

Approved: Carl Dean Holmes
Date 4/29/94

MINUTES OF THE HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES.

The meeting was called to order by Chairperson Carl Holmes at 3:30 p.m. on February 24, 1994 in Room 526-S of the Capitol.

All members were present except:

Committee staff present: Raney Gilliland, Legislative Research Department
Dennis Hodgins, Legislative Research Department
Mary Torrence, Revisor of Statutes
Shirley Wilds, Committee Secretary

Conferees appearing before the committee:

Others attending: See attached list

Chairperson Holmes opened the meeting referring the Committee to a revised draft from testimony given by Earnie Lehman at yesterday's meeting. (See Attachment #1)

Action on HB 3009:

Bill Bider. Mr. Bider explained the recommended changes indicated in the balloon on **HB 3009** as a result of the recent Waste Tire Subcommittee meeting. (See Attachment #2)

Representative Hendrix moved to adopt the balloon. Representative Alldritt seconded.

Representative Gatlin made a motion to table **HB 3009**. Motion seconded by Representative Shore. Motion carried.

Action on HB 3039:

Representative Grotewiel moved to adopt the balloon. Representative McKinney seconded. Motion carried. (See Attachment #3).

Representative Grotewiel moved to adopt the balloon as shown in Attachment 3 to be incorporated into Attachment 3 balloon. Representative Alldritt seconded. Motion carried. (See Attachment #4).

Representative Gatlin moved to adopt an amendment, Page 2, line 23, Section 2 (a), "The state corporation commission shall adopt rules and regulations governing rates for enhanced emergency telephone service, which rates shall not exceed the cost of such service to the telecommunications public utility offering the service." Representative Lloyd seconded the motion. Motion carried.

Representative Grotewiel moved to add, on Page 1, line 41, "700" to the access code service. Representative Webb seconded. Motion carried.

Representative Powers moved to report **HB 3039** adversely. Representative Lloyd seconded the motion. Motion failed.

Representative Gatlin moved to recommend **HB 3039** favorably, as amended. Representative Alldritt seconded. Motion carried.

Action on HB 3005:

Representative Grotewiel moved to adopt the balloon as shown in Attachment 5. Representative Weinhold seconded the motion. Motion carried. (See Attachment #5).

Representative Myers moved to report **HB 3005** adversely. Representative Powers seconded the motion. Motion carried.

Action on HB 2819:

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES, Room 526-S Statehouse, at 3:30 p.m. on February 24, 1994.

Representative Lawrence reported to the Committee that a great deal of time was spent on **HB 2819** in the Subcommittee and explained the end result of their work.

Representative Lawrence moved to adopt the balloon as shown in Attachment #5. Representative Freeborn seconded. Motion carried.

Representative Lawrence moved to adopt conceptual motion as is stated in memo from Michael Armstrong, to incorporate into the balloon (Attachment #6) for **HB 2819**. Representative Mills seconded. Motion carried.
(See Attachment #7)

Representative Lawrence moved to pass **HB 2819** favorably, as amended. Representative Mills seconded.

Representative Charlton moved to table **HB 2819**. Representative Alldritt seconded. Motion failed.

Representative Lawrence's motion to pass **HB 2819** favorably, as amended, carried on a division call. Representative Alldritt requested to be recorded as voting nay.

Representative apprised the Committee that his Subcommittee is not recommending **HB 2820**, and it was by unanimous vote that they request an interim study on the issue of sludge.

Upon completion of its business, the meeting adjourned at 5:30 p.m.

The next meeting is scheduled on call of the Chair.

Impact of HB 3005 on Kansas Utilities

(corrected and revised 2/24/94)

Affected Utility	1992 Sales (MWhr)	Renewable Energy Sales (1)		Renewable Generation (2') rating of all units	
		1996 (MWhr)	2000 (MWhr)	1996 (MW)	2000 (MW)
Western Resources *	16576799	331536	828840	75.69	189.23
West Plains	2864236	57285	143212	13.08	32.70
Kansas City Power & Light	3557904	71158	177895	16.25	40.62
Empire District Electric**	408231	8165	20412	1.86	4.66
Midwest Cooperative	828730	16575	41437	3.78	9.46
Wheatland Cooperative	543128	10863	27156	2.48	6.20
Pioneer Cooperative	193373	3867	9669	0.88	2.21
Total	24972401	499448	1248620	114.03	285.07

Note: Sales are based on 1992 annual reports (FERC form 1 and state amendments)

* KPL and KGE figures combined

** 1992 KS customers were 9733, this assumes they grow past 10,000

(1) based on 2% and 5% of 1992 sales (1992 sales were low this is conservative)

(2) based on 100% of rated generation 50% of the time (extremely optimistic for wind, unachievable for solar)

(2') corrected and revised formula error 2/24/94

Attachment #1
House Ex NR
2-24-94

House Ex NR
2-24-94
Attachment #1

HOUSE BILL No. 3009

By Committee on Energy and Natural Resources

2-11

AN ACT concerning waste tires; amending K.S.A. 65-3424, 65-3424a, 65-3424b, 65-3424f and 65-3424g and repealing the existing sections; also repealing K.S.A. 1993 Supp. 65-3424j.

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

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

(a) "Abatement" means the processing or removing to an approved storage site of waste tires which are creating a danger or nuisance or risk to public health or the environment to an approved storage site or disposal site.

(b) "Beneficial use" means the use or storage for use of waste tires, approved by the director, in a way that creates an on-site economic benefit, other than from processing or recycling, to the owner of the tires but does not create a nuisance or a risk to health or the environment.

(c) "Director" means the director of the division of environment.

(d) "Dispose" means to deposit, dump, spill or place any waste tire at a nonpermitted facility or site, but shall not include making waste tires available to the department of wildlife and parks or to farmers, ranchers or feedlot operators who have a beneficial use, as defined by this statute, for the waste tires.

(e) "Farmer" or "rancher" means a person who is engaged full time in the production of agricultural crops or livestock and who receives greater than 50% of the person's income from the production of those crops or livestock.

(f) "Feedlot operator" means an operator, as defined by K.S.A. 47-1501 and amendments thereto.

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

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

(i) "Secretary" means the secretary of health and environ-

Preapproved beneficial uses include use of waste tires for artificial reefs, playground equipment, highway crash barriers or boat dock bumpers; for holding down covers of agricultural products or equipment, in livestock holding pens; for feed bunkers; and for temporary use at construction sites.

Energy & Natural Resources
Attachment #2
2/24/94

Attachment #2
2/24/94

1 ment.

2 (j) "Processing" means shredding, cutting in half circumferen-
3 tally, cutting into at least four parts with no part being greater
4 than 1/4 of the original tire size, chipping, crumbing, baling, incin-
5 erating for fuel recovery purposes or otherwise altering waste tires
6 so that they are no longer whole.

7 (f) (k) "Store" or "storage" means the placing any accumulation
8 of waste tires in a manner that does not constitute disposal of the
9 waste tires. Storage includes the beneficial use of waste tires
10 as fences, silo covers and erosion control, and such other ben-
11 efitial uses as the secretary determines do not create health or
12 environmental risks.

13 (g) (l) "Tire" means a continuous solid or pneumatic rubber cov-
14 ering encircling the wheel of a vehicle, aircraft or trailer.

15 (m) "Tire monofill" means a permitted solid waste landfill, landfill
16 cell, or aboveground storage area where only processed waste tires
17 are placed for storage or disposal.

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

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

22 (o) "Trailer" means a vehicle, with or without motive power,
23 designed for carrying persons or property and for being drawn by
24 a motor vehicle.

25 (p) "Vehicle" means every device in, upon, or by which any
26 person or property is or may be transported or drawn upon a
27 highway except devices moved by human power or used exclusively
28 upon stationary rails or tracks.

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

31 (k) (r) "Waste tire collection center" means a site where used
32 or waste tires are collected from the public prior to being offered
33 for recycling and where and fewer than 1,000 tires are kept on
34 the site on any given day at all times.

35 (l) (s) "Waste tire processing facility" means a site where equip-
36 ment is used to cut, burn or otherwise alter whole waste tires
37 so that they are no longer whole process waste tires.

38 (m) (t) "Waste tire site" means a site at which 1,000 or more
39 whole tires are accumulated at any time.

40 (u) "Waste tire transporter" means a person who transports
41 waste tires to a permitted waste tire collection center, permitted
42 waste tire processing facility or permitted solid waste disposal area,
43 for the purpose of storage, processing or disposal of waste tires.

(deletion) original

2-2

2-2

1 Tire transporter does not include:

2 (1) Solid waste transporters or collectors who collect mixed res-
3 idential solid waste and who transport fewer than five tires at a
4 time from any location; or

or fewer

5 (2) persons who transport fewer than five tires for disposal.

(deletion)

6 Sec. 2. K.S.A. 65-3424a is hereby amended to read as follows:

7 65-3424a. (a) The owner or operator of any waste tire site, within
8 six months after the effective date of this act, shall provide the
9 department with information concerning the site's location and
10 size and the approximate number of waste tires that are ac-
11 cumulated at the site and shall initiate steps to comply with
12 subsection (b) a retail tire business shall maintain a yearly record
13 accounting for the number of new and used tires sold to the public
14 and the number of waste tires collected from the public and the
15 method of disposal of collected tires. Tire retailers shall make avail-
16 able to the department on request all records concerning waste tires
17 collected and disposed during the preceding three years.

(deletion)

in the ordinary course of business

18 (b) On or after July 1, 1990, No person shall:

19 (1) Maintain a waste tire site unless: (A) such site is which is
20 not an integral part of the person's waste tire processing facility; or
21 (B) the tires accumulated at such site are for use in the person's
22 tire retreading business;

23 (2) dispose of waste tires in the state unless the waste tires
24 are disposed of for processing, or collected for processing, at
25 a solid waste processing facility, a waste tire site which is an
26 integral part of a waste tire processing facility, a waste tire
27 processing facility or a waste tire collection center or are made
28 available to: (A) The department of wildlife and parks for use
29 by the department; or (B) a person engaged in a farming or
30 ranching activity, including the operation of a feedlot as defined
31 by K.S.A. 47-1501, and amendments thereto, as long as the
32 accumulation has a beneficial use to the person accumulating
33 the tires and (i) the secretary determines that the use has no
34 adverse environmental effects and (ii) the accumulation is in
35 accordance with all applicable zoning regulations; or

36 (3) deposit waste tires in a landfill as a method of ultimate
37 disposal, except that the secretary, by rules and regulations,
38 may (A) authorize the final disposal of waste tires at a permitted
39 solid waste disposal facility provided the tires have been cut
40 into sufficiently small parts to assure their proper disposal or
41 are utilized as part of a proven and approved leachate collection
42 system in their original state and (B) allow waste tire material
43 which has been cut into sufficiently small parts to be used as

Reinstate this section

Reinstate this line

1 ~~daily cover material for a landfill;~~

2 ~~(2) deposit baled waste tires except in a permitted tire monofill~~
 3 ~~or cell within a permitted landfill unless approved by the director;~~

4 ~~(3) receive money in exchange for waste tires unless the person~~
 5 ~~holds a permit issued by the secretary under K.S.A. 65-3424b and~~
 6 ~~amendments thereto; or~~

7 ~~(4) accumulate or store waste tires or waste tire products for~~
 8 ~~speculative purposes unless the director finds that the tires or tire~~
 9 ~~products have an economic value.~~

10 Sec. 3. K.S.A. 65-3424b is hereby amended to read as follows:
 11 65-3424b. (a) The secretary shall establish a system of permits for
 12 waste tire processing facilities ~~and permits for waste tire collectors~~
 13 ~~and, waste tire transporters and waste tire collection centers.~~ Such
 14 permits shall be issued for a period of one year and shall require
 15 an application fee established by the secretary in an amount not
 16 exceeding \$250 per year.

17 (b) The secretary shall establish *technical and financial* standards
 18 for waste tire processing facilities and associated waste tire sites,
 19 waste tire collection centers and waste tire ~~collectors transporters.~~

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

21 (1) Own or operate a waste tire processing facility or waste tire
 22 collection center or act as a waste tire ~~collector transporter~~ unless
 23 such person holds a valid permit issued therefor pursuant to sub-
 24 section (a); or

25 (2) own or operate a waste tire processing facility or waste tire
 26 collection center or act as a waste tire ~~collector transporter~~ except
 27 in compliance with the standards established by the secretary pur-
 28 suant to subsection (b).

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

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

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

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

38 (4) the department of wildlife and parks; or

39 (5) a person engaged in a farming or ranching activity, in-
 40 cluding the operation of a feedlot as defined by K.S.A. 47-1501,
 41 and amendments thereto *farmer, rancher or feedlot operator*, as
 42 long as the accumulation of waste tires has a beneficial use *approved*
 43 *by the director; or*

(4)

(5)

(6)

or unless the person is a tire retailer who
 collects waste tires from the public in the
 ordinary course of business

(deletion)

24

(6) a permitted solid waste landfill where waste tires are temporarily stored prior to processing;

; or

(7) a person who receives a variance from the director to transport greater than 5 tires to a permitted facility.

Sec. 4. K.S.A. 65-3424f is hereby amended to read as follows: 65-3424f. (a) On or before December 31, 1991, The secretary shall establish a program to make grants to private companies, cities and counties which, individually or collectively, submit to the secretary department of health and environment plans, approved by the secretary director;

base and abatement

Abatement grants shall be used to abate waste tire accumulations. Base grants shall be used to:

- (1) Enforce laws relating to collection and disposal of tires;
- (2) encourage recycling of tires; or
- (3) develop and implement management plans for collection, abatement, recycling and disposal of tires;
- (4) develop and implement educational programs and materials for informing the public about waste tire management; or
- (5) develop and implement abatement plans for waste tire accumulations.

(b) Each private company, city, county or group of private companies, cities or counties submitting a plan approved by the secretary director shall be eligible for grants pursuant to this section on the basis of priority as determined by the secretary. No recipient shall be eligible to receive such grants for more than two consecutive fiscal years. The secretary shall require any private company receiving a grant pursuant to this section to file with the secretary a surety bond, cash bond or other security in an amount and form approved by the secretary and conditioned on the use of the grant in accordance with the plan approved by the secretary director.

No recipient shall be eligible to receive base grants for more than two consecutive fiscal years. No such limitation shall apply to abatement grants.

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

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

Sec. 5. K.S.A. 65-3424g is hereby amended to read as follows: 65-3424g. (a) There is hereby established in the state treasury the waste tire management fund.

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

- (1) Making grants as provided by K.S.A. 65-3424f, and amend-

ments thereto; and

(2) ~~paying compensation and other expenses of employing personnel to carry out the duties of the secretary pursuant to K.S.A. 65-3424 through 65-3424h, and amendments thereto, but not more than 0% or \$130,000, whichever amount is less, of the moneys credited to the fund during the fiscal year shall be used for such purpose~~

(2) *payment of the administrative, technical and legal costs incurred by the department of health and environment in carrying out the provisions of K.S.A. 65-3424 through 65-3424i, and amendments thereto; and*

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

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

New Sec. 6. (a) The secretary may undertake appropriate abatement action and may enter into contracts, including grant contracts, for abatement of waste tire accumulations, utilizing funds from the waste tire management fund.

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

(c) Whenever the secretary has reason to believe that an owner or operator has accumulated waste tires that create a nuisance or risk to public health or the environment, the secretary may require that owner or operator to abate the accumulation. Such abatement shall be performed in accordance with a plan approved by the director. The secretary shall give notice, by letter, to the owner and operator that the waste tires constitute a nuisance or risk to public health or the environment, and that the waste tire accumulation must be abated within a specified period. If the owner or operator fails to take the required action within the specified period, the secretary may undertake abatement action utilizing funds from the waste tire management fund. All costs incurred by the secretary in abatement of waste tires accumulated after July 1, 1990, including administrative and legal expenses, are recoverable from an owner or operator and may be recovered in a civil action in district court

brought by the secretary. Abatement costs recovered under this section shall be remitted to the state treasurer, who shall deposit the entire amount in the state treasury and credit it to the waste tire management fund. An action to recover abatement costs may be commenced at any stage of an abatement.

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

New Sec. 7. (a) Any person adversely affected by any order or decision of the secretary pursuant to K.S.A. 65-3424 through 65-3424i, and amendments thereto, may, within 15 days of service of the order or decision, request in writing a hearing. Hearings under this section shall be conducted in accordance with the provisions of the Kansas administrative procedure act.

(b) Any person adversely affected by any action of the secretary pursuant to this act may obtain review of such action in accordance with the act for judicial review and civil enforcement of agency actions.

Sec. ~~8~~. K.S.A. 65-3424, 65-3424a, 65-3424b, 65-3424f and 65-3424g and K.S.A. 1993 Supp. 65-3424j are hereby repealed.

Sec. ~~9~~. This act shall take effect and be in force from and after its publication in the Kansas register.

Sec. 8. K.S.A. 65-3424i is hereby amended to read as follows: 65-3424i.

(a) A tire retailer shall accept waste tires from a customer when the tire retailer has removed the waste tires in order to mount replacement tires.

(b) No tire retailer shall offer any discount to customers who retain their old tires.

(c) A tire retailer may ask customers at the time of sale if they wish to retain their old tires.

HOUSE BILL No. 3039

By Committee on Judiciary

2-15

8 AN ACT concerning telephone call identification service; enforce-
9 ment by the state corporation commission.

10

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

12 Section 1. (a) The state corporation commission, by rule and
13 regulation, shall require that every telephone call identification serv-
14 ice offered in this state by a telephone corporation, or by any other
15 person or corporation that makes use of the facilities of a telephone
16 corporation, shall allow a caller to withhold display of the caller's
17 telephone number, on an individual basis, from the telephone in-
18 strument of the individual receiving the telephone call placed by
19 the caller.

20 (b) There shall be no charge to the caller who requests that the
21 caller's telephone number be withheld from the recipient of any call
22 placed by the caller.

23 (c) The state corporation commission shall direct every telephone
24 corporation to notify the corporation's subscribers that such sub-
25 scribers' calls may be identified to a called party either:

26 (1) Thirty or more days before the telephone corporation com-
27 mences to participate in the offering of a call identification service;

28

29 ~~or~~ (2) by September 1, 1994, if the telephone corporation is par-
30 ticipating in a call identification service prior to July 1, 1994.

31 (d) This section does not apply to any of the following:

32 (1) An identification service which is used within the same limited
33 system, including, but not limited to, a Centrex or private branch
34 exchange system, as the recipient telephone;

35 (2) an identification service which is used on a public agency's
36 emergency telephone line or on the line which receives the primary
37 emergency telephone number;

38 (3) any identification service provided in connection with legally
39 sanctioned call tracing or tapping procedures; or

40 (4) any identification service provided in connection within any
41 "800" or "900" access code telephone service until the telephone
42 corporation develops the technical capability to comply with sub-
43 section (a), as determined by the state corporation commission.

a per call

, on a per call basis,

and to provide to customers directions for
withholding a caller's telephone number

or

, by September 1, 1994; and (2) annually
thereafter in a customer billing.

(d) Every telephone directory published for
distribution in an area of this state served by
telephone call identification service shall advise
that the service is available and provide
directions for withholding a caller's telephone
number

(f) Nothing in this section shall be
construed to prohibit a telecommunications pub-
utility from providing for a caller to withh
the caller's telephone number on a per line basis.

bb/bc/c

#2

HOUSE BILL No. 3039

By Committee on Judiciary

2-15

8 AN ACT concerning telephone call identification service; enforce-
9 ment by the state corporation commission.

10
11 *Be it enacted by the Legislature of the State of Kansas:*

12 Section 1. (a) The state corporation commission, by rule and
13 regulation, shall require that every telephone call identification serv-
14 ice offered in this state by a ~~telephone corporation~~, or by any other
15 person or corporation that makes use of the facilities of a ~~telephone~~
16 ~~corporation~~, shall allow a caller to withhold display of the caller's
17 telephone number, on an individual basis, from the telephone in-
18 strument of the individual receiving the telephone call placed by
19 the caller.

telecommunications public utility

20 (b) There shall be no charge to the caller who requests that the
21 caller's telephone number be withheld from the recipient of any call
22 placed by the caller.

23 (c) The state corporation commission shall direct every ~~telephone~~
24 ~~corporation to notify the corporation's subscribers that such sub-~~
25 ~~scribers' calls may be identified to a called party either:~~

telecommunications public utility to notify the
utility's customers that the customers'

26 (1) Thirty or more days before the ~~telephone corporation~~ com-
27 mences to participate in the offering of a call identification service;
28 or

telecommunications public utility

29 (2) by September 1, 1994, if the ~~telephone corporation~~ is par-
30 ticipating in a call identification service prior to July 1, 1994.

31 (d) This section does not apply to any of the following:

32 (1) An identification service which is used within the same limited
33 system, including, but not limited to, a Centrex or private branch
34 exchange system, as the recipient telephone;

35 (2) an identification service which is used on a public agency's
36 emergency telephone line or on the line which receives the primary
37 emergency telephone number;

38 (3) any identification service provided in connection with legally
39 sanctioned call tracing or tapping procedures; or

telecommunications public utility

40 (4) any identification service provided in connection within any
41 "800" or "900" access code telephone service until the ~~telephone~~
42 ~~corporation~~ develops the technical capability to comply with sub-
43 section (a), as determined by the state corporation commission.

(e) As used in this section,
"telecommunications public utility" has th
meaning provided by K.S.A. 66-1,187 and amendments
thereto.

#4

Attachment #3

2/24/29

6/6/94
c
George H. Brown
42

HOUSE BILL No. 3005

By Committee on Energy and Natural Resources

2-11

8 AN ACT concerning certain electric public utilities; imposing re-
9 quirements regarding acquisition of energy and capacity from re-
10 newable sources.

11
12 *Be it enacted by the Legislature of the State of Kansas:*

13 Section 1. (a) As used in this section and section 2:

14 (1) "Electric public utility" means an electric public utility, as
15 defined in K.S.A. 66-101a and amendments thereto, which is subject
16 to the jurisdiction of the state corporation commission and has more
17 than 10,000 retail customers.

18 (2) "Renewable energy source" means wind, biomass, solar ther-
19 mal system, photovoltaics and any other renewable source of energy.

20 (b) Unless otherwise required by law, on and after January 1,
21 1996, an electric public utility shall have acquired energy and ca-
22 pacity from one or more renewable energy sources in the amount
23 provided by subsection (c) before such utility: (1) Enters into any

24 new agreement, or extends any existing agreement, for acquisition
25 of ~~energy or~~ capacity from generating facilities located outside Kansas
26 or from an independent power producer; or (2) enters into any
27 contract for design ~~for preliminary studies~~ associated with the con-

28 struction of new nonrenewable energy generating facilities or ad-
29 ditions to existing nonrenewable energy generating facilities. Such
30 energy or capacity may be acquired, independently or in cooperation
31 with other electric utilities, through purchase agreements, purchases
32 from independent power producers or construction and ownership
33 of renewable energy facilities.

34 (c) The amount of energy and capacity that an electric public
35 utility must acquire from renewable energy sources under subsection
36 (b) shall be:

37 (1) Before January 1, 2000, not less than 2% of the total electrical
38 energy sold annually by such utility for ultimate consumption in
39 Kansas; and

40 (2) on or after January 1, 2000, not less than 5% of the total
41 electrical energy sold annually by such utility for ultimate con-
42 sumption in Kansas.

43 (d) Natural gas may be used to produce not more than 49% of

in excess of 50 mW

having a capacity in excess of 50 mW

1%

2%

60%

Energy, Natural Resources
Committee #17
2/24/94

Energy, Natural Resources
Committee #17
2/24/94

1 ~~[electrical energy provided by]~~ a renewable energy generating facility the design capacity of
2 ~~[using intermittent renewable resources]~~ if necessary to meet an elec- due to intermittent availability
3 tric public utility's requirements for dispatchable capacity, but gen-
4 eration from natural gas shall not be considered as meeting all or
5 part of the requirement of subsection (c).

6 (e) The requirements of this section shall not apply if the state
7 corporation commission determines that acquiring energy and ca-
8 pacity from renewable energy resources will result in an average
9 levelized cost that exceeds the cost of the least costly alternative
10 source:

11 (1) By 15% or more, before January 1, 2000; or

12 (2) by 10% or more, on or after January 1, 2000.

13 Calculation of levelized cost shall be for a period equal to the
14 projected life of the renewable energy system and shall include
15 anticipated changes in fuel costs and the risk of future federally-
16 mandated environmental surcharges for the combustion of fossil fuels
17 for electrical generation.

18 Sec. 2. Subject to approval of the state corporation commission,
19 projects of electric public utilities intended for research or evaluation
20 of renewable energy technologies shall be exempt from the provisions
21 of the Kansas electric generation facility siting act if the statewide
22 total of all of such projects does not exceed 100 mW in rated re-
23 newable energy system generating capacity.

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

5-2

HOUSE BILL No. 2819

By Committee on Energy and Natural Resources

2-2

AN ACT concerning pollution control; relating to regulation of certain
sludges and residues; requiring certain permits; amending K.S.A.
65-161, 65-163, 65-164, 65-165, 65-166, 65-166a, 65-167, 65-169,
65-170, 65-170b, 65-170g and 65-171d and repealing the existing
sections; also repealing K.S.A. 65-170a.

water treatment

65-163 and repealing the existing
section

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

Section 1. K.S.A. 65-161 is hereby amended to read as follows:
65-161. As used in this act section and in K.S.A. 65-163, 65-164,
65-165, 65-166, 65-166a, 65-167, 65-169 and 65-170, 65-170b through
65-170g and 65-171a through 65-171i, and amendments thereto:

(a) "Waters of the state" means all streams and springs, and
all bodies of surface and subsurface waters within the bound-
aries of the state;

(a) "Direct discharge" means the discharge of sewage or munic-
ipal water treatment residues into waters of the state.

(b) "Discharge" means, when used without qualification: (1) The
causing or permitting of sewage or municipal water treatment res-
idues to enter, either directly or indirectly, into waters of the state;
or (2) the causing or permitting of domestic sewage sludge or mu-
nicipal water treatment residues to enter, either directly or indi-
rectly, onto or into soils of the state. Discharge does not include
the placement or storage of municipal water treatment residues in
a basin which is located on land under the ownership and control
of the entity producing such residues and which is permitted as part
of the public water supply system pursuant to K.S.A. 65-163 and
amendments thereto.

(c) "Domestic sewage sludge" means any solid, semisolid or liquid
residue generated during the treatment, recycling or reclamation of
human or household sewage, or such sewage mixed with other sew-
age, in a treatment works. Domestic sewage sludge includes but is
not limited to domestic septage; scum or solids removed in primary,
secondary or advanced waste water treatment processes; and any
material derived from sewage sludge. Domestic sewage sludge does
not include ash generated during the firing of sewage sludge in a
sewage sludge incinerator or grit and screenings generated during

2/24/94
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attest my hand and seal
this 24th day of February 1991

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~~preliminary treatment of sewage in a treatment works.~~

(e) (d) "Indirect discharge" means the introduction of pollutants into a publicly owned treatment works from any nondomestic source; and.

(d) "direct discharge" means the discharge of sewage into waters of the state.

(e) "Municipal water treatment residues" means all solid, semi-solid or liquid residues generated during the treatment of water in a public water supply treatment works.

(f) "Person" means any individual, association, partnership, corporation, institution, government or other public or private entity.

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

(h) "Sewage" means: (1) Any substance that contains any of the waste products or excrementitious or other discharges from the bodies of human beings or animals, or chemical or other wastes from domestic, manufacturing or other forms of industry; (2) any substance which, due to its release into the environment, is no longer capable of being used for its original purpose; and (3) any domestic sewage sludge. Sewage does not include municipal water treatment residues.

(i) "Soils of the state" means all soils within the boundaries of the state.

(j) "Waters of the state" means all streams and springs, and all bodies of surface and subsurface waters within the boundaries of the state.

Section 1.

Sec. 2. K.S.A. 65-163 is hereby amended to read as follows: 65-163. (a) (1) No person shall operate a public water supply system within the state without a public water supply system permit from the secretary. An application for a public water supply system permit shall be submitted for review and approval prior to construction and shall include: (A) A copy of the plans and specifications for the construction of the public water supply system or the extension thereof; (B) a description of the source from which the water supply is to be derived; (C) the proposed manner of storage, purification or treatment for the supply; and (D) such other data and information as required by the secretary of health and environment. No source of water supply in substitution for or in addition to the source described in the application or in any subsequent application for which a public water supply system permit is issued shall be used by a public water supply system, nor shall any change be made in the manner of storage, purification or treatment of the water supply without an additional public water supply system permit obtained in a manner similar to that prescribed by this section from the

1 secretary.

2 (2) Whenever application is made to the secretary for a public
3 water supply system permit under the provisions of this section, it
4 shall be the duty of the secretary to examine the application without
5 delay and, as soon as possible thereafter, to grant or deny the public
6 water supply system permit subject to any conditions which may be
7 imposed by the secretary to protect the public health and welfare.

8 (b) (1) Whenever a complaint is made to the secretary by any
9 city of the state, by a local health officer, or by a county or joint
10 board of health concerning the sanitary quality of any water supplied
11 to the public within the county in which the city, local health officer
12 or county or joint board of health is located, the secretary shall
13 investigate the public water supply system about which the complaint
14 is made. Whenever the secretary has reason to believe that a public
15 water supply system within the state is being operated in violation
16 of an applicable state law or an applicable rule and regulation of the
17 secretary, the secretary may investigate the public water supply
18 system.

19 (2) Whenever an investigation of any public water supply system
20 is undertaken by the secretary, it shall be the duty of the supplier
21 of water under investigation to furnish to the secretary information
22 to determine the sanitary quality of the water supplied to the public
23 and to determine compliance with applicable state laws and rules
24 and regulations. The secretary may issue an order requiring changes
25 in the source or sources of the public water supply system or in the
26 manner of storage, purification or treatment utilized by the public
27 water supply system before delivery to consumers, or distribution
28 facilities, collectively or individually, as may in the secretary's judg-
29 ment be necessary to safeguard the sanitary quality of the water and
30 bring about compliance with applicable state law and rules and reg-
31 ulations. The supplier of water shall comply with the order of the
32 secretary.

33 (c) (1) ~~A public water supply system may place or store municipal~~
34 ~~water treatment residues in basins on land under the ownership and~~
35 ~~control of the entity operating the public water supply system if~~
36 ~~such storage or placement is approved and permitted by the secretary~~
37 ~~under this section as part of the public water supply system. No~~
38 ~~discharge permit under K.S.A. 65-165 and amendments thereto shall~~
39 ~~be required for such system to place or store such residues in such~~
40 ~~basins as long as the land remains under the ownership and control~~
41 ~~of the entity operating the public water supply system. If the entity~~
42 ~~operating the public water supply system conveys title or otherwise~~
43 ~~transfers the land where the municipal water treatment residue ba-~~

As used in this subsection (c), "municipal water treatment residues" means any solid, semisolid or liquid residue generated during the treatment of water in a public water supply treatment works.

(2)

1 ~~sins are located, a discharge permit shall then be required pursuant~~
 2 ~~to K.S.A. 65-165 and amendments thereto. The secretary shall issue~~
 3 ~~such permit to the successor entity if the secretary determines that:~~
 4 ~~(A) The basins were constructed and maintained in compliance with~~
 5 ~~the permit issued under this section; and (B) no conditions have~~
 6 ~~changed that would have been cause for revocation of the permit~~
 7 ~~issued under this section.~~

8 (2) ~~The placement or storage of municipal water treatment res-~~
 9 ~~idues in basins permitted under this section shall be separately and~~
 10 ~~exclusively permitted by the secretary as a matter of state preemption~~
 11 ~~and to the exclusion of county and municipal regulation. Application~~
 12 ~~by the operator of a public water supply system for a permit for~~
 13 ~~such placement or storage of municipal water treatment residues~~
 14 ~~under this section shall be submitted for review and approval prior~~
 15 ~~to construction, transportation, processing, placement or storage and~~
 16 ~~shall include: (A) A copy of the plans and specifications for the~~
 17 ~~construction of any means of conveyance or processing, any depos-~~
 18 ~~itory basins or any storage facilities, or the extension or expansion~~
 19 ~~thereof; and (B) any other data and information required by the~~
 20 ~~secretary.~~ (4)

21 ~~(3) Whenever complaint is made to the secretary by the mayor~~
 22 ~~of any city of the state, by a local health officer or by a county or~~
 23 ~~joint board of health, or whenever an investigation is undertaken~~
 24 ~~at the initiative of the secretary, relating to any alleged violation of~~
 25 ~~the provisions of the permit for placement or storage of municipal~~
 26 ~~water treatment residues, the operator shall furnish all information~~
 27 ~~the secretary requires. If the secretary finds that there is any vio-~~
 28 ~~lation of the terms of the permit, that the means of placement and~~
 29 ~~storage exceed the terms of the permit or that any other condition~~
 30 ~~exists by reason of the means of placement and storage that may be~~
 31 ~~detrimental to the health of any inhabitants of the state or to the~~
 32 ~~environment, the secretary shall have the authority to issue an order~~
 33 ~~amending the permit or otherwise requiring the operator to perform~~
 34 ~~remedial measures to curtail or prevent such detrimental conditions.~~

35 ~~(e) (d) Any action of the secretary pursuant to this section is~~
 36 ~~subject to review in accordance with the act for judicial review and~~
 37 ~~civil enforcement of agency actions. The court on review shall hear~~
 38 ~~the case without delay.~~

39 ~~(d) (e) The secretary shall establish by rule and regulation a~~
 40 ~~system of fees for the inspection and regulation of public water~~
 41 ~~supplies. No such fee shall exceed \$.002 per 1,000 gallons of water~~
 42 ~~sold at retail by a public water supply system. All such fees shall~~
 43 ~~be paid quarterly in the manner provided for fees imposed on retail~~

resulting from sedimentation, coagulation or softening treatment processes in basins on land under the ownership and control of the public water supply system operator provided that such storage or placement is approved and permitted by the secretary under this section as part of the public water supply system.

(3) The secretary shall adopt uniform and comprehensive rules and regulations for the location, design and operation of such basins. Such rules and regulations shall require permit applications by the public water suppliers for such basins to include a copy of the plans and specifications for the location and construction of each basin, the means of conveyance of the treatment residues to such basins, the content of treatment residues, the proposed method of basin operation and closure, the method of any anticipated expansion and

in such basins, the public water supplier

(5) Any public water supply system operator may apply to the secretary for a permit to discharge municipal water treatment residues into the waters of the state pursuant to K.S.A. 65-165 and amendments thereto.

1 sales by public water supply systems pursuant to K.S.A. 82a-954 and
2 amendments thereto. The secretary shall remit to the state treasurer
3 all moneys collected for such fees. Upon receipt thereof, the state
4 treasurer shall deposit the entire amount in the state treasury and
5 credit it to the public water supply fee fund created by K.S.A. 65-
6 163c.

7 (e) (f) There is hereby created an advisory committee to make
8 recommendations regarding fees to be adopted by the secretary un-
9 der subsection (d) (e) and to advise the secretary regarding ex-
10 penditure of moneys in the public water supply fee fund created by
11 K.S.A. 65-163c and amendments thereto. Such advisory committee
12 shall consist of one member appointed by the secretary to represent
13 the department of health and environment, one member appointed
14 by the director of the Kansas water office to represent such office
15 and two members appointed by the secretary as follows: One from
16 three nominations submitted by the Kansas section of the American
17 waterworks association, and one from three nominations submitted
18 by the Kansas rural water association. Members of the advisory
19 committee shall serve without compensation or reimbursement of
20 expenses.

21 ~~Sec. 3. K.S.A. 65-164 is hereby amended to read as follows: 65-~~
22 ~~164. (a) No person, company, corporation, institution or munic-~~
23 ~~ipality shall place or permit to be placed or discharge or permit~~
24 ~~to flow into any of the waters of the state any sewage, except~~
25 ~~as hereinafter provided Except as provided by law, no person shall~~
26 ~~discharge or permit to be discharged: (1) Any sewage or municipal~~
27 ~~water treatment residues into any waters of the state; or (2) any~~
28 ~~domestic sewage sludge or municipal water treatment residues onto~~
29 ~~or into any soils of the state.~~

30 (b) This act shall not prevent the discharge of sewage from any
31 public sewer system owned and maintained by a municipality or
32 sewerage company, if such sewer system was in operation and was
33 discharging sewage into the waters of the state on March 20, 1907,
34 but this exception shall not permit the discharge of sewage from any
35 sewer system that has been extended subsequent to such date, nor
36 shall it permit the discharge of any sewage which, upon investigation
37 by the secretary of health and environment as hereinafter pro-
38 vided, is found to be polluting the waters of the state in a manner
39 prejudicial to the health of the inhabitants thereof.

40 (b) For the purposes of this act, "sewage" means any sub-
41 stance that contains any of the waste products or excrementi-
42 tious or other discharges from the bodies of human beings or
43 animals, or chemical or other wastes from domestic, manufae-

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1 ~~of the state are not being protected from pollution resulting from~~
 2 ~~oil and gas activities not regulated by the state corporation com-~~
 3 ~~mission or from underground storage reservoirs of hydrocarbons,~~
 4 ~~natural gas and liquid petroleum gas or that storage or disposal of~~
 5 ~~salt water or oil not regulated by the state corporation commission~~
 6 ~~or refuse in any surface pond is causing or is likely to cause pollution~~
 7 ~~of soil the soils or waters of the state, the secretary or the secretary's~~
 8 ~~duly authorized agents shall issue an order prohibiting such activity,~~
 9 ~~underground storage reservoir or surface pond. Any person aggrieved~~
 10 ~~by such order may within 15 days of service of the order request~~
 11 ~~in writing a hearing on the order.~~

12 (2) Upon receipt of a timely request, a hearing shall be conducted
 13 in accordance with the provisions of the Kansas administrative pro-
 14 cedure act.

15 (3) Any action of the secretary pursuant to this subsection is
 16 subject to review in accordance with the act for judicial review and
 17 civil enforcement of agency actions.

18 (f) The secretary may adopt rules and regulations establishing
 19 fees for the following services:

20 (1) Plan approval, monitoring and inspecting underground or bur-
 21 ied petroleum products storage tanks, for which the annual fee shall
 22 not exceed \$5 for each tank in place;

23 (2) permitting, monitoring and inspecting salt solution mining
 24 operators, for which the annual fee shall not exceed \$1,950 per
 25 company; and

26 (3) permitting, monitoring and inspecting hydrocarbon storage
 27 wells and well systems, for which the annual fee shall not exceed
 28 \$1,875 per company.

29 (g) Agents of the secretary shall have the right of ingress and
 30 egress upon any lands to clean up pollution resulting from oil and
 31 gas activities. Such agents shall have the power to occupy such land
 32 if necessary to investigate and clean up such pollution. Any agent
 33 entering upon any land to conduct cleanup activities shall not be
 34 liable for any damages necessarily resulting therefrom except dam-
 35 ages to growing crops, livestock or improvements on the land.

36 Sec. 14. K.S.A. 65-161, 65-163, 65-164, 65-165, 65-166, 65-166a,
 37 ~~65-167, 65-169, 65-170, 65-170a, 65-170b, 65-170g and 65-171d are~~
 38 ~~hereby repealed.~~

39 Sec. 15. This act shall take effect and be in force from and after
 40 its publication in the statute book.

Sec. 2. K.S.A. 65-163 is

M E M O

TO: Bill Anderson
WATER DISTRICT NO. 1 OF JOHNSON COUNTY

FROM: Michael J. Armstrong *MDA*
SPEER, AUSTIN, HOLLIDAY & ZIMMERMAN

RE: House Bill 2819; Recommended Technical Change

DATE: February 23, 1994

Due to the action of the subcommittee in holding over House Bill 2820 for further consideration, portions of House Bill 2819 that incorporated provisions from 2820 should probably be changed. Since House Bill 2819 had always ridden on the coattails of House Bill 2820, certain substantive provisions from 2820 were incorporated by reference. If House Bill 2820 will not be enacted during this legislative session, the references to the provisions of 2820 incorporated by House Bill 2819 should be re-examined.

On Page 4 of the latest balloon version of House Bill 2819, subsection (c) (5) incorporated a provision from House Bill 2820 relating to the discharge of water treatment residues into waters of the state. I would suggest that rather than incorporating K.S.A. 65-165(a) from House Bill 2820 by reference, that the actual language from that subsection be amended into House Bill 2819. Accordingly, subsection (c) (5) of K.S.A. 65-163 as amended by House Bill 2819 read as follows:

"Any person may apply to the secretary for a permit to discharge municipal water treatment residues into the waters of the state. The secretary shall issue such permit for the discharge of municipal water treatment residues if the secretary determines that: (1) the general interest of the public health would be served by issuance of the permit; (2) the discharge would not detract from the quality of the waters of the state for their beneficial uses; and (3) the discharge meets or will meet all applicable state and federal standards."