

Approved: Carl Dan Holmes
Date 4-29-96

MINUTES OF THE HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES.

The meeting was called to order by Chairperson Carl Holmes at 8:10 a.m. on April 4, 1996, in Room 423-S of the Capitol.

All members were present except: Representative Clay Aurand - Excused
Representative Doug Lawrence - Excused

Committee staff present: Raney Gilliland, Legislative Research Department
Dennis Hodgins, Legislative Research Department
Mary Torrence, Revisor of Statutes
Marcia Ayres, Committee Secretary

Conferees appearing before the committee: William J. Wix, Kansas Corporation Commission
Donald P. Schnacke, Kansas Independent Oil & Gas Association
David Bleakley, Eastern Kansas Oil & Gas Association
Clark Duffy, Kansas Petroleum Council
Dick Brewster, Amoco Corporation
Ron Hein, MESA
Bill F. Bryan, OXY USA, Inc.
Derenda J. Mitchell, Office of the Governor

Others attending: See attached list

Hearing on SB 755: Funding of remediation of certain oil and gas contamination sites and costs of plugging abandoned oil and gas wells

Bill Wix. Mr. Wix, assistant general counsel for the conservation division of the Kansas Corporation Commission, appeared in support of **SB 755** although he believes four administrative changes should be made. The changes include a new definition replacing "abandoned" wells, spreading out the assessment from the Conservation fee fund into quarterly payments, granting the Commission authority to implement a surcharge to the licensing fee to supplement the plugging fund as necessary, and that the drilling fee assessment have a minimum of \$40 due at the time the intent to drill is filed for each well. (Attachment #1)

Don Schnacke. Mr. Schnacke, executive vice president of KIOGA, testified in support of **SB 755** even though he feels there is conflicting language in the bill. In review of the two funds being established under this legislation, he believes there needs to be clarification of what abandoned wells are plugged and sites remediated under the "abandoned oil and gas well fund" established in Section 1 and the funds raised by the 2 cent per foot drilling fee. He recommended this be clarified before passing the bill. (Attachment #2)

David Bleakley. Mr. Bleakley is president of the Eastern Kansas Oil and Gas Association, and he spoke in support of **SB 755** with the following clarification: that all oil and gas wells drilled before July 1, 1996, then abandoned without potentially responsible parties and all contaminated oil and gas sites be addressed under the abandoned oil and gas well fund established by Section 1 of the bill, and that all new oil and gas wells drilled after July 1, 1996, then abandoned shall be addressed under the well plugging account as established by Section 4 (c) of the bill. (Attachment #3)

Clark Duffy. Mr. Duffy, associate director of the Kansas Petroleum Council, supported the effort in **SB 755** to supplement industry money to deal with these historic problems, but he feels the problems will not be stopped until individual oil and gas operators become financially responsible for plugging wells they operate as provided by current law. He supplied a conceptual amendment to K.S.A. 55-155 for the committee to consider. (Attachment #4)

Dick Brewster. Mr. Brewster, representing Amoco Corporation, appeared in support of **SB 755** although he asked the committee to consider amending the bill so that the new money raised by the conservation fee

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MINUTES OF THE HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES, Room 423-S Statehouse, on April 4, 1996.

fund would be supported equally by production from oil and gas instead of the current 80% from natural gas producers and 20% from oil producers. (Attachment #5)

Ron Hein. Mr. Hein, legislative counsel for MESA, supported SB 755 as a step in the right direction but believes that this bill is inadequate, fails to take complete control of the financial responsibility issue, and is unfair in its allocation of costs to eliminate the problems. He urged the committee to amend SB 755 to specifically provide for equal allocations from the oil and gas producers out of the conservation fee fund, and he proposed bonding or creation of an escrow account to provide full financial accountability for insuring that no currently operated wells are abandoned in the future. (Attachment #6)

Bill Bryan. Mr. Bryan, representing OXY USA Inc. which is a subsidiary of Occidental Petroleum Company, supported the financial commitment being made by the State to address the problem of unplugged wells, but his concern centered on fixing financial responsibility by current operators for their existing and future wells. He felt the State should be protected from irresponsible operators abandoning wells in the State for plugging by requiring sufficient funding out of current income from the wells' production to satisfy the ultimate cost of plugging. (Attachment #7)

Derenda Mitchell. Ms. Mitchell, legislative counsel to the governor, thanked the chairperson, committee, and legislative staff for their commitment to meaningful legislation protecting the state's water quality. Derenda reviewed the Water Quality Initiative announced by Governor Graves at the beginning of the 1996 Session, and she recommended an amendment to the language in SB 755 that would replace the footage drilling fee with a surcharge or assessment to the operator's annual fee. She also had some concerns about the bill's language so that there is no gap in definitions, and she suggested a six year sunset of the four part funding for remediation and abandoned well plugging. (Attachment #8)

Questions followed after which the hearing was closed.

Chairperson Holmes distributed to members the written testimony from the Department of Wildlife and Parks given on March 27, 1996, regarding SB 617. He announced that conference committees would meet at noon to work SB 531 and HB 2613.

The meeting recessed at 9:58 a.m.

The committee meeting reconvened at 12:40 p.m. with all members present.

Chairperson Holmes announced that the conference committees would meet upon final adjournment of the House, and he would like the full committee to then meet to work SB 617, SB 621, and SB 755. Final action on these bills could then be taken Friday.

There being no objection, the meeting recessed at 12:45 p.m. until final adjournment of the House.

The committee meeting reconvened at 6:40 p.m. with all members present.

Chairperson Holmes announced that if HB 2613 passes out of the Senate Friday morning, then the committee will work SB 617, SB 621, and SB 755 over the noon recess. He then opened up the committee to work on any amendments to SB 755.

Action on SB 755: Funding of remediation of certain oil and gas contamination sites and costs of plugging abandoned oil and gas wells

Representative Tom Sloan distributed a balloon to SB 755 and explained the proposed changes. (Attachment #9) Questions followed.

Representative Tom Sloan moved to adopt the balloon to SB 755. Representative Laura McClure seconded the motion. Discussion followed. The motion carried.

Representative Laura McClure moved to amend the balloon to SB 755 on Insert C (b) concerning the members of the task force by inserting, "staffed by the Kansas Corporation Commission." Representative Joann Flower seconded the motion. The motion carried.

Representative Laura McClure moved to amend the balloon to SB 755 on page 3, Section 6, by inserting, "for purposes of this act the date of abandonment of a well shall be the date that the commission makes the determination provided for by subsection (a) of K.S.A. 55-179." Representative Rich Becker seconded the motion. Representative McClure amended her motion to also include the definition of abandoned well on page

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1, New Section 1. Representative Becker agreed to the amended motion. Discussion followed. The motion failed.

Representative Bob Krehbiel distributed a balloon changing the word "abandoned" to "drilled" and explained the change which basically involved which funds would be used to plug, replug, or repair wells. (Attachment #10)

Representative Bob Krehbiel moved to amend the balloon to SB 755 on page 1 and on page 3 by changing the word "abandoned" to "drilled" as shown in his balloon. Representative Bill Feuerborn seconded the motion. Discussion followed. The motion carried.

Representative Steve Lloyd conceptually moved to amend the original balloon to SB 755 in Sec. 5 by striking all of (6) and on page 2, Sec. 4, line 29 and 30, by striking "established by the commission in an amount not exceeding \$25" and reinserting "in an amount equal to \$.02 per foot of estimated total depth" and adding "or a \$40 minimum per well." Representative Terry Presta seconded the motion. Discussion followed. The motion carried.

Representative Terry Presta conceptually moved to amend the original balloon to SB 755 in Sec 5 (7) (A) by limiting the bonding to a maximum of \$100,000 per operator. Representative Rich Becker seconded the motion. Discussion followed. The motion carried.

Representative Terry Presta conceptually moved to amend the original balloon to SB 755 to allow the interest accumulated in the abandoned oil and gas well fund to stay within the fund instead of going to the State General Fund. Representative Rich Becker seconded the motion. Discussion followed. The motion carried.

Representative Terry Presta conceptually moved to amend the original balloon to SB 755 on page 2, New Sec. 2, to have the \$.02 per foot or \$40 minimum drilling fee expire on July 1 of each year before 2002. Representative Bob Krehbiel seconded the motion. Discussion followed. The motion carried.

Representative Joann Freeborn moved to make a technical change to the original balloon to SB 755 curing a conflict with SB 685. Representative Tom Sloan seconded the motion. The motion carried.

Representative Tom Sloan conceptually moved to amend the original balloon to SB 755 on page 2 to separate the accounts and keep the interest there. Representative Bob Krehbiel seconded the motion. The motion carried.

Representative Vaughn Flora conceptually moved to amend the original balloon to SB 755 on page 2, New Sec. 2 (a) to have the transfer of moneys from the state general fund, the state water plan fund, and the conservation fee fund be made quarterly instead of annually. Representative Don Myers seconded the motion. The motion carried.

Chairperson Holmes requested the Revisor to have a Substitute Bill Proposal for **SB 755** prepared by noon tomorrow for the members to consider before taking final action. He requested the members to be flexible tomorrow upon first adjournment of the House for a possible committee meeting.

The meeting adjourned at 8:50 p.m.

The next meeting is scheduled for April 5, 1996.

ENERGY AND NATURAL RESOURCES COMMITTEE
COMMITTEE GUEST LIST

DATE: April 4, 1996

8:00am

NAME	REPRESENTING
Don Schneckle	KIOGA
DAVID BLEAKLEY	EKOGA
M.L. Korphage	KCC - CONSERVATION
Bill Wix	"
Nancy Heinz	"
TOM DAY	KCC
JOE Dieck	KCK BPU
Whitney Damon	Anadarko Petroleum Corp.
Ron Heini	MESA
Dick Brewster	Amecc
Matthew Holt	Division of the Budget
Ken PETERSON	KS Petroleum Council
MIKE McGRAN	OXY USA
Bill Cavan	KCMC / Sierra
Derenda J. Mitchell	Governor
Jim Allen	EKOGA
W. P. ...	KAPA

Testimony of William J. Wix
Assistant General Counsel
Kansas Corporation Commission
Conservation Division
before the
House Energy and Natural Resources Committee
April 4, 1996

Good morning, Mr. Chairman, members of the Committee. I am William J. Wix, Assistant General Counsel, for the Conservation Division of the State Corporation Commission. I am appearing here today to testify in support of Senate Bill No. 755.

This Bill was considered by the Senate Committee on Energy and Natural Resources on March 27, 1996. The Commission was greatly encouraged that the Governor's office along with representatives from the Kansas Independent Oil and Gas Association, the Eastern Kansas Oil and Gas Association and the Kansas Petroleum Council all supported passage of this Legislation. The Commission believes that this unique approach to addressing remediation sites and abandoned wells is a solid approach which will accomplish its intended goal.

We believe that the unique funding mix contained in Senate Bill No. 755 is fair and equitable and in the best interests of the State of Kansas. We do believe, however, that four administrative changes should be made. In new section 1(a)(3) and in section 4(c) the determining criteria for which the newly created funds would pay for an abandoned well is whether or not it was abandoned before, on, or after July 1, 1996. It is our belief that the term "abandoned" is a term of art which is nebulous at best. The Kansas Courts have held that whether a well or any property is abandoned is a state of mind and open to interpretation. Determination of the date a well is abandoned may be a time and labor intensive task. We believe that a more objective standard would be determining the date that a well was drilled. That date

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Attachment 1

would be easily discerned from reference to Conservation Division records or scout cards which are filed with our library of historical data.

During calendar year 1995 there were approximately 900 oil and gas wells completed in the State of Kansas. We do not expect a high percentage of these wells to become eventual wards of the State for a variety of reasons. First of all, standards for completing wells have been greatly improved thereby ensuring the protection of water bearing formations. Also, as of March 31, 1996, the Commission had not been named a creditor in any bankruptcy in the State of Kansas. This is most likely attributable to the fact that oil is currently selling at approximately \$20 per barrel. During 1994 when we were hit with a large number of bankruptcies, oil was selling at approximately \$12 per barrel. Senate Bill No. 755 contemplates raising approximately \$100,000 per year by a .02¢ per foot assessment on drilling. We believe that the amount of money raised through this mechanism for this post July 1, 1996, fund will be sufficient to plug those wells drilled after this date which will eventually become abandoned and for which there are no responsible parties. Lastly, the fund is financed by those drilling after that specific date and will result in some contribution from operators who actually will abandon wells.

The next recommended change is found in new section 2 which contemplates a transfer of \$400,000 from the Conservation fee fund on July 15 of each year. As our fiscal year begins on July 1, that sort of transfer early in the fiscal year would be burdensome. We would request that this Committee consider spreading that assessment so that \$100,000 is transferred from the Conservation fee fund on July 15, October 15, January 15, and April 15 of each year. In addition this would allow us more time to collect the assessment in order to raise this additional sum of money.

In the attached Senate Bill No. 755 we have proposed a new section which would amend K.S.A. 55-155 by adding subsection (f) which would grant the Commission authority to implement a surcharge to the licensing fee to supplement this plugging fund as necessary.

Finally, in section 4(a), we believe that the drilling fee assessment of .02/ft. should have a minimum fee of \$40 which would be due at the time the intent to drill is filed for each well. This would definitely be an administrative convenience.

Throughout hearings from last summer to date, there has been a great deal of discussion about the need for bonding or other financial assurance on the part of operators. We believe that any final decision should be deferred until after the task force contemplated in section 8 has had the opportunity to fully explore these areas.

In short, we believe that it is vital that Senate Bill No. 755 be passed. Pursuant to Senate Bill 76 of the 1995 Legislative session, 17 remediation sites were transferred from the Department of Health and Environment to the Commission, but the Commission was prohibited from raising any assessments to pay for undertaking remediation efforts. We believe that with the funding mechanism proposed in this legislation we will have adequate funds to commence working toward remediation of those 17 sites transferred from the Department of Health and Environment, to the existing KCC remediation site inventory and continue to expand our efforts in plugging abandoned wells. A full report on our existing inventory of remediation sites will be furnished to the Legislature in the coming year.

The water resources of our State are irreplaceable. The protection and remediation of these supplies should be of primary importance to all parties involved in developing a rational and timely policy response to the problem of remediation sites and abandoned wells. Delay of an active response will ultimately add additional costs and could seriously jeopardize a successful outcome to all of our efforts.

If you have any questions, I would be glad to answer them. Thank you.

SENATE BILL No. 755

By Committee on Ways and Means

3-27

10 AN ACT concerning oil and gas; providing for payment of costs of re-
11 mediation of certain contamination sites and costs of plugging, replug-
12 ging and repairing certain wells and remediation of pollution from such
13 wells; amending K.S.A. 27-118, 55-151, 55-161, 55-179 and 55-180 and
14 repealing the existing sections; *also repealing K.S.A. 1995 Supp. 74-*
15 *632.*

16
17 *Be it enacted by the Legislature of the State of Kansas:*

18 New Section 1. (a) As used in this section:

19 (1) "Commission" means the state corporation commission.

20 (2) "Contamination site" means any of: (A) The 17 sites of pollution
21 from oil and gas activities, identified as of March 1, 1996, over which
22 jurisdiction was transferred from the department of health and environ-
23 ment to the commission by chapter 204 of the 1995 Session Laws of
24 Kansas; or (B) the 92 sites of pollution from oil and gas activities identified
25 by the commission as of March 1, 1996.

26 (3) "Well" means any well that the commission has authority to plug,
27 replug or repair under K.S.A. 55-179 and amendments thereto and that
28 was ~~abandoned~~ before July 1, 1996, whether or not identified as aban-
29 doned before that date.

30 (4) "Well site" means the location of a well and any pollution from
31 such well.

32 (b) There is hereby established in the state treasury the abandoned
33 oil and gas well fund.

34 (c) Moneys in the abandoned oil and gas well fund shall be used only
35 for the purpose of paying the costs of: (1) ~~investigating~~ ~~contamination~~
36 sites and well sites; (2) remediation of contamination sites; and (3) plug-
37 ging, replugging or repairing wells, and remediation of well sites, where
38 the commission determines that there is an eminent threat to public
39 health or the environment. No moneys credited to the fund shall be used
40 to pay administrative expenses of the commission or to pay compensation
41 or other expenses of employing personnel to carry out the duties of the
42 commission.

43 (d) All expenditures from the abandoned oil and gas well fund shall

[drilled]

be made in accordance with appropriations acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the chairperson of the state corporation commission or a person designated by the chairperson.

New Sec. 2. On July 15 of each year, the director of accounts and reports shall transfer \$400,000 from the state general fund, \$400,000 from the state water plan fund established by K.S.A. 82a-951 and amendments thereto and \$400,000 from the conservation fee fund established by K.S.A. 55-143 and amendments thereto to the abandoned oil and gas well fund established by section 1.

Sec. 3. K.S.A. 27-118 is hereby amended to read as follows: 27-118. All moneys received by the state of Kansas from the United States under the mineral leasing act as the state's share to be used for the construction and maintenance of public roads or for the support of public schools or other public educational institutions as provided by section 35, chapter 85 of the Acts of Congress of 1920 (41 Stat. 450; 30 U.S.C. 101) and any amendments thereto shall be deposited in the state treasury by the state treasurer, and fifty percent (50%) 50% of all such moneys shall be credited to the state general fund, and the remaining fifty percent (50%) 50% shall be credited to the state highway fund abandoned oil and gas well fund established by section 1.

Sec. 4. K.S.A. 55-151 is hereby amended to read as follows: 55-151. (a) Prior to the drilling of any well, every operator shall file an application of intent to drill with the commission. Such application shall include such information as required by the commission and shall be on a form prescribed by the commission. No change in the use of a well shall be made without express approval of the commission. No fee shall be required to accompany any Each application of intent to drill a well shall be accompanied by a fee in an amount equal to \$.02 per foot of estimated total depth of the well. No drilling shall be commenced until the authorized agents of the commission have approved the application. The agent, in giving approval, shall determine that the proposed construction of the well will protect all usable waters. Such approval shall include the amount of pipe necessary to protect all usable water, plugging requirements upon abandonment and such other requirements deemed appropriate by the commission. The commission may refuse to process any application submitted pursuant to this section unless the applicant has been in compliance with all rules and regulations adopted pursuant to this act.

(b) The commission shall send to the secretary of the department of health and environment copies of all notifications of intents to drill. The commission shall send to the clerk of any county in which a well will be drilled a copy of the intent to drill such well.

(c) Fees collected by the commission pursuant to this section shall be

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On July 15 of each year, the director of accounts and reports shall transfer \$400,000 from the state general fund. On July 15 of each year, the Commission shall request an allocation of \$400,000 from the state water plan established by K.S.A. 82a-951 and amendments thereto. On July 15, October 15, January 15 and March 15, of each year, the director of accounts and reports shall transfer \$100,000 for a total annual amount of \$400,000 from the conservation fee fund established by K.S.A. 55-143 and amendments thereto. All transfers contemplated herein shall be to the abandoned oil and gas well fund established by section 1.

[but not less than a minimum fee of \$40.]

deposited in the state treasury and credited to the well plugging account, hereby established in the conservation fee fund established by K.S.A. 55-143 and amendments thereto, to be used solely for plugging, replugging and or repairing wells ~~abandoned~~ on or after July 1, 1996.

Sec. 5. K.S.A. 55-161 is hereby amended to read as follows: 55-161. The commission shall investigate abandoned wells, and, based on actual or potential pollution problems, may select abandoned wells to be drilled out by the commission in order to test the integrity of the plugs. The cost of such testing shall be paid from the conservation fee fund ~~or the abandoned oil and gas well fund.~~

Sec. 6. K.S.A. 55-179 is hereby amended to read as follows: 55-179. (a) Upon receipt of any complaint filed pursuant to K.S.A. 55-178 and amendments thereto, the commission shall make an investigation for the purpose of determining whether such abandoned well is polluting or is likely to pollute any usable water strata or supply or causing the loss of usable water, or the commission may initiate such investigation on its own motion. If the commission determines:

(1) That such abandoned well is causing or likely to cause such pollution or loss; and

(2) (A) that no person is legally responsible for the proper care and control of such well; or (B) that ~~such person so the person~~ legally responsible for the care and control of such well is dead ~~or~~, is no longer in existence ~~or~~, is insolvent or cannot be found, then, within 60 days after completing its investigation, the commission shall plug, replug or repair such well, or cause it to be plugged, replugged or repaired, in such a manner as to prevent any further pollution or danger of pollution of any usable water strata or supply or loss of usable water, and shall remediate pollution from the well. The cost of ~~such plugging the investigation; the plugging, replugging or repair; and the remediation~~ shall be paid by the commission from the conservation fee fund ~~or the abandoned oil and gas well fund.~~

(b) For the purposes of this section, a person who is legally responsible for the proper care and control of an abandoned well shall include, ~~but is not limited to, one or more of the following:~~ Any operator of a waterflood or other pressure maintenance program deemed to be causing pollution or loss of usable water; the current or ~~last~~ operator of the lease upon which such well is located, irrespective of whether such operator plugged or abandoned such well; and the original operator who plugged or abandoned such well.

(c) Whenever the commission determines that a well has been abandoned and is causing or is likely to cause pollution of any usable water strata or supply or loss of usable water, and whenever the commission has reason to believe that a particular person is legally responsible for the

[drilled]

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1 proper care and control of such well, the commission shall cause such
2 person to come before it at a hearing held in accordance with the pro-
3 visions of the Kansas administrative procedure act to show cause why the
4 requisite care and control has not been exercised with respect to such
5 well. After such hearing, if the commission finds that ~~such~~ the person is
6 legally responsible for the proper care and control of such well and that
7 such well is abandoned, in fact, and is causing or is likely to cause pollution
8 of any usable water strata or supply or loss of usable water, the commis-
9 sion may make any order or orders prescribed in K.S.A. 55-162, and
10 amendments thereto. Proceedings for reconsideration and judicial review
11 of any of the commission's orders may be held pursuant to K.S.A. 55-606,
12 and amendments thereto.

13 (d) For the purpose of this section, any well which has been aban-
14 doned, in fact, and has not been plugged pursuant to the rules and reg-
15 ulations in effect at the time of plugging such well shall be and is hereby
16 deemed likely to cause pollution of any usable water strata or supply.

17 (e) For the purpose of this section, the person legally responsible for
18 the proper care and control of an abandoned well shall not include the
19 landowner or surface owner unless the landowner or surface owner has
20 operated or produced the well, has deliberately altered or tampered with
21 such well thereby causing the pollution or has assumed by written con-
22 tract such responsibility.

23 Sec. 7. K.S.A. 55-180 is hereby amended to read as follows: 55-180.

24 (a) The fact that any person has initiated or supported a proceeding before
25 the commission, or has remedied or attempted to remedy the condition
26 of any well under the authority of this act, shall not be construed as an
27 admission of liability or received in evidence against such person in any
28 action or proceeding wherein responsibility for or damages from surface
29 or subsurface pollution, or injury to any usable water or oil-bearing or
30 gas-bearing formation, is or may become an issue; nor shall such fact be
31 construed as releasing or discharging any action, cause of action or claim
32 against such person existing in favor of any third person for damages to
33 ~~property resulting from surface or subsurface pollution, or injury to any~~
34 usable water or oil-bearing or gas-bearing formation.

35 (b) The commission, on its own motion, may initiate an investigation
36 into any pollution problem related to oil and gas activity. In taking such
37 action the commission may require or perform the testing, sampling,
38 monitoring or disposal of any source of groundwater pollution related to
39 oil and gas activities.

40 (c) The commission or any other person authorized by the commis-
41 sion who has no obligation to plug, replug or repair any abandoned well,
but who does so in accordance with the provisions of this act, shall have
a cause of action for the reasonable cost and expense incurred in inves-

1 rigating pollution from the well; plugging, replugging or repairing the
2 well; and remediating pollution from the well against any person who is
3 legally responsible for the proper care and control of such well pursuant
4 to the provisions of section 32, and such K.S.A. 55-179 and amendments
5 thereto and the commission or other person shall have a lien upon the
6 interest of such obligated person in and to the oil and gas rights in the
7 land and equipment located thereon.

8 (d) Any moneys recovered by the commission in an action pursuant
9 to subsection (c) shall be remitted to the state treasurer. The state treas-
10 urer shall deposit the entire amount of the remittance in the state treasury
11 and credit it to the well plugging account in the conservation fee fund or
12 to the abandoned oil and gas well fund, as appropriate based on the fund
13 from which the costs incurred by the commission were paid.

14 New Sec. 8. The governor shall appoint a task force to study the
15 potential imposition of financial responsibility requirements on operators
16 of oil and gas wells and the impact that such requirements would have
17 on oil and gas well operators. On or before the first day of the 1997 regular
18 legislative session, the task force shall submit a report of its findings and
19 recommendations to the governor and to the chairperson, vice-chair-
20 person and ranking minority member of the standing committee on en-
21 ergy and natural resources of the senate and the house of representatives.

22 Sec. ~~8~~ K.S.A. 28-118, 55-151, 55-161, 55-179 and 55-180 and
23 K.S.A. 1995 Supp. 74-632 are hereby repealed.

24 Sec. ~~10~~ This act shall take effect and be in force from and after its
25 publication in the statute book.

[New Section 8. KSA 55-155 is hereby
amended to add (f) The Commission
is authorized to implement a
surcharge to the licensing fee
to supplement the plugging fund
set forth in Section 1(c) as
necessary.]

Sec 10

Sec 11



KANSAS INDEPENDENT OIL & GAS ASSOCIATION

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HOUSE ENERGY & NATURAL RESOURCES COMMITTEE

April 4, 1996

*Testimony of Donald P. Schnacke, Executive Vice President
Kansas Independent Oil & Gas Association*

RE: SB 755 - Oil & Gas Well Plugging & Remediation

I am Donald P. Schnacke, Executive Vice President of the Kansas Independent Oil and Gas Association. a 59-year old association representing independent oil and gas company members, producers, operators, and the related support industry throughout Kansas. We are appearing here today in support of SB 755.

The mystery of this legislation is why has it been so slow coming. I've represented KIOGA 22 years and helped organize the KCC Oil and Gas Advisory Committee composed of 10 persons knowledgeable about environmental issues facing the oil and gas industry. Not until last summer during the interim studies on Proposal No. 27 and 49 did the legislature and the industry focus on the issue of the apparent thousands of unplugged wells and the increased need for remediation. We are still getting acquainted with the magnitude and the urgency of this issue.

Drilling started in Kansas in 1860 and the first environmental laws imposed by the legislature concerning our industry were initiated in 1935 - a 75-year gap with no regulations. Most of the wells identified date back many years. Many of the wells have no identifiable responsible party. Our first study of the list that was recently presented to the legislature and the KCC does indicate that in some cases, after a very brief search, a responsible party can be identified. We hope the KCC will make a serious effort to identify as many responsible parties as possible to eliminate using public funds for this effort. We do, however, believe the vast majority appear to have no responsible party and there is strong justification for the passage of SB 755.

SB 755 would establish a new fund within the KCC, totaling \$1.6 million to address plugging and remediation of wells and well sites. This, added to the \$500,000 now dedicated to plugging, would quadruple the present KCC effort and total \$2.1 million.

When the industry mentions general fund money, we like to believe we are really talking about severance tax money that goes to the general fund. Currently, \$93 million goes to the general fund annually directly out of industry revenues. Since 1983 when the severance tax was imposed and doubled the tax burden on the production of oil and gas in Kansas, over \$1 billion have been collected from the severance tax and put into the general fund. Therefore, we support the concept that the increased plugging and remediation effort by the KCC be funded by a mix of general fund, water plan funds, federal mineral royalties, and an increase in the KCC Conservation Fee Fund, all totaling \$1.6 million annually when added together as proposed in this bill. This increased effort will go a long ways in addressing the problem brought to the legislature. (See attached diagram.)

House ENR
4-4-96
Attachment 2

HOUSE ENERGY & NATURAL RESOURCES COMMITTEE

Testimony of Donald P. Schnacke, Executive Vice President

RE: SB 755- Oil & Gas Well Plugging & Remediation

April 4, 1996

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Kansas data for 1994 indicates there were 391 oil wells drilled, 529 gas wells and 577 dry holes. Under present KCC rules an operator must plug a dry hole before vacating the drilling site. We believe it's reasonable to expect that, of the 910 oil and gas wells completed, 18-20 of these wells may, in the future, become a responsibility of the State of Kansas. Using the KCC average plugging cost of \$3,000 per well, the two cent per foot drilling permit fee, which in 1994 would have raised approximately \$110,000, will be an ample amount to address the issue of future wells drilled and abandoned after July 1, 1996. This is based on the 5.5 million feet drilled in 1994. This is a good scheme to raise funds to address future wells. As drilling increases, the fund increases. If there is less drilling, hence, fewer wells, the fund adjusts downward. However, we recommended when this proposal was first considered, a \$40 minimum, so that even for shallow wells, a minimum payment would be made.

In careful review of the two funds being established under this legislation, we believe there needs to be clarification of what abandoned wells are plugged and site remediated under the "*abandoned oil and gas well fund*" established in Section 1 and the funds raised by the 2 cent per foot drilling fee.

When Senator Sallee presented SB 755 on the Senate floor he described the two funds as 1) \$1.6 million would apply to wells drilled before July 1, 1996 and subsequently abandoned; and 2) the 2 cent per foot drilling fee fund would be applied to future wells drilled after July 1, 1996 and subsequently abandoned. The definition of the two funds as presented by Senator Sallee is how we have understood the two funds from the beginning, but there is conflicting language in SB 755. We recommend this be clarified before passing the bill.

There are some in our industry who want all existing operators to have an additional financial responsibility to plug wells and remediate well sites. A legal and financial responsibility exists today. Strong enforcement of the KCC rules will provide most of what is desired. Your passage of SB 685 relating to tampering with sealed wells was a significant step taken by the legislature this year. To insist that each operator, even when they intend or will plug a well, to provide bonding or some other financial commitment up front, is impractical and impossible for the Kansas industry to provide. We welcome the formation of a Governor's Task Force to study this issue this summer as provided in the bill, but we want to convey to you that what is contained in this bill is all that the vast majority of our industry can do to address this issue at this time. Anymore, particularly concerning the financial responsibility for existing wells and sites, will stifle the will among many operators to continue to do business in Kansas with devastating results that will transfer massive responsibilities to the State of Kansas. We would hope the legislature would not pass legislation that would have the effect of putting many licensed operators out of business.

In conclusion, we are pleased to have worked with the Administration, the legislature and the legislative leadership in developing this bill which represents a responsible initiative to plug abandoned wells and remediate production sites. We therefore recommend that you pass this bill.

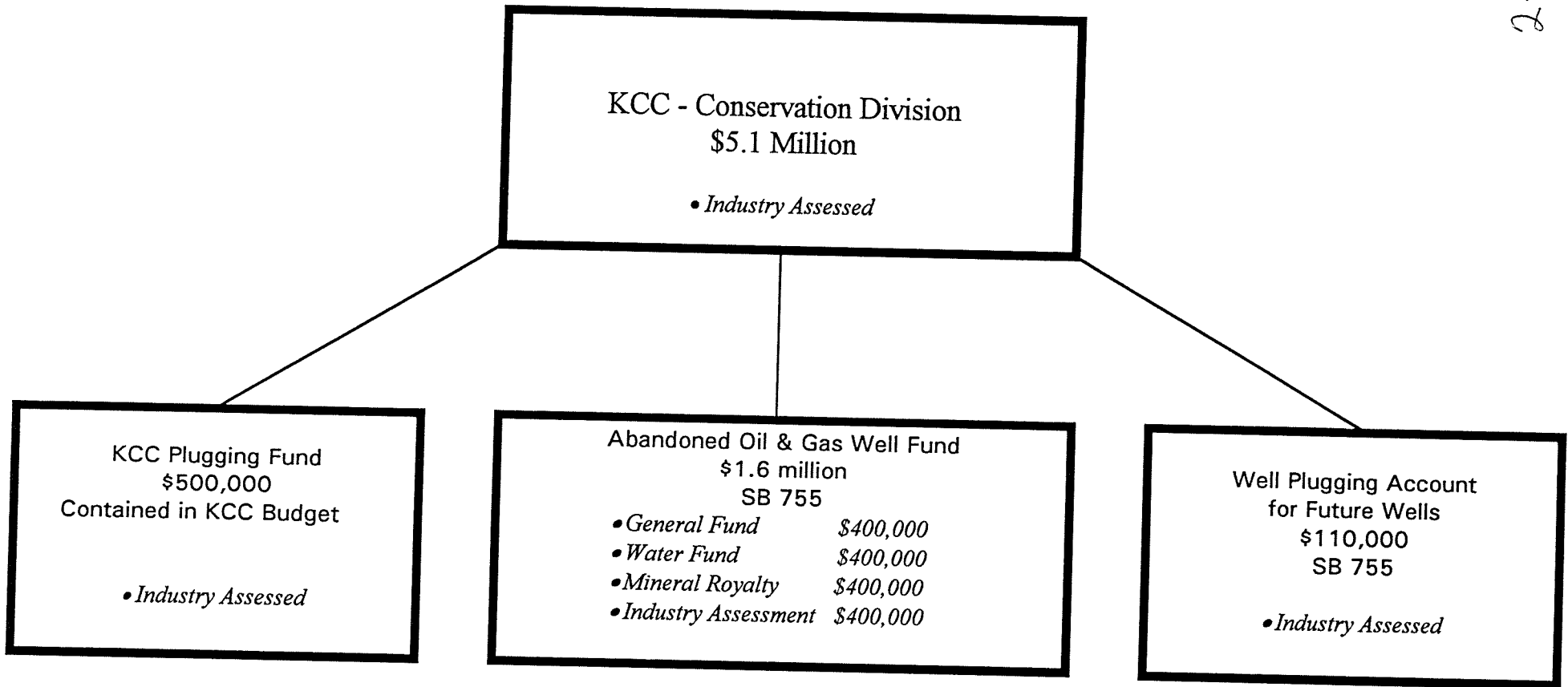
I'd be glad to answer any questions. I've been very close to this issue.

Donald P. Schnacke

DPS:pp

SB 755

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SB 755 increases the KCC Conservation Division budget \$1.7 million to a total of \$6.8 million

HOUSE ENERGY & NATURAL RESOURCES COMMITTEE

April 4 , 1996

RE: SB 755 - ABANDONED OIL & GAS WELL PLUGGING AND REMEDIATION FUND

Testimony of David Bleakley - President
Eastern Kansas Oil and Gas Association
&
Director of Acquisitions & Land Management
Colt Energy, Inc.

The Eastern Kansas Oil and Gas Association (EKOGA) strongly supports SB 755 with the following clarification as stated below.

Our association represents and supports eastern Kansas oil and gas producers, service companies, royalty owners and associated businesses along with the overall welfare of the Kansas oil and gas industry in this state.

In testimony supporting SB 755, EKOGA feels a short history of Oil and Gas well drilling in the State of Kansas helps one understand what this Bill is addressing. The first well drilled in Kansas was drilled in 1860 approximately 30 miles south of Kansas City near Paola, Kansas in Miami County. Oil and Gas rules and regulations began in 1935. The drilling increased in surrounding counties and throughout Eastern Kansas with primary oil production peaking in Eastern Kansas in 1918 at 45.5 million barrels/yr. and state wide in 1956 at over 124 million barrels/yr. while current production for 1995 is at 47 million barrels/yr. Eastern Kansas is defined as the eastern 1/3 of the state or 43 counties east of Wichita, Kansas. Oil in Eastern Kansas was found by several independent producers which stimulated the interest, involvement and development of Eastern Kansas oil and gas by hundreds of other independents and the major oil and gas companies such as; Sohio Petro. Co., Cities Service Oil Co., Skelly Oil Co., Sinclair Oil & Gas Co., Gulf Oil Corp., Union Gas Systems, Inc., Phillips Petro. Co., Texaco, Marathon, and various other smaller companies and subsidiaries bought and owned by major oil companies.

Oil was discovered in the central counties in 1923 while gas was first discovered in the central counties in 1888. Oil was discovered in the western counties in 1951 while gas was discovered in the western counties, in particular, the Hugoton field in 1922.

To summarize the above information, oil was first found in Kansas in the east and developed and produced by independents and majors alike until the economic limits were reached as set by each individual company's overhead and then sold or plugged out, thus starting the trickling down of oil and gas properties from larger independents and major oil companies to medium sized and then smaller independent oil companies. This trickle down has been going on for many, many years and will continue until the economic limit is reached in every field in the state.

Drilling, plugging and abandoning of oil and gas wells and operating sites started in 1860 and continued unabated until rules and regulations were started in 1935 leaving 75 years worth of drilling, plugging and abandoning of wells and operating sites under no rules and regulations. Then, from 1935 through the 40's 50's and 60's, in particular, rules and regulations have changed numerous times with many wells being drilled under one rule only to have it change at a later date. Therefore, the current oil and gas producers, cannot and should not bear the entire burden of correcting these historic problems by themselves. That is why we applaud the Governor, his staff, the KCC and their staff, the legislators and their staffs, and the oil and gas industry for all working together to address a problem that has needed this kind of group effort and monetary involvement from areas other than

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the industry alone for many years. The state, the counties and it's citizens have benefited from the money generated from these natural resources to the general fund, the personal property taxes, and the jobs over the last 136 years oil and gas has been produced in this state.

EKOGA supports the mix of monies funding the Abandoned Oil and Gas Well Fund and feels that by using the Conservation Fee Fund in this manner every producer of oil and gas, small and large, will pay to plug abandoned oil and gas wells and remediate oil and gas sites. Also, EKOGA supports the \$.02 per foot drilling intent fee on new oil and gas wells for the Well Plugging Account because whether you are a Mom and Pop or a Major oil company you pay you proportionate share of the cost to plug any potential future abandoned newly drilled wells.

Clarification to SB 755, EKOGA feels that a clarification should be made in the form of an amendment or modification. Such amendment or modification should be written by the redraftors to reflect the original intent and purpose of the bill. The charge that the industry and state worked under last summer and then again reiterated three weeks ago to us by the Governor was:

- 1.) Address the abandoned contaminated oil and gas sites.
- 2.) Address plugging of wells identified by the state without Potentially Responsible Parties (PRP) many of which are historic.
- 3.) Address the new wells being drilled now for their possible future abandonment.

With the above guidelines in mind, we would be glad to share our wording ideas with the redraftors. The basis of our rewording ideas reflects the intent of the above guidelines that All oil and gas wells drilled before July 1, 1996 then abandoned without PRP's and All contaminated oil and gas sites be addressed under the abandoned oil and gas well fund established by Section 1 of SB 755. AND All new oil and gas wells drilled after July 1, 1996 then abandoned shall be addressed under the well plugging account as established by Section 4 (c) of SB 755.

Therefore, Mr. Chairman and members or this Committee, we urge you to vote in favor of SB 755 with the amendment as recommended.

Thank you for your time.

David P. Bleakley

TESTIMONY ON SB 755, AS AMENDED BY THE SENATE
BEFORE THE HOUSE ENERGY AND NATURAL RESOURCES COMMITTEE

BY
CLARK DUFFY
KANSAS PETROLEUM COUNCIL
APRIL 4, 1996

I am Clark Duffy, Associate Director of the Kansas Petroleum Council.

I would like to commend Governor Graves and the leadership in the House and the Senate for recognizing the importance of this problem and for their efforts to bring the industry together in an effort to address this problem.

The intent of this bill is to provide approximately \$1.6 million of new funds to supplement the existing \$500,000 of industry money to deal with this historic problem. While the Kansas Petroleum Council supports this effort to address these historic problems, we believe that it is just as important to stop the current problem. This bill does not stop the current problem.

INDIVIDUAL OPERATOR RESPONSIBILITY

The current problems will not be stopped until individual oil and gas operators become financially responsible for plugging wells they operate as provided by current law. Attached for your consideration is a conceptual amendment to K.S.A. 55-155, which is one way to address the problem.

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PROPOSAL 27 AND 49 RECOMMENDATIONS

1995 Legislative Interim Committee Proposals No. 27 and 49 made a number of important recommendations on these issues. The committee may want to consider amendments based on the recommendations from these proposals for your consideration.

Proposed Amendment of K.S.A. 55-155.

Licensure of operators and contractors

It is recommended to modify K.S.A. 55-155; Licensure of operators and contractors; to provide a mechanism to assure financial responsibility of operators for plugging of wells that they operate. Presently Kansas has no financial requirements for an operator to obtain a license to operate oil and gas wells nor any mechanism to assure that a financially distressed operator complies with the rules and regulations of the KCC for of plugging wells. The proposed amendment to K.S.A. 55-155 will assure that operators maintain a fund that will allow plugging of wells that the operator is responsible for in case of bankruptcy, the operator shuts down operations, or goes out of business. The proposed amendment will be a phased in mechanism so as not to place a financial hardship on operators and to not cause operators to be forced to cease operations resulting in more abandoned wells becoming the responsibility of the State to plug.

It is proposed that each operator in the State of Kansas demonstrate financial responsibility by either one of two ways. The first is to obtain a bond payable to the KCC in case of non compliance with the plugging rules for wells. The second is to establish an escrow fund, owned and controlled by the operator, but attached by lien to the KCC until such time as the operator exits business in the State and demonstrates compliance for plugging all wells in the State that are that operator's responsibility. The escrow fund would be funded by the operator and established over

a five-year period. After five years, any operator entering the oil and gas business must have a fully funded escrow account to be able to obtain a license to operate in the State of Kansas. The amount of funds required to be kept in the fund would be dependent upon the number of wells operated. The status of the fund must be reported to the KCC annually when an operator renews his license. The fund could only be released upon signature of the Commissioners upon demonstration of compliance with plugging of all wells that are the responsibility of the operator. The fund would be the property of the operator and could be counted as an asset of the operator.

The KCC would be authorized to establish the level of escrow, taking into consideration the geographic characteristics of well locations, the depth of the wells and average plugging costs in specific areas.

Statement to The Kansas House Energy Committee

By:

Dick Brewster
Amoco Corporation

Re:

Senate Bill NO. 755

April 4, 1996

Mr. Chairman, Members of the Committee, my name is Dick Brewster. I am a registered lobbyist for my client and employer, Amoco Corporation. I appear, for Amoco, in support of Senate Bill No. 755, though I would like to respectfully ask the Committee to consider amending the bill slightly before passing it on to the full House for approval.

We want to thank the leadership of both the House and Senate, the Governor, and you, Mr. Chairman, for setting the stage on which the concepts in this bill could be developed. Without that leadership, we could not have come so far in a relatively short time.

The bill creates a special fund for use by the Kansas Corporation Commission to properly plug oil wells which have been abandoned and for which no responsible party can be found, for remediating contamination sites of the same sort. The recognition by the state's policy leaders that the industry and the state must work together in dealing with these sites and wells, is an example to other oil and gas producing states facing the same concerns. Potential threats to groundwater must be remedied.

The bill develops a program using funds from four sources: the state general fund, the state water plan, the conservation fee fund (which is solely financed by the oil and gas industry), and money received from the Federal government under the mineral leasing act.

When the Governor and the legislative leadership asked the industry to find a way to bring one-fourth of the total program, or \$400,000, to the table, there was a lot of debate and discussion, but the industry quickly reached a consensus that the best approach was to increase the money raised from the conservation fee fund.

I want to respectfully suggest an amendment, however, to the bill in this area. The current conservation fee fund raises about 80% of its moneys from production of natural gas and 20% from oil production. I would urge the committee to amend the bill so that the new money to be raised by the fund be supported equally by production from oil and gas.

There are virtually no abandoned natural gas wells in the state. The wells which this program is designed to address are almost all oil wells. Thus it would seem fair that oil production should shoulder a large portion of the cost of cleanup -- perhaps even more than one-half, as

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I am suggesting. However, you have heard, or will hear, that many of these abandoned oil wells were drilled, decades ago, by major producers who are now in the natural gas production business, having sold these oil wells to smaller producers. It makes some sense, on the one hand, to argue that independent producers who purchased these wells from larger companies received the benefit of the bargain, knowing they had liability for final disposition of the property. On the other hand, it makes some sense to argue that those who have, over the long term, benefited from production from these oil wells, should somehow share in the disposition costs.

It seems to me that an equal split of the cost, through an equal conservation fee fund levy on oil and gas production is a fair compromise. It would provide for participation in the funding by both the large producer, who remains in the state and who might have benefited from these old oil wells at some historical time, and the independent production community, which may have benefited more recently from such production. Quite frankly, to leave this provision in the bill as it now stands, placing some 80% of the burden on the state's current natural gas producers, seems patently unfair.

Senate Bill No. 755 should not be misunderstood. It is designed to provide funding to clean up the most threatening abandoned wells and contamination sites which are known to exist today. This is a significant step forward. But it leaves some issues unresolved:

For example, it does not address abandoned wells and sites which may not be significant environmental threats today, but which may develop into threats in the future. It does not address wells and sites which are now being operated, but which may one day become abandoned for one or more of many reasons.

It is this latter concern which causes me to suggest another amendment. I would suggest that now is the time to develop a plan to address wells and sites which may become abandoned after the effective date of this bill, should it be enacted. You will hear a number of to this concern suggested. But, I firmly believe ultimate responsibility for property disposing of these properties, once they become economically impossible to produce, should lie with the current operator of the properties.

Let me suggest, then, that a number of way can be developed to assure that a current operator has the financial ability and responsibility for properly disposing of these properties:

As a condition of licensing an operator, there could be placed a requirement that he or she be bonded, insured, demonstrate corporate assets adequate to dispose o the properties, develop an insurance pool or an escrow fund; or be allowed to chose among these and other alternatives.

You will hear that many operators cannot afford to assume financial responsibility to dispose of these properties once they are no longer profitable. And, care should indeed be taken to avoid driving anyone out of business. On the other hand, the state has the right and perhaps the duty to assure the financial responsibility of business operations where the welfare of the general public is at stake. You require other businesses which affect the public welfare to

demonstrate this ability and assume this responsibility. And, it seems to me that the fact that we are here, discussing this bill, demonstrates a mutual recognition that the business of exploring for and producing oil and gas does indeed impact the public welfare.

As it now stands, the bill does little to deal with the problem of future wells and sites. Requiring some reasonable measure of responsibility and assuring the ability of current producers to dispose of properties now being operated, will resolve this concern, or at least most of it. It is not a magic bullet. But it is a responsible step I would encourage you to take through further amendments to the bill.

It is my understanding that the committee will review and discuss specific amendments at another meeting, so I will not go into specific proposals at this time.

Through the fairly recent severance tax on oil and gas, through the historical imposition of property taxes on oil and gas producing properties, through the employment base created by oil and gas production, and through the other tax revenues generated by our industry, the entire state has benefited. It is fitting that the entire state, through the use of moneys already discussed, should participate in the solution. We recognize the leadership I have already described, for this acknowledgment.

Once again, Mr. Chairman, members of the committee, thank you for your time and attention. And, thank you for your leadership in this difficult area. The bill is a significant step forward.

I will be glad to answer any questions you might have.

HEIN, EBERT AND WEIR, CHTD.

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Ronald R. Hein

William F. Ebert

Stephen P. Weir

Melissa A. Wangemann

HOUSE ENERGY AND NATURAL RESOURCES COMMITTEE

TESTIMONY RE: SB 755

Presented by Ronald R. Hein

on behalf of

MESA

April 4, 1996

Mr. Chairman, Members of the Committee:

My name is Ron Hein, and I am legislative counsel for MESA. MESA is one of the nation's largest independent natural gas producers and currently has approximately 65% of its natural gas reserves in the state of Kansas.

MESA is a strong proponent of the state taking steps to plug abandoned oil and gas wells, and to solve the remediation problem pending from wells abandoned earlier throughout the state's history.

Currently, all the sites requiring mediation are oil production sites. The vast majority of the abandoned wells are oil wells as well. Therefore, in recent years, MESA, which primarily produces natural gas, has been a strong opponent of any taxing schemes, including check-off legislation, that would impose any tax or fee upon the natural gas industry to remediate a problem which has historically been predominantly an oil problem.

One of the other distinguishing characteristics of this problem is that many of the problem wells have no identifiable principal responsible party, many of which wells were abandoned years ago. MESA has questioned the logic of imposing a fee upon an existing industry based upon environmental damage where the participants in the damage are long gone.

Therefore, MESA has strongly supported utilization of State General Fund dollars derived from the severance tax on oil and gas as a means of paying for remediation of contamination sites. In addition, MESA is a strong proponent of operators today being fully responsible for their own wells, both regarding plugging the well when production is completed, and protecting against any environmental damage during or after production.

This year, the Governor came forward and offered to contribute State General Fund dollars, as well as Water Fund monies and other revenues to provide part of the financing for the remediation of the contaminated sites, and to solve the abandoned well

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problem. He requested a meeting with the oil and gas industry and urged all the representatives of that industry to come to the table with a proposal for contributing toward the solution, both by insuring that there is financial accountability to protect against wells currently being operated being abandoned in the future, as well as to provide funding to help alleviate the cost of remediation of sites and plugging of previously abandoned wells.

In light of this good faith effort by the Governor, and others, such as the Chairman of the House Energy and Natural Resources Committee who demonstrated a willingness to utilize Water Funds to help insure that water quality is maintained throughout the state, MESA agreed to come forward to supplement the plan and to abandon its opposition to fees upon the natural gas industry to pay for this problem.

SB 755 is the Senate's proposal to deal with the proposed remediation and plugging situation. Although it is a step in the right direction, MESA believes that this bill is inadequate, fails to take complete control of the financial responsibility issue, and is unfair in its allocation of costs to eliminate the problems.

Currently, \$500,000 a year is spent out of the Kansas Conservation Fee Fund which is administered by the Kansas Corporation Commission, to be used for plugging of wells. Approximately 81% of that \$500,000 is generated from a conservation fee placed upon natural gas production in the state. Approximately 19% of the money spent represents oil production in the state. SB 755 provides for an allocation of an additional \$400,000 out of the Conservation Fee Fund, to be added to the \$500,000 currently being paid out of the Fund, in order to pay for remediation and plugging of wells. This \$400,000 is to be allocated as determined by the KCC, according to the Governor's office, but the allocation is not specifically addressed in the legislation.

MESA strongly urges the Committee to amend SB 755 to provide specifically that 50% of the \$400,000 shall be allocated to the oil production in the state, and the remaining 50% allocated to natural gas production in the state. Although natural gas would still be paying an unduly large share by virtue of the existing \$500,000 already being paid for this problem, at the very least the additional \$400,000 being sought from the industry would be split evenly on oil and gas.

A very strong argument could be made that the oil side should pay a higher percentage of the \$400,000 out of the Conservation Fee Fund, but MESA believes that the 50/50 allocation is a fair and responsible approach, and represents a good faith offer to have the gas industry contribute to the solution of this problem.

Another component of the legislation relates to the matter of financial accountability. When MESA met with the Kansas Petroleum Council, KIOGA, and the Governor in an effort to arrive at a solution to the remediation and the abandoned well problems, I specifically asked KIOGA whether we could arrive at one consensus: Can we agree that every operator of an oil or gas well in the state should assume responsibility for the plugging of such operator's individually owned wells?

The response from KIOGA was silence. It appears we could not even get agreement on that basic assumption.

MESA believes strongly that existing operators should be responsible for plugging wells currently being operated, and that there should be no more wells that are currently in production being abandoned after this date. It is very important to stop the bleeding today, and to begin work on plugging the wells that were abandoned years before.

KIOGA's proposal is to study over the summer how to insure financial responsibility for all currently operating wells and to report back to the 1997 Legislature. This is a step in the right direction, but this issue has been being debated since the 1960's, and in my experience, from at least the mid-1970's. There has been plenty of time for studies, and the time has come for individual operators to assume responsibility for their own wells.

MESA assumes responsibility for its own wells, and every operator in the state should do the same. If there is an operator that is not capable of assuming responsibility for its own wells, then that operator should not be involved in this business. Just like the State requires doctors to have malpractice insurance, truck drivers to have liability insurance, and numerous other businesses throughout the state to show compliance with certain rules, the state of Kansas should insure that before it grants an operators license, that that operator has assumed responsibility and will comply with its responsibilities to properly plug any wells currently being operated by that entity.

MESA has proposed, along with the Kansas Petroleum Council, bonding or creation of an escrow account. We are also willing to look at any other solution that will provide full financial accountability for insuring that no currently operated wells are abandoned in the future. MESA would like to see the legislature solve that problem this year.

In the event that the legislature cannot solve the problem yet this legislative session, we would strongly urge the legislature to keep the pressure on to solve this problem next year without fail. MESA believes that options for solving the problem could include, at the operator's choice, a bonding or escrow provision, a set aside program to escrow money over the life of the well, participation in a pooling arrangement for insuring against abandoned wells with opt-out provisions for those who assume responsibility for their own wells, requirement of escrow of plugging costs upon sale of a well, and beefing up of remedies against individual operators, including making individual members of corporations including officers, directors, and stockholders responsible for the costs of plugging.

With the proposed amendment on the attached balloon bill, MESA would support the bill.

Thank you very much for permitting me to testify, and I will be happy to yield to questions.

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1 be made in accordance with appropriations acts upon warrants of the
 2 director of accounts and reports issued pursuant to vouchers approved
 3 by the chairperson of the state corporation commission or a person des-
 4 ignated by the chairperson.

5 New Sec. 2. On July 15 of each year, the director of accounts and
 6 reports shall transfer \$400,000 from the state general fund, \$400,000 from
 7 the state water plan fund established by K.S.A. 82a-951 and amendments
 8 thereto and \$400,000 from the conservation fee fund established by
 9 K.S.A. 55-143 and amendments thereto to the abandoned oil and gas well
 10 fund established by section 1.

11 Sec. 3. K.S.A. 27-118 is hereby amended to read as follows: 27-118.
 12 All moneys received by the state of Kansas from the United States under
 13 the mineral leasing act as the state's share to be used for the construction
 14 and maintenance of public roads or for the support of public schools or
 15 other public educational institutions as provided by section 35, chapter
 16 85 of the Acts of Congress of 1920 (41 Stat. 450; 30 U.S.C. 191) and any
 17 amendments thereto shall be deposited in the state treasury by the state
 18 treasurer, and ~~fifty percent (50%)~~ 50% of all such moneys shall be cred-
 19 ited to the state general fund, and the remaining ~~fifty percent (50%)~~ 50%
 20 shall be credited to the state ~~highway fund~~ *abandoned oil and gas well*
 21 *fund established by section 1.*

22 Sec. 4. K.S.A. 55-151 is hereby amended to read as follows: 55-151.
 23 (a) Prior to the drilling of any well, every operator shall file an application
 24 of intent to drill with the commission. Such application shall include such
 25 information as required by the commission and shall be on a form pre-
 26 scribed by the commission. No change in the use of a well shall be made
 27 without express approval of the commission. ~~No fee shall be required to~~
 28 ~~accompany any~~ *Each* application of intent to drill a well *shall be accom-*
 29 *panied by a fee in an amount equal to \$.02 per foot of estimated total*
 30 *depth of the well.* No drilling shall be commenced until the authorized
 31 agents of the commission have approved the application. The agent, in
 32 giving approval, shall determine that the proposed construction of the
 33 well will protect all usable waters. Such approval shall include the amount
 34 of pipe necessary to protect all usable water, plugging requirements upon
 35 abandonment and such other requirements deemed appropriate by the
 36 commission. The commission may refuse to process any application sub-
 37 mitted pursuant to this section unless the applicant has been in compli-
 38 ance with all rules and regulations adopted pursuant to this act.

39 (b) The commission shall send to the secretary of the department of
 40 health and environment copies of all notifications of intents to drill. The
 41 commission shall send to the clerk of any county in which a well will be
 42 drilled a copy of the intent to drill such well.

43 (c) *Fees collected by the commission pursuant to this section shall be*

, fifty percent of which shall be assessed as a conservation fee on
 oil production and fifty percent of which shall be assessed as a
 conservation fee on gas production, or as near to such
 percentages as reasonably projected by the commission,

STATEMENT OF BILL F. BRYAN BEFORE THE KANSAS HOUSE
ENERGY AND NATURAL RESOURCES COMMITTEE ON
BEHALF OF OXY USA Inc.

APRIL 4, 1996

OXY USA Inc. is a subsidiary of Occidental Petroleum Company. OXY is the successor to Cities Service Company, a old line Kansas Company. Cities discovered the El Dorado Field in 1917 and OXY continues to operate over 1500 wells in Kansas. Oxy is the largest producer of oil in Kansas and the third largest producer of gas.

OXY greatly appreciates the legislature and the Governor for focusing on a long standing problem of unplugged wells in the State. This problem is not new to this legislature and the issue has come before this legislature numerous times in the past. I appeared before Charlie Angell's Senate Committee in the early 1980's to discuss this same issue.

OXY certainly supports the financial commitment being made by the State to address this problem and is a big step in the right direction to address the problem. Our concern centers on fixing financial responsibility by current operators for their existing and future wells. The operators now by law and regulation have the legal responsibility to assure the the wells that they operate are ultimately plugged. However that responsibility is too often avoided by bankruptcy, death, or simply leaving the State. The oil and gas business is a high risk business and too often there is a failure to set aside money to take care of the obligation to properly abandon wells.

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Our position is that the State should be protected from irresponsible operators abandoning wells on the State for plugging by requiring sufficient funding out of current income from the wells production to satisfy the ultimate cost of plugging. We are not particular about the mechanism of how this is done, however if the State ever wishes to solve the problem of unplugged wells, this step is essential to assure Operator Financial Responsibility.

STATE OF KANSAS

BILL GRAVES, Governor
State Capitol, 2nd Floor
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OFFICE OF THE GOVERNOR

TESTIMONY
on
SENATE BILL 755
presented to
HOUSE ENERGY AND NATURAL RESOURCES COMMITTEE
April 4, 1996
by
Derenda J. Mitchell
Legislative Counsel to the Governor

Governor Bill Graves thanks Chairman Holmes, the Representatives on this committee, and the legislative staff for their time and attention to the topic of **remediation and plugging of abandoned oil or gas wells**. Water is a precious natural resource to Kansans. Your commitment to passage of legislation to address the threat to our water quality is a commitment to our environment, our wildlife, and most importantly to the health and safety of our citizens.

The administration has discussed how best to address these concerns with legislators, KCC staff, and industry. The Governor is personally grateful to everyone who has provided input to our office. With continued cooperation, he is confident we can accomplish passage of meaningful legislation. We have attempted to approach this issue without playing the blame game. Nevertheless, to the extent responsible parties can be identified, they should be forced to pay for any pollution.

When the '96 Session began, Governor Graves announced his **Water Quality Initiative**. The Initiative includes remediation and well plugging. With your support, we hope to address the following issues to protect our Kansas water quality:

1. the 17 remediation sites transferred from KDHE to the KCC last session; 92 additional sites identified by the KCC;
2. plugging of abandoned oil or gas wells with no potentially responsible parties which are actively polluting or are a serious threat to health and safety;
3. current and future operations so that abandonment of oil or gas wells is discouraged and each party legally responsible for plugging wells is encouraged to do so.

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With regard to number three, we would recommend an amendment to the language proposed that would replace the footage drilling fee. The proposed amendment would impose a surcharge or assessment to the operator's annual fee. Any additional assessment should not be effective until the beginning of FY 1998, and should not be assessed unless the previous year's experience indicates a need for the assessment. In this way, the current operators participate and are encouraged to self-police. Moreover, the assessment will be based upon needs as determined by future experience. We will not have to guess whether 2 cents per foot is enough or too much. I will leave it to the technicians to put the concept into statutory wording if the committee is interested.

Before closing, I would like to discuss a couple of concerns about the bill's language. First, legislators will want to consider drafting the bill so that there is no gap in definitions. For example, wells "abandoned" **before** a date certain are defined in new section 1, subsection (3) on page 1. The definition of what is covered by any drilling fee or by an operator's fee should then address "abandoned" wells **after** that same date certain, depending on the approach the committee decides to take.

Second, the legislature may want to consider a 6 year sunset of the four part funding for remediation and abandoned well plugging. The four parts consist of a State General Fund contribution, a transfer of federal mineral royalties from KDOT, water plan monies, and the increase in the KCC conservation fees. The KCC indicates it will require a minimum of 6 years to reduce the numbers of wells needing to be plugged to a number that can be addressed within current conservation fee funding levels. The sunset would not apply to any current and future fees paid by the industry and proposed by the legislation, i.e., any operator's fee surcharge or permit fees.

In conclusion, our Kansas water is threatened, and we ask for your assistance in its protection. Thank you for your consideration.

SENATE BILL No. 755

By Committee on Ways and Means

3-27

House ENR
4-4-96
Attachment 9

10 AN ACT concerning oil and gas; providing for payment of costs of re-
11 mediation of certain contamination sites and costs of plugging, replug-
12 ging and repairing certain wells and remediation of pollution from such
13 wells; amending K.S.A. 27-118, 55-151, 55-161, 55-179 and 55-180 and
14 repealing the existing sections; *also repealing K.S.A. 1995 Supp. 74-*
15 *632.*

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

17 New Section 1. (a) As used in this section:

18 (1) "Commission" means the state corporation commission.

19 (2) "Contamination site" means any of: (A) The 17 sites of pollution
20 from oil and gas activities, identified as of March 1, 1996, over which
21 jurisdiction was transferred from the department of health and environ-
22 ment to the commission by chapter 204 of the 1995 Session Laws of
23 Kansas; or (B) the 92 sites of pollution from oil and gas activities identified
24 by the commission as of March 1, 1996.

25 (3) "Well" means any well that the commission has authority to plug,
26 replug or repair under K.S.A. 55-179 and amendments thereto ~~and that~~
27 ~~was abandoned before July 1, 1996, whether or not identified as aban-~~
28 ~~doned before that date.~~

29 (4) "Well site" means the location of a well and any pollution from
30 such well.

31 (b) There is hereby established in the state treasury the abandoned
32 oil and gas well fund.

33 (c) Moneys in the abandoned oil and gas well fund shall be used only
34 for the purpose of paying the costs of: (1) Investigating contamination
35 sites ~~and well sites~~; (2) remediation of contamination sites; ~~and (3) plug-~~
36 ~~ging, replugging or repairing wells and remediation of well sites, where~~
37 ~~the commission determines that there is an eminent~~ threat to public
38 health or the environment. No moneys credited to the fund shall be used
39 to pay administrative expenses of the commission or to pay compensation
40 or other expenses of employing personnel to carry out the duties of the
41 commission.

42 (d) All expenditures from the abandoned oil and gas well fund shall
43

55-155 and

and section 10

investigating well sites of wells abandoned
before July 1, 1996; and (4)

abandoned before July 1, 1996, and remediation
of well sites of such wells, in accordance with
a prioritization schedule adopted by the
commission and based on the degree of

9-2

1 be made in accordance with appropriations acts upon warrants of the
2 director of accounts and reports issued pursuant to vouchers approved
3 by the chairperson of the state corporation commission or a person des-
4 ignated by the chairperson.

5 New Sec. 2. ~~On July 15 of each year~~ the director of accounts and
6 reports shall transfer \$400,000 from the state general fund, \$400,000 from
7 the state water plan fund established by K.S.A. 82a-951 and amendments
8 thereto and \$400,000 from the conservation fee fund established by
9 K.S.A. 55-143 and amendments thereto to the abandoned oil and gas well
10 fund established by section 1.

11 Sec. 3. K.S.A. 27-118 is hereby amended to read as follows: 27-118.
12 All moneys received by the state of Kansas from the United States under
13 the mineral leasing act as the state's share to be used for the construction
14 and maintenance of public roads or for the support of public schools or
15 other public educational institutions as provided by section 35, chapter
16 85 of the Acts of Congress of 1920 (41 Stat. 450; 30 U.S.C. 191) and any
17 amendments thereto shall be deposited in the state treasury by the state
18 treasurer, and fifty percent (50%) 50% of all such moneys shall be cred-
19 ited to the state general fund, and the remaining fifty percent (50%) 50%
20 shall be credited to the state highway fund abandoned oil and gas well
21 fund established by section 1.

22 Sec 4. K.S.A. 55-151 is hereby amended to read as follows: 55-151.

23 (a) Prior to the drilling of any well, every operator shall file an application
24 of intent to drill with the commission. Such application shall include such
25 information as required by the commission and shall be on a form pre-
26 scribed by the commission. No change in the use of a well shall be made
27 without express approval of the commission. ~~No fee shall be required to~~
28 ~~accompany any~~ Each application of intent to drill a well shall be accom-
29 ~~panied by a fee in an amount equal to \$.02 per foot of estimated total~~
30 ~~depth of the well.~~ No drilling shall be commenced until the authorized
31 agents of the commission have approved the application. The agent, in
32 giving approval, shall determine that the proposed construction of the
33 well will protect all usable waters. Such approval shall include the amount
34 of pipe necessary to protect all usable water, plugging requirements upon
35 abandonment and such other requirements deemed appropriate by the
36 commission. The commission may refuse to process any application sub-
37 mitted pursuant to this section unless the applicant has been in compli-
38 ance with all rules and regulations adopted pursuant to this act.

39 (b) The commission shall send to the secretary of the department of
40 health and environment copies of all notifications of intents to drill. The
commission shall send to the clerk of any county in which a well will be
drilled a copy of the intent to drill such well.

43 (c) Fees collected by the commission pursuant to this section shall be

(a) Except as provided by subsection (b), or July 15 of each year before 2002

(b) Whenever the unobligated principal balance of the abandoned oil and gas well fund exceeds \$500,000 on July 15, no moneys shall be credited to the fund pursuant to subsection (a) until the unobligated principal balance of the fund is equal to \$200,000 or less, at which time moneys shall again be credited to the fund pursuant to subsection (a).

(c) Any increase in fees by the state corporation commission to carry out the provisions of this section shall as nearly as possible be assessed equally on oil and gas.

established by the commission in an amount not exceeding \$25

9-3

1 deposited in the state treasury and credited to ~~the well plugging~~ account,
 2 hereby established in the ~~conservation fee fund established by K.S.A. 55-~~
 3 ~~143 and amendments thereto~~ to be used solely for plugging, replugging
 4 and or repairing wells ~~abandoned on or after July 1, 1996.~~

a special

abandoned oil and gas well fund established by section 1

5 Sec. 5. K.S.A. 55-161 is hereby amended to read as follows: 55-161.
 6 The commission shall investigate abandoned wells, and, based on actual
 7 or potential pollution problems, may select abandoned wells to be drilled
 8 out by the commission in order to test the integrity of the plugs. The cost
 9 of such testing shall be paid from the conservation fee fund or the ~~aban-~~
 10 ~~doned oil and gas well fund.~~

that the commission has authority to plug, re-
 plug or repair under K.S.A. 55-179 and amend-
 ments thereto and that are

11 Sec. 6. K.S.A. 55-179 is hereby amended to read as follows: 55-179.
 12 (a) Upon receipt of any complaint filed pursuant to K.S.A. 55-178 and
 13 amendments thereto, the commission shall make an investigation for the
 14 purpose of determining whether such abandoned well is polluting or is
 15 likely to pollute any usable water strata or supply or causing the loss of
 16 usable water, or the commission may initiate such investigation on its own
 17 motion. If the commission determines:

Insert section 5 attached, and renumber remain-
 ing sections accordingly

18 (1) That such abandoned well is causing or likely to cause such pol-
 19 lution or loss; and

20 (2) (A) that no person is legally responsible for the proper care and
 21 control of such well; or (B) that ~~such person so the person~~ legally respon-
 22 sible for the care and control of such well is dead ~~or~~, is no longer in
 23 existence ~~or~~, is insolvent or cannot be found, then, within 60 days after
 24 completing its investigation, the commission shall plug, replug or repair
 25 such well, or cause it to be plugged, replugged or repaired, in such a
 26 manner as to prevent any further pollution or danger of pollution of any
 27 usable water strata or supply or loss of usable water, and shall remediate
 28 pollution from the well. The cost of ~~such plugging the investigation; the~~
 29 ~~plugging, replugging or repair; and the remediation~~ shall be paid by the
 30 commission from the conservation fee fund or the abandoned oil and gas
 31 well fund.

32 (b) For the purposes of this section, a person who is legally respon-
 33 sible for the proper care and control of an abandoned well shall include,
 34 but is not limited to, one or more of the following: Any operator of a
 35 waterflood or other pressure maintenance program deemed to be causing
 36 pollution or loss of usable water; the current or last operator of the lease
 37 upon which such well is located, irrespective of whether such operator
 38 plugged or abandoned such well; and the original operator who plugged
 39 or abandoned such well.

40 (c) Whenever the commission determines that a well has been aban-
 41 doned and is causing or is likely to cause pollution of any usable water
 42 strata or supply or loss of usable water, and whenever the commission
 43 has reason to believe that a particular person is legally responsible for the

Sec. 5. K.S.A. 1995 Supp. 55-155 is hereby amended to read as follows: 55-155. (a) Operators and contractors shall be licensed by the commission pursuant to this section.

(b) Every operator and contractor shall file an application or a renewal application with the commission. Application and renewal application forms shall be prescribed, prepared and furnished by the commission.

(c) No application or renewal application shall be approved until the applicant has:

(1) Provided sufficient information, as required by the commission, for purposes of identification;

(2) submitted evidence that all current and prior years' taxes for property associated with the drilling or servicing of wells have been paid;

(3) demonstrated to the commission's satisfaction that the applicant complies with all requirements of chapter 55 of the Kansas Statutes Annotated, all rules and regulations adopted thereunder and all commission orders and enforcement agreements, if the applicant is registered with the federal securities and exchange commission;

(4) demonstrated to the commission's satisfaction that the following comply with all requirements of chapter 55 of the Kansas Statutes Annotated, all rules and regulations adopted thereunder and all commission orders and enforcement agreements, if the applicant is not registered with the federal securities and exchange commission: (A) The applicant; (B) any officer, director, partner or member of the applicant; (C) any stockholder owning in the aggregate more than 5% of the stock of the applicant; and (D) any spouse, parent, brother, sister, child, parent-in-law, brother-in-law or sister-in-law of the foregoing;

(5) paid an annual license fee of \$100, except that an applicant for a license who is operating one gas well used strictly for the purpose of heating a residential dwelling shall pay an annual license fee of \$25;

(6) on and after July 1, 1997, paid a well plugging surcharge for each well operated by the operator in the preceding year, in an amount determined annually by the commission as required to plug, replug or repair wells abandoned on and after July 1, 1996, but not to exceed \$12 per well;

(7) submitted one of the following to assure financial responsibility for costs of plugging wells operated in the state by the operator: (A) A bond in an amount established by the commission for each well operated by the operator; (B) evidence of acceptance of responsibility for such costs by another party, determined by the commission to have financial ability to be held responsible for such costs in the event of failure of the operator to plug the operator's wells; (C) evidence of participation in a well plugging insurance pool created to manage the risk of unplugged wells; or (D) other financial security approved by the commission; and

~~(6)~~ (8) paid an annual license fee of \$25 for each rig operated by the applicant. The commission shall issue an identification tag for each such rig which shall be displayed on such rig at all times.

(d) Upon the approval of the application or renewal application, the commission shall issue to such applicant a license which shall be in full force and effect until one year

from the date of issuance or until surrendered, suspended or revoked as provided in K.S.A. 55-162, and amendments thereto. No new license shall be issued to any applicant who has had a license revoked until the expiration of one year from the date of such revocation.

(e) Except as provided by subsection (f), the commission shall remit all moneys received from fees assessed pursuant to this section to the state treasurer at least monthly. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount thereof in the state treasury. Twenty percent of each such deposit shall be credited to the state general fund and the balance shall be credited to the conservation fee fund created by K.S.A. 55-143, and amendments thereto.

(f) The commission shall remit to the state treasurer all moneys collected from the well plugging surcharge imposed pursuant to subsection (c)(6). The state treasurer shall deposit the entire amount of the remittance in the state treasury and credit it to the special account in the abandoned oil and gas well fund established by subsection (c) of K.S.A. 55-151 and amendments thereto.

1 proper care and control of such well, the commission shall cause such
2 person to come before it at a hearing held in accordance with the pro-
3 visions of the Kansas administrative procedure act to show cause why the
4 requisite care and control has not been exercised with respect to such
5 well. After such hearing, if the commission finds that ~~such~~ the person is
6 legally responsible for the proper care and control of such well and that
7 such well is abandoned, in fact, and is causing or is likely to cause pollution
8 of any usable water strata or supply or loss of usable water, the commis-
9 sion may make any order or orders prescribed in K.S.A. 55-162, and
10 amendments thereto. Proceedings for reconsideration and judicial review
11 of any of the commission's orders may be held pursuant to K.S.A. 55-606,
12 and amendments thereto.

13 (d) For the purpose of this section, any well which has been aban-
14 doned, in fact, and has not been plugged pursuant to the rules and reg-
15 ulations in effect at the time of plugging such well shall be and is hereby
16 deemed likely to cause pollution of any usable water strata or supply.

17 (e) For the purpose of this section, the person legally responsible for
18 the proper care and control of an abandoned well shall not include the
19 landowner or surface owner unless the landowner or surface owner has
20 operated or produced the well, has deliberately altered or tampered with
21 such well thereby causing the pollution or has assumed by written con-
22 tract such responsibility.

23 Sec. 7. K.S.A. 55-180 is hereby amended to read as follows: 55-180.

24 (a) The fact that any person has initiated or supported a proceeding before
25 the commission, or has remedied or attempted to remedy the condition
26 of any well under the authority of this act, shall not be construed as an
27 admission of liability or received in evidence against such person in any
28 action or proceeding wherein responsibility for or damages from surface
29 or subsurface pollution, or injury to any usable water or oil-bearing or
30 gas-bearing formation, is or may become an issue; nor shall such fact be
31 construed as releasing or discharging any action, cause of action or claim
32 against such person existing in favor of any third person for damages to
33 property resulting from surface or subsurface pollution, or injury to any
34 usable water or oil-bearing or gas-bearing formation.

35 (b) The commission, on its own motion, may initiate an investigation
36 into any pollution problem related to oil and gas activity. In taking such
37 action the commission may require or perform the testing, sampling,
38 monitoring or disposal of any source of groundwater pollution related to
39 oil and gas activities.

40 (c) The commission or any other person authorized by the commis-
41 sion who has no obligation to plug, replug or repair any abandoned well,
42 but who does so in accordance with the provisions of this act, shall have
43 a cause of action for the reasonable cost and expense incurred in inves-

9-7

1 *tigating pollution from the well; plugging, replugging or repairing the*
 2 *well; and remediating pollution from the well* against any person who is
 3 legally responsible for the proper care and control of such well pursuant
 4 to the provisions of ~~section 32, and such~~ *K.S.A. 55-179 and amendments*
 5 *thereto and the commission or other person shall have a lien upon the*
 6 *interest of such obligated person in and to the oil and gas rights in the*
 7 *land and equipment located thereon.*

8 *(d) Any moneys recovered by the commission in an action pursuant*
 9 *to subsection (c) shall be remitted to the state treasurer. The state treas-*
 10 *urer shall deposit the entire amount of the remittance in the state treasury*
 11 *and credit it to the well plugging account in the conservation fee fund or*
 12 *to the abandoned oil and gas well fund, as appropriate based on the fund*
 13 *from which the costs incurred by the commission were paid.*

(a)

14 ~~New Sec. 8. The governor shall appoint a task force to study the~~
 15 ~~potential imposition of financial responsibility requirements on operators~~
 16 ~~of oil and gas wells and the impact that such requirements would have~~
 17 ~~on oil and gas well operators.~~ On or before the first day of the 1997 regular
 18 legislative session, the task force shall submit a report of its findings and
 19 recommendations *to the governor and* to the chairperson, vice-chair-
 20 person and ranking minority member of the standing committee on en-
 21 ergy and natural resources of the senate and the house of representatives.

Insert C

Insert D

22 Sec. 9. K.S.A. 28-118, 55-151, 55-161, 55-179 and 55-180 *and*
 23 *K.S.A. 1995 Supp. 74-632* are hereby repealed.

55-155 and

24 Sec. 10. This act shall take effect and be in force from and after its
 25 publication in the statute book.

:

(1) Statutory changes that would enhance the commission's ability to reduce the number of wells newly abandoned each year;

(2) ways to make the conservation division of the commission more efficient to make better use of staff and other resources; and

(3) technological advances in surface and subsurface remediation techniques.

(b) Members of the task force shall include, but not be limited to, one representative of the Kansas Independent Oil and Gas Association, one representative of the Eastern Kansas Oil and Gas Association, two representatives of the Kansas Petroleum Council, one representative of the League of Kansas Municipalities, one representative of the Kansas Rural Water Association and one representative of environmental interests.

(c)

New Sec. 10. (a) The commission shall prepare an annual report containing the following information regarding each contamination site:

(1) A description and evaluation of the site, including surface and subsurface contamination;

(2) the immediacy of the threat to public health or the environment from pollution from the site, including any contamination of drinking water or groundwater;

(3) the level of surface and subsurface remediation recommended;

(4) any unusual problems associated with investigation or remediation of pollution from the site;

(5) an estimate of the cost to achieve the recommended level of remediation or, if no estimate is possible, an estimate of the cost to conduct an investigation sufficient to determine the cost of remediation;

(6) any funds available to pay the costs of remediation;

(7) with regard to remediation of pollution from the site performed during the preceding fiscal year: (A) The nature of such remediation; (B) the total amount expended for such remediation; and (C) the amount expended for administrative expenses of the commission and compensation and other expenses of employing personnel to carry out the duties of the commission; and

(8) total expenditures in preceding fiscal years for remediation at the site.

(b) The state corporation commission shall prepare an annual report containing the following information regarding wells and well sites:

(1) Documentation of the number of unplugged abandoned wells in the state; and

(2) a multiyear plan for dealing with unplugged abandoned wells that categorizes wells according to the risk posed to public health and the environment, sets forth a schedule for plugging wells posing the most serious risks and addresses funding of the plan.

(c) The commission shall submit the reports provided for by this section to the governor and the chairperson and ranking minority member of the committees on energy and natural resources of the senate and the house of representatives, on or before the first day of the regular legislative session each year.

New Sec. 11. The state corporation commission shall create and maintain a data base of all oil or gas wells in existence in this state. The data base shall include the location of each well and name, address and other information relevant to the identity of the operator of the well.

SENATE BILL No. 755

By Committee on Ways and Means

3-27

10 AN ACT concerning oil and gas; providing for payment of costs of re-
11 mediation of certain contamination sites and costs of plugging, replug-
12 ging and repairing certain wells and remediation of pollution from such
13 wells; amending K.S.A. 27-118, 55-151, 55-161, 55-179 and 55-180 and
14 repealing the existing sections; *also repealing K.S.A. 1995 Supp. 74-*
15 *632.*

16
17 *Be it enacted by the Legislature of the State of Kansas:*

18 New Section 1. (a) As used in this section:

19 (1) "Commission" means the state corporation commission.

20 (2) "Contamination site" means any of: (A) The 17 sites of pollution
21 from oil and gas activities, identified as of March 1, 1996, over which
22 jurisdiction was transferred from the department of health and environ-
23 ment to the commission by chapter 204 of the 1995 Session Laws of
24 Kansas; or (B) the 92 sites of pollution from oil and gas activities identified
25 by the commission as of March 1, 1996.

26 (3) "Well" means any well ~~that~~ the commission has authority to plug,
27 replug or repair under K.S.A. 55-179 and amendments thereto and ~~that~~
28 ~~was abandoned~~ before July 1, 1996 ~~whether or not identified as aban-~~
29 ~~doned before that date~~

30 (4) "Well site" means the location of a well and any pollution from
31 such well.

32 (b) There is hereby established in the state treasury the abandoned
33 oil and gas well fund.

34 (c) Moneys in the abandoned oil and gas well fund shall be used only
35 for the purpose of paying the costs of: (1) Investigating contamination
36 sites and well sites; (2) remediation of contamination sites; and (3) plug-
37 ging, replugging or repairing wells, and remediation of well sites, where
38 the commission determines that there is an eminent threat to public
39 health or the environment. No moneys credited to the fund shall be used
40 to pay administrative expenses of the commission or to pay compensation
41 or other expenses of employing personnel to carry out the duties of the
42 commission.

43 (d) All expenditures from the abandoned oil and gas well fund shall

which

drilling of which began

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4-4-96
Attachment 10

1 be made in accordance with appropriations acts upon warrants of the
 2 director of accounts and reports issued pursuant to vouchers approved
 3 by the chairperson of the state corporation commission or a person des-
 4 ignated by the chairperson.

5 New Sec. 2. On July 15 of each year, the director of accounts and
 6 reports shall transfer \$400,000 from the state general fund, \$400,000 from
 7 the state water plan fund established by K.S.A. 82a-951 and amendments
 8 thereto and \$400,000 from the conservation fee fund established by
 9 K.S.A. 55-143 and amendments thereto to the abandoned oil and gas well
 10 fund established by section 1.

11 Sec. 3. K.S.A. 27-118 is hereby amended to read as follows: 27-118.
 12 All moneys received by the state of Kansas from the United States under
 13 the mineral leasing act as the state's share to be used for the construction
 14 and maintenance of public roads or for the support of public schools or
 15 other public educational institutions as provided by section 35, chapter
 16 85 of the Acts of Congress of 1920 (41 Stat. 450; 30 U.S.C. 101) and any
 17 amendments thereto shall be deposited in the state treasury by the state
 18 treasurer, and fifty percent (50%) 50% of all such moneys shall be cred-
 19 ited to the state general fund, and the remaining fifty percent (50%) 50%
 20 shall be credited to the state highway fund abandoned oil and gas well
 21 fund established by section 1.

22 Sec. 4. K.S.A. 55-151 is hereby amended to read as follows: 55-151.
 23 (a) Prior to the drilling of any well, every operator shall file an application
 24 of intent to drill with the commission. Such application shall include such
 25 information as required by the commission and shall be on a form pre-
 26 scribed by the commission. No change in the use of a well shall be made
 27 without express approval of the commission. No fee shall be required to
 28 accompany any Each application of intent to drill a well shall be accom-
 29 panied by a fee in an amount equal to \$.02 per foot of estimated total
 30 depth of the well. No drilling shall be commenced until the authorized
 31 agents of the commission have approved the application. The agent, in
 32 giving approval, shall determine that the proposed construction of the
 33 well will protect all usable waters. Such approval shall include the amount
 34 of pipe necessary to protect all usable water, plugging requirements upon
 35 abandonment and such other requirements deemed appropriate by the
 36 commission. The commission may refuse to process any application sub-
 37 mitted pursuant to this section unless the applicant has been in compli-
 38 ance with all rules and regulations adopted pursuant to this act.

39 (b) The commission shall send to the secretary of the department of
 40 health and environment copies of all notifications of intents to drill. The
 41 commission shall send to the clerk of any county in which a well will be
 42 drilled a copy of the intent to drill such well.

43 (c) Fees collected by the commission pursuant to this section shall be

1 deposited in the state treasury and credited to the well plugging account,
 2 hereby established in the conservation fee fund established by K.S.A. 55-
 3 143 and amendments thereto, to be used solely for plugging, replugging
 4 and or repairing wells ~~abandoned~~ on or after July 1, 1996.

5 Sec. 5. K.S.A. 55-161 is hereby amended to read as follows: 55-161.
 6 The commission shall investigate abandoned wells, and, based on actual
 7 or potential pollution problems, may select abandoned wells to be drilled
 8 out by the commission in order to test the integrity of the plugs. The cost
 9 of such testing shall be paid from the conservation fee fund or the *aban-*
 10 *doned oil and gas well fund.*

11 Sec. 6. K.S.A. 55-179 is hereby amended to read as follows: 55-179.
 12 (a) Upon receipt of any complaint filed pursuant to K.S.A. 55-178 and
 13 amendments thereto, the commission shall make an investigation for the
 14 purpose of determining whether such abandoned well is polluting or is
 15 likely to pollute any usable water strata or supply or causing the loss of
 16 usable water, or the commission may initiate such investigation on its own
 17 motion. If the commission determines:

18 (1) That such abandoned well is causing or likely to cause such pol-
 19 lution or loss; and

20 (2) (A) that no person is legally responsible for the proper care and
 21 control of such well; or (B) that ~~such person so the person~~ legally respon-
 22 sible for the care and control of such well is dead ~~or~~, is no longer in
 23 existence ~~or~~, is insolvent or cannot be found, then, within 60 days after
 24 completing its investigation, the commission shall plug, replug or repair
 25 such well, or cause it to be plugged, replugged or repaired, in such a
 26 manner as to prevent any further pollution or danger of pollution of any
 27 usable water strata or supply or loss of usable water, *and shall remediate*
 28 *pollution from the well.* The cost of ~~such plugging the investigation; the~~
 29 ~~plugging, replugging or repair; and the remediation~~ shall be paid by the
 30 commission from the conservation fee fund or the *abandoned oil and gas*
 31 *well fund.*

32 (b) For the purposes of this section, a person who is legally respon-
 33 sible for the proper care and control of an abandoned well shall include,
 34 but is not limited to, one or more of the following: Any operator of a
 35 waterflood or other pressure maintenance program deemed to be causing
 36 pollution or loss of usable water; the current or last operator of the lease
 37 upon which such well is located, irrespective of whether such operator
 38 plugged or abandoned such well; and the original operator who plugged
 39 or abandoned such well.

40 (c) Whenever the commission determines that a well has been aban-
 41 doned and is causing or is likely to cause pollution of any usable water
 42 strata or supply or loss of usable water, and whenever the commission
 43 has reason to believe that a particular person is legally responsible for the

10-3
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 plug or repair under K.S.A. 55-179 and amend-
 ments thereto and drilling of which began