

MINUTES OF THE HOUSE COMMITTEE ON Calendar & PrintingThe meeting was called to order by Chairman Robert H. Miller at _____
Chairperson7:00 a.m./p.m. on April 29, 1989 in room 379W of the Capitol.

All members were present except:

Committee staff present:

Mary Torrance, Revisor's Office
Lynda Hutfles, Secretary

Conferees appearing before the committee:

The meeting was called to order by Chairman Miller at 7:00 a.m. on Saturday, April 29, 1989.

SB398 -Enactment of the Kansas Storage Tank Act.Representative Braden distributed a memo comparing SB94 as amended by House Committee of the Whole with SB398 as amended by Senate Committee of the Whole. (See attachment A)

There was discussion of the memo:

#6 - Specifies that the contractor must submit documentation that he has insurance, surety bonds, or liquid company assets which, in combination, represent a value equal to the value of the largest tank installation, removal, or repair contract performed by the contractor during the previous two years (Sec. 10(f)(2)). The Senate version of #6 specified the contractor assets must be not less than five times the value of previously performed contract. Representative Spaniol told the committee that there is a need for adequate contractors in the State and the House version of #6 encourages competition. There was discussion on the need for surety bonds.

Representative Braden made a motion, seconded by Representative Moomaw, to keep the House version of #6. The motion carried.

#7 - Includes provision in Sec. 14(b)(4) that expenditures from the Petroleum Storage Tank Release Trust Fund may be used to pay insurance coverage. The Senate version does not include this provision. Speaker Braden explained that this provision allows the Secretary of Health & Environment to take money from the trust fund to pay insurance coverage. Speaker Braden said that he supported an interim study on this subject and therefore, suggested the committee go along with the Senate version.

#8 - Specifies that expenditures from the Petroleum Storage Tank Release Trust Fund may be used to pay for the costs of any additional employees or increased general operating costs of the Department of Health & Environment attributed to the program and these expenditures should only be payable from moneys credited to the Trust Fund (Sec. 14 (b)(5)). The Senate version does not include this provision. Representative Spaniol explained that the provision refers to outside inspectors, specialists, etc.

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Representative Braden made a motion, seconded by Representative Whiteman, to take the House position on #8. The motion carried.

#9 - Establishes in Sec. 17(a) the environmental assurance fee at \$.005 on each gallon of petroleum product and does not exclude jet fuel from the fee assessment. The Senate version changes the fee to \$.01 on each gallon and excludes jet fuel from the assessment. The section ties in with #19 which sets storage tank registration tanks and interest and penalties associated with imposition of such fees. Speaker Braden felt that the operators should pay something out of their own pockets and the Committee should go with the \$.01 fee and not for the storage tank fees. (Representatives Spaniol & Grotewiel very reluctantly agreed).

Representative Braden made a motion, seconded by Representative Moomaw, to go with the Senate version of \$.01 per gallon and not have storage tank fees. The motion carried.

Representative Spaniol said that the subject of jet fuel was put on in the Senate. He explained that this industry is dealing with a very slim margin. There being only one major airport in the state (Wichita), it was his concern that if the fee per gallon were raised too much, aircraft might tank up before they get to Kansas. If they are not going to pay the tax, they should not have to pay the assessment. Rep. Spaniol said he would remain neutral on this subject.

Representative Moomow told the committee that truckers have used this same argument for years.

Representative Miller reminded the committee that the Wichita Airport was not the only place where jet fuel was stored in Kansas.

Exclusion of petroleum products was discussed. If they are not paying the assessment, they won't be covered by funding. This would not interfere with EPA requirements.

Representative Moomaw made a motion, seconded by Representative Whiteman, to keep the House position not to exclude jet fuel from the fee assessment. The motion carried. The need for an interim study in this area was discussed. If the interim committee finds a need to exclude jet fuel, it can be done at a later time.

#10 - Specifies in Sec. 17(c) that the Secretary of Health & Environment is authorized to increase the fee by \$.005 per gallon upon certification that the moneys in the fund are insufficient to perform corrective actions and other associated responsibilities. The Senate version does not include this provision. Speaker Braden felt the committee should go with the Senate version.

#11 - Specifies in Sec. 17(d) that no State General Fund moneys may be expended to perform corrective actions and other associated responsibilities. The Senate did not include this provision. Speaker Braden felt the committee should go with the Senate version.

#12 - Excludes owners or operators of above ground tanks from reimbursement for corrective actions. Sec. 19(a). In the Senate version owners and operators of above ground tanks are not excluded.

It was felt that since this is not required under federal regulations, the state should not require it. The House position

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should be taken. It was also felt this should be studied in an interim study this summer.

#13 - To be eligible for reimbursement, an owner or operator in Sec. 19(a)(1-2) must submit proof, as required in another section of the bill (Sec. 25), unless the requirement of proof is waived, and that he must submit proof that he had gross sales of petroleum products in an amount of \$20 million or less during his next preceding taxable year. The Senate did not include this provision. Gary Hulitt, Health & Environment, felt going with \$10 million gross sales would be stringent enough. Speaker Braden suggested the Committee go with the Senate version.

#14 - In Sec. 19, amounts of owner & operator liability are different : HCOW -0-4 tanks-\$5,000; 5-12-\$10,000; 13-99-\$20,000; 100 or more-\$60,000. Amounts of owner & operator liability in the Senate version: 0-12-\$5,000; 13-99-\$10,000; 100 or more-\$30,000.

Representative Spaniol told the committee that the House version is consistent to what most states are doing.

Representative Reardon made a motion, seconded by Representative Miller, to stay with the House version. The motion carried.

#15 - Specifies in Sec. 19(a)(7-8) that owners or operators are liable for costs which are paid in association with insurance coverage, warranty coverage, or other sources of reimbursement and for costs due to failure to report releases if such releases were known to have occurred.

Representative Spaniol stated that this item states that an owner or operator who is negligent in reporting leakage would not be eligible for reimbursement of costs. This would encourage people to report leakages.

Representative Barkis made a motion, seconded by Representative Reardon, to go with the House position on Item #15. The motion carried.

#16 - Includes provision in Sec. 19(b) that the Secretary in determining eligibility for reimbursement shall consider all owners or operators owned or controlled by the same interests to be a single owner. The Senate did not include this provision.

Representative Whiteman made a motion, seconded by Representative Barkis, that the Committee go with the House position. The motion carried.

#17 - Deletes provision that would grandfather eligible operators and owners who have undertaken corrective action prior to the effective date of the act. (The implication of this provision was to make eligible for reimbursement those operators who had filed corrective action plans approved by the Secretary on or after January 1, 1989.) (Sec.20). The Senate did not include this provision.

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There was discussion of delaying the effective date of collection of fees and coverage until April 1, 1990. The state does not want to have a liability before they have collected any fees.

Representative Spaniol said he thought the House could explain to the Senate and did not think the Senate would object to this change. He felt it is important to have an interim study this summer. The federal regulations just came out last October. We have no experience and do not know what kinds of problems may arise.

Representative Braden made a motion, seconded by Representative Whiteman, to delay the effective date of collecting fees and coverage until April 1, 1990.

#18 - Provisions of Sec. 24 specify insurance coverage documentation requirements on the part of owners and operators and address waivers for such coverage. The Senate did not include this provision. The Committee decided to go with the Senate provision not to include this provision.

#19 - Provisions of Sec. 25 (a-d) set forth storage tank registration fees for different classes of tanks and interest and penalties associated with imposition of such fees. The Senate did not include this provision. The committee discussed this provision earlier. (See #9 & #12).

#20 - Provision of Sec. 25(e) authorizes the Secretary of Revenue to adopt rules and regulations to collect registration fees. The Senate did not include this provision. The committee decided to go with the Senate provision.

#21 - Delays establishment of Trust Fund, the Advisory Board, the environment assurance and tank registration fees, and reimbursements from the Trust Fund for the costs of corrective actions until April 1, 1990 (Sec. 26). The Senate did not include a provision for this delay.

Representative Braden made a motion, seconded by Representative Sprague, to go with the House version. The motion carried.

There was discussion on the wording of # 1-5 and it was decided that the wording was incorrect and that the Committee should review these.

#1 - Sec. 3, lines 9-10, deletes reference to excepting paragraph 13 of subsection (a) of section 5. Implication is that a pipeline facility, including gathering lines, pursuant to federal and state law; liquid traps, storage tanks, or associated gathering lines directly related to oil and gas production and gathering operations; above ground storage tanks of agricultural materials, and above ground tanks located at a petroleum refining facility are exempt from registration. The Senate did not make these exemptions from registration.

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Representative Braden made a motion, seconded by Representative Moomaw, to go with the House version which does not require registration of above ground tanks. The motion carried.

#2 - Deletes provision which authorizes the Secretary of Health & Environment to prescribe fees for the registration of storage tanks (Sec. 5(a)(13). The Senate version did not delete this provision. The committee decided to go with the Senate version to include the provision to prescribe fees for registration of storage tanks.

#3 - Deletes requirement of storage tank registration for any class of tank otherwise exempted unless specified (See #1 above for exemptions) (Sec.5(a)(13). The Senate version included requirement of storage. There is no need to register a tank if it is exempted.

Representative Braden made a motion, seconded by Representative Reardon, to go with the House position. The motion carried.

#4 - Deletes provision in Sec. 6(a) and in other sections that on and after January 1, 1990, no person shall construct, modify, or operate an above ground tank unless a permit or other approval is obtained. The Senate version did not delete this provision.

Representative Braden made a motion, seconded by Representative Whiteman, to go with the House version and delete the provision. the motion carried.

Representative Barkis made a motion, seconded by Representative Whiteman, to include a severability clause. The motion carried.

Speaker Braden recommended to the committee that they amend water plan funding into this bill. The proposal that Speaker Braden distributed was something that was arrived at with a meeting of John Baldwin, Kansas Water Authority, and the Senate leadership at a meeting last week. He felt that if a funding plan was going to be passed this year the committee needed to amend it into this bill. There appears to be support in the Senate for Water Plan funding, but they were unable to get it out of committee. See attached proposal (B)

Speaker Braden told the committee that the pesticide and fertilizer fees remained the same as when the bill left the House. He said he did not like using the EDIF (Economic Development Initiative Fund), but would be willing to compromise provided that it is clearly stated that there is a \$2 million limitation from EDIF and cannot be used for any other water development projects. This proposal is a good starting point.

There was discussion of the germaneness of this subject to this bill. Speaker Braden said the revisor feels comfortable that both subjects relate to our water supply and to funding and cleaning it up. The committee felt that the bill was germane.

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Speaker Braden felt that a lot of support will be lost if there is an irrigation fee in the bill. Irrigators will be paying because they will be using more fertilizer and pesticides.

John Strickler, Governor's Office, said Governor has agreed to these provisions.

Joe Harkin, Kansas Water Office, told the committee that the actual changes in the municipal use fee are changes from sales tax to a use tax.

Representative Braden's original motion to amend this proposal into SB398 was brought to a vote.

Representative Barkis said that he supports this amendment because he feels water should be a top priority in the State. He did not like the idea of using EDIF funds, but if there is a chance for the water plan he was willing to use the funds. The State needs to conserve and look to the future of water in Kansas.

Representative Shore distributed an alternate proposal on water plan funding and discussed the differences between the proposals. See attachment C.

Representative Moomaw made a substitute motion, seconded by Representative Sprague, to introduce Representative Shore's proposal. The motion lost.

Representative Moomaw made a substitute motion that Shore's plan be amended into the bill with the following changes: See Attachment D. Change \$.30 per ton increase on fertilizer inspection fee to \$.60 and change 1/2 cent per 1000 gallons industrial use to 2 cents. The motion died for lack of a second.

There was discussion on whether oil & gas and irrigators should be included in the bill. Whether the bill even had a chance if they were in it. Representative Spaniol told the committee that some severance tax has been dedicated. The oil and gas industry has paid their share with the severance tax. They also pay a percentage of revenue into the conservation fund.

Representative Roenbaugh told the committee the irrigators also pay into the Groundwater Management District.

Representative Shore suggested a \$25.00 per point of diversion outside of water management districts. Speaker Braden and Representative Miller said it would be impossible to get that through.

Representative Braden's original motion to amend his proposal into SB398 was voted on. The motion carried.

There was committee discussion on whether the severance tax should have dedicated revenues.

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Don Schnacke, Kansas Independent Oil & Gas Association, told the committee that the oil & gas industry does pay \$4 million into the Conservation Fee Fund annually. Kansas Inc. is going to study the industry. They have been paying their fair share in this area. He said he had no objection to a reference to dedicating the severance tax fund.

Ross Martin, Kansas Petroleum Kansas, said he had no objection to a reference to dedicating the severance tax fund.

Representative Braden made a motion, seconded by Representative Barkis, to report SB398 favorably as amended. The motion carried.

The meeting was adjourned.

MEMORANDUM

April 28, 1989

TO: Representative Dennis Spaniol

FROM: Kansas Legislative Research Department

RE: Comparison of S.B. 94 As Amended by House Committee
of the Whole with S.B. 398 As Amended by Senate
Committee of the Whole

<u>S.B. 94</u> <u>(House Committee of the Whole)</u>	<u>S.B. 398</u> <u>(Senate Committee of the Whole)</u>
1. Sec. 3, lines 9-10, deletes reference to excepting paragraph 13 of subsection (a) of section 5. Implication is that a pipeline facility, including gathering lines, pursuant to federal and state law; liquid traps, storage tanks, or associated gathering lines directly related to oil and gas production and gathering operations; above ground storage tanks of agricultural materials, and above ground tanks located at a petroleum refining facility <u>are exempt from registration.</u>	1. Included.
2. Deletes provision which authorizes the Secretary of Health and Environment to prescribe fees for the registration of storage tanks. (Sec. 5(a)(10))	2. Included.
3. Deletes requirement of storage tank registration for any class of tank otherwise exempted unless specified. (See No. 1 above for exceptions.) (Sec. 5(a)(13))	3. Included.
4. Deletes provision in Sec. 6(a) and in other sections that on and after January 1, 1990, no person shall construct, modify, or operate an above ground tank unless a permit or other approval is obtained.	4. Included.

Attachment F

S.B. 94
(House Committee of the Whole)

S.B. 398
(Senate Committee of the Whole)

- | | |
|---|---|
| 5. Deletes requirement that contractor provide documentation to the Department of Health and Environment demonstrating active involvement in underground storage tank activities. (Sec. 10(e)(1)) | 5. Included. |
| 6. Specifies that contractor must submit documentation that he has insurance, surety bonds, or liquid company assets which, in combination, represent a value equal to the value of the largest tank installation, removal, or repair contract performed by the contractor during the previous two years. (Sec. 10(f)(2)) | 6. Value of contractor assets must be <u>not less than five times</u> the value of previously performed contract. (Sec. 10(f)(2)) |
| 7. Includes provision in Sec. 14(b) (4) that expenditures from the Petroleum Storage Tank Release Trust Fund may be used to pay insurance coverage. | 7. Provision not included. |
| 8. Specifies that expenditures from the Petroleum Storage Tank Release Trust Fund may be used to pay for the costs of any additional employees or increased general operating costs of the Department attributed to the program and that such expenditures should only be payable from moneys credited to the Trust Fund. (Sec. 14(b)(5)) | 8. Provision not included. |
| 9. Establishes in Sec. 17(a) the environmental assurance fee at <u>\$.005</u> on each gallon of petroleum product and does not exclude jet fuel from the fee assessment. | 9. Establishes in Sec. 17(a) the environmental assurance fee at <u>\$.01</u> on each gallon and excludes jet fuel from the assessment. |
| 10. Specifies in Sec. 17(c) that the Secretary of Health and Environment is authorized to increase the fee by \$.005 per gallon upon certification that the moneys in the fund are insufficient to perform corrective actions and other associated responsibilities. | 10. Provision not included. |

S.B. 94
(House Committee of the Whole)

S.B. 398
(Senate Committee of the Whole)

11. Specifies in Sec. 17(d) that no State General Fund moneys may be expended to perform corrective actions and other associated responsibilities.

11. Provision not included.

12. Excludes owners or operators of above ground tanks from reimbursement for corrective actions. (Sec. 19(a))

12. Owners or operators of above ground tanks not excluded from reimbursement.

13. To be eligible for reimbursement, an owner or operator in Sec. 19(a) (1-2) must submit proof, as required in another section of the bill (Sec. 25), unless the requirement of proof is waived, and that he must submit proof that he had gross sales of petroleum products in an amount of \$20 million or less during his next preceding taxable year.

13. Provisions not included.

#10 million gross sales

14. In Sec. 19, amounts of owner and operator liability are different, as listed below:

14. Amounts of owner and operator liability are different, as listed below:

S.B. 94 (HCOW)

S.B. 398 (SCOW)

0-4 tanks	\$ 5,000
5-12 tanks	10,000
13-99 tanks	20,000
100 or more	60,000

--	\$ --
0-12 tanks	5,000
13-99 tanks	10,000
100 or more	30,000

15. Specifies in Sec. 19(a) (7-8) that owners or operators are liable for costs which are paid in association with insurance coverage, warranty coverage, or other sources of reimbursement and for costs due to failure to report releases if such releases were known to have occurred.

15. The first part of this provision is contained in Sec. 19(a)(13).

16. Includes provision in Sec. 19(b) that the Secretary in determining eligibility for reimbursement shall consider all owners or operators owned or controlled by the same interests to be a single owner or operator.

16. Provision not included.

S.B. 94
(House Committee of the Whole)

S.B. 398
(Senate Committee of the Whole)

- 17. Deletes provision that would grandfather eligible operators and owners who have undertaken corrective action prior to the effective date of the act. (The implication of this provision was to make eligible for reimbursement those operators who had filed corrective action plans approved by the Secretary on or after January 1, 1989.) (Sec. 20)
- 18. Provisions of Sec. 24 specify insurance coverage documentation requirements on the part of owners and operators and address waivers for such coverage.
- 19. Provisions of Sec. 25 (a-d) set forth storage tank registration fees for different classes of tanks and interest and penalties associated with imposition of such fees.
- 20. Provision of Sec. 25(e) authorizes the Secretary of Revenue to adopt rules and regulations to collect registration fees.
- 21. Delays establishment of Trust Fund, the Advisory Board, the environment assurance and tank registration fees, and reimbursements from the Trust Fund for the costs of corrective actions until April 1, 1990. (Sec. 26)

17. Provision not included.

Delay effective date of collecting fees until April 1, 1990.

18. Provisions not included.

19. Provisions not included.

See #9 & #12

20. Provision not included.

21. No provision for this delay included.

spaniol.lh/jar

severability clause included



Funding Proposal State Water Plan

The Proposal

No. 1

April 20, 1989

Revenue: 50% State Funds/50% Fees

	<u>FY 1990</u>	<u>Ensuing Years</u>
1. Municipal Use Fee	\$3,200,000	\$3,495,000
New fee of 3¢ per 1,000 gallons on municipal water use. If passed on to the consumer, the average cost per person would be 12¢ per month.		
2. Industrial Use Fee	\$1,235,000	\$1,350,000
New fee of 3¢ per 1,000 gallons on industrial water use. If passed on to the consumer, the cost would vary but it would be minimal.		
3. Stockwater Use Fee	\$ 205,000	\$ 225,000
New fee of 3¢ per 1,000 gallons on stockwater use (more than 1,000 head). Cost to consumer would average 18¢ per head per year.		
4. Pesticide Fee	\$ 700,000	\$ 700,000
An increase of \$100 on registration of <u>all</u> chemicals. If passed on to the consumer, the average cost would be 2.7¢ per acre.		
5. Fertilizer Fee	\$ 985,000	\$1,975,000
An increase of \$1.40 per ton on the inspection fee on <u>all</u> fertilizers. If passed on to the consumer, the average cost would be 3.7¢ per acre.		
6. Fines and Penalty Receipts	\$ 100,000	\$ 100,000
No new fee, only existing receipts. No cost to the consumer.		
7. Economic Development Initiative Fund	\$ 0 ¹	\$2,000,000
No new fee, only existing receipts. No cost to the consumer.		
8. State General Fund	\$ 0 ²	\$6,000,000
No new fee, only existing receipts. No cost to the consumer.		
TOTAL	<u>\$6,425,000</u>	<u>\$15,845,000</u>

1. Must be spent on State Water Plan projects.
2. Cannot be spent on State Personnel.
3. Cannot be spent on recreational projects.
4. Requires annual reporting of expenditures.
5. Requires five-year capitol projects plan.
6. Authorizes grant program to local health departments.
7. Delays demand transfers until FY 1991.

¹ \$3,051,250 has been appropriated from this fund for FY 1990.

² \$6,759,091 has been appropriated from this fund for FY 1990

Attachment B

WATER PLAN FUNDING

<u>Funding Source</u>	<u>Annual Revenue</u>												
<i>2¢ per 1000 gal.</i> 1¢ fee on sale of water at retail by public water supply systems	2,734 <i>2.3</i> 1.90 M												
\$.30 per ton increase on Fertilizer Inspection fee -	.8 .40 M												
1/2 cent per 1000 gallons Industrial Use	1.00 M												
✓ \$100 registration fee increase on pesticides	.70 M												
✓ Penalty fees	.10 M												
- 1.2 mills per mcf of natural gas & - 4.3 mills per barrel of oil	1.00 M												
General Fund	6.00 6.12 M												
EDIF	2.00 3.51 M												
Other (specified in Governor's Budget)	1.29 1.29 M												
Total - FY 1990	<hr style="width: 10%; margin: 0 auto;"/> 14.80 M \$16.02 M												
Raises:	<table border="0" style="margin-left: 20px;"> <tr> <td>Public</td> <td style="text-align: right;">- 1.9 <i>2.3</i> M</td> </tr> <tr> <td>Agriculture</td> <td style="text-align: right;">- 1.1 M</td> </tr> <tr> <td>Industry</td> <td style="text-align: right;">- 1.0 M</td> </tr> <tr> <td>Oil & Gas</td> <td style="text-align: right;">- 1.0 M</td> </tr> <tr> <td colspan="2" style="border-top: 1px solid black; margin-top: 5px;"></td> </tr> <tr> <td>Dedicated</td> <td style="text-align: right;">5.0 M</td> </tr> </table>	Public	- 1.9 <i>2.3</i> M	Agriculture	- 1.1 M	Industry	- 1.0 M	Oil & Gas	- 1.0 M			Dedicated	5.0 M
Public	- 1.9 <i>2.3</i> M												
Agriculture	- 1.1 M												
Industry	- 1.0 M												
Oil & Gas	- 1.0 M												
Dedicated	5.0 M												

Attachment C

WATER PLAN FUNDING

<u>Funding Source</u>	<u>Annual Revenue</u>
1% fee on sale of water at retail by public water supply systems	1.90 M
⁴⁰ \$.30 per ton increase on Fertilizer Inspection fee -	⁸⁰ .40
²⁴ 1/2 cent per 1000 gallons Industrial Use	^{.9} 1.0
\$100 registration fee increase on pesticides	.70
Penalty fees	.10
Point of Diversion (\$25.00/Outside GMD's)	.30
General Fund	6.12
EDIF	3.51
Other (specified in Governor's Budget)	1.29
	<hr/>
Total - FY 1990	15.32