

MINUTES OF THE HOUSE AGRICULTURE AND NATURAL RESOURCES COMMITTEE

The meeting was called to order by Chairman John Faber at 3:30 P.M. on March 20, 2007, in Room 241-N of the Capitol.

All members were present except:

Representative Knox - excused

Committee staff present:

Raney Gilliland, Kansas Legislative Research Department
Jason Thompson, Revisor of Statutes Office
Florence Deeter, Committee Assistant

Conferees appearing before the committee:

Steve Swaffar, Director, Natural Resources, Kansas Farm Bureau
Mike Miller, Kansas Department of Wildlife and Parks
Randy Smith, Kansas Bowhunter's Association
Leland Queal, Retired Wildlife Biologist, Pratt

Others attending:

See attached list.

It was noted that, committee minutes of March 5, 6, and 7, 2007, were sent electronically and, by consensus, were approved as written on March 16, 2007.

Hearing on Substitute SB 266 - Big game permits

Raney Gilliland, Kansas Legislative Research Department, reviewed the amendments approved by the Senate Agriculture Committee regarding the authority given to the Department of Wildlife and Parks to issue non-resident deer permits and extending the sunset provision dates. He said the Senate added an increase of not more than 50% to the total number of permits issued.

Steve Swaffar, Director of Natural Resources, Kansas Farm Bureau (KFB), spoke as a proponent of **Substitute SB 266**, stating that KFB supports the extension of the sunset provision to June 30, 2009, and that the Kansas Department of Wildlife and Parks continues to address the revision of statutes containing the issuance of transferable permits (Attachment 1).

Mike Miller, Kansas Department of Wildlife and Parks, speaking as an opponent of the bill, said that an extension of the sunset date so far in advance could hamper the allocation of non-resident permits. With no provision for changing the non-resident transferable permit process, stakeholders, landowners, and hunters will not see the recommended changes (Attachment 2).

Randy Smith, Kansas Bowhunter's Association (KBA), speaking as an opponent of the bill, indicated two areas KBA cannot support. He said the 50% increase in non-resident rifle tag allotment is unnecessary, since, during the two previous hunting seasons, not all of the rifle tag permits were purchased. Mr. Smith espoused a sunset date of June 30, 2007 (Attachment 3).

Mr. Leland Queal, a retired wildlife biologist from Pratt, Kansas, holding a neutral position on **Substitute SB 266**, said the original concept of the bill would return deer harvest management to the Kansas Department of Wildlife and Parks (Attachment 4). He advocated keeping the current 20% amount of resident permits to limit over-harvesting the deer population, and stood firm on establishing equity in the application process. Mr. Queal also recommended having an interim study committee to obtain further information leading to a stronger, more definitive proposal in the 2008 legislative session.

Mr. Whitney Damron, Kansas Sport Hunting Association submitted written testimony in favor of **Substitute SB 266** (Attachment 5).

The Chairman closed the hearing on **Substitute SB 266**.

CONTINUATION SHEET

MINUTES OF THE House Agriculture and Natural Resources Committee at 3:30 P.M. on March 20, 2007, in Room 241-N of the Capitol.

The Chairman called for consideration of **SB 146 - Solid waste; waste tire management fund**. Representative Svaty requested hearing a report from the sub-committee regarding **SB 146**. Jason Thompson, Revisor of Statutes Office, briefed the members regarding the technical amendments, the striking of erroneous words and punctuation, and the amount of revenue created by processed waste tire tonnage fees Attachment 6). Mr. Thompson provided details on grant reductions from the present 75% to 50% for the start-up costs of recycling tires. He said a sunset date, June 30, 2010, is added to provide time for further development and use of recycled waste tires. Mr. Thompson explained that a one-dollar fee is collected for each ton of tires, which is then paid to the Kansas Department of Health and Environment and eventually is credited to the Waste Tire Management Fund.

Representative Svaty moved to pass the amendments, with the exception of New Section 2. Representative Palmer seconded the motion. The motion carried.

Representative Powell moved to have a conceptual amendment stating, "No entity can be given more than one grant." Representative Flora seconded the motion. Discussion ensued regarding the number of grants given; Mr. Bill Bider, Director of the Bureau of Waste Management, Kansas Department of Health and Environment, explained the new grants are subsidizing the purchase of new products made from recycled tires. Representative Flora withdrew the second to the motion. Representative Powell restated the conceptual amendment to limit the time to a three-year period for grants to be awarded to local governments. Representative Flora seconded the motion. The motion failed.

Representative Svaty moved to pass the bill favorably as amended. Representative Grange seconded the motion. The motion passed.

The Chairman called for consideration of **Substitute SB 89 - Concerning the Republican River and disposition of moneys recovered from certain litigation; establishing the Republican River water conservation projects fund**. Representative Aurand moved to have a conceptual amendment. Representative Svaty seconded the motion. Jason Thompson reviewed the sections' revisions (Attachment 7). Further explanation given by Representative Aurand and subsequent discussion of the committee members resulted in clarification of the one-third/two-thirds distribution of money. The motion passed.

Discussion continued on **Substitute SB 89**. Representative Holmes moved to have the first dollars of the cost of litigation with Nebraska, whatever the amount is, be put aside in a litigation fund. Representative Moxley seconded the motion. Raney Gilliland, Kansas Legislative Research Department, explained that in the compact compliance and enforcement fund, litigation is one of the items for which the money can be used. The motion carried.

Representative Aurand moved to pass Substitute SB 89, as amended. Representative Holmes seconded. The motion passed.

The meeting was adjourned at 4:55 p.m. The next meeting is scheduled for March 21, 2007.

Kansas Farm Bureau
POLICY STATEMENT

House Agriculture and Natural Resources Committee

Substitute for SB 266, an act relating to wildlife,
concerning big game

March 20, 2007

Submitted by:

Steve M. Swaffar

Director of Natural Resources

Chairman Faber and members of the committee, thank you for this opportunity to provide testimony on Sub SB 266, extending the sunset date on non-resident transferable deer permits. I am Steve Swaffar, Director of Natural Resources for the Kansas Farm Bureau. KFB stands in support of Sub SB 266.

As you heard from us during testimony on HB 2437 early this session, deer permitting and control of the deer population is a topic our membership has an interest in ensuring adequate deer herd management to prevent excessive crop and property damage; and adequate access to deer permits for residents and non-resident clients for those farmers and ranchers trying to generate some income from hunting enterprises.

Substitute for SB 266 extends the sunset on non-resident transferable permits for two years. We believe this stop gap measure is appropriate as KDWP works to implement their overhaul of the existing statutes. Passing Sub SB 266 simply provides an extension of the existing system and assurance for landowners that they will have these permits until a new system is in place. Should the Department's proposal be passed this session or next, this part of the law would be revoked and replaced with new statutory language or new rules and regulations.

We would like to point that Sub SB 266 also allows an increase in the number of resident rifle permits that may be issued. This language is found on page 3 line 29. The intent of this language was to increase the number of non-resident permits that would be made available, but the practical implication of this revision is for one year this increase isn't likely to make a big difference.

We believe for the sake of simplicity and continuing a cooperative process this provision could be removed.

In conclusion, we hope the committee understands our support for Sub SB 266 is an effort to continue the discussion and revision of the current system. Our support for this bill and HB 2437 simply provides assurance to our members that until the system is revised, transferable permits will still be available. Thank you for this opportunity to provide testimony.

KANSAS

DEPARTMENT OF WILDLIFE & PARKS

KATHLEEN SEBELIUS, GOVERNOR

**Testimony on Substitute for SB 266 regarding Big Game
To
The House Committee on Agriculture and Natural Resources**

**By Mike Miller
Special Assistant to the Assistant Secretary
Kansas Department of Wildlife and Parks**

19 March 2007

Substitute for SB 266 seeks to amend K.S.A. 32-937 to extend the sunset provision on nonresident transferable permits and increase the statutory cap on nonresident firearms permits. The provisions of the bill would be effective on publication in the statute book. **The Department opposes the provisions contained in Substitute for SB 266 in the current form.**

Over the past 18 months, a 10 member Department task force was assembled and undertook the task of revising the deer management related statutes. The task force also proposed changes to the deer management system to simplify the system, increase opportunity, and develop a different methodology of establishing nonresident deer permit numbers that both satisfies resident landowner desires and protects resident hunting opportunities.

After formulating initial proposals, the task force took public comment at meetings around the state and at Department Commission meetings for a period of one year. Taking into account the public comment received, the task force then revised the proposals and introduced a bill that would allow the Department to implement those proposals. **Neither the initial task force proposal nor the revised proposal contains the nonresident transferable permit.** The Department has concerns that should the nonresident transferable permit continue to exist beyond this legislative session, in spite of overwhelming dissatisfaction with the permit expressed by both hunters and landowners, there will be no impetus to change for the better.

The Department would suggest the bill be modified to remain at the current statutory caps for nonresident participation and to modify the sunset clause provisions back to 2008 instead of 2009, as was passed out of this committee in HB 2437.

In conclusion, the Department appreciates the opportunity to comment on the bill and the support of the committee in opposing passage of the bill.

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**HS AGRICULTURE AND NATURAL
RESOURCES COMMITTEE
3-20-2007**

ATTACHMENT 2

Randy Smith
Legislative Chairman
Kansas Bowhunter's Association
Testimony on Substitute Bill for SB#266
March 20, 2007

Chairman Faber and members of the Committee, I wish to thank you for the opportunity to testify on the Substitute Bill for SB#266. I am Randy Smith. I am speaking on behalf of the Kansas Bowhunter's Association.

Our organization supported the original version of SB#266 as submitted by the Kansas Department of Wildlife and Parks. Although we do not agree with many of the proposals submitted by the KDWP Deer Task Force, we recognize and respect the amount of time and expense put into the public meetings, blogs, handling all of the mailings, taking phone calls etc in the last year and a half to two years that the Task Force has been working on this project. The proposals offer incentives for every discipline of hunting in Kansas, for landowners, and for commercial hunting operations. It is obvious that KDWP desires to address the issue of deer management using input from all interested parties.

Sub. SB#266 was proposed by a member of the Senate Natural Resources Committee. The Senator asks that the non-resident (NR) rifle tag allotment in the State be increased to 50% of the total number of resident rifle tags sold the year before. In the two previous deer hunting seasons, there have been a large number of NR rifle tags not sold. There have also been an increasing number of Landowner transfer tags that were never transferred to hunters from the original landowner applicants. Obviously the demand for tags was met where this occurred and no further tags are needed. Perhaps demand still existed for NR rifle tags in the Senator's home district, but this amendment would apply statewide and could have adverse effects on our wildlife resource and resident hunter access in other areas of the State. For these reasons the KBA is against the proposed amendment, and would prefer that the deer management decision process be returned to the regulatory process at the KDWP Commission level.

The Senator amended the original Bill to allow the sunset clause for Landowner NR Transfer tags to be extended to 2009. As you know, it was due to sunset in June of 2007. This committee addressed the same issue in HB#2437, a measure that we did not oppose in a good faith gesture to show our willingness to support the KDWP Task Force efforts.

On behalf of the KBA, I ask that the Committee oppose Sub. SB#266.

Testimony Prepared for Substitute for SB-266

House Agriculture and Natural Resources Committee

SUMMARY

Leland M. (Lee) Queal
1004 West Ninth
Pratt, KS 67124

620-672-6100 (lqueal@cox.net)

Background: Landowner; deer hunter; retired wildlife biologist with 39 years experience with Kansas Fish and Game Commission, Michigan Department of Conservation, and Ducks Unlimited, Inc. Representing only myself.

I. RE: SB-266. I support the original version of SB-266 which would return deer harvest management to KDWP. SB-266 was an outgrowth of efforts by a KDWP Deer Management Task Force requested by the former House Wildlife, Parks and Tourism Committee. I personally do not agree with all of the recommendations made by the Deer Management Task Force. However, I do concur with the concept that the deer resource should be managed by Department regulations under broader enabling legislation, rather than annual fine-tuning of harvest management procedures in the Legislature.

II RE: Substitute for SB-266. This current bill increases the maximum percentage of non-resident deer permits that may be issued in any one unit from 20 % of the resident permits to 50 % (Section 1(1)(1); page 3, line 30). That change, in reality, increases the potential number of non-resident hunters in some units by 150 %. That wouldn't be the scenario in all units, because some are under-subscribed now. But in units where demand is high, it will have the potential, in my opinion, of impacting herd age structure to a point where the numbers of trophy animals could be significantly reduced in future years. If the original SB-266 cannot be resurrected, my recommendation would be to eliminate this change in wording and retain the current 20 % figure. Otherwise, there will be great pressure from landowners, guides and outfitters, and perhaps the administration of KDWP itself, to go to the maximum allowed. Unfortunately, its all about the money.

III. My final recommendation would be to appoint a joint House-Senate, bi-partisan Interim Study Committee, yet this year, basically to do what the original House Wildlife, Parks and Tourism Committee wanted to do. KDWP has already done most of their survey work. The Department can fill in any gaps in their data as needed and a stronger legislative proposal can be submitted by the Interim Committee before the 2008 Legislative Session.

Background information regarding these specific recommendations is detailed in the attached narrative.

Testimony Prepared for Substitute for SB-266

House Agriculture and Natural Resources Committee

Ladies and gentlemen of the Committee, Thank you for the opportunity to appear before you today. My name is Lee Queal. I have lived in Pratt since 1969. I am a landowner and a deer hunter, and have hunted deer in Pratt, Kiowa or Barber counties (Unit 16) in all but a few of those intervening years. I represent no one other than myself.

I am a retired wildlife biologist, having worked some 39 years for Kansas Fish and Game Commission, Michigan Department of Conservation and Ducks Unlimited. I was fortunate to have been the Big Game Project Leader assigned to develop the basic framework for Kansas deer seasons which began in 1965.

I want to express my support for the original version of SB-266 in the Senate which would have returned deer harvest management to the Kansas Department of Wildlife and Parks. That bill came out of a request from the former House Wildlife, Parks and Tourism Committee in 2005. The Committee request was to review deer-related statutes and bring back recommendations for Legislative action to simplify and condense those statutes. The Department established a Deer Management Task Force, created a blog to receive input, accepted e-mail and telephone comments, surveyed landowners and deer hunters by mail, and held 14 public meetings around the state with more than 600 attending.

While I personally do not agree with all of the recommendations made by KDWP, I do agree with the concept that the deer resource should be managed by Department regulations under broader enabling legislation. I do not concur with the continual fine-tuning of harvest management procedures by the Legislature every year. It was in this vein that a House committee recommended the formation of a Deer Management Task Force.

Since that recommendation was first made, we have gone through an election cycle. Legislative leadership and committee assignments have changed. The House Wildlife, Parks and Tourism Committee no longer exists. Further, SB-266 came through the Senate, rather than the House where the Task Force concept originated. For whatever reasons, the premise that deer management should be the province of the KDWP was rejected, and you have before you a bill that bears little resemblance to the original. This necessitates that I address both forms of SB-266.

Kansas deer regulations are indeed complicated, but the bulk of the complication stems from things the Department and the Legislature have added in the past 10 years or so. The existence of the management unit system is not the problem. That system provides the basis for management which has allowed Kansas to develop one of the most envied deer herds in the nation.

When Kansas first developed a deer harvest management system in the early 1960's, we were the last state in the continental U. S. to do so. Being last had distinct advantages. It gave the Department the opportunity to learn from the mistakes of all the other states.

(2)

The Department had the option of using a bucks only, "one-size-fits-all" approach that most of the eastern states had grown up with. Or, the Department could use a more logical system of management units which gave the manager the ability to adjust regulations to meet the issues of herd size; whether to grow, stabilize, or cut back. This could be done on a unit basis, rather than trying to fit management on a state wide basis.

The management unit system developed in Kansas was based on a composite of factors gleaned from the states of Nebraska, North and South Dakota, Colorado, Wyoming, Montana, Idaho, Utah and Arizona. None of these states have ever abandoned the management unit system.

KDWP has proposed reducing the deer management units from 19 to 2 for most resident white-tailed deer hunting, but keeping all the units for non-resident permit issuance. This is the primary area in which I disagree with their recommendations. I think the management units should remain in place. However, that is an issue that can be debated later.

The big issue really is the transferrable non-resident permit, which the Department proposed to eliminate. At the same time, the Department proposed increasing the numbers of non-resident permits so they could more readily meet hunting demand.

Kansas adopted the transferrable deer permit several years ago and it has ended up driving the management system. Some landowners, guides and outfitters may like it, but most resident hunters of Kansas detest it. I believe it is a poor system. The transferrable permit is basically the same as marketing wildlife which is generally considered illegal everywhere else. Marketing hunting opportunity is fine, marketing wildlife is not. I know of no other state that jumped at this way to issue permits. I don't think they ever will.

The transferrable permit is grossly unfair. Generally, a landowner with several thousand acres of diverse deer habitat in the Red Hills, near where I live, can get one or two transferrable permits. At the same time a person with 160 acres of cotton, with no deer habitat, on the flat lands around Pratt is eligible for one or two permits. What is fair about that?

I have a friend who wants to come to Kansas to hunt deer. If he is successful in drawing a non-resident permit he will be able to hunt on land I own, adjacent land in Edwards County where I have permission, WIHA land in both counties, and on nearby state-owned land. However, if I am successful in applying for a non-resident permit, and transfer it to him, he can only hunt in the western half of Pratt County. He will not be able to hunt on the Edwards county land where I have permission to hunt. The two separate non-resident permit categories are not equitable.

Landowners can lease their land for hunting at whatever price they choose. They offer a place to hunt; they should get paid for it. Similarly, guides and outfitters can charge fees at whatever rate the market will bear. They offer a service; they should get paid for it. However, it should not be the role of the state to subsidize them with the profit from scalping transferrable permits.

Landowners, guides and outfitters have no logical basis for being guaranteed getting permits for all their non-resident clients. Issuance of non-resident hunting permits should be based on the luck of the draw. I have hunted in Unit 16 most years since 1969. I have applied every year, but there were years that I didn't draw a permit. I was never guaranteed a permit. Why should they?

(3)

I believe the Department's stand on equal opportunity is pretty clear based on the following statement found in its various publications: "Equal opportunity to participate in and benefit from department programs is available to all individuals without regard to race, color, national origin, sex, religion, age or disability".

Half of the non-resident permits are distributed by drawing by unit and therefore are available on a non-discriminatory basis. By contrast, transferrable non-resident deer permits are distributed on a basis which is fraught with opportunity for bias and discrimination.

Based on all these facts pertaining to fairness and equal opportunity, I think the transferrable permit should be abolished.


With regard to the specifics of SB-266, my foremost recommendation would be to resurrect to original version of the bill. In essence, transfer regulatory authority for issuance of permits, both resident and non-resident, back to KDWP.

That may not be possible, therefore we also must look at the wording of the bill before you. It does two things. First, it extends the sunset provision to June 30, 2009. More significantly, it increases the maximum percentage of non-resident permits that may be issued in any one unit from 20 % of the resident permits to 50 % (Section 1(l)(1); page 3, line 30). That change, in reality, increases the potential number of non-resident hunters in some units by 150 %. That wouldn't be the scenario in all units, because some are under-subscribed now. But in units where deer hunting demand is high, it will have the potential, in my opinion, of impacting herd age structure to a point where the numbers of trophy animals could be reduced in future years.

Therefore, my recommendation would be to eliminate this change in wording in SB-266 and retain the current 20 percent. Otherwise, there will be great pressure from landowners, outfitters and perhaps the administration of KDWP itself, to go to the maximum allowed. Unfortunately, it's all about the money.

My final recommendation would be to appoint a joint House-Senate, bi-partisan Interim Study Committee, yet this year, basically to do what the original House Wildlife, Parks and Tourism Committee set out to do. KDWP has already done most of their survey work. They can fill in the gaps in their data as needed and a stronger legislative proposal can be submitted by the Interim Committee before the 2008 Legislative Session. The citizens of Kansas, and all the stake holders in the deer resources of the state, deserve better than a hassle of permit issuance procedures in the Legislature almost every session.

I have appreciated the opportunity to comment. I would be pleased to try to answer any questions you might have either in this hearing, or in private. Thank you.


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4-4

APPENDIX

In 2005, the former House Wildlife, Parks and Tourism Committee requested KDWP to form a Deer Management Task Force to review deer-related statutes and bring back recommendations for Legislative action to simplify and condense those statutes.

The Deer Management Task Force returned to the Committee a year after the original request. The Task Force had a preliminary report and indicated that they wanted to take an additional year to gather public comments and to conduct public surveys. The Task Force established a blog site, recorded e-mail, and telephone and letter input, and conducted 14 public meetings across the state. The public opinion surveys included three items:

Landowner Deer Survey, similar to ones conducted since 1963, however, the survey was divided into 4 segments to address possible biases when the survey was administered at different times of the year. This is a standard survey with names drawn at random from Kansas Ag Statistics records. It is conducted under contract by the Docking Institute of Public Affairs at Fort Hays State University. The names of the survey recipients are both random and confidential. Neither KDWP nor the Docking Institute have the ability to know those names. The survey size was 3,600 with 600 people surveyed each quarter.

An opinion surveys to 18 different groups of landowners, residents, nonresidents, firearms, muzzleloader, archery, hunt-on-your-own-land permit holders, successful and unsuccessful permit applicants, etc. including all KDWP employees. That survey was conducted by KDWP and administered with an on-line response capability for the recipients followed by a paper survey with postage prepaid returns for initial non-respondents. The initial survey had approximately 500 people per group. Except for the complete KDWP personnel list, only people that were drawn at random were allowed to complete that survey. Each person was given a unique number that allowed them access to the on-line survey and prevented duplicate responses.

A telephone interview survey to approximately 600 non-hunting residents Kansas. This survey was also conducted by the Docking Institute. It is our first survey of non-hunters designed to obtain information about their opinions on deer hunting and deer management issues.

The point is that public comments were obtained. from a variety of sources. Any person that wished to make comments was allowed to provide them, and to do so in a manner that allowed others to see their comments. Some people responded many times. On the other hand the department gathered input in an unbiased and confidential manner to allow statistical inference of public opinion. I doubt that very many issues of Kansas public policy have been conducted in a more open and comprehensive manner.



SUBMITTED TESTIMONY

TO: The Honorable John Faber, Chair
And Members of the
House Agriculture and Natural Resources Committee

FROM: Whitney Damron
On behalf of the
Kansas Sport Hunting Association

RE: Substitute for SB 266 – An Act concerning wildlife; concerning big game.

DATE: March 20, 2007

Dear Chairman Faber and Members of the House Agriculture and Natural Resources Committee:

On behalf of the Kansas Sport Hunting Association, I wish to submit this testimony to you in support of SB 266 as written.

As originally introduced, SB 266 would have provided the Kansas Department of Wildlife and Parks with broad discretion to implement changes in deer management policy in Kansas.

While members of the Kansas Sport Hunting Association attended a number of the meetings held by the KDW&P task force on deer management and have been generally supportive of many of the recommendations of that committee, we are hesitant to endorse legislation that would delegate deer management from state law to rules and regulations.

Specifically, the KSHA is concerned with the potential loss of transferable deer tags and believes that state policy on that issue and perhaps other issues should be considered by the Kansas Legislature, not the Commission.

The KSHA supports the recommendations of the Legislature to request the Department bring specific statutory provisions to the Legislature for review and hearings.

On behalf of the Kansas Sport Hunting Association, we thank you for your consideration of our comments.

SENATE BILL No. 146

By Committee on Natural Resources

1-22

Technical Amendments

Waste Tire Subcommittee Recommendations

10 AN ACT relating to solid waste; concerning the waste tire management
11 fund; amending K.S.A. 2006 Supp. 65-3424g and repealing the existing
12 section.

creating a processed waste tire tonnage fee;

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

15 Section 1. K.S.A. 2006 Supp. 65-3424g is hereby amended to read
16 as follows: 65-3424g. (a) There is hereby established in the state treasury
17 the waste tire management fund.

18 (b) Money from the following sources shall be credited to the waste
19 tire management fund:

20 (1) Revenue collected from the excise tax by K.S.A. 65-3424d and
21 amendments thereto;

22 (2) permit application and renewal fees provided for by K.S.A. 65-
23 3424b and amendments thereto;

(3) revenue collected from the
processed waste tire tonnage fee
provided for by New Section 2, and
amendments thereto;
Renumber remaining subsections

24 (3) interest provided for by subsection (e);

25 (4) additional sources of funding such as reimbursements and appro-
26 priations intended to be used for the purposes of the fund;

27 (5) any recoveries from abatement and enforcement actions provided
28 for by K.S.A. 65-3424k and amendments thereto; and

29 (6) any other moneys provided by law.

30 (c) Moneys in the waste tire management fund shall be used only for
31 the purpose of:

32 (1) Paying compensation and other expenses of employing personnel
33 to carry out the duties of the secretary pursuant to K.S.A. 65-3424 through
34 65-3424h, and amendments thereto, but not more than \$250,000;

35 (2) action by the department to implement interim measures to min-
36 imize nuisances or risks to public health or the environment that are or
37 could be created by waste tire accumulations, until the responsible party
38 can fully abate the site or until a state clean-up occurs pursuant to K.S.A.
39 65-3424k, and amendments thereto;

40 (3) action by the department to pay for the removal and disposal or
41 on-site stabilization of waste tires which have been illegally accumulated
42 or illegally managed, when the responsible party is unknown or unwilling
43 or unable to perform the necessary corrective action;

6-2

1 (4) the costs of using contractors to provide: (A) Public education
2 regarding proper management of waste tires; (B) technical training of
3 persons on the requirements of solid waste laws and rules and regulations
4 relating to waste tires; and (C) services described in subsection (i) of
5 K.S.A. 65-3424k, and amendments thereto; and

6 (5) grants to public or private entities for up to ~~75%~~ of the cost to
7 start-up or enhance projects to recycle waste tires or recover energy
8 through waste tire combustion. ~~In the fiscal year beginning July 1, 2003,~~
9 ~~waste tire grants may not exceed \$200,000. In subsequent fiscal years,~~
10 ~~waste tire grants may not exceed the amount of unspent excise tax revenue~~
11 ~~from the preceding year calculated by subtracting all program expenses~~
12 ~~and indirect transfers for department overhead from excise tax revenue;~~
13 and

50%

14 (6) grants to local ~~unit~~ **units** of government to pay up to ~~75%~~ **50%**
15 ~~of the costs to purchase and install playground cover or other~~ **tire de-**
16 **derived products made from recycled** ~~Kansas~~ **waste tires. As used in this**
17 **section, "tire derived products" means athletic field surfacing, play-**
18 **ground cover, horticulture products and molded or extruded rubber**
19 **products made from recycled waste tires.** ←

Note: 2 strikes

The provisions of this paragraph shall expire on June 30, 2010.

20 (d) All grant applications received for waste tire recycling grants shall
21 be reviewed by the solid waste grants advisory committee established
22 pursuant to K.S.A. 65-3426, and amendments thereto. Waste tire recy-
23 cling grants shall be subject to the requirements set forth in subsection
24 (g) of K.S.A. 65-3415, and amendments thereto, related to the misuse of
25 grant funds with the exception that any grant funds recovered by the
26 secretary shall be deposited to the waste tire management fund. Waste
27 tire management funds shall be used only for waste tire recycling grants.
28 Waste tire grants shall not be awarded, nor shall waste tire funds be
29 disbursed to a grant recipient, if the department determines that the grant
30 applicant or recipient is operating in substantial violation of applicable
31 environmental laws or regulations administered by the department.

32 ~~(d)~~ (e) All expenditures from the waste tire management fund shall
33 be made in accordance with appropriations acts upon warrants of the
34 director of accounts and reports issued pursuant to vouchers approved
35 by the secretary.

36 ~~(e)~~ (f) On or before the 10th of each month, the director of accounts
37 and reports shall transfer from the state general fund to the waste tire
38 management fund interest earnings based on: (1) The average daily bal-
39 ance of moneys in the waste tire management fund for the preceding
40 month; and (2) the net earnings rate for the pooled money investment
41 portfolio for the preceding month.

Insert New Sec. 2
(see next page)

Renumber remaining sections

42 Sec. 2. K.S.A. 2006 Supp. 65-3424g is hereby repealed.

43

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

New Sec. 2. (a) There is hereby imposed a state processed waste tire tonnage fee of \$1.00 for each ton of processed waste tires disposed of at any solid waste disposal area in this state. As used in this section, "process" and "waste tire" have the meaning provided by K.S.A. 65-3424, and amendments thereto, and "solid waste disposal area" has the meaning provided by K.S.A. 65-3402, and amendments thereto.

(b) The operator of a solid waste disposal area shall pay the fee imposed by this section.

(c) The secretary of health and environment shall administer, enforce and collect the fee imposed by this section. All laws and rules and regulations of the secretary of revenue relating to the administration, enforcement and collection of the retailers' sales tax shall apply to such fee insofar as they can be made applicable. The secretary of health and environment shall adopt any other rules and regulations as necessary for the efficient and effective administration, enforcement and collection thereof.

(d) The secretary of health and environment shall remit all moneys collected from the fee imposed by this section to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the waste tire management fund created by K.S.A. 65-3424g, and amendments thereto.

6-3

Substitute for SENATE BILL No. 89

By Committee on Agriculture

As Amended by
Committee on
March 20, 2007

2-8

HS AGRICULTURE AND NATURAL
RESOURCES COMMITTEE
3-20-2007
ATTACHMENT 7

9 AN ACT relating to water; concerning the Republican river and the dis-
10 position of moneys recovered from certain litigation; establishing the
11 Republican river water conservation projects fund.

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

13 Section 1. Moneys recovered by the state of Kansas from a settle-
14 ment, judgment or decree in any litigation relating to the Republican river
15 compact shall be deposited in the state treasury as follows:

16 (a) Five percent shall first be credited to the Republican river com-
17 pact compliance and enforcement fund. ~~Of the moneys remaining:~~

18 (b) ~~Thirty three and one third percent shall be credited to the state~~
19 ~~water plan fund for use for water conservation projects; and~~

20 (c) ~~Sixty six and two thirds percent~~ shall be credited to the Repub-
21 lican river water conservation projects fund.

22 Sec. 2. (a) There is hereby established in the state treasury the Re-
23 publican river water conservation projects fund to be administered by the
24 director of the Kansas water office. Revenue received pursuant to sub-
25 section ~~(e)~~ of section ~~3~~ and amendments thereto, shall be credited to the
26 Republican river water conservation projects fund.

27 (b) One-third of the money deposited in this fund may be expended
28 only for ~~conservation projects, utilization efficiency, administrative~~
29 ~~requirements and delivery projects, and similar types of projects set forth~~
30 ~~in subsection (e), in those areas of the state lying in the upper Republican~~
31 ~~river basin in northwest Kansas in all or parts of Cheyenne, Decatur,~~
32 ~~Norton, Phillips, Rawlins, Sheridan, Sherman and Thomas counties.~~

33 (c) ~~One third~~ of the money deposited in this fund may be expended
34 only for conservation projects, utilization efficiency, administrative
35 requirements and delivery projects, and similar types of projects set forth
36 in subsection ~~(e)~~, in those areas of the state lying in the lower Republican
37 river basin between the Kansas/Nebraska border and Milford dam in all
38 or parts of Clay, Cloud, Dickinson, Geary, Jewell, Mitchell, Republic,
39 Riley, Smith and Washington counties.

40 ~~(d) One third of the money deposited in this fund may be expended~~
41 ~~in the area described in either subsection (b) or (c) for the types of pro-~~
42 ~~jects requiring priority as specified in subsection (a) of section 3, and~~
43

Insert Section 1
(see attached)

Renumber remaining
sections accordingly

Strike

(b) All moneys remaining

(b)

2

compliance projects,

(d)

Two-thirds

Priority shall be given to compliance
projects and other projects that have the
primary purpose of compliance with the
Republican river compact.

(d)

Strike

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1 amendments thereto;

2 ~~(e)~~ The types of projects that may be funded under subsections (b) (d) and

3 ~~(c) and (d)~~ include: (1) Efficiency improvements to canals or laterals man-
4 aged and paid for by an irrigation district or projects to improve the
5 operational efficiency or management of such canals or laterals;

6 (2) water use efficiency upgrades;

7 (3) implementation of water conservation of irrigation and other
8 types of water uses;

9 (4) implementation of water management plans or actions by water
10 rights holders;

11 (5) water measurement flumes, meters, gauges, data collection plat-
12 forms or related monitoring equipment and upgrades;

13 (6) artificial recharge, funding the water transition assistance pro-
14 gram; the purchase of water rights for stream recovery or aquifer resto-
15 ration and cost share for state or federal conservation programs that save
16 water;

17 (7) maintenance of the channel and the tributaries of the Republican
18 river;

19 (8) reservoir maintenance or the purchase, lease, construction or
20 other acquisition of existing or new storage space in reservoirs;

21 (9) purchase, lease or other acquisition of a water right; and

22 (10) expenses incurred to construct and operate off-stream storage.

23 Sec. 3. (a) Any person or entity may apply to the director of the
24 Kansas water office for expenditure of moneys in the Republican river
25 water conservation projects fund for the purposes set forth in subsections

26 ~~(b) (c) and (d)~~ of section ~~24~~ and amendments thereto. The director of and 3

27 the Kansas water office and the chief engineer of the Kansas department
28 of agriculture, division of water resources shall review and approve each
29 proposed project for which moneys in the fund will be expended. In
30 reviewing and approving proposed projects the director and the chief
31 engineer shall give priority to: (1) Projects needed to achieve or maintain
32 compliance with the Republican river compact; (2) projects that achieve
33 greatest water conservation efficiency for the general good; and (3) pro-
34 jects that have been required by the division of water resources. Upon
35 such review and approval, the director of the Kansas water office shall
36 request the legislature to appropriate, as a line item, moneys from the
37 fund to pay all or a portion of the costs for a specific project, except that
38 any project which an aggregate of less than \$10,000 will be expended
39 from the fund shall not require a line item appropriation.

40 (b) Interest attributable to moneys in the Republican river water con-
41 servation projects fund shall be credited to the state general fund as pro-
42 vided by K.S.A. 75-4210a, and amendments thereto.

43 (c) All expenditures from the Republican river water conservation

7-3

1 projects fund shall be made in accordance with appropriation acts upon
2 warrants of the director of accounts and reports issued pursuant to vouch-
3 ers approved by the director of the Kansas water office or a designee of
4 the director of the Kansas water office.

5 Sec. 4. (a) There is hereby established in the state treasury the Re-
6 publican river compact compliance and enforcement fund to be admin-
7 istered by the Kansas department of agriculture. Revenue received pur-
8 suant to subsection (a) of section 4, and amendments thereto, shall be
9 credited to the Republican river compact compliance and enforcement
10 fund.

2

11 (b) The money deposited in this fund may be expended only for the
12 purpose of paying all or a portion of the costs incurred by the state for
13 monitoring Nebraska's and Colorado's compliance with the Republican
14 river compact; to resolve any disputes regarding the administration of the
15 compact with Colorado and Nebraska; and to enforce the compact in the
16 Republican river compact administration, an alternative dispute resolu-
17 tion process, or litigation.

18 (c) All expenditures from the Republican river compact compliance
19 and enforcement fund shall be made in accordance with appropriation
20 acts upon warrants of the director of accounts and reports issued pursuant
21 to vouchers approved by the secretary of the Kansas department of ag-
22 riculture or a designee of the secretary of the Kansas department of ag-
23 riculture. No expenditure may be made from this fund without a specific
24 appropriation by the legislature.

25 Sec. 5. This act shall take effect and be in force from and after its
26 publication in the statute book.

Section. 1. (a) Amounts recovered by the state of Kansas from a settlement, judgment or decree in the litigation brought in 1998 by the state of Kansas against the states of Nebraska and Colorado to resolve disputes arising under the Republican river compact shall be deposited in the state treasury and credited as follows:

(1) Until the aggregate amount of moneys credited to the interstate water litigation fund created by K.S.A. 82a-1802, and amendments thereto, equals the aggregate of all amounts certified by the attorney general under subsection (b), 100% shall be credited to the interstate water litigation fund.

(2) When the aggregate amount of moneys credited to the interstate water litigation fund created by K.S.A. 65-3424g, and amendments thereto, equals the aggregate of all amounts certified by the attorney general under subsection (b), all moneys remaining shall be credited to the Republican river compact compliance and enforcement fund and the Republican river water conservation projects fund as directed by section 2.

(b) The attorney general shall certify to the director of accounts and reports any expenses incurred by the state in the litigation brought in 1998 by the state of Kansas against the states of Nebraska and Colorado to resolve disputes arising under the Republican river compact and in preparation for such litigation.

MODEL STATUTE :

82a-1801. Moneys recovered in certain litigation; disposition. (a) Amounts recovered by the state of Kansas from a settlement, judgment or decree in the litigation brought in 1985 by the state of Kansas against the state of Colorado to resolve disputes arising under the Arkansas river compact shall be deposited in the state treasury and credited as follows:

(1) Until the aggregate amount of moneys credited to the interstate water litigation fund equals the aggregate of all amounts certified by the attorney general under subsection (b), 100% shall be credited to the interstate water litigation fund.

(2) When the aggregate amount of moneys credited to the interstate water litigation fund equals the aggregate of all amounts certified by the attorney general under subsection (b), 33 1/3% shall be credited to the state water plan fund for use for water conservation projects and 66 2/3% shall be credited to the water conservation projects fund.

(b) The attorney general shall certify to the director of accounts and reports any expenses incurred by the state in the litigation brought in 1985 by the state of Kansas against the state of Colorado to resolve disputes arising under the Arkansas river compact and in preparation for such litigation.

History: L. 1996, ch. 217, § 3; May 16.