

**Testimony in Opposition to HB 2665 to
The House Water and Environment Committee
By Susan Metzger
Kansas Department of Agriculture
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Chairman Sloan and members of the committee, I am Susan Metzger, a deputy secretary of the Kansas Department of Agriculture (KDA). I appreciate the opportunity to provide this testimony in opposition to HB 2665.

As described in testimony provided by Burke Griggs, associate professor at Washburn University School of Law, the Kansas Water Appropriation Act “is a fundamentally sound water code, and one of the best western water law codes.” The Appropriation Act is supported by other thorough and thoughtful water-related statutes including the Groundwater Management District Act, State Water Plan Storage Act, Water Assurance Program Act and the Kansas Water Transfer Act.

Comprehensive legal studies of our state’s water law were conducted in 1945, 1957 and 1978. Incremental improvements to the Appropriation Act and water-related statutes over time have been accomplished to address emerging issues and provide current tools, such as removing abandonment from groundwater rights in closed areas (“use it or lose it”) and developing local enhanced management areas (LEMAs), water conservation areas (WCAs) and multiyear flex accounts (MYFAs).

Due to the incremental improvements, a modern, comprehensive evaluation of the Appropriation Act is not necessary or warranted at this time. Such an evaluation will require significant staff resources — both time and funding — from KDA, the Kansas Water Office and the groundwater management districts. The state of Kansas is actively addressing major water resource issues and aggressively implementing the *Long-Term Vision for the Future of Water Supply in Kansas*. Devoting time and resources to this study would distract focus and delay progress on these other high priority activities.

If the state were to embark upon a comprehensive evaluation of the Appropriation Act, the study would need to be carefully and properly scoped. The study, as described in HB 2665, is narrow in focus and not properly scoped. HB 2665 states that the principal investigators selected to participate in the study shall be licensed Kansas attorneys with practical experience in Kansas water law. While knowledge and experience with our state’s water resources is valuable, we recommend the committee also consider the value an external, non-biased principal investigator familiar with western water law may bring to the study. In addition, many of the issues to evaluate, such as adjudicating water rights, are technical issues, not legal issues, and will require study partners who can contribute this technical expertise.

Thank you for the opportunity to speak with you today. I will stand for questions at the appropriate time.