

MINUTES OF THE SENATE NATURAL RESOURCES COMMITTEE.

The meeting was called to order by Chairperson Robert Tyson at 8:00 a.m. on February 16, 2001 in Room 423-S of the Capitol.

All members were present except: Senator Downey - excused
Senator Oleen - excused
Senator Umbarger - excused

Committee staff present: Raney Gilliland, Legislative Research Department
Jill Wolters, Office of Revisor of Statutes
Judy Krase, Committee Secretary

Conferees appearing before the committee:

Tom Palace, Petroleum Marketers
Senator Tim Huelskamp
Steven Hansen, Groundwater Management District No. 3
Mike Beam, Kansas Livestock Association
Bill Fuller, Kansas Farm Bureau
Woody Moses, Kansas Aggregate Producers' Association
David Pope, Chief Engineer, Division of Water Resources,
Department of Agriculture

Others attending: See attached list

This meeting was called to order at 8:00, recessed at 9:30, then reconvened at 11:00.

Senator Tyson opened the meeting with a continuation of the hearing on **SB 183** concerning the Kansas Storage Tank Act.

Conferee Tom Palace, representing Petroleum Marketers, continued with his testimony (Attachment 3, February 15). Questions and discussion followed.

Senator Tyson declared the hearing on **SB 183** closed.

Senator Tyson opened the hearing on **SB 237** concerning groundwater right holders.

Staff of Legislative Research explained the bill. Raney Gilliland said the bill before the committee would be new law and would be supplemental to and part of the Kansas Water Appropriation Act. He stated that one definition is particularly important in **SB 237**. This was the definition of "base average usage" on line 16 which is critical in understanding the concept of the bill. He said the bill allows the holder of the water right to establish a flexible account where the water holder may deposit in advance, water from that water right.

The first conferee on **SB 237** was Senator Huelskamp who was the sponsor of the bill (Attachment 1). Questions and discussion followed.

The second conferee and proponent was Steven Hansen, GMD No. 3 (Attachment 2). Questions and discussion followed his testimony.

The third conferee and proponent was Mike Beam, Kansas Livestock Association (Attachment 3).

The fourth conferee and proponent was Bill Fuller, Kansas Farm Bureau (Attachment 4).

The fifth conferee and proponent was Woody Moses, Kansas Aggregate Producers' Association. He submitted no written testimony.

The sixth conferee, who was neutral, was David Pope, Chief Engineer, Division of Water Resources, Kansas Department of Agriculture (Attachment 5). Mr. Pope stated that the term permits issued under the bill would not alter the underlying water rights. Thus, once the term permit expired, the user could resume using the full amount of the right. Questions and discussion followed.

Justin Hamlin, Southwest Kansas Irrigation Association, a proponent of the bill, submitted written testimony only (Attachment 6).

Senator Tyson declared the hearing closed.

The meeting recessed at 9:30 a.m.

Senator Tyson reconvened the meeting at 11:00 a.m. He said the Committee would try to work three bills which were **SB 254**, **SB 183** and **SB 237**.

SB 254 - Jill Wolters, Office of Revisor of Statutes, explained the balloon that was presented to the Committee (Attachment 7).

Senator Schmidt moved to add K.S.A. 2000 Supp. 2-3708 and further amend such statute to limit pesticide dealers who pay only \$5 to corrective action costs of less than or equal to \$10,000, seconded by Senator Taddiken. The amendment passed.

Senator Lee moved to clarify that corrective action costs be limited to those who have paid; limit one site to \$200,000 reimbursement in a 5 year period; and clarify the reimbursement would be per site, not release, seconded by Senator Corbin. The amendment passed.

Senator Corbin moved that **SB 254** be passed as amended, seconded by Senator Lee. The bill passed as amended.

SB 183 - Senator Lee moved that **SB 183** be passed favorably, seconded by Senator Schmidt. The motion carried.

SB 237 - Senator Corbin moved that **SB 237** be passed favorably, seconded by Senator Taddiken. The motion carried.

Senator Tyson reminded everyone of the Monday morning, February 19 meeting to work **SB 264**. He also announced there would be a subcommittee meeting on **SB 204** Wednesday, February 21 at 7:30 a.m. in Room 527-S. The meeting adjourned.

The next meeting is scheduled for Monday, February 19 at 8:30 a.m.

Tim Huelskamp
 Senator, 38th District
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 (810) 821-2712 (fax)

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TOPEKA

SENATE CHAMBER

Committee Assignments

AGRICULTURE, VICE CHAIRMAN
 ELECTIONS & LOCAL GOVERNMENT
 INFORMATION TECH., VICE CHAIRMAN
 NATURAL RESOURCES
 REAPPORTIONMENT
 WAYS & MEANS

SENATE NATURAL RESOURCES COMMITTEE

Testimony on Senate Bill 237: Flex Accounts
 by Senator Tim Huelskamp

February 16, 2001

Mr. Chairman and members of the Senate Natural Resources Committee: It is a pleasure to begin the testimony this morning on SB 237.

The last few months have involved much discussion of water quantity issues. Beginning with the Governor's Task Force, a zero-depletion proposal, and finally a two-pool approach, numerous ideas have been floated to address concerns about the declining groundwater aquifers in western Kansas and elsewhere. While these proposals have elicited much debate, they do not provide much policy direction. SB 237 is different – it provides a clear policy direction, elimination of the state's "use-it-or-lose-it" water policy.

Currently policy dictates that, at the end of each year, any water not used by a water-right holder is forever lost to that user. Thus, an individual water right holder has little or no direct incentive to conserve water – there is no possibility to save that water for later use (hence, "use-it-or-lose-it"). No direct incentive to conserve, no flexibility year-to-year. SB 237, if implemented, will change this by allowing multi-year water appropriations to provide a direct incentive to conserve water in anticipation of future needs. Here's how:

- SB 237 would allow water right holders, at their option only, to deposit their water right in a multi-year flex account.
- The water user would then be issued a term permit that would allow maximum time flexibility in water usage over the next five years.

Senate Natural Resources Committee
 Date 2-16-01

Attachment # /

- In exchange, the user is permitted to use only 90% of his historical water usage during that time period, thus guaranteeing a 10% conservation element.

This bill provides the best of both worlds. It gives users maximum time flexibility as an incentive and provides for a net reduction in water usage in return. While other water proposals talk about conservation and planning for the future, this actually accomplishes it.

For many years, I have heard from my constituents, primarily farmers and ranchers, who wanted more water use flexibility. And for good reason. It would allow them to plan ahead, rotate more and different crops into their farms. For instance, a farmer that has grown irrigated milo year after year, because he doesn't have water rights for corn in western Kansas, can now rotate between corn and wheat instead. Or he can grow corn two years, fallow it for a year, and then grow another summer crop. The possibilities are endless – as is the ability of the farmer to respond to market needs, not artificial time barriers. Instead of limiting their options (and providing the temptation to overpump), the user is now in control of his destiny and can plan ahead more than the three months of the growing season.

In addition to the crop flexibility, this bill provides the needed flexibility to respond to what looks like great variability in future energy prices. Current quoted natural gas prices to our farm for this summer are double what they were a year ago – and they might be even higher next year. Or they might be lower. Nonetheless, the use flexibility of SB 237 would allow a user the option to pump water in the year when energy prices are lower, rather than being constrained by artificial time limits on use.

In conclusion, I believe SB 237 is a win-win bill. It is a winner for those users who choose the flexibility offered in these term permits. And it is a winner for our groundwater supplies, because it guarantees a reduction in water usage. Elimination of the “use-it-or-lose-it” policy is good for Kansas, good for water users, and good for the aquifer. I encourage your support of this bill, and I will have three clarifying amendments to offer at the appropriate time.

Thank you. I will stand for questions.

Southwest Kansas Groundwater Management District

* * * * *

(316) 275-7147

409 Campus Drive, Suite 106
Garden City, Kansas 67846

Groundwater:

"The Resource
of the
Future"

February 16, 2001

Robert Tyson, Chairman
Senate Natural Resources Committee
Kansas State Legislature

RE: Senate Bill 237

Dear Chairman Tyson and Associate Senators,

The Board of Directors respectfully request your most serious consideration and support for the provisions embodied in Senate Bill 237.

The development and implementation of a multi-year allocation system for water appropriations has been a long standing request among the water users of the District. In this regard, the District has worked diligently and pro-actively with the Chief Engineer and the Division of Water Resources in attempting to construct a mechanism which affords

1. the water user additional flexibility in managing water supplies for efficiency and planning purposes; and
2. a reasonable long-term conservation benefit to the water resources of the state, and protection to adjacent water users, in exchange for the opportunity of diverting more than the annually permitted quantity in a short-term duration.

The District is aware that the creation of a multi-year allocation system will necessarily require a more sophisticated system of accounting and monitoring of annual appropriations operating under such a program. The District wishes to extend its offer of cooperative and logistical support for undertaking such an endeavor on behalf of the water users of Southwest Kansas.

We appreciate your consideration, and always, we look forward to working with you in the future! Please write or call if you have any questions or if we can be of any assistance.

Sincerely,



Steven C. Hansen
Resource Analyst

Senate Natural Resources Committee
Date 2-16-01

pc: Governor Bill Graves

Attachment # 2

Classification of Property

#

SWKGM

Residential Real*	2,277,794,651
Agricultural Land**	525,880,757
Vacant Lots	33,780,441
Not-For-Profit	4,392,751
Com/Ind Real	923,751,420
Ag Improvements	58,490,268
All Other	27,109,353

Total Real Property

3,851,199,641

Res Mobile Homes	76,743,131
Oil Leasehold	83,579,813
Gas Leasehold	2,900,421,699
Motor Vehicle***	33,115,419
C/I Mach/Equip****	297,604,392
Watercraft^	6,775,764
All Other	11,048,894
Filing Penalties	-

Total Personal Property

3,409,289,112

Public Utility - Real^^	80,168,259
Public Utility - Other^^	943,345,471

Total St. Appr. Public Utility

1,023,513,730

Total - All Property

#

8,284,002,483

- * Includes Farm Homesites
- ** Appraised at Use Value, Not Market Value
- *** Only Non-Highway or Local/Private Over 20,000 lbs
- **** Appraised at Retail Cost New Less Depreciation
- ^ Represents Boat, Marine and Boat Trailers
- ^^ Appraised at an Allocated Value, Not Necessarily Market Value

Note: There are some slight rounding errors due to the suppression of cents.

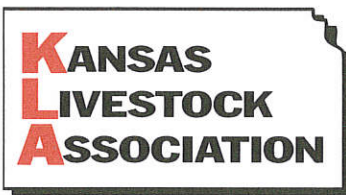
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JAN 10 2001
SWKSGMD

Population	124,007
Over 65	13,629
School Enrollment	28,101
Employed	62,047
Farm	7,660
Ag Services	1,421
Mining	2,769
Construction	4,025
Manufacturing	13,325
Transportation	4,222
Wholesale	4,070
Retail	12,671
Financial Services	3,011
Services	15,323
Government	12,942
Land Area	6,428,160
Farm Land	5,958,160
Cropland	4,611,732
Harvested Cropland	2,855,073
Irrigated	1,361,511
Livestock	
Cattle and calves	1,569,651
Cattle and calves sold	3,051,885
Hogs and pigs *	5,928
Hogs and pigs sold *	9,455
Total Personal Income	2,632,232,000
Wages & Salaries	1,378,699,000
Farm Income	227,473,000
Proprietors	250,329,000
Dividends, Interest, Rent	449,267,000
Transfer Payments	346,757,000
Economic Sectors	
Farm	320,040,000
Ag Services	27,925,000
Mining	89,509,000
Construction	131,895,000
Manufacturing	378,077,000
Transportation	176,237,000
Wholesale	131,713,000
Retail	189,637,000
Financial Services	71,758,000
Services	324,539,000
Government	298,645,000

* This data is suppressed for most counties.

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JAN 19 2001
SWKSGMD



Since 1894

To: The Senate Natural Resources Committee
Senator Robert Tyson, Chairman

From: Mike Beam, Executive Secretary, Cow-Calf/Stocker Division

Subject: Comments in Support of SB 237 – Water “Flex Accounts”

Date: February 16, 2001

On behalf of the Kansas Livestock Association, I’m pleased to appear this morning in support of Senate Bill No. 237. I was excited when I first read the bill and I applaud Senator Huelskamp for introducing this legislation.

Many of you know we have actively supported other proposals, such as water banking, that would give water users more flexibility in using their appropriated water rights. While we continue to support the water banking legislation (HB 2047) pending in the House Environment Committee, I’m hopeful this bill will also receive favorable consideration by this Committee and become law this year.

In addition to flexibility, the bill appears to provide a conservation bonus by the 90% factor required in lines 31 & 32. I’m sure many water users will give up 10% of their annual consumption if they gain full flexibility to use their appropriation, at their discretion, over a five-year period.

I realize this statement is brief. Please understand, however, we view this bill as a very positive proposal that should benefit many of our farmers and ranchers. It appears to be an inexpensive step the state can do to give our state’s producers more flexibility to manage their businesses while still protecting our water resources.

Again, we support SB 237 and encourage this committee to give the bill your favorable consideration.

Thank you.

Senate Natural Resources Committee

Date 2-16-01

Attachment # 3



PUBLIC POLICY STATEMENT

SENATE COMMITTEE ON NATURAL RESOURCES

**RE: SB 237 – Supplements the Kansas Water
Appropriation Act.**

**February 16, 2001
Topeka, Kansas**

**Presented by:
Bill R. Fuller, Associate Director
Public Policy Division
Kansas Farm Bureau**

Chairman Tyson and members of the Senate Committee on Natural Resources, we appreciate this opportunity to express Farm Bureau support for SB 237.

My name is Bill Fuller. I am an Associate Director of the Public Policy Division for Kansas Farm Bureau.

SB 237 authorizes any holder of a groundwater water right the opportunity to establish a flex account where the holder may deposit, in advance, water from such water right for any five consecutive calendar years. The Chief Engineer of the Division of Water Resources at the Kansas Department of Agriculture shall provide for the issuance of term permits to holders of groundwater water rights who have established flex accounts and authorize the use of water in a flex account at any time during the five consecutive calendar years without annual limits on such use.

SB 237 provides water right holders flexibility in managing their water right. For example, a producer could utilize five years of water allocation in three or four years in producing irrigated corn, then grow dry-land wheat or grain sorghum during the balance of the 5-year period.

SB 237 includes a water conservation component. The amount of water that is deposited in the account shall be 90% of the amount of the holder's base average usage times five.

A number of policy statements relating to water appropriation and water conservation can be found in resolutions adopted or reaffirmed by the 435 farmers and ranchers serving as Voting Delegates for the 105 county Farm Bureaus at the 82nd Annual Meeting of Kansas Farm Bureau in Wichita November 17-18, 2000.

Examples include:

- *"The State Water Plan should promote conservation of water by all users."*
- *"We support legislation that encourages groundwater conservation through conservation reserve incentives offered to landowners that convert to dry land farming and defer irrigation pumping during periods of commodity surplus."*
- *"Water permits should not be jeopardized even if the water allocation authorized is not fully utilized by the permittee."*

SB 237 is designed to conserve water while allowing irrigators more flexibility in managing their water right. We respectfully encourage the committee to recommend the bill favorable for passage and advance the measure to the full Senate.

Thank you!

STATE OF KANSAS

BILL GRAVES, GOVERNOR
Jamie Clover Adams, Secretary of Agriculture
109 SW 9th Street
Topeka, Kansas 66612-1280
(785) 296-3558
FAX: (785) 296-8389



Division of Water Resources
David L. Pope, Chief Engineer
109 SW 9th Street, 2nd Floor
Topeka, KS 66612-1283
(785) 296-3717 FAX (785) 296-1176

KANSAS DEPARTMENT OF AGRICULTURE

Senate Natural Resources Committee

February 16, 2001

Testimony Regarding Senate Bill 237

David L. Pope, Chief Engineer
Division of Water Resources, Kansas Department of Agriculture

Mr. Chairman and members of the committee, thank you for the opportunity to present testimony regarding SB 237. My name is David L. Pope, and I appear on behalf of the Kansas Department of Agriculture.

Implementing this bill will affect the division of water resources and its duties relating to the administration of the Kansas Water Appropriation Act. This bill would allow a groundwater water right holder to establish a five-year flex account subject to certain conditions. The amount of water that may be deposited into an account would be equal to 90 percent of five times the average annual amount of water used between 1998 through 2000. The 10 percent reduction in the amount of groundwater used is based on historical data and it is requested in exchange for the flexibility that allows an annual diversion amount to exceed what is currently authorized. The bill requires the chief engineer to issue term permits to authorize diversion of the water any time during the five-year term of the permit.

One positive aspect of the bill is the 10 percent reduction in water use it requires. However, the method used to achieve this reduction seems to reward users who have used most, or all, of the water authorized by their rights during the base period. Users who have conserved, or have not used as much water, will be limited to a lesser amount. A more equitable alternative is to use an average for an area as the base amount for a five-year limit, as long as it is fair and does not result in more net usage. For example, an efficient irrigator in a given area of the state might need 18 inches of water (1.5 acre feet per acre) for a typical crop in an average year, with more needed in a dry year and less in a wet one. The five-year flex account amount could be 1.5 times 5, or 7.5, acre feet per year for each authorized acre with an irrigation history.

I assume the bill is not intended to provide for water use in addition to a current water right, but it does not explicitly provide limits. Once the flex account under the term permit is exhausted, the water user should not be allowed to continue to divert water under the existing water right, even when no water remains for year four or five. As with all permits authorized by the Water Appropriation Act, it is presumed that the priority for the term permit is the date on

Senate Natural Resources Committee

Date 2-16-01

which the application is filed, which makes it junior to all existing water rights as of that date. This provides some legal remedy if exercising the term permit causes impairment to more senior rights. Also, the authorized place of use for the term permit should be the same as the current water right, so it serves the same basic function.

Flexibility to use more water in any given year than has been authorized in the past is recognized as a benefit to some individual water users. As water supplies decline, appropriators will seek ways to use existing water sources more effectively. It is useful to consider options that allow water users to adapt to these changes in the hydrologic system. However, the Water Appropriation Act imposes limits on a water right to protect more senior water rights from the impairment that could result from an excessive decline in the water table. It is essential to consider how this bill will structure the protections necessary to maintain the water supply for the future. This bill authorizes any water user to divert up to 4.5 times the annual quantity of their water right in any given year. I recognize that it is unlikely that any appropriator will want to divert, or even be capable of using, this much water in any given year. However, the bill does not offer guidance on reasonable annual limits, or the spacial distribution of increased pumping, to prevent impairment of other water rights during periods of heavy pumping.

It is possible, under certain circumstances, that much more water could be diverted than has been used under an existing appropriation. Some water rights have a large authorized acreage, or a greater need for water, than their authorized annual quantities allow compared to the average. Water rights with these extra acres, or water needs for some other use, could reasonably pump greater quantities in any given year. In some cases, other water rights, through overlapping places of use and wells, have multiple wells authorized on large parcels of irrigated land. These overlapping authorizations, combined with the flexibility provided by this bill, could create annual pumping centers that will divert quantities greater than ever before. These large pumping centers are more likely to occur in a dry year, when all surrounding wells are also pumping more than average, which could cause or compound impairment problems. There are no provisions in the bill to limit the concentration of wells with term permits in a small area, or to limit the collective magnitude of pumping centers that might develop as a result of the flexibility the bill provides. It is not clear how this bill will affect existing spacing criteria that help protect adjacent wells from interfering with one another.

If the division of water resources is to ensure adequate protection, the following concerns should be addressed:

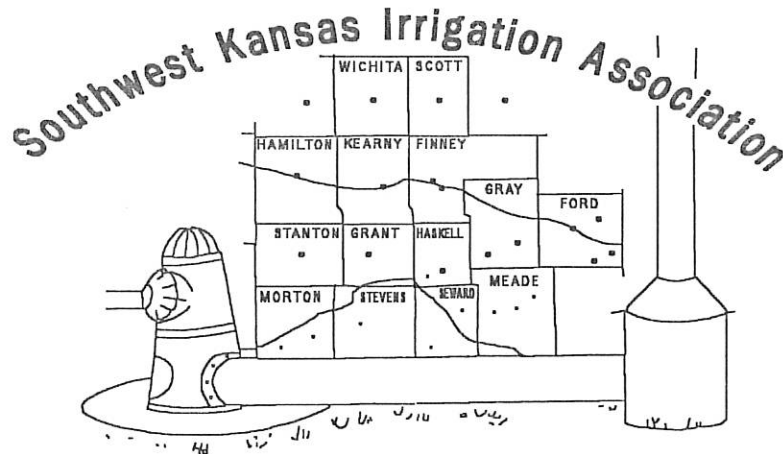
1. An upper limit on the annual quantity must be established to avoid impairment when all pumps are diverting at their limits in a dry year.
2. Term permits must relate to an individual well, instead of a whole water right when there are multiple wells, or it must contain some other limit to avoid creating large pumping centers at better yielding areas within the aquifer
3. The authorized place of use should not be increased because it could allow additional uses and impact other users due to the flexibility of the term permit.

4. The original water right must be limited so that no use can occur once the total amount authorized by the five-year term permit has been used.
5. Term permits must be junior to existing water rights and, if impairment occurs as a result of use under the term permit, water use must revert back to the priority and limitations of the original water right, limited by the quantity already diverted during the period of the term permit.
6. Existing spacing criteria, or new criteria where needed, must be applied to the amount of increased pumping during any year of the term permit.
7. Existing filing fees for applications for permits are determined by the authorized quantity, which would be the amount of the term permit for the five-year period. Otherwise, it should be limited to an annual amount.

KDA will require more resources to fulfill the administrative and enforcement requirements under a five-year allocation system. Permit processing would be one additional administrative task. The statutory deadline in October will likely make the permitting workload peak in the month or so prior to that deadline. Water use accounting and monitoring, and enforcement of water use metering and reporting, will be much more critical than it is now, as annual diversions could exhaust the authorized quantity any time during the five-year permit term. Much of this workload will be at the field office level, where efficient water user assistance and monitoring could occur. Each year, an accounting of the quantity of water remaining after each of the five years on the term permit must be completed and recorded for each permit. Compliance monitoring and enforcement will be needed for all wells that reach their five-year allocation to ensure no further use occurs during the balance of the five-year period. Mandatory and operational deadlines required in this process will increase and intensify demands on staff managing this activity.

KDA has reservations about creating the statewide mechanism this bill provides due to the wide variety of conditions across the state and the additional work it will require of our office. As an alternative, we believe provisions similar to these could be tailored to fit specific areas of the state by inclusion in an Intensive Groundwater Use Control Area (IGUCA) established under the provisions of K.S.A. 82a-1036 to 1038. The statute could be amended so that a request to establish an IGUCA for this specific purpose could be limited to implementing this concept and the provisions needed to prevent impairment of other water rights resulting from the use of flex accounts. We still would need to budget for the fiscal impacts, but using this concept could limit it based on need and the resources available. An IGUCA could also provide needed protection from possible impairment and increased regional depletion. Establishing these areas require identifying a specific need for them, an area where they apply and a request from a groundwater management district, or a petition if in a GMD. Also, the chief engineer is required to hold a hearing prior to establishing the area, for adopting corrective control measures to prevent impairment and for protecting the public interest.

Thank you for the opportunity to testify on this matter. I will be glad to answer your questions at the appropriate time.



Southwest Kansas Irrigation Association's Opinion of Senate Bill No. 237

February 16th, 8:00 a.m.
Senate Natural Resource Committee

Mr. Chairman and fellow Committee Members, thank you for the chance to express our opinion of Senate Bill No. 237. We believe that Senate Bill No. 237 is a good conservation tool if the current rules and regulation are enforced properly.

The 2000 crop-growing season is a very good example of how this type of legislation could help. It was so dry during the 2000 crop-growing season that many of the irrigators never got the chance to stop irrigating. Even as they near their available water right limit they have to decide whether to quit irrigating and let their crop burn up or to keep irrigating and deal with some sort of a penalty. Senate Bill No. 237 would allow the irrigator to get his crop through the drought and at the same time it takes 10% of his water right as a penalty.

We believe that this type of legislation is needed but we need to enforce the current rules and regulations to make this work. Currently there is no incentive to use the plan because there does not seem to be any penalty if you over pump. This plan must be on a voluntary basis. In the case of over pumping the irrigator would have the choice of either implementing the 5-year plan or pay the penalty for over pumping.

The Southwest Kansas Irrigation Association does support Senate Bill No. 237 along with the enforcement of current rules and regulation. We do have some concerns about the "Base Average Usage" concept. We believe it should be based off of the water right holders certified appropriation amounts. We believe this bill is a starting point and can be amended to work as a good conservation tool. Thank you for your time.

Justin Hamlin
Executive director of the Southwest Kansas Irrigation Association

Senate Natural Resources Committee

Date 2-16-01

Attachment # 6

SENATE BILL No. 254

By Committee on Agriculture

2-6

9 AN ACT concerning environmental remediation, ~~relating to fees of pes-~~
10 ~~ticide dealers,~~ amending K.S.A. 2000 Supp. 2-3713 and repealing the
11 existing ~~Section~~

2-3703, 2-3708 and

sections

12
13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. K.S.A. 2000 Supp. 2-3713 is hereby amended to read as
15 follows: 2-3713. (a) Subject to the provisions of K.S.A. 2000 Supp. 2-3712,
16 and amendments thereto, there is hereby imposed environmental assess-
17 ments as follows:

Section 1. K.S.A. 2000 Supp. 2-3702
Section 2. K.S.A. 2000 Supp. 2-3708
(See Attached)

18 (1) An annual assessment of \$100 to be paid by each custom blender
19 required to be licensed pursuant to K.S.A. 2-1201a, and amendments
20 thereto. Such assessment shall be paid to the secretary of agriculture by
21 the custom blender at the time and in the manner provided by law for
22 payment of the custom blender's license fee.

Renumber remaining sections.

23 (2) An annual assessment of \$20 for each commercial fertilizer re-
24 quired to be registered pursuant to K.S.A. 2-1202, and amendments
25 thereto. Such assessment shall be paid to the secretary of agriculture by
26 the applicant for registration at the time and in the manner provided by
27 law for payment of the registration fee for the commercial fertilizer.

28 (3) An annual assessment of \$60 for each agricultural chemical re-
29 quired to be registered pursuant to K.S.A. 2-2204, and amendments
30 thereto, other than an agricultural chemical classified as an antimicrobial
31 pesticide, as defined by 7 U.S.C. §136(mm). Such assessment shall be
32 paid to the secretary of agriculture by the applicant for registration at the
33 time and in the manner provided by law for payment of the registration
34 fee for the agricultural chemical.

35 (4) An annual assessment of ~~\$80~~ to be paid by each pesticide dealer
36 required to be registered pursuant to K.S.A. 2-2469, and amendments
37 thereto. *If the annual sales of pesticides from the previous year by a*
38 *pesticide dealer from a business location are less than \$2,500, the annual*
39 *assessment shall be \$5. If the annual sales of pesticides from the previous*
40 *year by a pesticide dealer from a business location are equal to or greater*
41 *than \$2,500, the annual assessment shall be \$80.* Such assessment shall
42 be paid to the secretary of agriculture by the pesticide dealer at the time
43 and in the manner provided by law for payment of the dealer's registration

1 fee.

2 (5) An annual assessment of \$ 0005 per bushel of storage capacity of
3 each public warehouse required to be licensed pursuant to K S A 34-228,
4 and amendments thereto, or pursuant to the federal warehouse act. Such
5 assessment shall be paid to the secretary of agriculture by the applicant
6 for licensure at the time and in the manner provided by law for payment
7 of the warehouse license fee.

8 (6) An annual assessment of \$ 0005 per bushel of storage capacity of
9 each public warehouse in this state that is licensed pursuant to the United
10 States warehouse act. Such assessment shall be paid to the secretary of
11 agriculture by the licensee on or before August 31 of each year. ~~The~~
12 ~~secretary of agriculture may adopt rules and regulations establishing pro-~~
13 ~~cedures for payment and collection of such assessment.~~

14 (b) The secretary of agriculture shall remit to the state treasurer all
15 moneys collected by the secretary from assessments paid pursuant to this
16 section. The state treasurer shall deposit the entire amount of the remit-
17 tance in the state treasury and credit it to the fund.

18 ~~Sec. 2. K.S.A. 2000 Supp. 2-3713 is hereby repealed.~~

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

(c) The secretary of agriculture shall adopt rules and regulations
establishing procedures for payment and collection of all environmental
assessments.

(d) The secretary of agriculture shall have the authority to reimburse or
refund a person if an error occurred in the payment of an assessment.

are

2-3702, 23-3708 and

Sec. 1. K.S.A. 2000 Supp. 2-3702 is hereby amended to read as follows: 2-3702. As used in K.S.A. 2000 Supp. 2-3701 through 2-3714, and amendments thereto:

(a) "Agricultural or specialty chemical" means any pesticide, fertilizer, plant amendment or soil amendment but does not include nitrate and related nitrogen from a natural source.

(b) "Board" means the Kansas agricultural remediation board created by K.S.A. 2000 Supp. 2-3709, and amendments thereto.

(c) "Corrective action" means action in response to release of an agricultural or specialty chemical that poses a threat to human health or the environment.

(d) "Eligible corrective action costs" means reasonable and necessary costs of corrective action, as determined in accordance with rules and regulations adopted by the board.

(e) "Eligible lending institution" means:

(1) A bank, as defined in K.S.A. 75-4201, and amendments thereto, that agrees to participate in the remediation linked deposit program and is eligible to be a depository of state funds; or

(2) an institution of the farm credit system organized under the federal farm credit act of 1971 (12 U.S.C. 2001), as amended, that agrees to participate in the remediation linked deposit program and provides securities acceptable to the pooled money investment board pursuant to article 42 of chapter 75 of the Kansas Statutes Annotated, and amendments thereto.

(f) "Eligible person" means:

(1) A responsible party or an owner of real property, but does not include the state, any state agency, any political subdivision of the state, the federal government or any agency of the federal government; or

(2) a person who: (A) Is involved in a transaction relating to real property; (B) is not a responsible party or owner of the real property; and (C) voluntarily takes corrective action on the property in response to a request or order for corrective action from the department of health and environment.

(g) "Fund" means the Kansas agricultural remediation fund established by K.S.A. 2000 Supp. 2-3711, and amendments thereto.

(h) "Linked deposit" means an investment account placed by the director of investments under the provisions of article 42 of chapter 75 of the Kansas Statutes Annotated with an eligible lending institution for the purpose of the remediation linked deposit loan program.

(i) "Release" means any spill, leak, emission, discharge, escape or disposal of an agricultural or specialty chemical into the soils or waters of the state.

(j) "Remediation linked deposit loan package" means the forms provided by the state treasurer for the purpose of applying for a remediation linked deposit.

(k) "Remediation linked deposit loan program" means the program provided for by K.S.A. 2000 Supp. 2-3703 through 2-3707, and amendments thereto.

(l) "Remediation reimbursement program" means the program provided for by K.S.A. 2000 Supp. 2-3709 through 2-3713, and amendments thereto.

(m) "Site" means all land and water areas, including air space, and all plants, animals, structures, buildings, contrivances and machinery, whether fixed or mobile, including anything used for transportation, ~~within a one-half mile radius of a release.~~

Site includes all contiguous land that is owned, leased or controlled by the eligible person at the time the release occurs, plus any other area affected by the release.

Sec. ~~H~~. K.S.A. 2000 Supp. 2-3708 is hereby amended to read as follows: 2-3708. (a) There is hereby established the remediation reimbursement program. The program shall be for the purpose of providing reimbursement to eligible persons for the costs of corrective action approved by the department of health and environment or taken in accordance with requests or orders issued by the department of health and environment.

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(b) The amount of reimbursement that an eligible person may receive from the fund shall be limited as follows:

Except as provided in paragraph (2),

(1) For an eligible person who ~~is required to pay~~ any assessment imposed pursuant to K.S.A. 2000 Supp. 2-3713, and amendments thereto, reimbursement per site shall not exceed an amount equal to: (A) 90% of total eligible corrective action costs greater than \$1,000 and less than or equal to \$100,000; plus (B) 80% of total eligible corrective action costs greater than \$100,000 and less than or equal to \$200,000.

has paid

The total amount reimbursed for any one site shall not exceed \$200,000 within a 5 year period or as otherwise set forth by the board pursuant to rules and regulations.

(2) For an eligible person who is not required to pay any assessment imposed pursuant to K.S.A. 2000 Supp. 2-3713, and amendments thereto, reimbursement per ~~release~~ shall not exceed an amount equal to 100% of total eligible corrective action costs greater than \$1,000 and less than or equal to \$10,000.

or has not paid

site

or for a pesticide dealer who has paid the annual \$5 assessment pursuant to subsection (a)(4) of K.S.A. 2000 Supp. 2-3713, and amendments thereto, (Also requested by Ks Grain Sorghum Producers Assn., Ks Corn Growers Assn and Mid-America Lumbermens Assn.)