

Approved: March 26, 2002
Date

MINUTES OF THE SENATE AGRICULTURE COMMITTEE.

The meeting was called to order by Chairperson Derek Schmidt at 8:30 a.m. on March 20, 2002 in Room 423-S of the Capitol.

All members were present except:

Committee staff present: Raney Gilliland, Legislative Research Department
Gordon Self, Revisor of Statutes
Betty Bomar, Secretary

Conferees appearing before the committee:

Judy Moler, Kansas Association of Counties
Doug Wareham, Kansas Agribusiness Retailers Association
Joe Lieber, Kansas Cooperative Council
Chris Wilson, Executive Director, Kansas Agricultural Aviation Association
Leslie Kaufman, Associate Director, Public Policy Division, Kansas Farm Bureau
Mike Beam, Kansas Livestock Association

Others attending: See attached list

SB 607 - Limiting liability of property owners to persons entering premises for agritourism and ecotourism puposes

Senator Schmidt moved, seconded by Senator Morris, that SB 607 be amended on Line 30, by striking the word "and", Line 31, strike the word "recreational" and insert "viewing or enjoying", and further following the word "farming" strike the word "and" and insert in lieu thereof the word "or"; Line 32 by striking "provided as agritourism activities". The voice vote was in favor of the motion.

Senator Morris moved, seconded by Senator Downey, that SB 607 be further amended by inserting the language contained on "Attachment 1". The voice vote was in favor of the motion.

Senator Morris moved, seconded by Senator Corbin, that SB 607 be recommended favorably for passage as amended. The voice vote was in favor of the motion.

HB 2602 - County discount program to control noxious weeds

Judy Moler, presented testimony on behalf of Randy Allen, Executive Director, Kansas Association of Counties (KAC) support of **HB 2602**, stating the proposed legislation reverses the current provision in which boards of county commissioners can "opt-in" to the cost share certificate for chemicals program, to a new provision that requires boards of county commissioners to establish such a program. The proposed change allows counties to "opt-out" or eliminate the program by a protest petition of voters. KAC believes that **HB 2602** is workable and provides an opportunity for noxious weed directors, county commissioners, and chemical dealers to work together to the benefit of landowners. (Attachment 2)

Doug Wareham, Executive Director, Kansas Agribusiness Retailers Association (KARA), testified in support of **HB 2602**, stating KARA supports the existence of sound, credible and enforceable laws to control noxious weeds in Kansas and believe the county weed departments play a significant roll in battling noxious weeds. Mr. Wareham stated that the Noxious Weed Law has been in existence since 1989, and there are only 7 counties who have established the cost share certificate for chemicals program. KARA would prefer a Noxious Weed Law that provides landowners with the ability to utilize the option to receive financial assistance for chemical purchases, whether they choose to purchase product from a county weed department or from a private retail dealer. **HB 2602** is a step in the right direction, although it does not completely satisfy KARA concerns. (Attachment 3)

CONTINUATION SHEET

Joe Lieber, President, Kansas Cooperative Council, testified in support of **HB 2602**, stating the Kansas Cooperative Council and the Kansas Agribusiness Retailers Association have for years tried to get legislation passed that would provide chemicals to use for control and eradication of noxious weeds to landowners through chemical dealers on a discount basis. There are a few counties that have the cost-share certificate programs that are successful. The Cooperative Council hopes that all counties have the opportunity to participate in a cost-share certificate program; hence, our support of **HB 2602**. (Attachment 4)

Chris Wilson, Executive Director, Kansas Agricultural Aviation Association (KAAA), testified in support of **HB 2602**, stating this legislation gives landowners and managers the ability to purchase chemicals from local retailers or applicators and still benefit from the county cost-share on chemicals used in the treatment of noxious weeds. This legislation is the minimum of what needs to be done in modernizing the Kansas noxious weed law. Presently, the private sector pays taxes to the county, and the county uses those taxes to support a business in direct competition with the private business, On a level where the county has a monopoly and private business can't compete. **HB 2602** provides an option to allow landowners the choice of where to buy chemicals. (Attachment 5)

Mike Beam, Kansas Livestock Association, submitted written testimony in support of the passage of **HB 2602**. (Attachment 6)

Leslie Kaufman, Associate Director, Public Policy Division, Kansas Farm Bureau, submitted written testimony in support of the passage of **HB 2602**. (Attachment 7)

There being no additional conferees, the Hearing was closed.

The meeting adjourned at 9:30 a.m.

The next meeting is scheduled for March 26, 2002.

SENATE AGRICULTURE COMMITTEE GUEST LIST

DATE: March 20, 2002

NAME	REPRESENTING
Dag Wareham	Kansas Agribusiness Retailers Assn.
Mike Pepoon	Sedgewick County
Steve Scanlon	VERSAR, INC.
Joe Kennedy	Ag.
JOHN KABUS	SHAWNEE COUNTY Noxious Weeds
Frances Kastner	Ks Food Dealers Assn
Rodney Bresenthal	PottCo Noxious Weed
Jamie Clover Adams	KS Dept. of Agriculture
Matt Scherer	KS Dept. of Agriculture
Keth Bradshaw	Dir. of the Budget
Joe Lieber	Ks Co-op Council
Matt Bertholt	KS Co-op Council
Mike Beam	KS. LIVESTOCK ASSN.
Tom Samples	KS Tractor Association Assn.
Bill Smith	KS. Tractor Assn.
GREG A. FOLEY	KDA.
Lodd Johnson	KLA
Tom Bruno	GBBA
Mike Jensen	KS Pork Assn.

Jim Allca

Sea Beach

Chris Wilson

KAAA

Janet McPherson
Wendy Williams

Ks Farm Bureau
KAPA - KEMCA

Senator Morris's Proposed Amendments
Senate bill 607 regarding modifications to Kansas
Recreational Use Act. K.S.A. 58-3206

KANSA STATUTES ANNOTATED
CHAPTER 58.--PERSONAL AND REAL PROPERTY
ARTICLE 32.--LAND AND WATER RECREATIONAL
AREAS

58-3206. Same; nonapplication of act to certain liabilities.

Nothing in this act limits in any way any liability which otherwise exists: (a) For willful or malicious failure to guard or warn against a dangerous condition, use, structure, or activity.

(b) For injury suffered in any case where the owner of nonagricultural land charges the person or persons who enter or go on the nonagricultural land for the recreational use thereof, except that in the case of nonagricultural land leased to the state or a subdivision thereof, any consideration received by the owner for such lease shall not be deemed a charge within the meaning of this section.

History: L. 1965, ch. 559, § 6; L. 1988, ch. 198, § 3; July 1.

(c) for injury received on agricultural land incidental to the use of the land on which a commercial or business enterprise of any description is being carried on; except that leasing agricultural land for recreational purposes shall not be considered to be a business or commercial enterprise.

Senate Agriculture Committee
Date *March 20 - 2002*

Attachment # *1*



TESTIMONY
concerning House Bill No. 2602
re. the Noxious Weed Law
Senate Agriculture Committee

Presented by Randy Allen, Executive Director
Kansas Association of Counties
March 20, 2002

Senator Schmidt and members of the committee, my name is Randy Allen, Executive Director of the Kansas Association of Counties. I am here today to express our support for House Bill No. 2602.

HB 2602 emerged as a relatively slight change to the State's Noxious Weed Law after extensive hearings in the House Agriculture Committee on major revisions to the Noxious Weed Law during the 2001 session. HB 2602 would amend only one section of the Noxious Weed Law and essentially *reverse* the current provision in which boards of county commissioners can "*opt-in*" to the cost share certificate for chemicals program, to a new provision that would require boards of county commissioners to establish such a program. The proposed change would then allow counties to "*opt-out*" or eliminate such a program, but any elimination of the program would be subject to protest petition of voters and potentially subject to referendum.

The extensive changes to the Noxious Weed Law which were proposed in the original legislation which was introduced in the House Agriculture Committee last year were met with a variety of responses. It is accurate to describe counties' engagement in the discussion as active and energetic. We believe that HB 2602, as is currently before this committee, is workable and will provide an opportunity for noxious weed directors, county commissioners, and chemical dealers to work together even more closely than they already have. As such, we do not object to the proposal and pledge to work to ensure that the partnership among all parties continues to benefit landowners well into the future.

Thank you for the opportunity to comment on this bill.

The Kansas Association of Counties, an instrumentality of member counties under K.S.A. 19-2690, provides legislative representation, educational and technical services and a wide range of informational services to its member counties. Inquiries concerning this testimony should be directed to Randy Allen or Judy Moler by calling (785) 272-2585.

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Topeka, KS 66615
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Senate Agriculture Committee
Date *March 20, 2002*

Attachment # *2*

KANSAS AGRIBUSINESS RETAILERS ASSOCIATION



KARA is
"Committed to
Professional
Development
and Business
Viability for
the Retail Crop
Production
Industry"

Statement of the

Kansas Agribusiness Retailers Association

Presented to the

Senate Agriculture Committee

Senator Derek Schmidt, Chair

Regarding House Bill 2602

March 20, 2002

Senate Agriculture Committee
Date *March 20-2002*

Attachment # *3-1 thru 3-5*

Chairman Schmidt and members of the Senate Agriculture Committee, I am Doug Wareham appearing today on behalf of the Kansas Agribusiness Retailers Association (KARA). KARA's over 550 members are primarily retail agribusiness operations that provide fertilizer, crop protection chemicals, seed, fuel and propane products and services to Kansas producers. In addition to serving the interests of retail agribusiness, KARA also represents crop input distribution firms, ag chemical manufacturing firms, application equipment manufacturers and other businesses related to the crop production industry.

I appreciate the opportunity to appear in Support of House Bill 2602. Our organization was pleased to see that the House Agriculture Committee and entire House of Representatives recognized there is a need for modifying existing law that addresses the lack of counties that presently utilize cost-share certificate programs that benefit landowners that purchase noxious weed control chemicals from the private sector. However, I must also state that we would prefer the adoption of legislation that would once and for all provide landowners in every county with the right to receive financial assistance for chemical purchases, whether they choose to purchase product from a county weed department or from a private retail dealer. KARA's official policy position on the Kansas Noxious Weed Law is as follows:

NOXIOUS WEED LAW--The Noxious Weed Law entrusts noxious weed eradication to Kansas counties. KARA has always believed monitoring noxious weeds and enforcing their control and eradication is an appropriate function for county government. However, we do not believe the sale and application of tax-subsidized chemicals to control noxious weeds on private lands should be exclusive to county weed departments. KARA requests legislation that will enable farmers to purchase tax subsidized chemicals from agricultural retailers in addition to county weed departments.

It is my understanding that the State Legislature first gave counties the authority to implement cost-share certificate programs more than a decade ago, yet today there are still only a handful of counties that provide this option to landowners. The Kansas Department of Agriculture informed me that they are aware of only 7 counties that are utilizing the certificate program. Frankly, that number disappoints us.

I also want to inform the committee of another shortfall associated with counties restricting financial assistance to producers that purchase from county weed department. Last summer, the Kansas Department of Agriculture requested and received a special Section-18 approval for the use of a Vista + Remedy product mix for Sericea Lespedeza. Its my understanding that the approval for the Vista + Remedy was originally approved to be used from May 18 to July 15 and was later extended to August 1st because of dry conditions. While this special approval applied

to the entire State of Kansas, only eight counties reported utilizing the product on their annual reports submitted to the KDA. Only eight. Those counties and the number of acres treated with the Vista + Remedy mix were:

- Clay (100)
- Jackson (20)
- Marion (77)
- Marshall (48)
- Pottawatomie (1110)
- Wabaunsee (520)
- Ford (3)
- Cowley (40)

Therefore, the total number of acres that were treated by product sold by county weed departments was 1918 acres.

Yesterday, I contacted two of our agribusiness retailers - one in Greenwood County and one in Lyon County - which are two of the heaviest *Sericea* infested counties, to see if producers that were unable to purchase the Vista + Remedy combination from County Weed Departments looked to the private sector for the product mix. The answer to that question is "yes they did". Here are a few examples:

- Emch Feed and Grain Inc., Madison, Kansas, Greenwood County
 - (4 growers purchased the mixture) Sold around 300 gallons of the Vista + Remedy Combination, which meant about 2000 acres was treated by product sold by this company alone.
- Miller Elevator, Miller Kansas, Lyon County
 - (3 growers purchased the mixture) Sold around 22.5 gallons of Vista that would have been used to treat well over 300 acres.

The examples I've shown are just two dealers. We know there are numerous other private-sector retailers that also sold and likely applied the Vista to producers. In our opinion, the fact that many counties failed to sell or we believe in many cases even offer the Vista + Remedy mix shows that landowners hoping to get the financial assistance afforded by the Noxious Weed Law were severely limited when it came to purchasing Vista. Our organization believes this is just one more example of why landowners should be provided the financial assistance provided by the Noxious Weed Law regardless of where they choose to purchase chemicals that are approved for noxious weed control.

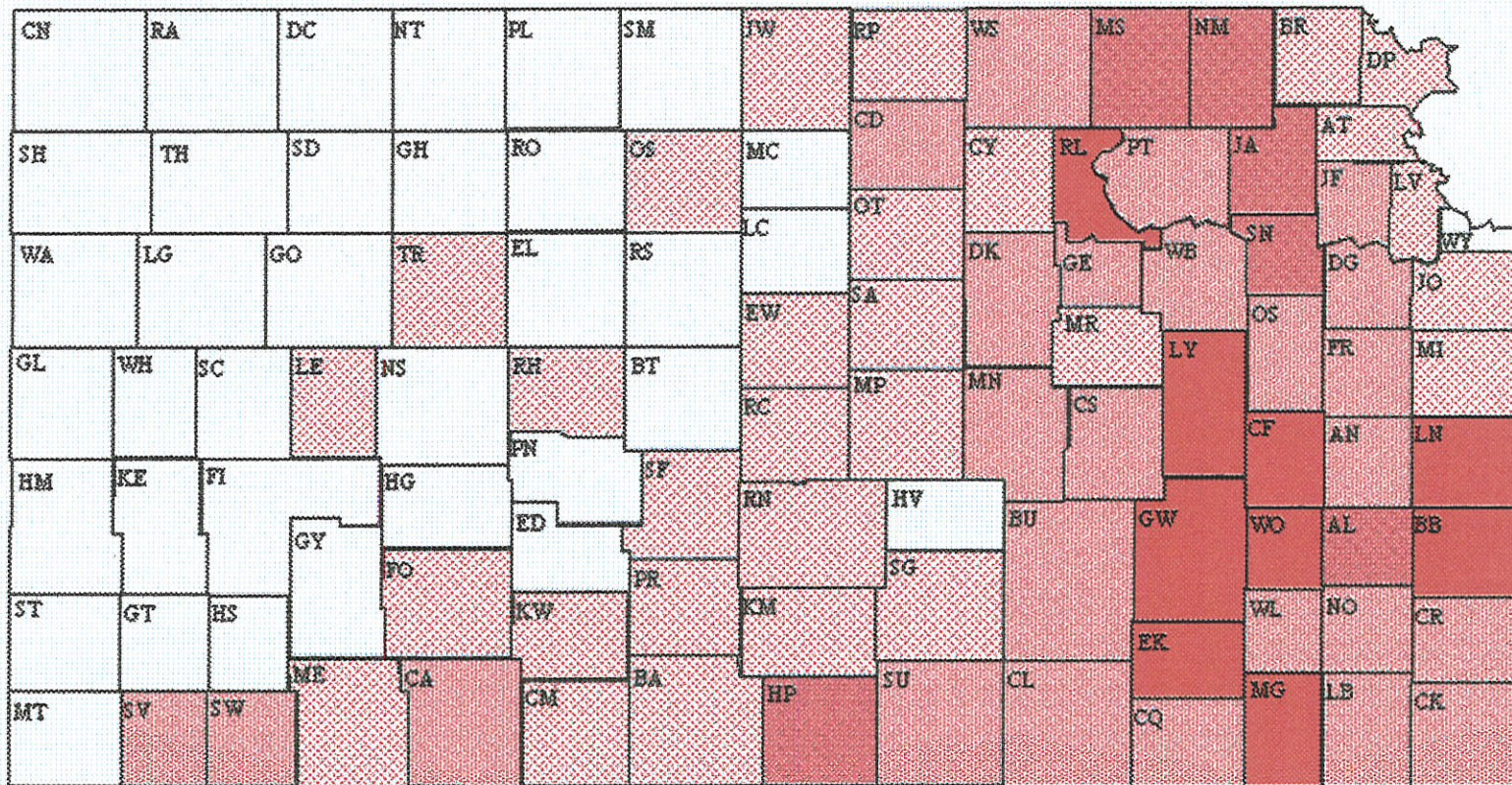
There are numerous other reasons why farmers should be given a choice, such as:

- Many landowners must travel over 25 miles to a county noxious weed department to purchase noxious weed chemicals and receive a financial incentive, when a local registered dealer with the same products on hand would have been more convenient. Farmers/Landowners should not be forced to “give up” the financial incentive simply because they “choose” to shop at home.
- Many farmers/landowners own or rent land in numerous counties. Does it make sense that farmers/landowners that operate in multiple counties be required to travel to 2, 3 or more county seats to purchase noxious weed control chemicals when they could simply purchase the products from one local dealer?
- Many counties only offer products in packages, when bulk would be more economical, convenient, and environmentally friendly.
- Because they are forced to purchase chemicals from the county weed department, if they hope to receive a financial incentive, many farmers are left with odd amounts of chemical left over that they must store.
- Some county noxious weed departments are only open to sell chemicals partial days, a few days a week, or by appointment. Most local chemical dealerships are open longer hours and on weekends to serve their customers. Should a farmer/landowner be forced to wait until the county weed department opens on Monday, when a local dealer has the very same product available and on-hand on Saturday?
- Restricting access to the financial incentive restricts many absentee landlords and farmers retired from active agriculture from receiving financial assistance. Absentee landlords or disabled farmers/landowners that are simply unable to travel and pick-up product from a county weed department, but depend rather on professional dealers to treat their infested acres are forced to bear a greater cost because counties restrict financial incentives.
- Most importantly, farmers/landowners should be free to make the choices that are best for their individual farming operation.

In conclusion, let me state that KARA supports the existence of sound, credible and enforceable laws to control noxious weeds in Kansas and we believe county weed departments play a significant role in battling noxious weeds. We do however also believe that today’s landowner has numerous options available when it comes to purchasing weed control chemicals. We would prefer a Noxious Weed Law that provides landowners with the ability to utilize those options. House Bill 2602 is a step in that direction and while it doesn’t completely satisfy our concerns we do believe it is a step in the right direction.

Mr. Chairman, I appreciate the opportunity to appear in support of House Bill 2602 and I would be happy to stand for questions.

Reported Sericea Lespedeza Acres - 2000



None Reported
 0.1-1,000
 1,000-10,000
 10,000-25,000
 >25,000 acres

Source: Kansas Department of Agriculture

Testimony on HB 2602
Senate Agriculture Committee
March 20, 2002
Prepared by Joe Lieber

Mr. Chairman and members of the committee, I'm Joe Lieber, President of the Kansas Cooperative Council. The Council has a membership of over 200 cooperative businesses, who have a combined membership of nearly 200,000 Kansans. Approximately 100 of our members are farm supply cooperatives that sell chemicals to their member/owners.

The Kansas Cooperative Council and the Kansas Agribusiness Retailers Association have been trying for years to get a bill passed that would provide chemicals to use for control and eradication of noxious weeds to landowners through chemical dealers on a discount basis.

The Kansas Cooperative Council feels there are four key points to consider when debating HB 2602:

1. In many cases it will save the producer time and money if he can drive to his local dealer to pick up the chemicals instead of driving all the way to the county seat.
2. Why are so many county commissioners opposed to promoting a cost-share certificate program in their county? Is it a profit center for the counties?
3. Why are so many county weed directors opposed to the program? If they weren't in the business of selling chemicals, wouldn't it give them more time to search for noxious weeds? Isn't this their main function? Two years ago we heard testimony that there were over 2 million acres in Kansas that were infested with noxious weeds in 1984. In 1998, there were over 3 million acres. We believe that this information clearly shows that the current program is not working. Does their department make money on the current program? Should it?
4. The last question to ask yourself is probably the most important question. Should the government be in direct competition with the agri businesses in their county? I certainly hope you don't think they should.

A few counties, such as Marion, Miami and Haskell already have cost-share certificate programs that are successful. We hope that all counties would have that opportunity. That is why we are asking for your support for HB 2602.

Thank you for your time. I would be happy to answer any questions.

Senate Agriculture Committee

Date *March 20-2002*

Attachment # *4*



**STATEMENT OF THE
KANSAS AGRICULTURAL AVIATION ASSOCIATION
TO THE SENATE AGRICULTURE COMMITTEE
SEN. DEREK SCHMIDT, CHAIR
REGARDING H.B. 2602**

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MARCH 20, 2002

Mr. Chairman and Members of the Committee, I am Chris Wilson, Executive Director of the Kansas Agricultural Aviation Association. KAAA's approximately 300 members and member firms comprise about 95% of the aerial applicators in Kansas and related businesses. We appreciate the opportunity to come before you today in support of H.B. 2602, amending the Kansas noxious weed law.

This bill would simply give landowners and managers the ability to purchase chemicals from local retailers or applicators and still have the benefit of the county cost-share on chemicals used in the treatment of noxious weeds. The same language in H.B. 2468 readily passed the House last year, but due to time constraints was not considered in the Senate. This year, the House has again passed the bill you have before you today.

This bill is the minimum of what needs to be done in modernizing the Kansas noxious weed law. There were numerous other changes that a task force of stakeholder groups developed which would have provided for greater flexibility and effectiveness in the law, such as allowing the noxious weeds to be determined by a scientific process and adopted in rule and regulation, rather than set by statute. Another proposed change would have provided for classification of noxious weeds, to focus resources, and determine management plans based on our ability to eradicate or control the weed. The House chose to focus on the issue in H.B. 2468, which is the primary issue for many of us.

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Attachment # *5-1 thru 5-2*

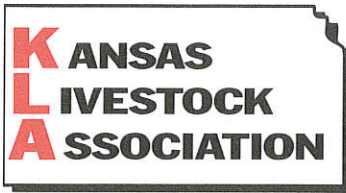
The “farmer right to choose” amendment has long been an issue, because of the situation today where counties have chemical stores, which are in competition with private sector businesses in the counties. This situation dates back decades, so change is difficult. In a few counties, the situation has changed, allowing the private sector to provide the product.

We see this as part of a larger problem of government being in business in competition with its taxpaying citizens and businesses. You may have noted similar issues in other committees regarding this issue. In the case of noxious weeds, it’s a business the counties have been in for a long time. In other cases, businesses are trying to keep local governments out of their businesses, where local governments are seeing opportunities to increase revenues. S.B. 480, which passed the Senate 40-0 and is on General Orders in the House today, deals with cities taking away business from other entities. The House Environment Committee is considering H.B. 3002, which deals with cities taking business away from private sector trash haulers. S.B. 210 last year dealt with counties getting into aggregate and construction businesses.

In the case of noxious weeds, it’s time that farmers at least have the opportunity to choose whether to purchase chemicals for noxious weed control from the county government or from the private sector. What we have today is a situation where the private sector pays taxes to the county, and the county uses those taxes to support a business in direct competition with the private business, on a level where the county has a monopoly and the private business can’t even compete.

Private business can respond to their customers with more flexibility than government can. Let’s allow the landowners to choose, based on convenience, service and price.

This bill is only a tiny step, since counties will still have the option to adopt a resolution to refuse to allow their landowners the choice of where to buy chemical. But it is a step toward changing this long-standing entrenched system. KAAA encourages you to recommend H.B. 2602 favorable for passage. Thank you for your consideration.



Since 1894

To: Senate Agriculture Committee
Senator Derek Schmidt, Chairman

From: Mike Beam, Governmental Affairs Staff

Subj: **HB 2602** - Amendments to the Noxious Weed Laws

Date: March 20, 2002

Mr. Chairman, and Senate Agriculture Committee members, the Kansas Livestock Association (KLA) appears today in support of House Bill No. 2602. I will not speak to the specific provisions of this bill. I would like to point out, however, this is the third time in three years we have provided testimony to the Senate or House Agriculture Committees regarding comprehensive and meaningful changes to the state's noxious weed law. As you consider this bill, I hope you will also discuss other amendments that I'll briefly outline in my prepared comments.

Attached to this testimony is a copy of Senate Bill No. 572, from the 2000 Session of the Kansas Legislature. This proposal was a product of a Kansas Department of Agriculture (KDA) task force that met on several occasions throughout 1999. This group included representatives of various and important interests on this issue. KDA spent countless hours working with this task force and subsequently meeting with producer groups, weed directors, fertilizer and chemical dealers, and county commissioners. In the end, this bill reflected the consensus of the task force and I believe resulted in a meaningful update and improvement in our noxious weed laws.

There are several positive aspects of this 2000 legislation. In the interest of time I'd like to mention a few significant changes that we believe have merit in 2002. Listing or De-listing of Weeds by Regulation

It was a general consensus of the task force that it is more appropriate for the state to list or de-list noxious weeds through the Department of Agriculture's rules and regulation process. We believe listing a plant, as a threat to native plants and agriculture operations is more of a science-based decision than a political call. Furthermore, the agency can move swiftly if a

Senate Agriculture Committee

Date *March 20, 2002*

appears in this state. The House and Senate Agriculture Committees have many important issues to consider each year. You have considerable demands on your valuable and limited legislative clock. We contend it's the Department of Agriculture's role, rather than the legislature's responsibility, to list and categorize noxious weeds. You certainly have an oversight responsibility, and I don't envision this role changing if you adopt this recommendation. You'll find language adopting this concept in New Section 4, at the bottom of page 2 (SB 572, 2000 Session).

Categorization of Noxious Weeds

Perhaps the most significant change proposed by the 1999 task force is to recognize various noxious or problem weeds deserve different emphasis and management options. New Section 4 establishes three categories (high risk, containment, or management) and two subcategories (primary management or secondary management) under the management category. This changes allows the state and county to move swiftly to contain and eradicate new and small areas of noxious weeds.

The bill also recognizes noxious weeds in large geographic areas of Kansas are not likely to be eradicated or eliminated. Landowners are required, however, to manage and control certain weeds listed in the management category of the noxious weed law. Furthermore, if a county wants to devote the resources to aid producers to control weeds in the secondary management subcategory they are empowered to levy sufficient funds to accomplish this purpose.

Per Acre Incentives

The 2000 legislation, SB 572, contained a provision to require counties to establish a procedure to compensate producers on a per acre basis for costs associated with controlling and managing noxious weeds. To date, the only procedure available is for a cost share on agricultural chemicals. As researchers learn more about problem noxious weeds we should eventually have proven biological and mechanical control procedures that are not amenable to county cost share assistance under the existing law. I'm not suggesting the language in SB 572 is the only way to address this issue. We do believe, however, that more flexibility should be imposed in the law so more producers using unconventional, yet approved, treatments could receive financial assistance.

Certified Free Mulch Hay

It is a common belief by many observers that mulch hay used along roadsides has been a source for some noxious weed infestations. We support the new language in New Section 9 (SB 572), requiring mulch hay along public right-of-ways to be certified free of noxious weeds.

Collecting for Control Expenses from Delinquent Landowners

Current law, K.S.A. 2000 Supp. 2-1320, authorizes county officials to assess a landowner's property for costs of controlling noxious weeds if the responsible party refuses to control or pay for the control of noxious weeds. The county is limited in the amount that can be collected in one year. County commissioners in the Flint Hills area have been reluctant to enforce the noxious weed law on *Sericea lespedeza* infested pastures because the county would have to basically finance the costs over a multi-year period. The changes in Section 12 of SB 572 authorize the collection of these expenses in one year. We believe this change is necessary for adequate enforcement of the noxious weed laws.

Civil Penalties

Section 15 of SB 572 allows weed directors and the Secretary to assess civil penalties for noncompliance of the noxious weed law. We believe this would be a useful tool to encourage compliance without the necessity of burdening county attorneys.

In conclusion, we believe this committee can make meaningful changes to the state noxious weed laws. We are willing to work with the committee and stakeholders to incorporate any and all of the recommendations as outlined in this statement.

Thank you!


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 Session of 2000

SENATE BILL No. 572

By Committee on Agriculture

2-4

9 AN ACT enacting the land stewardship by management and control of
 10 noxious weeds act; amending K.S.A. 2-1321 and 19-211 and K.S.A.
 11 1999 Supp. 2-1318, 2-1319, 2-1320, 2-1322, 2-1323 and 58-3212 and
 12 repealing the existing sections; also repealing K.S.A. 2-1315, 2-1316a,
 13 2-1317, 2-1324, 2-1325, 2-1326, 2-1327, 2-1328, 2-1329, 2-1330 and
 14 2-1333 and K.S.A. 1998 Supp. 2-1314, as amended by section 3 of
 15 chapter 85 of the 1998 session laws of Kansas and 2-1314b, as amended
 16 by section 5 of chapter 85 of the 1998 session laws of Kansas, and
 17 K.S.A. 1999 Supp. 2-1316, 2-1331 and 2-1332.

18
 19 *Be it enacted by the Legislature of the State of Kansas:*

20 New Section 1. This act shall be known and may be cited as the land
 21 stewardship by management and control of noxious weeds act.

22 New Sec. 2. As used in this act:

23 (a) "Association of persons" means any organization, corporation or
 24 other entity that has legal responsibility for the ownership, management,
 25 control or supervision of land.

26 (b) "Competent in weed control and management" means the indi-
 27 vidual meets the requirements set forth in rules and regulations of the
 28 secretary.

29 (c) "Containment category" is the category of noxious weeds growing
 30 on less than 100 acres in a county and having the potential to be contained
 31 and possibly eradicated in that county.

32 (d) "Control" means preventing the production of viable seed and
 33 destroying the plants ability to reproduce by vegetative means both in
 34 conformity with the official control plan for that particular noxious weed.

35 (e) "Governmental unit" means a political subdivision or those su-
 36 pervising state-owned land.

37 (f) "High risk category" is the category of noxious weeds not identi-
 38 fied as growing in Kansas at the time they are declared by the secretary
 39 to be noxious but that pose a threat to Kansas requiring immediate control
 40 if the noxious weeds were found to be growing in Kansas.

41 (g) "Management" means the planning and implementation of a co-
 42 ordinated program for the containment, suppression and, where possible,
 43 eradication of noxious weeds.

2

1 (h) "Management category" means the category of noxious weeds
2 identified as growing on more than 100 acres in a county and the eradi-
3 cation of which is not biologically feasible. Management category shall
4 include the primary management subcategory and secondary manage-
5 ment subcategory.

6 (i) "Noxious weed" means any plant declared noxious by rules and
7 regulations adopted by the secretary.

8 (j) "Primary management subcategory" is the category of noxious
9 weeds growing on more than 100 acres in the county but on less than
10 10,000 acres statewide and the eradication of which is not biologically
11 feasible.

12 (k) "Responsible party" means a person, association of persons, a gov-
13 ernmental entity, a railroad, an airport authority or those supervising
14 state-owned land, any of whom own, manage, control or supervise land.

15 (l) "Secondary management subcategory" is the category of noxious
16 weeds growing on more than 100 acres in a county and more than 10,000
17 acres statewide and the eradication of which is not biologically feasible.

18 (m) "Secretary" means the Kansas secretary of agriculture.

19 (n) "Those supervising state-owned land" means the ultimate legal
20 authority of the subdivision of state government having responsibility for
21 the management, control or supervision of state land.

22 (o) "Weed director" means a person employed by the county or city
23 and competent in weed control and management.

24 New Sec. 3. (a) Each responsible party shall control and manage, in
25 accordance with the rules and regulations adopted by the secretary, any
26 noxious weed on any land owned, managed, controlled or supervised by
27 any such responsible party.

28 (b) The secretary, a designee of the secretary, any weed director or
29 other public official is authorized to inspect any property, both public or
30 private, at any reasonable time to administer this act.

31 (c) Each responsible party shall provide free access and entry upon
32 any premises owned, managed, controlled or supervised by the respon-
33 sible party so that the secretary, a designee of the secretary, any weed
34 director or other public official who administers this act may inspect any
35 property, both real and personal, at any reasonable time.

36 New Sec. 4. (a) The secretary shall establish or adopt by rules and
37 regulations:

38 (1) Each weed that is considered to be a noxious weed or whether a
39 weed should be stricken from the list of noxious weeds using generally
40 recognized scientific methods. Any person may request that the secretary
41 consider a weed to be noxious or strike a noxious weed from the list of
42 noxious weeds.

43 (2) Such generally recognized scientific methods.

3

1 (3) An official control plan for each noxious weed. Any person may
2 request that the secretary consider a control or management practice not
3 included in an official control plan.

4 (b) The number of acres of a noxious weed found growing in each
5 county shall determine the classification of a noxious weed. The classifi-
6 cation categories are as follows:

7 (1) High risk category;

8 (2) containment category; or

9 (3) management category:

10 (A) Primary management subcategory; or

11 (B) secondary management subcategory.

6-5

12 New Sec. 5. The secretary is authorized to:

13 (a) Adopt official methods for the management of noxious weeds and
14 to publish such methods.

15 (b) Adopt rules and regulations as in the judgment of the secretary
16 are necessary to carry out the provisions of this act, and to alter or suspend
17 such rules and regulations when necessary.

18 (c) Enter into agreements and to cooperate with other governmental
19 entities, including the federal government, to administer this act.

20 New Sec. 6. (a) The board of county commissioners of each county
21 shall, and the governing body of any city may, employ a weed director.

22 (b) The board of county commissioners of each county and the gov-
23 erning body of any city that employs a weed director shall:

24 (1) Prepare an annual report. The annual report shall be in the form
25 and contain the information required by the secretary in rules and reg-
26 ulations. The annual report shall be submitted to the secretary by Feb-
27 ruary 15 and cover the preceding calendar year. The annual report shall
28 include the weed director's certification of the following:

29 (A) For each financial incentive paid, an authorized control method
30 was applied on all land identified in the annual report as being infested
31 with noxious weeds in the containment category and primary manage-
32 ment subcategory; or

33 (B) for each financial incentive paid, an authorized control method
34 was applied on land identified in the annual report as being infested with
35 noxious weeds in the secondary management subcategory. Certification
36 under this paragraph may include a scientifically representative sample
37 of the land infested with noxious weeds in the secondary management
38 subcategory for which a financial incentive was provided and is not re-
39 quired to be a certification for all land in such subcategory.

40 (2) Cooperate with the secretary in implementing the provisions of
41 this act.

42 (3) Prepare a weed management plan. The weed management plan
43 shall contain the activities to be conducted during the upcoming calendar

1 year to detect, monitor and control any noxious weed found growing in
2 the jurisdiction. The weed management plan shall be submitted to the
3 secretary by June 1 of each year.

4 (4) Establish a procedure to provide a financial incentive for the con-
5 trol and management of noxious weeds on a per acre basis to a responsible
6 party. In no event shall a governmental entity or government employee
7 obtain a financial incentive to control noxious weeds on government land.

8 (5) Provide a financial incentive for the control and management of
9 noxious weeds on a per acre basis to a responsible party who pays to
10 control and manage weeds in accordance with this act on private property
11 in the containment category or the primary management category.

12 (6) Identify or cause to be identified the specific practices contained
13 in the official control plan for each noxious weed present in the county
14 or city for which a financial incentive will be provided. For each control
15 practice identified, the governmental entity shall establish the amount of
16 financial incentive on a per acre basis to be provided to a responsible
17 party.

18 (7) Establish procedures to provide a financial incentive for the con-
19 trol and management of noxious weeds on a per acre basis to a responsible
20 party who pays for products or materials from sources other than the
21 county or city. Any financial incentive provided for products or materials
22 obtained from other sources shall not be less than any financial incentive
23 provided on the same products offered by the governmental entity.

24 (8) Provide a grievance system, established in the rules and regula-
25 tions of the secretary, allowing landowners or members of the public to

26 complain about noxious weeds growing on another's land.
 27 (9) Be subject to review and audit by the secretary, and shall make
 28 all its books and records pertaining to this act available for inspection
 29 upon request of the secretary.

30 (10) Ascertain the approximate acreage infested with each kind of
 31 noxious weed in the governmental entity's jurisdiction. This information
 32 shall be reported by June 1 of each year to the county, and any city or
 33 township within the county's boundaries.

34 (c) The board of county commissioners of each county and the gov-
 35 erning body of any city that employs a weed director, in cooperation with
 36 the weed director may:

37 (1) Provide a financial incentive on a per acre basis to a responsible
 38 party who pays to control and manage weeds in accordance with this act
 39 on private property in the secondary management subcategory.

40 (2) Offer for sale any product or material identified in the official
 41 control plan. The price for products or materials offered for sale shall be
 42 determined by the following formula: Price of product or material paid
 43 by the county or city plus any storage or handling amount minus the per

1 acre financial incentive.

2 New Sec. 7. (a) At least annually, the board of county commissioners
 3 of each county and the governing body of any city that employs a weed
 4 director shall give the public general notice in the official county or city
 5 newspaper of all noxious weeds identified by the weed director as growing
 6 in the geographic area for which the weed director is responsible. The
 7 notice to the general public shall follow the requirements adopted by
 8 rules and regulations of the secretary.

9 (b) The board of county commissioners of each county and the gov-
 10 erning body of any city that employs a weed director, in cooperation with
 11 the weed director, shall attempt to develop, or cause to be developed, an
 12 individual noxious weed management plan with a responsible party for
 13 land infested with noxious weeds in the containment category or primary
 14 management category. An individual weed management plan shall: (1)
 15 Follow the official control methods for the noxious weed identified on
 16 the land; and (2) specify the time within which the responsible party shall
 17 complete treatment pursuant to an official control method. If a respon-
 18 sible party fails to comply with the provisions of the individual weed man-
 19 agement plan or refuses to enter into an individual weed management
 20 plan, the weed director shall issue a notice as described in subsection (c).

21 (c) The board of county commissioners of each county and the gov-
 22 erning body of any city that employs a weed director shall give notice by
 23 certified mail to a responsible party who fails to comply with the provi-
 24 sions of subsection (b). The notice required by this subsection shall:

25 (1) Contain the procedures described in the official control methods
 26 for the noxious weed identified on the land and a legal description of the
 27 land where noxious weeds are growing.

28 (2) Specify the time within which the responsible party shall complete
 29 treatment pursuant to an official control method. The time for completion
 30 shall not be less than 10 working days after mailing of the notice.

31 (3) Include a statement that unless the responsible party completes
 32 the required noxious weed control and management method within the
 33 time specified in the notice, the weed director may enter or cause to be
 34 entered upon the land as often as necessary to use any approved method
 35 to control and manage the noxious weed identified in the notice.

36 New Sec. 8. In the event the weed director enters upon land to con-
 37 trol noxious weeds, after service of notice pursuant to section 7, and
 38 amendments thereto, the weed director shall notify or cause to be noti-
 39 fied, by certified mail, a responsible party that such party shall pay for

40 the weed management control performed upon the default of the re-
 41 sponsible party in section 7, and amendments thereto. The notice re-
 42 quired by this section shall include an itemized statement of services and
 43 the statement may include any penalty provided by section 15, and

6

1 amendments thereto. The board of county commissioners of each county
 2 and the governing body of any city that employs a weed director shall
 3 provide notice and an opportunity for a responsible party aggrieved by a
 4 statement of services or penalties to be heard. Any notice and hearing
 5 shall be conducted in accordance with rules and regulations adopted by
 6 the secretary.

7 New Sec. 9. (a) It shall be the duty of all persons to minimize the
 8 presence of noxious weeds or noxious weed seed in agricultural com-
 9 modities, products or equipment. If a county weed director suspects that
 10 a commodity, product or equipment is infested with noxious weeds or
 11 may contain noxious weed seed, the county weed director shall report the
 12 director's suspicions in a timely manner to the secretary.

13 (b) Any hay obtained by any governmental entity for use as mulch on
 14 public lands or along a public right-of-way shall be certified prior to such
 15 use as being free of noxious weeds. Certification shall be in the form
 16 required by the secretary, and filed with the weed director in the county
 17 where the hay is to be used.

18 Section 10. K.S.A. 1999 Supp. 2-1318 is hereby amended to read as
 19 follows: 2-1318. ~~The county weed supervisor of each county is hereby~~
 20 ~~directed and it shall be the duty of the county weed supervisor to ascertain~~
 21 ~~each year the approximate amount of land and highways infested with~~
 22 ~~each kind of noxious weeds and its location in the county, and transmit~~
 23 ~~such information tabulated by cities and townships not later than June 1~~
 24 ~~of each year, to the secretary of the state board of agriculture, board of~~
 25 ~~county commissioners, and to the governing body of each city and town-~~
 26 ~~ship in the district pertaining to such noxious weed infestation in their~~
 27 ~~respective jurisdiction. On the basis of such information the annual report~~
 28 ~~or weed management plan, the tax levying body of each county, township~~
 29 ~~or incorporated city shall make a tax levy each year for the purpose of~~
 30 ~~paying their part of the cost of control and eradication thereof as provided~~
 31 ~~in to implement this act and, in the case of cities and counties, to pay a~~
 32 ~~portion of the principal and interest on bonds issued under the authority~~
 33 ~~of K.S.A. 12-1774, and amendments thereto, by cities located in the~~
 34 ~~county. Each county, city, and township, separately, shall make a levy~~
 35 ~~each year for such purpose. Any city governmental unit may budget ex-~~
 36 ~~penditures for weed control within its general operating fund in lieu of~~
 37 ~~levying a special tax therefor or maintaining a separate noxious weed~~
 38 ~~eradication fund. Moneys collected from such levy, except for an amount~~
 39 ~~to pay a portion of the principal and interest on bonds issued under the~~
 40 ~~authority of K.S.A. 12-1774, and amendments thereto, by cities located~~
 41 ~~in the county, shall be set apart as a noxious weed eradication fund and~~
 42 ~~warrants Warrants duly verified by the county or city supervisor if such~~
 43 ~~be weed director, if such weed director is employed or if no supervisor~~

7

1 ~~be weed director is employed, then by county, township or city clerk, as~~
 2 ~~the case may be, may be drawn against this fund for all items of expense~~
 3 ~~incident to control of and manage noxious weeds in such district respec-~~
 4 ~~tively. Any moneys remaining in the noxious weed eradication fund at the~~
 5 ~~end of any year for which a levy is made under this section may be trans-~~

6 ~~ferred to the noxious weed capital outlay fund for making of capital ex-~~
7 ~~penditures incident to the control of noxious weeds governmental unit.~~
8 Sec. 11. K.S.A. 1999 Supp. 2-1319 is hereby amended to read as
9 follows: 2-1319. (a) The cost of controlling and ~~eradicating managing~~ nox-
10 ious weeds on ~~all lands or highways owned or supervised by a state agency,~~
11 ~~department or commission shall be paid by the state agency, department~~
12 ~~or commission supervising such lands or highways from funds appropri-~~
13 ~~ated to its use; on county lands and county roads, on township lands and~~
14 ~~township roads, on city lands, streets and alleys by the county, township~~
15 ~~or city in which such lands, roads, streets and alleys are located, and from~~
16 ~~funds made available for that purpose; on drainage districts, irrigation~~
17 ~~districts, cemetery associations and other political subdivisions of the~~
18 ~~state, the costs shall be paid from their respective funds made available~~
19 ~~for the purpose; governmental land shall be borne by the governmental unit~~
20 ~~responsible for noxious weed control and management within such unit's~~
21 ~~jurisdiction. If the governing body of any political subdivision owning or~~
22 ~~supervising governmental unit that owns or supervises lands infested with~~
23 ~~noxious weeds within their jurisdiction fails to control such noxious weeds~~
24 ~~after 15 10 days' notice directing any such body to do so, the board of~~
25 ~~county commissioners shall proceed to have proper control and eradicat-~~
26 ~~ion management methods used upon such lands, and shall notify the~~
27 ~~governing body of the political subdivision governmental unit by certified~~
28 ~~mail of the costs of such operations, with a demand for payment. The~~
29 ~~governing body of the political subdivision governmental unit shall pay~~
30 ~~such costs from its noxious weed fund, or if no such fund is available,~~
31 ~~from its general fund or from any other funds available for such purpose.~~
32 ~~Copy~~ A copy of the statement, together with proof of notification, shall
33 at the same time be filed with the county clerk, and if the amount is not
34 paid within 30 days, such clerk shall spread the amount *due by any po-*
35 *litical subdivision* upon the tax roll of the subdivision, and such amount
36 shall become a lien against the entire territory located within the partic-
37 ular political subdivision, and shall be collected as other taxes are
38 collected.
39 (b) All moneys collected pursuant to this section shall be ~~paid into~~
40 ~~the county allocated for noxious weed eradication fund control and man-~~
41 ~~agement.~~
42 (c) As used in this section *as it pertains to the levy of taxes*, "governing
43 body" means the board, body, or persons in which the powers of a political

1 subdivision as a body corporate are vested; and "political subdivision"
2 means any agency or unit of the state authorized to levy taxes or empow-
3 ered to cause taxes to be levied.
4 (d) ~~On all other lands the owner thereof shall pay the cost of control~~
5 ~~and eradication of noxious weeds. Except as provided in K.S.A. 2-1333~~
6 ~~and amendments thereto, chemical materials for use on privately owned~~
7 ~~lands may be purchased from the board of county commissioners at a~~
8 ~~price fixed by the board of county commissioners which shall be in an~~
9 ~~amount equal to not less than 50% nor more than 75% of the total cost~~
10 ~~incurred by the county in purchasing, storing and handling such chemical~~
11 ~~materials. However, once the tax levying body of a county, city or town-~~
12 ~~ship has authorized a tax levy of 1.5 mills or more, the board of county~~
13 ~~commissioners may collect from the owner of privately owned lands an~~
14 ~~amount equal to 75% but not more than 100% of the total cost incurred~~
15 ~~by the county in purchasing, storing and handling of chemical materials~~
16 ~~used in the control and eradication of noxious weeds on such privately~~
17 ~~owned lands. Whenever official methods of eradication, adopted by the~~
18 ~~state board of agriculture, are not followed in applying the chemical ma-~~
19 ~~terials so purchased, the board of county commissioners may collect the~~

20 ~~remaining portion of the total cost thereof.~~

21 Sec. 12. K.S.A. 1999 Supp. 2-1320 is hereby amended to read as
 22 follows: 2-1320. ~~In case the county weed supervisor or city weed super-~~
 23 ~~visor~~ *When a weed director enters upon land or and furnishes weed control*
 24 *materials pursuant to a contract or an agreement with an owner,*
 25 *operator or supervising agent of noxious weed infested land for the con-*
 26 *trol of such noxious weeds and, as a result of such weed control methods,*
 27 ~~there are any unpaid accounts outstanding by December 31 of each year,~~
 28 *and management by contract, pursuant to an individual weed manage-*
 29 *ment plan, or upon refusal of a responsible party to control weeds, the*
 30 *county commissioners or governing body of the a city that employs a weed*
 31 *director shall immediately notify or cause to be notified, such owner re-*
 32 *sponsible party with an itemized statement as to the cost of material,*
 33 *labor and use of equipment and further stating state that if the amount*
 34 *of such statement is not paid to the county or city treasurer wherein such*
 35 *real estate is located within 30 days from the date of such notice, a penalty*
 36 *charge of 10% of the amount remaining unpaid shall be added to the*
 37 *account in addition to any other penalty assessed pursuant to K. S.A. 2-*
 38 *1323, and amendments thereto, and the total amount thereof shall be-*
 39 *come a lien upon such real estate. The unpaid balance of such account*
 40 *and such penalty charge shall draw interest from the date of entering into*
 41 *such contract or upon accrual of the costs to provide weed control and*
 42 *management either through an individual weed management plan or upon*
 43 *the refusal of a responsible party to control weeds at the rate prescribed*

9

1 for delinquent taxes pursuant to K.S.A. 79-2004, and amendments
 2 thereto. A copy of the statement, together with proof of notification, shall
 3 at the same time be filed with the register of deeds in such county and
 4 the county or city clerk, as the case may be, and if such amount is not
 5 paid within the next 30 days the county or city clerk, as the case may be,
 6 shall spread the amount of such statement upon the tax roll prepared by
 7 the clerk and such amount shall become a lien against the entire contig-
 8 uous tract of land owned by such person or persons of which the portion
 9 so treated is all or a part, and shall be collected as other taxes are collected,
 10 and all moneys so collected shall be ~~paid into the~~ *allocated for noxious*
 11 *weed eradication fund, except that not more than 5% of the assessed*
 12 *valuation of the entire contiguous tract of land of which the portion so*
 13 *treated is all or a part shall be spread on the tax rolls against such land in*
 14 *any one year control and management.* If any land subject to a lien im-
 15 posed under this section is sold or transferred, the entire remaining un-
 16 paid balance of such account plus any accrued interest and penalties shall
 17 become due and payable prior to the sale or transfer of ownership of the
 18 property, ~~and upon collection shall be paid to the noxious weed eradi-~~
 19 ~~ation fund.~~

20 Sec. 13. K.S.A. 2-1321 is hereby amended to read as follows: 2-1321.
 21 If any ~~person shall be~~ *responsible party is* dissatisfied with the charge
 22 made ~~for material or rent of equipment used in~~ *in the statement of charges*
 23 *assessed against them for the control and eradication management of nox-*
 24 *ious weeds, said person shall the responsible party, within ten days from*
 25 *the mailing of the account showing such charge, statement, shall file a*
 26 *protest with the board of county commissioners, who shall hold a hearing*
 27 *thereon and shall have the power to either adjust or affirm such charge.*
 28 If any ~~person shall be~~ *responsible party is* dissatisfied with the decision
 29 rendered by the board of county commissioners ~~said person shall the~~
 30 *responsible party, within thirty 30 days, shall file a written notice of appeal*
 31 *with the clerk of the district court of the county and thereupon an action*
 32 *shall be docketed in the district court and be tried the same as other*
 33 *actions as provided by the Kansas act for judicial review. Upon the final*

34 determination of any change in the account, if any, the county or city
35 clerk shall correct the records in ~~his or her~~ the clerk's office in accordance
36 therewith.

37 Sec. 14. K.S.A. 1999 Supp. 2-1322 is hereby amended to read as
38 follows: 2-1322. (a) ~~The board of county commissioners, or the governing~~
39 ~~body of incorporated cities, cooperating with the secretary of the state~~
40 ~~board of agriculture, shall purchase or provide for needed and necessary~~
41 ~~equipment and necessary chemical material for the control and eradica-~~
42 ~~tion of noxious weeds.~~ The board of county commissioners of any county
43 or the governing body of any city may use any equipment or materials

1 ~~purchased as provided for in this section, upon the highways, streets and~~
2 ~~alleys, for the treatment and eradication on public land for the control~~
3 ~~and management of weeds which have not been declared noxious by leg-~~
4 ~~islative action.~~

5 ~~(b) Except as provided in K.S.A. 2-1323 and amendments thereto,~~
6 ~~the board of county commissioners shall sell chemical material to the~~
7 ~~landowners in their jurisdiction at a price fixed by the board of county~~
8 ~~commissioners which shall be in an amount equal to not less than 50%~~
9 ~~nor more than 75% of the total cost incurred by the county in purchasing,~~
10 ~~storing and handling such chemical materials used in the control and~~
11 ~~eradication of noxious weeds, and may make such charge for the use of~~
12 ~~machines or other equipment and operators as may be deemed by them~~
13 ~~sufficient to cover the actual cost of operation. However, once the tax~~
14 ~~levying body of a county, city or township has authorized a tax levy of 1.5~~
15 ~~mills or more, the board of county commissioners may collect from the~~
16 ~~landowners in their jurisdiction an amount equal to 75% but not more~~
17 ~~than 100% of the total cost incurred by the county in purchasing, storing~~
18 ~~and handling of chemical materials used in the control and eradication of~~
19 ~~noxious weeds.~~

20 ~~(c) Whenever official methods of eradication adopted by the state~~
21 ~~board of agriculture are not used in applying the chemical material pur-~~
22 ~~chased, the board of county commissioners may collect the remaining~~
23 ~~portion of the total cost thereof from the landowner.~~

24 ~~(b) Whenever a responsible party fails to use a control method other~~
25 ~~than an official method adopted by the secretary, the board of county~~
26 ~~commissioners and the governing body of any city that employs a weed~~
27 ~~director may collect from the responsible party the full amount of the~~
28 ~~costs incurred by the city or county to control and manage the noxious~~
29 ~~weeds.~~

30 ~~(d) (c) The board of county commissioners, township boards, and the~~
31 ~~governing body of cities any city that employs a weed director shall: (1)~~
32 ~~Keep a record showing purchases of material and equipment for control~~
33 ~~and eradication management of noxious weeds. The board of county com-~~
34 ~~missioners and the governing body of cities shall also; (2) keep a complete~~
35 ~~itemized record showing all sales for each or charge sales of material and~~
36 ~~shall; and maintain a record of charges and receipts for use of equipment~~
37 ~~owned by each county or city on public and private land. Such records~~
38 ~~shall be open to inspection by citizens of Kansas at all times.~~

39 Sec. 15. K.S.A. 1999 Supp. 2-1323 is hereby amended to read as
40 follows: 2-1323. (a) Any person, association of persons, corporation,
41 county or city or other official who ~~shall violate or fail to comply with any~~
42 ~~of the provisions of this act and acts amendatory thereof or supplemental~~
43 ~~thereto violates or fails to comply with the control and management~~

1 requirements for noxious weeds in the containment category, primary
 2 management subcategory or secondary management subcategory, or who
 3 takes a financial incentive to control noxious weed without controlling
 4 noxious weeds shall be guilty of a misdemeanor ~~and shall be punished.~~ A
 5 misdemeanor under this subsection shall be punishable upon conviction
 6 thereof by a fine of \$100 per day for each day of noncompliance up to a
 7 maximum fine of \$1,500.

8 (b) Any weed director may assess a civil penalty against any person,
 9 association of persons, corporation, county or city official or other official
 10 who violates or fails to comply with the requirements of the containment
 11 category, primary management category or secondary management cat-
 12 egory, or who takes a financial incentive to control noxious weeds without
 13 controlling noxious weeds within such person's or entity's jurisdiction.
 14 Any assessment of a civil penalty shall follow the fine schedule and appeal
 15 procedure established by rules and regulations of the secretary. A civil
 16 penalty under the subsection may be assessed in addition to any other
 17 penalty or costs allowed by this act. In no event shall a civil penalty
 18 assessed under this subsection be less than the amounts cited in subsection
 19 (a).

20 (c) The secretary may assess a civil penalty against any person, as-
 21 sociation of persons, corporation, county or city official or other official
 22 who violates or fails to comply with the requirements of section 6, and
 23 amendments thereto, the notice or planning requirements of section 7,
 24 and amendments thereto, the hearing requirements of section 8, and
 25 amendments thereto, the requirements of subsection (b) of section 9, and
 26 amendments there, the requirements of section 10, and the amendments
 27 thereto, the notice or control and management requirements of subsection
 28 (a) of section 11, and amendments thereto, and the record keeping
 29 requirements of subsection (c) of section 14, and amendments there. Such
 30 assessment shall be made in accordance with the Kansas administrative
 31 procedure act.

32 Sec. 16. K.S.A. 19-211 is hereby amended to read as follows: 19-211.
 33 (a) Except for any property belonging to a county law enforcement de-
 34 partment and as otherwise provided in this section, no property, the value
 35 of which is more than \$50,000, belonging to any county shall be sold or
 36 disposed of by any board of county commissioners without a unanimous
 37 vote of such commissioners and public notice of such sale or disposition.
 38 Such notice shall state the time or date of the sale or disposition or the
 39 date after which the property will be offered for sale or disposal, the place
 40 of the sale or disposition and the terms and conditions of the sale or
 41 disposition. Such notice shall be published at least once each week for
 42 three consecutive weeks prior to the sale or disposition in the official
 43 newspaper of the county. The property shall be sold or disposed of pub-

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1 licly, in the manner deemed prudent by the board of county commis-
 2 sioners, to the person or entity tendering the highest and best bid as
 3 determined by the board. The board of county commissioners shall have
 4 the right to reject any or all bids.

5 If, within 45 days after the first publication of the notice of sale or
 6 disposition a petition signed by not less than 2% of the qualified electors
 7 of the county is filed with the county election officer, such property shall
 8 not be sold or disposed of unless the proposition of sale or disposal of
 9 such property is submitted to a vote of the electors of the county at a
 10 question submitted election called therefor. The election shall be called,
 11 noticed and held in the manner provided by K.S.A. 10-120, and amend-
 12 ments thereto, or at a general election. If a majority of the votes cast at
 13 any such election authorizes any sale or disposition, such sale or dispo-

14 sition shall be made upon the notice hereinbefore prescribed by publi-
15 cation, to the person or entity tendering the highest and best bid, as
16 determined by the board. The board of county commissioners shall have
17 the right to reject any or all bids.

18 (b) If the board of county commissioners rejects all bids or if no bids
19 are received, the board may proceed to sell or dispose of the property
20 publicly, in the manner deemed prudent by the board, to the person or
21 entity tendering the highest and best bid or offer as determined by the
22 board. If the notice of sale or disposition has been previously published
23 in the manner set forth in subsection (a), no further notice of sale shall
24 be published before the property is sold or disposed of pursuant to this
25 subsection. When property of the county is sold or disposed of pursuant
26 to this subsection, the board shall cause to be published as a part of the
27 statement required by K.S.A. 19-227, and amendments thereto, a detailed
28 account of such sale or disposition which shall list such property, the
29 person who acquired the property and the purchase price.

30 (c) If the value of the property does not exceed \$1,000, such notice
31 by publication shall not be required prior to the sale or disposition of such
32 property. When property of the county having a value of more than \$50
33 but not more than \$1,000 is sold or disposed of, the board of county
34 commissioners shall cause to be published as a part of the statement
35 required by K.S.A 19-227, and amendments thereto, a detailed account
36 of such sale or disposition which shall list such property, the person who
37 acquired the property and the purchase price.

38 (d) Upon a finding by the board that any property is no longer re-
39 quired, or cannot prudently be used for public purposes of the county,
40 the board, by a unanimous vote, may sell or dispose of such property, the
41 value of which does not exceed \$50,000, by public or private sale or by
42 negotiation, as determined by the board. Notice of the board's intent to
43 sell or dispose of such property shall be published at least two times in

1 the official county newspaper. Such notice shall include the time, place
2 and conditions of such sale or disposition.

3 (e) The board, by unanimous vote, may sell or dispose of any real
4 property interest belonging to the county, including any interest derived
5 through dedication, plat, condemnation, reversion, abandonment, reser-
6 vation or tax foreclosure, which the board determines, after notice and
7 public hearing, to be surplus property not required for public use, and to
8 be unmarketable property. Such property interest may be sold or dis-
9 posed of by the county by the adoption of a resolution providing that the
10 interest of the county shall be vacated and transferring by quitclaim, with-
11 out benefit of warranties of title, whatever right, title or interest the
12 county has or may have in the property. The resolution shall provide for
13 the reservation to the county and the owners of any lesser property rights
14 for public utilities, the rights-of-way and easements for public service
15 facilities which are in existence and in use across the property. Upon
16 adoption of the resolution, the property interests vacated and conveyed
17 shall revert to and vest in the owners of the real estate immediately abut-
18 ting thereon, in proportion to the frontage of such land, except in cases
19 where such land may have been acquired for public use in a different
20 proportion, in which event it shall revert and vest in the owner of the
21 adjoining real estate in the same proportion that it was acquired.

22 Following the adoption of the resolution, the county clerk shall record
23 the conveyance upon the transfer records of the county and shall cause
24 a notice of the transfer to be published at least two times in the official
25 county newspaper and to be sent by certified mail to each owner of the
26 adjoining real estate to whom the property is being transferred, at the
27 address where the owner's tax statement is sent. A copy of the transfer

28 and the notice shall be recorded with the register of deeds of the county,
29 and no fee shall be charged by the county clerk or the register of deeds
30 recording the transfer.

31 (f) In the event of any sale or disposition of real property pursuant
32 to the authority under this section, the board, in its discretion, may enter
33 into and execute contracts for sale or lease-purchase agreements for a
34 term of not more than five years.

35 (g) The provisions of this section shall not apply to or restrict the
36 conveyance of real property by any county to the state of Kansas, the title
37 to which was previously conveyed to such county by the state of Kansas.

38 (h) The provisions of this section shall not apply to or restrict the
39 conveyance of real property by any county to a nonprofit corporation
40 organized under the laws of Kansas if such real property is acquired and
41 conveyed by the county for the purpose of development of an industrial
42 or business park on such real property comprised of businesses engaged
43 in: (1) Manufacturing articles of commerce; (2) conducting research and

1 development; or (3) storing or processing goods or commodities. If the
2 real property is to be conveyed for an amount which is less than the
3 amount the county paid to acquire such property, the board of county
4 commissioners shall publish a notice of its intent to convey such property.
5 The notice shall include a description of the property, the cost of acquir-
6 ing the property and the amount for which such property is to be con-
7 veyed. Such notice shall be published once each week for three consec-
8 utive weeks in the official county newspaper. If, within 45 days after the
9 first publication of such notice a petition signed by not less than 2% of
10 the qualified electors of the county is filed with the county election officer,
11 such property shall not be conveyed unless the proposition of sale or
12 disposal of such property is submitted to and approved by a majority of
13 the qualified voters of the county at an election called therefor. The elec-
14 tion shall be called, noticed and held in the manner provided by K.S.A.
15 10-120, and amendments thereto, or at a general election.

16 (i) The provisions of this section shall not apply to or restrict the
17 conveyance of real property by any county to a port authority if such real
18 property is acquired and conveyed by the county for the purpose of de-
19 velopment of an industrial, commercial or business park on such real
20 property. The board of county commissioners shall publish a notice of its
21 intent to convey such property. The notice shall include a description of
22 the property, the cost of acquiring the property and the amount for which
23 the property is to be conveyed. Such notice also shall include the time
24 and date of the public hearing at which the board proposes to consider
25 the conveyance of such property. Such notice shall be published at least
26 once in the official county newspaper. Following the public hearing, the
27 board of county commissioners may convey such property.

28 (j) Whenever it is required by this section that the board of county
29 commissioners approve a sale or disposition of property by unanimous
30 vote and a county has a five-member board, such board may approve a
31 sale or disposition of property by a 4/5 majority.

32 (k) The provisions of this section shall not apply to the conveyance
33 of property pursuant to ~~K.S.A. 2-1310~~ subsection (c)(2) of section 6, and
34 amendments thereto.

35 Sec. 17. K.S.A. 1999 Supp. 58-3212 is hereby amended to read as
36 follows: 58-3212. (a) The responsible party, at all times after transfer of
37 the deed to the responsible party, shall:

38 (1) Perform the duties imposed by ~~K.S.A. 2-1314~~ section 3, and
39 amendments thereto along the recreational trail;

40 (2) provide for the safety, use and accessibility of existing easements,
41 utility facilities and access licenses along the recreational trail;

42 (3) provide for trail-user education and signs regarding trespassing
43 laws and safety along the recreational trail;

15

1 (4) provide for litter control and the enforcement of laws prohibiting
2 littering along the recreational trail, including but not limited to trail-user
3 education and signs about laws prohibiting littering and the provision of
4 trash receptacles and the cleanup of trash and litter;
5 (5) develop and maintain the recreational trail in a condition that does
6 not create a fire hazard;
7 (6) designate the recreational trail for nonmotorized vehicle use with
8 exceptions only for motorized wheelchairs and maintenance, law enforce-
9 ment and emergency vehicles;
10 (7) prohibit hunting or trapping on or from the recreational trail;
11 (8) provide for law enforcement along the recreational trail;
12 (9) grant easements to adjacent property owners to permit such own-
13 ers to cross the recreational trail in a reasonable manner consistent with
14 the use of the adjacent property and with K.S.A. 66-301 through 66-303,
15 and amendments thereto;
16 (10) (A) maintain any existing fencing between the trail and adjacent
17 property; (B) maintain any future fencing installed between the trail and
18 adjacent property; (C) install between the trail and adjacent property
19 fencing corresponding in class to that maintained on the remaining sides
20 of such adjacent property; and (D) on request of an adjacent property
21 owner, pay one-half the cost of installing fencing between the trail and
22 such property owner's adjacent property with a fence of the class re-
23 quested by such property owner, if not all remaining sides of such prop-
24 erty are fenced; and
25 (11) (A) maintain the trail; (B) maintain all bridges, culverts, roadway
26 intersections and crossings on the trail, essential to the reasonable and
27 prudent operation of the trail or needed for drainage, flood control or
28 the use of easements for crossing the trail between adjacent properties,
29 or cause maintenance thereof by other parties that have assumed con-
30 tractual responsibility therefor; and (C) install and maintain any warranted
31 traffic signs on the trail.
32 (b) If the responsible party is not a governmental entity, the respon-
33 sible party shall file with the county clerk of each county where a portion
34 of the recreational trail is or will be located a bond or proof of an escrow
35 account in a Kansas financial institution, as defined by K.S.A. 16-117 and
36 amendments thereto, payable to the county. The bond or proof of an
37 escrow account shall be filed at the time of transfer of the deed to the
38 responsible party and annually thereafter. The bond or escrow account
39 shall be conditioned on the responsible party's performance, and shall be
40 in an amount agreed upon between the responsible party and the county
41 commission as sufficient to fully cover the annual costs, of:
42 (1) Weed control along the trail, as required by subsection (a)(1);
43 (2) litter control along the trail, as required by subsection (a)(4);

16

1 (3) maintenance of the trail in a condition that does not create a fire
2 hazard, as required by subsection (a)(5);
3 (4) installation and maintenance of fencing between the trail and ad-
4 jacent property within the county, as required by subsection (a)(10); and
5 (5) installation and maintenance of signs along the trail, as required
6 by subsections (a)(3), (a)(4) and (a)(11)(C).
7 If separate bonds are submitted to or escrow accounts established for

8 the various counties through which the trail transverses, the annual costs
 9 listed above shall be only for that portion of the trail located within the
 10 particular county that is the holder of the bond or beneficiary of the
 11 escrow. A responsible party may submit a single bond or escrow account
 12 with multiple counties respectively as coobligees or cobeneficiaries, but
 13 in that event the annual costs used in computation of the bond amount
 14 shall be for the entire trail length.

15 (c) If the responsible party is not a governmental entity, the respon-
 16 sible party shall file with the county clerk of each county where a portion
 17 of the recreational trail is or will be located, proof of liability insurance
 18 in an amount agreed upon between the responsible party and the county
 19 commission as sufficient. Such proof shall be filed at the time of transfer
 20 of the deed to the responsible party and annually thereafter.

21 (d) The provisions of this section shall apply to all recreational trails,
 22 regardless of when approval to enter into negotiations for interim trail
 23 use is or was received from the appropriate federal agency.

24 (e) The provisions of this section may be modified or supplemented
 25 by any city governing body for recreational trails within the corporate
 26 limits of such city in the manner provided by K.S.A. 12-137 *et seq.* and
 27 amendments thereto. If a city governing body adopts requirements in
 28 addition to those provided by this section, the city shall pay all costs of
 29 compliance with such additional requirements.

30 New Sec. 18. If any provision of this act or the application thereof
 31 to any person or circumstance is held invalid, the invalidity shall not affect
 32 other provisions or applications of the act which can be given effect with-
 33 out the invalid provision or application, and to this end the provisions of
 34 this act are severable.

35 Sec. 19. K.S.A. 2-1315, 2-1316a, 2-1317, 2-1321, 2-1324, 2-1325, 2-
 36 1326, 2-1327, 2-1328, 2-1329, 2-1330, 2-1333 and 19-211, K.S.A. 1998
 37 Supp. 2-1314, as amended by section 3 of chapter 85 of the 1998 session
 38 laws of Kansas and 2-1314b, as amended by section 5 of chapter 85 of
 39 the 1998 session laws of Kansas, and K.S.A. 1999 Supp. 2-1316, 2-1318,
 40 2-1319, 2-1320, 2-1322, 2-1323, 2-1331, 2-1332 and 58-3212 are hereby
 41 repealed.

42 Sec. 20. This act shall take effect and be in force from and after
 43 January 1, 2001, and its publication in the statute book.

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PUBLIC POLICY STATEMENT

SENATE COMMITTEE ON AGRICULTURE

RE: HB 2602 – Regarding noxious weeds and county cost-share programs for weed control.

**March 20, 2002
Topeka, Kansas**

**Prepared by:
Leslie Kaufman, Associate Director
Public Policy Division
Kansas Farm Bureau**

Chairman Schmidt and members of the Senate Committee on Agriculture, thank you for the opportunity to appear in support of HB 2602. I am Leslie Kaufman and I serve as the Associate Director of the Public Policy Division for Kansas Farm Bureau.

The farmer and rancher members serving as Voting Delegates at Kansas Farm Bureau's 83rd Annual Meeting in Wichita last November reaffirmed 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.
- 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 be available through County Weed Departments and private agricultural chemical dealers.

Kansas Farm Bureau supports the language in HB 2602 that will allow landowners to acquire chemical controls from registered pesticide providers and receive the same savings available through the county weed department. As such, we respectfully request the committee act favorably on HB 2602. Thank you.

Kansas Farm Bureau represents grassroots agriculture. Established in 1889, the organization supports farm families who earn their living in a c

Senate Agriculture Committee

Date *March 20, 2002*

Attachment # *7*