

Approved February 14, 1989
Date

MINUTES OF THE HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES

The meeting was called to order by Representative Dennis Spaniol at
Chairperson

3:30 ~~xxx~~ p.m. on February 9, 1989 in room 526-S of the Capitol.

All members were present except:

Committee staff present:

Raney Gilliland, Legislative Research
Mary Torrence, Revisor of Statutes' Office
Betty Ellison, Committee Secretary

Conferees appearing before the committee:

John Strickler, Special Assistant for Environment and Natural
Resources to Governor Hayden
Dan Manwarren, Owner, Dan's Irrigation, Iuka, Kansas

Chairman Dennis Spaniol called the meeting to order. John Strickler of the Governor's Office requested introduction of a bill relative to recreational access. Attachment 1. A motion was made by Representative Freeman, seconded by Representative Patrick, that this bill be introduced and referred back to the committee. The motion carried.

Turning to House Bill 2008 - Financing of state water plan, the Chairman called attention to a balloon copy of proposed amendments, Attachment 2 and a memo on Water Protection Act, Proposal No. 2. Attachment 3. He explained a number of changes from the interim committee report in the Water Protection Act Proposal. Committee discussion relative to several points in the proposal followed.

Representative Grotewiel explained an amendment which would narrow where the dedicated funding would go. Attachment 4. Representative Grotewiel, seconded by Representative Freeman, moved his amendment. Discussion followed regarding what would or would not be included. Representative Grotewiel again moved his amendment and the motion passed.

During further discussion, Representative Grotewiel advised that under Proposal No. 2, item 1, out of the \$3.1 million, \$86,000 would come from rural water districts. Under a usage tax, 2¢ per 1,000 gallons would be \$6 million, so this proposal would be better for those on rural water districts. It was noted that the intent in the proposal was to divide the cost evenly between urban and rural areas.

Representative Holmes proposed a conceptual amendment that the dedicated portion of the funds in Proposal No. 2 would go back to the congressional district they were collected from, except for number 5. Representative Guldner seconded. Following discussion, a vote was taken and the motion failed.

Representative Roenbaugh distributed copies of an amendment dealing with tipping fees. Attachment 5. Representative Roenbaugh, seconded by Representative Shore, moved adoption of this amendment. During discussion, it was noted that in paragraph (e), subparagraph (2), the date should be changed to January 31, 1989. Also that subparagraph (4) should read "the contract has not been amended at any time after it was originally signed or entered into." Representatives Roenbaugh and Shore agreed with these amendments to their motion. Following further discussion, Representative Roenbaugh moved the amendment and the motion passed.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES,
room 526-S Statehouse, at 3:30 ~~am~~ p.m. on February 9, 1989

Representative Freeman, seconded by Representative Grotewiel, moved that the balloon be adopted, with Representative Roenbaugh's amendment incorporated into it.

Discussion relative to severance tax followed.

Representative Rezac, seconded by Representative Roenbaugh, offered a substitute motion. Attachments 6 and 6a. Following considerable discussion relative to water plan funding coming from the general fund, a vote was taken. Division was called for, and the motion failed on a count of 9 to 10. The Chairman did not vote.

Back on Representative Freeman's original motion on the balloon proposal with Representative Roenbaugh's and Representative Grotewiel's amendments.

A conceptual amendment was offered by Representative Lucas as an alternative source of funding for the water plan: .1 of one cent of total state sales tax revenues by demand transfer from the state general fund on July 1 and January 1, to remain in effect as long as the state water plan is in effect. This would raise between \$15 million and \$18 million per year. Representative Guldner seconded. Further discussion regarding the general fund as a source of funding followed. In closing, Representative Lucas noted that this would give a dedicated source of funding with no increased fees. A vote was taken; division was called for. On a count of 9 to 10, the motion failed. The Chairman did not vote.

During the following discussion, several committee members expressed their reasons for supporting or opposing the proposals in the balloon amendment.

In closing, Representative Freeman commented on the remediation and tipping fee aspects, as well as the long-term effects. Representative Freeman renewed his motion to pass the balloon of House Bill 2008, incorporating the amendments of Representative Grotewiel and Representative Roenbaugh which were passed. The motion had been seconded by Representative Grotewiel. A vote was taken; division was called for. The motion passed on a count of 11 to 9. The Chairman did not vote.

Due to time constraints, the Chairman announced that the hearing on House Bill 2130 - Chemigation testing and service companies would be rescheduled. However, a request was granted to Dan Manwarren of Iuka, Kansas to testify, since he had driven more than 200 miles for this meeting and could not return.

Representing his own company, Dan's Irrigation, Mr. Manwarren testified in opposition to House Bill 2130. He felt that the deficiency at present is in getting those who are chemigating to apply for chemigation permits. This bill would only address those people who are applying for permits, and they are already in compliance with the law. Regarding lines 247-252 of House Bill 2130, Mr. Manwarren submitted that there are enough agencies looking at these devices and that spot enforcement is very effective. He believed that the average farmer would fill out the forms honestly and sign them as required. During discussion, it was noted that the fine was \$500 and most people are complying.

The meeting was adjourned at 5:05 p.m.

The next meeting of the House Energy and Natural Resources Committee will be held at 3:30 p.m. on February 14, 1989 in Room 526-S.

PROPOSED BILL NO. _____

By

AN ACT concerning wildlife and parks; authorizing establishment of a program to extend public access to certain private land for recreational purposes; providing for issuance of certain deer permits and game tags; amending K.S.A. 58-3205 and K.S.A. 1988 Supp. 58-3202, 58-3206 and 75-6104 and repealing the existing sections.

WHEREAS, Kansas is a land rich in natural resources and wildlife which Kansas citizens depend upon for outdoor recreational opportunities; and

WHEREAS, Less than 3% of Kansas acreage is public lands available for public recreation, which has caused increased usage of public areas and has limited citizens' opportunities to experience and enjoy Kansas' resources; and

WHEREAS, The legislature finds it benefits the public health and welfare to encourage owners of land to make available to the public land and water areas for recreational purposes through leasing contracts between the state and owners of land and by limiting the liability toward persons entering thereon, to encourage owners of land to recognize the economic and social benefits of proper wildlife management practices and to provide citizens with increased areas for recreation: Now, therefore,

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

New Section 1. As used in sections 1 through 7:

(a) "Owner" means the possessor of a fee interest or a tenant, lessee, occupant or person in control of the premises.

(b) "Person" means any individual or any unincorporated association, trust, partnership, public or private corporation or governmental entity, including foreign governments or any officer, employee, agent or agency thereof.

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Attachment 1

(c) "Recreational access" means access to lands for recreational purposes including, but not limited to, any of the following, or any combination thereof: Hunting, fishing, swimming, boating, camping, picnicking, hiking, nature study, water skiing, winter sports and viewing or enjoying historical, archaeological, scenic or scientific sites.

(d) "Secretary" means the secretary of wildlife and parks.

New Sec. 2. (a) Within the limits of available appropriations, the secretary may establish and implement a recreational access program to carry out the purposes of this act. As a part of such program, the secretary may enter into agreements to lease recreational access to land owned by persons who voluntarily submit their land for consideration for leasing and whose land is determined by the secretary to be suitable for the purposes of the program.

(b) In determining suitability of land for leasing recreational access, the secretary shall consider criteria such as, but not limited to:

- (1) Location and accessibility of the parcel;
- (2) habitat and wildlife populations;
- (3) number and variety of recreational activities;
- (4) unique natural or biological value of the property;
- (5) terms of the lease;
- (6) size of the parcel;
- (7) number of identifiable boundaries;
- (8) amount of control the owner of the land retains over the accessibility to the leased property; and
- (9) such other factors as the secretary deems relevant to the accomplishment of the purposes of this act.

(c) Except as otherwise provided by law or rules and regulations of the secretary, and in addition to any other license, permit or stamp required by law or rules and regulations of the secretary, a valid recreational access permit is required for any person entering lands leased under the recreational access program for the purposes specified in the lease agreement.

(d) The secretary shall establish, by rules and regulations adopted in accordance with K.S.A. 1988 Supp. 75-3905 and amendments thereto, a fee for recreational access permits and stamps.

New Sec. 3. (a) As a part of the recreational access program established pursuant to this act, the secretary may establish community wildlife associations as described in this section.

(b) Groups of owners of land, in cooperation with a local unit of government, may join to petition the secretary to designate a specified area as a community wildlife association area. If the secretary determines that the area meets program criteria, the secretary may designate such area as a community wildlife association area. After such designation, the secretary may lease lands within the specified area in accordance with the provisions of section 2.

(c) Except as otherwise provided by law or rules and regulations of the secretary, and in addition to any other license, permit or stamp required by law or rules and regulations of the secretary, a community wildlife association stamp, designating the appropriate community wildlife association, is required for any person entering lands leased within a designated community wildlife association area for purposes specified in the lease agreement.

(d) The secretary, in consultation with the petitioners for a community wildlife association and in accordance with K.S.A. 1988 Supp. 75-3905 and amendments thereto, shall adopt rules and regulations establishing a fee for the stamp for such community wildlife association.

New Sec. 4. If a lessor of land leased pursuant to this act or an owner of land adjacent to such leased land suffers injury to either person or property as the result of an act or omission of a person who holds a recreational access permit or stamp or a community wildlife association stamp and who is on such leased land or adjacent land, such lessor or owner of adjacent land may

seek damages for the injury from the state pursuant to the claims procedure provided by article 9 of chapter 46 of the Kansas Statutes Annotated and amendments thereto.

New Sec. 5. (a) Within the state treasury there is hereby created the recreational access fee fund.

(b) All fees for recreational access permits and stamps and community wildlife association stamps, collected by or on behalf of the secretary, shall be remitted at least quarterly to the state treasurer. The state treasurer shall deposit the entire amount in the state treasury and credit it to the recreational access fee fund.

(c) Moneys in the recreational access fee fund shall be used only for:

(1) Paying costs and expenses of the department of wildlife and parks for implementing and administering the recreational access program established pursuant to this act;

(2) enforcing rules and regulations of the secretary relating thereto; and

(3) in accordance with agreements made between the secretary and community wildlife associations.

(d) Expenditures from the recreational access fee fund shall be made in accordance with appropriations acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary.

New Sec. 6. The secretary may provide, by rules and regulations adopted in accordance with K.S.A. 1988 Supp. 75-3905 and amendments thereto, for the issuance of any regular season deer permits and game tags, by deer management unit, remaining after all timely applications have been considered to qualified residents or nonresidents designated by lessors participating in the recreational access program, by community wildlife associations or by other landowners. The fee for such permits and game tags shall be as prescribed pursuant to K.S.A. 32-164b and amendments thereto.

New Sec. 7. The secretary shall adopt, in accordance with

K.S.A. 1988 Supp. 75-3905 and amendments thereto, such rules and regulations as necessary to implement, administer and enforce the provisions of the recreational access program established pursuant to this act.

Sec. 8. K.S.A. 1988 Supp. 58-3202 is hereby amended to read as follows: 58-3202. As used in this act: (a) "Land" means land, roads, water, watercourses, private ways and buildings, structures, and machinery or equipment when attached to the realty and includes agricultural and nonagricultural land.

(b) "Owner" means the possessor of a fee interest, a tenant, lessee, occupant or person in control of the premises.

(c) "Recreational purpose" includes, but is not limited to, any of the following, or any combination thereof: Hunting, fishing, swimming, boating, camping, picnicking, hiking, pleasure driving, nature study, water skiing, winter sports, and viewing or enjoying historical, archaeological, scenic, or scientific sites.

(d) "Charge" means the admission price or fee asked in return for invitation or permission to enter or go upon the land. In the case of land leased to the state or a subdivision of the state, charge does not include any consideration received by the owner for such lease.

(e) "Agricultural land" means land suitable for use in farming and includes roads, water, watercourses and private ways located upon or within the boundaries of such agricultural land and buildings, structures and machinery or equipment when attached to such agricultural land.

(f) "Farming" means the cultivation of land for the production of agricultural crops, the raising of poultry, the production of eggs, the production of milk, the production of fruit or other horticultural crops, grazing or the production of livestock.

(g) "Nonagricultural land" means all land other than agricultural land.

Sec. 9. K.S.A. 58-3205 is hereby amended to read as

follows: 58-3205. Unless otherwise agreed in writing, the provisions of K.S.A. 58-3203 and 58-3204, and amendments thereto, shall be deemed applicable to the duties and liability of an owner of land leased to the state or any subdivision thereof for recreational purposes, including land leased pursuant to the provisions of sections 1 through 7.

Sec. 10. K.S.A. 1988 Supp. 58-3206 is hereby amended to read as follows: 58-3206. Nothing in this act limits in any way any liability which otherwise exists: (a) For willful or malicious failure to guard or warn against a dangerous condition, use, structure, or activity.

(b) For injury suffered in any case where the owner of nonagricultural land charges the person or persons who enter or go on the nonagricultural land for the recreational use thereof, ~~except--that--in--the--case--of--nonagricultural--land--leased--to--the--state--or--a--subdivision--thereof,--any--consideration--received--by--the--owner--for--such--lease--shall--not--be--deemed--a--charge--within--the--meaning--of--this--section.~~

Sec. 11. K.S.A. 1988 Supp. 75-6104 is hereby amended to read as follows: 75-6104. A governmental entity or an employee acting within the scope of the employee's employment shall not be liable for damages resulting from:

(a) Legislative functions, including, but not limited to, the adoption or failure to adopt any statute, regulation, ordinance or resolution;

(b) judicial function;

(c) enforcement of or failure to enforce a law, whether valid or invalid, including, but not limited to, any statute, regulation, ordinance or resolution;

(d) adoption or enforcement of, or failure to adopt or enforce, any written personnel policy which protects persons' health or safety unless a duty of care, independent of such policy, is owed to the specific individual injured, except that the finder of fact may consider the failure to comply with any written personnel policy in determining the question of

negligence;

(e) any claim based upon the exercise or performance or the failure to exercise or perform a discretionary function or duty on the part of a governmental entity or employee, whether or not the discretion is abused and regardless of the level of discretion involved;

(f) the assessment or collection of taxes or special assessments;

(g) any claim by an employee of a governmental entity arising from the tortious conduct of another employee of the same governmental entity, if such claim is (1) compensable pursuant to the Kansas workmen's compensation act or (2) not compensable pursuant to the Kansas workmen's compensation act because the injured employee was a firemen's relief association member who was exempt from such act pursuant to K.S.A. 44-505d at the time the claim arose;

(h) the malfunction, destruction or unauthorized removal of any traffic or road sign, signal or warning device unless it is not corrected by the governmental entity responsible within a reasonable time after actual or constructive notice of such malfunction, destruction or removal. Nothing herein shall give rise to liability arising from the act or omission of any governmental entity in placing or removing any of the above signs, signals or warning devices when such placement or removal is the result of a discretionary act of the governmental entity;

(i) any claim which is limited or barred by any other law or which is for injuries or property damage against an officer, employee or agent where the individual is immune from suit or damages;

(j) any claim based upon emergency preparedness activities, except that governmental entities shall be liable for claims to the extent provided in article 9 of chapter 48 of the Kansas Statutes Annotated;

(k) the failure to make an inspection, or making an inadequate or negligent inspection, of any property other than

the property of the governmental entity, to determine whether the property complies with or violates any law or regulation or contains a hazard to public health or safety;

(l) snow or ice conditions or other temporary or natural conditions on any public way or other public place due to weather conditions, unless the condition is affirmatively caused by the negligent act of the governmental entity;

(m) the plan or design for the construction of or an improvement to public property, either in its original construction or any improvement thereto, if the plan or design is approved in advance of the construction or improvement by the governing body of the governmental entity or some other body or employee exercising discretionary authority to give such approval and if the plan or design was prepared in conformity with the generally recognized and prevailing standards in existence at the time such plan or design was prepared;

(n) failure to provide, or the method of providing, police or fire protection;

(o) any claim for injuries resulting from the use of any land leased pursuant to sections 1 through 7 or of any public property intended or permitted to be used as a park, playground or open area for recreational purposes, unless the governmental entity or an employee thereof is guilty of gross and wanton negligence proximately causing such injury;

(p) the natural condition of any unimproved public property of the governmental entity;

(q) any claim for injuries resulting from the maintenance of an abandoned cemetery, title to which has vested in a governmental entity pursuant to K.S.A. 17-1366 through 17-1368, and amendments thereto, unless the governmental entity or an employee thereof is guilty of gross and wanton negligence proximately causing the injury;

(r) the existence, in any condition, of a minimum maintenance road, after being properly so declared and signed as provided in K.S.A. 68-5,102 and amendments thereto; or

(s) any claim for damages arising from the performance of community service work other than damages arising from the operation of a motor vehicle as defined by K.S.A. 40-3103 and amendments thereto.

The enumeration of exceptions to liability in this section shall not be construed to be exclusive nor as legislative intent to waive immunity from liability in the performance or failure to perform any other act or function of a discretionary nature.

Sec. 12. K.S.A. 58-3205 and K.S.A. 1988 Supp. 58-3202, 58-3206 and 75-6104 are hereby repealed.

Sec. 13. This act shall take effect and be in force from and after its publication in the statute book.

HOUSE BILL No. 2008

By Special Committee on Energy and Natural Resources

Re Proposal No. 16

12-22

16 AN ACT concerning financing of the state water plan; imposing fees
 17 on certain retail sales and certain solid waste disposal; amending
 18 K.S.A. 65-170f, ~~K.S.A. 1988 Supp. 79-4227 and K.S.A. 1988 Supp.~~ and 65-3415
 19 ~~65-2410~~, as amended by chapter 356 of the 1988 Session Laws of
 20 Kansas, and repealing the existing sections.

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

22 New Section 1. (a) There is hereby imposed a water protection
 23 fee at the rate of: ~~Two~~

24 (1) ~~Three~~ percent upon the gross receipts from sales at retail by
 25 public water supply systems of water delivered through mains, lines
 26 or pipes;

27 (2) ~~two~~ percent upon the gross receipts from sales at retail of ~~one~~
 28 fertilizer used in the production of plants and plant products pro-
 29 duced for resale; ~~and~~

30 ~~(2) four percent upon the gross receipts from sales at retail of~~
 31 ~~restricted-use pesticides, as defined by K.S.A. 2-2408a and amend-~~
 32 ~~ments thereto.~~

33 ~~(b)~~ The secretary of revenue shall administer, enforce and collect (c)
 34 the fee imposed by this section. All laws and rules and regulations
 35 of the secretary relating to the administration, enforcement and col-
 36 lection of the retailers' sales tax shall apply to such fee insofar as

37 they can be made applicable, and the secretary shall adopt such
 38 additional rules and regulations as necessary for the efficient and
 39 effective administration, enforcement and collection thereof.

40 ~~(c)~~ The secretary of revenue shall remit daily to the state treas- (d)
 41 urer all moneys collected from fees imposed pursuant to this section.
 42 Upon receipt thereof, the state treasurer shall deposit the entire
 43 amount in the state treasury and credit it to the state water plan

(3) two cents, per 1,000 gallons of water used for industrial use;

(4) two cents per 1,000 gallons of water used for stockwatering; and

(5) fifty dollars per point of diversion for irrigation use.

(b) As used in this section, "industrial use," "stockwatering," "point of diversion" and "irrigation use" have the meanings provided by rules and regulations of the chief engineer of the division of water resources of the state board of agriculture and the determination of gallons used and points of diversion shall be based upon figures supplied to the secretary of revenue by the division of water resources.

Attachment 2
2-9-89
H Energy & NR

fund created by section ~~7~~

New Sec. 2. (a) There is hereby imposed a tonnage fee for each ton or equivalent volume of solid waste disposed of at any solid waste disposal area, as defined by K.S.A. 65-3402 and amendments thereto, at the rate of \$1 per ton for the fiscal year beginning July 1, 1989, and increasing annually thereafter on July 1 in the amount of \$.25 through July 1, 1993. Thereafter such rate shall be \$2 per ton.

(b) The operator of a solid waste disposal area shall pay the fee imposed by this section.

(c) The secretary of revenue shall administer, enforce and collect the fee imposed by this section. Except as otherwise provided by subsection (b), all laws and rules and regulations of the secretary relating to the administration, enforcement and collection of the retailers' sales tax shall apply to such fee insofar as they can be made applicable, and the secretary shall adopt such additional rules and regulations as necessary for the efficient and effective administration, enforcement and collection thereof.

(d) The secretary of revenue shall remit daily to the state treasurer all moneys collected from fees imposed pursuant to this section. Upon receipt thereof, the state treasurer shall deposit the entire amount in the state treasury and credit ~~it~~ ^{1/2} to the state water plan fund created by section ~~7~~ 10

to the local solid waste management fund created by section 8 and 1/2

Sec. 3. K.S.A. 1988 Supp. 79-4227 is hereby amended to read as follows: 79-4227. (a) All revenue collected or received by the director from the tax imposed by this act shall be remitted daily to the state treasurer. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount thereof in the state treasury. The state treasurer shall first credit such amount thereof as the director shall order to the mineral production tax refund fund created under subsection (b) of this section. The state treasurer shall credit the remainder of such amounts as follows: (1) Seven percent to the special county mineral production tax fund created under subsection (c) of this section; ~~and~~ (2) such amount as the director certifies pursuant to subsection (f) to be credited to the state water plan fund created by section ~~7~~; and (3) the remainder shall be credited to the state general fund.

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81 (b) A refund fund designated as "mineral production tax refund
82 fund" not to exceed \$50,000 is hereby created for the prompt pay-
83 ment of all tax refunds. The mineral production tax refund fund shall
84 be in such amount, within the limit set by this section, as the director
85 shall determine is necessary to meet current refunding requirements
86 under this act.

87 (c) There is hereby created a special county mineral production
88 tax fund. On December 1, 1983, and quarterly thereafter, the di-
89 rector of taxation shall distribute all moneys credited to such fund
90 to the county treasurers of all counties in which taxes were levied
91 under K.S.A. 79-4217 *and amendments thereto* for the severing and
92 producing of coal, oil or gas from property within the county, in the
93 proportion that the taxes, levied upon production in each county
94 bears to the total of all of such taxes levied in all of such counties.
95 Such distribution shall be based on returns filed, with any adjust-
96 ments or corrections thereto made by the director of taxation.

97 (d) The secretary of revenue shall make provision for the deter-
98 mination of the counties within which taxes are levied under K.S.A.
99 79-4217 *and amendments thereto* for the severance of coal, oil or
100 gas and shall certify the same to the director of accounts and reports.

101 (e) The director of accounts and reports shall draw warrants on
102 the state treasurer payable to the county treasurer of each county
103 entitled to payment from the special county mineral production tax
104 fund upon vouchers approved by the director of taxation. Upon
105 receipt of such warrant, each county treasurer shall credit 50% of
106 the amount thereof to the county general fund and shall distribute
107 the remaining 50% thereof to the treasurer of each school district
108 all or any portion of which is located within the county in the
109 proportion that the assessed value of coal, oil and gas properties
110 within each district bears to the total of the assessed value of all
111 coal, oil and gas properties within the county. Such assessed valuation
112 shall be determined upon the basis of the most recent November
113 1 tax roll. The treasurer of each school district shall credit the entire
114 amount of the moneys so received to the general fund of the school
115 district.

116 (f) *The director of taxation shall certify to the state treasurer an*
117 *amount to be credited to the state water plan fund from each amount*

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118 *remitted to the state treasurer pursuant to this section. The total of*
119 *all amounts so certified during each fiscal year shall be \$2,000,000.*
120 *To the extent practicable, the amount certified with each such re-*
121 *mittance shall be proportionate to the total amount of such remitt-*
122 *ance and shall be based upon the ratio of \$2,000,000 to the total*
123 *amount which will be remitted to the state treasurer pursuant to*
124 *this section during the fiscal year as estimated by the director and*
125 *as adjusted by the director from time to time during the fiscal year*
126 *in accordance with actual receipts.*

127 New Sec. 4. All moneys collected from penalties imposed pur-
128 suant to K.S.A. 65-170d, 65-171s, 65-3419 or 65-3446, and amend-
129 ments thereto, shall be remitted to the state treasurer. Upon receipt
130 thereof, the state treasurer shall deposit the entire amount in the
131 state treasury and credit it to the state water plan fund created by
132 section 4.

133 Sec. 5. K.S.A. 65-170f is hereby amended to read as follows: 65-
134 170f. *Except as otherwise provided by section 4, all penalties re-*
135 *covered pursuant to the provisions of this act shall be deposited in*
136 *the state treasury and credited to the state general fund of the state*
137 *of Kansas.*

138 Sec. 6. K.S.A. 1988 Supp. 65-3419, as amended by section 204
139 of chapter 356 of the 1988 Session Laws of Kansas, is hereby
140 amended to read as follows: 65-3419. (a) Any person who violates
141 any provision of subsection (a) of K.S.A. 65-3409 and amendments
142 thereto, shall incur, in addition to any other penalty provided by
143 law, a civil penalty in an amount of up to \$500 for every such violation
144 and, in the case of a continuing violation, every day such violation
145 continues shall be deemed a separate violation.

146 (b) The director of the division of environment, upon a finding
147 that a person has violated any provision of subsection (a) of K.S.A.
148 65-3409 and amendments thereto, may impose a penalty within the
149 limits provided in this section, which penalty shall constitute an
150 actual and substantial economic deterrent to the violation for which
151 it is assessed.

152 (c) No penalty shall be imposed pursuant to this section except
153 upon the written order of the director of the division of environment
154 to the person who committed the violation. Such order shall state

155 the violation, the penalty to be imposed and the right of such person
156 to appeal to a hearing before the secretary of health and environment.
157 Any such person may, within 15 days after service of the order make
158 written request to the secretary for a hearing thereon. The secretary
159 shall hear such person within 30 days after receipt of such request.
160 Hearings under this subsection shall be conducted in accordance
161 with the provisions of the Kansas administrative procedure act.

162 (d) Any action of the secretary pursuant to subsection (c) is sub-
163 ject to review in accordance with the act for judicial review and civil
164 enforcement of agency actions.

165 ~~(e) Any penalty recovered pursuant to the provisions of this sec-~~
166 ~~tion shall be deposited in the state treasury and credited to the~~
167 ~~general fund.~~

168 ~~(f)-(e)~~ Notwithstanding any other provision of this act, the sec-
169 retary, upon receipt of information that the storage, transportation,
170 treatment, or disposal of any waste may present an imminent and
171 substantial hazard to the health of persons or to the environment,
172 may take such action as the secretary determines to be necessary
173 to protect the health of such persons or the environment. The action
174 the secretary may take shall include, but not be limited to:

175 (1) Issuing an order directing the operator of the treatment or
176 disposal facility or site, or the custodian of the waste, which con-
177 stitutes such hazard, to take such steps as are necessary to prevent
178 the act or eliminate the practice which constitutes such hazard. Such
179 action may include, with respect to a facility or site, permanent or
180 temporary cessation of operation.

181 (2) Requesting that the attorney general or appropriate district
182 attorney commence an action enjoining such acts or practices. Upon
183 showing by the department that a person has engaged in such acts
184 or practices, a permanent or temporary injunction, restraining order,
185 or other order may be granted by any court of competent jurisdiction.

186 ~~(g)-(f)~~ In any civil action brought pursuant to this section in
187 which a temporary restraining order, preliminary injunction or per-
188 manent injunction is sought, it shall not be necessary to allege or
189 prove at any stage of the proceeding that irreparable damage will
190 occur should the temporary restraining order, preliminary injunction
191 or permanent injunction not be issued or that the remedy at law is

192 inadequate, and the temporary restraining order, preliminary in-
193 junction or permanent injunction shall issue without such allegations
194 and without such proof.

Insert sections 7 - 9, attached

195 New Sec. 7. There is hereby created, in the state treasury, the
196 state water plan fund. All moneys in the state water plan fund shall
197 be expended in accordance with appropriations acts for implemen-
198 tation of the state water plan formulated pursuant to K.S.A. 82a-
199 903 *et seq.* and amendments thereto.

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200 Sec. 8. ~~K.S.A. 65-170f, K.S.A. 1988 Supp. 79-4227 and K.S.A.~~
201 ~~1988 Supp. 65-3419~~, as amended by chapter 356 of the 1988 Session
202 Laws of Kansas, are hereby repealed.

1987 Supp. 2-2204 and 65-3419, both

203 Sec. 9. This act shall take effect and be in force from and after
204 its publication in the statute book.

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Sec. 7. K.S.A. 1987 Supp. 2-2204, as amended by section 31 of chapter 356 of the 1988 Session Laws of Kansas, is hereby amended to read as follows: 2-2204. (a) Every agricultural chemical which is distributed, sold or offered for sale within this state or delivered for transportation or transported in intrastate commerce or between points within this state through any point outside this state shall be registered in the office of the secretary. All registration of products shall expire on December 31 following the date of issuance, unless such registration shall be renewed annually, in which event expiration date shall be extended for each year of renewal registration, or until otherwise terminated. Products which have the same formula, and are manufactured by the same person, the labeling of which contains the same claims, and the labels of which bear a designation identifying the product as the same agricultural chemical may be registered as a single product and additional names and labels shall be added by supplement statements during the current period of registration. Within the discretion of the secretary, or an authorized representative of the secretary, a change in the labeling or formulas of an agricultural chemical may be made within the current period of registration without requiring a reregistration of the product. Any agricultural chemical imported into this state which is subject to the provisions of any federal act providing for the registration and which has been duly registered under the provisions of such federal act, in the discretion of the secretary, may be exempted from registration under this act when such agricultural chemical is sold or distributed in the unbroken immediate container in which such agricultural chemical was originally shipped.

(b) The registrant shall file with the secretary, a statement including: (1) The name and address of the registrant and the name and address of the person whose name will appear on the label if other than the registrant; (2) the name of the

agricultural chemical; (3) a complete copy of the labeling accompanying the agricultural chemical and a statement of all claims made and to be made for it and a statement of directions for use; and (4) if requested by the secretary, or an authorized representative of the secretary, a full description of the tests made and the results thereof upon which the claims are based. In the case of renewal of registration, a statement shall be required only with respect to information which is different from that furnished when the product was registered or last reregistered.

(c) The registrant shall pay an annual fee fixed by rules and regulations adopted by the state board of agriculture, except that such fee shall not exceed \$30 \$130 for each agricultural chemical registered. Such fee shall be deposited in the state treasury ~~to the credit of~~ and credited as follows: (1) An amount equal to \$100 for each fee so deposited shall be credited to the state water plan fund created by section 9; and (2) the remainder shall be credited to the agricultural chemical fee fund to be used for carrying out the provisions of this act. The annual fee for each agricultural chemical registered which is in effect on the day preceding the effective date of this act shall continue in effect until the state board of agriculture adopts rules and regulations fixing a different fee therefor under this subsection. The state board of agriculture is hereby authorized and empowered, whenever it determines that the fee imposed by this subsection and paid into the state treasury as provided by law is yielding more revenue than is required for the purposes to which such fee is devoted by law, to reduce the fee imposed by this subsection for such period as the board shall deem justified by adopting rules and regulations under this subsection but not for less than one year. In the event that the board, after reducing such fee, finds that sufficient revenues are not being produced by such reduced fee, the board is authorized and empowered by adopting rules and regulations under this subsection, to restore in full or in part such fee to an amount

which, in the judgment of the board, will produce sufficient revenues for the purposes as provided in this section, but not exceeding the maximum amount of the fee imposed by this subsection.

(d) The secretary, or an authorized representative of the secretary, whenever it is deemed essential in the administration of this act, may require the submission of the complete formula of any agricultural chemical. If it appears to the secretary, or an authorized representative of the secretary, that the composition of the product is such as to warrant the proposed claims for the product and if the product and its labeling and other material required to be submitted comply with the requirements of this act, the secretary shall register the product.

(e) If it does not appear to the secretary, or an authorized representative of the secretary, that the product is such as to warrant the proposed claims for it or if the product and its labeling and other material required to be submitted do not comply with the provisions of this act, the secretary shall notify the registrant of the manner in which the product, labeling, or other material required to be submitted fail to comply with the act so as to afford the registrant an opportunity to make the necessary corrections.

(f) In order to protect the public, the secretary, or a duly authorized representative of the secretary, on the secretary's own motion, may at any time, after written notice to the registrant, cancel the registration of an agricultural chemical. Any person so notified shall be given an opportunity for a hearing in accordance with the provisions of the Kansas administrative procedure act with regard to the secretary's contemplated action, before any registration is canceled or revoked.

(g) Notwithstanding any other provisions of this act, registration is not required in the case of an agricultural chemical shipped from one plant within this state to another

plant within this state operated by the same person.

New Sec. 8. (a) There is hereby created, in the state treasury, the local solid waste management fund.

(b) Moneys credited to the local solid waste management fund shall be used only for grants pursuant to K.S.A. 65-3415 and amendments thereto.

(c) Expenditures from the local solid waste management fund shall be made in accordance with appropriations acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of health and environment.

Sec. 9. K.S.A. 65-3415 is hereby amended to read as follows: 65-3415. (a) The secretary is authorized to assist counties, municipalities and authorities by administering grants to pay up to ~~fifty-percent-(50%)~~ 50% of the costs of preparing:

(1) Amending official plans for solid waste management systems in accordance with the requirements of this act and the rules, and regulations and standards adopted pursuant to this act, ~~and for;~~

(2) implementing such official plans; and

(3) carrying out related studies, surveys, investigations, inquiries, research and analyses.

(b) ~~All--grants--shall--be--made--from--funds--appropriated--for--this--purpose--by--the--legislature~~ Any grant to a city or county pursuant to this section shall be in an amount proportionate to the amount of fees paid pursuant to section 2 for disposal of solid waste generated within such city or county, to the extent it is practicable to determine or estimate such amount.

WATER PROTECTION ACT

Proposal No. 2

1.	Two percent (2%) Water Protection Fee on sale of water	\$3,165,754
2.	One percent (1%) Water Protection Fee on sale of fertilizers	2,576,170
3.	Dedicate 2,000,000 Severance Tax Receipt	2,000,000
4.	Solid Waste Tipping Fee 1.00 per ton Rebate half of total receipts to local governments. 1st year rebate \$799,257.	799,257
5.	\$100 fee increase on Registration Fees for General Use and Restricted Use Pesticides	\$820,000
6.	Dedicate Fines and Penalty Revenue Groundwater Protection Act	70,000
7.	2¢ per 1,000 gallon Industrial Use	930,948
8.	2¢ per 1,000 gallon Feedlot Use	151,041
9.	Irrigation - \$50.00 per Point of Diversion 30,304 Points of Diversion	1,519,200
	TOTAL ANNUAL RECEIPTS	12,032,370

H Energy and NR
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Attachment 3

PROPOSED AMENDMENT TO HB 2008

Add to section 7, page 6:

"Such moneys shall be used only for the establishment and implementation of water-related projects, including remediation, new construction, renovation, repair and maintenance projects, and shall not be used for: (a) General operating expenditures of any state agency except on a supplemental basis to provide for the necessary repair, maintenance and replacement of equipment as required for such projects; or (b) projects that are primarily recreational."

H Energy & NR
2-9-89
Attachment 4

PROPOSED AMENDMENT TO HB 2008 - alternative A

Add to section 2:

"(e) The secretary of revenue shall grant exemptions from the fee requirements of this section for disposal of solid waste if all of the following criteria are met:

(1) Disposal of the solid waste is pursuant to a written contract between the owner or operator of the solid waste disposal area and another person or entity;

(2) the contract for receipt of solid waste was lawfully executed prior to March 1, 1989;

(3) the contract for receipt of solid waste prevents any increase in the compensation or fee payable to the operator or owner of the solid waste disposal area;

(4) the contract has not been amended at any time after February 28, 1989; and

(5) the owner or operator of the solid waste disposal area applying for the exemption demonstrates to the satisfaction of the secretary that the owner or operator has made good faith efforts to renegotiate such contract notwithstanding its terms and has been unable to obtain an amendment allowing the fee provided by this section to be added to the compensation or fee provisions of the contract.

Exemptions granted under this subsection shall cause the solid waste exempted to be disregarded in calculating the volume or weight of solid waste disposed of during the calendar year under this subsection.

Exemptions under this subsection shall expire upon the renewal or amendment of the contract or June 30, 1992, whichever occurs first.

H Energy and NR
2-9-89
Attachment 5

PROPOSED AMENDMENT TO HB 2008

Strike sections 1 through 6 and insert:

"Section 1. On January 15 and on July 15 of each year, the director of accounts and reports shall make transfers in equal amounts which in the aggregate equal 1.5% of the total income taxes credited to the state general fund pursuant to article 32 of chapter 79 of Kansas Statutes Annotated and acts amendatory thereof and supplemental thereto during the preceding calendar year from the state general fund to the state water plan fund created by section 2.";

Renumber section 7 as section 2;

Strike section 8;

Renumber section 9 as section 3;

Amend title accordingly.

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Attachment 6

Estimated Income Tax Receipts for FY 1990
as Adjusted for S.B. 24, and Estimated
Revenue from a 1.5 Percent Surtax
on Liabilities

	FY 1990
Income Tax (Consensus Estimate)	
Individual	\$ 910,000,000
Corporation	160,000,000
Financial Institutions	16,000,000
Domestic Insurance Companies	950,000
Total	\$ 1,086,950,000
Approximate Effect of S.B. 24	(80,000,000)
	\$ 1,006,950,000
Round to	\$ 1,000,000,000
Multiply by	1.5%
Revenue with Surtax of 1.5%	\$ 15,000,000

Other Rates for Illustration:

Rate	Yield
1.0	\$ 10 million
1.5	15 million
2.0	20 million