

Approved 3-5-1991  
Date

MINUTES OF THE Senate COMMITTEE ON Energy and Natural Resources

The meeting was called to order by Senator Ross Doyen at  
Chairperson

8:03 a.m./p.m. on February 27, 1991 in room 423-S of the Capitol.

All members were present except: All members were present.

Committee staff present:

Pat Mah, Legislative Research Department  
Raney Gilliland, Legislative Research Department  
Don Hayward, Revisor of Statutes  
Lila McClaflin, Committee Secretary

Conferees appearing before the committee:

Wayland J. Anderson, Asst. Chief Engineer, Division of Water Resources,  
Kansas State Board of Agriculture  
Clark Duffy, Asst. Director, Kansas Water Office  
Tom Pickford, Director of Public Works, Shawnee County, and Kansas County  
Engineers Society  
John Ross, Jewell County Commissioner  
Beverly Bradley, Deputy Director, Kansas Association of Counties  
Rich McKee, Executive Secretary, Feedlot Division, Kansas Livestock Assn.  
Jean Barbee, Travel Industry Association of Kansas  
Fred Wallace, owner, Kampgrounds of America, Wakeeney  
Helen Krahn, owner, KOMA Topeka, Grantville  
Ken Gudenkauf, Kansas Department of Transportation, (KDOT)  
Senator Jerry Moran

The meeting was called to order by the Chairman. Information was distributed regarding the State Water Plan Fund for FY 1991 and FY 1992 (Attachment 1).

The Chairman opened the hearing on SB 236 - concerning obstructions in streams; establishing fees for consent or permit to construct dam or other water obstruction or channel change.

Wayland J. Anderson stated their request to initiate these new fees is not predicated on a desire to increase costs to do business or to construct projects, but rather on the need for additional resources to carry out current program functions in a timely and responsible manner (Attachment 2).

Clark Duffy supported SB 236 because the permit fee needs to be enacted. They need to fill positions to implement the State Water Plan Guidelines for FY 1992, and the Governor's Budget did not include this in the General Fund, and SB 236 would be the appropriate mechanism to get the resources to implement those guidelines (Attachment 3).

Mr. Duffy responded to questions regarding water plan moneys that some departments have available and are not using at this time. He said the Legislature could take action to have these funds sent back to the State Water Fund Plan and then it could be redistributed through appropriations, or could be transferred to other agencies for a purpose decided on by the Legislature.

The Chairman asked Mr. Duffy to develop a list of where these funds are located, and provide this information to him.

CONTINUATION SHEET

MINUTES OF THE Senate COMMITTEE ON Energy and Natural Resources,  
room 423-S, Statehouse, at 8:03 a.m./~~p.m.~~ on February 27, 1991.

Tom Pickford stated their association contends that the 160 acre requirement is too stringent, and recommends this be revised, and recommend that the minimum drainage for requiring a permit should be 640 acres. He said if the State mandates programs requiring expenditures of county and city budgeted funds, they must have the authority to raise the funds to administer the programs (Attachment 4).

John Ross spoke in opposition, and recommended when counties are replacing existing bridges a permit should not be required as it only slows the project and adds additional cost. He further recommended the drainage acres used to determine a permit requirement should be raised (Attachment 5).

Beverly Bradley presented written testimony supporting the position taken by the Kansas County Engineers Association (Attachment 6).

Rich McKee spoke in oposition to the measure. Their members believe if the public wants the State to examine and inspect dams built on private property, the State ought to pay for the inspection (Attachment 7).

The Chairman closed the hearing on SB 236. The hearing was opened on SB 160 - relating to roadside facilities; providing for signs prohibiting extended parking at such facilities.

Jean Barbee testified that the rest areas are inadequate for overnite camping stays as they where never intended for that purpose (Attachment 8).

Ms. Barbee stated the travel industries and the Tourism Committee have had many task forces and subcommittees to study tourism in the State and they have generated a lot of information and tried to come up with some solutions. She suggested it was time for the Legislature to review this information. She recommended the Committee consider an interim committee study on tourism, travel, and signage.

Fred Wallace asked that overnight camping in roadside rest areas be prohibited as there is no security, and there are private campgrounds readily available. See (Attachment 9).

Helen Krahn appeared in support of SB 160, and supported Mr. Wallace testimony.

Senator Jerry Moran appeared as a sponsor and proponent. He said the intent of the bill is to discourage rather than establish penatlties for persons using roadside facilities for daylong or overnight camping, recreational, or lodging facilities. As a matter of public policy the state should not compete with but encourage private industry.

Ken Gudenkaup, KDOT, appeared to answer questions. He said the fiscal impact of the bill is extimated at \$32,000. to install the signs, and there would be some cost for maintenance of the signs.

The hearing on SB 160 was closed. Chairman Doyen asked for discussion and or recommendation on the bill.

Senator Martin moved the bill be recommended for passage. Senator Frahm seconded the motion. The motion carried.

Senator Frahm moved the minutes of February 20 be adopted. Senator Langworthy seconded the motion. The motion carried.

The meeting adjourned at 8:58 a.m. The next meeting will be held on March 5, 1991.

19-91 SENATE ENERGY AND NATURAL RESOURCES COMMITTEE

Date 2/27/91

PLEASE PRINT

GUEST LIST

<u>NAME</u>	<u>REPRESENTING</u>
Rich McKee	KLA
FRED WALLACE	WAKEENEY KOA
HELEN J. KRAHN	KOA OF TOPEKA
Jean Barber	Gravel Industry Assn. of Kansas
George Austin	Div. of Water Resources
Clark Duffy	Kansas Water Office
Walter Tutwiler	Interim for Sen. Lee
Stephen C. Hunt	Kansas Water Office
Larry Emig	Kans. Dept. of Transp.
BEV BRADLEY	KS Assoc of Counties
TOM PICKFORD	KS. CO. ENGR'S ASSOC.
TOM DAY	KCC
Glenn Smith	KCC
Karen Ross	Jewell Co
John Ross	Jewell Co Comm. Rep.
Ken Gudenkauf	Kansas Dept. of Transportation
Darrell Monteil	KS. WLDL & PARKS
Mike Bohmoff	Div. of the Budget

**STATE WATER PLAN FUND  
FY 1991**

Bill No.	Available Resources	Approved FY 1991	Gov. Rec. FY 1991	Senate* Rec. FY 1991	House* Rec. FY 1991
	Beginning Balance	\$ 131,905	\$ 264,789	\$ 264,789	\$ 264,789
	State General Fund	5,895,000	5,895,000	5,895,000	5,895,000
	Economic Development Fund	2,000,000	2,000,000	2,000,000	2,000,000
	Municipal Water Fees	3,100,000	3,100,000	3,100,000	3,100,000
	Industrial Water Fees	1,400,000	1,341,147	1,341,147	1,341,147
	Stock Water Fees	200,000	226,800	226,800	226,800
	Pesticide Registration Fees	600,800	621,600	621,600	621,600
	Fertilizer Registration Fees	1,722,477	1,937,950	1,937,950	1,937,950
	Fines	70,000	94,875	94,875	94,875
	<b>TOTAL AVAILABLE</b>	<u>\$ 15,120,182</u>	<u>\$ 15,482,161</u>	<u>\$ 15,482,161</u>	<u>\$ 15,482,161</u>
	<b>Transfers and Expenditures**</b>				
	Kansas Water Office	\$ 552,250	\$ 552,250	\$	\$
	State Conservation Commission	8,048,038	8,048,038		
	Kansas State University	100,000	100,000		
	Department of Wildlife and Parks	1,915,730	1,915,730		
H.B. 2456	Department of Health and Environment	4,090,178	2,146,596		
	University of Kansas	200,000	200,000		
	Board of Agriculture	150,000	150,000		
	<b>Total Demands</b>	<u>\$ 15,056,196</u>	<u>\$ 13,112,614</u>	<u>\$</u>	<u>\$</u>
	<b>Ending Balance</b>	<u>\$ 63,986</u>	<u>\$ 2,369,547</u>	<u>\$ 15,482,161</u>	<u>\$ 15,482,161</u>

\* Reflects Committee action as of February 25, 1991.

\*\* Does not include reappropriations in the budgets for the Department of Health and Environment (\$1,367,191) and the State Conservation Commission (\$962,764) from prior year State Water Plan Fund transfers.

*ETNR  
2-27-1991  
attachment 1  
pg. 1 of pg 2*

STATE WATER PLAN FUND  
FY 1992

Bill No.	Available Resources	Current Res. FY 1992	Gov. Rec. FY 1992	Senate* Rec. FY 1992	House* Rec. FY 1992
	Beginning Balance**	\$ 2,369,547	\$ 2,369,547	\$ 425,965	\$ 425,965
H.B. 2445	State General Fund	—	3,000,000	6,000,000	6,000,000
H.B. 2455	Economic Development Fund	—	—	2,000,000	2,000,000
	Municipal Water Fees	3,100,000	3,100,000	3,100,000	3,100,000
	Industrial Water Fees	1,600,000	1,600,000	1,600,000	1,600,000
	Stock Water Fees	237,000	237,000	237,000	237,000
	Pesticide Registration Fees	590,500	590,500	590,500	590,500
	Fertilizer Registration Fees	1,937,950	1,937,950	1,937,950	1,937,950
	Fines	94,875	94,875	94,875	94,875
	<b>TOTAL AVAILABLE</b>	<u>\$ 9,929,872</u>	<u>\$ 12,929,872</u>	<u>\$ 15,986,290</u>	<u>\$ 15,986,290</u>
	<b>Transfers and Expenditures</b>				
S.B. 113	Kansas Water Office	\$ 856,880	\$ 856,880	\$	\$
S.B. 113	State Conservation Commission	5,200,000	6,674,223		
S.B. 113	Board of Agriculture	150,000	150,000		
H.B. 2045	Department of Health and Environment	2,382,424	3,882,424		
H.B. 2086	University of Kansas	200,000	200,000		
	<b>Total Demands</b>	<u>\$ 8,789,304</u>	<u>\$ 11,763,527</u>	<u>\$</u>	<u>\$</u>
	<b>Ending Balance</b>	<u>\$ 1,140,568</u>	<u>\$ 1,166,345</u>	<u>\$ 15,986,290</u>	<u>\$ 15,986,290</u>

\* Reflects Committee action as of February 25, 1991.

\*\* The amounts listed for the Senate and the House reflect the revised current year estimate of receipts less currently authorized demands.

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2-27-1991  
attachment 1  
pg 2 of pg 2*

STATEMENT OF WAYLAND J. ANDERSON  
ASSISTANT CHIEF ENGINEER  
DIVISION OF WATER RESOURCES  
KANSAS STATE BOARD OF AGRICULTURE  
Before the  
Senate Committee on Energy and Natural Resources  
on  
Senate Bill No. 236

Mr. Chairman and members of the committee, thank you for the opportunity to provide testimony in support of Senate Bill No. 236 pertaining to filing fees on applications for permits to construct required under the Obstructions in Streams Act. As some of you may recall, a similar bill was considered by the 1990 legislature but was not passed. Since then the need for the additional revenue that this bill would provide has become even more acute.

The fees proposed in this bill relate to three different aspects of the Obstructions in Streams Act: (1) the permitting of new dams, (2) the permitting of other stream alterations, and (3) periodic safety inspections of existing dams. This is a revenue bill that seeks to recover a portion of the cost of processing permits and conducting inspections. Our request to initiate these new fees is not predicated on a desire to increase costs to do business or to construct projects, but rather on the need for

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2-27-91  
attachment 2  
Pg 1 of 12*

additional resources to carry out current program functions in a timely and responsible manner.

Currently there are no fees required for the permit and inspection activities that are the subject of this bill.

The Obstructions in Streams Act requires the Chief Engineers' permit or consent for changes in the course, current or cross-section of a stream and to construct or change any dam or other stream obstruction in any stream in Kansas with a few exceptions. Among the projects handled by this agency are stream crossings of all sizes and types, including pipeline crossings, levees, dams, stream channelizations and channel relocations. Basically, anything significant that goes into a stream, widens or narrows the stream, or changes its location requires a permit.

As I mentioned, there are some exceptions to the permit requirement. First, dams which do not store 30 acre-feet of water at the top-of-dam elevation are exempt from application. Most of these small dams would be the average farm pond. Second, soil conservation projects, such as terraces and waterways on small watercourses with a small drainage area, are also exempt. Third, properly-placed revetments and jetties for the protection of caving banks are exempted.

The first fee schedule in the bill refers to an application

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*2-27-91*  
*attachment 2*  
*pg 2 of 12*

fee in connection with dams. Please look at the attached Table No. 1 and its graph. There are twelve categories of dams based on size and the downstream hazard area which a dam failure would impact. The fees are based upon the complexity and amount of care and processing the agency must exercise in connection with permitting a dam. For example, the plans for a small dam of 5 surface acres and less than 25 feet in height with little hazard potential takes much less time to review than a large development dam occupying a couple of hundred acres and 70 or 80 feet in height with homes immediately downstream. The fees would vary from \$100 to \$1,000.

The majority of dams processed by the agency will be of size 3, low hazard potential classification with an application fee of \$400 for a dam which can cost anywhere from \$40,000 and up. I would like to note that the agency's costs associated with these projects include not only the review of plans before issuance of a permit, but also three to four field inspections during construction to determine compliance with the permit and the approved plans and specifications to assure quality of construction and inspection. These include the inspection of the core trench of the dam, installation of the principal spillway pipe, and the end-of-construction inspection, which are critical phases to the ultimate safety of the dam. Supervision of the construction and maintenance of dams is a statutory responsibility of the Chief Engineer, which is necessary to protect the public safety.

E & NR  
2-27-91  
attachment 2  
pg 3 of 12



The second portion of fees proposed in this bill relates to other changes or obstructions in streams. Time spent on the review of stream changes and obstructions is mainly related to the size of the stream involved. Usually, the larger the stream the more complex the analysis. Three sizes of streams in Kansas are currently identified for regulatory reasons.

- (1) Navigable streams whose channels are considered state-owned. In Kansas, these are the Arkansas, the Kansas and the Missouri.
- (2) Streams in the moderate size class are also regulated by the federal government for water quality purposes under Section 404 of the Clean Water Act, if the project involves dredging or filling activities.
- (3) Minor streams, which do not fall in the other two categories.

The third category of fees is in connection with on-going dam safety inspections of existing dams. The inspection of existing dams is necessary to monitor conditions which may pose a hazard to public safety and to ensure maintenance is satisfactory to the Chief Engineer. Inspection of a high and significant hazard dam is scheduled every five years. Dams with known problems will be

*E+NR  
2-27-91  
attachment 2  
pg 4 of 12*

monitored on a much more frequent basis, but the bill provides that no more than one \$250 inspection fee per year can be levied. The primary time that inspections more frequent than one in five years may occur is when a dam is determined to be unsafe or have serious problems. In these cases, some time may elapse before the dam is repaired, upgraded, breached or the matter is otherwise resolved.

I believe each of these fees are proportional to the amount of effort required for these projects. It should be recognized that any given application or inspection can be more or less complex and therefore variable in cost depending on a wide range of circumstances.

#### USE OF REVENUE

Since this is a revenue bill, I would like to indicate that our proposal is to use the revenue to fund additional positions and offset some of the current costs. The agency currently finds it very difficult to adequately process applications in an effective and timely fashion. The average processing time of applications for permits exceeds 145 days. This can easily result in construction projects being delayed from one construction season until the next during the following year.

The Environmental Coordination Act, passed by the 1987 legislature, requires that all applications submitted for channel

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2-27-91  
Attachment 2  
Pg 5 of 12*

changes, stream obstructions and dams be reviewed by seven other state agencies and their comments considered by the Chief Engineer in conditioning these permits. For comparison purposes, the Division began December 9, 1989, with 140 applications pending review under the provisions of the ECA. During the ensuing 12 months, 451 new applications were received, bringing the total to 591 applications. During this same 12 month period, 289 applications were reviewed and approved and 28 were dismissed, leaving 274 applications pending review as of December 7, 1990. This is a 195% increase in the pending review category and results in upwards of 180 days delay in commencement of construction of projects. If Senate Bill 236 is enacted by the legislature, a portion of the revenues (currently estimated at \$119,100) could be used to fund the requested additional staff. However, this increased workload will exist irrespective of the passage of Senate Bill 236.

Please look at the graph entitled "Water Structures Applications." Note that the workload of the Water Structure Section in connection with application handling has doubled in the past year and is still at a very high level. Without staff increases the agency's inability to timely process applications will have two major effects. First, the processing time will continue to increase, making the permit process more and more an impediment to construction and development. This will lead to impatience and potential violation of the law. Enforcement and

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*attachment 2*  
*pg 6 of 12*

processing of after-the-fact situations are much more costly to both the state and the potential violator. To encourage compliance the application fees will double under the bill in after-the-fact situations. If this workload issue is not resolved other public programs will also suffer. For instance, major elements of the workload increase are the 1989 Highway Plan and increased watershed dam construction with the State Water Plan funding. Bridges, dams and other stream crossings require independent review and delays in our handling will hinder elements of those plans. These delays add up to additional expenses to the state.

The second major effect will be an erosion of our ability to deal with other current duties with accompanying loss of service to the public. Some statutory duties and necessary tasks will be extensively delayed as the load is spread out among other staff. For example, dam safety inspections would be deferred. Rather than inspecting high and significant hazard dams annually as nationally recommended, we currently attempt to inspect them on a five year schedule. This could lengthen indefinitely if we removed staff from assigned tasks to address the long-term workload increases. Additionally, recent emphasis on environmental issues, as indicated by the passage in 1987 of the Water Projects Environmental Coordination Act, have clearly indicated to us that increased efforts are necessary to enforce these statutes. Clearly, the environmental and other possible negative impacts of projects are not considered at all if projects are built in violation of the law

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2-27-91  
attachment 2  
pg 7 of 12*

without a permit. Two years ago, the legislature provided some limited additional staff to address the enforcement matter. Staff realignments would severely blunt this impetus.

Finally, the revenues generated will, for the most part, be from agencies such as the Department of Transportation and Department of Wildlife and Parks, from cities and counties, from rural water districts, watershed districts and drainage districts and from business and industry, with very little estimated from private individuals. Table No. 2 and its accompanying graph indicate where we estimate the revenue source. The revenue generated, if this bill passes, would fund new positions to address the increased workload. One position would be a civil engineer to do the technical review. A second position would be a secretary to handle the increased typing and other secretarial duties, some now being performed by higher paid technical staff. An intermittent, half-time clerical position would also be pursued to handle the bookkeeping and other administration of this fee fund.

Some duties currently performed by this agency may be contracted out to others, freeing additional staff to address the workload. This would be contingent on revenue in excess of salary needs.

I hope I have not left you with the impression that adding

*E+NR  
2-27-91  
attachment 2  
pg 8 of 12*

staff is the only solution we have investigated. We have, in fact, already instituted measures which have improved our efficiency and simplified the review of routine or minor projects. One example is the implementation of a general permit last year to ease the processing of applications in connection with federally and state-funded bridge projects. This general permit allows current staff to continue concentrating their efforts on major projects, but retains the statutory duty of the Chief Engineer to "supervise" such projects for the public interest, safety and environmental considerations.

Other measures include computerization of records, assistance of other non-program staff in areas within their skills and consideration of other general permit possibilities; but these are not enough if we are to avoid the destructive influence this workload will have on other important programs.

Mr. Chairman and members of the committee, I would appreciate your support of Senate Bill No. 236 and will be happy to answer any questions you have.

*E+NR*  
*2-27-91*  
*Attachment 2*  
*pg 9 of 12*

Table 1. Fees

Size	Hazard		
	a	b	c
1	100	200	400
2	200	400	600
3	400	600	800
4	$400+.2V$	$600+.2V$	$800+.2V$

V is the total storage to the elevation of the emergency spillway

### Application Fees for Dams VS. Size-Hazard Classification

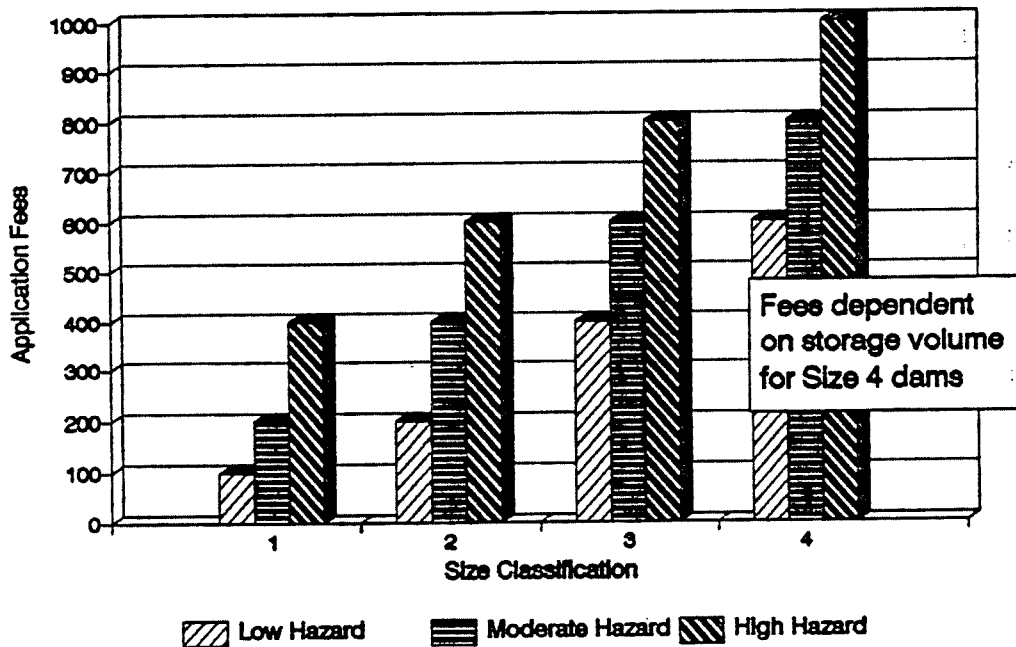
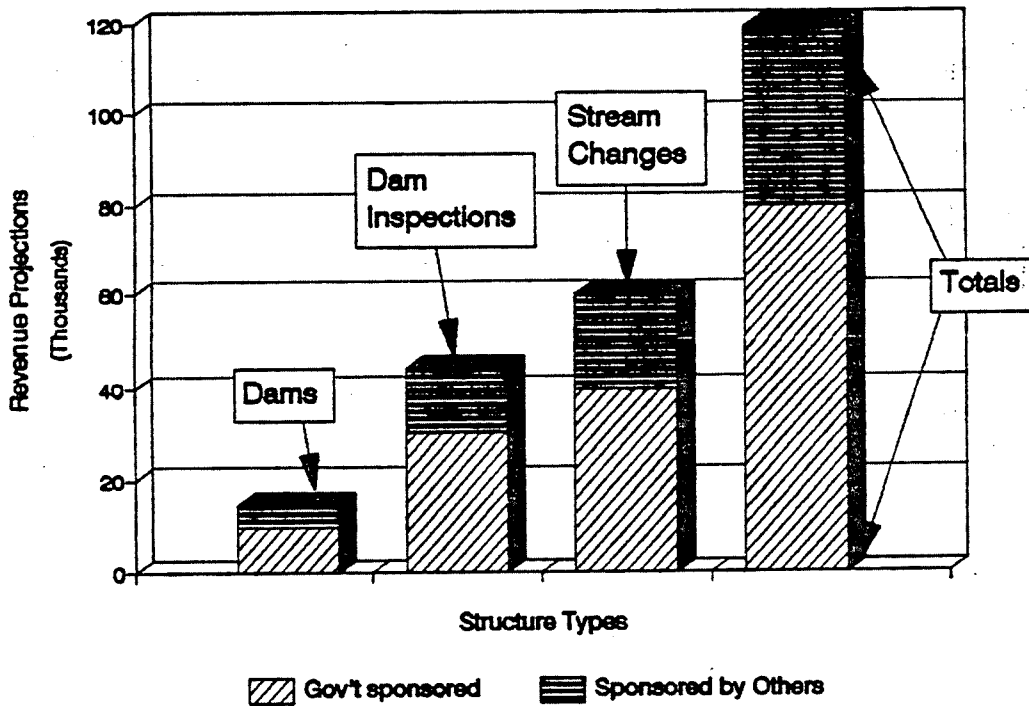


Table 2.

Revenue Breakdown by Structure Type

	Dams	Dam Insp.	Stream Changes	Totals
Gov't	9951	30260	39577	79788
Other	4749	14240	20323	39312
Totals	14700	44500	59900	119100

Revenue Breakdown by Structure Type

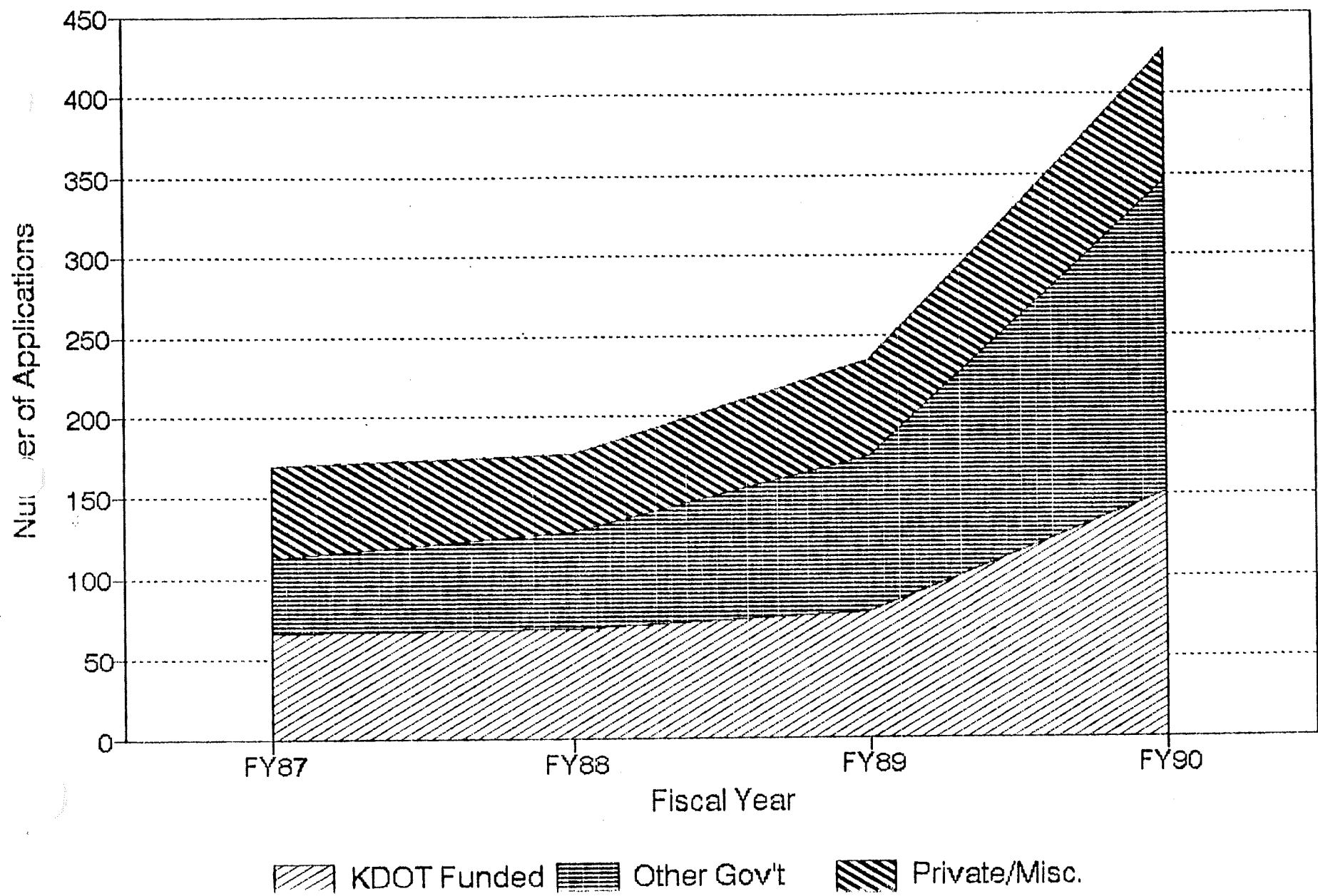


E+NR  
 2-27-91  
 Attachment 2  
 Pg 11 of 12



# Water Structures Applications By Fiscal Year

*FWR  
3-27-91  
Attachment 3  
pg 12 of 12*



TESTIMONY ON SENATE BILL 236  
SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES  
BY CLARK DUFFY, ASSISTANT DIRECTOR, KANSAS WATER OFFICE  
27 FEBRUARY 1991

Excerpt from FY 1992 Kansas Water Plan

*Kansas State Board of Agriculture, Division of  
Water Resources: Stream Obstruction Program*

The Stream Obstruction Act requires that anyone desiring to change the course, current or cross section of a stream must have prior written approval of the Chief Engineer. Such activities may include construction of dams, channel modifications, pipeline crossings, jetties, revetments and sand dredging operations in the water course.

*Guideline:*

1. Carry out a public information program and phase in strict enforcement of the Stream Obstruction Act by the conclusion of FY 1992.

E + N R  
2-27-91  
attachment 3

Pg 1 of 4

**KANSAS WATER AUTHORITY**

Suite 200, 109 S.W. 9th Street, Topeka, KS 66612-1215 (913) 296-3185

*John L. Baldwin, Chairman*

2700 East Fourth, P.O. Box 1608, Hutchinson, Kansas 67504-1608 (316) 665-5511



October 30, 1990

The Honorable Mike Hayden  
Governor of Kansas  
Statehouse  
Topeka, KS 66612

Dear Governor Hayden:

On behalf of the Kansas Water Authority, I am pleased to submit this report to you. It contains the Kansas Water Authority's recommendation for implementation of the Kansas Water Plan for FY 1992.

The Kansas Water Authority would like to offer the following observations regarding this report:

1. The Kansas Water Authority makes the following recommendations on three programs not addressed in this report.

**Non-Point Source Pollution - State Conservation Commission**

The Kansas Water Authority supports the rationale of the State Conservation Commission to not request additional receipts from the State Water Plan Fund for this program for FY 1992. Funds already in the agency's State Water Plan Special Revenue Fund for FY 1991 will be available for expenditures for this program for FY 1992.

**Stream Obstruction Program - Kansas State Board of Agriculture, Division of Water Resources**

For FY 1992, the agency requested \$285,260 for five positions and related expenses from the State General Fund for compliance and enforcement of the Stream Obstruction Act. This request is consistent with the guidelines in the State Water Plan. The Kansas Water Authority strongly recommends the appropriate support be provided to the agency to implement this State Water Plan guideline for FY 1992.

*E+NR  
2-27-91  
attachment 3  
Page 2 of 4*

The Honorable Mike Hayden  
Page 2  
October 30, 1990

**Conservation Division Program - Kansas Corporation  
Commission**

The State Water Plan guideline for this program is to provide sufficient staff to ensure compliance and enforcement of Conservation Division Laws. The Kansas Corporation Commission did not request expenditures to implement this guideline for FY 1992. The Kansas Water Authority strongly recommends the appropriate support be provided to the agency to implement this State Water Plan guideline for FY 1992.

2. The Household Hazardous Waste Program of the Kansas Department of Health and Environment was not recommended in this report since the program is not addressed in the Kansas Water Plan. However, the Kansas Water Authority does support this program and recommends that it be financed from other sources than the State Water Plan Fund.
3. Requests that result in long-term operation and program expenses, such as permanent positions, are not recommended for financing from the State Water Plan Fund.
4. The Kansas Water Authority does not believe that the State Water Plan Fund should be used to offset the historic State General Fund base of state water-related programs. For that reason, it does not recommend the use of the State Water Plan fund to offset the historic State General Fund Base for the Watershed Dam Construction Program (\$770,000), Water Resource Cost-Share Program (\$1,860,000) and State Aid to Conservation Districts Program (\$561,000) of the State Conservation Commission and the Agricultural Experiment Station Operations of Kansas State University (\$100,000). These expenditures shall be financed from sources other than the State Water Plan Fund.
5. The Kansas Water Authority recommends full funding of \$26,580,055 to implement the State Water Plan for FY 1992 regardless of the source of funding. However, should expenditures for implementation for the State Water Plan for FY 1992 be reduced below this amount, the Kansas Water Authority further recommends that the \$550,000 requested for Geographic Information Systems not be reduced and no programs be eliminated or reduced to the point that they are ineffective.

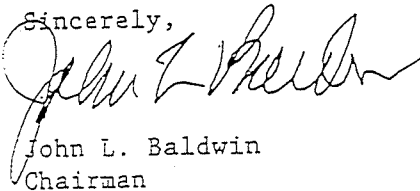
E & NR  
2-27-91  
Attachment 3  
Pg 3 of 4

The Honorable Mike Hayden  
Page 3  
October 30, 1990

6. The Kansas Water Authority urges the Governor to prepare a separate section of the Governor's budget report which will identify his recommendations for implementation for the State Water Plan for FY 1992.

The Kansas Water Authority appreciates your consideration of these recommendations and looks forward to working with you in the upcoming session.

Sincerely,



John L. Baldwin  
Chairman

JLB:dk  
Attachment

Similar letter sent to:

The Honorable James D. Braden  
Speaker, Kansas House of Representatives  
1101 5th Street  
P.O. Box 58  
Clay Center, KS 67432

The Honorable Paul Burke  
President, Kansas Senate  
Box 6867  
Leawood, KS 66206

EDNR  
2-27-91  
attachment 3  
Pg 4 of 4

SENATE BILL 236

AN ACT CONCERNING OBSTRUCTIONS IN STREAMS

FROM: KANSAS COUNTY ENGINEERS ASSOCIATION

PRESENTED BY: TOM PICKFORD, P.E.  
DIRECTOR OF PUBLIC WORKS/COUNTY ENGINEER  
SHAWNEE COUNTY, KANSAS

The Kansas County Engineers Association has some concerns with Senate Bill 236 and the original Legislation K.S.A. 82a-301 and 302.

Obviously, Senate Bill 236 is an attempt to raise funds to increase the staff of the Division of Water Resources. The need for additional staff at the agency is caused by K.S.A. 82a-301 and 302 which allowed the agency to set the rules by which the permit process would function.

One rule they set requires agencies or engineers requesting a permit, to file for a permit if the drainage area involved is 160 acres or greater. This is causing a huge backlog at the Division, is delaying projects, and is requiring the applying agencies to expend more and more funds into the permitting process.

The County Engineers Association contends that the 160 acre requirement is too stringent and that the Legislature did not intend for the agency to be reviewing quarter section drainage areas. This rule can result in requiring permits for very small structures.

We recommend that the Committee include, in their revisions, that the minimum drainage area requiring a permit should be 640 acres, one (1) section or an area 1 mile X 1 mile. This will reduce, dramatically, the number of permits required, and the need for additional staff, while still giving the Secretary the intended control over major drainage projects.

Our second area of concern is the fee structure set up in Senate Bill 236. We are estimating that Shawnee County will be required to come up with \$20,000 to \$30,000 in permit fees under the proposal. The State comes up with the program, the Counties and Cities will be required to pay for part of it and then we are supposed to operate with our budgets frozen. If the State is going to mandate programs requiring expenditures of County and City budgeted funds, we must have the authority to raise the funds.

Thank you for reviewing our concerns over Senate Bill 236 and K.S.A. 82a-301 and 302.

I am John Ross, Jewell County Commissioner. I am in my third 4-year term of office. I am here today to give negative testimony to a part of Senate Bill #236.

Jewell County is a rural county with a population of about 4300 located in the north central part of Kansas. Our 1991 valuation is 27,099,838. So you see we are not a rich county. We have to stretch every dollar several times to get the job done. We have 1500 plus miles of road. We have 379 bridges that are 20' or longer. We have an unknown number of structures that are less than 20 feet long and many tubes.

The way I have been told, the interpretation of Senate Bill #236 is that any bridge or structure is considered an obstruction to the stream, therefore if we want to make any changes we have to submit engineering plans, pay a fee up front to get approval or pay a penalty if we do not get approval first.

During the period 1978 to 1990 our County Engineer with his own crew and county money built 26 bridges totaling 1584.5 lineal feet. These bridges were built using a standard set of plans and for the most part replaced what was already there, but they were wider, stronger and served our people better. We also during that time used matching money and bond money to build 37 additional replacement bridges totaling 3,571 lineal feet.

We feel we are doing all we can building bridges with the budget we have to work with. However, the last inspection report shows 217 sites that have to be posted 7 ton or less. How do you drive a tandem-axle truckload of wheat over a 7-ton load limit bridge without some risk?.

Why do we have to buy permits? The bridge has been there for a hundred years. The farmer needs it for his crops. Why can't we just build it back the same place? When the bridge breaks during harvest, how do we tell the farmer that we have to get approval from Topeka before we can do anything about it. He asks "What is the County Engineer for?"

If county bridge structures are to be classified as stream obstructions, and if a permit fee system is to be initiated, then why can't the interpreted drainage acres used to determine a permit requirement be raised to a point to exempt many county bridges? The counties will not have to spent money on fees and the Division of Water Resources will not need the fees because their workload will be decreased.

I have no problems with the part of the bill about dam requirments. We hardly have running water in our county.

Thank you,



John R. Ross  
Jewell County Commissioner  
2nd District

EJR  
2-27-91  
attachment 5  
Pg 1 of 3



KANSAS DEPARTMENT OF TRANSPORTATION  
BUREAU OF LOCAL PROJECTS (B.L.P.)

OCTOBER 1990 INFORMATIONAL MEMORANDUM

TO: OFFICE OF COUNTY ENGINEER

X  
We recently received a copy of a letter from the Division of Water Resources (DWR) of the Kansas State Board of Agriculture to a Board of County Commissioners advising them that they were in violation of the Obstructions in Streams Act (K.S.A. 82a-301 to 305a). The DWR had received information that the county had made a stream obstruction (new bridge) without receiving a permit to construct a stream obstruction. The county is now faced with: 1) applying for a permit after-the-fact, including making any required modifications; 2) removing the obstruction, or: 3) paying a fine of up to \$500 and/or one (1) month in jail for each day the obstruction remains in place. In addition, lawsuits filed in similar situations have resulted from such construction. We are providing you this information just in case you are not aware of this State Law.

We are in the process of revising our Typical Grading Standard (S-907.1), as it pertains to slopes at side roads and entrances. Beginning with the April 1991 letting, we will require 6:1 slope design for side roads or entrances with drainage structures located within the clear zone. We have also revised some of the notes pertaining to object markers and delineators as a result of changes contained in the 1990 KDOT specifications.

The bid item "Granular Backfill, Abutment Drains" has been replaced with the bid item "Abutment Strip Drain". This is covered in special provision 90P-15 and is shown on KDOT Std. #102. The new bid item will be used for abutment drainage on span bridges that are on paved roads. Granular backfill may continue to be used for reinforced concrete box culverts and bridges.

Third quarter and year-to-date (1990) contract bid averages are available by wage area and state-wide. Please contact David Comstock if you need a copy (please specify wage area or state wide).

The FHWA Region 7 County Road Engineers meeting was held October 25-26, 1990 at Council Bluffs, Iowa. Next year's meeting is planned for May 1991 in Lincoln, Nebraska. A firm date will be provided when available.

The final execution of license agreements signed by prospective users of the bridge load rating software, SBAR and KU-STAR, has been temporarily delayed. However, the software will be issued in test form to prospective users who have requested copies and have returned a signed license agreement. These test programs shall be used for testing, verification and familiarization purposes only and not for official ratings. When the license agreement processing resumes, receipt of a fully executed agreement from this office will be notification that the software may be used at the engineer's discretion for evaluating load ratings.

Thanks to the efforts of Dean Steward, over 1,000 KDOT maintenance employees have passed the written portion of the Commercial Driver's License (CDL) test. Attached is a status letter that summarizes KDOT'S approach and may help you develop a training plan.

*E & NR  
2-27-91  
Attachment 5  
Pg 2 of 3*



KANSAS STATE BOARD OF AGRICULTURE

Gary Hall, Acting Secretary

FIELD OFFICE, DIVISION OF WATER RESOURCES  
Scott E. Ross, Water Commissioner  
425 Main Street

DAVID L. POPE, Chief Engineer-Director  
DIVISION OF WATER RESOURCES  
TOPEKA • KANSAS

P.O. Box 192, STOCKTON, KANSAS 67669-0192  
Telephone (913) 425-6152  
FAX (913) 425-6842

September 6, 1990

Gene L. Barrett  
Chairman, Board of County Commissionr  
Rt. 2 Box 41  
Mankato, KS 66956

*C-2634-01*

RE: WSN: CJW-0014, ECA 90266

Dear Mr. Barrett:

This will acknowledge receipt of your application for permit to construct or approval of plans. At the present time, there is a large backlog of applications and the processing of your application will be delayed until environmental coordination review has been completed and until staff members are available to review the proposed project. The review process has been averaging more than 120 days.

The Environmental Coordination Act, K.S.A. 82a-325 to 327, requires this agency to provide seven other agencies in the state government an opportunity to review and comment on your application. The environmental coordination process has been initiated, but a thorough review of your project has not been performed. You will be informed of any changes that may be necessary to comply with our rules and regulations and any concerns or comments we receive from the environmental coordination agencies.

This letter does not provide any permission to begin the construction of your project. **Construction can begin only after written approval has been obtained from the Chief Engineer of this agency.** If you have any questions or comments please contact this office by writing or calling (913) 425-6152.

Very truly yours,

*Leonard B. Bristow*

Leonard B. Bristow  
Engineer

LBB:nld  
pc: Cook, Flatt and Stobel

*9/10/90  
talked to Bill  
Jacobs - He will take  
care of. -  
LBB*

*ENR  
9-27-91  
attachment 5  
pg 3 of 3*



*"Service to County Government"*

To: Senator Ross Doyen, Chairman  
Members Senate Energy and Natural Resources Committee

From: Bev Bradley, Deputy Director  
Kansas Association of Counties

Re: SB 236 fees for stream obstruction permits

The Kansas Association of Counties is opposed to SB 236 for the reasons given by the Kansas County Engineers Association. We understand from the commissioners and engineers out in the state that there is much concern with the length of time it takes to get a permit and the cost as outlined in SB 236 increases our concern.

There is much conversation about tax lids on cities and counties at the capitol. I submit to you this would be an additional mandate from the state at a time when the state is limiting the amount of taxes that can be levied to support local government. We oppose SB 236.

TSB236

*ENR  
2-27-91  
Attachment 6*



6031 S.W. 37th Street • Topeka, Kansas 66614-5128 • Telephone: (913) 273-5115  
FAX: (913) 273-3399

Owns and Publishes The Kansas STOCKMAN magazine and KLA News & Market Report newsletter.

*February 27, 1991*

**STATEMENT OF THE  
KANSAS LIVESTOCK ASSOCIATION  
TO THE COMMITTEE OF  
ENERGY AND NATURAL RESOURCES  
SENATOR ROSS DOYEN, CHAIRMAN  
SENATOR DON SALLEE, VICE-CHAIRMAN  
WITH RESPECT TO SENATE BILL 236**

*Presented by*

*Rich McKee*

*Executive Secretary, Feedlot Division*

*Mr. Chairman and members of the committee, I am Rich McKee, representing the Kansas Livestock Association. KLA speaks for a broad range of over 10,500 livestock producers. Their operations can be found in virtually every geographic corner of the state.*

*The Kansas Livestock Association opposes SB 236. This proposed legislation would impose a set of new fees that would be assessed against citizens who elect to build a pond of 30 or more acre feet. K.S.A. 82a-301a states the purpose of the act is "for the protection of public safety." The members of KLA believe if the public wants the state to examine and inspect dams built on private property, the state should be willing to pay for that inspection. Thank you.*

*E & N R  
2-27-91  
attachment 7*



Travel  
Industry  
Association of  
Kansas

810 Merchants National Bank  
8th & Jackson  
Topeka, Kansas 66612  
913/233-9465 FAX 913/357-6629

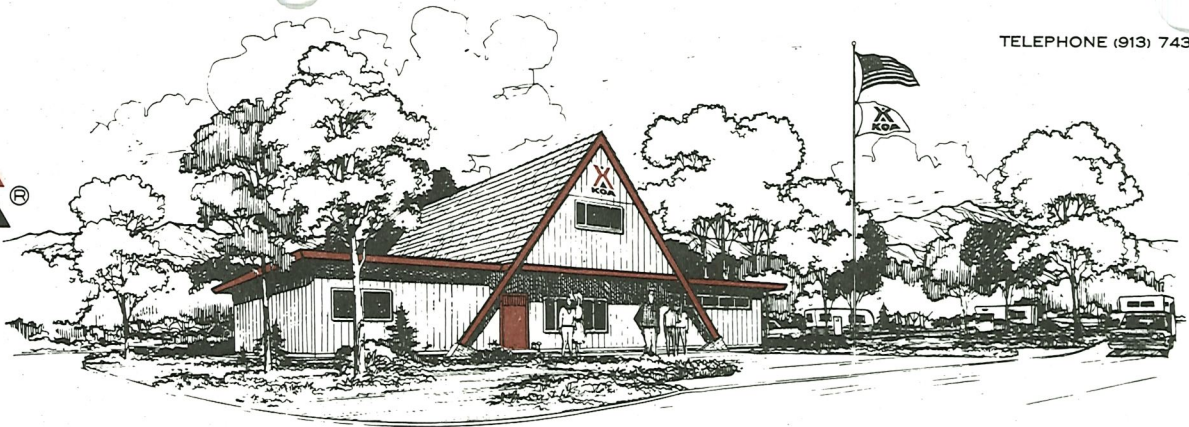
### STATEMENT

DATE: February 27, 1991  
TO: Senate Energy & Natural Resources Committee  
FROM: Jean Barbee  
Executive Director  
RE: Extended parking at roadside facilities (SB-160)

My name is Jean Barbee. I represent the Travel Industry Association of Kansas (TIAK). TIAK membership represents both the private and public sectors of tourism promotion in the state. That includes, for example, hotels and motels, restaurants, attractions, chambers of commerce, convention and visitors bureaus, advertising agencies and sign companies.

TIAK supports SB-160. The rest areas were never intended to be overnight camping facilities and are generally inadequate for that purpose. The state has many fine public and private campgrounds and use of those should be encouraged.

*E&NR  
2-27-91  
attachment 8*



## Wakeeney KOA

Franchisee of Kampgrounds of America, Inc.

WAKEENEY, KANSAS 67672

Testimony before Energy and Natural Resources Committee, February 27, 1991, as a proponent of SB160.

Mr. Chairman, Members of the Committee:

My name is Fred Wallace, owner of the WaKeeney KOA Campground, Wakeeney, Kansas, speaking for myself as a campground owner, President of the Kansas Campground Association (an owners association) and Vice-President of the Oklahoma-Kansas--Missouri KOA Campground Owners Association.

I would like to advise the committee as to the availability of campgrounds throughout the State. There are approximately 130 campgrounds, both public and private ranging in size from 10 camping sites to about 600 camping sites with a total of about 12,000 sites. In other words, approximately 12,000 campers traveling through our state per day could be accomodated in Kansas campgrounds.

Campgrounds offer travelers a wide variety of camping facilities from the most primitive tenting areas to the most sophisticated recreational vehicle sites which may include cable TV and/or telephone connections.

*E+NR*  
*2-27-91*  
*Attachment 9*  
*pg 1 of 2*

Probably the most important associated services offered to campers are security during their most vulnerable sleeping periods and access to other local services and goods including recreational, sustenance and travel needs.

It is common knowledge there have been numerous crimes ranging from minor to major in these rest areas during the past several years. Passage of this law would eliminate potential future catastrophes due to aforementioned security in campgrounds and other lodging facilities.

Access to these latter items are of great importance not only to providers of camping and lodging facilities, but also local merchants who may depend in part or wholly on highway traffic for their livelihood.

KOA Inc, statistics have shown that if 100 more campers per day stayed in campgrounds, approximately \$2 million dollars would be added to the state's economy through local sales and taxes.

In conclusion, if overnight parking in roadside rest areas is prohibited, campgrounds in the state are well equipped to provide accommodations for all campers traveling through our State.

Thank you for your attentiveness on this important matter.

Respectfully submitted,



Fred A. Wallace

*E+NR  
2-27-91  
Attachment 9  
Pg 2 of 2*