

## **Testimony in Support of HB 2665**

Kansas Legislature, House Committee on Water and Environment

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Dear Chairman Sloan and Members of the Committee:

I am writing in support of HB 2665. I need not repeat the testimony I provided to the Joint Interim Committee on Natural Resources late last year: a survey of Kansas water law dated 31 October 2017, and a recommendation for a study of modern Kansas water law dated 10 November 2017. (I have provided pdf versions of both testimonies to Mr. Gary Deeter, your committee's assistant, along with this testimony, in case any members would like to review it.) In response to requests made by Chairman Sloan and by Senator Kerschen, I cooperated with Ms. Tamera Lawrence of the Revisor's office in drafting HB 2565.

Because of my prior advocacy for such a study, I am providing testimony in support of the bill today. A comprehensive study of modern Kansas water law is long overdue: Professor John C. Peck of the University of Kansas School of Law has been calling for such a study since at least 2006. Furthermore, such a study is especially necessary in light of the recent completion of the Kansas "Water Vision," which sets forth ambitious policy goals but is altogether lacking in any legal analysis.

The only issue left to address is that of cost. First, let me address the cost of the principal investigators' work. The Kansas Water Office has estimated that cost as \$200,000. With three lawyer/principal investigators (and their research assistants) working on the bill's two-year timeline, for a rough estimate of 500 hours/year each (or 10 hours per week), that amounts to 3,000 hours of legal work, at an average hourly rate of \$67/hour.

Second, let me address the issue of staff costs to state agencies. I do not know what estimates of such costs have been put forth by the Division of Water Resources, the Kansas Water Office, or other state agencies. But from the perspective of a potential principal investigator, such costs should be minimal. This legislation calls for a study of Kansas water law; thus, legal research, legal analysis, and writing the report will consist of nearly all of the principal investigators' costs. I would be surprised if there were to be any burdensome or expensive requests made by the principal investigators to state agencies; electronic resources such as Westlaw, the law libraries of Kansas's two law schools, and the library of the Kansas Supreme Court will supply almost all of the research resources necessary to produce the study. If the agencies plan to expend resources on the study after it is submitted, that is their choice; but the cost of that choice should not be included as a staff cost for this bill.

Thank you for reviewing this testimony. I am happy to stand for questions at the appropriate time.