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4 **Senate Concurrent Resolution No. 1605**

5  
6 By Committee on Agriculture

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8 1-23

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10 A CONCURRENT RESOLUTION urging the Bush administration to  
11 withdraw certain environmental protection agency regulations.

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13 WHEREAS, The first official act of President George W. Bush on  
14 January 20, 2001, was to order a moratorium on all new federal regula-  
15 tions not yet published in the Federal Register; and

16 WHEREAS, ~~One regulation subject to the moratorium is a~~ **The** pro-  
17 posed new requirement for the Environmental Protection Agency to fur-  
18 ther regulate confined animal feeding operations within the State of Kan-  
19 sas **should be subject to the moratorium**; and

20 WHEREAS, The regulation of confined animal feeding operations  
21 within Kansas is properly the responsibility of the State of Kansas, not of  
22 the federal government; and

23 WHEREAS, The President's order also imposed a 60-day stay on im-  
24 plementation of new federal regulations that have already been published  
25 in the Federal Register but have not yet entered into force; and

26 WHEREAS, The purpose of the regulatory moratorium and stay or-  
27 dered by President George W. Bush is to permit officials in his admin-  
28 istration time to review proposed regulations and determine, on a case-  
29 by-case basis, whether each such regulation should be implemented; and

30 WHEREAS, One regulation that should be reviewed is a proposed  
31 new requirement for the federal Environmental Protection Agency to  
32 regulate farm ponds; and

33 WHEREAS, Another regulation that should be reviewed relates to  
34 default low flows; and

35 WHEREAS, Another regulation that should be reviewed relates to  
36 antidegradation requirements; and

37 WHEREAS, Another regulation that should be reviewed relates to  
38 effluent created flow; and

39 WHEREAS, Another regulation that should be reviewed relates to  
40 primary versus secondary contact recreation; and

41 WHEREAS, Neither the Federal Water Pollution Control Act of 1972  
42 (Clean Water Act) nor any other act of Congress grants the federal gov-  
43 ernment authority to regulate nonpoint source pollution, farming prac-

1 tices or issues involving water quantity in Kansas; and

2 WHEREAS, The regulations described in this Concurrent Resolution,  
3 if implemented, would have the effect of indirectly requiring regulation  
4 of nonpoint source pollution in Kansas waters in a manner inconsistent  
5 with the 10th Amendment to the United States Constitution by federally  
6 regulating matters traditionally and statutorily reserved to the states; and

7 WHEREAS, The United States Supreme Court in *Solid Waste Agency*  
8 *of Northern Cook County v. United States Corps of Engineers* recently  
9 held that the federal government exceeded its authority under the Clean  
10 Water Act in attempting to regulate isolated bodies of water, such as farm  
11 ponds; and

12 WHEREAS, Each regulation described in this Concurrent Resolution  
13 would, if fully implemented, impose substantial new financial and regu-  
14 latory burdens on Kansas farmers, ranchers and other landowners; and

15 WHEREAS, Each regulation described in this Concurrent Resolution  
16 already has hindered and delayed ongoing efforts to protect and improve  
17 water quality in Kansas by diverting the time, attention and resources of  
18 farmers, ranchers and other landowners away from the planning and im-  
19 plementing of effective conservation and water-quality programs; and

20 WHEREAS, The full implementation of any of the regulations de-  
21 scribed in this Concurrent Resolution would impose unacceptable finan-  
22 cial and regulatory burdens on Kansas farmers, ranchers and other land-  
23 owners; would further hinder the ongoing voluntary, incentive-based  
24 efforts by the State of Kansas to protect and improve water quality in our  
25 state; and would constitute an unjustified and excessive intrusion by the  
26 federal government upon the proper authority of the State of Kansas to  
27 regulate the state's waters and protect the state's environment for the  
28 benefit of all Kansans; and

29 WHEREAS, All Kansans want clean water and the State of Kansas is  
30 committed to protecting water quality in Kansas without the need for  
31 further federal mandates: Now, therefore,

32 *Be it resolved by the Senate of the State of Kansas, the House of Rep-*  
33 *resentatives concurring therein:* That the Kansas Legislature hereby  
34 urges and requests the administration of President George W. Bush to  
35 permanently withdraw ***or withdraw and review and revise*** each of the  
36 regulations described in this Concurrent Resolution ***to fully accommo-***  
37 ***date the concerns expressed by Kansans during the public hearings***  
38 ***conducted by the Environmental Protection Agency;*** and

39 *Be it further resolved:* That the Secretary of State is authorized and  
40 directed to send copies of this Concurrent Resolution to the President of  
41 the United States, to the White House Chief of Staff, to the Director of  
42 the federal Office of Management and Budget, to the administrator of

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1 the United States Environmental Protection Agency and to each member  
2 of the Kansas congressional delegation.  
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