund of the board of accountancy; bank commissioner fee 28 fund, K.S.A. 9-1703, 16a-2-302 and 75-1308, and amendments thereto, bank investigation fund, K.S.A. 9-1111b, and amendments thereto, 29 30 consumer education settlement fund and litigation expense fund of the 31 state bank commissioner; securities act fee fund and investor education 32 and protection fund, K.S.A. 17-12a601, and amendments thereto, of the 33 office of the securities commissioner of Kansas; credit union fee fund, 34 K.S.A. 17-2236, and amendments thereto, of the state department of credit 35 unions; court reporters fee fund, K.S.A. 20-1a02, and amendments thereto, 36 and bar admission fee fund, K.S.A. 20-1a03, and amendments thereto, of 37 the judicial branch; fire marshal fee fund, K.S.A. 31-133a and 31-134, and 38 amendments thereto, and boiler inspection fee fund, K.S.A. 44-926, and 39 amendments thereto, of the state fire marshal; food service inspection 40 reimbursement fund, K.S.A. 36-512, and amendments thereto, of the 41 Kansas department of agriculture; wage claims assignment fee fund, 42 K.S.A. 44-324, and amendments thereto, and workmen's compensation fee 43 fund, K.S.A. 74-715, and amendments thereto, of the department of labor;

veterinary examiners fee fund, K.S.A. 47-820, and amendments thereto, of 1 2 the state board of veterinary examiners; mined-land reclamation fund, 3 K.S.A. 49-420, and amendments thereto, of the department of health and 4 environment; conservation fee fund and well plugging assurance fund-5 abandoned oil and gas well fund, K.S.A. 55-155, 55-176, 55-192, 55-609, 6 55-711 and 55-901, and amendments thereto, gas pipeline inspection fee 7 fund, K.S.A. 66-1,155, and amendments thereto, and public service 8 regulation fund, K.S.A. 66-1503, and amendments thereto, of the state 9 corporation commission; land survey fee fund, K.S.A. 58-2011, and 10 amendments thereto, of the state historical society; real estate recovery 11 revolving fund, K.S.A. 58-3074, and amendments thereto, of the Kansas 12 real estate commission; appraiser fee fund, K.S.A. 58-4107, and 13 amendments thereto, and appraisal management companies fee fund of the 14 real estate appraisal board; amygdalin (laetrile) enforcement fee fund, 15 K.S.A. 65-6b10, and amendments thereto; mortuary arts fee fund, K.S.A. 16 65-1718, and amendments thereto, of the state board of mortuary arts; 17 board of barbering fee fund, K.S.A. 65-1817a, and amendments thereto, of 18 the Kansas board of barbering; cosmetology fee fund, K.S.A. 65-1951 and 19 74-2704, and amendments thereto, of the Kansas state board of 20 cosmetology; healing arts fee fund, K.S.A. 65-2011, 65-2855, 65-2911, 65-21 5413, 65-5513, 65-6910, 65-7210 and 65-7309, and amendments thereto, 22 and medical records maintenance trust fund, of the state board of healing 23 arts; other state fees fund, K.S.A. 65-4024b, and amendments thereto. of 24 the Kansas department for aging and disability services; board of nursing 25 fee fund, K.S.A. 74-1108, and amendments thereto, of the board of nursing; dental board fee fund, K.S.A. 74-1405, and amendments thereto, 26 27 and special litigation reserve fund, of the Kansas dental board; optometry 28 fee fund, K.S.A. 74-1503, and amendments thereto, and optometry 29 litigation fund, of the board of examiners in optometry; state board of 30 pharmacy fee fund, K.S.A. 74-1609, and amendments thereto, and state 31 board of pharmacy litigation fund, of the state board of pharmacy; abstracters' fee fund, K.S.A. 74-3903, and amendments thereto, of the 32 33 abstracters' board of examiners; athletic fee fund, K.S.A. 74-50,188, and 34 amendments thereto, of the department of commerce; hearing instrument 35 board fee fund, K.S.A. 74-5805, and amendments thereto, and hearing 36 instrument litigation fund of the Kansas board of examiners in fitting and 37 dispensing of hearing instruments; commission on disability concerns fee 38 fund, K.S.A. 74-6708, and amendments thereto, of the governor's 39 department; technical professions fee fund, K.S.A. 74-7009, and 40 amendments thereto, and special litigation reserve fund of the state board 41 of technical professions; behavioral sciences regulatory board fee fund, 42 K.S.A. 74-7506, and amendments thereto, of the behavioral sciences 43 regulatory board; governmental ethics commission fee fund, K.S.A. 25-

4119e, and amendments thereto, of the governmental ethics commission; 1 2 emergency medical services board operating fund, K.S.A. 75-1514, and 3 amendments thereto, of the emergency medical services board; fire service training program fund, K.S.A. 75-1514, and amendments thereto, of the 4 5 university of Kansas; uniform commercial code fee fund, K.S.A. 75-448, 6 and amendments thereto, of the secretary of state; prairie spirit rails-to-7 trails fee fund of the Kansas department of wildlife, parks and tourism; 8 water marketing fund, K.S.A. 82a-1315c, and amendments thereto, of the 9 Kansas water office; insurance department service regulation fund, K.S.A. 10 40-112, and amendments thereto, of the insurance department; state fair special cash fund, K.S.A. 2-220, and amendments thereto, of the state fair 11 12 board; scrap metal theft reduction fee fund, K.S.A. 2019 Supp. 50-6,109a, 13 and amendments thereto; and any other fund in which fees are deposited 14 for licensing, regulating or certifying a person, profession, commodity or 15 product.

16 (c) If moneys received pursuant to statutory provisions for a specific 17 purpose by a fee agency are proposed to be transferred to the state general 18 fund or a special revenue fund to be expended for general government services and purposes in the governor's budget report submitted pursuant 19 20 to K.S.A. 75-3721, and amendments thereto, or any introduced house or 21 senate bill, the person or business entity who paid such moneys within the 22 preceding 24-month period shall be notified by the fee agency within 30 23 days of such submission or introduction:

(1) By electronic means, if the fee agency has an electronic address
on record for such person or business entity. If no such electronic address
is available, the fee agency shall send written notice by first class mail; or

(2) any agency that receives fees from a tax, fee, charge or levy paid
to the commissioner of insurance shall post the notification required by
this subsection on such agency's website.

30 (d) Any such moneys which that are wrongfully or by mistake placed 31 in the general fund shall constitute a proper charge against such general 32 fund. All legislative appropriations which do not designate a specific fund 33 from which they are to be paid shall be considered to be proper charges 34 against the general fund of the state. All revenues received by the state of 35 Kansas or any department, board, commission, or institution of the state of 36 Kansas, and required to be paid into the state treasury shall be placed in 37 and become a part of the state general fund, except as otherwise provided 38 by law.

(e) The provisions of this section shall not apply to the 10% credited
to the state general fund to reimburse the state general fund for accounting,
auditing, budgeting, legal, payroll, personnel and purchasing services, and
any and all other state governmental services, as provided in K.S.A. 753170a, and amendments thereto.

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1 (f) Beginning on January 8, 2018, the director of the budget shall 2 prepare a report listing the unencumbered balance of each fund in 3 subsection (b) on June 30 of the previous fiscal year and January 1 of the 4 current fiscal year. Such report shall be delivered to the secretary of the 5 senate and the chief clerk of the house of representatives on or before the 6 first day of the regular legislative session each year.

7 (g) As used in this section, "fee agency" shall include the state 8 agencies specified in K.S.A. 75-3717(f), and amendments thereto, and any 9 other state agency that collects fees for licensing, regulating or certifying a 10 person, profession, commodity or product.

11 Sec. 9. K.S.A. 27-118, 55-161, 55-166, 55-167, 55-168, 55-179, 55-12 180, 55-192 and 75-3036 and K.S.A. 2019 Supp. 55-155 and 55-193 are 13 hereby repealed.

14 Sec. 10. This act shall take effect and be in force from and after its 15 publication in the statute book.