

MINUTES OF THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES.

The meeting was called to order by Chairperson Senator David Corbin at 8:00 a.m. on February 9 in 245-N of the Capitol.

All members were present except: All members were present.

Committee staff present:

Raney Gilliland, Legislative Research Department
Mary Ann Torrence, Revisor of Statutes Office
Lila McClafin, Committee Secretary

Conferees appearing before the committee:

Al LeDoux, Director, Kansas Water Office
Chuck Stones, Sr. Vice President, Kansas Bankers Association
Joe Lieber, Executive Vice President, Kansas Cooperative Council
Rick Bean, Kansas Department Health and Environment, (KDHE)
Ron Hammerschmidt, Kansas Department Health and Environment, (KDHE)

Others attending:

See attached list.

With a motion from Senator Vratil and a second from Senator Stephens the minutes of February 2 and 3 were approved.

SB 500—Concerning employees of the Kansas Water Office.

A fiscal note was distributed.

Al LeDoux, Director, Kansas Water Office, supported **SB 500**, and he said the change is also supported by the governor.

The hearing was closed. Committee discussion followed. A motion was made by Senator Vratil that place SB 500 be passed and, because the committee is of the opinion it is of a noncontroversial nature, it be placed on the consent calendar. The motion was seconded by Senator Goodwin. The motion carried.

The hearing was continued on **SB 501—Enacting the agricultural and specialty chemical remediation act.**

Chuck Stones spoke in favor of the concept as it allows a business to address environmental contamination without putting itself at risk (Attachment 1).

Joe Lieber supported the bill. He said current language of the bill does not charge the lending institutions interest, but if the committee believes interest should be charged the industry would be willing to accept this to insure that the loan provisions remain part of the bill. The purposed loan program would enhance the number of sites that would be able to be cleaned up (Attachment 2).

Rick L. Bean, Division of Environment, KDHE, supported establishment of a linked deposit loan program and a reimbursement program to qualifying parties proposed in **SB 501** as it would will assist and may encourage agri-businesses in addressing environmental contamination at their facilities (Attachment 3). Mr. Bean and Mr. Hammerschmidt responded to questions regarding current enforcement procedures, funding for cleanup and health risk associated with contaminants.

Written testimony supporting **SB 501** from Tom Bruno, McGill, Gaches & Associates was submitted (Attachment 4, and from Jere White, Kansas Grain Sorghum Producers Assn. & Kansas Corn Growers Assn. (Attachment 5).

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES.

It was announced that Chris Wilson, Executive Director, Kansas Aerial Applicators Assn./Kansas Seed Industry Assn. would submitted written testimony supporting the measure at a later date.

Chairperson Corbin opened the discussion on SB 405—Procedure for release of land from water districts.

Senator Pugh offered a conceptual amendment to amend SB 405. The bill would be amended to include the language notification be made in writing with a copy of the petition and it be served upon the board of directors. They would have 30 days to act. If they deny the release it could be appealed to the board of county commissioners for final determine. Senator Goodwin seconded the motion. Motion carried.

Senator Pugh moved that SB 405 as amended be recommended favorable for passage. Senator Tyson seconded the motion. Motion carried.

The meeting adjourned at 8:51 a.m. The next scheduled meeting is February 10, 2000.

Kansas Bankers Association

800 SW Jackson, Suite 1500

Topeka, KS 66612

785-232-3444 Fax - 785-232-3484 kbacs@ink.org

2-8-00

TO: Senate Energy Committee

FROM: Chuck Stones

RE: SB 501

Mr. Chair and Members of the Committee:

The Kansas Bankers Association appreciates the opportunity to appear before you regarding SB 501.

We believe SB 501 has positive economic benefits for many businesses in Kansas. Businesses need the opportunity to address environmental problems without the added problems of economic stress that these problems often cause.

SB 501 establishes a "linked deposit program". The KBA is on record supporting the use of these types of programs. They allow the State to help alleviate certain problems, without direct involvement. Linked deposit programs have been used by Kansas banks and will, most likely, be used in the future.

We support SB 501 because it allows a business to address environmental contamination without putting itself at risk. We urge the Committee to support this proposal.

Senate Energy & Natural Resources

Attachment: 1

Date: 2-9-2000

1-1

Testimony for SB 501
Energy & Natural Resources Committee
February 9, 2000
Prepared by Joe Lieber, Kansas Cooperative Council

Mr. Chairman and members of the Committee, I'm Joe Lieber, Executive Vice President of the Kansas Cooperative Council. The Council has a membership of over 200 cooperative businesses that have a combined membership of nearly 200,000 Kansans. Approximately 130 of our members are farm supply cooperatives.

The Kansas Cooperative Council supports the passage of SB 501.

The bill is a "breath of fresh air," no pun intended, when an industry is willing to support a program that helps clean the environment for all of us.

At first, many of our members were concerned about the increased fees that they would be paying, but once they realized the scope of the problem and the potential cost, they felt it a sound business decision to be involved in the Fund.

Approximately thirty (30) of the sites that are currently on the list are cooperatives. As KDHE continues to do their job, that list will continue to grow. That is why this program is so important.

We would also like to stress the importance of the low interest loan program of the bill. Remember that the industry is going to generate over \$1 million annually, but this probably will not be enough to address all the sites. The loan program will enhance the number of sites that will be able to be cleaned up.

Even though current language does not charge the lending institution's interest, we feel that if the committee feels interest should be charged the industry would be willing to accept this to insure that the loan provisions remain part of the bill. The loan component is needed to insure the success of the program.

Again, we encourage the committee to pass SB 501 out favorably.

I would be happy to respond to any questions.

Testimony presented to
Senate Committee on Energy and Natural Resources

by

The Kansas Department of Health and Environment

Senate Bill 501

Testimony presented by: Rick L. Bean
Chief, Remedial Section
Bureau of Environmental Remediation
Division of Environment
February 8, 2000

Introduction:

My name is Rick Bean, Chief of the Remedial Section, Kansas Department of Health and Environment. I am here today to testify in support of Senate Bill 501, which establishes a linked deposit loan program and a reimbursement program to assist in the remediation of certain releases of agricultural and other speciality chemicals. Senate Bill 501 will provide much needed financial assistance to qualifying agri-businesses to address contamination at their facilities. This will in turn assist the Department in carrying out our mission to protect the public health and environment of the State of Kansas.

Summary/Background:

The KDHE has identified a total of 160 contaminated sites that are related to chemicals typically used in agri-business across the state of Kansas. These contaminated sites have impacted soils, ground and surface waters and various drinking water supplies. Common contaminants associated with these facilities include carbon tetrachloride, nitrate, pesticides, herbicides, hydrocarbons and ethylene dibromide. The KDHE has several established programs which strive to address these contaminated sites.

- The Voluntary Cleanup and Property Redevelopment Program established by K.S.A. 65-34,161 through 65-34,174 is designed for low to moderate priority contaminated sites. There are currently 30 sites related to agri-business enrolled in this relatively new program, initiated in 1997. Corrective action costs to address contaminated sites in this program are paid by the voluntary party.

- The State Cooperative Program established utilizing K.S.A. 65-3452a through 65-3457a is designed for higher priority sites, such as sites that directly impact drinking water supplies. The State Cooperative Program is currently managing 41 sites related to agri-business. Corrective action costs to address contaminated sites in this program are paid by the responsible party.

Senate Energy & Natural Resources

Attachment: 3

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- The State Water Plan Contamination/ Remediation Program established under K.S.A. 82a-901 et.seq. is designed for orphan sites; such as sites without viable responsible parties. The State Water Plan Contamination/Remediation Program is currently managing 36 orphan sites related to agri-business. Corrective action costs to address contaminated sites in this program are paid by the State Water Plan program. This program has a total of 68 sites and funding is limited.
- There are also an additional 53 sites related to Agri-business that are currently unassigned to one of the above described programs. Many of these unassigned sites are currently being investigated to determine responsible parties, priority and ultimate placement into one of the above described programs. These limited investigations are generally paid for by the state utilizing federal funds.

Included with my testimony, is a handout which includes a summary of the agricultural business related sites broken down by specific program and contaminant type. I have also included a statewide map showing the locations of these agri-business related sites.

The corrective action process, including investigation and cleanup can be very costly to those parties addressing contamination. A general range of costs for the investigation of a site are between \$5,000 and \$200,000 with the average investigation cost being approximately \$37,000. For cleanup of a site the range of costs are generally between \$10,000 to \$1,000,000 with the average cleanup costs being approximately \$105,000. Site cleanup can be as simple as soil excavation and application of the excavated soil at approved agricultural rates to a nearby field or as complex as ground water extraction, treating the water with an engineered-designed treatment system and discharge of the treated water. Every site is unique and costs are based on various types of site-specific factors such as type of contamination, depth and extent of contamination, the geological setting, type of media that is contaminated, receptors and available treatment technology. Many of these sites may take years to cleanup and require long-term operation, maintenance and monitoring of the remedial system.

The establishment of a linked deposit loan program and a reimbursement program to qualifying parties as proposed by Senate Bill 501 will assist and may encourage agri-businesses in addressing environmental contamination at their facilities. As stated, the Kansas Department of Health and Environment is supportive of Senate Bill 501 with the following two reservations:

- The amount of funding provided in the linked deposit loan program and reimbursement program may not be sufficient to effectively address the current known number of agri-business related sites (160), not including the unknown number of unidentified sites that have yet to be investigated; and
- The limitations of available reimbursement or loans should not be used by a responsible party to defer corrective actions at a contaminated site. The Department's need to address a contaminated site by pursuing a responsible party should not be suppressed by any such funding limitations.

I appreciate the opportunity to testify on behalf of the Kansas Department of Health and Environment on Senate Bill 501. Thank you Mr. Chairman and Committee members.

HANDOUT

SUMMARY OF AGRICULTURAL BUSINESS RELATED SITES IN KDHE/BUREAU OF ENVIRONMENTAL REMEDIATION PROGRAMS*

{*NOT INCLUDING SITES IN THE UNDERGROUND OR ABOVE GROUND STORAGE TANK PROGRAMS}

VOLUNTARY CLEANUP AND PROPERTY REDEVELOPMENT PROGRAM (VCPRP)

A total of 30 Agricultural Business Related Sites are in the VCPRP

- 9 of those sites involve carbon tetrachloride
- 23 of those sites involve nitrate
- 14 of those sites involve pesticides/herbicides
- 12 of those sites involve other types of contaminants
- Overall 22 of the 30 sites involve multiple types of contamination

STATE COOPERATIVE PROGRAM (SCP)

A total of 41 Agricultural Business Related Sites are in the SCP

- 25 of those sites involve carbon tetrachloride
- 12 of those sites involve nitrate
- 11 of those sites involve pesticides
- 2 of those sites involve other types of contaminants
- Overall 10 of the 41 sites involve multiple types of contamination

STATE WATER PLAN (ORPHAN) PROGRAM (SWP)

A total of 36 Agricultural Business Related Sites are in the SWP

- 25 of those sites involve carbon tetrachloride
- 15 of those sites involve nitrate
- 3 of those sites involve pesticides
- 1 of those sites involve other types of contaminants
- Overall 8 of the 36 sites involve multiple types of contamination

SITES THAT ARE CURRENTLY UNASSIGNED

A total of 53 Agricultural Business Related Sites are not currently assigned to project managers

- 31 of those sites involve carbon tetrachloride
- 8 of those sites involve nitrate
- 16 of those sites involve pesticides
- 2 of those sites involve other types of contaminants
- Overall 2 of the 53 sites involve multiple types of contamination*

* investigations are needed at these sites; results from investigations may identify other contaminants.

TOTAL SUMMARY OF AGRICULTURAL BUSINESS RELATED SITES

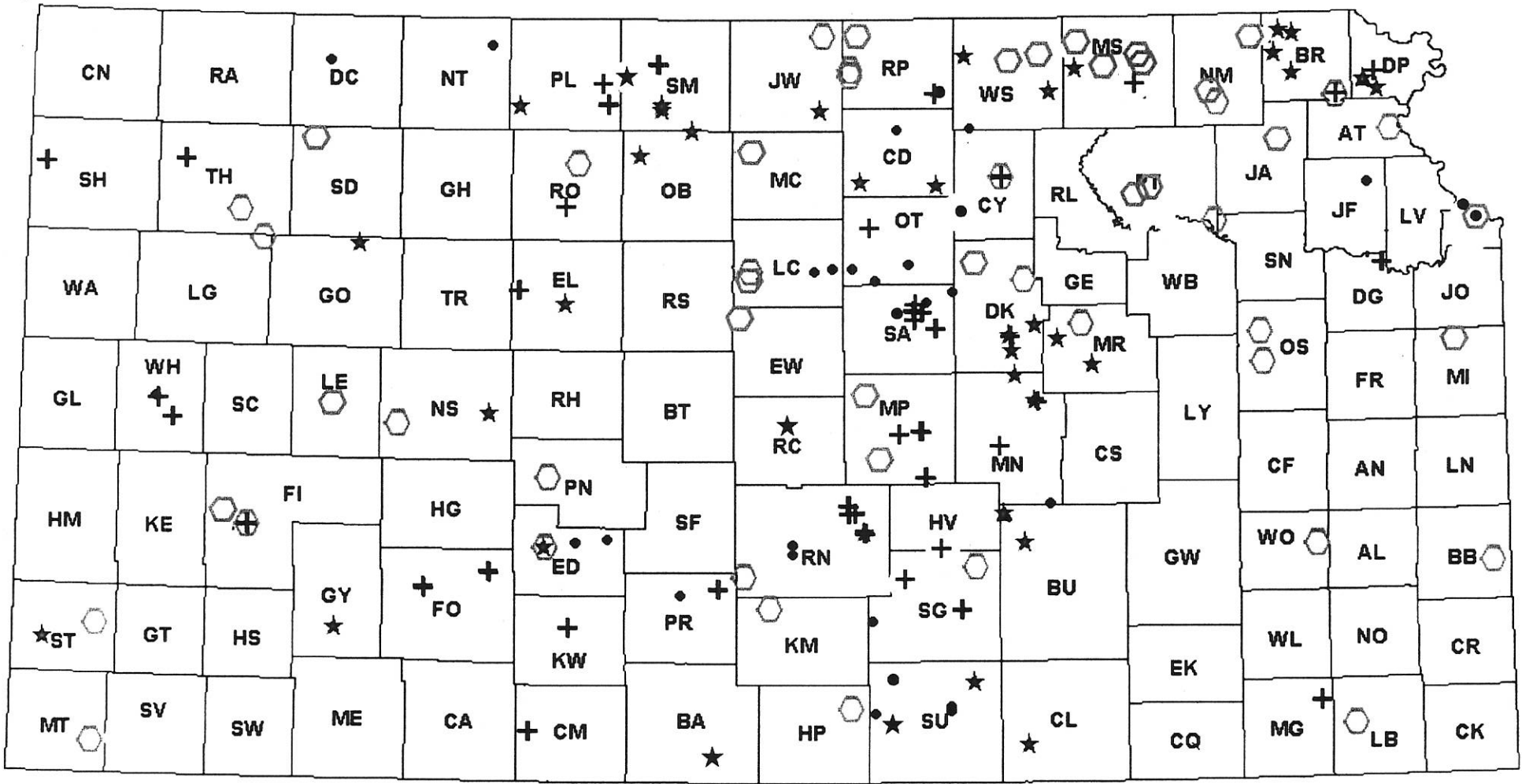
A total of 160 Agricultural Business Related Sites have been identified by KDHE.

- 90 of those sites or 56% of the total have carbon tetrachloride contamination
- 58 of those sites or 36% of the total have nitrate contamination
- 44 of those sites or 27.5% of the total have pesticide/herbicide contamination
- 17 of those sites or 11% of the total have other types of contaminants present
- 42 of those sites or 26% of the total have multiple types of contamination present

- Note that 43 of the total 160 sites are related to former USDA/CCC Grain Storage Facilities that were operated in the 1960's.

IDENTIFIED AGRI-BUSINESS SITES

3-5-4
S.C.



•	Voluntary Cleanup	★	State Water Plan
⬡	Not Assigned		
+	State Cooperative Program		

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Written testimony regarding Senate Bill 501
Presented by Tom Bruno of McGill, Gaches & Associates
On behalf of the Kansas Farm Credit System
Senate Energy & Natural Resources Committee
Wednesday, February 9, 2000

The Kansas Farm Credit System supports S.B. 501. The Kansas Farm Credit System would be an eligible lending institution as it is defined in S.B. 501.

The Farm Credit System is a member owned organization, with agricultural producers in decision-making positions. The same members of the Kansas Farm Credit System also are members of the local coops that would be benefited by this bill.

The Kansas Farm Credit System applauds this proactive approach S.B. 501 represents. The bill will allow decisions to be made by the Kansas Department of Health and Environment, not by the federal government.

Once again, the Kansas Farm Credit System supports S.B. 501 and would appreciate ~~your~~ favorable action on the bill.

Senate Energy & Natural Resources

Attachment: 4

Date: 2-9-2000 4-1



WRITTEN TESTIMONY

TO: Kansas Senate Energy and Natural Resources Committee
FROM: Jere White, Executive Director
DATE: 8 February 2000
SUBJECT: Senate Bill No. 501

The Kansas Corn Growers Association and Kansas Grain Sorghum Producers wish to submit this testimony in support of S.B. 501, a bill that would create an environmental remediation fund and program in Kansas.

Our producers voted in December of last year to support this concept because they know that if we don't take action to proactively address issues, others will. We recognize that our farmers and ranchers will eventually pay most of the cost associated with this program. We believe the proposed mix of site remediation funding that SB-501 brings is essential to minimizing the pain to any one segment or any one location to do work that benefits the state and all its residents.

More importantly, with the passage of SB-501 we will have a game plan to deal with agricultural site remediation. Lacking such a game plan, individual sites might not survive the financial challenge of cleanup. That would negatively effect local farmers and local economies. And the problem would still remain. This bill not only provides a needed tool for remediation; it demonstrates a financial commitment from agricultural businesses and farms that would provide reasonable assurance to the success of agricultural site remediation. US EPA seldom lets voluntary programs proceed without such assurances.

While there may be ongoing discussions to further define who pays into the fund, we believe that all uses of any product subject to assessment should be assessed. In other words, if there is an agricultural use and a homeowner use, both uses should be subject to assessment, regardless of specific formulation. We prefer that strictly homeowner use products that don't have an agricultural use pay the assessment and benefit from the program, but we support the program either way. We have no opposition to disinfectants and anti-microbials not being in the program. We also believe that any board and program created by this bill should be subject to the open meetings and record provisions common to state boards and commissions if that is not the case in the current bill language.

We encourage this committee to move SB-501 favorably. It is a program whose time has come. Thank you.

P.O. BOX 446, GARNETT, KS 66032-0446 • PHONE (785) 448-6927 • FAX (785) 448-6037

www.ksgrains.com/corn • jwhite@kanza.net Senate Energy & Natural Resources

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Attachment: **5**

Date: 2-9-2000

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