



**KANSAS**  
ASSOCIATION OF  
**COUNTIES**

**To:** Legislative Budget Committee

**From:** Nathan Eberline – Associate Legislative Director & Legal Counsel

**Date:** October 9, 2012

**Re:** Local Environmental Protection Program

Thank you for the opportunity to testify on the Local Environmental Protection Program (LEPP). From 1989 through 2012, LEPP was a successful example of government collaboration to safeguard water in Kansas. After the Legislature created the program, KDHE began a partnership with counties by developing regulations that targeted “the unique characteristics of the environment in specific regions” (Kansas Department of Health & Environment, “State of Kansas Local Environmental Protection Program Transition Plan State Fiscal Year 2013”). KDHE shared their water expertise, so locals could better pursue safe and healthy water standards. By doing so, the State helped counties achieve safer levels of bacteria, pesticides, and sediment in Kansas lakes and streams. After the Kansas Legislature passed a balanced budget that funded the program for 2013, Governor Brownback vetoed the measure leaving counties without the resources to continue the program.

Despite the setback, the Kansas Association of Counties and its members maintain that LEPP funding is an essential, efficient, and economically-sound approach to government. LEPP invested in safeguards on the front end to avoid the expensive cost of clean-up at the back end. Often this occurred through the position of county sanitarian—a specialized practitioner who could work with KDHE to address health concerns. KDHE’s combination of regulations and grants incentivized county officials to protect our State’s water supply. And without LEPP funding, we believe limited revenues will force our smaller counties to sacrifice the sanitarian position to maintain law enforcement, roads, and records administration, thus losing the water safeguard that Kansas worked to develop over the past two decades.

In its recent assessment of the LEPP, KDHE noted that 104 of the 105 Kansas counties participated in the program, and 103 adopted KDHE-approved sanitary codes. The assessments of the program consistently showed that “Kansas citizens received both economic and health benefits from the effective enforcement of these [sanitary] codes through reduced costs of water treatment and health costs for themselves and livestock” (“LEPP Transition Plan,” Page 2). Over half of the LEPP funding supported staff positions that addressed onsite-wastewater systems with the remaining hours geared toward water wells, solid waste, pollution, and more. After trumpeting the effects of this cost-effective program, KDHE recommended that—regardless of state funding—counties should continue financially supporting personnel dedicated to the LEPP efforts. This recommendation essentially turns a successful model of government cooperation into an unfunded mandate, and the results will have negative consequences across the state.

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Eliminating the LEPP has a two-fold effect. First, it disincentivizes county action. Instead of economic support by the State to encourage water quality, county commissioners will be left with their own political capital to weigh the value of water-standard enforcement. This forces the determination as to whether it is politically preferable to maintain local LEPP funding or cut the expense in the hope that constituents won't notice declining water standards. If the counties follow economic expectations, the latter will prevail and water standards will slide. Citizens are disinclined to worry about water, so long as the faucet provides clear water without foul taste or scent. But that standard does not account for the unseen nutrients that dramatically affect water quality. LEPP ensures that someone is checking to keep the unseen at a safe and healthy level.

The second consideration is the Environmental Protection Agency. The EPA has well earned its reputation for local interference, and Kansans have understood that the best method to avoid EPA regulations is to take care of state resources. Cutting LEPP funding invites action by the federal government to mandate improved standards. KDHE has kept a wary eye on the EPA's efforts in other states and taken the initiative to act locally and ensure the EPA does not impose additional standards for us. The LEPP has been an effective tool to achieve this goal.

Counties across the state are wholeheartedly seeking the return of LEPP funding. The funding in previous years requires only a modest investment by state standards. Yet the results are far-reaching and worthwhile. The 2012 Legislature recognized the value of LEPP, and the program deserves continued funding. It is a valuable program that efficiently offers long-term solutions to the public issue of safe and healthy water standards.