

Approved: 2-6-96
Date

MINUTES OF THE SENATE COMMITTEE ON ENERGY & NATURAL RESOURCES.

The meeting was called to order by Chairperson Don Sallee at 8:00 a.m. on January 31, 1996 in Room 254-E- of the Capitol.

All members were present except:
Senator Bill Wisdom, Excused

Committee staff present: Raney Gilliland, Legislative Research Department
Dennis Hodgins, Legislative Research Department
Ardan Ensley, Revisor of Statutes
Clarene Wilms, Committee Secretary

Conferees appearing before the committee:
Bill Bider, Director, Bureau of Waste Management
Ben Rogers, Wet Walnut Watershed Contracting Officer and Director of State
Association of Kansas Watersheds
Bob Toby, Vermillion Watershed
Tracy Streeter, Executive Director, Conservation Commission

Others attending: See attached list

SB 399 - concerning waste tires; relating to regulation of processing and disposal

The chairperson told the Committee that following the meeting of January 30, KDHE had made another effort to combine suggested changes in **SB 399**.

In an attempt to address some Committee members' concerns about recycling, Mr. Bider stated an effort had been made to include in the bill ways to stimulate markets for waste tires in the state of Kansas and adding a new grant program to run for two years to stimulate in-state markets. In order to accomplish such efforts it was determined fees would need to remain at their present level until July 1, 2001 rather than July 1, 1999 (Attachment 1). Amendments to **SB 399** would authorize the Secretary to give preference to abatement projects which would utilize recovery as a solution to waste tires and provide one more opportunity to develop in state marketing for tire recycling. The secretary would delay waste tire abatement grant projects when possible until July 1, 1998 to maximize the distribution of grant funds through in-state market stimulation program.

Mr. Bider explained that by delaying abatement projects two years the secretary could establish a competitive private sector grant program to stimulate the development of in-state waste tire recycling or energy recovery markets, solicit proposals from private entities which demonstrate the long-term technical and economic feasibility of waste tire recycling for energy recovery projects based upon receipt of startup funds. Then when Counties request abatement grants to clean up tire piles they would be encouraged to find energy or recycling markets.

A member questioned whether the department, in delaying the reduction of fees and instituting further grant process would need further employees. Mr. Bider stated no additional employees would be needed.

A member suggested adding language that the Secretary of Health and Environment would work with the Secretary of Commerce to try and determine whether there were any other revenue sources that could be used to stimulate such projects. Discussion about tying the Secretary of Commerce and the possibility of using discretionary funds to work with the Secretary of KDHE followed. Other members of the committee expressed concern about placing such language in the statutes, preferring to leave the issue more flexible. Language requested from staff suggested that the Secretary of Commerce and the Secretary of Health and Environment be encouraged to work together to review other sources of revenue for funding projects. Other members felt there should be nothing in statutes concerning this cooperation.

Mr. Bider explained that the grant materials would instruct counties on the preferred management method. If counties choose not to go that route they will be asked to demonstrate reasons for the decision not go the

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES, ROOM 254-E-Statehouse, at 8:00 a.m. on January 31, 1996.

recycling or energy recovery route. However, the bill would still allow tires to be processed and disposed of in landfills or monofills. Old tire piles with contaminated tires would undoubtedly need to go to landfills or monofills.

Senator Walker made a motion to amend SB 399 adding language suggesting the Secretary of Health and Environment and the Secretary of the Department of Commerce be encouraged to work together to review sources of revenue for funding recycling projects. Senator Lee seconded the motion.

Senator Hardenburger made a substitute motion to adopt the balloon amendment presented by Mr. Bider and adding tire use for silo coverage to the amendment. Senator Emert seconded the motion. The motion carried.

Senator Walker made a motion to add language to SB 399 suggesting the Secretary of Health and Environment and the Secretary of Commerce be encouraged to work together to review sources of revenue for funding recycling projects. Senator Morris seconded the motion and the motion failed.

Staff requested clarification and it was noted that the balloon from January 30, 1996 was adopted with changes on page 2, line 33 also on page 4, lines 2 and 5 raising the number of tires from 1000 to 1500 allowed at retail tire centers.

Senator Emert moved conceptual language contained on page 3 of the Kansas Tire Dealers Association to remove the liability of the dealers when tires are delivered to permitted transporters. Senator Morris seconded the motion.

The chairperson stopped debate announcing this issue would be continued on Friday, February 2 at 8:00 a.m.

SB 499 - concerning water development projects; financial assistance therefor

Ben Rogers, Wet Walnut Watershed, appeared before the committee in support of **SB 499** stating the benefit assistance program was repealed last year although it was funded (Attachment 2). He noted an application for approximately \$18,000 was filed with the State Corporation at the time the program was repealed. Despite testimony to the contrary, the program is still serving a purpose. The structures are Federal structures first since the cost benefit ratio is greater and funding is available. Mr. Rogers stated it may not be important state wide but to tax payers in Lane, Ness, Rush, and Barton Counties it is very important even though 36 percent of the annual benefit is outside the Watershed District.

Ben Toby, Vermillion Watershed told the committee of the belief that the projects on the black Vermillion would be beneficial to Marshall and Nemaha counties and it would alleviate costs if they could recover costs of the land rights. He also noted the belief that few applications for projects would be forthcoming but requested the program remain in place.

A member questioned whether funding for this bill was included in the Governor's budget with the reply that no funds were included for this year.

Tracy Streeter, Executive Director, Conservation Commission, told the committee his position on **SB 499** was consistent with that of the conferees, that he saw nothing wrong with the intent of the bill. He noted that Water Plan funds are limited and therefore the fund was repealed.

Senator Emert moved, with a second from Senator Lee to recommend SB 499 favorably. The motion carried.

Introduction of a bill was requested concerning oil and gas wells that need plugging. The bill would allow up to fifty percent income tax credit for a given period of time.

Senator Morris moved, with a second from Senator Tillotson, to introduce the bill. The motion carried.

The meeting adjourned at 8:55 a.m.
The next meeting is scheduled for February 1, 1996.

**SENATE ENERGY & NATURAL RESOURCES
COMMITTEE GUEST LIST**

DATE: January 31, 1996

NAME	REPRESENTING
Allen E. Kirk	KS Water Office
TRACY STREETER	S C C
BOB TOBY	Upper Black Vermillion Wtshd #37
Ben Rogers	Wet Walnut Watershed + SAKW
Rich McKee	Kansas Livestock Assoc.
Marty Vanier	Kansas Agricultural Alliance
Anna Hancock	Mid-Continent Resource Rmny
Shawn Herrick	KS Tractor Dealers Assn.
Lynn Shuffelbarger	SCKEDD
TERRY HINES	MID-Cont Res Rec. Inc.
Paul Garvin	KDHE
Bill Bider	KDHE
T. H. MILLER	Lake Region Authority
Valerie Hill	" " "
Jack Rowlett	" " "
Dale P. Schunk	KIOGA -
ED SCHAUB	WESTERN RESOURCES

SENATE BILL No. 399

By Special Committee on Energy and Natural Resources
Re Proposal No. 28

12-20

10 AN ACT concerning waste tires; relating to regulation of processing and
11 disposal; amending K.S.A. 65-3424 and 65-3424b and K.S.A. 1995
12 Supp. 65-3424a, 65-3424d, 65-3424f and 65-3424g and repealing the
13 existing sections.
14

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

16 Section 1. K.S.A. 65-3424 is hereby amended to read as follows: 65-
17 3424. As used in K.S.A. 65-3424 through 65-3424i, and amendments
18 thereto, unless the context otherwise requires:

19 (a) "Abatement" means the processing or removing to an approved
20 storage site of waste tires which are creating a danger or nuisance.

21 (b) "Beneficial use" means the use or storage of waste tires in a way
22 that creates an on-site economic benefit, other than from processing or
23 recycling, to the owner of the tires.

24 (c) "Contaminated waste tire" means a tire which, as determined in
25 accordance with rules and regulations adopted by the secretary, is recov-
26 ered in a project to abate a waste tire accumulation and is so coated by
27 or filled with dirt, mud, sludge or other natural substances as to render
28 the tire substantially unsuitable for processing.

29 (d) "Landfill" means a disposal site in which the method of disposing
30 of solid waste is by landfill, dump or pit and which has a solid waste
31 disposal area permit issued under K.S.A. 65-3401 et seq., and amend-
32 ments thereto.

33 (e) "Mobile waste tire processor" means a person who processes
34 waste tires at other than a fixed site.

35 (f) "Municipal landfill" means a landfill where residential waste, or
36 residential and other nonhazardous waste, is placed for disposal.

37 (g) "Person" means any individual, association, partnership, limited
38 partnership, corporation or other entity.

39 (h) "Process" means bale or cut or otherwise alter whole waste tires
40 so that they are no longer whole.

41 (i) "Secretary" means the secretary of health and environment.

(j) "Store" or "storage" means the placing of waste tires in a man-
er that does not constitute disposal of the waste tires. Storage includes

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the beneficial use of waste tires as fences, silo covers and erosion control and such other beneficial uses as the secretary determines do not create health or environmental risks.

~~(g)~~ (k) "Tire" means a continuous solid or pneumatic rubber covering encircling the wheel of a vehicle or aircraft, or an innertube of such covering.

~~(h)~~ (l) "Tire retailer" means a person in the business of selling new or used replacement tires at retail.

~~(i)~~ (m) "Vehicle" has the meaning provided by K.S.A. 8-1485 and amendments thereto.

~~(j)~~ (n) "Waste tire" means a whole tire that is no longer suitable for its original intended purpose because of wear, damage or defect.

~~(k)~~ (o) "Waste tire collection center" means a site where used waste tires are collected from the public prior to being offered for recycling and where fewer than 1,000 tires are kept on the site on any given day.

~~(l)~~ (p) "Waste tire processing facility" means a fixed site where equipment is used to cut, burn or otherwise alter whole waste tires so that they are no longer whole process waste tires.

~~(m)~~ (q) "Waste tire site" means a site at which 1,000 or more whole tires are accumulated.

Sec. 2. K.S.A. 1995 Supp. 65-3424a is hereby amended to read as follows: 65-3424a. (a) The owner or operator of any waste tire site, within six months after the effective date of this act, shall provide the department with information concerning the site's location and size and the approximate number of waste tires that are accumulated at the site and shall initiate steps to comply with subsection (b).

(b) No person shall:

(1) Maintain a waste tire site unless: (A) ~~such~~ The site is an integral part of the person's waste tire processing facility; or (B) the tires accumulated at such site are for use in the person's tire retreading business

(2) dispose of waste tires in the state unless the waste tires are disposed of for processing, or collected for processing, at a solid waste processing facility, a waste tire site which is an integral part of a waste tire processing facility, a waste tire processing facility or a waste tire collection center or are made available to: (A) The department of wildlife and park for use by the department; or (B) a person engaged in a farming or ranching activity, including the operation of a feedlot as defined by K.S.A. 4-1501, and amendments thereto, as long as the accumulation has a beneficial use to the person accumulating the tires and (i) the secretary determines that the use has no adverse environmental effects and (ii) the accumulation is in accordance with all applicable zoning regulations;

(3) deposit waste tires in a landfill as a method of ultimate disposal

1 ept that the secretary, by rules and regulations, may (A) authorize: (A)
 2 The final disposal of waste tires at a permitted solid waste disposal facility
 3 provided, before July 1, 1999, of uncontaminated waste tires at a munic-
 4 ipal landfill if the tires have been cut into sufficiently small parts to assure
 5 their proper disposal or are utilized; (B) the final disposal of processed
 6 waste tires at a permitted waste tire monofill; (C) the final disposal of
 7 contaminated whole, unprocessed waste tires at a municipal landfill or
 8 permitted waste tire monofill; (D) the use of waste tires in their original
 9 state as part of a proven and approved leachate collection system in their
 10 original state and (B) allow at a landfill; or (E) the use of waste tire ma-
 11 terial which has been cut into sufficiently small parts to be used as daily
 12 cover material for a landfill; or

13 (4) receive money in exchange for waste tires unless: (A) The person
 14 holds a permit issued by the secretary pursuant to K.S.A. 65-3424b, and
 15 amendments thereto; or (B) the person is a tire retailer who collects waste
 16 tires from the public in the ordinary course of business.

17 Sec. 3. K.S.A. 65-3424b is hereby amended to read as follows: 65-
 18 3424b. (a) The secretary shall establish a system of permits for *mobile*
 19 *waste tire processors and* waste tire processing facilities and permits for
 20 waste tire collectors and collection centers. Such permits shall be issued
 21 for a period of one year and shall require an application fee established
 22 by the secretary in an amount not exceeding \$250 per year.

23 (b) The secretary shall ~~establish~~ *adopt rules and regulations estab-*
 24 *lishing standards for mobile waste tire processors, waste tire processing*
 25 *facilities and associated waste tire sites, waste tire collection centers and*
 26 *waste tire collectors. Such standards shall include a requirement that the*
 27 *permittee file with the secretary a bond or other financial assurance in*
 28 *an amount determined by the secretary to be sufficient to pay any costs*
 29 *which may be incurred by the state to process any waste tires or dispose*
 30 *of any waste tires or processed waste tires if the permittee ceases business*
 31 *or fails to comply with this act.*

32 (c) ~~On and after December 31, 1991,~~ No person shall:

33 (1) Own or operate a waste tire processing facility or waste tire col-
 34 lection center or act as a *mobile waste tire processor or* waste tire collector
 35 unless such person holds a valid permit issued therefor pursuant to sub-
 36 section (a); or

37 (2) own or operate a waste tire processing facility or waste tire col-
 38 lection center or act as a *mobile waste tire processor or* waste tire collector
 39 except in compliance with the standards established by the secretary pur-
 40 suant to subsection (b).

41 (d) The provisions of subsection (c)(1) shall not apply to:

42 (1) A tire retreading business where fewer than 1,000 waste tires are
 43 kept on the business premises;

(2) a business that, in the ordinary course of business, removes tires from motor vehicles if fewer than 1,000 of these tires are kept on the business premises;

(3) a retail tire-selling business which is serving as a waste tire collection center if fewer than 1,000 waste tires are kept on the business premises;

(4) the department of wildlife and parks; or

(5) a person engaged in a farming or ranching activity, including the operation of a feedlot as defined by K.S.A. 47-1501, and amendments thereto, as long as the accumulation has a beneficial use.

(e) All fees collected by the secretary pursuant to this section shall be remitted to the state treasurer. The state treasurer shall deposit the entire amount of the remittance in the state treasury and credit it to the waste tire management fund.

Sec. 4. K.S.A. 1995 Supp. 65-3424d is hereby amended to read as follows: 65-3424d. (a) In addition to any other tax imposed upon the retail sale of new vehicle tires, there is hereby imposed an excise tax on retail sales of new tires at the rate of \$.50 per tire sold vehicle tires (excluding innertubes), including new tires mounted on a vehicle sold at retail for the first time, an excise tax at the following rate: (1) Before July 1, ~~1999~~ 2001, \$.50 per vehicle tire; and (2) on or after July 1, ~~1999~~ 2001, \$.25. Such tax shall be paid by the purchaser of such tires and collected by the retailer thereof.

(b) The tax imposed by this section collected by the retailer shall become due and payable as follows: When the total tax for which any retailer is liable under this act does not exceed the sum of \$80 in any calendar year, the retailer shall file an annual return on or before January 25 of the following year; when the total tax liability does not exceed \$1,600 in any calendar year, the retailer shall file returns quarterly on or before the 25th day of the month following the end of each calendar quarter; when the total tax liability exceeds \$1,600 in any calendar year, the retailer shall file a return for each month on or before the 25th day of the following month. Each person collecting the tax imposed pursuant to this section shall make a true report to the department of revenue, on a form prescribed by the secretary of revenue, providing such information as may be necessary to determine the amounts of taxes due and payable hereunder for the applicable month or months, which report shall be accompanied by the tax disclosed thereby. Records of sales of new tires shall be kept separate and apart from the records of other retail sales made by the person charged to collect the tax imposed pursuant to this section in order to facilitate the examination of books and records as provided herein.

(c) The secretary of revenue or the secretary's authorized representative shall have the right at all reasonable times during business hours

to make such examination and inspection of the books and records of the person required to collect the tax imposed pursuant to this section as may be necessary to determine the accuracy of such reports required hereunder.

(d) The secretary of revenue is hereby authorized to administer and collect the fees tax imposed hereunder by this section and to adopt such rules and regulations as may be necessary for the efficient and effective administration and enforcement of the collection thereof. Whenever any person liable to collect the taxes imposed hereunder refuses or neglects to pay them, the amount, including any penalty, shall be collected in the manner prescribed for the collection of the retailers' sales tax by K.S.A. 79-3617 and amendments thereto.

(e) The secretary of revenue shall remit daily to the state treasurer all revenue collected under the provisions of this section. The state treasurer shall deposit the entire amount of each remittance in the state treasury and credit it to the waste tire management fund.

(f) Whenever, in the judgment of the secretary of revenue, it is necessary, in order to secure the collection of any taxes, penalties or interest due, or to become due, under the provisions of this act, the secretary may require any person charged with the collection of such tax to file a bond with the director of taxation under conditions established by and in such form and amount as prescribed by rules and regulations adopted by the secretary.

Sec. 5. K.S.A. 1995 Supp. 65-3424f is hereby amended to read as follows: 65-3424f. (a) The secretary shall establish a program to make base and abatement grants to private companies, cities and counties which, individually or collectively, submit to the secretary plans, approved by the secretary. Abatement grants shall be used to abate waste tire accumulations in existence before July 1, 1990, and shall not be used for any tires accumulated, or added to an existing accumulation, on or after July 1, 1990. Not more than one abatement grant shall be awarded to abate the same waste tire accumulation unless it can be demonstrated by the applicant that the waste tire accumulation exceeded initial quantity estimates or that unknown circumstances, identified by the applicant, increased project difficulty and cost. No abatement grant payment shall be made on or after July 1, 2000.

(b) The secretary shall establish a program to make base grants to counties which, individually or collectively, submit to the secretary plans approved by the secretary. Base grants shall be used to: (1) Enforce laws relating to collection and disposal of tires; (2) Encourage recycling of tires; or (3) develop and implement management plans for collection, abatement, recycling and disposal of tires survey the county or counties to identify and develop an inventory of waste tire accumulations in the

2002. In awarding abatement grants, the secretary shall give preference to projects which include waste tire recycling or energy recovery. The secretary may authorize waste tire landfilling under abatement grant projects if the waste tires are contaminated or if no practical in-state markets are identified. The secretary shall delay waste tire abatement grant projects until July 1, 1998 when possible to maximize the distribution of grant funds through the in-state market stimulation program identified in paragraph (d) of this section.

county or counties. Applications for base grants shall be submitted to the secretary before January 1, 1997, and no base grant payment shall be made on or after January 1, 1998.

(c) The secretary shall establish a program to make enforcement grants to counties which, individually or collectively, submit to the secretary plans approved by the secretary. Enforcement grants shall be used to pay the county's or counties' costs of assessing and enforcing compliance with this act and rules and regulations adopted under this act and to educate the public on the provisions and purposes of this act. Enforcement grants shall be for an amount not exceeding 75% of the costs incurred by the county or counties for eligible costs.

~~(b)~~ Each private company, city, county or group of private companies, cities or counties submitting a plan approved by the secretary shall be eligible for grants pursuant to this section on the basis of priority as determined by the secretary. No recipient shall be eligible to receive base grants for more than two consecutive fiscal years, but such limitation shall not apply to abatement grants. The secretary shall require any private company receiving a grant pursuant to this section to file with the secretary a surety bond, cash bond or other security in an amount and form approved by the secretary and conditioned on the use of the grant in accordance with the plan approved by the secretary.

~~(e)~~ Private companies, cities and counties may join together, pooling their financial resources, when utilizing their grants for the purposes described in subsection (a).

~~(d)~~ The secretary, in cooperation with the statewide coordinator of waste reduction, recycling and market development, may provide technical assistance, upon request, to a private company, city, county or group of private companies, cities or counties desiring assistance in applying for waste tire grants or choosing a method of waste tire management which would be an eligible use of the grant funds.

~~(f)~~ The secretary shall submit to the legislature, on or before the first day of the regular legislative session each year, a report of all grants made pursuant to this section. The report shall include: (1) The total contract amounts awarded for each type of grant in each fiscal year and, of those amounts, the total amount awarded to individual counties, groups of counties and private entities; and (2) with respect to each grant awarded, the contract amount and type of grant, the recipient, a description of the project for which the grant was awarded, the number of tires involved and the amount actually spent. The secretary shall submit the report by filing it with the secretary of the senate, the chief clerk of the house of representatives and the chairperson and ranking minority member of each of the senate and house committees on energy and natural resources.

(d) the secretary shall establish a competitive private sector grant program to stimulate the development of in-state waste tire recycling or energy recovery markets. The secretary shall solicit proposals in fiscal year 1997 from private entities which demonstrate the long-term technical and economic feasibility of waste tire recycling or energy recovery projects based upon the receipt of startup funds only through this grant program. One or more grant awards may be made to applicants in fiscal years 1997 and 1998 to pay up to 75 percent of the cost of constructing a new facility or modifying an existing facility to process and, burn or recycle waste tires.

(e)

(f)

(g)

New Sec. 6. (a) The county official, or the official of a designated

1 responsible for solid waste management in each county shall report
 2 the secretary any known waste tire accumulation within the county not
 3 later than: (1) October 1, 1996, if the accumulation is known before July
 4 1, 1996; or (2) three months after the accumulation becomes known, if
 5 unknown before July 1, 1996.

6 (b) After July 1, ~~1999~~, each county shall be responsible for abatement 2001
 7 of any waste tire accumulation within the county.

8 Sec. 7. K.S.A. 1995 Supp. 65-3424g is hereby amended to read as
 9 follows: 65-3424g. (a) There is hereby established in the state treasury
 10 the waste tire management fund.

11 (b) Moneys in the waste tire management fund shall be used only for
 12 the purpose of:

13 (1) Making grants as provided by K.S.A. 65-3424f, and amendments
 14 thereto;

15 (2) paying compensation and other expenses of employing personnel
 16 to carry out the duties of the secretary pursuant to K.S.A. 65-3424 through
 17 65-3424h, and amendments thereto, but not more than *the following shall*
 18 *be used for such purpose: (A) For fiscal years beginning before July 1,*
 19 *2000, 16% or \$200,000, whichever amount is less, of the moneys credited*
 20 *to the fund during the fiscal year shall be used for such purpose preceding*
 21 *fiscal year; and (B) for fiscal years beginning on or after July 1, ~~2000,~~ 2002*
 22 *32% or \$200,000, whichever amount is less, of the moneys credited to the*
 23 *fund during the preceding fiscal year; and*

24 (3) action by the department to abate waste tires accumulated prior
 25 to July 1, 1990, or to abate a nuisance or risk to the public health or the
 26 environment created or which could be created by waste tires accumu-
 27 lated after July 1, 1990, if the owner or operator of the site has not been
 28 identified or has not abated the nuisance.

29 (c) All expenditures from the waste tire management fund shall be
 30 made in accordance with appropriations acts upon warrants of the direc-
 31 tor of accounts and reports issued pursuant to vouchers approved by the
 32 secretary.

33 Sec. 8. K.S.A. 65-3424 and 65-3424b and K.S.A. 1995 Supp. 65-
 34 3424a, 65-3424d, 65-3424f and 65-3424g are hereby repealed.

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

65-3424k. Vehicle tire disposal; abatement and enforcement actions of secretary.

(a) ~~The secretary may undertake appropriate abatement action and may enter into contracts, including grant contracts, for abatement of waste tire accumulations, utilizing funds from the waste tire management fund.~~ ←

Before July 1, ~~1999,~~ 2001

(b) Any authorized representative of the secretary may enter, at reasonable times and upon written notice, onto any property or premises where an accumulation of waste tires is located to conduct an abatement of the accumulation. ←

2001

After July 1, ~~1999,~~ the secretary's actions shall be limited to contractual services to perform interim measures designed to minimize nuisances or risks to public health or the environment created by a waste tire accumulation.

(c) Whenever the secretary has reason to believe that an owner or operator has accumulated waste tires that create a nuisance or risk to public health or the environment, the secretary may require that owner or operator to abate the accumulation. Such abatement shall be performed in accordance with a plan approved by the secretary.

or to perform interim measures to minimize nuisances or risks to public health or the environment created by a waste tire accumulation.

The secretary shall give notice, by letter, to the owner and operator that the waste tires constitute a nuisance or risk to public health or the environment, and that the waste tire accumulation must be abated within a specified period. ~~If the owner or operator fails to take the required action within the specified period,~~ the secretary may undertake abatement action utilizing funds from the waste tire management fund. ~~All costs incurred by the secretary in abatement of waste tires accumulated after July 1, 1990,~~ including administrative and legal expenses, are recoverable from an owner or operator and may be recovered in a civil action in district court brought by the secretary. Abatement costs recovered under this section shall be remitted to the state treasurer, who shall deposit the entire amount in the state treasury and credit it to the waste tire management fund. An action to recover abatement ~~costs may be commenced at any stage of an abatement.~~ ↓

Before July 1, ~~1999,~~ 2001

2001

if the owner or operator fails to take the required action within the specified time period. After July 1, ~~1999,~~ the secretary's actions shall be limited to contractual services to perform interim measures designed to minimize nuisances or risks to public health or the environment created by a waste tire accumulation.

or in performing interim measures,

or interim measures

(d) Neither the state of Kansas nor the waste tire management fund shall be liable to any owner or operator for the loss of business, damages or taking of property associated with any abatement or enforcement action taken pursuant to this section.

In performing abatement actions under this section, the secretary shall give preference to waste tire recycling or burning for energy recovery. Direct abatement expenditures may include landfilling when waste tires are contaminated or when practical in-state markets cannot be identified.

History: L. 1994, ch. 283, § 8; May 5.

SENATE BILL NO. 499

The following written testimony is given to the Honorable Senator Sallee and the Senate Committee of Energy & Natural Resources in favor of Senate Bill No. 499 on January 31, 1996. The testimony has been prepared and given by Ben Rogers, Wet Walnut Creek Watershed Contracting Officer and Director of the State Association of Kansas Watersheds

Committee Members, Senate Bill No. 499 is very important to the Wet Walnut Creek Watershed. Thirty six percent of the benefit area of the Wet Walnut Creek Watershed is outside of the taxable district. It is my understanding that there is only one other Watershed District in the State that has at least 20 percent of the benefit outside of its watershed boundaries.

At this time we are not asking for funding. We are requesting that the Benefit Area Program be reenacted. If SB 499 passes, the District can then submit applications through the State Conservation Commission.

The Wet Walnut Creek Watershed District and the State Association of Kansas Watersheds have worked very closely with Senator Moran and many other legislators concerning funding which was provided by K.S.A. 82a-909, 82a-918 and 82a-919. Neither the Watershed District nor SAKW were aware of the 1995 HB 2037, which repealed the program. The program was actually repealed and funded in the same year. There was also an application for approximately \$18,000.00, filed with the SCC at the time the program was repealed.

At the time HB 2037 was discussed, Mr. Kern stated in his letter to Carl Holmes that the program appeared to have served its purpose and was no longer needed. He said that when the

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program was started, state funds were not available for construction. This is not the case. These are Federal Structures. State funds are not needed for the construction. The District has several State Structures in its General Plan, but chose to build the Federal Structures first since the Cost Benefit ratio is greater on the PL-566 structures and funding was available.

This program may not be important state wide, due to the few who qualify for the funding, but it is important to the tax payers in Lane, Ness, Rush, and Barton Counties. These taxpayers pay for the total cost of land rights even though 36 percent of the annual benefit is outside of the Watershed District.

Since 1983, the Wet Walnut Creek Watershed has constructed 41 PL-566 flood control dams. These dams were constructed with federal dollars and no state funds were needed. The total cost of these Federal Structures was approximately 12 million dollars.

Over 90 percent of the District's easements have been donated. However there are some which may need to be purchased. This is where the Benefit Program is needed.

If SB499 is passed, I am sure you are not going to see a large number of applications sent to the SCC, but it will keep the program in place for those who qualify and need the assistance.

We appreciate the opportunity to present our concern to the Committee and request your support on the program.



State Conservation Commission

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Topeka, KS 66612-1299
FAX (913) 296-6172

TESTIMONY ON HB 2037
SENATE ENERGY AND NATURAL
RESOURCES COMMITTEE

KENNETH F. KERN
EXECUTIVE DIRECTOR
February 14, 1995

Thank you for the opportunity to appear before the Committee and testify on House Bill No. 2037, an act repealing K.S.A. 82a-909, 82a-918, and 82a-919.

These sections of K.S.A. 82a were enacted by the 1963 Legislature to provide a means for public corporations, namely watershed districts, to be reimbursed by the State for specific expenses when more than 20 percent of the benefits of a flood control project are located outside the taxing entity's boundary.

Beginning in FY 1977, the state has provided financial assistance to the watershed districts for the construction of the flood control projects. Approximately \$17,000,000 has been appropriated for flood control projects. These funds have been for the construction of 394 structures in 50 watershed districts.

Eligible projects may receive state assistance up to 70% of the cost of construction and up to 10% of the construction costs for engineering services and a limit of \$120,000 per year per project.

It appears the program has served it's original purpose, which was to provide state assistance. Because state funds are already supplementing the construction of the flood control structures, the State Conservation Commission supports and recommends the passage of HB 2037.



State Conservation Commission

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August 15, 1995

Russell Mills
Legislative Research Department
Capitol Building, 545N
BUILDING MAIL


Dear Russell:

Per your request, I am enclosing a copy of my testimony on HB 2037, an act repealing K.S.A. 82a-909, 82a-918, and 82a-919 commonly known as the Benefit Area Program. In addition, a copy of the Legislative Research Department Supplemental Note on H.B. 2037 is enclosed.

On August 24, 1994, I met with Representative Carl Holmes, Chairman of the House Energy and Natural Resource Committee to discuss agency programs. The agency had been asked by the Legislature to prioritize programs and to look at programs that provide limited state benefits. The lowest priority program was the Benefit Area Program. During the discussion I remarked that the program appeared to have served it's original purpose. This statement was made based upon the fact that when the program started in 1963 state funds were not available for watershed dam construction. Since that time, approximately \$17 million in state funds have been appropriated for watershed dam construction.

During the 1995 Legislative session, HB 2037 was introduced by the House Energy and Natural Resource Committee. I provided the short testimony attached to this letter to both the House and Senate Energy and Natural Resource Committees.

Sincerely,


Kenneth F. Kern
Executive Director

KFK:kfk

Enclosures