

MINUTES OF THE SENATE COMMITTEE ON AGRICULTURE.

The meeting was called to order by Chairperson Steve Morris at 10:00 a.m. on February 16, 2000, in Room 423-S of the Capitol.

All members were present except: Senator Tim Huelskamp (E)

Committee staff present: Raney Gilliland, Legislative Research Department
Jill Wolters, Revisor of Statutes
Nancy Kippes, Committee Secretary

Conferees appearing before the committee:

Doug Wareham, Kansas Grain & Feed Association and Kansas Fertilizer & Chemical Association
Bill Fuller, Associate Director, Public Policy Division, Kansas Farm Bureau
Chris Wilson, Kansas Seed Industry Association and Kansas Agricultural Aviation Association
Joe Lieber, Executive Vice President, Kansas Cooperative Council
Rodney Biesenthal, Pottawatomie County Noxious Weed Director
Amelia McIntyre
Dale Crawford, Johnson County Bicycle Club

Others attending: (See Attached)

Continued hearing on:

SB 572 - an act enacting the land stewardship by management and control of noxious weeds act

Doug Wareham, Kansas Grain & Feed Association and Kansas Fertilizer & Chemical Association, addressed comments that have been made and questions that have been raised by opponents of **SB 572** and testified in support of **SB 572** (Attachment 1).

Bill Fuller, Associate Director, Public Policy Division, Kansas Farm Bureau, testified in support of **SB 572** pointing out some of the desirable improvements to the current noxious weed law and listing the Kansas Farm Bureau member-adopted policy statements (Attachment 2).

Chris Wilson, Kansas Seed Industry Association and Kansas Agricultural Aviation Association, testified in support of **SB 572**, stating it is important to bring the noxious weed bill up-to-date since it has not been updated for fifty years (Attachment 3). She said it had been suggested that the Seed Law needed to be updated to conform with the Noxious Weed Law.

Joe Lieber, Executive Vice President, Kansas Cooperative Council, appeared before the committee in support of **SB 572**, which would give the producers a choice of where to buy their chemicals and still receive the financial incentive in either case (Attachment 4).

Rodney Biesenthal, Pottawatomie County Noxious Weed Director, testified in opposition to **SB 572** stating the County Weed Directors Association of Kansas is concerned that by removing specific requirements from the law and addressing these issues by rules and regulations, we would be allowing too much state control and local interpretation of a state statute (Attachment 5).

Amelia McIntyre appeared before the committee in opposition to **SB 572** with concerns that publicly owned or controlled recreational areas are available to the public and that there are adequate resources to maintain those recreational areas (Attachment 6).

Dale Crawford, Johnson County Bicycle Club, testified in opposition to **SB 572** stating that his

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON AGRICULTURE, Room 423-S of the Capitol, 10:00 a.m., on February 16, 2000.

organization is concerned about the impacts **SB 572** may have on the already limited publicly accessible facilities and lands within Kansas (Attachment 7).

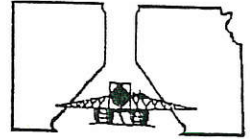
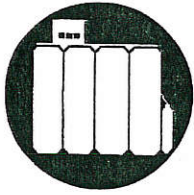
The hearing on **SB 572** was continued to February 18, 2000.

The next meeting will be February 17, 2000.

SENATE AGRICULTURE COMMITTEE GUEST LIST

DATE: 2-16-00

NAME	REPRESENTING
Joe Lieboer	KS Coop Council
Tom Sim	KS Dept. of Agriculture
Bill Scott	" "
Joe Brunk	Noxious Weeds (Sedgwick)
John Rasmussen	League of KS Municipalities
Darien Fritts	Midwest Coop
Randy Schoenthaler	Frontier Equity Exchange, Goodland
Chris Wilson	KAAA / KSA
John Arau	Jackson County Comm.
Ellen Schimmer	Jackson Co. Comm.
Dag Wareham	KS. Fert/Chem Assn. / KS. Grain & Feed Assn.
Johnny Scheben	Farm Service Center, Inc.
Greg Kressek	KS Dept Ag
Brandy Wright	KFB
Mary Beachum	Beachum Farms
Amelia McIntyre	Individual-Self
Dale Crawford	So. Co. Bicycle Club
Bill Fuller	Kansas Farm Bureau
Randy Allen	KS. Assoc. of Counties



STATEMENT OF THE
KANSAS GRAIN & FEED ASSOCIATION

AND THE
KANSAS FERTILIZER AND CHEMICAL
ASSOCIATION

BEFORE THE
SENATE AGRICULTURE COMMITTEE
ON SENATE BILL 572

SENATOR STEVE MORRIS, CHAIR

FEBRUARY 15, 2000

*Senate Agriculture
2-16-00
Attachment 1*

KGFA & KFCA MEMBERS ADVOCATE PUBLIC POLICIES THAT ADVANCE A SOUND ECONOMIC CLIMATE FOR AGRIBUSINESS TO GROW AND PROSPER SO THEY MAY CONTINUE THEIR INTREGAL ROLE IN PROVIDING KANSANS AND THE WORLD THE SAFEST, MOST ABUNDANT FOOD SUPPLY.

Chairman Morris and members of the committee, I am Doug Wareham appearing today on behalf of both the Kansas Fertilizer and Chemical Association (KFCA) and the Kansas Grain and Feed Association (KGFA). KFCA's over 550 members are primarily plant nutrient and crop protection retail dealers with a proven record of supporting Kansas producers by providing the latest crop protection products and services. KGFA is comprised of 1150 member firms including country elevators -- both independent and cooperative -- terminal elevators, grain merchandisers, feed manufacturers and associated businesses. KGFA's membership represents 99% of the over 860 million bushels of commercially licensed grain storage space in the state of Kansas.

I appreciate the opportunity to appear in Support of Senate Bill 572, the Land Stewardship by Management and Control of Noxious Weeds Act. I want to first mention that I did serve on the Department's Working Group that met several times last spring and summer to review the existing Noxious Weed Law and want to commend then Secretary Allie Devine for initiating that review and the current administration for completing it. While the Department's Working Group included numerous stakeholders, it has become very apparent that some organizations that had representatives that were involved in the drafting of Senate Bill 572 are now opposed to it and have even begun attacking this proposal publicly.

In light of the fact that opponents of Senate Bill 572 have already begun contacting and providing the press with their concerns and since I'm quite certain those same concerns will be raised either later today or tomorrow, I would like to quickly address the comments that were made and questions that were raised by opponents of this bill in recent articles in the Topeka Capitol Journal and the Holton Recorder. I have included copies of the two articles I am speaking of and point out that the statements I am about to address came directly from one or a combination of these articles.

Weed Directors Statements to the Press:

- **Senate Bill 572 doesn't allow for public input when noxious weeds are listed or delisted.**

- This is a false statement. Senate Bill 572 does shift the responsibility for listing and de-listing of noxious weeds from the legislature to the Kansas Department of Agriculture. Future listings and de-listings would be considered through the rules and regulations process which is completely open to the public. In fact, a public comment period would be required on any new listing or de-listing and individuals would actually have a greater time period to offer comments. Finally, the Kansas Legislature's Rules and Regulations Committee reviews, oversees and holds hearings on the adoption of all rules and regulations adopted by the Kansas Department of Agriculture. Therefore, this proposed change actually provides greater opportunity for public input than currently available.

- **Senate Bill 572 lessens weed eradication goals.**

- This is a false statement. In no way does Senate Bill 572 lessen the goals of the current Noxious Weed Law. The bill does, however, provide county commissioners with greater flexibility to focus their limited resources (noxious weed tax revenues) on specific noxious weeds. Current law requires counties to provide the same incentive for all weeds listed as noxious weeds. Senate Bill 572 would enable county commissioners to target their dollars as they believe would have the greatest positive impact for their county. I should point out, however, that just because county commissioners might choose to provide an incentive for one weed and not provide an incentive for another in no way alleviates the landowners responsibility to control **all** noxious weeds.

- **Senate Bill 572 allows counties to sell noxious weed control chemicals, but not at a discount.**

- This statement is true, but its "meaning" is being twisted by the individual that made this statement. First, Senate Bill 572, in no way, restricts county weed departments from selling noxious weed control chemicals. It does, however, change the way tax dollars are used as an incentive for landowners to control noxious weeds. The current law requires counties to subsidize the actual cost of chemicals purchased for noxious weed control. Senate Bill 572 will require counties to establish a per acre reimbursement that

will be paid to landowners when they control noxious weeds with chemicals or other approved methods of control. The truth is that if a farmer still chooses to purchase chemicals from the county noxious weed office, they will likely receive the same "savings" afforded by current law. County weed departments will simply deduct the per acre reimbursement from the total sales price of chemicals being purchased.

- **Senate Bill 572 forces counties to establish procedures to provide a per acre financial incentive to farmers/landowners that purchase noxious weed control chemicals from other sources.**

- This statement is true, and in our opinion, is the real reason why the County Weed Directors Association of Kansas has taken such a strong position against Senate Bill 572. We contend that County Weed Directors are very concerned that if given the choice, landowners will purchase noxious weed control chemicals from other sources because of the following factors: price, convenience, service, expertise and simply their proximity to different source. The fact that weed directors want to be the exclusive distributor for noxious weed control chemicals appears very self-serving and not in the best interest of anyone but county noxious weed directors.

- **Senate Bill 572 is a shift away from county home rule.**

- In our opinion this statement is simply false. Senate Bill 572 gives individual farmers/landowners the power to "choose". We can not think of a better example of "local control" than an individual farmer/landowner who gets into his/her vehicle and pulls out of his/her driveway having the choice of where to go purchase chemicals for noxious weed control. In fact, the unwillingness of most counties to allow farmers/landowners that choice is, in our opinion, an infringement on their individual rights.

After reviewing the articles attached to my testimony, I hope that at least one question will be ask of the opponents of this bill:

- **Are the Kansas Association of Counties and the County Weed Directors Association of Kansas opposed to landowners/farmers having a choice when it comes to purchasing noxious weed control chemicals?**

If the answer to that question is a resounding "No", I will gladly admit that I was wrong and we will then know that subsection (7) on Page 4, which requires counties to establish procedures to provide financial incentives to persons who purchase noxious weed control chemicals from sources other than the noxious weed department is not the real reason this bill is being opposed by the Kansas Association of Counties and the County Weed Director's Association.

In closing I want to state, that today's landowner has numerous options available when it comes to purchasing weed control chemicals. Ag chemical dealerships, ag chemical distributors/suppliers, limited liability ag chemical partnerships, and the advent of chemical sales over the internet have fostered a new age of competition that literally gives today's landowner/farmer a host of sources for purchasing products to control weeds. Generally, these choices mean competition and savings for Kansas farmers. Unfortunately, the restrictions currently in place under the Kansas Noxious Weed Law restrict landowners/farmers from the options (choices) currently available in today's marketplace. Senate Bill 572 will simply enable those options to be realized.

Mr. Chairman, I appreciate the opportunity to appear in support of Senate Bill 572 and I would be happy to stand for questions at the appropriate time.

Counties oppose noxious weed bill

By CHRISTIE APPELHANZ
The Capital-Journal

A proposal to change the state's noxious weed law is causing a stir among county noxious weed directors concerned that the modifications may prove costly.

The state Senate Agriculture Committee will consider a bill next week that would shift from the Legislature to the Kansas State Department of Agriculture the authority to set noxious weed regulations.

The bill would allow the Agriculture Department to maintain a list of noxious weeds, instead of having those governed by state statute. The proposed legislation also would require counties to subsidize other methods of weed control, such as cultivation and mowing, in

addition to applying herbicides.

Supporters of the bill note the law hasn't been changed significantly since the 1950s. They argue the law isn't flexible enough and that it takes too long to add a new noxious weed to the list.

"We're just giving greater control," said Tom Sim, plant protection program manager for the Department of Agriculture. Counties are "in the control business, and the state would continue to be in the prevention business."

But the bill has drawn opposition from the Kansas Association of Counties and the Noxious Weeds Directors association.

Noxious weed directors in Shawnee, Jackson and Jefferson counties on Monday will ask their county commissioners to sign a letter saying, "our counties believe the current Kansas Noxious

Weed Law is fully functioning and effective, and would oppose Senate Bill 572 and proposed actions from the Kansas Department of Agriculture to modify this statute."

Joe Kennedy, Jackson County noxious weed director, said the changes would strain his department by forcing it to offer incentives for all control practices.

"This proposal would not only want us to sell herbicides, but pay people to mow or till them up," he said. "That's just not feasible."

Shawnee County noxious weed director John Kabus said the bill lacks meaningful enforcement for controlling noxious weeds, increases state regulation and makes it legal to have noxious weed and noxious weed seed in hay, feed products and equipment.

Doug Wareham, vice president of governmental affairs for the Kansas Fertilizer and Chemical Association, said counties are upset because they stand to lose what amounts to an exclusive franchise on herbicides.

"They see themselves as chemical dealers providing tax-subsidized chemicals, rather than weed directors out enforcing the noxious weed laws," he said. "They don't even enable other people to compete. Consumers should have a choice."

Landowners can buy the herbicide at subsidized prices through noxious weed departments. Under the proposed law, the counties also would have to subsidize herbicide purchased through other sources.

The bill will be discussed at the Senate Agriculture Committee at 10 a.m. Tuesday in the statehouse.

Changes to noxious weed law proposed

By SANDRA M. SIEBERT
Recorder Staff

Fifteen years ago, musk thistles infested Jackson County grasslands in giant patches. Cattle avoid thistles and the patches ruined pasture land.

Today, thanks to aggressive control efforts and the introduction of thistle-eating weevils, thistles are only scattered here and there over Jackson County, said Jackson County Noxious Weed Director Joe Kennedy.

The musk thistle is one of 11 plants state law designates as "noxious weeds." A proposed bill, which the Kansas Senate Agriculture Committee may introduce as early as today, would significantly change the state's and counties' approach to noxious weed control.

One of the most significant changes in the proposed law, a draft of which was submitted to the Kansas Senate Agriculture Committee in mid-January, is who determines which plants make the noxious weed list.

Under current law, which weeds are noxious weeds is spelled out in the law itself. Thus, the list can be changed only through legislative action. The proposed law does not list the noxious weeds and gives the secretary of agriculture full control in setting the list "by rule and regulation." The law does not include a process for public input on changes to the list, unlike legislative action.

Another major change in the proposal is how counties would provide financial assistance for noxious weed control.

Currently, the law requires counties to sell herbicides, at a discount, to landowners to be used only for noxious weed control. An amendment allows counties the option of issuing discount certificates, which landowners take to local vendors. Only one county has adopted that option, Kennedy said.

The proposed law requires counties to set up a per-acre "financial incentive" instead of the chemical discount. The proposal states that counties "may" offer controls for sale, but that the sale price would be determined on the per acre basis.

The way county weed directors interpret the law, any time a request is made for financial assistance on noxious weed control, the weed director must go to the sites in question and determine just how many acres of assistance can be given, Kennedy said.

Under the current law, weed directors usually take the landowner's word for how many acres are affected by a noxious weed, except in

some cases, Kennedy said. The proposed law also sets up three control categories for noxious weeds.

The high risk category involves weeds that are not known to grow in Kansas at the time the secretary of agriculture declares them as noxious weeds. Those weeds, if found, would require "immediate actions."

The containment category includes noxious weeds growing on less than 100 acres in a county and have "the potential to be contained and possibly eradicated" in the county.

The management category includes noxious weeds growing on more than 100 acres in the county and "the eradication of which is not biologically feasible." This category

also is broken into primary and secondary subcategories.

In several places where the old law is amended instead of replaced by the new law, the word "eradication" is replaced by the word "management."

Late last week, the draft bill submitted to the Kansas Senate Agriculture Committee was in the reviser's office, being put into proper bill form. According to the office of Sen. Steve Morris, chairman of the Senate Agriculture Committee, the bill might be ready for introduction to the Senate floor by this week, perhaps as early as Monday. After its introduction, the bill will be referred to the appropriate Senate committee, most likely the ag committee.

Noxious weed directors say... Proposal appears to lessen weed eradication goals

By SANDRA M. SIEBERT
Recorder Staff

Local noxious weed programs have long operated under the assumption that eradication of the offending plants was the goal set by Kansas noxious weed law.

A proposal that would replace the current noxious weed law appears to lessen that standard.

"Always before, the law talks about eradication," said Jackson County Noxious Weed Director Joe Kennedy. "I think we would like to see it as a goal. We won't ever completely get rid of bindweed or thistle, but eradication is a goal."

The proposed noxious weed law rarely mentions eradication. In the few sections of the current law which the proposal would amend instead of replace, the word "eradication" has been struck out and replaced with the word "management," or "control."

County weed directors view this as a lessening of the noxious weed

law, Kennedy said. The proposal sets forth three classifications for noxious weeds, depending on the number of acres a weed infests. One category also has two subcategories.

The way county weed directors interpret the proposal, Kennedy said, the more acreage a weed infests in a county and the state, the less aggressive control the state will require. In fact, the proposed law does not require counties to provide financial incentives for the control of weeds in the secondary management subcategory (which includes noxious weeds infesting the most acreage), stating that they "may" provide such incentive, whereas counties "shall" provide incentives for weeds that fall in the other categories.

In Jackson County, Kennedy said that the way he reads the law, all of the noxious weeds present here - except one - fall into the secondary management category.

Continued to Page 3

Proposal...

Continued from Page 1

"We already have trouble with landowners not trying to control noxious weeds," Kennedy said.

The financial incentive counties provide also would change under the proposed law.

The proposed law would no longer require counties to sell chemicals that are used in noxious weed control. This currently provides landowners with a financial incentive because the chemicals (purchased by the county at full price) are sold at a discount. The county's noxious weed property tax levy subsidizes this service.

The proposed law states that a county "may" sell any material identified in official control plans, but not at a discount. Instead, the county "shall" establish a financial incentive on a per acre basis. According to the proposal, a county weed director will determine how many acres of a parcel are infested, which will determine what financial incentive is given to the landowner for noxious weed control.

That may mean less cost share funds going to landowners and more control in the hands of the local weed director, Kennedy said.

"It will take management out of their hands and put it in my hands," he said.

While replacing some of the "shalls" with "may" seems to give more control to counties, the proposal appears to shift from home rule, Kennedy said, because several items will be decided "by rule and regulation" by the state agriculture secretary. That already is the case with determining official control and management methods, but with

no other aspect of the law.

The existing law specifies which plants are to be considered as noxious weeds in Kansas. Because the list is part of the law, legislative action is required to make any changes to the list.

Legislative action may be slow, Kennedy said, but it works and allows residents to have a say in the process.

The proposed law eliminates that list, stating that the list of noxious weeds will be determined by the secretary of agriculture. No public hearing process is required.

"What worries me is, in the old law, it was pretty well spelled out," Kennedy said, but in the proposed law, "it's by rule and regulation and the rules and regulations haven't been spelled out."

Other parts of the proposal make Kennedy and other county weed directors uneasy, such as elimination of sections that state it is unlawful to sell or give away materials infested with noxious weed seed or to move machinery containing such seed.

The proposal simply states that "it shall be the duty of all persons to minimize the presence of noxious weeds or noxious weed seed in agricultural commodities, products or equipment," and makes it the weed director's responsibility to report suspicions of infestations of materials or machinery to the secretary of agriculture.

The current noxious weed law may not be perfect, Kennedy said, but if changes are needed, the current law should be amended, not entirely rewritten.

"Don't tear the house down just to fix the porch," he said.



PUBLIC POLICY STATEMENT

SENATE COMMITTEE ON AGRICULTURE

RE: SB 572 – Enacting the Land Stewardship by Management and Control of Noxious Weeds Act.

**February 15, 2000
Topeka, Kansas**

**Prepared by:
Bill R. Fuller, Associate Director
Public Policy Division
Kansas Farm Bureau**

Chairman Morris and members of the Senate Committee on Agriculture, we are here to support SB 572 that proposes to update the noxious weed law, a law that has not changed very much in over 50 years.

My name is Bill Fuller. I serve as the Associate Director of the Public Policy Division for Kansas Farm Bureau.

I accepted the invitation by former Kansas Secretary of Agriculture Allie Devine to participate on a Task Force charges with reviewing and updating the state's noxious weed law. The first meeting occurred in January of 1999. The last meeting was held a year later on January 14, 2000 to review and make changes to the draft language that is now SB 572. Nine organizations participated in reviewing the current law and developing the bill that is under consideration today:

- County Weed Directors Association of Kansas
- Kansas County Commissioners Association
- Kansas Farm Bureau
- Kansas Fertilizer and Chemical Association
- Kansas Livestock Association
- Kansas Nursery and Landscape Association
- Kansas Seed Improvement Association
- Kansas Agricultural Aviation Association
- Kansas State University

*Senate Agriculture
2-16-00
Attachment 2*

A number of proposals contained in SB 572 are desirable improvements to the current 50-year old noxious weed law. Examples include:

- Continues the shared responsibility approach between landowners, counties and the state.
- Expands the opportunity to cost-share only herbicides to also include cultural practices and biological methods.
- Classifies noxious weeds into three categories allowing counties to focus control measures and resources where they can achieve the “biggest bang for their buck.”
- Transfers the declaration of noxious weeds from the political process to a science based risk-analysis technique that includes both public and legislative input and oversight through the administrative rule and regulation process. It is our understanding that Kansas is the only state where the legislature determines which weeds are placed on the noxious weed list. The list should be developed on the basis of science, not politics.
- Requires government entities to control and manage noxious weeds on land under their respective jurisdictions.
- Provides the flexibility, convenience and choice for landowners to acquire herbicides from agricultural chemical dealers, while maintaining the opportunity for county weed departments to continue handling and distributing chemicals.

The 442 farmers and ranchers serving as Voting Delegates at Kansas Farm Bureau’s 81st Annual Meeting in Wichita last November developed new policy while reaffirming existing policy relating to noxious weeds. KFB member-adopted policy includes these statements:

- Landowners need added flexibility to use new alternative control practices.
- Counties should be authorized to adopt control practices best suited to the local area.
- A System of classifying noxious weeds should be developed to focus the limited resources on weeds posing the most serious challenges and on implementing the most realistic control measures.
- The process should allow counties to monitor and develop control measures for weeds not yet known to exist in the state, but are moving toward Kansas.

- County Weed Directors should vigorously enforce noxious weed laws on both private and public lands, including railroads, rail trail sponsors and utilities holding or managing land.
- Control procedures and cost-share should include the use of herbicides, cultural practices and biological methods.
- Landowner and tenant cost-share incentives for herbicides should continue to be available through County Weed Departments.

SB 572 is a comprehensive bill containing a number of new concepts. While we recognize some amendments may be necessary, we suggest the bill is a giant step in the right direction. Many of the provisions are compatible with Farm Bureau member-adopted policy. We support efforts to provide maximum flexibility to counties, additional convenience to landowners and sufficient state oversight.

Thank you!

STATEMENT OF KANSAS SEED INDUSTRY ASSOCIATION

TO THE SENATE AGRICULTURE COMMITTEE

SENATOR STEVE MORRIS, CHAIR

REGARDING S.B. 572

FEBRUARY 16, 2000

Mr. Chairman and Members of the Committee, I am Chris Wilson, Director of Member Services for Kansas Seed Industry Association (KSIA). KSIA is the professional and trade association of the state's seed industry, representing family-owned seed businesses, seed growers, and other companies producing and marketing agricultural seed in Kansas. We appreciate the opportunity to speak in support of S.B. 572 today.

We also appreciate the opportunity the Kansas Department of Agriculture gave us to participate in the task force which helped to develop this legislation. The Department does an outstanding job of bringing those affected together to work toward consensus solutions and regulations.

We believe it is very important to bring the Noxious Weed Law up to date. Kansas is the only state which currently determines noxious weeds through legislative action. We strongly support that process being done through rule and regulation of the Department, allowing for greater flexibility in the control and eradication of noxious weeds and making those determinations on a scientific basis.

We also applaud the bill's approach to management of noxious weeds - recognizing that not all are the same - that some can be eradicated and others must be controlled or managed differently. Also, we like the change to allow counties to give producers more options in the control of noxious weeds - both in methods of treatment and purchase of chemicals. This flexibility makes good sense in today's agriculture.

We would request one addition to the changes. While not directly addressed by the task force, we did discuss whether taking the list of noxious weeds out of the noxious weed

*Senate Agriculture
2-16-00
Attachment 3*

law meant we should also take the list of noxious weed seeds out of the seed law. KSIA took the position at our annual meeting in Wichita last month, that the two laws should be consistent, which has been a problem in the past. We respectfully request that you amend S.B. 572 to remove the noxious weed seed list from the seed law and provide for noxious weed seeds to be determined by the Department of Agriculture by rule and regulation, so that the list may be consistent with the noxious weeds as determined by the Department. I have informed the Department and the other organizations on the task force of this request, and to my knowledge, everyone is in agreement with this.

As you consider S.B. 572, we hope you will advance the bill in spite of some controversy, because overall, we believe it to be very good policy and very important that the state's noxious weed law be revised. There is much more to this bill than farmer choice on chemicals, and we believe this bill needs to be enacted.

Thank you for the opportunity to make this statement and your consideration of our views. I will be glad to respond to any questions.

####

Kansas Statutes

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No. 2-1415

2-1415

Chapter 2.--AGRICULTURE

Article 14.--SALE AND DISTRIBUTION OF AGRICULTURAL SEEDS

2-1415. Definitions. [See Revisor's Note] As used in this act:

- (a) "Agricultural seed" means the seed of grass, legume, forage, cereal and fiber crops, or mixtures thereof, but shall not include horticultural seeds.
- (b) "Person" means any individual, member of a partnership, corporation, agents, brokers, company, association or society.
- (c) "Conditioned" means cleaned, or cleaned and blended, to meet the requirements of agricultural seed for the purpose of being planted or seeded.
- (d) "Kind" means one or more related species or subspecies which singly or collectively is known by one common name, and includes, among others, wheat, oat, vetch, sweet clover and alfalfa.
- (e) "Variety" means a subdivision of a kind, which is characterized by growth, yield, plant, fruit, seed or other characteristics by which it can be differentiated from other plants of the same kind.
- (f) "Hard seed" means the seeds which because of hardness or impermeability do not absorb moisture or germinate under seed testing procedure.
- (g) "Label" means the statements written, printed, stenciled or otherwise displayed upon, or attached to, the container of agricultural seed, and includes other written, printed, stenciled or graphic representations, in any form whatsoever, pertaining to any agricultural seed, whether in bulk or in containers, and includes declarations and affidavits.
- (h) "Secretary" means the secretary of agriculture.
- (i) "Weed seed" means the seeds of plants considered weeds in this state and includes noxious weed seed and restricted weed seed, determined by methods established by rule and regulation under this act.
- (j) "Noxious weed seed" means the seed of Kudzu (*Pueraria lobata*), field bindweed (*Convolvulus arvensis*), Russian knapweed (*Centaurea repens*), hoary cress (*Cardaria draba*), Canada thistle (*Cirsium arvense*), leafy spurge (*Euphorbia esula*),

cockgrass (*Agropyron repens*), bur ragweed (*Ambrosia grayii*), pignut (*Indian rushpea*) (*Hoffmannseggia densiflora*), Texas blueweed (*Helianthus ciliaris*), Johnson grass (*Sorghum halepense*), sorghum alnum, and any plant the seed of which cannot be distinguished from Johnson grass, and musk (nodding) thistle (*Carduus nutans L.*).

(k) "Restricted weed seed" means weed seeds or bulblets which shall not be present in agricultural seed at a rate per pound in excess of the number shown following the name of each weed seed: Silverleaf nightshade (*Solanum elaeagnifolium*) 45, horsenettle, bullnettle (*Solanum carolinense*) 45, dock (*Rumex spp.*) 45, oxeye daisy (*Chrysanthemum leucanthemum*) 45, perennial sowthistle (*Sonchum arvensis*) 45, giant foxtail (*Setaria faberi*) 45, cheat (*Bromus secalinus*) 45, hairy chess (*Bromus commutatus*) 45, buckthorn plantain (*Plantago lanceolata*) 45, wild onion or garlic (*Allium spp.*) 18, charlock (*Sinapsis arvensis*) 18, wild mustards (*Brassica spp.*) 18, treacle (*Erysimum spp.*) 18, wild carrot (*Daucus carota*) 18, morning glory and purple moonflower (*Ipomoea spp.*) 18, hedge bindweed (*Calystegia spp.*, syn. *Convolvulus sepium*) 18, dodder (*Cuscuta spp.*) 18, except lespedeza seed which may contain 45 dodder per pound, pennycress, fanweed (*Thlaspi arvense*) 18, wild oats (*Avena fatua*) 9, climbing milkweed, sandvine (*Cynanchum laeve*, syn. *Gonolobus laevis*) 9, jointed goatgrass (*Aegilops cylindrica*) 9, black nightshade complex (*Solanum ptycanthum*, *S. americanum*, *S. sarrachoides*, *S. nigrum*, and *S. interius*) 9, wild buckwheat, black bindweed (*Polygonum convolvulus*) 9, velvetleaf, butterprint (*Abutilon theophrasti*) 9, and cocklebur (*Xanthium spp.*) 9. The total number of the restricted weed seed shall not exceed 90 per pound except native grass, smooth brome grass, tall fescue, wheatgrasses and lespedeza shall not exceed 150 per pound. In smooth brome grass, fescues, orchard grass, wheatgrasses, and chaffy range grasses, hairy chess or cheat shall not exceed 2,500 per pound. For the purposes of this section the following weedy *Bromus spp.* shall be considered as common weeds and collectively referred to as "chess": Japanese chess (*Bromus japonicus*), soft chess (*Bromus mollis*) and field chess (*Bromus arvensis*).

(l) "Advertisement" means all representations, other than those on the label, disseminated in any manner, or by any means, relating to agricultural seed.

(m) "Record" means all information relating to any shipment of agricultural seed and includes a file sample of each lot of such seed.

(n) "Stop sale order" means an administrative order, authorized by law, restraining the sale, use, disposition and movement of a definite amount of agricultural seed.

(o) "Seizure" means a legal process, issued by court order, against a definite amount of agricultural seed.

(p) "Lot" means a definite quantity of agricultural seed, identified by a lot number or other mark, every portion or bag of which is uniform, within recognized tolerances for the factors which appear in the labeling.

(q) "Germination" means the percentage of seeds capable of producing normal seedlings under ordinarily favorable conditions, in accordance with the methods established by rule and regulation under this act.

(r) "Pure seed" means the kind of seed declared on the label, exclusive of inert matter, other agricultural or other crop seeds and weed seeds.

(s) "Inert matter" means all matter not seeds, and as otherwise determined by rules and regulations under this act.

STATEMENT OF
KANSAS AGRICULTURAL AVIATION ASSOCIATION
TO THE SENATE AGRICULTURE COMMITTEE
SENATOR STEVE MORRIS, CHAIR
REGARDING S.B. 572
FEBRUARY 16, 2000

Mr. Chairman and Members of the Committee, I am Chris Wilson, Executive Director of Kansas Agricultural Aviation Association (KAAA), the state's trade and professional industry representing Kansas aerial applicators of agricultural chemicals. KAAA is in support of S.B. 572.

While there is a great deal in this bill that would revamp and improve the state's noxious weed law, and while there was a lot of effort and agreement on the part of affected organizations in developing the bill, unfortunately there is controversy over that portion of the bill which would give farmers the ability to receive the county financial incentive regardless of where they purchase their chemicals.

KAAA has a great relationship with county weed directors. We appreciate them very much and our members work closely with them in their counties. They are in frequent communication. The County Weed Directors' Association exhibits every year at our convention, and we appreciate their support. We see ourselves as partners in working to control noxious weeds. For example, we are getting increasingly good results on sericea lespedeza in the Flint Hills, where our members have been experimenting with different chemicals and amount of carrier and working closely with county weed directors.

In some counties, my members report that their counties are using the voucher system enacted several years ago, and that works successfully. In counties where that is not done, I hear from members that the current system is a hassle. They fly acres in more than one county, so they will have to go to multiple county seats to pick up chemical at the weed

departments for customers, only to get back to the office and find another customer has called and the operator has to return to a county seat he has just come from for more chemical. It's a hassle and a waste of time. Of course, many chemical applicators wouldn't do this service for the farmer, and it's the farmer who has to do the running.

This bill would allow the operator to use chemical he has on hand to do the customer's job and allow the customer to still receive the financial incentive for treating his noxious weeds. Of course, nothing need change under this bill - the farmer could still go to the county to purchase the chemical. We think giving farmers this option is good policy and important in today's busy agriculture where time and efficiency are extremely important. We think this would also help our members be more efficient.

We know change is difficult when one has been doing business differently for a long time. But we think this bill just adds an option for producers and makes good sense. It is imperative that county weed directors, farmers and chemical applicators continue to work together to get this important job done.

We respectfully request that you recommend S.B. 572 favorably for passage and would be glad to respond to questions.

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Kansas Agricultural Alliance

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|--|---|
| Kansas Agricultural Aviation Association | Kansas Agri-Women |
| Kansas Association of Ag Educators | Kansas Association of Conservation Districts |
| Kansas Association of Wheat Growers | Kansas Cooperative Council |
| Kansas Corn Growers Association | Kansas Crop Consultant Association |
| Kansas Dairy Association | Kansas Ethanol Association |
| Kansas Farm Bureau | Kansas Fertilizer and Chemical Association |
| Kansas Grain and Feed Association | Kansas Grain Sorghum Producers Association |
| Kansas Association of Nurserymen | Kansas Livestock Association |
| Kansas Seed Industry Association | Kansas Veterinary Medical Association |
| Kansas Soybean Association | Western Retail Implement and Hardware Association |
| Kansas Pork Producers Council | |
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February 16, 2000

The Honorable Steve Morris
Chairman of the Senate Agriculture Committee
Statehouse
Topeka, KS 66612

Dear Chairman Morris,

The Kansas Agricultural Alliance is writing in support of SB 572, revising the States Noxious Weed law. The member organizations of the Ag Alliance, listed on this page, have voted unanimously to endorse and support this legislation.

Thank you for your consideration.

Sincerely,



Stanley L. Larson
President

Testimony on SB 572
Senate Agriculture Committee
February 15, 2000
Prepared by Joe Lieber, Kansas Cooperative Council

Mr. Chairman and members of the Committee, I'm Joe Lieber, Executive Vice President of the Kansas Cooperative Council. The Council has a membership of over 200 cooperative businesses that have a combined membership of nearly 200,000 Kansans. Approximately 130 of our members are farm supply cooperatives.

The Kansas Cooperative Council supports the passage of SB 572, especially new section 6, subsection (7), and lines 18-23 on page 4.

The passage of this section would put our members on a level playing field with the counties that also sell these chemicals.

Currently, if producers want to receive a financial incentive for the control of noxious weeds they would have to drive past the cooperative to the county seat to purchase the chemicals. The passage of SB 572 would give the producers a choice of where to buy the chemicals and they would receive the financial incentive in either case.

We ask the Committee to pass SB 572 to help our members compete with the counties.

Thank you for your time and I'll be happy to try to answer any questions.

*Senate Agriculture
2-16-00
Attachment 4*

Views on SB 572

The review group was made up of 9 groups (Kansas Livestock Association, CWDAK, Kansas Farm Bureau, Kansas State University, Kansas County Commissioners Association, Kansas Fertilizer and Chemical Association, Kansas Nursery and Landscape Association, Kansas Seed Industry Association/Kansas Aerial Applicators Association and The Nature Conservancy) with the Kansas Department of Agriculture facilitating these meetings. The review was requested, as I understand, at the request of Governor Bill Graves via Secretary of Ag. Allie Devine. We met once a month from January to May and in July of 1999 and January 14, 2000.

Major Changes from Existing Noxious Weed Law

1. Removes authority from the Legislature and gives it to the Secretary of Ag. via rules and regulations for plants on the Noxious Weed list.
2. Allows for funding by General Fund.
3. Removes 5 & 10% limitations on collecting bad bills.
4. Removes state paying 25% of our salaries.
5. Removes 5 district directors.
6. Removes bond requirements.
7. Removes mil levy and cost share guidelines.
8. Removes unlawful disposal section.
9. Removes custom harvesting inspections
10. Removes guidelines pertaining to disposal of infested plant material or fertilizer.
11. Remove section on infested livestock feed and processing requirements.
12. Removes capitol outlay provisions.
13. Allows KDA to review and audit county programs.
14. Requires mulch hay to be certified weed free for use on State lands.
15. Allows KDA to assess fines for non-compliance, landowners and government officials alike.
16. Does not require most counties to give financial assistance for Musk Thistle, Bindweed, Johnsongrass and Sericea, assuming they are still on the list.
17. Does not give authority to collect bad bills if a county charged chemical sales.
18. Does financial assistance apply to forced herbicide treatment?
19. Responsible party instead of Landowner responsibility.
20. Allows for financial incentive for tillage, mowing, Bio-control and goat grazing.

Musk Thistle
Hoary Cress
Leafy Spurge
Johnsongrass
Kudzu

Field Bindweed
Canada Thistle
Burrageed
Sericea Lespedeza (July 1, 2000)

Russian Knapweed
Quackgrass
Pignut
Bull Thistle (County Option)

Senate Agriculture
2-16-00
Attachment 5

Testimony for SB 572

Thank you Senators for allowing me to speak to you today. My name is Rodney Biesenthal, Pottawatomie County Noxious Weed Director for the past 14 years, past President of our Association and the individual who sat on this Review Committee for the past year. I am speaking to you today representing the County Weed Directors Association of Kansas.

I met several times with KDA officials and the Secretary in the past 6 months and have repeatedly stated that any proposed legislation would have had to have been drafted prior to our Kansas Association of Counties meeting in mid November before KAC, County Commissioners and Weed Directors could support this or any legislation. As a result, the KAC platform reads: The Kansas Association of Counties believes that a strong noxious weed law providing for the eradication of noxious weeds should be a high priority for both state and county government. The Kansas Association of Counties also supports the cost-share of chemicals system which allows the property owners to purchase chemicals directly from the County weed department for the treatment of noxious weeds.

As in the presentation of Greg Krissek January 13, the noxious weed law has not had significant changes made to it since the late 50's and early 60's. But does it really need these changes? In our opinion, it does not. To support this claim, drive to western Missouri or northern Oklahoma in the spring. The Noxious Weed Law was put together well.

Many of you Senators have seen me here before. Most recently, asking that you add *Sericea Lespedeza* to the Noxious Weed list. Thank you for that. At least now, *Sericea* seed cannot be sold.

The CWDAK opposes this legislation with the following points.

Our organization is concerned that by removing specific requirements from the law (from you legislators) and addressing these issues by rules and regulations, we would be allowing too much state control and local interpretation of a state statute. Keep in mind that there would be no guarantees that the plants that are now on the noxious weed list would be noxious weeds in the year 2001. We recognize that by rules and regs. we would have the opportunity for attendance and input. However, I have attended several rules and regs. hearings and while I have given testimony, I was never sure who was the judge and jury. Whereas when I testify to you here, I understand the process.

Our group opposes reimbursement on a per acre basis. If counties continue to sell chemical as in the past, except on a per acre basis, there would be no significant change in the way landowners (responsible party) purchase chemical for Noxious Weed control, I am not sure how that we can provide the proper paper trail on a reimbursement per acre. But if chemical is sold by private industry, a county (the size and volume of Pottawatomie County) would have to hire several inspectors to police the use of this program.

If I could expand on this -- If this bill should pass and a farmer purchases 10 gallons of Tordon for 160 acres of Musk Thistle (8 oz/acre) from Pottawatomie County, his cost would be 10 x \$80/gallon for \$800.00 minus \$1.25/acre financial incentive of \$200 for a total cost of \$600. When a farmer signs our ticket, he signs that this product will be used on noxious weeds only and at the prescribed rate on the sales ticket.

If this bill should pass, and a farmer chooses to purchase chemical from private industry, he then would contact our office to verify that the funds are available. He would then go to a private industry to purchase 10 gallons of Tordon at retail price. The farmer would (in Pott. Co.) be required to send me a copy of the invoice then I or some of my staff would have to do an inspection and provide some type of measurement service

to guarantee that the product was applied within the guidelines of the label for this Noxious Weed. My concern is that this farmer may apply this 10 gallons on 80 acres (16 oz./acre-- the brush rate) and without measurement and inspection he has just been subsidized \$2.50/acre to control brush and Musk Thistle. Of course, 2,4D would have to be added but that would have only complicated this example. Probably just as disturbing to me is what if this farmer treats 213 acres with Tordon at 6 oz./acre (label allows) and does not get satisfactory control? Who then warrants the product?

My next question is -- how much additional labor would it take to locate, verify and measure the treated acreage? To really complicate the matter, what if the farmer spot treated 160 acres of Musk Thistle on 1000 acres in 5 or 6 pastures? With increased summer labor requirements, either our cost of doing business increases or we do not get our work done on ROW's. We see this portion as increasing cost to local government and to local landowners. Keep it short, sweet and simple to curtail costs. Pottawatomie County annually has 700 Musk Thistle treatment sales in a season.

We realize that there could possibly be 105 different methods to reimburse either the landowner or private industry, but there is no way for private industry to collect the financial incentive if the herbicide is improperly applied and county refuses to pay the reimbursement

Our organization opposes the removal of the word "eradicate". Assuming these plants are still on the noxious weed list, eradicating Musk Thistle, Bindweed, Johnsongrass or Sericea Lespedeza statewide may never occur but it could happen in any one county. An example being very little Sericea exists in Southwest Kansas and those counties may indeed eradicate Sericea in their respective counties. Most Sericea in southwest Kansas is in CRP fields brought in with contaminated seed or on road right of ways by contaminated seed or mulch.

Our organization is concerned that the removal of the word "eradicate" may imply that we no longer encourage aggressive chemical treatment linked to sound long-term management practices.

Another major concern that we have is providing a financial incentive for tillage, mowing, bio-control and to a lesser degree, goat grazing. We all recognize the value of these methods but see these as an opportunity for abuse. We feel disking or mowing gives only temporary and cosmetic control. Goat grazing Sericea may soon prove to be an accepted control practice but we don't yet feel comfortable subsidizing this venture that may not prove profitable in the future. Bio-control should and has been implemented by KSU, KDA and weed directors like myself. The two Musk Thistle insects are the examples I am speaking of. Biological control of Bindweed is now being researched at KSU. Biological control needs to be integrated with chemical and or cultural practices. We would not feel comfortable paying someone for our work.

We weed directors have always had the intent to keep Noxious Weed control costs as reasonable as possible for the greatest return on investment and have always opposed changes that would increase cost to landowners, which in turn lowers the treated acreage especially in hard economic times.

Remember that all noxious weeds, except Musk Thistle, are perennial plants and are not going to go away with one treatment. No county is an island. What one county does will eventually affect the surrounding counties.

In closing, the CWDAK requests that you not support this bill.

Thank You

**Testimony Presented to Senate Committee on Agriculture
February 16,2000
Senate Bill No. 572**

I offer testimony today from multiple perspectives. I was a participant in the drafting negotiations upon the original legislation that resulted in K.S.A. 58-3212 and related statutes. That statute is now being sought to be amended by Section 17 of Senate Bill 572, but solely by the reference to the law that would result from Section 3 of Senate Bill No. 572. My testimony is also being offered as a Kansas citizen committed to the underlying concepts of the federal statutes that rail line abandonments should be postponed and interim trail use encouraged to foster potential revitalization of the railway system of the United States and the State of Kansas. I also have the further perspective as an interest holder in a 980 acre family farm in close proximity to the Wabash Trace Nature Trail that consists of 60 miles of railroad right-of way running through the Southwest Iowa countryside. The Wabash Trace Nature Trail has been in operation since 1988, and not unlike Kansas, early opponents to the trail fueled much strife that was disruptive to the genuine efforts in the communities along the trail to support their trail, but also the communities efforts to make sure a transportation corridor remained available for future reuse. However, that opposition has largely been overcome by the actual use of the trail dispelling many of the fears of opponents. My testimony is also offered as a Kansas citizen committed to making sure that publicly owned or controlled recreational areas are available to the public, and that there are adequate resources to maintain those recreational areas. There are elements of this Senate Bill 572 which could impact the retention of state parks, wildlife areas and other areas of public access. However, as a person growing up on a farm, I fully understand that any property owner, public or private, has responsibilities to their neighbors to maintain their land in such a manner to avoid the spread of noxious weeds. The concerns which I will raise are intended to strike a balance between maintenance obligations and assuring that recreational areas remain open for the public.

Specifically, my concerns about Senate Bill No. 572, in the form as available at the time of this hearing, are as follows:

1. The existing safeguard contained in K.S.A. 2-1320, which limits the amount of the lien for weed control performed by the county weed supervisor [which would be renamed as the weed director under SB 572] to an amount of not more than five percent of the assessed valuation of the entire contiguous tract of land owned by the person in any one year, is removed in Section 12, page 9, lines 11 through 13, of SB 572. This safeguard no longer would protect any entity, whether it is the rancher adjoining a railbanked corridor, or the holder of the interim trail use of the railbanked corridor. Without the percentage safeguard, a forfeiture of title or interest could possibly occur for weed control for just one year. To the extent that the statute is uniformly applied to all property owners and interest holders, then all would be similarly placed at risk, however, I still would question the public policy that would cause a forfeiture of title or interest for an unlimited amount of expenses incurred by a governmental entity to eradicate or control weeds in any one year. I would urge caution that because the lien for weed control is "collected as other taxes are collected," and such tax liens are deemed to have priority over mortgage liens, that by removing the safeguard of the amount of the lien in any one year that the legislature has exposed the lenders to the agricultural community to higher risks that in turn could result in lenders becoming even more selective in the loans that are made to an agricultural community that is already facing economic problems. As a stockholder of a Kansas based bank and other national banks, I would have concern about the preservation of loan principal on Kansas agricultural loans, if the priority for tax liens could suddenly be extended to an unlimited amount for weed control in any one year.

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2-16-00
Attachment 6

2. The existing provisions of the noxious weed statutes already impose an obligation upon “those supervising state-owned land” to control the spread of and to eradicate all weeds declared by legislative action to be noxious. See K.S.A. 2-1314. There are safeguards present in the legislative process because a variety of interests can have an opportunity to have input in what should be deemed noxious weeds. In contrast, Senate Bill 572, Subsection 2 (i), page 2, provides that the Secretary of only the Kansas Department of Agriculture shall declare a weed noxious. In essence, the Secretary of Agriculture is given the unilateral authority to increase substantially the operating costs of other state agencies. At least when the determination of what constitutes a noxious weed is made by the legislature, there is an opportunity for affected state agencies in the fiscal note process to identify for the legislature the costs attributable to the declaration, and to request budget adjustments accordingly for those increased costs. The potential combined impact of this change, is compounded when considered in conjunction with the provisions adding civil penalties contained in Subsections 15(b) and (c) upon other officials, which by inference could include “those supervising state-owned land,” for failure to comply with the requirements for controlling noxious weeds. A new definition was added in Subsection 2(n), page 2, of “those supervising state-owned land” so that it purportedly means “the ultimate legal authority of the subdivision of the state government having responsibility for the management, control or supervision of state land.” Just what is intended by this new definition remains unclear in the manner in which it is used in this context. Is it the Secretary of the Department of Wildlife & Parks, or the Secretary of the Department of Transportation as to the respective properties within their supervision, or is it the Governor who is the head of the executive branch of the state government, or is it the legislature itself that controls the expenditures of either such state agency? Either state agency could do more weed control with more adequate funding for the personnel to maintain the properties they supervise.

3. There is a disparity between the time period given to private property owners and governmental entities to complete treatment pursuant to an official control method. For private property owners, the time frame is “shall not be less than 10 working days after the mailing of the notice.” See Subsection 7 (c) (2), page 5. In contrast, the government entity must control the weeds within ten days after receiving the notice. See Subsection 11(a), page 7. Even among private property owners there is the possibility due to the open nature of the time frame for compliance (e.g. not less than...) that weed directors could arbitrarily set different time frames for different private property owners. By way of example, a weed director could impose a shorter compliance period for the interest holder of a railbanked corridor, but a longer time frame for the adjoining property owner, with the same problem. At least a single period for compliance specified for all those that have a weed problem, whether public or private, would deter capriciously set periods targeting any one type of entity.

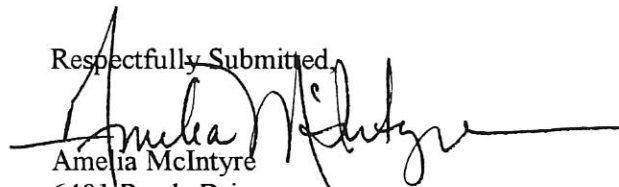
4. Appropriate recognition of funding restrictions on governmental entities contained in the existing statute K.S.A. 2-1319 have been eliminated in the re-write of that statute as contained in Section 11(a), page 7, of Senate Bill 572. In several situations, the term “their respective fund for that purpose” has been removed. As you well know, state agencies in particular are budgeted certain funds for certain categories of purposes, and in some situations where funding is derived from federal sources, there might not be the flexibility to switch the purpose for which the federal funding was directed.

5. It should be clarified that the provisions of Subsection 16(e) only apply to the title obtained by a county after the expiration of all rights of redemption, which would be at the time the judgment is entered in the foreclosure action. See K.S.A. 79-2804. In addition, a foreclosure sale conveys the interest in the property *subject to valid covenants running with the land and*

valid easements of record. K.S.A. 79-2803. Many tracts of publicly owned recreational areas were acquired with federal or private funds and have easements or other restrictions of record that the land will be used only for recreational purposes. Those covenants would survive a foreclosure. Section 16(e) has the appearance of giving adjoining property owner or other successor the expectation that a transfer of land free of such restrictions. Specifically as to railbanked corridors, I think a plausible argument exists that the federal rail-banking statute would still control uses and impose obligations upon the property after foreclosure until such time that abandonment proceedings are officially commenced before the Surface Transportation Board, and their order of abandonment entered. Careful scrutiny should also be given to the types of covenants in the quitclaim deeds by which the interim trail users obtained their interest, as well as any other documents that were placed of record at the time of transfer of title. This argument is also supported by the concept of the Supremacy Clause of the United States Constitution that has been applied to support the federal rail-banking statute. By way of analogy, if a Kansas railroad grants a mortgage in its interest in the right-of-way, and then defaults on the payment of the mortgage, by Kansas statute, the purchaser at the foreclosure sale succeeds to the rights and obligations of the railroad operations. K.S.A. 66-802. Similarly, please note that in the 1998 Kansas Legislative Session, there was a series of statutes adopted collectively entitled the Railroad Leasing Act [K.S.A. 66-531 through 66-538]. K.S.A. 66-532 defines a successor in interest as various entities including the holders of the right of reversion relating to "railroad land." It endeavors to protect the interests of tenants upon "railroad land" versus various successors in interest. The tenants whose interests are protected are limited to public warehouseman and other persons primarily engaged in the sale or distribution of fertilizer or agricultural chemicals. However, this series of Kansas statutes can be taken as an indication of the recognition of the necessary steps of abandonment, prior to the vesting of the reversionary interests, although there is no reference to the federal statutory authority.

These are my cursory concerns based on a relatively short period of time to review Senate Bill 572. If the provisions of Senate Bill 538 or House Bill 2490, were amended in whole or in part to this bill, I would have concerns that are even more significant.

Respectfully Submitted,



Amelia McIntyre
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Mission, Kansas 66202
913/677-5991



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Shawnee Mission, KS 66201-1203
Ride Line -(816) 871-5150
www.jcbikeclub.org

February 16, 2000

Senate Agriculture Committee
State Capital
Room 423-S
Topeka, KS

Regarding: Senate Bill 572 - Land Stewardship and Control of Noxious Weed Act

Dear Chair and Committee Members,

Thank you for the opportunity to present testimony on behalf of the Johnson County Bicycle Club on the pending legislation, Senate Bill 572. Our organization represents over 300 members and their families. The Johnson County Bicycle Club is dedicated to the use of and advocacy for the bicycle as a means of recreation and transportation to promote a healthy, safe life-style for individuals, families and communities in Kansas and western Missouri. Our membership annually pedals over in 500,000 miles Kansas, its surrounding states, around the country and even foreign lands. I come before this committee to present our testimony on Senate Bill 572 and its possible impacts on recreation opportunities in Kansas.

I am sure this distinguished committee is well aware of the extremely low percentage of publicly accessible lands for recreational purposes in Kansas. Kansas ranks embarrassingly at or near the bottom of the list for the amount of land per capita on which its residents may pursue recreational activities. It is for this reason the membership of the Johnson County Bicycle Club routinely travel out of state to enjoy the varied types of off-road cycling and trail riding opportunities provided in other states for their residents. Each year our membership spends thousands of dollars in these states in pursuit of bicycling. I have been asked to express our concern on the impacts Senate Bill 572 may have on the already limited publicly accessible facilities and lands within Kansas.

Our interpretation of Section 16(e) allows for yet another mechanism to take portions of what limited publicly accessible lands there are out of the public domain. While some of the properties for which this section applies may be not of a recreational nature, it is possible, a county may come into ownership of properties that are recreational in their use through the various means defined. We would hope this committee and the Legislature would encourage counties to develop or continue the recreational uses on these properties with incentives from the state, other governmental entities and private organizations. Once these lands are disposed of, the likelihood of them being replaced is slim, yet our population continues to grow and the

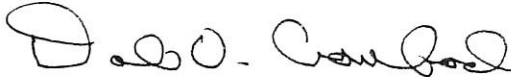
demand for publicly accessible recreational lands and trails increases. For these reason we must oppose this portion of Senate Bill 572.

We encourage this committee to include additional language similar to Sections 16(h) and (i) that would allow the conveyance of county-owned land to nonprofit corporations organized for the purpose of providing publicly accessible recreational facilities and trails. Such a conveyance mechanism could allow for the expansion of recreational facilities and trails without increasing the obligations of the state or other government entities. This would represent a true public-private partnership favored by many political entities today and successfully accomplished in many other states.

New Section 3 changes the weed determination and control process from the legislature and county to the Department of Agriculture. While this appears to remove some authority from the local government, it does offer greater uniformity throughout the state. Given that many recreational facilities and trails may cross multiple jurisdictions, including cities and counties, this section is favorable to the promotion of such facilities. The current method of control is susceptible to the varying political winds of each jurisdiction making implementation and management of such multi-jurisdictional facilities a patchwork of policies and procedures.

In conclusion, the Johnson County Bicycle Club hopes the committee will consider our concerns and suggestions and offer to the Senate a bill that would encourage, rather than hinder the development of publicly accessible recreation facilities and trails in Kansas. Recreation opportunities of all types are in increasingly greater demand across the state and the country. Lets make sure we promote the development of these facilities and trails through both public and private means by preserving and protecting the resources we have and simplifying the proper management of the lands they utilize.

Sincerely,



Dale Crawford
Johnson County Bicycle Club
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