

MINUTES OF THE HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES

The meeting was called to order by Representative Ron Fox at
Chairperson

3:30 ~~xxx~~ a.m./p.m. on January 30, 19 86 in room 526-S of the Capitol.

All members were present except:
Representative Guldner (excused)
Representative Rezac (excused)
Representative Roe (excused)

Committee staff present:

Ramon Powers, Legislative Research Department
Theresa Kiernan, Revisor of Statutes' Office
Betty Ellison, Committee Secretary

Conferees appearing before the committee:

No conferees.

Chairman Fox called the meeting to order, first taking up House Concurrent Resolution 5030--Natural Heritage Inventory for Kansas. He reviewed for the committee that this bill directs the State Biological Survey to establish a Natural Heritage Inventory. This would be done in cooperation with the Nature Conservancy in a matching fund arrangement. The cost would be \$35,000 in 1987 and \$35,000 in 1988. Representative Acheson moved that the committee report the resolution favorably. Representative Sughrue seconded the motion. Following discussion, a vote was taken and the motion carried.

Turning to House Bill 2703--State water plan; agricultural conservation, the Chairman called attention to the fiscal note (See Attachment 1) and balloon copies of the bill with recommended amendments. (See Attachment 2) Staff reviewed the amendments, followed by committee discussion. Representative Charlton made a motion to change "may" to "shall" in line 46. The motion was seconded by Representative Acheson. It was pointed out that the effect of this change would be that the Chief Engineer would have no discretion when he received advice from a Basin Advisory Committee or the Water Authority. Representative Acheson then withdrew his second and Representative Grotewiel seconded. Following further discussion, a vote was taken. Division was requested; by show of hands, there were 6 in favor and 9 opposed to the motion. The motion failed.

Representative Charlton moved to rewrite New Section 3 so that "shall" especially applies to water transfers. Representative Fry seconded. Chairman Fox explained that according to subparagraph 2, line 51 in the bill, present law requires a conservation plan on a transfer of water. The motion would reword this section, changing "may" to "shall." A vote was taken on the amendment and the motion carried.

Representative Patrick raised several questions and there was lengthy committee discussion concerning the definition and legal guidelines as to what constitutes a conservation plan to the Chief Engineer. The Chairman appointed a subcommittee consisting of Representative Ott, Chairman, and Representatives Patrick, Shore, Fry, and Charlton to work out these questions. The subcommittee was asked to report to the full committee on February 10, 1986.

Moving to House Bill 2704--State water plan; large reservoirs, the Chairman called attention to the fiscal note. (See Attachment 3) Representative Ott made a motion to report the bill favorably. The motion was seconded by Representative Sughrue. Following considerable discussion regarding revenue bonds, Representative Spaniol made a substitute motion to delete lines 245-249. Representative Patrick seconded the motion. There was more discussion relative to tax exempt bonds. A vote was taken and the motion was lost.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES,
room 526-S, Statehouse, at 3:30 ~~a.m.~~/p.m. on January 30, 1986.

Representative Patrick moved to strike subsection 12, exempting them from taxation. The motion was seconded by Representative Spaniol. Further discussion relative to bonds followed. A vote was taken and the motion to amend was lost.

A vote was taken on the motion to pass House Bill 2704 out favorably and the motion carried.

Turning to House Bill 2705--State water plan; Water Assurance Program Act, Chairman Fox called attention to the fiscal note. (See Attachment 4) Representative Patrick made a motion to table the bill and Representative Spaniol seconded. A vote was taken and division was requested. By show of hands, 6 were in favor and 7 opposed. The motion failed.

Discussion regarding water rights and Representative Freeman's concern relative to the City of Emporia followed. Representative Ott moved to adopt the balloon except for the changes proposed in lines 219, 220 and 221. Representative Acheson seconded. Motion carried. Representative Charlton made a motion to strike lines 219, 220 and 221. The motion was seconded by Representative Grotewiel. Following a short discussion concerning pay, a vote was taken. The chair was in doubt on the voice vote; by show of hands, 6 were in favor and 5 opposed. The motion carried.

Representative Grotewiel moved that House Bill 2705 be passed out favorably as amended. Representative Ott seconded. The motion carried. Representative Patrick voted no.

The meeting was adjourned at 5:25 p.m.

The next meeting of the House Committee on Energy and Natural Resources will be held on February 3, 1986 at 3:30 p.m. in Room 526-S.

The Honorable Ron Fox, Chairperson
Committee on Energy and Natural Resources
House of Representatives
Third Floor, Statehouse

Dear Representative Fox:

SUBJECT: Fiscal Note for House Bill No. 2703 by Committee
on Energy and Natural Resources

In accordance with K.S.A. 75-3715a, the following fiscal note concerning House Bill No. 2703 is respectfully submitted to your committee.

House Bill No. 2703 authorizes the Chief Engineer of the Board of Agriculture to require water users to prepare and submit water conservation plans when recommended by river basin plans; when application is made for transfer of water pursuant to K.S.A. 82a-1501 et seq; or when deemed by the Chief Engineer to be in the public interest. The bill also requires that a water conservation plan be submitted by parties entering into new contracts for purchase of water under the state's water marketing program.

Recommended guidelines for preparation of water conservation plans are to be developed by the Kansas Water Office for adoption by the Chief Engineer. Unless a time extension is granted, water users must submit a plan within six months of receiving notification by the Chief Engineer of the planning requirement. If the plan is not submitted or if the plan is submitted but not approved, the Chief Engineer may suspend the water right held by the user. Failure to comply with provisions of the act would be a Class C misdemeanor. House Bill No. 2703 also amends K.S.A. 82a-706d by directing the Attorney General to bring suit, at the request of the Chief Engineer, for the purpose of compelling preparation and/or implementation of a water conservation plan by a water user so instructed by the Chief Engineer.

The Governor's Investment Budget recommendations include \$105,000 in FY 1987 for implementation of HB 2703 by the Board of Agriculture. The amount includes salaries and other operating costs associated with two engineers and one clerical position for the purpose of providing technical assistance to agricultural, municipal and industrial water users affected by the bill and to conduct reviews of the water conservation plans submitted for approval.

No fiscal effect is foreseen for the Kansas Water Office because the responsibilities assigned the office by HB 2703 are considered to be within the Water Office's existing statutory charge. Information has been requested regarding the fiscal implications of the bill for the Attorney General's Office. If the bill is found to have an impact, the fiscal note will be amended and forwarded to the Committee.

Any expenditures resulting from enactment of HB 2703 would be from the State General Fund and would be in addition to those contained in the FY 1987 Governor's Budget Report.



Gary L. Stotts
Acting Director of the Budget

GLS:JJ:ks

HOUSE BILL No. 2703

By Committee on Energy and Natural Resources

1-17

0016 AN ACT concerning water; relating to conservation plans and
0017 enforcement thereof; amending K.S.A. 82a-706d and 82a-1305
0018 and repealing the existing sections.

0019 *Be it enacted by the Legislature of the State of Kansas:*

0020 New Section 1. When used in this act:

0021 (a) "Water user" means: (1) Any person who has an applica-
0022 tion for a permit to appropriate water for beneficial use on file in
0023 the office of the chief engineer or who owns a water right as
0024 defined by subsection (g) of K.S.A. 82a-701, and amendments
0025 thereto, and any lessee or assignee of such water right; (2) any
0026 person who contracts for water pursuant to K.S.A. 82a-1301 *et*
0027 *seq.*, and amendments thereto, after the effective date of this act;
0028 or (3) any person who files an application for a water transfer
0029 pursuant to K.S.A. 82a-1501 *et seq.*, and amendments thereto.

0030 (b) "Person" means a natural person, partnership, organiza-
0031 tion, association, private corporation, public corporation, any
0032 taxing district or political subdivision of the state and any de-
0033 partment or agency of the state government.

0034 New Sec. 2. The Kansas water office shall prepare and rec-
0035 ommend to the chief engineer planning guidelines for use in
0036 approving a conservation plan. The Kansas water office shall
0037 seek advice from appropriate state or local entities in preparing
0038 such planning guidelines for recommendation to the chief engi-
0039 neer. Such planning guidelines shall have the flexibility to
0040 respond to local conditions, but all municipal or industrial con-
0041 servation plans shall contain a section on drought contingency
0042 planning. After due consideration of the planning guidelines
0043 recommended by the Kansas water office, the chief engineer
0044 shall adopt planning guidelines and make them available to any

The Kansas Water Office shall consider at least the following in preparing public water supply guidelines: conservation plumbing codes; leak detection programs; public information programs; rate structures; residential conservation kits; seasonal use targets; drought contingency procedures; lawn watering schedules; pressure reduction. At least the following shall be considered in preparing industrial user planning guidelines: conservation plumbing practices; leak detection programs; seasonal rate targets; conservation techniques such as recycling, reuse, process modification; and drought contingency procedure. At least the following should be considered in preparing agricultural user planning guidelines: conveyance and application system design and operation; land treatment practices; irrigation scheduling; soil moisture testing; pump and well system efficiency; conjunctive use opportunities.

0046 New Sec. 3. (a) The chief engineer may require the prepa-
0047 ration of a conservation plan by a water user or users whenever:
0048 (1) An area plan, prepared and approved under the basin plan-
0049 ning process of the state water plan, contains a recommendation
0050 to the chief engineer that the water user or users be required to
0051 prepare a conservation plan; (2) an application for transfer of
0052 water pursuant to K.S.A. 82a-1501 *et seq.*, and amendments
0053 thereto, is received; or (3) the chief engineer, upon investigation
0054 thereby, deems the preparation of a conservation plan to be in
0055 the public interest. Within six months after receipt of the chief
0056 engineer's notice, or within an authorized extension of time, the
0057 water user or users shall submit a conservation plan to the chief
0058 engineer for approval.

0059 (b) If the chief engineer or the chief engineer's designee
0060 does not approve the conservation plan prepared by a water user
0061 or users, or if the water user or users fail to submit a plan or an
0062 amended version for approval within the six-month period re-
0063 quired by subsection (a) or within any extension of such period
0064 granted by the chief engineer, the chief engineer may suspend
0065 the water right of the water user or users.

0066 (c) The chief engineer or the chief engineer's designee shall
0067 review every conservation plan prepared in accordance with this
0068 act at five-year intervals following initial approval of such plan or
0069 at a lesser interval if deemed necessary by the chief engineer.
0070 Following such review, the chief engineer may require that such
0071 plan be modified to respond to changing conditions as deter-
0072 mined by the chief engineer.

0073 (d) The failure to comply with any provision of this section
0074 by any person is a class C misdemeanor. Each day that any water
0075 user or users fail to comply with the provisions of this section,
0076 after notice of the original failure to comply is given by the chief
0077 engineer to any such water user or users by restricted mail, shall
0078 constitute a separate offense.

0079 Sec. 4. K.S.A. 82a-706d is hereby amended to read as fol-
0080 lows: 82a-706d. Upon request of the chief engineer the attorney
0081 general shall bring suit in the name of the state of Kansas, in

0083 of a conservation plan or the compliance with a conservation
0084 plan approved by the chief engineer under section 3; or (b) to
0085 enjoin the unlawful appropriation, diversion, use of the waters of
0086 the state, and waste or loss thereof.

0087 Sec. 5. K.S.A. 82a-1305 is hereby amended to read as fol-
0088 lows: 82a-1305. (a) Whenever the authority finds that a proposed
0089 withdrawal and use of water, other than surplus waters, is in the
0090 interest of the people of the state of Kansas and will advance the
0091 purposes set forth in article 9 of chapter 82a of Kansas Statutes
0092 Annotated; and ~~amendments thereto~~, it shall authorize the di-
0093 rector to enter into negotiations for the purpose of entering into
0094 written contracts with any person for withdrawal and use within
0095 or without the state of waters from conservation storage water
0096 supply capacity committed to the state. Every such contract shall
0097 comply with the provisions of this act. The director shall not
0098 contract for withdrawals of water from a particular reservoir
0099 which in the director's opinion are in excess of the yield capa-
0100 bility from the conservation storage water supply capacity in
0101 such reservoir committed to the state computed to provide water
0102 through a drought having a 2% chance of occurrence in any one
0103 year with the reservoir in operation. All contracts under this
0104 section shall have terms of not less than 10 years unless desired
0105 by the applicant. Whenever a contract expires, the director shall
0106 give the persons with whom the director contracted therein, the
0107 opportunity to first refuse any new offering of the water before
0108 offering the same to applicants under the provisions of K.S.A.
0109 82a-1310a, and amendments thereto. *Prior to entering into a new*
0110 *contract, such person shall have submitted and have had ap-*
0111 *proved a conservation plan as provided in section 3.*

0112 (b) Whenever the authority finds that it is in the public's
0113 public interest and will advance the purposes set forth in this act
0114 and in article 9 of chapter 82a of Kansas Statutes Annotated; and
0115 ~~amendments thereto~~, the authority shall authorize the director to
0116 dispose of waters found by the authority to be surplus waters.
0117 Any arrangement for the disposition of any such surplus waters
0118 shall not be subject to the provisions of K.S.A. 82a-1306, 82a-

0120 term contracts. No such arrangement shall be made for a period
0121 of time in excess of one year nor shall any such arrangement
0122 dispose of water from the conservation water supply capacity in
0123 excess of 10% of the yield capability as computed pursuant to
0124 subsection (a) unless the governor has declared that an emer-
0125 gency exists which affects the public health, safety or welfare.
0126 No charges shall be levied on the disposition of surplus waters
0127 when the purpose for such disposition is streamflow mainte-
0128 nance or reservoir pool management. A charge at a rate not to
0129 exceed the rate established pursuant to K.S.A. 82a-1306, and
0130 amendments thereto, shall be levied on the disposition of sur-
0131 plus waters when the purpose of such disposition is the mainte-
0132 nance of public health. A charge at a rate that may exceed the rate
0133 established pursuant to K.S.A. 82a-1306, and amendments
0134 thereto, shall be levied on the disposition of surplus waters when
0135 the purpose for such disposition is other than streamflow main-
0136 tenance, reservoir pool management or maintenance of public
0137 health.

0138 Sec. 6. K.S.A. 82a-706d and 82a-1305 are hereby repealed.

0139 Sec. 7. This act shall take effect and be in force from and
0140 after its publication in the statute book.

Fiscal Note
1986 Session
January 28, 1986

Bill No.

The Honorable Ron Fox, Chairperson
Committee on Energy and Natural Resources
House of Representatives
Third Floor, Statehouse

Dear Representative Fox:

SUBJECT: Fiscal Note for House Bill No. 2704 by Committee
on Energy and Natural Resources

In accordance with K.S.A. 75-3715a, the following fiscal note concerning House Bill No. 2704 is respectfully submitted to your committee.

House Bill No. 2704 implements, in part, the Large Reservoir Management and Large Reservoir Finance subsections of the State Water Plan. The bill authorizes the Kansas Water Office to issue revenue bonds to finance all or part of the construction costs of large reservoir projects, or to finance the purchase of storage in existing reservoirs. The bill outlines specific procedures and restrictions relating to the issuance of such bonds.

The Kansas Water Office indicates that revenue bonds could not be issued until FY 1988 at the earliest, so no fiscal impact is projected for FY 1987. Costs incurred in bond issuance, such as hiring of bond counsel, are proposed by the office to be paid from the Conservation Storage Water Supply Fund -- as provided for in one of the sections contained in House Bill No. 2721. Such costs subsequently could be covered by the bond issuance.

The revenue bonds authorized for issue by this bill would not constitute a general obligation of the state. The bonds would be retired with moneys collected from beneficiaries of the investments made with bond proceeds, including water users having water supply contracts with the state and/or participants in water assurance programs.

House Bill No. 2704 also authorizes the Director of the Kansas Water Office to acquire a water reservation right for waters flowing into the water quality component of conservation storage capacity in federal reservoirs. Release of such waters then would be subject to protection by the Chief Engineer of the Board of Agriculture against unlawful diversion. This provision satisfies one of the terms agreed to by the state in its memorandum of understanding with the Corps of Engineers setting forth the conditions for options to purchase additional storage in federal reservoirs.

Attachment 3

Any expenditures resulting from passage of this bill would be in addition to those recommended in the FY 1987 Governor's Budget Report.



Gary L. Stotts
Acting Director of the Budget

GLS:JJ:dh

NOTIFICATION OF COMMITTEE ACTION

DATE: January 30, 1986

COMMITTEE: HOUSE ENERGY AND NATURAL RESOURCES

BILL NUMBER: House Bill 2704

COMMITTEE RECOMMENDATION: X Be Passed
 Be Passed As Amended
 Be Not Passed

BILL WILL BE CARRIED BY: Representative Patterson

CHAIRMAN: Representative Ron Fox

COMMENTS:

* WHEN COMPLETED PLEASE SEND THIS FORM TO -
THE MAJORITY LEADER'S OFFICE - 381-W.

BILL ANALYSIS

Date of Final Committee Action January 30, 1986

Sponsor E&N Committee Committee Energy & Natural Resources

Brief Explanation HB 2704 is a bill to implement the Large Reservoir Management section of the State Water Plan. See fiscal note for more details on bill.

Proponents Kansas Water Office Opponents None

Chief Engineer, DWR

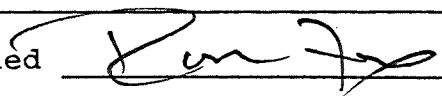
KCCI

If close vote explain Voice vote

Explain Important Committee Amendments (if any) None

Fiscal Note (if any) See attached.

Other Comments _____

Signed 

Chairman or Designee

Notes for Individual Legislators use:

The Honorable Ron Fox, Chairperson
Committee on Energy and Natural Resources
House of Representatives
Third Floor, Statehouse

Dear Representative Fox:

SUBJECT: Fiscal Note for House Bill No. 2705 by Committee
on Energy and Natural Resources

In accordance with K.S.A. 75-3715a, the following fiscal note concerning House Bill No. 2705 is respectfully submitted to your committee.

House Bill No. 2705 authorizes creation of the water assurance program and specifies procedures for establishment and operation of water assurance districts. The purpose of the bill, which would partially implement the Large Reservoir Management Subsection of the State Water Plan, is to permit utilization of federal reservoir storage to satisfy downstream municipal and industrial water rights during drought conditions.

The bill authorizes the Kansas Water Office, with approval of the Kansas Water Authority, to contract for storage in federal reservoirs to be used in the assurance program. Assurance districts could be organized by eligible water right holders located downstream from reservoirs with assurance program storage. The process for organization of a district would include: identification of eligible water right holders by the Chief Engineer of the Board of Agriculture; filing with the Secretary of State of a petition for organization signed by at least 20 percent of the eligible water right holders; review and subsequent approval of the petition by the Chief Engineer; and, an election on the question of assurance district organization by all eligible water right holders. Upon organization of a district, participation would be mandatory for all eligible water right holders.

Among the powers to be granted to organized assurance districts would be that of levying an annual charge against district members in an amount sufficient to reimburse the state for the full annual cost of acquiring, operating and maintaining the assurance program space benefiting the district. Moneys collected from imposition of such a charge would be deposited in the State General Fund.

The State of Kansas has signed a memorandum of understanding with the Corps of Engineers that specifies the terms and conditions under which water supply storage may be purchased to implement the water assurance program. To preserve the storage purchase options identified in the agreement, the state must create a water assurance program. Approval of this bill would satisfy that condition.

The Governor's Investment Budget for FY 1987 includes \$35,000 of State General Fund moneys to allow the Board of Agriculture to perform its responsibilities related to the water assurance program. In addition to the Board's duties relative to assurance district organization, responsibilities would include protection of reservoir releases for both water supply and water quality purposes. The amount recommended is sufficient to cover salary and other operating costs associated with one new staff position, a hydrologist. In subsequent fiscal years, one or more additional staff may be needed by the Division, depending on the rate and extent to which assurance districts are organized in the state.

As a related matter, the agreement with the Corps of Engineers also stipulates that the state must place \$4 million in escrow by July 1, 1986. To satisfy the escrow condition in the agreement, the Governor has recommended in his Investment Budget that \$2,852,724 be transferred from the State General Fund to the Kansas Water Office's State Conservation Storage Water Supply Fund. The balances projected for this fund at the end of FY 1986 will provide the remaining funds needed to reach the \$4 million specified in the agreement.

Any expenditures resulting from passage of HB 2705 would be in addition to amounts contained in the FY 1987 Governor's Budget Report.



Gary L. Stotts
Acting Director of the Budget

HOUSE BILL No. 2705

By Committee on Energy and Natural Resources

1-17

0017 AN ACT concerning water; enacting the water assurance pro-
0018 gram act; authorizing the creation of water assurance districts;
0019 prescribing the powers and duties of the governing body
0020 thereof.

0021 *Be it enacted by the Legislature of the State of Kansas:*

0022 Section 1. This act shall be known as and may be cited as the
0023 water assurance program act.

0024 Sec. 2. As used in this act, unless the context otherwise
0025 requires:

0026 (a) "Assurance storage" means that part of the conservation
0027 storage water supply capacity of any reservoir devoted to the
0028 storage water for the water assurance program;

0029 (b) "assurance water" means water stored in assurance stor-
0030 age of a reservoir under a water reservation right and provided as
0031 supplemental water to eligible water right holders;

0032 (c) "water assurance district" means an organization of eligi-
0033 ble water right holders;

0034 (d) "assurance reservoir" means any reservoir containing as-
0035 surance storage;

0036 (e) "eligible water right holder" means any entity holding a
0037 water right or permit, pursuant to K.S.A. 82a-701 et seq., and
0038 amendments thereto, to appropriate water from a stream or water
0039 from the alluvium of the stream downstream from an assurance
0040 reservoir for municipal or industrial purposes as determined by
0041 the chief engineer pursuant to section 4; and

0042 (f) "member" means an eligible water right holder who,
0043 because of a determination of benefit by the chief engineer, is
0044 required to participate in and is subject to the rules of a water

0045 assurance district. An eligible water right holder who withdraws water

0046 from the alluvium of a stream supplemented by an assurance
0047 reservoir shall be a member if the chief engineer determines
0048 there is a significant benefit to such holder from supplementing
0049 the stream by assurance reservoir releases.

0050 Sec. 3. The Kansas water office, with advice from basin ad-
0051 visory committees, eligible water right holders and the chief
0052 engineer and with approval of the Kansas water authority, may
0053 negotiate and enter into contracts for assurance storage from
0054 federal reservoirs to be used for water assurance.

0055 Sec. 4. Before a water assurance district is organized, and
0056 upon the request of the Kansas water office, the chief engineer
0057 shall determine the eligible water rights of the proposed district.
0058 In determining whether a water right may benefit, the chief
0059 engineer shall consider the following factors:

0060 (a) The annual quantity and rate of diversion authorized by
0061 the water right and the frequency and the distribution of such
0062 use with time;

0063 (b) the consumptive use, location and source of the water
0064 right; and

0065 (c) such other factors as may be necessary to fully determine
0066 and understand the degree of such benefits.

0067 Sec. 5. If a water assurance district is organized, participa-
0068 tion in the water assurance program shall be mandatory for each
0069 eligible water right holder below an assurance reservoir if the
0070 chief engineer determines that such holder may be benefited by
0071 releases of assurance water from an assurance reservoir.

0072 Sec. 6. (a) Before any water assurance district is organized, a
0073 petition shall be filed in the office of the secretary of state, signed
0074 by ~~not less than 20% of~~ the eligible water right holders, within _____ of water rights totaling more than 20% ~~of~~ the combined quantities of all eligible water rights
0075 the proposed district as shown by a verified enumeration of the
0076 eligible water right holders taken by the chief engineer. A
0077 verified copy of the enumeration shall be attached to and filed
0078 with the petition in the office of the secretary of state.

0079 (b) Every petition filed pursuant to subsection (a) shall state:

0080 (1) The name of the proposed district, which name shall end
0081 with the words "water assurance district number _____"
0082 _____." It shall be the duty of the secretary of

0083 state to assign a number to each such district in the order in
0084 which petitions for their organization are received by the secre-
0085 tary's office;

0086 (2) a list of the water rights, by file number as recorded in the
0087 office of the chief engineer, to be included within the proposed
0088 district;

0089 (3) a statement of the purposes for which the district is to be
0090 organized;

0091 (4) a statement of the number of persons that will constitute
0092 the board of directors of the district, which shall be an uneven
0093 number of not less than three nor more than nine, together with
0094 the names and addresses of the persons who will constitute the
0095 original steering committee;

0096 (5) any other matter deemed essential; and

0097 (6) a prayer for the organization of the district as a nonprofit
0098 corporation.

0099 The petition shall be in substantially the following form:

0100 BEFORE THE SECRETARY OF STATE
0101 OF THE STATE OF KANSAS

0102 In the Matter of _____ Water Assurance District Number
0103 _____ and _____ counties, Kansas.
0104 PETITION

0105 Come now the undersigned persons, or authorized representatives, and state
0106 that they are eligible water right holders within the proposed boundaries of the
0107 aforementioned water assurance district, hereinafter more fully described, and that
0108 each signer states that the signer's respective post office address is set forth
0109 beside the signer's name. That the purposes for which this district is organized
0110 are (state purposes). That a steering committee for the organization of the district
0111 is hereby fixed and constituted with five members; that the names of persons
0112 who will serve on the original steering committee, of which the first named shall
0113 be acting chairperson, and their respective addresses are as follows:

0114 (List names and addresses.)

0115 The governing body of the district shall be constituted in a board of directors
0116 composed of (number) qualified members.

0117 Wherefore, the undersigned, individually and collectively, pray that a water
0118 assurance district be organized in the manner provided by law, for the purposes
0119 set forth herein, and that the secretary of state and the chief engineer of the
0120 division of water resources of the Kansas state board of agriculture proceed
0121 diligently in the performance of their duties so that the organization of this
0122 proposed district may be completed and approved at the earliest possible time.

0123 Submitted to the secretary of state this _____ day of
0124 _____, 19_____.

0125 Sec. 7. A copy of the petition, required by section 6, setting
0126 forth the text of the petition in full, shall be circulated among the
0127 eligible water right holders of the proposed district. A duplicate
0128 original or a photographic copy of the original petition, with

0129 copies of all signature sheets attached thereto, shall be furnished
0130 to the county clerk of each county wherein lies a part of the
0131 proposed district. All counterparts shall be filed with the secre-
0132 tary of state at the same time and shall be received and treated by
0133 the secretary as a single petition. The secretary of state shall
0134 determine the sufficiency or insufficiency of the petition on the
0135 basis of the information as to the number and qualification of
0136 signers as shown by the verified enumeration filed with the
0137 petition. The secretary of state shall endorse the findings and the
0138 date thereof on the face of the petition, and shall notify in
0139 writing, the person designated in the petition as the acting
0140 chairperson of the steering committee of the findings.

0141 Sec. 8. If the secretary of state finds the petition, as required
0142 by section 6, to be sufficient as to form and the number and
0143 qualifications of the petitioners, the secretary shall prepare a
0144 certified copy of the petition and transmit the same to the chief
0145 engineer within five days from the date of such finding. Upon
0146 receipt of such certified copy, the chief engineer shall institute
0147 an investigation of the proposed district, its territory and pur-
0148 poses, and within 90 days after receipt of the copy shall transmit
0149 a written report of the findings on the petition, together with the
0150 chief engineer's written approval or disapproval of the petition,
0151 to the secretary of state and the acting chairperson of the steering
0152 committee named in the petition.

0153 The chief engineer shall approve such petition if the chief
0154 engineer finds:

0155 (a) That the proposed district would not include water rights
0156 in any existing water assurance district; and

0157 (b) that the statement of purposes contained in the petition
0158 conforms with the intents and purposes of this act.

0159 If the chief engineer approves such petition, the chief engi-
0160 neer shall transmit a certified copy of the report containing all
0161 findings to the secretary of state and to the chairperson of the
0162 steering committee of the district.

0163 Sec. 9 Within 10 days after receipt of a certified copy of the
0164 chief engineer's report approving the petition, as required by
0165 section 6, or the petition as amended, the chairperson of the

0166 steering committee of the proposed district shall call a meeting
0167 of the committee by mailing a written notice fixing the time and
0168 place of such meeting to each member of the committee. The
0169 committee shall meet at the time and place fixed in the notice for
0170 the purpose of adopting a resolution giving notice of an election
0171 at which all eligible water right holders shall be entitled to vote
0172 on the question of whether the district should be formed in
0173 accordance with the petition as approved by the chief engineer.
0174 A copy of such resolution shall be mailed to all eligible water
0175 right holders within the proposed district not less than 21 days
0176 prior to such election. The resolution shall state when and where
0177 the election shall be held and the proposition to be voted on. It
0178 shall contain a copy of the petition as approved by the chief
0179 engineer (omitting the map attached as an exhibit) and shall be
0180 signed by the chairperson and attested by the secretary of the
0181 steering committee. The steering committee shall conduct the
0182 election, canvass the vote, and certify the results to the secretary
0183 of state. If a majority of the eligible water right holders, vote in
0184 favor of the organization and creation of the district, the secretary
0185 of state shall issue to the steering committee a certificate of
0186 incorporation for the district, which shall be filed of record in the
0187 office of the register of deeds of each county in which all or a
0188 portion of the district lies. Upon such recordation of the certifi-
0189 cate of incorporation, the district shall be authorized to function
0190 in accordance with the provision of this act and its certificate of
0191 incorporation. If a majority of the eligible water right holders
0192 vote against the organization and creation of the district, the
0193 secretary of state shall endorse that fact on the face of the petition
0194 and the proceedings shall be closed. No action attacking the
0195 legal incorporation of any water assurance district organized
0196 under this section shall be maintained unless filed within 90
0197 days after the issuance of the certificate of incorporation for such
0198 district by the secretary of state, nor shall the alleged illegality of
0199 the incorporation of any such district be interposed as a defense
0200 to any action brought after such time.

0201 Sec. 10. If the organization of the proposed water assurance
0202 district is defeated at the special election or if the petition, as

representing more than 50% of the combined quantities of the eligible water rights within the proposed district

representing more than 50% of the combined quantities of the eligible water rights within the proposed district

0203 required by section 6, is disapproved by the chief engineer, the
0204 steering committee named in the petition shall determine the
0205 amount of money necessary to pay all of the costs and expenses
0206 incurred in the preparation and filing of the petition and in the
0207 conduct of the election and the steering committee shall assume
0208 the obligation for the payment of such costs and expenses.

0209 Sec. 11. All powers granted to water assurance districts in-
0210 corporated under the provisions of this act shall be exercised by a
0211 board of directors which shall be composed of any odd number of
0212 directors and specified in the petition for creation of the district.
0213 The board shall be composed of not less than three nor more than
0214 nine representatives of the district members. Each director shall
0215 serve for a term of three years, and until a successor is elected
0216 and qualified, except that as nearly as possible 1/3 of the original
0217 directors designated in the petition for organization of the dis-
0218 trict shall serve for a term of one year, 1/3 for a term of two years,
0219 1/3 for a term of three years. ~~Such directors shall serve without~~
0220 ~~compensation, but shall be allowed actual and necessary ex-~~
0221 ~~penses incurred in the performance of their official duties.~~

0222 Sec. 12. Within not more than 90 days after the recording of
0223 the certificate of incorporation, a meeting open to all eligible members
0224 ~~voters~~ of the district shall be held by the steering committee for
0225 the election of the initial board of directors of the district. A
0226 notice of the meeting shall be mailed to all eligible voters by the members
0227 steering committee at least 10 days prior to the date thereof.
0228 Each eligible water right holder in the district shall be entitled to member
0229 vote for as many candidates as the number of directors that are to
0230 be elected, but may not cast more than one vote for any one
0231 candidate. The candidates receiving the greatest number of
0232 votes cast shall respectively be declared elected. The board of
0233 directors, after being duly elected, shall elect from its number a
0234 president, vice-president, secretary and a treasurer. In districts
0235 having only three directors, the board shall elect one director to
0236 hold the offices of secretary and treasurer. A majority of the
0237 directors shall constitute a quorum for the transaction of business
0238 and a majority of those voting shall determine all actions taken
0239 by the board. In the absence of any of the duly elected officers.

0240 those directors present at any meeting may select a director to act
0241 as an officer pro tem. The elected board shall fill any vacancy
0242 occurring on the board prior to the expiration of the term of any
0243 director by selecting a replacement from among the members of
0244 the district to serve for the unexpired term.

0245 Sec. 13. In not less than 12 months nor more than 13 months
0246 after the recording of the certificates of incorporation, and an-
0247 nually thereafter, a meeting shall be held for the election of
0248 directors whose terms expire, to render a report on the financial
0249 condition and activities of the district and to adopt a budget in
0250 the manner provided by K.S.A. 79-2925 *et seq.*, and amendments
0251 thereto. Notice of the annual meeting shall be given at least 10
0252 days prior to the date thereof to all ~~eligible water right holders~~ members
0253 in the district.

0254 The number of directors of a district or the date of the annual
0255 meeting, or both, may be changed at an annual meeting if notice
0256 of the proposed changes is included in the notice for the annual
0257 meeting at which such changes are to be considered.

0258 Sec. 14. Regular meetings of the board of directors shall be
0259 held quarterly at the office of the corporation on such day as is
0260 selected by the board of directors. Notice of such meeting shall
0261 be mailed to each director at least five days prior to the date
0262 thereof. Special meetings may be held at any time on the call of
0263 the president of the board. Notice shall be mailed to each
0264 director at least two days prior to the time fixed for such special
0265 meeting.

0266 Sec. 15. Each water assurance district incorporated under
0267 the provisions of this act shall be a body politic and corporate and
0268 shall have the power to:

0269 (a) Adopt a seal;

0270 (b) sue and be sued by its corporate name;

0271 (c) purchase, hold, sell and convey land and personal prop-
0272 erty and to execute such contracts as the board of directors,
0273 deems necessary or convenient to enable it to carry out the
0274 purpose for which organized;

0275 (d) employ such professional, technical and clerical services
0276 and other assistance as deemed necessary by the board of direc-

0277 tors;

0278 (e) acquire personal property by gift or purchase;

0279 (f) impose charges as provided by this act;

0280 (g) select a residence or home office for the water assurance
0281 district, which shall be at a place in a county in which the district
0282 or any part thereof is located and may be either within or without
0283 the district as may be designated by the board of directors; and

0284 (h) take any other action necessary to achieve the purposes of
0285 the state water assurance program.

0286 Sec. 16. (a) The water assurance district may impose ~~an-~~
0287 ~~annually~~ a charge against each member of the water assurance
0288 district. The ~~annual~~ total of such charges shall be sufficient to
0289 enable the district to pay the state the full annual amortized cost
0290 to the state of acquiring the assurance storage from the federal
0291 government by purchase or trade, the cost of operation and
0292 maintenance of the assurance storage, the cost of state adminis-
0293 tration and enforcement of the assurance program, ~~and district~~
0294 ~~operating costs. All payments to the state shall be deposited in~~
0295 ~~the state general fund.~~ Charges to be paid by members of a water
0296 assurance district may vary and shall be based on the principle of
0297 having each member pay for the pro rata quantity authorized to
0298 each member from the assurance program. In determining the
0299 annual charge, the governing body of the district shall adopt
0300 rules which establish guidelines for prospective members. ~~Such~~
0301 ~~rules shall be subject to the approval of the chief engineer.~~

0302 (b) The director of the Kansas water office shall request
0303 releases of assurance water by the federal government under the
0304 agreements with the federal government that govern operations
0305 of reservoirs containing assurance storage.

0306 (c) No member below a reservoir shall divert water from
0307 releases of assurance water unless the member has a conserva-
0308 tion plan approved by the chief engineer under section 3 of
0309 House Bill No 2703 and which is in effect at the time of the
0310 desired diversion.

0311 (d) ~~A person who~~ becomes a holder of a water right in a river
0312 basin after an assurance program is in place for that basin shall
0313 become a member if the chief engineer determines that suffi-

. The water assurance district may also impose a charge against each member of the district sufficient to cover district operating costs.

2703

An entity which

0314 cient additional water may be yielded from assurance reservoirs
0315 to benefit the potential new member.

0316 (e) The director of the Kansas water office and the chief
0317 engineer each shall adopt any rules and regulations necessary to
0318 carry out the purposes and procedures of this act. The director
0319 and the chief engineer shall consider the advice of any existing
0320 assurance districts in the preparation of any rules and regulations
0321 adopted pursuant to this subsection.

0322 (f) Any holder of a water right below a reservoir aggrieved by
0323 a decision of the chief engineer under this act by being either
0324 included or excluded as a member in the assurance program may
0325 appeal to the district court under K.S.A. 82a-724, and amend-
0326 ments thereto.

0327 (g) Annual Payments required under a contract between a
0328 water assurance district and the Kansas water office for assurance
0329 storage shall be made regardless of the availability of assurance
0330 water, or the actual use of assurance water by a water assurance
0331 district. Nothing in this act shall be deemed to authorize any suit
0332 against the state or any agency of the state or person employed by
0333 the state on an implied contract or for negligence or any other
0334 tort. The director of the Kansas water office may sue to enforce
0335 any claim arising out of a contract. Payment of the annual
0336 assessment shall be a condition imposed on every member and
0337 the chief engineer is authorized to declare the suspension of any
0338 use of assurance water where an annual payment is not made.

0339 (h) Rights of members to receive assurance water may not be
0340 transferred separately from the water right itself. ← their water rights.

0341 Sec. 17. Nothing in this act shall prohibit any person from
0342 contracting to purchase or otherwise obtaining from the federal
0343 government emergency water stored in federal reservoirs and
0344 under the control of the federal government under rules and
0345 regulations of any agency of the federal government.

0346 Sec. 18. This act shall take effect and be in force from and
0347 after its publication in the statute book.

New Sec. 18. If any eligible water right holder in a water assurance district organized within the provisions of this act requests an opportunity to renegotiate any existing contracts for the purchase of water supply under the terms of K.S.A. 82a-1301, et seq., the Kansas Water Authority and the Kansas Water Office shall conduct such negotiations on a timely basis.

NOTIFICATION OF COMMITTEE ACTION

DATE: January 30, 1986

COMMITTEE: HOUSE ENERGY AND NATURAL RESOURCES

BILL NUMBER: House Bill 2705

COMMITTEE RECOMMENDATION: Be Passed
 X Be Passed As Amended
 Be Not Passed

BILL WILL BE CARRIED BY: Representative Grotewiel

CHAIRMAN: Representative Ron Fox

COMMENTS:

* WHEN COMPLETED PLEASE SEND THIS FORM TO -
THE MAJORITY LEADER'S OFFICE - 381-W.

BILL ANALYSIS

Date of Final Committee Action January 30, 1986

Sponsor E&N Committee Committee Energy & Natural Resources

Brief Explanation HB 2705 would implement the Water Assurance Program of the State Water Plan. See fiscal note for additional details.

Proponents Kansas Water Office Opponents None

Chief Engineer, DWR

KCCI

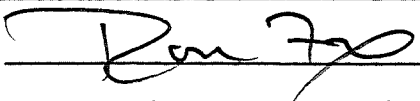
If close vote explain Voice vote

Explain Important Committee Amendments (if any) New Section 18.

This amendment provides for renegotiation of existing contracts when an assurance district is formed to prevent double charging.

Fiscal Note (if any) See attached.

Other Comments _____

Signed 
Chairman or Designee

Notes for Individual Legislators use:

NOTIFICATION OF COMMITTEE ACTION

DATE: January 30, 1986

COMMITTEE: HOUSE ENERGY AND NATURAL RESOURCES

BILL NUMBER: House Concurrent Resolution 5030

COMMITTEE RECOMMENDATION: X Be Passed
 _____ Be Passed As Amended
 _____ Be Not Passed

BILL WILL BE CARRIED BY: Chairman Ron Fox

CHAIRMAN: Representative Ron Fox

COMMENTS:

* WHEN COMPLETED PLEASE SEND THIS FORM TO -
THE MAJORITY LEADER'S OFFICE - 381-W.

BILL ANALYSIS

Date of Final Committee Action January 30, 1986

Sponsor E&N Committee Committee Energy & Natural Resources

Brief Explanation HCR 5030 directs the State Biological Survey to establish a Natural Heritage Inventory. This would be done in cooperation with the Nature Conservancy in a matching fund arrangement.

Proponents KS Biological Survey Opponents None

KS Geological Survey _____

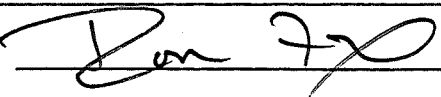
KS Forestry & Extension _____

If close vote explain Voice vote

Explain Important Committee Amendments (if any) None

Fiscal Note (if any) 1987-\$35,000 1988-\$35,000

Other Comments _____

Signed 
Chairman or Designee

Notes for Individual Legislators use: