

Approved 4/8/86  
Date

MINUTES OF THE SENATE COMMITTEE ON ENERGY & NATURAL RESOURCES

The meeting was called to order by Senator Merrill Werts at  
Chairperson

8:00 a.m./~~p.m.~~ on April 3, 1986 in room 123-S of the Capitol.

All members were present except:

Committee staff present:

Ramon Powers - Research  
Nancy Jones - Secretary  
Theresa Kiernan -Revisor

Conferees appearing before the committee:

Motion was made by Senator Feleciano to approve minutes of the April 1, 1986 meeting, seconded by Senator Hayden. Motion carried.

HB 2704 - Relating to large reservoirs

Chairman Werts aske the committee to give attention to proposed amendments by the Revisors Office and Art Griggs. (Attachments A and B).

Theresa Kiernan explained the intent and technical changes with these two amendments.

Motion was made by Senator Kerr to adopt the amendments of the Revisors office, seconded by Senator Hayden. Motion carried.

Motion was made by Senator Feleciano to adopt the amendment of Art Griggs, seconded by Senator Vidricksen. Motion carried.

Motion was made to recommend HB 2704 favorably as amended by Senator Feleciano, seconded by Senator Daniels. Motion carried.

HB 2705 - Relating to the water assurance program

Amendments as proposed by the Revisors office and R.E. Pelton were discussed (Attachments C and D).

Motion was made by Senator Daniels to adopt the amendment proposed by the Revisors office, seconded by Senator Vidricksen. Motion carried.

Motion was made by Senator Feleciano to adopt the amendments proposed by R.E. Pelton, seconded by Senator Martin. Motion carried.

Motion was made by Senator Vidricksen to recommend HB 2705 favorably as amended, seconded by Senator Hayden. Motion carried.

HB 2720 - Relating to the State Water Plan

Discussion was held on the intent of the bill. Motion was made by Senator Gordon to recommend HB 2720 favorably, seconded by Senator Kerr. Motion carried.

HB 2703 - Relating to water conservation

Discussion was held on Lines 56 and 57 relating to guideline nimer 11, for amendment to the bill.

Motion was made by Senator Kerr to adopt the amendment, seconded by Senator Daniels. Motion carried.

Motion was made by Senator Daniels to recommend HB 2703 favorably as amended seconded by Senator Vidricksen. Motion carried.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ENERGY & NATURAL RESOURCES,  
room 123-S, Statehouse, at 8:00 a.m./~~a.m.~~<sup>p.m.</sup> on April 3, 1986

HB 2722 - Relating to minimum desirable stream flow

In discussion, Senators Gordon, Hayden and Thiessen expressed opposition to passage of this bill, as more time is needed for evaluation of the program currently in place.

Motion was made by Senator Gordon to recommend HB 2722 adversely. Motion failed for lack of a second.

Motion was made by Senator Feleciano to recommend HB 2722 favorably, seconded by Senator Daniels. Motion failed.

HB 3078 - Concerning oil and gas

The Committee discussed the lack of time to thoroughly study the bill and the need for more hearings to allow input from the public and edification of the committee. Clarification was given by Barbara Sabol on the transfer of Class II employees to the KCC as proposed in this bill, which would affect the staff and fiscal needs of KDHE.

Senator Feleciano stated he has had numerous calls regarding the far reaching implications of this legislation. The need for an interim study is imperative to provide equity for the citizens of the state and the agencies. He further stated jurisdictional problems with the KCC and KDHE should be resolved under the present joint program. Senator Feleciano would recommend a Governor's veto of this legislation if the bill passes out of committee.

Senator Gordon stated interim hearings were held and this bill is a step forward for Kansas and opposes another interim study be held.

Senator Thiessen expressed the view that the responsibility for pollution either on or off leases should be with KCC.

Senator Kerr stated input he has received indicates dual control has not worked and that concerns regarding implications of this legislation were also expressed. An interim study was strongly recommended.

Senator Hayden related to the committee incidences in his district of know pollution sites not being taken care of by KDHE and favors jurisdiction be placed with the KCC.

Motion was made by Senator Daniels to recommend HB 3078 for interim study, seconded by Senator Feleciano. Motion failed on a show of hands.

Motion was made by Senator Yost to recommend HB 3078 favorably, seconded by Senator Gordon. Motion carried on a show of hands.

Meeting adjourned.

Quest List  
4/3/86

Ed Reinert	KS LWS	Topeka
Barbara Reinert		"
Larry Knoche	KDHE	Topeka
MIKE BEAM	KS LUSTR. ASSN.	"
JAMES BAGLEY	DWR, KSBA	Topeka
David L. Pope	DWR, KSBA	"
William Layher	Ks Fish & Game Comm.	Pratt
Maria Marshall	KNPC	Topeka
Jan Johnson	Budget Division	Topeka
TREVA POTTER	NORTHERN NAT. GAS	"
Bill Bryson	KCC/KDHE	Topeka
Ross Martin	KPC	"
Ken Peterson	KPC	"
Charles V. Hamm	KDHE	Forbes Field - Topeka
Robert C. Anderson	Mid Cont Cuts	Ottawa
Walter Duman	E KOGA	Topeka
Don Schmuckey	KI OGA	Topeka
Leland E. Rolf	DWR - KSBA	Topeka
Nancy Inge	Governors Office	"
B. J. Jabel	KDHE	"
Joe Harlan	RWD	TOPEKA
Ch. Duffy	"	"
Pat Schafer	Budget Division	Topeka

H-03-86  
S. ENR  
A

**HOUSE BILL No. 2704**

By Committee on Energy and Natural Resources

1-17

0017 AN ACT concerning water; relating to large reservoir projects  
0018 and the financing thereof; amending K.S.A. 74-2609, 82a-907,  
0019 82a-915, 82a-928, 82a-1303 and 82a-1304 and repealing the  
0020 existing sections.

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

Section 1. K.S.A. 82a-907 is hereby amended to read as follows: 82a-907. In formulating the state water plan the office shall  
0024 consider the following:

0025 (a) *The* management, conservation and development of the  
0026 water resources of the state for the benefit of the state as a  
0027 whole;

0028 (b) the benefits to be derived from development of reservoir  
0029 sites for the combined purposes of flood control, water supply  
0030 storage and recreation;

0031 (c) the safeguards to public health, aquatic and animal life  
0032 established by K.S.A. 65-161 to 65-171t, inclusive, and ~~aets~~  
0033 ~~amendatory thereof and supplemental amendments~~ *amendments* thereto, and  
0034 the Kansas water quality management plan approved and

0035 adopted as provided by chapter 351 of the 1979 Session Laws;  
0036 (d) *the* water development policies, whenever possible, con-  
0037 sistent with the beneficial development of other natural re-  
0038 sources;

0039 (e) the public health and general welfare of the people of the  
0040 state;

0041 (f) all appropriation and other rights to the use of water that  
0042 exist pursuant to the Kansas water appropriation act and the state  
0043 water plan storage act;

(g) the interrelationship of groundwater and surface water  
supplies and the effects of evapotranspiration on water supply;

0231 7-4-2609. The Kansas water office may:

0232 (a) Seek and accept grants and other financial assistance that  
0233 the federal government and other public or private sources make  
0234 available and utilize the same for any purpose which the office is  
0235 required or authorized to study or make recommendations con-  
0236 cerning.

0237 (b) Contract with public agencies or with qualified private  
0238 persons or agencies to accomplish any purpose which the office  
0239 is required or authorized to study or make recommendations  
0240 concerning.

0241 (c) For the purpose of providing public water supply storage  
0242 in either federally funded or nonfederally funded multipurpose  
0243 small lakes, acquire water rights under the Kansas water appro-  
0244 priation act.

0245 (d) *Authorize the issuance of revenue bonds for the purpose*  
0246 *of paying all or part of the cost of acquiring a site, constructing,*  
0247 *reconstructing, improving and expanding large reservoir proj-*  
0248 *ects or to finance the purchase of storage in existing reservoirs*  
0249 *as provided by sections 7 to 15, inclusive.*

17

0250 New Sec. 7. As used in sections 7 to 15, inclusive, unless the  
0251 context otherwise requires:

0252 (a) "Director" means the director of the Kansas water office.

0253 (b) "Revenue bonds" means bonds ~~issued pursuant to this~~  
0254 ~~act and payable as to both principal and interest from (1) the~~  
0255 ~~revenue derived from water supply contracts with water users~~  
0256 ~~who will derive benefits from the construction of a large reser-~~  
0257 ~~voir project or from the purchase of space in existing reservoirs;~~  
0258 (2) the revenue from participants in water assurance programs;  
0259 ~~and~~ (3) in the discretion of the director, the proceeds of any  
0260 grant-in-aid which may be received from any source.

, notes or other obligations

; or (4) any one or more of the foregoing

0261 (c) "Large reservoir project" means a structure that has been  
0262 planned, authorized and constructed by the federal government  
0263 or the state of Kansas which contains waters for conservation  
0264 storage water supply.

0265 New Sec. 8. (a) The Kansas water office is hereby authorized  
0266 to issue and sell revenue bonds for the purpose of paying all or  
part of the cost of acquiring a site ~~constructing, reconstructing,~~

or sites

0268 improving and expanding large reservoir projects or to finance  
0269 the purchase of storage in existing reservoirs. The revenue bonds  
0270 may be issued from time to time and sold in amounts which the  
0271 director deems necessary for such purposes.

0272 (b) Prior to the issuance of the revenue bonds, the director  
0273 shall:

0274 ~~(1) Pledge the gross revenues derived from water supply~~  
0275 ~~contracts with water users who will derive benefits from the~~  
0276 ~~construction of a large reservoir project or from the purchase of~~  
0277 ~~storage in existing reservoirs or from revenue from participants~~  
0278 ~~in water assurance programs to the payment of the principal of~~  
0279 ~~and interest on the revenue bonds;~~

adopt a resolution or resolutions in the name and on behalf of the Kansas water office, which resolution or resolutions, unless otherwise provided therein, shall take effect immediately and

0280 ~~(2) pledge to create and maintain (A) revenue bond funds~~  
0281 ~~adequate to promptly pay both the principal of and interest on~~  
0282 ~~the revenue bonds when they become due and (B) a reasonable~~  
0283 ~~reserve fund;~~

0284 ~~(3) determine an interest rate to be paid on the principal of~~  
0285 ~~the revenue bonds not in excess of the maximum rate of interest~~  
0286 ~~prescribed by K.S.A. 10-1009, and amendments thereto;~~

(1)

or rates

0287 ~~(4) determine that the revenue bonds will be term or serial~~  
0288 ~~bonds maturing not later than 40 years from the date of issuance;~~

(2)

or any combination thereof

0289 ~~(5) make provision for charges in water supply contracts with~~  
0290 ~~water users who will derive benefits from the construction of a~~  
0291 ~~large reservoir project or fix charges to participants in water~~  
0292 ~~assurance programs in an amount necessary to sell the revenue~~  
0293 ~~bonds and assure the prompt payment of the principal of and~~  
0294 ~~interest on the revenue bonds as they become due, and shall sell~~  
0295 ~~the revenue bonds in the manner provided by K.S.A. 10-106, and~~  
0296 ~~amendments thereto, at not less than 90% of the par value~~  
0297 ~~thereof; and~~

(3)

and

, to maintain any required reserves and to provide for any deficits resulting from failure to receive sums payable to the Kansas water office by such water users or participants in water assurance programs or resulting from any other cause

0298 ~~(6) register the revenue bonds with the state treasurer.~~

a price of

0299 (c) Prior to the issuance of the revenue bonds, the director  
0300 may:

(4)

0301 ~~(1) Pledge the proceeds of any grant-in-aid, gift, donation,~~  
0302 ~~bequest, or other such fund, or the income from any of such~~  
0303 ~~sources obtained by the Kansas water office directly or in trust, to~~  
0304 ~~the payment of the principal of and interest on the revenue~~

(1) Pledge to the payment of the principal and interest on the revenue bonds the gross revenues derived from water supply contracts with water users from revenue from participants in water assurance programs or from any one or more or all of such sources;

(2)

to the payment of the principal of and interest on the revenue bonds

005 ~~bonds;~~

006 ~~4(2) covenant or contract in the resolution authorizing the~~  
0307 ~~issuance of revenue bonds, any and all matters consistent with~~  
0308 the authority granted herein necessary and convenient in the  
0309 determination of the director to sell the revenue bonds and  
0310 obtain the most favorable interest rate thereon, including, but  
0311 not limited to, maturities, priority of liens, number of issuances,  
0312 special funds for security, redemption privileges, security  
0313 agreements, trust indentures, paying agencies, registration pro-  
0314 visions and conversion privileges.

(3) pledge to create and maintain (A) revenue bond funds adequate to promptly pay both the principal of and interest on the revenue bonds when they become due and (B) a reasonable reserve fund; and

with respect to

investments of the proceeds of the revenue bonds and any other funds pledged to the payment thereof or held as security therefor,

0315 New Sec. 9. (a) Revenue bonds issued hereunder, including  
0316 refunding revenue bonds authorized hereunder, shall be special  
0317 obligations of the Kansas water office in accordance with their  
0318 terms and shall not constitute an indebtedness of the state of  
0319 Kansas or the Kansas water office, nor shall they constitute  
0320 indebtedness within the meaning of any constitutional or statu-  
0321 tory provision limiting the incurring of indebtedness.

0322 (b) All contracts, agreements and covenants contained in the  
0323 resolution authorizing the issuance of revenue bonds shall be  
0324 binding in all respects upon the Kansas water office, its officials,  
0325 agents, employees and successors. Such agreements, contracts  
0326 and covenants shall be enforceable by appropriate legal action  
0327 brought pursuant to the terms of the resolution authorizing the  
0328 issuance of revenue bonds.

0329 New Sec. 10. The Kansas water office may issue revenue  
0330 bonds for the purpose of refunding revenue bonds issued here-  
0331 under pursuant to the terms and authority of K.S.A. 10-116a, and  
0332 amendments thereto.

0333 New Sec. 11. The proceeds derived from the sale of all  
0334 revenue bonds issued under this act shall be deposited to the  
0335 credit of the Kansas water office in a bank, banks or the deposit-  
0336 ories designated by the Kansas water office, kept in a separate  
0337 fund and used solely for the purpose for which the revenue  
0338 bonds are authorized. The director is authorized to make all  
0339 contracts and execute all instruments which in the director's  
0340 discretion may be deemed necessary or advisable for the pur-  
0341 pose of acquiring a site, constructing, reconstructing, improving

purposes

or sites

H-03-86  
S. ENR  
B

HOUSE BILL No. 2704

By Committee on Energy and Natural Resources

1-17

0017 AN ACT concerning water; relating to large reservoir projects  
0018 and the financing thereof; amending K.S.A. 74-2609, 82a-907,  
0019 82a-915, 82a-928, 82a-1303 and 82a-1304 and repealing the  
0020 existing sections.

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

0022 Section 1. K.S.A. 82a-907 is hereby amended to read as fol-  
0023 lows: 82a-907. In formulating the state water plan the office shall  
0024 consider the following:

0025 (a) *The* management, conservation and development of the  
0026 water resources of the state for the benefit of the state as a  
0027 whole;

0028 (b) the benefits to be derived from development of reservoir  
0029 sites for the combined purposes of flood control, water supply  
0030 storage and recreation;

0031 (c) the safeguards to public health, aquatic and animal life  
0032 established by K.S.A. 65-161 to 65-171t, inclusive, and acts  
0033 amendatory thereof and supplemental *amendments* thereto, and  
0034 the Kansas water quality management plan approved and  
0035 adopted as provided by chapter 351 of the 1979 Session Laws;

0036 (d) *the* water development policies, whenever possible, con-  
0037 sistent with the beneficial development of other natural re-  
0038 sources;

0039 (e) the public health and general welfare of the people of the  
0040 state;

0041 (f) all appropriation and other rights to the use of water that  
0042 exist pursuant to the Kansas water appropriation act and the state  
0043 water plan storage act;

0044 (g) the interrelationship of groundwater and surface water  
0045 supplies and the effects of evapotranspiration on water supply;



0305 bonds;

0306 (2) covenant or contract in the resolution authorizing the  
0307 issuance of revenue bonds, any and all matters consistent with  
0308 the authority granted herein necessary and convenient in the  
0309 determination of the director to sell the revenue bonds and  
0310 obtain the most favorable interest rate thereon, including, but  
0311 not limited to, maturities, priority of liens, number of issuances,  
0312 special funds for security, redemption privileges, security  
0313 agreements, trust indentures, paying agencies, registration pro-  
0314 visions and conversion privileges.

0315 New Sec. 9. (a) Revenue bonds issued hereunder, including  
0316 refunding revenue bonds authorized hereunder, shall be special  
0317 obligations of the Kansas water office in accordance with their  
0318 terms and shall not constitute an indebtedness of the state of  
0319 Kansas or the Kansas water office, nor shall they constitute  
0320 indebtedness within the meaning of any constitutional or statu-  
0321 tory provision limiting the incurring of indebtedness.

0322 (b) All contracts, agreements and covenants contained in the  
0323 resolution authorizing the issuance of revenue bonds shall be  
0324 binding in all respects upon the Kansas water office, its officials,  
0325 agents, employees and successors. Such agreements, contracts  
0326 and covenants shall be enforceable by appropriate legal action  
0327 brought pursuant to the terms of the resolution authorizing the  
0328 issuance of revenue bonds.

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0330 bonds for the purpose of refunding revenue bonds issued here-  
0331 under pursuant to the terms and authority of K.S.A. 10-116a, and  
0332 amendments thereto.

0333 New Sec. 11. The proceeds derived from the sale of all  
0334 revenue bonds issued under this act shall be deposited to the  
0335 credit of the Kansas water office in a ~~bank, bank or the deposit~~  
0336 ~~office designated by the Kansas water office~~ kept in a separate  
0337 fund and used solely for the purpose for which the revenue  
0338 bonds are authorized. The director is authorized to make all  
0339 contracts and execute all instruments which in the director's  
0340 discretion may be deemed necessary or advisable for the pur-  
0341 pose of acquiring a site, constructing, reconstructing, improving

either an account administered pursuant to K.S.A. 75-4251 et seq.,  
and amendments thereto, or in an account arranged pursuant to K.S.A.  
75-3799, and amendments thereto

0342 and expanding large reservoir projects or to finance the purchase  
 0343 of space in existing reservoirs and to provide for the manner of  
 0344 disbursement of the funds for such purposes. Nothing contained  
 0345 in this act shall be construed as placing in the state treasury any  
 0346 money collected under this act or requiring such action, and the  
 0347 legislature hereby declares that funds deposited under this sec-  
 0348 tion shall not be subject to the provisions of section 24 of article 2  
 0349 of the Kansas constitution.

0350 New Sec. 12. The revenue bonds issued hereunder and any  
 0351 refunding revenue bonds authorized to be issued hereunder and  
 0352 the income derived therefrom are and shall be exempt from all  
 0353 state, county and municipal taxation in the state of Kansas, except  
 0354 Kansas inheritance taxes.

0355 New Sec. 13. Revenue bonds issued hereunder shall be  
 0356 proper and legal investment securities for any investment funds  
 0357 of the state of Kansas or any department, agency or institution  
 0358 thereof, or any county, municipal or other public corporation or  
 0359 political subdivision created pursuant to the laws of the state of  
 0360 Kansas. Banks, trust companies and insurance companies, orga-  
 0361 nized under the laws of the state of Kansas, and the Kansas  
 0362 public employees retirement system may legally and properly  
 0363 purchase the revenue bonds issued hereunder, and they are  
 0364 hereby deemed and approved as collateral security for the de-  
 0365 posit of any and all funds and for the investment of all trust funds  
 0366 under the jurisdiction of the laws of the state of Kansas.

0367 New Sec. 14. (a) This act constitutes full and complete au-  
 0368 thority for the purposes set out in this act, and no procedure or  
 0369 proceedings other than those required by this act shall be nec-  
 0370 essary for the performance of the provisions thereof. The powers  
 0371 conferred by this act shall be in addition and supplemental to  
 0372 and not in substitution for, and the limitations imposed by this  
 0373 act shall not affect, the powers conferred on the Kansas water  
 0374 office by any other law.

0375 (b) The provisions of this act are severable, and if any provi-  
 0376 sion, section, subsection, sentence, clause or phrase of this act,  
 0377 including, but not limited to, the provisions relating to any of the  
 0378 sources of revenues for payment of bonds authorized pursuant to

Other than contracts with federal, state or local governmental units,  
 contracts authorized by this act shall be made pursuant to K.S.A.  
 75-3739 or 75-3799, and amendments thereto.

**HOUSE BILL No. 2705**

By Committee on Energy and Natural Resources

1-17

Technical Amendments by  
Revisor's Office

4-03-86  
S. ENR  
C

0018 AN ACT concerning water; enacting the water assurance pro-  
0019 gram act; authorizing the creation of water assurance districts;  
0020 prescribing the powers and duties of the governing body  
0021 thereof.

0022 *Be it enacted by the Legislature of the State of Kansas:*

0023 Section 1. This act shall be known as and may be cited as the  
0024 water assurance program act.

0025 Sec. 2. As used in this act, unless the context otherwise  
0026 requires:

0027 (a) "Assurance storage" means that part of the conservation  
0028 storage water supply capacity of any reservoir devoted to the  
0029 storage water for the water assurance program;

0030 (b) "assurance water" means water stored in assurance stor-  
0031 age of a reservoir under a water reservation right and provided as  
0032 supplemental water to eligible water right holders;

0033 (c) "water assurance district" means an organization of eligi-  
0034 ble water right holders;

0035 (d) "assurance reservoir" means any reservoir containing as-  
0036 surance storage;

0037 (e) "eligible water right holder" means any entity holding a  
0038 water right or permit, pursuant to K.S.A. 82a-701 et seq., and  
0039 amendments thereto, to appropriate water from a stream or water  
0040 from the alluvium of the stream downstream from an assurance  
0041 reservoir for municipal or industrial purposes as determined by  
0042 the chief engineer pursuant to section 4; and

0043 (f) "member" means an eligible water right holder who,  
0044 because of a determination of benefit by the chief engineer, is  
0045 required to participate in and is subject to the rules of a water  
0046 assurance district. A holder of a water right An eligible water

shall have the power to:

- 0279 (a) Adopt a seal;  
 0280 (b) sue and be sued by its corporate name;  
 0281 (c) purchase, hold, sell and convey land and personal prop-  
 0282 erty and to execute such contracts as the board of directors,  
 0283 deems necessary or convenient to enable it to carry out the  
 0284 purpose for which organized;  
 0285 (d) employ such professional, technical and clerical services  
 0286 and other assistance as deemed necessary by the board of direc-  
 0287 tors;  
 0288 (e) acquire personal property by gift or purchase;  
 0289 (f) impose charges as provided by this act;  
 0290 (g) select a residence or home office for the water assurance  
 0291 district, which shall be at a place in a county in which the district  
 0292 or any part thereof is located and may be either within or without  
 0293 the district as may be designated by the board of directors; and  
 0294 (h) take any other action necessary to achieve the purposes of  
 0295 the state water assurance program.

0296 Sec. 16. (a) The water assurance district ~~may~~ impose an  
 0307 ~~annual~~ charge against each member of the water assurance  
 0298 district. The ~~annual~~ total of such charges shall be sufficient to  
 0299 enable the district to pay the state the full annual amortized cost  
 0300 to the state of acquiring the assurance storage from the federal  
 0301 government by purchase or trade, the cost of operation and  
 0302 maintenance of the assurance storage, the cost of state adminis-  
 0303 tration and enforcement of the assurance program and district  
 0304 operating costs. All payments to the state shall be deposited in  
 0305 the state general fund. The water assurance district also may  
 0306 impose a charge against each member of the district in an amount  
 0307 sufficient to cover district operating costs. Charges to be paid by  
 0308 members of a water assurance district may vary and shall be  
 0309 based on the principle of having each member pay for the pro  
 0310 rata quantity authorized to each member from the assurance  
 0311 program. In determining the annual charge, the governing body  
 0312 of the district shall adopt rules which establish guidelines for  
 0313 prospective members. Such rules shall be subject to the approval  
 0314 of the chief engineer.

shall

The water assurance district shall impose any charges necessary for the payment of the principal of and interest on revenue bonds issued by the Kansas water office pursuant to the provisions of 1986 House Bill No. 2704. The water assurance district shall determine the amount of the charge for each member and shall remit moneys collected to the Kansas water office for deposit in the fund created pursuant to section 8 of 1986 House Bill No. 2704.

0316 releases of assurance water by the federal government under the  
0317 agreements with the federal government that govern operations  
0318 of reservoirs containing assurance storage.

0319 (c) No member below a reservoir shall divert water from  
0320 releases of assurance water unless the member has a conserva-  
0321 tion plan approved by the chief engineer ~~under section 3 of~~  
0322 ~~House Bill No. 2703~~ and which is in effect at the time  
0323 of the desired diversion.

which has been

0324 (d) ~~A person who~~ An entity which becomes a holder of a  
0325 water right in a river basin after an assurance program is in place  
0326 for that basin shall become a member if the chief engineer  
0327 determines that sufficient additional water may be yielded from  
0328 assurance reservoirs to benefit the potential new member.

0329 (e) The director of the Kansas water office and the chief  
0330 engineer each shall adopt any rules and regulations necessary to  
0331 carry out the purposes and procedures of this act. The director  
0332 and the chief engineer shall consider the advice of any existing  
0333 assurance districts in the preparation of any rules and regulations  
0334 adopted pursuant to this subsection.

0335 (f) Any holder of a water right below a reservoir aggrieved by  
0336 a decision of the chief engineer under this act by being either  
0337 included or excluded as a member in the assurance program may  
0338 appeal to the district court under K.S.A. 82a-724, and amend-  
0339 ments thereto.

0340 (g) ~~Annual payments~~ Payments required under a contract  
0341 between a water assurance district and the Kansas water office  
0342 for assurance storage shall be made regardless of the availability  
0343 of assurance water, or the actual use of assurance water by a  
0344 water assurance district. Nothing in this act shall be deemed to  
0345 authorize any suit against the state or any agency of the state or  
0346 person employed by the state on an implied contract or for  
0347 negligence or any other tort. The director of the Kansas water  
0348 office may sue to enforce any claim arising out of a contract.  
0349 Payment of the ~~annual~~ assessment shall be a condition imposed  
0350 on every member and the chief engineer is authorized to declare  
0351 the suspension of any use of assurance water where an ~~annual~~

HOUSE BILL No. 2705

By Committee on Energy and Natural Resources

1-17

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0019 gram act; authorizing the creation of water assurance districts;  
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0041 reservoir for municipal or industrial purposes as determined by  
0042 the chief engineer pursuant to section 4; and

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0044 because of a determination of benefit by the chief engineer, is  
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0046 assurance district. A holder of a water right An eligible water

Suggested Technical Amendments by  
R.E. Pelton, Kansas Lower Republican  
Basis Advisory Committee

H-03-86  
S. ENR

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incorporation of any water assurance district organized under this section shall be maintained unless filed within 90 days after the issuance of the certificate of incorporation for such district by the secretary of state, nor shall the alleged illegality of the incorporation of any such district be interposed as a defense to any action brought after such time.

Sec. 10. If the organization of the proposed water assurance district is defeated at the special election or if the petition, as required by section 6, is disapproved by the chief engineer, the steering committee named in the petition shall determine the amount of money necessary to pay all of the costs and expenses incurred in the preparation and filing of the petition and in the conduct of the election and the steering committee shall assume the obligation for the payment of such costs and expenses.

but no cost shall be assessed by any state agency

Sec. 11. All powers granted to water assurance districts incorporated under the provisions of this act shall be exercised by a board of directors which shall be composed of any odd number of directors and specified in the petition for creation of the district. The board shall be composed of not less than three nor more than nine representatives of the district members. Each director shall serve for a term of three years, and until a successor is elected and qualified, except that as nearly as possible  $\frac{1}{3}$  of the original directors designated in the petition for organization of the district shall serve for a term of one year,  $\frac{1}{3}$  for a term of two years,  $\frac{1}{3}$  for a term of three years. ~~Such directors shall serve without compensation, but shall be allowed actual and necessary expenses incurred in the performance of their official duties.~~

Sec. 12. Within not more than 90 days after the recording of the certificate of incorporation, a meeting open to all eligible voters members of the district shall be held by the steering committee for the election of the initial board of directors of the district. A notice of the meeting shall be mailed to all eligible voters members by the steering committee at least 10 days prior to the date thereof. Each eligible water right holder member in the district shall be entitled to vote for as many candidates as the number of directors that are to be elected, but may not cast more than one vote for any one candidate. The candidates receiving

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

(c) No member below a reservoir shall divert water from releases of assurance water unless the member has a conservation plan approved by the chief engineer under section 3 of House Bill No. ~~\_\_\_\_\_~~ 2703 and which is in effect at the time of the desired diversion.

(d) ~~A person who~~ An entity which becomes a holder of a water right in a river basin after an assurance program is in place for that basin shall become a member if the chief engineer determines that sufficient additional water may be yielded from assurance reservoirs to benefit the potential new member.

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

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

(g) ~~Annual payments~~ Payments required under a contract between a water assurance district and the Kansas water office ~~for assurance storage shall be made regardless of the availability of assurance water, or the actual use of assurance water by a water assurance district.~~ Nothing in this act shall be deemed to authorize any suit against the state or any agency of the state or person employed by the state on an implied contract or for negligence or any other tort. The director of the Kansas water office may sue to enforce any claim arising out of a contract.

Payment of the ~~annual~~ assessment shall be a condition imposed on every member and the chief engineer is authorized to declare the suspension of any use of assurance water where an ~~annual~~

for storage capacity contracted in federal reservoirs



payment is not made.

0353 (h) Rights of members to receive assurance water may not be  
0354 transferred separately from ~~the water right itself~~ their water  
0355 rights.

0356 Sec. 17. Nothing in this act shall prohibit any person from  
0357 contracting to purchase or otherwise obtaining from the federal  
0358 government emergency water stored in federal reservoirs and  
0359 under the control of the federal government under rules and  
0360 regulations of any agency of the federal government.

0361 Sec. 18. If any eligible water right holder in a water assur-  
0362 ance district organized under the provisions of this act requests  
0363 an opportunity to renegotiate any existing contracts for the pur-  
0364 chase of water supply under the terms of K.S.A. 82a-1301 *et seq.*,  
0365 and amendments thereto, the Kansas water authority and the  
0366 Kansas water office shall conduct such negotiations on a timely  
0367 basis.

0368 Sec. 18 19. This act shall take effect and be in force from and  
0369 after its publication in the statute book.

and on the provisions for which negotiations are requested