

MINUTES OF THE SENATE AGRICULTURE COMMITTEE.

The meeting was called to order by Chairperson Derek Schmidt at 8:30 a.m. on March 20, 2001 in Room 423-S of the Capitol.

All members were present except:

Committee staff present: Raney Gilliland, Legislative Research Department
 Jill Wolters, Revisor of Statutes
 Betty Bomar, Secretary

Conferees appearing before the committee:
 David Pope, Chief Engineer, Division of Water Resources
 Jamie Clover Adams, Secretary, Department of Agriculture
 Chris Wilson, Legislative Liaison, Southwest Kansas Groundwater
 Management District 3

Others attending: See attached list

HB 2316 - Civil penalties for violations of water laws and orders, terms, conditions and limitations imposed by the chief engineer of the division of water resources

The Committee continued asking David Pope, Chief Engineer, Division of Water Resources, questions relating to the penalty provision contained in **HB 2316**. Mr. Pope stated that the penalty would be utilized only in those situations where the violations were blatant and over a period of time and not limited only to a short period of time. The procedures outlined in the rules and regulations relating to violations would be utilized prior to the assessment of the \$1,000 per violation penalty.

Chris Wilson, Legislative Liaison for Southwest Kansas Groundwater Management District 3 (GWMD #3), testified in support of **HB 2316**, stating GWMD #3 supports providing the Department of Agriculture civil penalty authority as a preferable enforcement tool to seeking action in District Court. Civil penalties are an effective disincentive to those who violate the law and protect the rights of those who follow the law. (Attachment 1)

There being no additional proponents or opponents, the hearing was closed.

Senator Downey moved, seconded by Senator Lee, that HB 2316 be amended by including the provisions of SB 264 as passed by the Senate. The voice vote was in favor of the motion.

Senator Lee moved, seconded by Senator Schmidt, that HB 2316 be amended in KSA 65 - 171d, (3) by striking the word "beneficial", and inserting the word "designated"; and adding the following: "In no event shall the secretary's authority be interpreted to include authority over the beneficial use of water, water quantity allocations, protection against water use impairment of a beneficial use, or any other function or authority under the jurisdiction of the Kansas Water Appropriations Act and amendment thereto, K.S.A. 82a-701 et seq.; and in (1)(a) strike the word "beneficial". The voice vote was in favor of the motion. (Attachment 2)

Senator Umbarger moved, seconded by Senator Downey, that HB 2316 be recommended favorably for passage as amended. The voice vote was in favor of the motion.

HB 2103 - Increasing total aggregate loans under agricultural production loan deposit program

The Chair submitted an amendment which raises the program amount by only \$5 Million. The Chair informed the Committee that as a result of the present fiscal condition, the Senate Leadership is concerned about the \$50 Million increase proposed in the bill. The Committee discussed the benefits of

CONTINUATION SHEET

the program versus the present fiscal condition of the State. Several members expressed support for expanding the program by more than \$5 Million, but acknowledged the amendment may be necessary to move the bill forward.

Senator Schmidt moved, seconded by Senator Huelskamp, that HB 2103 be amended by striking in its entirety Section 1, at Page 3, line 24 strike "\$100,000,000" and insert in lieu thereof "\$55,000,000". The voice vote was in favor of the motion.

Senator Umbarger moved, seconded by Senator Schmidt, that HB 2103 be recommended favorably for passage as amended. The voice vote was in favor of the motion with Senators Corbin and Tyson voting "no".

Sub for SB 255 - Civil penalties for violation of the fertilizer act

Senator Lee moved, seconded by Senator Umbarger, that Substitute for SB 255 be recommended favorably for passage. The voice vote was in favor of the motion. (Attachment 3)

Upon motion of Senator Tyson, seconded by Senator Corbin, the Minutes of the March 13th and March 14th meetings were unanimously approved.

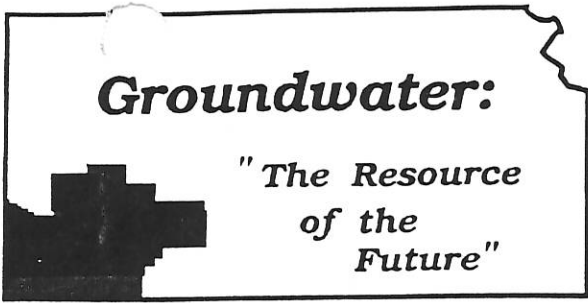
The next meeting is on call of the Chair.

The meeting adjourned at 9:30 a.m.

SENATE AGRICULTURE COMMITTEE GUEST LIST

DATE: March 20, 2001

NAME	REPRESENTING
Chris Wilson	GMD-3
Doug Smith	Pinegar-Smith Company
Jim Allen	Seaboard
Andy Shaw	SWKIA
Mike Jensen	Ks Fork Assn.
David L. Pope	KDA
Karl Mueldeken	KDHE
DERL TREFF	PmIB
Margaret Fast	Ks Water Office
David Miller	DOB
Mike Beam	Ks. LVSTK. Assn.
Tom Brown	Western Resources
R.W. Whiting	DOT
Joe Lieber	Ks. Co-op Council
Tom BRNO	Farm Credit of Wichita
Godd Johnson	KLA
Pat Lehman	GMD-4



**Southwest Kansas
Groundwater Management District**

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**409 Campus Drive, Suite 106
Garden City, Kansas 67846**

STATEMENT OF SOUTHWEST KANSAS
GROUNDWATER MANAGEMENT DISTRICT (3)
TO THE SENATE AGRICULTURE COMMITTEE
SEN. DEREK SCHMIDT, CHAIR
REGARDING H.B. 2316
MARCH 20, 2001

Mr. Chairman and Members of the Committee, I am Chris Wilson, legislative liaison for Southwest Kansas Groundwater Management District 3. GMD 3 supports H.B. 2316 which would give the Department of Agriculture civil penalty authority in enforcement of water law. GMD 3 supports civil penalty authority as a preferable enforcement tool to seeking action in district court. We believe civil penalties are an effective disincentive to those who would violate the law or otherwise escape penalty for violations. Civil penalties therefore also serve to protect the rights of those who follow the law.

Thank you for this opportunity and your consideration of H.B. 2316.

Senate Agriculture Committee
Date *March 20, 2001*

Attachment # *1*

STATE OF KANSAS

BILL GRAVES, GOVERNOR

Jamie C. ...
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Topeka, Kansas 66612-1280
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65-171d. Prevention of water pollution; standards; permits; exemption; orders; hearings; appeals; fees; confined feeding facilities, registration prior to construction, separation distance requirements, exemptions.

(a) For the purpose of preventing surface and subsurface water pollution and soil pollution detrimental to public health or to the plant, animal and aquatic life of the state, and to protect beneficial uses of the waters of the state and to require the treatment of sewage predicated upon technologically based effluent limitations, the secretary of health and environment shall make such rules and regulations, including registration of potential sources of pollution, as may in the secretary's judgment be necessary to: (1) Protect the soil and waters of the state from pollution resulting from underground storage reservoirs of hydrocarbons and liquid petroleum gas; (2) control the disposal, discharge or escape of sewage as defined in K.S.A. 65-164 and amendments thereto, by or from municipalities, corporations, companies, institutions, state agencies, federal agencies or individuals and any plants, works or facilities owned or operated, or both, by them; and (3) establish water quality standards for the waters of the state to protect their beneficial designated uses. *In no event shall the secretary's authority be interpreted to include authority over the beneficial use of water, water quantity allocations, protection against water use impairment of a beneficial use, or any other function or authority under the jurisdiction of the Kansas Water Appropriation Act and amendment thereto, K.S.A. 82a-701 et seq.*

(b) The secretary of health and environment may adopt by reference any regulation relating to water quality and effluent standards promulgated by the federal government pursuant to the provisions of the federal clean water act and amendments thereto, as in effect on January 1, 1989, which the secretary is otherwise authorized by law to adopt.

(c) For the purposes of this act, including K.S.A. 65-161 through 65-171h and K.S.A. 2000 Supp. 65-1,178 through 65-1,198, and amendments thereto, and rules and regulations adopted pursuant thereto:

(1) "Pollution" means: (A) Such contamination or other alteration of the physical, chemical or biological properties of any waters of the state as will or is likely to create a nuisance or render such waters harmful, detrimental or injurious to public health, safety or welfare, or to the plant, animal or aquatic life of the state or to other designated beneficial uses. ~~Such contamination or other alteration shall be caused by a discharge from a discreet point source of pollution into the waters of the state and does not include any culvert, dam, channel change, levee, or other water structure;~~ or (B) such discharge as will or is likely to exceed state effluent standards predicated upon technologically based effluent limitations. *no*

Senate Agriculture Committee
Date *March 20, 2001*

Attachment # *2*

PROPOSED Substitute for SENATE BILL NO. 255

By Committee on Agriculture

AN ACT concerning agriculture; relating to fertilizers; amending K.S.A. 2-1201b and repealing the existing section.

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

Section 1. K.S.A. 2-1201b is hereby amended to read as follows: 2-1201b. (a) It shall be deemed a violation of this--act K.S.A. 2-1201 and 2-1201a, and amendments thereto, for any person to sell or distribute in this state any custom blended fertilizer who does not hold a valid license as required by this-act K.S.A. 2-1201a, and amendments thereto; or to fail to comply with the requirements of K.S.A. 2-1201a hereof, and amendments thereto, and the provisions of K.S.A. 2-1208, and amendments thereto, except subsection (1) (a), and the penalties as provided therein shall apply.

(b) Any person or custom blender who violates any provision of article 12 of chapter 2 of the Kansas Statutes Annotated, and amendments thereto, or the rules and regulations adopted, may incur a civil penalty of not more than \$5,000 per violation, and in the case of a continuing violation every day such violation continues may be deemed a separate violation. Such civil penalty may be assessed in addition to any other penalty provided by law. Any civil penalty assessed pursuant to this subsection is subject to review in accordance with the act for judicial review and civil enforcement of agency actions.

Sec. 2. K.S.A. 2-1201b is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.

Senate Agriculture Committee
Date *March 20, 2001*

Attachment # *3*