

MINUTES OF THE SENATE NATURAL RESOURCES COMMITTEE

The meeting was called to order by Chairperson Larry Powell at 8:30am on Thursday, March 12, 2015, 159-S of the Capitol.

All members were present

Committee staff present:

Mark Savoy, Legislative Research Department
Heather O'Hara, Legislative Research Department
Toni Beck, Kansas Legislative Committee Assistant
Tamera Lawrence, Office of Revisor of Statutes

Conferees appearing before the Committee:

Leo Henning, KS Department of Health and Environment
Randy Stookey, KS Grain, KS Agribusiness, KS Cooperative Council
Charles Brewer, GSI Engineering
Jarold Boettcher, Boettcher Enterprises
Michael Talboy, Burns and McDonald
Max Shepard, Shepard Engineering, Inc.
Paul Clark, Allied Environmental Consultants
Richard Ranzau, Sedgwick County Commissioner
Secretary Robin Jennison, KS Wildlife, Parks and Tourism
Ron Klataske, Audubon of Kansas
Zack Pistora, KS Sierra Club
Chris Beightel, KS Department of Agriculture
Richard Wenstrom, KS Water PACK
Kent Askren, KS Farm Bureau
Aaron Popelka, KS Livestock Association
Justin Vosburgh, Vosburgh Farms

Others in attendance:

[See Attached List](#)

Hearing on: HB2193 — Solid and hazardous waste and the risk management program act.

Chairman Powell opened the hearing on the bill.

Tamera Lawrence presented an overview with a memorandum on creating the risk management program for low risk contaminated sites. The site would become ineligible for the program if the site conditions changed and increased the risk posed by the location. ([Attachment 1](#))

Leo Henning presented testimony in favor of the bill stating the Bureau Environmental Remediation (BER) is responsible for protecting human health and environment from releases of hazardous substances, petroleum and other pollutants. ([Attachment 2](#))

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Randy Stookey presented testimony in support of the bill commenting experience has demonstrated to KDHE and industry participants that the (VCP) Voluntary Cleanup Program act has served to unnecessarily impede healthy progression of a percentage of these agriculture chemical projects. ([Attachment 3](#))

Charles Brewer presented testimony in favor of the bill commenting the program created will assist existing state programs to address contamination that poses a low risk to human health and the environment. ([Attachment 4](#))

Jarold Boettcher submitted written testimony in favor of the bill supporting the industry has learned a great deal about what constitutes good cleanup practices. ([Attachment 5](#))

Michael Talboy submitted written testimony in favor of the bill stating the program will provide help to reduce the use of limited resources on sites that don't warrant it. ([Attachment 6](#))

Max Shepard submitted written testimony in favor of the bill commenting the challenge is to respect all contaminated sites to a level of "No Further Action". ([Attachment 7](#))

Paul Clark submitted written testimony in favor of the bill stating the added Risk Management Program will provide relief for Kansas businesses managing low risk sites for the past decades. ([Attachment 8](#))

There was no opposition testimony to the bill.

Chairman Powell closed the hearing on the bill.

Hearing on: HB2059 — Authorizing chief engineer to allow augmentation to secure water.

Chairman Powell opened the hearing on the bill.

Tamera Lawrence presented an overview.

Chris Beightel provided testimony in support commenting the Water Appropriation Act provides for the allocation and regulation of, "first in time, first in right" basis. ([Attachment 9](#))

Richard Wenstrom provided testimony in support of the bill stating irrigated member upstream of the Quivira National Wildlife Refuge could be negatively impacted should impairment be found. The solution would be the Chief Engineer currently having water rights administration available. ([Attachment 10](#))

Kent Askren provided testimony in support of the bill commenting augmentation can help meet the legal obligation assigned to the Chief Engineer to protect senior water rights while minimizing the

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negative affect on personal, local and state financial returns. ([Attachment 11](#))

Aaron Popelka provided testimony in support of the bill stating Fish and Wildlife Service (FWS) water right is one of the most senior water right in the region, and impairment could halt irrigation and stock water across the basin when water is needed most. ([Attachment 12](#))

Aaron Vosburgh provided testimony in support of the bill commenting augmentation needs to be in the statute so the Chief Engineer has that option if impairment is found. ([Attachment 13](#))

Sean Miller submitted written only testimony in support of the bill stating the Rattlesnake Creek Basin information will provide a basis for future state policy on water right augmentation and avoid unintended consequences. ([Attachment 14](#))

Greg Krissek submitted written only testimony in support of the bill requesting augmentation that is available and offered voluntarily as was previously recommended by the committee. ([Attachment 15](#))

Chairman Powell closed the hearing on the bill.

Hearing on: SB269 — Removing eastern spotted skunks from the nongame and endangered species conservation act.

Chairman Powell opened the hearing on the bill.

Tamera Lawrence presented an overview.

Richard Ranzau testified in support of the bill commenting Sedgwick County has had costly mitigation and accommodation requirements for the Eastern Spotted Skunk. On stream maintenance projects and providing natural habitat for the skunk is not well received by landowners. ([Attachment 16](#))

Secretary Robin Jennison is in opposition to the bill stating the application is limited to publicly funded projects which require a public permit. 91% of residents agree that the Department should continue to identify and protect habitat critical to the existence of threatened and endangered species. The proposed bill seeks to delist a mammal species by statute, circumventing the scientific process already in place with a Chief Ecological Administrator from the Department. ([Attachment 17](#))

Ron Klataske testified in opposition to the bill commenting it is designed to begin a process of eviscerating the Kansas Nongame and Endangered Species Conservation Act of 1975, one species at a time. In this case it would be eliminating a listed species for political rather than science based reasons. ([Attachment 18](#))

Zack Pistora testified in opposition to the bill commenting federal moneys would be in jeopardy if the state was not maintaining an adequate or active program, such as the program currently in place with

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the Department of Wildlife, Parks and Tourism. ([Attachment 19](#))

Dr. William Jensen provided written testimony in opposition to the bill that specifically calls for the delisting and prohibition of future listing, of a single wildlife species without regard to the biological knowledge of the status of the species. ([Attachment 20](#))

Dr. William Jensen submitted an additional written testimony on behalf of Kansas Wildlife for another organization in opposition. Concerns are based on singling out one species, the Eastern Spotted Skunk, to be disallowed from such assessments as the animal is a component of the natural heritage of the state. ([Attachment 21](#))

Sharon Ashworth submitted written testimony as an opponent to the bill commenting the removal of the Spotted Skunk from the endangered species list may hasten its decline, eradicating a piece of native Kansas ecosystems with no scientific research to substantiate the removal. ([Attachment 22](#))

Steve Sorensen submitted written testimony in opposition to the bill contending Kansas Department of Wildlife Parks and Tourism has an excellent record as a lead agency in managing the nongame wildlife resources as they intersect with the development of natural resources. ([Attachment 23](#))

Discussion:

Concerns were expressed by the proponent of the bill that the process is too involved dealing with the state Endangered Species List. The Review is completed by commissioners, appointed by the governor. Choosing the Spotted Skunk is considered to be the first of several on the list proponents would like to see removed in a shorter time frame. Currently, the Endangered Species Review is every five years, but emergency petition can be filed during that time frame. Project Review is a 30 day permit process. Compensatory Mitigation is a 30 day process. Nine species have been delisted this year. 64 species are currently on the list; 24 of which are from the original program; the 1973 Act of Endangered Species.

Chairman Powell closed the hearing on the bill.

The next scheduled meeting will be Wednesday, March 18.

There being no further business, the meeting was adjourned at 9:30 am.