

MINUTES OF THE SENATE COMMITTEE ON AGRICULTURE.

The meeting was called to order by Chairperson Steve Morris at 10:00 a.m. on February 18, 2000, in Room 423-S of the Capitol.

All members were present except:

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

Conferees appearing before the committee:

Linda Peterson, Marion County Commissioner  
Kim Gulley, Director of Policy Development, League of Kansas Municipalities  
Marvin Smith, Shawnee County  
Ray DeJulio, Franklin County Public Works Administrator  
Clinton Harris, Jackson County  
Charles Benjamin, Kansas Natural Resource Council and Kansas Chapter of Sierra Club  
Riley Walters, Director, Butler County Noxious Weed Department  
Robert Abel, Jefferson County, County Weed Directors and Kansas Association of Counties

Others attending: (See Attached)

Senator Clark made a motion to approve minutes from February 14, 15, 16, and 17, 2000 meetings as submitted. Senator Umbarger seconded. The motion carried.

Continued hearing on:

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

Linda Peterson, Marion County Commissioner, testified in opposition to **SB 572**, stating that she served on the Noxious Weed Law Task Force and she does not support **SB 572** in its present form, but it does have some redeeming qualities (Attachment 1). Ms. Peterson pointed out that Lonie Addis, President of Kansas County Commissioners Association has submitted written testimony (Attachment 2).

Kim Gulley, Director of Policy Development, League of Kansas Municipalities, appeared in opposition to **SB 572** inasmuch as her organization believes that **SB 572** would result in some unintended consequences with respect to rails to trails projects (Attachment 3).

Marvin Smith, Shawnee County farmer, testified in opposition to **SB 572**, stating the procedure of the past for the legislature to determine by statute the effective date and weeds that should be declared noxious is time tested and proven. Mr. Smith suggested it would serve the public to have the opportunity for input before an Interim Committee by all interested parties (Attachment 4).

Ray DeJulio, Franklin County Public Works Administrator, testified in opposition to **SB 572** saying that passage of this bill with required "financial incentives" would result in an unfunded mandate to counties (Attachment 5).

Clinton Harris, Jackson County farmer, opposed **SB 572** because "we already have a workable noxious weed law which provides the rules and regulations necessary to accomplish the proponents' stated concerns" (Attachment 6).

Charles Benjamin, Kansas Natural Resource Council and Kansas Chapter of Sierra Club, testified in

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON AGRICULTURE, Room 423-S of the Capitol, 10:00 a.m., on February 18, 2000.

opposition to **SB 572**, stating the lack of input into the process of rules and regulations and methods of “management” of noxious weeds was particularly troublesome given that in New Section 4 only the Secretary of Agriculture has the authority to determine what plants are to be classified as noxious weeds (Attachment 7).

Riley Walters, Director, Butler County Noxious Weed Department, opposed **SB 572** as the biggest problem being that **SB 572** places a burden on counties in determining that herbicides purchased for noxious weed control are actually used for that purpose and at rates that give long term control, not merely cosmetic control (Attachment 8).

Robert Abel, Jefferson County, County Weed Directors and Kansas Association of Counties, made several points at issue in his opposition to **SB 572** (Attachment 9).

Written testimony was handed out from Alan Steppat in opposition to **SB 572** (Attachment 10).

Written testimony was provided by Gray County (Attachment 11); Darrell Westervelt, Blueville Nursery, Inc. (Attachment 12); and Steve Watts, Gove County Weed Director (Attachment 13); all in opposition to **SB 572**.

Senator Biggs provided written testimony in opposition to **SB 572** from Ed Sass, Director of Leavenworth County Noxious Weed (Attachment 14).

The next meeting will be February 21, 2000.

# SENATE AGRICULTURE COMMITTEE GUEST LIST

DATE: 2-18-00

NAME	REPRESENTING
JOHN KABUS	SN. CO. NOXIOUS WEED
JL Kennedy	Jackson Co Zoning
Clinton Harris	Soldier. 155.
Aaron Harries	Ks. Fert. & Chem Assn.
Bill Scott	Ks Dept. of Agriculture
Ray De Julio	Franklin County Public Works
Joe Brunk	Sedgwick Co. Nox. weeds
P. Lee Walters	Butler Co. Nox Weed Dept.
Robert Adel. f.	Jefferson Co.
Marvin E. Smith	Shawnee Co Farmer
Derenda Mitchell	Ks. Dept. of Agricul
Carole Jordan	KA
Michael W. Lawrence	WO. CO. Noxious Weed
Julie Jimison	Ks Grain & Feed Assn.
Dag Wareham	Ks. Fert & Chem Assn. / Ks. Grain & Feed Assn.
Tom Sim	Ks Dept. of Agriculture
Joe Lieber	Ks Co-op Council
Butch & Nori Harris	self
GAIL BARTLEY	JW. CO. WEED DEPT.

SENATE AGRICULTURE COMMITTEE GUEST LIST

DATE: \_\_\_\_\_

NAME	REPRESENTING
Boyle "Hooley" Alcorn	Jewel/B. Coman.
Jim Auscans	Crawford Co. Weed Dept.
PAT ROBISON	LABETTE Co. Weed Dept.
Jim Duncan	Chautauque Co Weed Dept.
Dick Scott	Elk County Weed Div.

February 16, 2000

Testimony on Senate Bill No. 572

To: Senate Agriculture Committee

By: Linda Peterson, Marion County Commissioner

Good morning Chairman Morris and Committee members: I am Linda Peterson, Marion County Commissioner. Thank you for the opportunity to share my thoughts on the proposed revisions of the noxious weed law.

I served on the Noxious Weed Law Task Force. I was appointed to represent county commissioners by Butler County Commissioner, Neal Parrish who at that time was president of the Kansas County Commissioner's Association. I was excited about being a part of this task force. I felt the current law, in some ways had become out dated. After meeting as a task force for many months the committee members received revision of the Noxious Weed Law in draft form in September. I do not support Senate Bill No. 572 in its present form, but it does have some redeeming qualities.

I support the classification of noxious weeds and the idea that weeds will be determined to be noxious by a set of criteria in rules and regulation. I believe all other states that have a noxious weed law use scientific methods to determine if a weed is noxious.

I support the removal of the 1.5 mill levy. In current law if the county does not levy 1.5 mills then the county can collect only 75% of their cost. If the county does levy the 1.5 mills then the county can collect 100% of their costs. In the revision counties can decide what financial incentive they want to use for the containment and primary management noxious weeds in their county. The county will decide if they want to offer financial incentives for any of the other noxious weeds or collect 100 % of their costs.

There are two items in the revisions with which the task force did not agree. One of the items concerns providing financial incentive on a per acre basis instead of per gallon as it is now. I understand there are individuals who do not wish to use chemicals, but I feel this could get out of hand. I believe it would be more difficult than it is now for the weed directors to monitor other methods.

The other item, I know other county commissioners will not be comfortable with is the mandate that the county has to set up a procedure to offer the financial incentive to the landowner who wants to purchase chemicals from the local cooperative or chemical dealer. As you know in recent years a certificate program was put in place for counties to use. For some reason this program has not been widely accepted. Marion County is using the certificate program. It works well in Marion County and I give all the credit to our weed director, Rollin Schmidt. The landowners like it, the local chemical dealers like

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*2-18-00*  
*attachment 1*

it, our weed director likes it and the commission likes it. It helps the county because a reduced amount of chemicals are needed in inventory and therefore the weed department budget works better. The certificate program works well but county commissioners would not want it mandated. I believe an education program about the certificate program should be used to help promote it.

In Section 7 of the revision, part (b) talks about individual management plans with landowners with land infested with noxious weeds in the containment category or primary management category. For some counties this is not a big deal but for others it could require more staff. The weed directors can address this issue better than I can.

When I received a copy of Senate Bill No. 572 there had been two items added. These were items that were not discussed in the task force at all. One has to do with the sale of county property and the other with rails to trails. I am uncomfortable adding any language dealing with the rails to trails issue. The Department of Agriculture tried to explain why this is part of the noxious weed law but I think it causes confusion.

Rodney Biesenthal, Pottawatomie County Weed Director and I asked to have the final draft by the first of November of 1999 so we could present it to the Kansas Association of Counties membership at their annual conference, but we didn't received it until January. I cannot support this bill in its present form but with more time and education I believe a bill could be developed that all parties could accept.

Thank you again for your time. I will try to answer any questions you may have.

**SB #572**  
**POSITION STATEMENT**  
**KANSAS COUNTY COMMISSIONERS ASSOCIATION**

Dear Chairman Morris and members of the Senate Committee on Agriculture:

As president of the Kansas County Commissioners Association, a representative body of 333 county commissioners from the 105 Kansas Counties, I respectfully request that Senate Bill # 572 not be acted favorably upon. Our position, like that of the Kansas Noxious Weed Association and the Kansas Association of Counties is derived from our experiences of working in close association with farmers and ranchers across the state.

The many constituents that commissioners have visited with have been for the most part satisfied with the noxious weed laws that are currently in the statutes. We provide well-trained Noxious Weed Supervisors that are cooperative and knowledgeable. They work in close association with farmers and ranchers to identify and give recommendations to control and eradicate targeted weeds. With the further aid the individual counties provide, by buying chemicals and selling to the farmers at three quarters of our cost, allows landowners to combat detrimental species of weeds, that left unchecked, could have substantial affects on the Kansas economy.

If it is this committee's desire to better serve the agricultural community, then let counties be more of a player. Due to counties' substantial participation in the funding of noxious weed programs and given that counties have developed an expertise second to none after more then 60 years of weed laws, we feel that SB 572 in its current form is not in the best interest of Kansas.

If I can ever be of service to this committee, please don't hesitate to ask.

Sincerely,



Lonie R. Addis  
Labette County Commissioner and President  
Kansas County Commissioners Association

640 Iowa  
Oswego, Kansas 67356  
(316) 795-2826  
[addis@oswego.net](mailto:addis@oswego.net)

*Senate Agriculture*  
*2-18-00*  
*Attachment 2*



League of Kansas Municipalities

300 SW 8th Avenue  
Topeka, Kansas 66603-3912  
Phone: (785) 354-9565  
Fax: (785) 354-4186

To: House Agriculture Committee  
From: Kim Gulley, Director of Policy Development  
Date: February 16, 2000  
Re: Opposition to SB 572

Thank you for allowing me to appear today on behalf of the League and our member cities. We concur in the objections presented to you by the Kansas Association of Counties concerning SB 572. In addition, we believe that the bill, if passed, would result in some unintended consequences with respect to rails to trails projects.

SB 572 amends K.S.A. Supp. 58-3212 regarding the responsibilities of entities that operate rails to trails projects. This portion of the law was enacted as part of comprehensive legislation in this area considered, heavily debated, and adopted in 1996. We oppose changing the state rails to trails policy as part of this noxious weed legislation.

Specifically, Section 17 of the bill would authorize the Secretary of Agriculture to develop rules and regulations concerning rails to trails projects. While I am sure that the intent was simply to change the reference to the existing noxious weed law, the resulting language is a dramatic shift in policy. Some cities and counties currently operate rails to trails projects in their communities. We oppose the regulation of those projects by the Secretary of Agriculture.

For these reasons, we respectfully request that SB 572 not be reported favorably for passage.

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*2-18-00*  
*Attachment 3*



2/18/2000

TO: Mr. Chairman and Members of Senate Agriculture Committee

FR: Marvin E. Smith

RE: Senate Bill #572

I am Marvin E. Smith, our family farm is in northeast Shawnee County and Southeast Jackson County.

Noxious weeds, especially Musk Thistle, are very time consuming and costly to control in our area. Now, Sericea Lespedeza and Multiflora Rose are invading our pastures.

Wind basically spreads the Musk Thistle seeds. Wildlife and birds are responsible for the spread of Sericea Lespedeza and Multiflora Rose.

The county weed departments, and directors and personnel in Jackson and Shawnee counties are very effective in their efforts to reduce noxious weeds.

The legislature in the past has determined by statute the effective date and weeds that should be declared noxious. This procedure enacted by the elected legislature is time tested and proven.

I oppose the portion of Senate Bill #572 on *page 2, line 6 and 7* any plant declared noxious by rules and regulation adopted by the secretary.

I oppose also the portion of SB #572 on *line 24 and 25* shall control and manage in accordance with the rules and regulations adopted by the secretary.

I oppose *new section 4, lines 36 and 37* on rules and regulations. Again, *on page 2, line 40*, any person may request that the secretary consider a weed to be noxious or strike a noxious weed from the list of noxious weeds. *Page 3, lines 15, 16, and 17, new section 5*. I also oppose, *page 5, lines 7 and 8 and page 6, lines 5 and 6* shall be conducted in accordance with rules and regulations adopted by the secretary.

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*Attachment 4*

It would seem that Kansas would benefit by having an interim study and improve the noxious weed laws by statute; not rules and regulations.

This proposal of SB #572 was made public about five weeks ago. Surely, it would serve the public to have the opportunity for input before an Interim Committee, by all interested parties.

Thank you for allowing me the opportunity to share my concerns.

FRANKLIN COUNTY PUBLIC WORKS  
1428 S. MAIN  
OTTAWA, KS 66067-3547  
(785) 229-3550  
FAX (785) 229-3504

BOARD OF COMMISSIONERS  
Thomas R. Weigand, Chairman  
Donald E. Waymire, Member  
Bill Ogle, Member  
Raymond R. Carey, Member  
Harold L. Fuller, Member

To the Senate Committee on Agriculture

Testimony in opposition to Senate Bill 572

February 18, 2000

My name is Ray DeJulio. I am currently employed as the Franklin County Public Works Administrator. I am here at the request of the Chairman of the Franklin County Commission representing Franklin County in opposition to Senate Bill 572.

Franklin County is opposed to those parts of Senate bill 572 that **require Counties to provide financial incentives** to landowners to control noxious weeds: in particular, page 4 lines 8 thru 11, lines 18 to 23, and lines 37 thru 39.

Each County handles its weed control needs in a different manner based on its particular situation. I do not intend to speak for any county except Franklin County, although I feel that our situation is similar to the situation in many other counties.

Franklin County now levies 1.5 mills for noxious weed control, which allows it to sell chemical materials to landowners to treat noxious weeds at our full cost. **Because the county is able to buy these materials in large quantities, the county is able to provide financial incentives to landowners at no cost to the taxpayers.** For example, one common material that is used was purchased, handled, and sold to landowners by Franklin county for \$8.90 per gallon: the same material is sold at the local coop for \$12.01 per gallon. By purchasing the materials from Franklin County, the landowner saved 25% of the cost of this material. 89% of the materials Franklin County sold for weed control in 1999 were at a 25% savings to the landowner: an additional 11% of the materials sold were at a 13% savings to the landowner.

In 1999, Franklin County provided \$11,980 in incentives to landowners for noxious weed control at no cost to the taxpayers of Franklin County.

In addition, because of purchasing chemical materials in a large quantity, Franklin County saved \$2,178 on materials that it used to treat noxious weeds on county property.

The passage of Senate Bill 572 in its current form will result in an increase in taxes for noxious weed control in Franklin County. The primary beneficiary of any required "subsidies" will be agricultural chemical dealers: the primary losers of this arrangement will be taxpayers and landowners.

**PASSAGE OF A BILL WITH REQUIRED "FINANCIAL INCENTIVES" WILL RESULT IN AN UNFUNDED MANDATE TO FRANKLIN COUNTY.**

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*Attachment 5*

Chairman Morris and members of the Agriculture Committee:

My name is Clinton Harris from Jackson County. My wife, three young daughters, and I own and/or operate a diversified farm of approximately 2000 acres. Ordinarily, speaking to a Senate Ag Committee hearing is not included in my job description since my wife and I, with the help of our daughters, generally spend most of our 7 day work week on the farm tending the livestock and land. However, Senate Bill No. 572 attracted our attention since it would again appear that certain parties want to revise and re-regulate a bill that is currently working. Supposedly, this new noxious weed bill needs to be written under the pretense that it will benefit and make a mandated noxious weed control problem more convenient (not necessarily more cost effective) for the farmer/landowner. It would appear to me that under the new bill the potential exists to make it even more expensive to control the noxious weeds as well as put the rule making decisions under the umbrella of an elusive Rules and Regulations Committee which has little, if any, membership from the individual, average family farmer/rancher. It would also seem to me that Senate Bill No. 572 will only provide the potential to become a time consuming, paperwork chasing nightmare; plus, more importantly, I feel this Bill will ultimately increase the cost of controlling the noxious weeds. With all agricultural expenses rising and the price of our products continually reaching decades ago prices, more and more of the "farm family" operations attempting to maintain a farm life without an off

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*attachment 6*

farm job are dwindling continually with every increase in expenses.

As an aside, I also feel that the recreational trail issue is inappropriately discussed under this Bill.

In closing, I am against Senate Bill No. 572 because I feel that we already have a workable noxious weed law which provides the rules and regulations necessary to accomplish the proponents' stated concerns. As the old saying goes, "If it ain't broke, don't fix it."

Thank you for your time and consideration.

**Testimony in Opposition to Senate Bill No. 572**

Before the Senate Committee on Agriculture

February 18, 2000

On Behalf of the Kansas Natural Resource Council and  
Kansas Chapter of Sierra Club

Prepared by Charles Benjamin, Ph.D., J.D.

Attorney at Law

401 Boulder Street

Lawrence, Kansas 66049

Mr. Chairman and members of the Committee, I come before you today as someone who has 16 years of experience administering the noxious weed program in Harvey County, as one of the many statutory duties of county commissioners. I am very familiar with the current noxious weed law. One of the aspects of noxious weed programs that impressed me when I was a county commissioner was how ultimately futile the program was. Every year the county was forced to spend thousands of dollars of taxpayer money subsidizing chemical sales and encouraging the spread of thousands of pounds of toxic chemicals all over the county to try to eradicate noxious weeds. It was a war against nature that could never be won. Yet it was a war that state law required county commissioners fight. The agri-chemical industry is a case study in how a special interest group has the political power to force local elected officials to waste taxpayer dollars waging a futile battle, while making millions of dollars for large corporations, some of which are not even in this country.

Senate Bill 572 would launch an all out, no holds barred attack on noxious weeds in Kansas. Casualties of this all out attack would be individual property rights, individual due process rights and the rights of the general public, directly or through their legislative representatives, to have any say whatsoever in what is classified as a noxious weed or the methods used to control it. No wonder the agricultural chemical folks want to see this law passed. They will make out like bandits - even more so than they are now.

Lets look at the language of the statute beginning with New Section 3 (a). This portion of the proposed bill would force any "responsible party" (defined in New Section 2(k)) to control and manage (defined in New Section 2 (d) and (g)) on any land owned, managed, controlled or supervised by such responsible party, noxious weeds according to rules and regulations adopted by the Secretary of Agriculture. That means city commissioners, township officials, county commissioners, and individual landholders in both the unincorporated and incorporated areas of any county. Do any of these "responsible parties" have input into the rules and regulations for noxious weeds promulgated by the Secretary of Agriculture? Well, let's look at New Section 5 that says the secretary is authorized to "adopt official methods for the management of noxious weeds " and to "adopt rules and regulations as in the judgment of the secretary are necessary to carry out the provisions of this act, and to alter or suspend such rules and regulations when necessary." Nowhere are there any due process rights of those most directly affected by those rules and regulations to have any input whatsoever on the "management" of noxious weeds (read application of chemicals) or the rules and regulations to carry out the act.

This lack of input into the process of rules and regulations and methods of "management" of noxious weeds is particularly troublesome given that in New Section 4 only the Secretary of Agriculture has the authority to determine what plants are in fact to

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*Attachment 7*

be classified as noxious weeds. There is no oversight authority by the general public or by the legislature. The Secretary of Agriculture becomes the "Czar of Weeds" responding only (surprised?) to agri-chemical interests and their allies in agribusiness.

Also troublesome is New Section 7 that thoroughly tramples on individual rights, one of which is not to have one's property sprayed by toxic chemicals. "Individual noxious weed management plans" are to be developed, even if a "responsible party" does not wish to participate in the development of such a plan for her property. Then when a "responsible party" "fails to comply" with this "individual management plan" a "weed director" is authorized to enter or "cause to be entered" (read trespass) onto that individual's private property "as often as necessary" to "control and manage" the noxious weed. To add insult to injury, after a weed director has trespassed on an individual's property, then spread toxic chemicals on that property, the individual has the pleasure of receiving a bill to pay for this travesty to his personal rights. Of course, the "responsible party" should not fret because according to Section 13 he has the opportunity to appeal this bill to district court. Thus this aggrieved property owner gets to waste not only his money but his time as well. For the agribusiness industry and its leading representatives, the Kansas Farm Bureau and the Kansas Livestock Association, to support this bill is to make a mockery of their supposed concern about "property rights."

But the bill doesn't stop there. Section 15 of the bill gives county weed directors powers unheard of in an appointed official to assess civil penalties. This is on top of authority given the Secretary of Agriculture to assess civil penalties for failure to carry out this act. Is it really necessary to take away the property rights of individuals, as well as their due process rights and then turn weed directors in judges, police and juries in order to eradicate "noxious weeds?" Isn't it going a little overboard to give weed control all the trappings of a police state? Are we so desperate to kill "noxious weeds" that we give unprecedented authority to non-elected officials to punish individuals with virtually no due process? This doesn't sound like America to me, it sounds like communism.

Finally the agribusiness community must think promoters of recreational trails are idiots. and won't notice Section 17 that basically turns over authority of recreation trails to the Secretary of Agriculture. We know what that means. Agribusiness, that controls the Secretary of Agriculture, will succeed in killing, once and for all, the development of rail-trails in Kansas, despite explicit Congressional intent that rail trails be developed throughout the United States. Kansas agribusiness continues in its relentless quest to circumvent the will of Congress and the rulings of the U.S. Supreme Court and place the state of Kansas into a direct conflict with U.S. laws that have primacy over state laws.

As an attorney, I should welcome this bill. The business that I could potentially receive from individual landowners aggrieved by the provisions of this bill would probably put my son through M.I.T. and Stanford that he wants to attend. However, my conscience, and my current clients, requires that I try to talk this committee out of enacting this foolishness called SB 572 into law. But if you chose to do so, then I will graciously offer my thanks in advance for the fees.

Thank you for your time and attention.

Mr. Chairman and committee members. I am Riley Walters, Director of the Butler County Noxious Weed Department. Thank you for the opportunity to comment on this proposal. As I listened to testimony of several of the dealers Tuesday, I found little disagreement with them on the idea of simplifying the process of farmers purchasing herbicides. However, I don't feel that the process specified by this bill is an appropriate way to do it. You heard testimony from Mike Kleiber, who is using a process spelled out in the current law to achieve the same goal as the others are seeking through this legislation. No change in the law is necessary to accomplish what they are asking for. The biggest problem I see with this legislation is the burden it would place on counties in determining that herbicides purchased for noxious weed control are actually used for that purpose and at rates that give long term control, not merely cosmetic control. You heard testimony Tuesday by a dealer about using Landmaster to control bindweed. Landmaster is not approved for costsharing. It will be very difficult for us to prove in many cases that an unapproved product or rate was used so that the penalty provided in the law can be assessed. I believe that this proposal will place a tremendous manpower burden on counties for inspections.

I am also concerned that it will create a patchwork quilt of enforcement across the state if neighboring counties choose different levels of enforcement for each weed. One of the most common criticisms I hear of the current law is a lack of uniformity from county to county, but this bill would increase variability rather than decreasing it. I am also concerned that it sends the wrong message to make costsharing optional for the five major weeds in the state especially at a time when Sericea Lespedeza is experiencing explosive growth.

I am concerned about the cost to the counties to process additional vouchers. I am concerned about allowing ten days for a legal notice to be executed, rather than five as in the current law. I am concerned that this legislation is being rushed through without adequate time for all affected parties to study it. Why was it introduced to this committee the day before it was presented to the committee that was supposed to have been involved in its creation?

While SB572 does some things I like, I feel that it is seriously flawed and I ask you to vote against it.

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*2-18-00*  
*Attachment 8*



# Jefferson County Auxiliary Services

Noxious Weed Control  
Solid Waste Management/HHW

Facilities Maintenance  
Park Maintenance

Robert Abel Jr. Director  
15049 94th St. Oskaloosa, Ks. 66066

Phone (785) 863-2581  
Fax (785) 863-2091

2-18-00

## Testimony to the Senate Agriculture Committee on SB 572

Good morning Senator Morris and members of the Senate Ag Committee. My name is Robert Abel, Jr. I work for Jefferson County Kansas. I am here today to represent Jefferson County, the County Weed Directors Association of Kansas, and the Kansas Association of Counties and their opposition to the proposed major modifications of the Kansas Noxious Weed Law. It is our shared opinion that the changes proposed are not in the best interest of the citizens of the state of Kansas. It is our belief that the current Kansas Noxious Weed Law is fully functioning and effective. Many comments have been made here regarding an individuals right to choose. Landowners have a choice now. They can participate in programs offered by individual counties, or they can choose not to. The bottom line is; are they working to comply with the Noxious Weed Law? And what are the reasons in this proposed modification of the law that we believe will not allow individuals and individual counties to do a better job of controlling noxious weeds than we are today. This proposal is large and there are many reasons for us to believe that this is not an improvement. And in the essence of time I have only picked out a few points that we would like for you to consider as you discuss the future of this bill.

- Local county governments are directly responsible for the control of noxious weed infestations on all county property and government rights-of-way. Counties are responsible for enforcing noxious weed control on private property and locally generated tax revenue pays for 100% of the services and regulation provided in the Kansas Noxious Weed Law. Passage of this bill would remove local control and place it in the hands of the rules and regulations process of the Kansas Department of Agriculture.
- Citizens of Kansas could be subjected to a constantly changing list of Noxious Weeds. We all assume that the current list of Noxious Weeds will be included in the categories proposed. Until we are given the generally accepted scientific principals that will be used to determine noxious weeds, our concept of what to expect on a weed list is unknown. There is always a possibility that no weeds will be placed on the list.
- Proposed changes would give counties the ability to pay incentives to landowners on a per acre basis. This does not designate who gets the payment. In many areas absentee landowners are the rule rather than the exception. What provisions should be used to determine whether the landowner or the tenant receives the incentive?
- Under current law, enforcement activities and penalties for violation of the Kansas Noxious Weed Law are clearly defined. Modifications suggest that the rules and regulations process would develop an enforcement matrix to determine how much it will cost individuals, corporations, city or county officials, or other officials who violate or fail to comply with the requirements of the categories listed. It is our belief that we should pass laws knowing what the penalties will be, not to pass laws and determine penalties later.

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*Attachment 9*

- This bill would require the Secretary to determine the method in which complaints concerning weed infestations are received and processed by local county governments. Local governments should be able to make these determinations on their own.
- Provisions in the current law promote the wise use of public funds by allowing county government to set aside unexpended funds for future capital purchases. The proposed modifications remove these provisions.
- Many statements have been made here concerning chemical sales. I can understand why some may feel that government has an unfair advantage. But do we? Just this past week Jefferson County exercised its right to utilize the competitive bid process to select a local dealer to provide chemical products to us for the next year. Many Counties take advantage of this system to promote proper spending of taxpayer dollars as well as offer opportunities for all businesses to participate in the process. I would suggest that this issue could be decided at the local level.

These are only a few of the significant reasons that this bill is not good for Kansas. The single biggest reason is the fact that this proposed modification is an outline, and requires a rules and regulations process to provide structure. I believe that laws requiring this process usurp the authority of the Kansas Legislature and weaken the individual voice of the Kansas citizen. Please remember that local government has voiced its opinion in the following ways:

**A) The County Weed Directors Association of Kansas has voted unanimously to oppose major modifications of the Noxious Weed Law.**

**B) The Kansas Association of Counties, by way of its platform statement, opposes these changes to the Noxious Weed Law.**

**C) Jackson, Jefferson, and Shawnee Counties have introduced a joint position paper to their respective legislators opposing these modifications to the Noxious Weed Law.**

Thank you for the opportunity to provide this information. And if you would like to take the time to visit a Noxious Weed Facility, the Shawnee County Noxious Weed Department is located on the southwest corner of the Expo Center Complex. They would be happy to have you stop by there or at their booth in the Kansas Lawn, Garden, and Flower Show this weekend. If you have any questions I would welcome the opportunity to answer them.



## Kansas Legislative Policy Group

P.O. Box 2716 • Topeka, Kansas 66601 • 785-232-9265 • FAX 785-232-5036

ANN PAPAY, Executive Director

TO: Senate Agriculture Committee  
Senator Steve Morris, Chairman

FROM: Alan E. Steppat

DATE: February 15, 2000

RE: SB 572--Amendments to the Noxious Weed Law

Mr. Chairman and members of the Agriculture Committee. I appear today on behalf of the Kansas Legislative Policy Group (KLPFG) which is an organization of County Commissioners from 36 counties in Western Kansas.

We agree that there are some problems with the current Noxious Weed Law but let's not reinvent the wheel. Let's see what the problems are and arrive at a workable solution to fix them, after all the main goal here is to provide adequate noxious weed control to our taxpayers at an affordable price and to keep Kansas a productive leader in Agriculture. The current system does that very thing.

We already have cost share on chemicals. What more could our constituents want. We are offering a service to the taxpayers of our respective counties, with the reinforcement from the Kansas Department of Agriculture to back us up.

There are already ways for commercial dealers and Noxious Weed Personal to work together to bring this service to reality. We understand that commercial dealers need to make a profit to stay in business and Government needs to offer an affordable control of noxious weeds. One is not much good without the other if we expect to maintain effective control on noxious weeds. The Kansas Legislature has already provided us with the tools to take these steps, all we need is to sharpen them.

Thank you for your time and consideration.

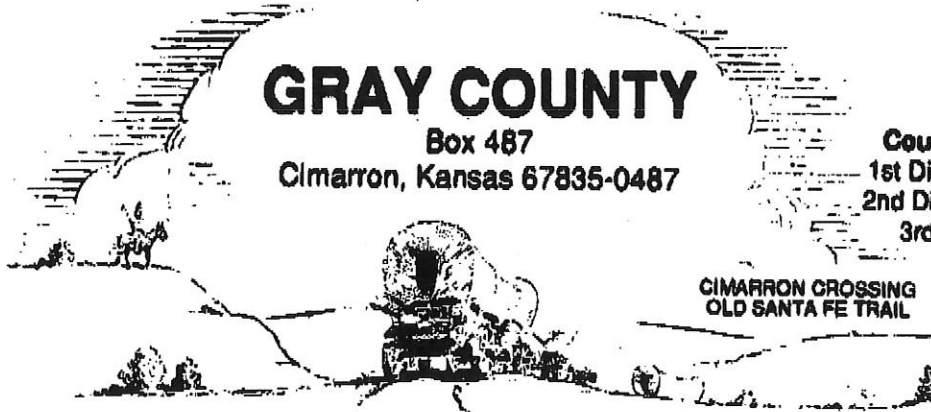
*Senate Agriculture*  
*2-18-00*  
*Attachment 10*

County Clerk  
Bonnie Swartz  
316-855-3618

# GRAY COUNTY

Box 487  
Cimarron, Kansas 67835-0487

County Commissioners  
1st Dist: Stephen J. Irsik, Jr.  
2nd Dist: W. Wiley McFarland  
3rd Dist: Riley Winkler



CIMARRON CROSSING  
OLD SANTA FE TRAIL

February 15, 2000

Re: Senate Bill No. 572

We support SB 572 because the basic concepts of a different method of classifying noxious weeds, a different method of dispersing the financial assistance and a greater flexibility in managing the program.

In reviewing our present system of managing the noxious weed program, we believe there are efficiencies that need to be adopted.

The proposed SB 572 appears to have the potential for instilling these desired efficiencies.

Gray County Board of Commissioners.

*Steve Irsik Jr.*  
Steve Irsik Jr.

*W. Wiley McFarland*  
W. Wiley McFarland

*Riley Winkler*  
Riley Winkler

Post-It® Fax Note	7671	Date	2-15-2000	# of pages	1
To	Sen. Steve Morris	From	Steve Irsik Jr		
Co./Dept.		Co.	Gray County		
Phone #	785-296-7378	Phone #	316-855-3618		
Fax #	785-368-7119	Fax #	316-855-3107		

*Senate Agriculture*  
*2-18-00*  
*Attachment 11*

**BLUEVILLE NURSERY, INC.***Complete Landscape Service*

4539 Anderson, Manhattan, KS 66503

Ph. # (785) 539-2671 FAX # (785) 539-6911

SENATOR:

2-14-00

You don't know me, but I am a nurseryman who served on the Committee to Revise the Noxious Weed Law this past year. I represented the Kansas Landscape and Nursery Association.

The changes that will be instituted, if SB 572 is made law in the form recommended, will be an improvement to the way we now attempt to control noxious weeds.

Classifying the weeds into categories according to their economic danger will be a big help. Using a scientific approach to determining both the designation of a plant as a noxious weed and the category into which it is put makes more sense to me than having the determination made by the legislature.

The current law mandates the elimination of all noxious weeds even though we all know this to be impractical in many cases. For the nursery industry, control of such weeds as field bindweed and Johnson grass is possible and would be allowable under the new law rather than eradication.

Please guide this bill SB572 through committee with a minimum of changes.

I will mail a copy of this to Senator Oleen and Representative Glasscock so that they will know my opinion when the bill reaches the floor for action.

Sincerely,

Darrell Westervelt  
5151 Silver Creek Road  
Manhattan, Ks 66503  
Phone 785 539-2671 w 785 485-2664 h  
FAX 785 539-6911

*Senate Agriculture**2-18-00**Attachment 12*

**From:** <sewatts@juno.com>  
**To:** <morris@senate.state.ks.us>  
**Date:** Tue, Feb 15, 2000 11:56 AM  
**Subject:** Fw: Weed law

Senator Morris,

I have just gone over the new Noxious Weed bill with our Gove County ommissioners. This bill fixes some of the things we have wanted changing for some time. However, it changes some things that didn't need fixing.

All in all we believer there is more wrong with it than right. We liked the idea of doing away with the 10% and 5% of outstanding accounts being added to the tax roll. We didn't like what was put in its place. The part where there is a 10% penalty after 30 days and interest added monthly and if not paid after the end of the next 30 days it goes to the tax rolls. This process is not workable. (2-1320 line 33)

We felt there was some very vague language in the new parts that left a lot of interpreting county by county. For instance, Sec 10 line 27 sets up the procedure for funding the program but really doesn't get specific as to what you do with the acres of weeds as the basis of funding.

Section 9 has Weed Directors reporting violations directly to the Secretary of Ag. It sounds like she doesn't have anything better to do.

I believe we can still work with our county attorney on violations. Line 10 of Sec. 9 indicates we will be stopping commodities with noxious weeds or seeds. I don't think that is desirable or even possible. But the next item (B) is very good, All mulch should be inspected. It doesn't make any sense for us to spray state and county highways for weeds and the seeding crews come along and replant them again.

Other areas we have some real questions on is the financial incentive Sec 6 on page 4 item 4 thru 8. We don't want the fact that the county is paying farmers who treat their weeds to be an incentive for farmers to HAVE weeds.

Developing management plans may have some merit on the limited acres but I can see this becoming just so much busy work that takes us away from more productive tasks. The plans could be done in the off season but the checking to see if people were complying would be a nightmare. The running around checking on everyone would require more people because it will also be at the same time when all the other work needs to be done. It is not like it could be done during the winter when we aren't spraying.

Unless your committee is willing to rewrite this bill from top to bottom, we sure hope you don't support it as it stands. I appreciate you considering my points and wish you luck on a productive session.

Steve Watts  
Gove County Weed Director  
Box 86

*Senate Agriculture*

*2-18-00*

*Attachment 13*

**COUNTY OF LEAVENWORTH**

COURTHOUSE  
300 WALNUT  
LEAVENWORTH, KANSAS 66048  
Area Code (913) 684-0400



FROM THE OFFICE OF:

January 21, 2000

Donald E. Biggs  
Senator, 3<sup>rd</sup> District  
State Capitol Building-140-N  
Topeka, Kansas 66612-1504

Senator Biggs:

Thank you for asking for suggestions or problems with the proposed revisions of the Noxious Weed Law.

I. Kansas Association of Counties and the County Weed Director's Association of Kansas have both voted to oppose any radical changes in the Noxious Weed Law at their conference and/or meetings.

II. Issue: (Quote) "A group of Kansans have been meeting since 1-1-99 to review the entire law and develop modifications designed to modernize noxious weed control in Kansas." Because a statute is 50 years old does not mean it is antiquated if it was well written. Example, travel from Kansas to the Missouri side of the river and observe the severe infestations of musk thistle on their highways and interstates in the Kansas City-St. Joseph area. If information about whole sections of leafy spurge in Nebraska are correct, our statutes are not in need of review in their entirety. Counties throughout the State using these statutes are controlling noxious weeds with a noticeable improvement over other States which have weak weed laws.

III. The proposed revisions appear to give carte blanche authority to the Secretary of Agriculture to determine which weeds are noxious and their control practices. These Rules and Regulations could be implemented by state regulators without input from any elected officials, which is a concern.

*Senate Agriculture*  
*2-18-00*  
*Attachment 14*

City-County Probation  
684-0760

Council on Aging  
684-0777

Emergency Medical Service  
684-0788

Noxious Weeds  
684-0494

Community Corrections  
684-0775

County Infirmary  
684-1010

Health Department  
684-0730

Sheriff  
682-5724

IV. Under the management section (3b) Secondary Management; this provision will address Leavenworth County's three major noxious weeds under acreage guidelines. The Leavenworth County Commission could choose not to treat these three weeds. While using the same acreage guidelines, Jefferson County Commission may choose to treat and control all three. This causes a concern about consistency across the state, in addition to the confusion in your elected district, as well as your colleagues in Topeka.

V. Cost share and reimbursement; This year using 25% cost share with landowners, allowed the sale of 340 1-gal containers of 2,4D Herbicide to small and/or tract landowners as well as many city residents. To implement a (per acre) cost share would, in my opinion, eliminate most if not all of these small parcels and all of the city residents from participation in the Noxious Weed Program..

VI. In the presentation presented to the Senate Agriculture Committee on 1-13-00 reference was made about a group of Kansan's meeting to review the entire law since January 1999. Enclosed is a copy of a letter on this subject mailed to Secretary of Agriculture by Rodney Biesenthal, Pottawatomie County Weed Director, who is a member of this committee.

Again, thanks for allowing me to express my concerns.

Sincerely,



Ed Sass, Director  
Leavenworth County Noxious Weed





Pottawatomie County Noxious Weed Dept.  
Rt. 1 Box 14 A 405 E. Campbell  
Westmoreland, KS 66549  
(785) 457-2888

To: Governor Bill Graves and  
Secretary of Agriculture Jamie Clover-Adams  
From: Rodney Biesenthal  
CWDAK Representative  
RE: Noxious Weed Law

December 14, 1999

On behalf of the County Weed Directors Association of Kansas, I would respectfully ask of both the Governor's Office and the Secretary of Ag.'s Office, that the proposed Noxious Weed Law changes not be submitted to the 2000 Legislature.

I have represented the CWDAK at all Noxious Weed Law Committee meetings and as of December 10, 1999, I, nor County Commissioner Linda Peterson (Marion County) have seen a Bill or even a draft. With only 4 weeks remaining before the legislative session begins our organization will not be able to support this Bill. This decision would be based primarily on the time remaining before the bill could be introduced to the 2000 Legislative session.

I, like some other committee members have concerns on the language and feel that the nine committee members should meet after the Bill is drafted to see if the Bill writers did indeed capture the intent of this committee. If this is so, then let all 9 organizations go back to their general membership for support or opposition. I do not see how this could be done even by February 1st.

For this and other reasons, I respectfully ask that the proposed Noxious Weed Law changes not be submitted to the 2000 legislature.

Sincerely,

Rodney Biesenthal

14-3