



# Kansas Grain & Feed Association

## Kansas Cooperative Council

### Kansas Agribusiness Retailers Association

#### SENATE NATURAL RESOURCES COMMITTEE

January 20, 2016 – Topeka, KS

#### *RE: SB 330 – Statutorily Authorizing CREP Programs*

Thank you, Chairman Powell and members of the Senate Committee on Natural Resources, for the opportunity to appear today and comment on SB 330. As you know, the bill will provide statutory authorization for the Kansas Dept. of Agriculture (KDA) to enter into conservation agreements with the U.S. Dept. of Agriculture under the a specialized section of the Conservation Reserve Program (CRP) known as the Conservation Reserve Enhancement Program (CREP). I am Leslie Kaufman, President/CEO of the Kansas Cooperative Council (KCC). I am appearing today on behalf of the KCC, the Kansas Grain and Feed Association (KGFA) and the Kansas Agribusiness Retailers Association (KARA).

The Kansas Cooperative Council (KCC) is a 72 year-old, voluntary trade association representing all types of cooperatively structured (member-owned, member-controlled) businesses operating in Kansas. All Kansans have an interest in water issues and our agricultural, utility, financial and service cooperative members are among them. The Kansas Grain and Feed Association is a voluntary state association with a membership encompassing the entire spectrum of the grain receiving, storage, processing and shipping industry in the state of Kansas. KGFA's membership includes over 950 Kansas business locations and represents nearly 99% of the commercially licensed grain storage in the state. The Kansas Agribusiness Retailers Association's membership includes over 700 agribusiness firms that are primarily retail facilities which supply fertilizers, crop protection chemicals, seed, petroleum products and agronomic expertise to Kansas farmers. KARA's membership base also includes ag chemical and equipment manufacturing firms, distribution firms and various other businesses associated with the retail crop production industry. As you can tell from these descriptions, our associations share many common agribusiness members.

Our associations have a strong history of supporting environmental stewardship programs and public-private partnerships based on working lands models (incorporating stewardship practices into land use practices that keep land in active agricultural production and not idling working land). Historically, we have advocated for increased funding for working lands programs, supported creation of the Water Transition Assistance Program (Water TAP), encouraged expansion of the Environmental Quality Incentives Program (EQIP), and called on Congress to incorporate a working lands philosophy into certain Conservation Reserve Program activities like those focused on irrigation reduction. We truly wish that SB 330 centered on working lands programs, but it does not.

The KCC, KGFA and KARA would have preferred it if SB 330 was drafted such that we could have at least partially supported the bill. But, considering our long-standing opposition to incentivizing water reduction through a CREP, total omission of limitations embodied year-after-year in the provisos creating and maintaining CREP, the ability to do whole-field enrollments under both water quantity and quality CREPs, and the need for any bill brief to clearly convey our on-going concerns with CREP, we felt we must appear today, at least on this introductory original draft, as opponents.

816 SW Tyler  
Topeka, Kansas 66612

(785) 234-0461  
Fax (785) 234-2930  
[www.KansasAg.org](http://www.KansasAg.org)

(785) 233-4085  
Fax (785) 233-1038  
[www.kansasco-op.coop](http://www.kansasco-op.coop)

The agribusiness members of our associations operate companies that rely on crop production to remain viable. As such, we have a long history of advocating against the CRP program as enrolled acres must be idled and taken out of active agricultural production for a multi-year term. If seed is not planted and crops are not growing, our businesses will not be applying crop protection products and handling grain at harvest. At first, that may seem like a very self-interested statement, but the economic implications reach beyond the agribusiness gate. Our members are critical enterprises in their local economies. They are routinely one of the top non-public employers in an area and leading tax payers in communities across the state. Down-turns in our industry are sure to have ripples throughout the local economy.

The grain we handle locally and the employees we hire in towns and counties churn dollars through the local economy. Proponents of CREP will claim that program contract payments make up for monies lost to the local economy due to reduced grain production. But, that assumes local farmers are enrolling the land and the checks are not being mailed to absentee landowners in other parts of the state or across the country.

The CREP implementing provisos have contained acreage limitations to help protect the local economy and the local tax base. We have pulled part of the proviso language from last year's budget bill and have attached it to our testimony for reference. Those protections have not been carried over into this proposed CREP legislation and we think that is a crucial omission.

Although we have not supported CREP, continuation or creation of any new CREP over our objection needs to recognize these (and/or similar) important factors for mitigating negative impacts on the economy and quantifying the full impacts of reduced agricultural production.

A fundamental flaw in relying on CREP, as a specialized CRP program, to address water issues comes in the inherent

requirement to idle the land. For example, the goal of an irrigation reduction program is to cut back on water usage. As such, blanket restrictions on land use are not absolutely necessary. If you want to control the water usage, focus on the water, not the land. With the technology advancements present now and certainly on the horizon, more areas of the state might be able to successfully convert to dryland farming. While the bushels per acre may not be as large as under irrigation, it is conceivable that maintaining a level of ag production could result in greater economic activity in the local economy than simple receipt of a government contract payment, especially if the landowner lives in Wichita, Kansas City or Arizona. This is a significant reason for our support of working lands programs such as WTAP and EQIP.

CREP is also a glaring and ironic example of how the budget process can be used to circumvent the general legislative process described in our history, civics and government text books. Over the years, at least two other bills statutorily authorizing CREP have been presented to the Kansas legislature and neither ever passed both the Senate and House. When authorizing legislation could not be passed, a budget proviso was crafted and CREP was created and maintained year-after-year by virtue of enacting substantive law in a budget bill. Time-and-time again, CREP has been one of the wrap-up issues in the budget debate. If memory serves me correctly, the irrigation reduction CREP has existed longer through annual budget proviso reauthorization than originally proposed in the first CREP bill.

The CREP debate extends back more than a decade now. From our files, we know we were addressing precursors to the CREP at least as far back as 2004. There are so many other details and nuances of this discussion that we just do not have time to review here today, but we welcome the opportunity to visit more with each one of you. Wholesale idling of large acreages and preventing the transition to dryland farming is an unnecessary and overly broad approach to water regulation. It is not driven as much by good water policy, but the desire to pull down federal funds. The CRP programs, such as CREP, do have

a better match than certain other cost-share programs. But, do we have the economic data to show that the dollars gained through this federal match are greater than what would be generated by conservation practices that kept certain land in production? Federal money comes with strings. The string with CREP is tying up that land in grass without any regard for whether or not dryland production could be sustained. This administration has already determined that some federal dollars just cost too much to accept. We certainly think that is the case with CREP.

We respectfully urge this committee to vote down this measure. Additionally, we implore all legislators to refrain from passing CREP authorization in a budget bill when statutory authorization has not been adopted.

Thank you, again, for the opportunity to share our concerns with you. I am certainly willing to take any questions at the appropriate time.

## **Selected Text – 2015 Appropriations Bill CREP Proviso – SB 112**

“...And provided further, That all expenditures under the conservation reserve enhancement program, referred to as CREP in this subsection, are subject to the following criteria:

- (1) The total number of acres enrolled in Kansas in CREP for the nine fiscal years 2008 through 2016 shall not exceed 40,000 acres;
- (2) the number of acres eligible for enrollment in CREP in Kansas shall be limited to one-half of the number of acres represented by contracts in the federal conservation reserve program that have expired in the prior year in counties within the CREP area, except that if federal law permits the land enrolled in the CREP program to be used for agricultural purposes such as planting of agricultural commodities, including, but not limited to, grains, cellulosic or biomass materials, alfalfa, grasses, legumes or other cover crops then the number of acres eligible for enrollment shall be limited to the number of acres represented by contracts in the federal conservation reserve program that have expired in the prior year in counties within the CREP area;
- (3) lands enrolled in the conservation reserve program as of January 1, 2008, shall not be eligible for enrollment in CREP;
- (4) no more than 25% of the acreage in CREP may be in any one county except that the last eligible enrollment offer to exceed the number of acres constituting a 25% acreage cap in any one county shall be approved;
- (5) no water right that is owned by a governmental entity, except a groundwater management district, shall be purchased or retired by the state or federal government pursuant to CREP; and
- (6) only water rights in good standing are eligible for inclusion under CREP:

And provided further, That to be a water right in good standing the following criteria must be met:

- (A) At least 50% of the maximum annual quantity authorized to be diverted under the water right has been used in any three years within the most recent five-year period preceding offer submission for which irrigation water use reports are approved and made available by the division of water resources of the Kansas department of agriculture;
- (B) the water rights used for the acreage in CREP shall not have exceeded the maximum annual quantity authorized to be diverted during the most recent five-year period preceding offer submission for which irrigation water use reports are approved and made available by the division of water resources and shall not have been the subject of enforcement sanctions by the division of water resources during the most recent five-year period preceding offer submission for which irrigation water use reports are approved and made available by the division of water resources; and
- (C) the water right holder has submitted the required annual water use report required by K.S.A. 82a-732, and amendments thereto, for each of the most recent 10 years;

And provided further, That the Kansas department of agriculture shall submit a CREP report to the senate committee on natural resources and the house committee on agriculture and natural resources at the beginning of the 2016 regular session of the legislature which shall contain a description of program activities and shall include:

- (i) The total water rights, measured in acre feet, retired in CREP during fiscal year 2008 through fiscal year 2016, to date,
- (ii) the acreage enrolled in CREP during fiscal year 2008 through fiscal year 2016, to date,
- (iii) the dollar amounts received and expended for CREP during fiscal year 2008 through fiscal year 2016, to date,
- (iv) the economic impact of the CREP,
- (v) the change in groundwater levels in the CREP area during fiscal year 2008 through fiscal year 2016, to date,
- (vi) the annual amount of water usage in the CREP area during fiscal year 2008 through fiscal year 2016, to date,
- (vii) an assessment of meeting each of the program objectives identified in the agreement with the farm service agency, and
- (viii) such other information as the Kansas department of agriculture shall specify.

(d) During the fiscal year ending June 30, 2016, the secretary of agriculture, with the approval of the state finance council acting on this matter which is hereby characterized as a matter of legislative delegation and subject to the guidelines prescribed in subsection (c) of K.S.A. 75- 3711c, and amendments thereto, or upon specific authorization in an appropriation act of the legislature, may transfer any part of any item of appropriation for fiscal year 2016 from the state water plan fund for the Kansas department of agriculture to another item of appropriation for fiscal year 2016 from the state water plan fund for the Kansas department of agriculture: Provided, That the secretary of agriculture shall certify each such transfer to the director of accounts and reports and shall transmit a copy of each such certification to: (1) The director of legislative research; (2) the chairperson of the house of representatives agriculture and natural resources budget committee; and (3) the appropriate chairperson of the subcommittee on agriculture of the senate committee on ways and means...”