

MINUTES OF THE HOUSE AGRICULTURE COMMITTEE

The meeting was called to order by Chairman Dan Johnson at 3:30 p.m. on February 13, 2006, in Room 423-S of the Capitol.

All members were present except:

Representative Larry Powell- excused
Representative Jerry Williams- excused

Committee staff present:

Raney Gilliland, Kansas Legislative Research Department
Gordon Self, Revisor of Statutes Office
Kay Scarlett, Committee Secretary

Conferees appearing before the committee:

Callie Jill Denton, Kansas Trial Lawyers Association (written only)
Duane Simpson, Kansas Agribusiness Retailers Association
Leslie Kaufman, Executive Director, Kansas Cooperative Council (written only)
Brad Harrelson, State Policy Director, Governmental Relations, Kansas Farm Bureau (written only)
Constantine Cotsoradis, Assistant Secretary, Kansas Department of Agriculture
Michael LeValley, Field Supervisor, U.S. Fish and Wildlife Service
Keith Sexson, Assistant Secretary for Operations, Kansas Department of Wildlife and Parks
Ron Klataske, Executive Director, Audubon of Kansas
Gene Bertrand, Wallace, Kansas
Lillian Becker, Russell Springs, Kansas
Larry Haverfield, Winona, Kansas
Gordon Barnhart, Bucklin, Kansas
Keith Yearout, Z Bar Ranch Manager, Lake City, Kansas
Dan Pace, Hutchinson, Kansas
Stan Roth, Naturalist - Educator
Alan Pollom, Kansas State Director, The Nature Conservancy
Donn Teske, Kansas Farmers Union
Dan Ward, Kansas State Rifle Association (written only)
Judith Roe, President, Northern Flint Hills Audubon Society (written only)
David London, Defiance, Missouri (written only)
Carl Uhrich, Logan County Commissioner
Steve Swaffar, Director of Natural Resources, Kansas Farm Bureau
Doug Smith for Duane Mathes, President, Kansas Legislative Policy Group
Mike Beam, Senior Vice President, Kansas Livestock Association

Others attending: See attached list.

Chairman Johnson withdrew his request for a committee bill concerning oil and gas pipes on agricultural land.

Hearing and action on HB 2798 - Immunity from liability for owners of anhydrous ammonia; sunset extended from July 1, 2006, to July 1, 2009.

Chairman Johnson opened the hearing on **HB 2798**. Raney Gilliland explained that this bill would extend the current sunset provision for immunity from liability for owners of anhydrous ammonia. The 2002 legislation states that owners of anhydrous ammonia shall not be held liable or subject to a lawsuit for any negligent act or omission which may cause personal injury, death or other economic or non-economic loss to a third party. Immunity from liability and suit authorized by this section is expressly waived for owners whose acts or omissions constitute willful, wanton, reckless or intentional conduct.

Callie Jill Denton, Kansas Trial Lawyers Association, submitted written testimony neutral on **HB 2798** to extend the sunset provision for immunity for owners of anhydrous ammonia. KTLA opposed the immunity provisions in 2002. They believe the solution to the problem of anhydrous ammonia theft is not to insulate the owner from liability, but to encourage owners to take precautions against theft including valve locks, regular monitoring, keeping the tank well-lit, and fencing for unattended tanks. (Attachment 1)

CONTINUATION SHEET

MINUTES OF THE House Agriculture Committee at 3:30 p.m. on February 13, 2006, in Room 423-S of the Capitol.

Duane Simpson, Kansas Agribusiness Retailers Association, appeared in support of **HB 2798** to extend the sunset provision in the 2002 legislation introduced at KARA's request. This law grants immunity from lawsuits for theft-related damages to the thief and third parties. He explained that at the time of passage, there was concern by opponents of the bill that third parties injured by a methamphetamine thief's actions would not be able to be compensated, hence the sunset provision. After four years experience, he said there has not been a single case of a third party being injured or having property damage resulting in a lawsuit. He stated that prior to passage of the 2002 law, the average agribusiness retailer was seeing 30-40% increases in their liability insurance; many insurance companies had stopped writing liability insurance for the industry. With passage of the immunity legislation, their members are now able to get affordable insurance. (Attachment 2)

Leslie Kaufman, Executive Director, Kansas Cooperative Council, submitted written testimony in support of **HB 2798**, stating that agriculture producers and agribusinesses, legitimate owners and users of anhydrous ammonia still need this liability protection. (Attachment 3)

Brad Harrelson, State Policy Director, Governmental Relations, Kansas Farm Bureau, provided written testimony in support of **HB 2798**, stating that responsible agriculture producers or distributors should not be held liable for actions of criminals that may result in injury or loss during the theft of anhydrous ammonia. KFB believes the statutory protections provided in K.S.A. 60-4601 are appropriate and should be extended indefinitely by striking the sunset provision in line 40. (Attachment 4)

There being no opponents, Chairman Johnson closed the hearing on **HB 2798** and opened the floor for discussion.

Representative Carlson moved to recommend **HB 2798** favorably for passage and, because the bill is of a noncontroversial nature, be placed on the consent calendar. Seconded by Representative Dahl, the motion carried.

Hearing on HB 2836 - Revisions to Kansas egg law.

Chairman Johnson opened the hearing on **HB 2836**. Raney Gilliland reviewed the revisions to the Kansas egg law, noting several technical corrections the committee may wish to consider.

Constantine Cotsoradis, Assistant Secretary, Kansas Department of Agriculture, testified in support of **HB 2836** requested by the department to clarify sections of the Kansas egg law that, as written, are confusing in regard to who pays inspection fees and provisions that affect small, direct marketers and persons selling eggs from their own small flocks. The bill also adds other kinds of eggs and egg products. He explained that the new law:

- Adds balut (fertilized eggs) to allow for regulation of labeling and handling.
- Requires retailers and food purveyors to be licensed, but exempts them from the licensing fee.
- Expands record keeping requirements for license holders.
- Maintains the exemption for producers selling from their own flock, but adds some size, handling and temperature requirements to clarify direct marketing rules.
- Clarifies labeling requirements.
- Limits repackaging of eggs by retailers.
- Provides civil penalty authority.

Mr. Cotsoradis noted that these proposed changes were discussed at their stakeholder meetings and the response, while limited, was positive. (Attachment 5)

Donn Teske, Kansas Farmers Union, spoke in support of **HB 2836** to clarify the Kansas egg law, noting that he represents a number of small producers in the state.

There being no opponents, the Chairman closed the hearing on **HB 2836**.

CONTINUATION SHEET

MINUTES OF THE House Agriculture Committee at 3:30 p.m. on February 13, 2006, in Room 423-S of the Capitol.

Hearing on HB 2783 - Prairie dog management and control by townships and counties.

Chairman Johnson opened the hearing on **HB 2783**. Raney Gilliland explained that this bill would repeal K.S.A. 80-1201 through 80-1208. The bill would allow the township board of any township or the county commission of any county to take the necessary steps to manage and control prairie dogs within the limits of the township or county. Any expense incurred would be paid for out of the funds of the township or county. The bill would also authorize the Department of Wildlife and Parks, the Department of Agriculture, and K-State Research and Extension to assist townships, counties, and landowners with management or control, or both, of black-tailed prairie dog colonies. This assistance could consist of education efforts, technical assistance, research, cost-share of management or control, and incentive payments to landowners. The bill carries a fiscal note of \$2.2 million.

Michael LeValley, Field Supervisor, U.S. Fish and Wildlife Service, provided the perspective of the U.S. Fish and Wildlife Service regarding black-tailed prairie dog conservation and management in Kansas, stating that as a federal agency, their policy is to not take positions on state legislation. He reported that the Service removed the species from candidate status under the Endangered Species Act in 2004. They are hopeful that by managing and controlling prairie dogs, rather than pursuing eradication, a sufficient number of prairie dog colonies can be maintained to avoid listing. Their second interest in maintaining some populations of prairie dogs in the shortgrass prairie landscape is to aid recovery of black-footed ferret, the most endangered animal in North America. The Service will assist landowners who wish to conserve and manage biological diversity on their own private property. ([Attachment 6](#))

Keith Sexson, Assistant Secretary for Operations, Kansas Department of Wildlife and Parks, addressed the committee stating that Kansas is and continues to be a state with onerous laws regarding the eradication of the black-tailed prairie dog. The Department supports revisions to the century old laws in Kansas. They feel that the black-tailed prairie dog is a necessary and vital component to keeping the short grass prairie ecosystem healthy and, in addition, would be a step in the right direction in the event that the USFWS is petitioned once again to list the species as threatened. The Department is supportive of private-public cooperative agreements for the enhancement of wildlife species and believe repealing the antiquated laws regarding prairie dogs would help foster those arrangements. ([Attachment 7](#))

Ron Klataske, Executive Director, Audubon of Kansas, testified in support of **HB 2783** introduced at his request. He stated that these antiquated statutes don't just mandate eradication of prairie dogs in Kansas, they eradicate the rights of landowners to conduct conservation of native wildlife as part of their land stewardship; eradicate an element of agri-tourism and outdoor recreation on private lands; specify that township and county officials have no choice but to eradicate or they are automatically deemed guilty of a misdemeanor; and by eradicating agri-tourism and nature-based tourism, a considerable and growing economic necessity for rural communities is lost. ([Attachment 8](#))

Gene Bertrand, Wallace, Kansas, appeared in support of **HB 2783** for the management and control of prairie dogs. He explained that since 2002, by advertising in *The Kansas City Star* he has established a new commercial "guest service" hunting facility—a method of prairie dog control that generates income and provides recreation that seems to be in demand. He reported that his business has continued to grow with 90 percent of the hunters from out of state. He admitted that he will always have to perform control work to protect neighbors, but believes his business is a better method of management than extermination. He reported that in November, 2005, he was advised by the Logan County Attorney that he must eradicate the prairie dogs on his land or the county will proceed with the eradication and he will be billed. ([Attachment 9](#))

Lillian Becker, Russell Springs, Kansas, testified in support of **HB 2783**. She reported that they have received numerous complaints from the Logan County Commissioners concerning the eradication of prairie dogs on their land in spite of the fact that poison has been applied every year since 2000. She said the county commissioners refuse to discuss the economic development resulting from the agri-tourism program of prairie dog shoots on their property. ([Attachment 10](#))

Larry Haverfield, Winona, Kansas, appeared in support of **HB 2783** for the control and management of prairie dogs.

CONTINUATION SHEET

MINUTES OF THE House Agriculture Committee at 3:30 p.m. on February 13, 2006, in Room 423-S of the Capitol.

Gordon Barnhart, Bucklin, Kansas, testified in support of **HB 2783** and agri-tourism and recreation as a means of prairie dog management and control. (Attachment 11)

Keith Yearout, Z Bar Ranch Manager, Lake City, Kansas, appeared in support of **HB 2783** as a significant step toward improving conservation of the black-tailed prairie dog and other species that utilize or depend on prairie dog towns. He reported that Turner Enterprises, Inc.'s mission is to manage their land in an economically sustainable and ecologically sensitive manner while promoting the conservation of native species. He noted that an important aspect of their prairie dog conservation program is containment to ensure that colonies from the Z-Bar Ranch do not encroach onto neighboring lands. Once their 1000 acre objective is achieved, they hope to collaborate with the Kansas Department of Wildlife and Parks and U.S. Fish and Wildlife Service to restore black-footed ferrets to the ranch. (Attachment 12)

Dan Pace, Hutchinson, Kansas, submitted written testimony in support of **HB 2783** as both a conservation matter and a property rights issue. (Attachment 13)

Stan Roth, naturalist and former educator, spoke in support of **HB 2783** for the conservation and management of prairie dogs.

Alan Pollom, Kansas State Director, The Nature Conservancy, testified as a proponent for change of the existing statutes regulating control of prairie dogs. The Nature Conservancy believes that legislative action leading to a more progressive and wildlife friendly approach to prairie dog management should be pursued. They believe such action is in the long-term best interests of both landowners who desire the presence of prairie dogs and those who do not. They are uncertain whether **HB 2783** is the vehicle that will accomplish that outcome. (Attachment 14)

Donn Teske, Kansas Farmers Union, appeared in support of **HB 2783** as a sensible bill that addresses the control and management of prairie dogs. (Attachment 15)

Dan Ward , Kansas State Rifle Association, submitted written testimony outlining their support of **HB 2783**. (Attachment 16)

Judith Roe, President, Northern Flint Hills Audubon Society, sent written testimony in support of **HB 2783** to allow prairie dog retention on private lands. (Attachment 17)

David London, Defiance, Missouri, provided written testimony in support of **HB 2783** and the black-tailed prairie dog as a game animal and economic resource. (Attachment 18)

Jay Haverfield and Joe Becker offered their verbal support of **HB 2783**.

Carl Uhrich, Logan County Commissioner, testified in opposition to **HB 2783** expressing the concern of many landowners in Logan County. He explained that Logan County has been struggling with a tremendous infestation of prairie dogs and their only hope in getting the problem under control is to allow the county to manage and control prairie dogs when landowners choose not to do so themselves. He stated that they are not trying to tell these landowners that they cannot have prairie dogs on their property, but if they choose to have them, they should be responsible for the damage they cause to the landowners around them. (Attachment19)

Steve Swaffar, Director of Natural Resources, Kansas Farm Bureau, stood in opposition to **HB 2783** addressing the control of prairie dogs. He noted that KFB offered support to a similar measure during the 2003 legislative session due to concerns that the black-tailed prairie dog would be listed as an endangered species under the Endangered Species Act and areas of Kansas would be designated as critical habitat. However, in August 2004, USFWS issued their finding that concluded the black-tailed prairie dog is not likely to become an endangered species within the foreseeable future. KFB doesn't believe anything in existing law precludes individuals, townships, counties, state agencies, or research institutions from participating in the development of management plans, cooperative agreements, providing technical assistance or any of the other activities listed in the bill. (Attachment 20)

CONTINUATION SHEET

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Doug Smith presented testimony from Duane Mathes, President, Kansas Legislative Policy Group, in opposition to **HB 2783**. The bill does not provide counties with any authority to assist owners of land adjacent to sanctioned prairie dog conservation programs with control or management, nor does the bill allow counties to recover costs for control and management when participating landowners do not follow the obligations of management plans and allow colonies to establish new territories or expand beyond the fixed boundaries of a conservation habitat. KLPG believes that communities should have the ability to control prairie dogs at the local level. (Attachment 21)

Mike Beam, Senior Vice President, Kansas Livestock Association, appeared in opposition to **HB 2783**, reporting that during the 2003 legislative session, KLA supported legislation as a good faith effort to address concerns by the petitioners and U.S. Fish and Wildlife Service to keep the black-tailed prairie dog off the endangered species list. They believed in 2003 that it was important to preserve the statute (K.S.A. 80-1202) that allows local officials to control prairie dogs if they are determined to be a nuisance to neighboring ranchers and landowners. **HB 2783** proposes to repeal this statute. KFB believes that when a management decision is made to not control species that spread to neighboring landowners there should be a mechanism to allow local or state officials the ability to address the problem. If the committee feels it is necessary to take action in 2006, KFB urged consideration of a proposal similar to the 2003 plan. (Attachment 22)

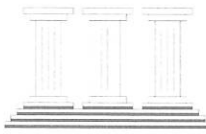
Following a question and answer period, Chairman Johnson closed the hearing on **HB 2783**.

The meeting adjourned at 5:20 p.m. The next scheduled meeting of the House Agriculture Committee is scheduled for February 15, 2006.

HOUSE AGRICULTURE COMMITTEE GUEST LIST

DATE: FEBRUARY 13, 2006

NAME	REPRESENTING
Steve Switzer	Ks Farm Bureau
BRAD HARRELSON	KFB
Callie Hill Denker	KS Trial Lawyers Assoc
Ken Seebert	Lincoln Firm
Taylor Gillespie	Rep. Gateway Intern
Hena Bertrand	Self
Joe Becker	Self
Lillian Becker	Self
Robert J. Barnhardt	Self
DW PACE	SELF
KEITH YEAGOUF	Z-Bar LLC
Larry Haverfield	Self
Mike LeValley	U.S. Fish & Wildlife Service
Donna Teske	962. Farmers Union
CV Cotsoadis	KDA
Jay Haverfield	Self
Dana Hoffman	Ks Assoc. of Wheat Growers
Stan Roth	self
Ron Klatoske	Audubon of Kansas



KANSAS TRIAL LAWYERS ASSOCIATION

Lawyers Representing Consumers

To: Representative Dan Johnson, Chair
Members of the House Agriculture Committee

From: Callie Jill Denton
Kansas Trial Lawyers Association

Date: February 13, 2006

Re: HB 2798 Immunity for owners of anhydrous ammonia; extension of sunset

I am submitting testimony today on behalf of the Kansas Trial Lawyers Association, a statewide nonprofit organization of attorneys who represent consumers and advocate for the safety of families and the preservation of Kansas' civil justice system. I appreciate the opportunity to provide you with testimony on HB 2798, which extends the sunset on immunity for owners of anhydrous ammonia.

We would like to take the opportunity to remind the committee of the genesis of the immunity provisions in K.S.A. 60-4601. KTLA was a strong opponent of the immunity provisions because they shield owners of anhydrous ammonia even where the owners' negligence contributed to cause serious injury to an innocent third party.

KTLA does not excuse the actions of a "tamperer". However, many people besides the tamperer are at risk when thefts of anhydrous ammonia occur. An accidental chemical release caused by theft puts neighbors, employees of the owner, and law enforcement officials at risk.

The solution to the problem of anhydrous ammonia theft is not to insulate the owner from liability, but to encourage owners to take precautions against theft including valve locks, regular monitoring, keeping the tank well-lit, and fencing for unattended tanks. The sweeping immunity in K.S.A. 60-4601 does not provide any incentive for owners to secure their tanks against theft and consequently, more than the thief is at risk for exposure to anhydrous ammonia.

Anhydrous ammonia carries with it the risk of blindness, lung damage, burns, and death. It quickly dehydrates living tissue and attacks any part of the body that is moist—eyes, ears, nose, throat, bronchia, lungs. Any tissue that contains moisture is chemically burned and reduced to a sticky, goeey substance. Skin that is chemically burned by the ammonia is actually killed and is not capable of healing or replacing itself. Damaged tissue must be removed by a medical doctor so that healing can proceed. The results can often be disfiguring.

Terry Humphrey, Executive Director

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E-Mail: triallaw@ink.org

House Agriculture Committee
February 13, 2006
Attachment 1

KTLA's preference would be for the immunity provisions in K.S.A. 60-4601 to be allowed to sunset on July 1, 2006. However, we appreciate the opportunity that review of the sunset brings for the committee to reconsider the immunity provisions. To our knowledge, there are no cases pending where an injured third party was barred by the immunity provisions from seeking compensation for their injuries. We hope that, if the sunset is extended, that the same is true when this issue is reviewed again in 2009.

Thank you for the opportunity to offer our concerns.

KANSAS TRIAL LAWYERS ASSOCIATION

Lawyers Representing Consumers

TO: Members of the Senate Judiciary Subcommittee on SB 489
FROM: Kansas Trial Lawyers Association
RE: 2002 SB 489
DATE: Feb. 13, 2002

Sen. Schmidt and members of the subcommittee, thank you for the opportunity to submit comments on SB 489. KTLA opposes this bill because it grants immunity to a person who owns, sells or uses anhydrous ammonia and negligently injures an innocent third party.

Specifically, Sec. 1(b) provides that “[o]wners shall not be liable for any negligent act or omission which may cause personal injury, death or other economic or noneconomic loss to...any third party...” This provision provides immunity to owners of anhydrous ammonia even where the owners’ negligence contributed to cause serious injury to an innocent third party.

While KTLA does not excuse the wrongful acts of the tamperer, we believe that granting immunity to a negligent owner on claims brought by innocent third parties improperly insulates such owners from accountability for their actions and fails to give the owners incentives to take appropriate and necessary actions to protect the innocent.

The innocent third parties who are not be protected by this legislation will be our children, our grandchildren, our parents, our neighbors and our friends. It is only logical that those who are in closest proximity to the anhydrous ammonia will be the ones who are injured. As such, it will be the grandchild staying with his grandparents for the night or the family member who lives down the road or even the sheriff’s deputy who responds to a call that there is a prowler on the premises that will be injured by the owner’s negligence.

Just as important, this bill provides immunity to the huge corporations who profit from the sale of anhydrous ammonia and who are in the best position to address the security and handling concerns that exist. These corporations should be required to deal with the realities of these concerns rather than come to the Kansas Legislature seeking immunity for their own negligent actions. By excusing such negligent acts, these corporations have no incentive to develop the security and handling measures that are necessary to protect the innocent third parties who have been injured by anhydrous ammonia. The free enterprise system will develop the security and handling measures that are necessary to protect the public much faster knowing that they are not immune from suit for their negligence.

Terry Humphrey, Executive Director

Under this bill, the insult to the innocent third parties will not stop with their injuries but will potentially continue for a lifetime, as the innocent third party, their family or the state will be required to meet the financial burdens caused by their injuries while the negligent owner of the anhydrous ammonia is immune from liability. Many of these negligent owners are huge corporations who earn millions and millions of dollars and are in a much better position to handle the financial impacts of their negligence than the innocent third parties who were injured by the negligence.

By granting immunity to negligent owners of anhydrous ammonia, the state excuses careless behavior and sacrifices safety of all Kansans while leaving injured people who are innocent of fault to deal with their injuries and financial burdens on their own or, potentially, at the expense of Kansas taxpayers. If such immunity is granted, the state puts all Kansans at risk and excuses those who profit at the expense of safety.

Finally, the immunity provided by Sec.1(b) is unnecessary. If the owner of anhydrous ammonia properly maintains it they will not be legally responsible for the injury or damages sustained by the innocent third party. As a result, the bill provides immunity to owners who negligently maintain their anhydrous ammonia thereby insulating such persons from accountability for their own actions that cause harm to Kansas families.

Thank you for the opportunity to express our serious concerns about this bill. KTLA opposes the bill as it is currently written. However, we would like to offer an amendment that addresses our concerns with the bill. If the committee decides to advance this bill, we respectfully request that you adopt our amendment and protect Kansas families.

Property and Casualty Insurance Headaches: Causes and Some Means of Relief

By Lynn Grooms,
Contributing Editor

Availability and affordability — these are the biggest headaches that ag retailers face today when it comes to property and casualty insurance. But it's something every retailer must have, especially in these uncertain times. Why are availability and affordability such big issues right now and what can you do to relieve some headaches? *Ag Retailer* asked some experts in the field.

First, why is availability a problem? Consider that over the last 18 months, about a half dozen insurance companies serving agribusiness have left the ag business. What's more, some of the remaining companies are dropping or reducing coverage for certain types of insurance.

Then there are the rate hikes. This year ag retailers can expect a rise in insurance premiums of 25 percent or more. Some retailers, such as Don Schafer, Chebanse Ag Service, Chebanse, IL, have already seen their rates rise 40 percent — and that's without any claims for the last few years. Schafer also says that the insurance company with which he had been doing business said it would not insure his LP business, then later said it would remain at a 58 percent increase.

"It's very difficult to properly insure with property and casualty insurance right now. If we (ag retailers) can't get affordable insurance, we won't be in business long," says Schafer.

Alan Cramer, vice president with the Harry A. Koch Company, Omaha, NE, a regional full-service insurance agency, says some carriers are unwilling to insure retailers for property and casualty or workers compensation. The ag business is a hazardous business, with pollution and chemical misapplication risks, he says. This will continue to put pressure on ag retailers.

If retailers cannot get workers comp insurance from the standard insurance market, they must buy it through a state pool (by law companies must carry workers comp). This could mean paying 20 to 150 percent higher premiums, depending on the state.

All states have an assigned risk fund for workers compensation. This usually is for companies that are considered high risks because they have had loss ratio problems, explains James Graff, vice president, JLT Services, Chicago. JLT Services works with the Agricultural Retailers Association, providing customized insurance services.

Ag retailers can generally get property and casualty insurance; they just may not like the associated high premiums.

says Graff. "However, insurance companies may refuse to insure poorly maintained operation until improvements have been made.



James Graff
Vice President
JLT Services

Because of the likelihood that they will be affected by a hurricane, ag retailers in coastal areas also would have trouble finding property insurance. But states such as Florida, Texas and Louisiana often have wind pools. Retailers that have been turned down for insurance are encouraged to contact their state insurance department for information. These departments, found in their

now insurance companies are being forced by stockholders or re-insurance carriers to perform.

Insurance companies have spread their risks by buying re-insurance. For a \$5 million claim, for example, they may pay only \$250,000 while the re-insurance companies pay the rest. Like other companies, re-insurers have been hit hard by the economy and will have to raise their rates. "Re-insurance companies are like wholesalers. If they raise rates, the insurance companies have to increase their rates," says Cramer.

The attacks on the U.S. last September continue to be felt at many different levels and by many different industries, including the insurance industry. "The impact of the September 11 attacks is still unknown as to how many bills will have to be paid, but it could be in the range of \$70 billion to 80 billion," says Cramer. "A lot is coming out of the pockets of re-insurance companies."

"A lot of money is coming out of a finite system," agrees JLT's Graff. "Insurance companies have a certain capacity to absorb catastrophic losses, but when that capacity

amer. Some companies are reducing coverage. Although Cramer has not seen a great deal of such activity. "We're not seeing insurance companies saying that they're not going to provide ag retailers pollution coverage, for example," says Cramer.

But insurance companies also expect a certain level of commitment to safety and security from the ag retailers they insure. The installation of a central alarm system by a licensed professional, for example, could help an ag retailer qualify for insurance credits or discounts. Some retailers argue, however, that these discounts do not amount to much.



Alan Cramer
Vice President
Harry A. Koch Company

"A lot of money is coming out of a finite system. Insurance companies have a certain capacity to absorb catastrophic losses, but when that capacity shrinks, they need to collect more in the way of premiums."

— James Graff, JLT Services

respective state capitols, can be accessed by calling or via the Internet, says Graff.

Why Rates Are Rising

Insurance rates will escalate this year. Cramer explains that the insurance industry goes through cycles just like other industries. Since the 1990s, it has been in a soft underwriting cycle. "Insurance companies have priced products to get cash flow and have been operating at an underwriting loss," he says. Where they had been making their profit was in investments. But investments have shrunk with the downturn of the stock market, and

shrinks, they need to collect more in the way of premiums." Ag retailers can expect premium increases of 30 to 50 percent, says Graff, adding that increases of 20 percent were not uncommon last fall.

Higher premiums could put some retailers over the edge. Insurance fees may double, but retailers cannot double their rates, says Chebanse Ag Service's Schafer.

What to Do?

Given all of this, what can ag retailers do? "If you have a good relationship with a carrier now I'd suggest staying with the carrier from a stability standpoint," says

"It's important for companies to stress safety and make it part of their corporate culture. The money they spend on safety programs will be saved on premiums, losses or fines," says Cramer. He recommends outsourcing if you do not have the internal resources to set up and run a safety program. This includes paperwork to comply with OSHA or the DOT. You might also hire a consultant to train your personnel to manage the safety program.

Recent thefts of anhydrous ammonia for methamphetamine production have prompted ag retailers to strengthen their security systems. But the potential threat of agroterrorism, especially since Sept. 11, only underscores the continuing need for such systems.

"We need to be aware of agroterrorism threats," says Schafer. The Illinois retailer says his company keeps almost everything under lock and key, but

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Cover Story

adds there are new issues to consider. Just recently, for example, one of the company's grain buyers requested railcars to be sealed to avoid any tampering with its food supply en route.

Having safety and security programs in place is especially important now that underwriting is much tougher. Ag retailers that have not focused on safety and loss prevention will have difficulty getting insurance at competitive prices. "Safety is the key to affordability," says Cramer.

Even with a good safety record, some companies have had to contend with higher premiums. "We've never turned in a spray claim," says Schafer. "When there is a problem, we take care of it and sometimes ask the chemical company involved to help."

Economic conditions will make it very difficult to keep premiums manageable. But ag retailers can reduce some costs by using property risk management techniques. That includes self-insuring for



Don Schafer
Chebanse Ag Service
Chebanse, IL

Photo courtesy of
The Daily Journal, Kankakee, IL

losses that they could handle financially (which means higher deductibles), says Cramer. By choosing higher deductibles, one could use the premium savings to buy additional liability insurance.

How Much Is Enough?

That leads to the question, how much insurance is enough? "From a liability standpoint, you can never have enough insurance," says Cramer. At one time, insurance companies wanted to see ag retailers carry at least \$1 million worth of

coverage; now it's \$2 million. Many ag retailers are encouraged to have \$5 million worth of coverage, and some of the larger cooperatives may be carrying \$10 million policies.

"I would suggest a limit based on a comparable business," says JLT's Graff. He adds that if a retailer wants to insure against the misuse of anhydrous ammonia, one way to find out just how frequently theft of this substance occurs is to check the public record for criminal cases and the cost associated with them.

Determining property values is the owner's sole responsibility. The

ner can utilize a c
appraiser, and some
also have valuation systems
for example, value grain bin
about \$1.20 per bushel. But
depend on the type of equip
says Cramer. Schafer says his
pany used a formula to value prop
erty, which it shared with others.

Ag retailers may want to value their property based on replacement costs. Insurance agents can explain insurance replacement costs, which involves replacing the damaged item with one of like kind and quality, says Graff.

Accountants can help ag retailers establish values for more intangible assets. An accountant, says Cramer, can help establish a limit for business income loss or the lost revenue caused by an insured event. Insurance companies look at the financial condition of the company to be insured. Therefore, it helps to have an accountant that can provide advice on proper credit policies and that can show the company's ability to support its insurance needs.

"From a liability standpoint, you can never have enough insurance."

— Alan Cramer,
Harry A. Koch Company

In addition to an accountant, it is a good idea to consult with an attorney since the retailer may be involved in a contract where it assumes the liabilities of others or where it waives a supplier, for example, from liabilities. As in most cases, it only makes sense to have proper legal counsel before signing a contract.

Current economics and the nature of the ag retail business make getting affordable property and casualty insurance indeed a challenge, and for some retailers this will be a hardship. Fortunately, there are some things retailers can do to reduce their exposure and to save a little on premiums. □

Lynn Grooms is an agricultural writer living in Madison, WI.

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KANSAS TRIAL LAWYERS ASSOCIATION

Lawyers Representing Consumers

TO: Members of the Kansas Senate

FROM: Terry Humphrey, executive director
Kansas Trial Lawyers Association

RE: SB 489

DATE: March 7, 2002

During committee deliberations and floor debate, proponents of SB 489 stated that concerns about the increasing cost of property and casualty insurance were at the heart of this bill. In his testimony to the Senate Judiciary Committee, Doug Wareham, senior vice president for the Kansas Agribusiness Retailers Association, wrote, "*This legislation is about protecting and ensuring the availability and affordability of property and casualty insurance for lawful owners of anhydrous ammonia.*" **In truth however, there is nothing in SB 489 that guarantees either the availability nor the affordability of that insurance.**

In his testimony, Mr. Wareham included an article published in the January 2002 issue of *Ag Retailer*, the official publication of the Agricultural Retailers Association. The article, clearly explains the insurance crisis that agricultural retailers are facing, the reasons insurance premiums are rising and, by extension, why **SB 489 will have absolutely no impact on insurance rates or availability.**

According to "Property and Casualty Insurance Headaches: Causes and Some Relief," the availability problem has resulted from the decision of six insurance companies serving agribusiness to leave the business. In addition, some of the remaining insurers have reduced or stopped offering certain types of coverage.

The rising cost of insurance is the result of cyclical changes in the insurance industry. In the article, Alan Cramer, vice president of Harry A. Koch Company, a full-service insurance agency explains, "*Insurance companies have priced products to get cash flow and have been operating at an underwriting loss.... Where they had been making their profit was in investments. But investments have shrunk with the downturn in the stock market, and now insurance companies are being forced by stockholders or re-insurance carriers to perform.*" (p. 49)

Since SB 489 does not address the real causes of rising insurance premiums – namely, insurance companies' shrinking investment profits – it cannot guarantee more affordable coverage for agribusiness. Ironically, safety is the solution to rising premiums and riding

Terry Humphrey, Executive Director

Jayhawk Tower 700 SW Jackson, Suite 706 • Topeka, Kansas 66603-3758 • 785.232.7756 • Fax 785.232.7730

E-Mail: trially@ink.org

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out the hard insurance market. As Mr. Cramer notes in the same article, *"It's important for companies to stress safety and make it part of their corporate culture. The money they spend on safety programs will be saved on premiums, losses or fines...."* (p. 49)

Mr. Cramer is correct. Safety and security should be the primary focus of agribusiness, especially given the dual threats of terrorism and drug theft that we now face. Safety and security is the solution. SB 489, however, addresses neither safety nor security.

Further, we oppose the "Loser Pays" provision in SB 489 because it denies access to the justice system for Kansas families with meritorious claims. Under this provision, only the wealthiest can afford the financial risk of undertaking a civil action. Facing the prospect of having to pay both their legal fees and those of the defendant's, the average Kansan with a meritorious claim cannot afford to take the financial risks of pursuing their claim.

SB 489 fails to achieve its intended goal and, in the process, sacrifices safety and security. We urge you to reject SB 489.

Anhydrous Ammonia Theft

The Environmental Protection Agency (EPA) is issuing this Alert as part of its ongoing effort to protect human health and the environment by preventing chemical accidents. EPA is striving to learn the causes and contributing factors associated with chemical accidents and to prevent their recurrence. Major chemical accidents cannot be prevented solely through regulatory requirements. Rather, understanding the fundamental root causes, widely disseminating the lessons learned, and integrating these lessons learned into safe operations are also required. EPA publishes Alerts to increase awareness of possible hazards. It is important that facilities, SERCs, LEPCs, emergency responders, and others review this information and take appropriate steps to minimize risk. This document does not substitute for EPA's regulations, nor is it a regulation itself. It cannot and does not impose legally binding requirements on EPA, states, or the regulated community, and the measures it describes may not apply to a particular situation based upon circumstances. This guidance does not represent final agency action and may change in the future, as appropriate.

Who should read this Alert? This Alert discusses the potential hazards of anhydrous ammonia releases caused by theft, steps facilities can take to prevent theft and how to minimize health and safety risks associated with accidental releases. This Alert should be read by individuals who operate and maintain agricultural retail operations, facilities with ammonia refrigeration systems and farmers who apply anhydrous ammonia as a fertilizer. Furthermore, this Alert should be reviewed by law enforcement personnel, emergency responders and members of Local Emergency Planning Committees (LEPCs).

PROBLEM

Anhydrous ammonia is used as an agricultural fertilizer and industrial refrigerant. The substance is stored and used at agricultural retailers and facilities with ammonia refrigeration systems. Anhydrous ammonia also is a key ingredient in the illegal production of methamphetamines. Illegal drug makers often steal anhydrous ammonia from areas where it is stored and used. Anhydrous ammonia is stored as a liquid under pressure, however, it becomes a toxic gas when released to the environment. Anhydrous ammonia can be harmful to individuals who come into contact with it or inhale airborne concentrations of the gas. When stolen, the toxic gas can be unintentionally released, causing injuries to emergency responders, law enforcement personnel, the public, and the criminals themselves.

ACCIDENTS

A number of anhydrous ammonia thefts have resulted in accidental chemical releases from agricultural retailers and facilities with ammonia refrigeration systems. The accidents have occurred when valves were left open as anhydrous ammonia was siphoned off; locks were sawed or broken; anhydrous ammonia was transferred inappropriately into makeshift containers such as propane tanks used on barbeque grills; plugs were removed from anhydrous ammonia lines at refrigeration facilities; or the wrong hoses and/or fittings were attached to storage containers, causing leaks and spills that would otherwise not have occurred.

The following section describes several recent examples in more detail.

- ✓ April 1997 - More than 2,000 pounds of anhydrous ammonia were released from a refrigerated warehouse. A

- fence was cut to gain entry into the facility and the anhydrous ammonia was removed through a valve on an oil separator. The valve was left open. Fortunately, the release was mitigated by a rain storm that knocked down the anhydrous ammonia vapor as it was being released to the outside air. The warehouse owner replaced the fence, installed a valve lock on the oil separator valve, and requested enhanced police surveillance following the incident.
- ✓ April 1998 - An individual attempted to steal anhydrous ammonia from a nurse tank at a retail agricultural dealer in Iowa. The liquid withdrawal valve was left open on the nurse tank and caused an ammonia release that quickly vaporized to the air. One passerby was overcome by the anhydrous ammonia fumes and collapsed. Another nearby resident was overcome by ammonia fumes after leaving her home. Both individuals were hospitalized. Several other area residents were evacuated as a precaution. The agricultural dealer installed security lights following the incident.
 - ✓ April 1999 - A hose on a 30,000-gallon bulk storage tank of anhydrous ammonia was cut intentionally by thieves which resulted in an accidental release at an Illinois fertilizer dealer. One police officer was hospitalized and a highway was shut down for a half hour.
 - ✓ May 1999 - One person was killed when a makeshift container of anhydrous ammonia he was holding exploded. The death occurred when two individuals were driving on an interstate highway in Missouri. The driver was severely injured. The ammonia was to be used for methamphetamine production. Since the cause of the smoke emanating from the car was not immediately known, one fire-fighter, one emergency medical technician, and one member of the general public, all of whom stopped to help and drag the passenger and driver from the car, were also injured as a result of the ammonia release.
 - ✓ February 2000 - Approximately 1000 pounds of anhydrous ammonia were released when someone intentionally opened a valve in the middle of the night at a fertilizer dealer in Missouri. The ammonia release caused 300 residents to be evacuated from their homes and two persons reported respiratory irritation problems. Ammonia theft has been almost a weekly occurrence at this facility. A local law enforcement investigation is currently underway.

HAZARD AWARENESS

Anhydrous ammonia is used widely and in large quantities for a variety of purposes. More than 80% of the ammonia produced in the United States is used for agricultural purposes; less than 2% is used for refrigeration. Ammonia is generally safe provided handling, operating, and maintenance procedures are followed. Anhydrous ammonia is toxic, however, and can be a health hazard. Effects of inhalation of anhydrous ammonia range from lung irritation to severe respiratory injuries, with possible fatality at higher concentrations. Anhydrous ammonia also is corrosive and can burn the skin and eyes. Liquefied anhydrous ammonia is stored as a liquid and has a boiling point of minus 28 degrees Fahrenheit. At this temperature it can cause freezing burns.

When stored for agricultural purposes and for use in refrigeration systems, anhydrous ammonia is liquefied under pressure. Liquid anhydrous ammonia expands 850 times when released to ambient air and can form large vapor clouds. Also, liquid anhydrous ammonia, if accidentally released, may aerosolize (i.e., small liquid droplets may be released along with ammonia gas) and behave as a dense gas, even though it is normally lighter than air.

Anhydrous ammonia may also cause water vapor to condense in the air forming a visible white cloud. Therefore, when anhydrous ammonia is released to the air, it may travel along the ground in a cloud instead of immediately rising into the air and dispersing. This dense gas behavior may increase the potential for exposure of workers and the public.

Anhydrous ammonia containers have particular specifications as required by the Department of Transportation (DOT). Storage tank specifications for anhydrous ammonia ensure that it is stored properly as a pressurized liquid and a corrosive chemical. For example, some storage containers for anhydrous ammonia must have rated pressure relief devices to reduce the likelihood of over pressurization of the container. Because anhydrous ammonia is corrosive, specific valves and hoses that do not readily corrode have to be used.

Pure anhydrous ammonia vapors can become an explosion hazard when in a confined space at concentrations between 16 and 25 % by volume. Mixtures involving anhydrous ammonia contaminated with lubricating oil (e.g. in a refrigeration system), however, may lower the explosive range.

Anhydrous ammonia can be recognized by its pungent odor. Odor threshold varies with the individual but ammonia can usually be detected at concentrations above 5 ppm. Concentrations above 100 ppm are uncomfortable to most people; concentrations in the range of 300 to 500 ppm will cause people to leave the area and are immediately dangerous to life and health.

CLANDESTINE USE

Anhydrous ammonia can be as inexpensive as \$200 a ton for agricultural purposes, but can sell for as much as \$300 per gallon on the black market when obtained illegally. Very small amounts of anhydrous ammonia are needed to make a batch of methamphetamine. In fact,

enough "residual" ammonia is left in a typical transfer hose for a criminal to use for methamphetamine production.

Anhydrous ammonia theft appears to occur in waves with thieves stealing the chemical multiple times at one location. Criminals prefer to use anhydrous ammonia to manufacture methamphetamine because many of the other ingredients needed to make the drug are available commercially. Additionally, the fact that anhydrous ammonia speeds up the manufacturing process to just a few hours makes it attractive to drug makers.

Attempted thefts have occurred at such unlikely places as refrigeration systems holding ammonia, underground pipelines carrying ammonia, and rail cars transporting anhydrous ammonia. Often thefts are aborted when thieves are injured or overcome by the toxic gas. During these aborted attempts, "tools" are often left behind, such as duct tape, inner tubes, buckets, coolers, and/or propane barbecue bottles. Several states have passed legislation making it a felony to tamper with or steal anhydrous ammonia, or hold the substance in a non-approved container.

Special note to first responders:

Anhydrous ammonia can be found in the DOT Emergency Response Guidebook under Number 125. The UN Number for anhydrous ammonia is 1005 and is placarded Class 2.2, Nonflammable gas.

Anhydrous ammonia corrodes brass valving turning the brass to a blue/green color. When inside inappropriate pressure cylinders (e.g. propane cylinders), anhydrous ammonia attacks brass valving from the inside out. In this situation, it is difficult to assess the integrity of valving from outside physical appearances. Extreme caution should be used when handling inappropriate containers storing anhydrous ammonia. Brass valving that appeared to be physically intact from outside appearance has

been known to break off in the hands of responders creating an uncontrolled release from the container. Also, these containers should not be transported in the trunks of cars or other vehicles where the container and the occupant are in the same compartment.

Furthermore, responders should take care in selecting the proper personal protective equipment (PPE) level. Due to anhydrous ammonia's low boiling point, affinity for water, and inhalation hazard, responders can be injured if not wearing proper PPE. Structural fire fighter protective clothing may not provide adequate protection during an anhydrous ammonia release. The use of self-contained positive-pressure breathing apparatus is appropriate during a response to an anhydrous ammonia release. In addition to other appropriate PPE, in some cases it may be necessary to wear cryogenic gloves with a moisture barrier to protect against freezing and/or chemical burns.

HAZARD REDUCTION AND PREVENTION

Here are some tips to deter anhydrous ammonia theft:

- ✓ Educate your employees about the theft problem.
- ✓ Store tanks in well-lit areas.
- ✓ Know your inventory to quickly identify missing chemicals.
- ✓ Visually inspect tanks each morning, especially following weekends or other periods where the facility is not occupied.
- ✓ Consider auditing your facility and setting up a valve protection plan for critical valves that could cause significant releases if left open.
- ✓ Consider installing valve locks or fencing, especially for unattended tanks.*
- ✓ Report thefts, signs of tampering, leaks, or any unusual activity to local law enforcement officials.

- ✓ Consider installing other theft deterrent measures such as motion detector lights, motion detector alarms, security patrols, and/or video surveillance.

** The ANSI Standard K61.1 states under section 6.7 "Protection of Container and Appurtenances" that "main container shut-off valves shall be kept closed and locked when the installation is unattended." Furthermore, it states that "if the facility is protected against tampering by fencing, or other suitable means, valve locks are not required." Many states have adopted the ANSI Standard K61.1 as law; please check your state regulations or contact your state agricultural department or fire marshal for details. Also, OSHA's requirement for storage and handling of anhydrous ammonia under §1910.111(c)(6) state that "valves, regulating, gaging, and other appurtenances shall be protected against tampering and physical damage."*

In addition to the general tips above, agricultural dealers or retailers should consider removing hoses during the off-season and storing them separately from tanks. Also, farmers may consider removing nurse tanks from fields when they are no longer needed and returning used tanks, applicators, or toolbars promptly to the dealer after use. Finally, refrigeration facilities may want to evaluate the benefits of installing lockable, quarter-turn, spring-loaded, ball valves in series with a manual valve in critical areas such as at the system fill point or oil discharge pot.

Special note on purchases:

Agricultural retail establishments should be aware that they may be approached by individuals wanting to purchase ammonia for use in the illegal production of methamphetamine. The following list was developed by the Drug Enforcement Administration (DEA) to help you identify individuals who may be seeking to purchase anhydrous ammonia for illegal purposes:

- ◆ Customer cannot answer or is evasive about agricultural use questions.
- ◆ Customer insists on taking possession rather than having it delivered.
- ◆ Customer insists on using cash, money order or cashier's check.
- ◆ Customer is a stranger and unfamiliar to area or your business.
- ◆ Customer provides suspicious business or credit information.
- ◆ Customer is vague or resists providing personal information
- ◆ Customer intends to fill their own inappropriate tank (e.g. a 20-pound propane cylinder). Note: It is unlawful in some states to sell anhydrous ammonia unless it is in an approved product container.

If a customer fits any of these criteria, wait until the person has left your business, write down an accurate description of the person(s), vehicle, license number and contact the DEA or local law enforcement authorities immediately.

INFORMATION RESOURCES

EPA has prepared a general advisory on ammonia and a safety alert on the "Hazards of Ammonia Releases at Ammonia Refrigeration Facilities." Both are available at: www.epa.gov/ceppo

The Agricultural Retailers Association (ARA) and The Fertilizer Institute (TFI) have a brochure "Deter Theft of Anhydrous Ammonia." www.tfi.org or (202) 675-8250; www.aral.org or (202) 457-0825

The Agribusiness Association of Iowa has prepared a fact sheet "Anhydrous Ammonia Theft, What You Need To Know," available at: www.exnet.iastate.edu/publications/pg99015.pdf

The Hazardous Materials Emergency Preparedness Grant Program has a publication available "Guidelines for Public Sector

Hazardous Materials Training" - See Section 2, Special Topics - Illicit Use of Hazardous Materials: First Responder Training Issues. www.fema.gov/emi/hmep

STATUTES AND REGULATIONS

The following is a list of federal statutes and regulations related to process safety, accident prevention, emergency planning, and release reporting.

EPA

Clean Air Act (CAA)

- General Duty Clause [Section 112(r)(1) of the Act] - Facilities handling extremely hazardous chemicals (including anhydrous ammonia) have a general duty to assess hazards, design and maintain a safe facility, and minimize the consequences of accidental releases.
- Risk Management Program (RMP) Rule [40 CFR 68] - Facilities that have anhydrous ammonia in quantities greater than 10,000 pounds are required to develop a hazard assessment, a prevention program, an emergency response program, and submit a risk management plan to EPA.

Emergency Planning and Community Right-To-Know Act (EPCRA)

- Emergency Planning [40 CFR Part 355] - Facilities that have 500 pounds or more of ammonia must report to their LEPC and SERC and comply with certain requirements for emergency planning.
- Emergency Release Notification [40 CFR Part 355] - Facilities that release 100 pounds or more of ammonia (other than the normal application of a fertilizer) must immediately report the release to the LEPC and to the SERC.
- Hazardous Chemical Reporting [40 CFR Part 370] - Facilities that have ammonia at or above 500 pounds must submit an MSDS to their LEPC, SERC, and local fire

department and comply with the Tier I/Tier II inventory reporting requirements.

Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)

- Hazardous Substance Release Reporting [40 CFR 302] - Facilities that release 100 pounds or more of ammonia (other than the normal application of a fertilizer) must immediately report the release to the National Response Center (NRC), (800) 424-8802.

DOT

- The Department of Transportation (DOT) [49 CFR 100-180] - Research and Special Projects Administration has requirements covering the transportation of anhydrous ammonia containers.

OSHA

- Process Safety Management (PSM) Standard [29 CFR 1910.119] Anhydrous ammonia is listed as a highly hazardous substance. Facilities that have ammonia in quantities at or above the threshold quantity of 10,000 pounds are subject to a number of requirements for management of hazards, including performing a process hazards analysis and maintaining mechanical integrity of equipment. The PSM requirements do not apply to retail facilities per 1910.119(a)(2).
- Hazard Communication [29 CFR 1920.120] - Requires that the potential hazards of toxic and hazardous chemicals be evaluated and that employers transmit this information to their employees.
- Storage and Handling of Anhydrous Ammonia [29 CFR 1910.111] - Requires standards for design, construction, location, installation, and operation of anhydrous ammonia systems.

CODES AND STANDARDS

There are a number of state codes and industry standards that apply to safe handling, use, and storage of anhydrous ammonia. A few examples are given below.

American National Standards Institutes (ANSI)
K61.1, 1999 - Standards for the Storage and Handling of Anhydrous Ammonia
Available from ANSI
11 West 42nd Street
New York, NY 10036
(212) 642-4900
Web site: www.ansi.org

ANSI/IIAR 2-1992 - Equipment, Design, and Installation of Ammonia Mechanical Refrigeration Systems
Available from International Institute of Ammonia Refrigeration (IIAR)
1200 19th Street, NW
Suite 300
Washington, DC 22036-2422
(202) 857-1110

For More Information:

Contact the EPCRA Hotline at:
(800) 424-9346 or (703) 412-9810
TDD (800) 553-7672
Monday -Friday, 9 AM to 6 PM, EST

For information on OSHA standards contact
OSHA Public Information at (202) 219- 8151
or visit the web site: www.osha.gov

Visit the CEPPPO Home Page at:
www.epa.gov/ceppo/



Extension FactSheet

AEX-594.1

Food, Agricultural, and Biological Engineering, 590 Woody Hayes Drive, Columbus, OH 43210

Preventing Theft of Anhydrous Ammonia

Stephanie Simstad

Agricultural and Natural Resources Agent
Clermont County

Dee Jepsen

Program Manager
Agricultural Safety and Health

The agricultural community has used anhydrous ammonia as a low cost, highly effective nitrogen-based fertilizer for many years. However, drug dealers have discovered that it can also be used to manufacture the illegal drug, methamphetamine, and have targeted farm tanks as a source for this material.

This growing national problem is finding its way to Ohio where an increasing number of fertilizer thefts and illegal drug manufacturing locations have been identified. These areas pose a serious threat due to the nature of the explosive and toxic chemicals used to manufacture the drugs. There are also significant financial costs on communities for the clean up of contaminated manufacturing sites and appropriate disposal of chemicals.

Since anhydrous ammonia is a critical component of the drug manufacturing process, the agricultural community can play an important role in protecting their communities by limiting inappropriate access to this material. This fact sheet will describe the threat posed to farmers from the theft of anhydrous ammonia and steps that can be taken to minimize the risk of theft at an individual farm.

Risk From These Thefts

As farmers who work with anhydrous ammonia are aware, this chemical can be extremely dangerous when it is not properly handled. Farmers face two main hazards when thefts occur at their farms. The first hazard is accidental contact with anhydrous ammonia from malfunctioning valves and spilled or leaking materials. The second is the explosive threat from anhydrous ammonia when it is placed in improper containers.

Tampering and weakening of flow valves may occur when thieves obtain ammonia from the tank. When farmers then use this equipment and expect the valves to be in working order, they may be surprised by leaks or sprays of chemical. Physical contact and inhalation of anhydrous ammonia can cause serious injuries from chemical burns to the body and the lungs.

The second primary hazard that the farmer may face from anhydrous ammonia theft is through the explosive hazard posed by the containers thieves may use to hold the anhydrous ammonia. Due to the unique chemical properties of anhydrous ammonia, it can exert the same pressure as a fully inflated car tire when it is placed in a closed container at 30° F. When anhydrous ammonia is placed in a container not designed to withstand this pressure, the risk of explosion is great.

Farmers should be extremely cautious when finding empty containers at their farm, especially small barbeque propane tanks. In particular, care should be taken if propane tanks are found with blue- or green-colored valves or if the tanks have frost on them. This indicates that anhydrous ammonia may be stored in the container and that the copper or galvanized valve fittings may be compromised.

Besides the threat of immediate health and environmental hazards, a third risk from anhydrous ammonia theft is liability to the farmer*. Because anhydrous ammonia is a known hazardous substance and creates a dangerous condition, farmers could be liable for the harm to any farm visitor, including the trespassing thief. This liability can be reduced if the farmer can document that reasonable precautions have been taken to secure the chemical and that signs warning of dangerous conditions have been posted.

Watch for Signs of Theft

Since the amount of material stolen is relatively small compared to the total volume of the tank, tank users are often unaware that a theft has occurred. Five to six gallons of anhydrous ammonia are sufficient to manufacture a large quantity of methamphetamine. The two most likely ways to recognize that a theft has occurred are evidence of tampering with tank valves or the presence of certain indicator items that thieves may leave by the tank.

Signs of theft include evidence of activity near the tank

*Additional information about the farmer's liability for trespassers and other farm visitors can be found in OSU Extension Fact Sheet ALS-1002-2000, *Liability for Visitors of Farm Property*.

such as footprints in the soil, stained soil, tank valves which are not tightly closed or which have been tampered with; items left near the tank such as duct tape, garden hoses, plastic tubing, bicycle inner tubes, or coolers; or the presence of barbecue grill propane tanks.

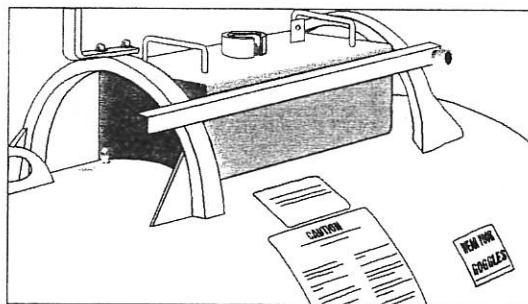
What Should You Do If Theft Is Suspected?

Contact your local law enforcement authorities immediately. Once you suspect that either tampering of your tank or a theft of materials has occurred, leave the area immediately and keep others away from it also. This will help protect individuals from accidental contact with anhydrous ammonia and also preserve the crime scene for investigation by local officials.

Tips to Prevent Thefts

The proper storage of anhydrous ammonia is important for your safety and to help prevent the manufacture of methamphetamine. Here are some measures that you can take to prevent theft at your farm.

- Have tanks delivered as close to application as possible and immediately return them when you are done with them.
- Consider purchase or rental of locking devices for nurse tank valves when you obtain your nurse tank.
- Ensure that tanks are placed in lighted, secure areas. Consider installing motion detector lights or alarms to deter suspicious activities around barns and farmstead. If possible, place tanks where they can be seen from the residence and where the flow valves face either the drive lane or residence. This will make it easier to spot individuals who may be near the tank.
- Bleed and remove hoses at the end of the day to remove excess liquid and prevent use of them to steal your material.
- Check tanks frequently since unattended tanks are often targeted. If possible, conduct these checks over weekends also.
- Block road lanes or entrances near the tank with a gate or barricade to complicate theft of the entire tank. Having *No Trespassing* signs posted on these gates or driveway posts will further protect you in a legal case.



Locking devices for nurse tanks are available. They are designed to protect anhydrous ammonia from theft and tampering.

- All tanks should be labeled with caution labels to warn others of the highly hazardous nature of anhydrous ammonia.
- Place brightly colored plastic wire ties or seals between the valve wheel and the roll cage to facilitate quick visual checks. If the tie or seal has been broken, it is likely that someone has tampered with your tank.
- If you discover someone near your tank who should not be there, do not confront the individual directly. Users of methamphetamine may become violent with little provocation. Call your local law enforcement agency.
- Contact local law enforcement or local drug force personnel to help identify security measures and encourage nighttime patrols of your area.

When all necessary chemicals to manufacture methamphetamine are brought together, the result is a mixture of chemicals that poses a serious threat to human health and the environment. Two groups of individuals at risk from these labs include fire and police who respond to these situations and individuals who accidentally find and enter these laboratories, unaware of the hazards they contain. Contamination of buildings and associated plumbing, surrounding soil, and surface and ground water poses a significant threat to the environment. Proper cleanup of buildings and appropriate disposal of chemicals can cost as much as \$250,000 at one individual manufacturing site. Money to pay for these cleanups causes a serious strain on federal, state, and local financial resources.

Sources

Environmental Protection Agency, Chemical Safety Alert, March 2000.

The Fertilizer Institute, 2001. Washington, D.C.

Reviewers

Thomas L. Bean, Professor and State Safety Leader, Ohio State University Extension

Peggy Kirk-Hall, Director of Agricultural and Rural Law, Swank Program in Rural-Urban Policy, OSU Extension

Maria Galanti, Ohio Environmental Protection Agency, Southeast District Office

Brent Walls, State of Ohio Office of Criminal Justice Services

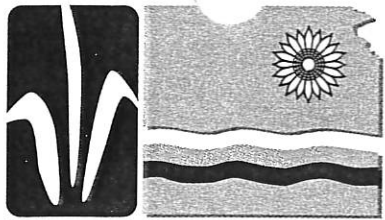
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Keith L. Smith, Associate Vice President for Ag. Adm. and Director, OSU Extension

TDD No. 800-589-8292 (Ohio only) or 614-292-1868

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KARA

Safe & Abundant Food Through Sound Science

Kansas Agribusiness Retailers Association

816 SW Tyler, Ste 100
P.O. Box 1517
Topeka, KS 66601-1517
Phone (785) 234-0463
Fax (785) 234-2930
www.kansasag.org

**Statement of the
Kansas Agribusiness Retailers Association
In Support of HB 2798
February 13, 2006
House Agriculture Committee
Rep. Dan Johnson, Chairman**

Thank you Chairman Johnson and Members of the Committee, my name is Duane Simpson and I am appearing today on behalf of the Kansas Agribusiness Retailers Association in support of HB 2798. KARA's membership includes over 700 agribusiness firms that are primarily retail facilities that supply fertilizers, crop protection chemicals, seed, petroleum products and agronomic expertise to Kansas farmers. KARA's membership base also includes ag-chemical and equipment manufacturing firms, distribution firms and various other businesses associated with the retail crop production industry.

You will recall that in 2002, KARA introduced legislation to protect our members from lawsuits resulting from tampering with anhydrous ammonia storage facilities and tanks in the field. That law grants immunity from lawsuits for theft-related damages to the thief and third parties. At the time of its passage, there was concern by opponents to the bill that third parties injured by a methamphetamine thief's actions would not be able to be compensated. As a result of that concern, the Legislature made the immunity clause for third parties expire in July this year.

After four years of experience, we have seen that those concerns were misplaced. There has not been a single case of a third party being injured or having property damage resulting in a lawsuit. Regardless, should that damage occur, who should be responsible? The Legislature decided in 2002 that our industry should not be liable for damages when they are caused by thieves or vandals. Why should there be any question of liability when a person is trespassing, vandalizing, or stealing something that will be used to manufacture an illicit product? These thieves are vandalizing our members' equipment that is locked, has D.O.T. placards, and "CAUTION AMMONIA" warning labels on all four sides. Without a key, honest access is completely restricted. In addition, our members are experimenting with additives to further deter theft. They have implemented surveillance, fencing and security lights. None of that works to deter theft. Ammonia thieves have cut locks, cut fences, drilled holes in tanks, taken hack saws to pressurized lines and even used armor piercing bullets to get ammonia for their drug making process. Yet, without this law, our members could be held liable for damages caused by the theft.

Before passage of the 2002 law, the average ag retailer was seeing 30-40% increases in their liability insurance. Many insurance companies stopped writing liability insurance for our industry all together. We turned the corner on insurance prices with the passage of the immunity legislation. With affordable insurance, our members have managed to keep this product available for farmers. Without affordable insurance, most retailers would stop using anhydrous ammonia altogether.

House Agriculture Committee
February 13, 2006
Attachment 2

With energy costs as high as they are, fertilizer costs are at or near all-time highs. Anhydrous ammonia is 30% cheaper than most other sources of Nitrogen. It is the building block for ammonium nitrate, ammonium sulfate, urea, nitrogen solutions, and ammonia phosphates. In Kansas, approximately 235,000 tons of anhydrous ammonia are used per year. It is the primary fertilizer for wheat in Kansas.

With the passage of SB 27 last year, the state has seen a dramatic decrease in methamphetamine production. That decrease has in turn caused a decrease in methamphetamine related anhydrous ammonia theft. It is our belief that theft will continue to decline over the next three years. HB 2798 gives us three more years to see if the decline in thefts makes a permanent immunity feasible. This law is good, common-sense state policy and it should be extended.



816 SW Tyler St., Ste. 300
Topeka, Kansas 66612
Phone: 785-233-4085
Fax: 785-233-1038
www.kansasco-op.coop

House Committee on Agriculture

February 13, 2006

HB 2798 - Extending Immunity from Liability for Owners of Anhydrous Ammonia.

Chairman Johnson and members of the House Agriculture Committee, thank you for the opportunity to comment today in support of HB 2798. I am Leslie Kaufman and I serve the Kansas Cooperative Council as Executive Director. As you know, the bill before you today will continue the policy of granting immunity from liability for owners of anhydrous ammonia for injuries caused by actions of a tamperer.

The Kansas Cooperative Council represents all forms of cooperatively structured, member-owned/member-controlled businesses. We have nearly 200 members across Kansas. Approximately one-half of these members are engaged in grain storage and farm supply enterprises and are direct beneficiaries of this legislation.

The immunity provisions contained in HB 2798 are extremely important to our industry. It helps insure they can continue to provide an essential crop input to producers.

You will remember the immunity provisions were initially enacted in 2002 to protect legitimate anhydrous owners from those engaged in illegal drug manufacturing. Methamphetamine cooks were targeting anhydrous tanks at agribusinesses and farms across the state in an effort to obtain a needed ingredient for their illegal recipe. Many of these efforts resulted in injury to the tamperer or another.

Kansas has taken some important and significant steps to address methamphetamine use and production in this state. That does not alleviate the need to continue the liability protections afforded under KSA 60-4601. Agriculture producers and agribusinesses, legitimate owners and users of anhydrous, still need this protection. We urge the committee to act favorably on HB 2798.

Thank you.

House Agriculture Committee
February 13, 2006
Attachment 3



PUBLIC POLICY STATEMENT

HOUSE COMMITTEE ON AGRICULTURE

RE: HB 2798 – an act concerning civil procedure; relating to immunity from liability for owners of anhydrous ammonia.

February 13, 2006
Topeka, Kansas

Testimony provided by:
Brad Harrelson
State Policy Director
KFB Governmental Relations

Chairman Johnson, and members of the House Committee on Agriculture, thank you for the opportunity to appear today and offer testimony in support of HB 2798. I am Brad Harrelson, State Policy Director—Governmental Relations for Kansas Farm Bureau. KFB is the state's largest general farm organization representing more than 40,000 farm and ranch families through our 105 county Farm Bureau Associations.

Kansas Farm Bureau has long encouraged its members to be actively engaged in efforts to prevent and fight the production of methamphetamine on agricultural lands. We have conducted educational efforts and have partnered with local law enforcement to assist their efforts to prevent and report instances where methamphetamine is produced in our state. Despite those efforts and the commitment of law enforcement professionals across the state, production of methamphetamine continues to affect thousands of landowners, families, and individuals each day.

Anhydrous ammonia is a vital source of nitrogen fertilizer in modern ag production in Kansas. It is also a key ingredient of Methamphetamine. KFB member adopted policy supports efforts to reduce the ability of criminals to access many of the ingredients used to manufacture methamphetamine, including Ephedrine and Pseudoephedrine. While

recent legislation, which we supported, has had significant impact on the availability of these meth ingredients, the scourge of meth production continues to plague our state.

As a consequence, our members also support limits on liability for owners of land, equipment or livestock. Responsible ag producers, or distributors should not be held liable for the actions of criminals that may result in injury or loss during the theft of anhydrous ammonia. We believe the statutory protections provided in K.S.A. 60-4601 are appropriate and should be extended indefinitely by striking the sunset provision in line 40. It is wishful thinking and unlikely at best that methamphetamine abuse will go away in the next three years. At the very minimum, this statutory provision is good public policy and should be extended through 2009 as drafted in HB 2798.

In conclusion, thank you for your consideration, and we respectfully urge your recommendation for favorable passage of HB 2798. We stand ready to assist as you consider this important measure. Thank you.



KANSAS

DEPARTMENT OF AGRICULTURE
ADRIAN J. POLANSKY, SECRETARY

KATHLEEN SEBELIUS, GOVERNOR

**Testimony on House Bill 2836
to
the House Agriculture Committee**

**by
Constantine V. Cotsoradis
Assistant Secretary**

February 13, 2006

Thank you, Mr. Chairman and members of the committee. I am here to testify in support of HB 2836.

The Kansas Department of Agriculture's agricultural commodities assurance program regulates the handling and sale of eggs. Fees paid by egg sellers and distributors are used to fund the program.

The law, as it is currently written, is confusing about who pays inspection fees, and we are asking to amend the statute to clarify who is responsible. This change is fiscally neutral and is intended only to make the requirements more clear, both for our employees and for egg sellers and distributors.

We also learned there is some confusion about provisions in the egg law that affect small, direct marketers, like those at farmers' markets. These were brought to our attention by stakeholder groups we convened based on recommendations made to us by members of the Governor's Rural Life Task Force.

This bill includes changes that clarify rules for persons selling eggs from their own small flocks (250 hens or less) directly to the consumer. It also adds other kinds of eggs and egg products that are being sold more frequently as Kansas' ethnic populations grow and change. It also is updated to allow us to better track egg sales for security and food safety reasons.

The new law:

- Adds balut (fertilized eggs) to allow us to regulate their labeling and handling.
- Requires retailers and food purveyors to be licensed, but exempts them from the licensing fee. The intent is to license everyone in the egg handling chain for food safety purposes, but without imposing additional fees.

- Expands record keeping requirements for license holders.
- Maintains the exemption for producers selling from their own flock, but adds some size, handling and temperature requirements to clarify direct marketing rules.
- Clarifies labeling requirements.
- Limits repackaging of eggs by retailers.
- Provides civil penalty authority.

We discussed these proposed changes at our stakeholder meetings, and the response, while limited, has been positive.

I will stand for questions at the appropriate time.

Testimony Related to HB 2783
Prairie Dog Management and Control
to
House Agriculture Committee

by

Michael J. LeValley
Field Supervisor
U.S. Fish and Wildlife Service

February 13, 2006

Mr. Chairman and members of the Committee:

Thank you for the opportunity to provide the perspective of the U.S. Fish and Wildlife Service regarding black-tailed prairie dog conservation and management in Kansas. As the federal agency responsible for administering the Endangered Species Act in Kansas, the Service works with various state, local, and private interests to advance the purposes of the Act. We work closely with the Kansas Department of Wildlife and Parks to prevent species from being listed and to recover those that have been listed.

As a federal agency, Service policy is to not take positions on state legislation; therefore, we have no position concerning HB 2783. However, we and our private and public conservation partners are very concerned about conserving what remains of the short grass prairie ecosystem and the species that depend on that ecosystem. Prairie dogs are a keystone species of the shortgrass prairie, providing either prey, burrowing sites, or habitat for other shortgrass prairie residents such as golden eagles, ferruginous hawks, burrowing owls, mountain plovers, badgers, and swift fox.

As many of you may know, in 1998 the Service was petitioned to list the black-tailed prairie dog under the Endangered Species Act because of the drastic decline (95-98%) in their historic range due to loss of shortgrass prairie, poisoning programs, and in recent times, sylvatic plague. The species was designated as a candidate for listing in 2000. The candidate listing prompted all eleven states within the species' range to take actions, individually and collectively, to attempt to manage black-tailed prairie dogs to avoid federal listing. Because of these actions, as well as updated range-wide occupied acreage estimates which indicated the species occupied greater area than previously believed, and new information indicating that some prairie dog populations can rebound sooner than expected following a plague episode, the Service ultimately removed the species from candidate status in 2004.

Now that the species is no longer a candidate for listing, we are concerned that indiscriminate poisoning programs, coupled with other threats such as spread of plague into formerly plague-free areas, may result in the Service being repeteritioned to list the species, a not unreasonable expectation given that the Service was served a Notice of Intent to sue soon after the decision to

remove the species from the candidate list. We are hopeful that by managing and controlling prairie dogs, rather than pursuing eradication, sufficient numbers of prairie dog colonies can be maintained to avoid listing.

Our second interest in maintaining some populations of prairie dogs in the shortgrass prairie landscape is to aid recovery of black-footed ferret, the most endangered mammal in North America. At a national level, the Service is very interested in reestablishing ferrets in numerous locations within the former range, and Kansas is highly desirable due to its location outside the primary area of plague activity. Sylvatic plague is lethal to both prairie dogs and ferrets, and a number of ferret reintroduction sites have failed or done poorly in the upper Great Plains due to the persistent activity of plague. There is a need to reestablish ferret populations at as many locations as possible to reduce the risk that plague outbreaks at several large reintroduction sites could kill a majority of the ferret population.

Most suitable ferret reintroduction sites on public lands are already being used. If the Service is to successfully recover black-footed ferrets, we will have to rely more and more on the willingness of private landowners to provide habitat for both prairie dogs and ferrets. Under an experimental reintroduction, the ferret would not carry the full restrictions of the Endangered Species Act, and neighboring landowners would not be exposed to increased regulation, nor restrictions on their land use, due to the presence of these animals.

The Service will assist landowners who wish to conserve and manage biological diversity on their own private property, particularly when those efforts can help recovery critically endangered species or prevent future listings of additional species. We will work with interested landowners and local and state governments to find prairie dog management and control approaches that conserve prairie dogs while controlling their numbers where they are a problem. Once again, I appreciate the opportunity to provide information about prairie dog conservation in Kansas.

Prairie Dogs and the Prairie Ecosystem



Black-tailed prairie dog

If you have ever traveled in the Great Plains of North America, you probably noticed squirrel-like animals scampering about the prairie among large mounds of soil. The French explorers called these animals “little dogs” because of the barking sounds they make, but they are actually rodents that belong to the squirrel family. Today, they are known as “prairie dogs” and they are one of the most adored and most despised animals in the United States.

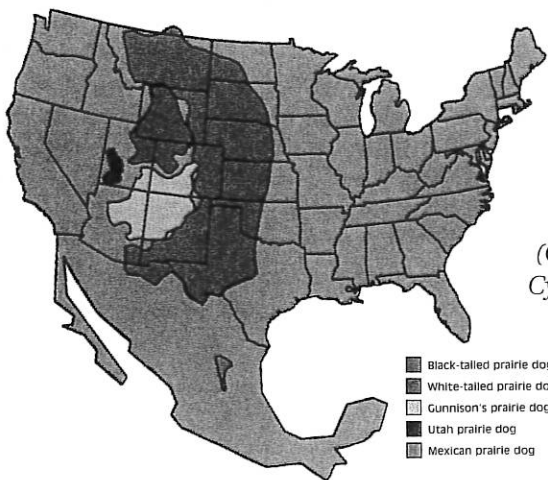
Prairie dogs are native to the Great Plains and southwestern desert grasslands of the United States and extend into the plains and plateaus of Canada and Mexico. They play an important ecological role in the short- and mixed-grass prairies and desert grasslands. The area in which prairie dogs occur typically contains much shorter vegetation than the surrounding area. These open patches act as crossroads of the prairie, encouraging a variety of plants and animals that differ in species and number from the surrounding grasslands. Some of the animals, such as black-footed ferrets and burrowing owls are endangered or declining because fewer prairie dogs remain to create and maintain these unique patches of habitat.

Lewis and Clark, while on their famous expedition up the Missouri River in 1804, were first among the explorers to document this “wild dog of the prairie.” In 1919, E. W. Nelson, Chief of the Bureau of Biological Survey, estimated that prairie dogs inhabited about 100 million acres in the United States. The largest prairie dog colony on record, in Texas, measured 100 miles wide and 250 miles long, and contained an estimated 400 million prairie dogs!

The diaries of westward-bound pioneers include accounts of the local abundance and humorous antics of these small prairie residents. Prairie dogs lost their comic appeal, however, when settlers observed them feeding on their crops and grasslands used by livestock. The conflict between prairie dogs and land-use interests has continued into the 21st century. Widespread habitat loss through tillage and land development, die-offs from a disease called plague, and efforts to poison prairie dogs have resulted in dramatic reductions in the number of prairie dogs throughout much of the Great Plains and southwestern desert grasslands.

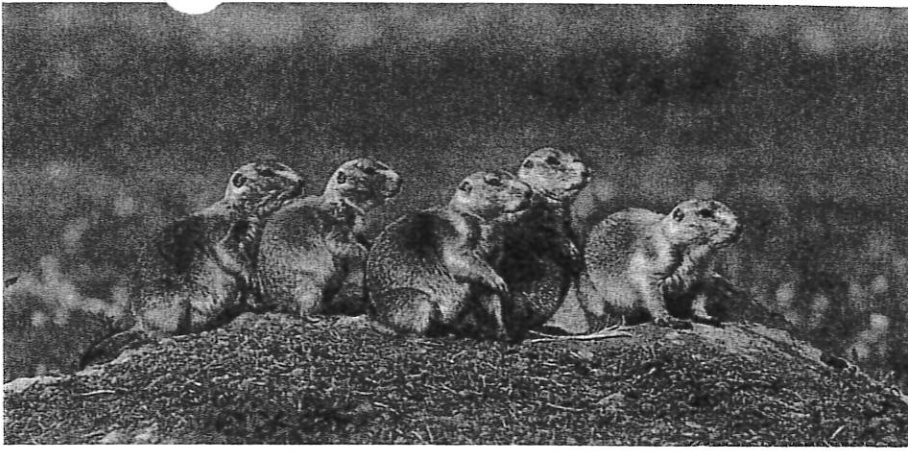
Black-tailed prairie dogs still occupy more than one million acres of grasslands, but this represents only a small percentage of their historic distribution.

Distribution of prairie dogs in North America



Prairie dog particulars

Five species of prairie dogs are found in North America: the black-tailed (*Cynomys ludovicianus*), Mexican (*C. mexicanus*), white-tailed (*C. leucurus*), Gunnison's (*C. gunnisoni*), and Utah (*C. parvidens*) prairie dog. *Cynomys* means “dog-mouse,” which characterizes this group of rodents with the dog-like bark. The black-tailed prairie dog, as its name indicates, has a black-tipped tail, weighs about one to three pounds, and is about 10 to 16 inches long. The black-tailed prairie dog is the most abundant and widely distributed species of prairie dog. They occur across the Great Plains from southern Canada to northern



Young black-tailed prairie dogs

Mexico and from the foothills of the Rocky Mountains eastward to about the 98th Meridian, usually at elevations below 6,000 feet. Although still locally abundant, their numbers have declined dramatically during the past century. The black-tailed prairie dog is now a candidate for listing as a threatened species under the U.S. Endangered Species Act. The endangered Mexican prairie dog also has a black-tipped tail, but is smaller than its northern relative and occurs only in Mexico. White-tailed, Gunnison's, and Utah prairie dogs all

have white-tipped tails. White-tailed prairie dogs live in arid grasslands and shrub-grasslands from 5,000 to 10,000 feet. They are about the same size as black-tailed prairie dogs, although females are considerably smaller than males. Gunnison's prairie dog, the smallest of the five species, inhabits open grassy and brushy areas from 6,000 to 12,000 feet. The Utah prairie dog is a threatened species and is currently limited to central Utah. Although several differences occur among the species, we will refer to the black-tailed prairie dog for examples in the remainder of this publication.

The active life of a prairie dog

Black-tailed prairie dogs are social animals that live in colonies or "towns," most of which range in size from one to 1,000 acres. Larger towns are often divided into wards by barriers such as ridges, treelines, and roads. Within a ward, each family or "coterie" of prairie dogs occupies a territory of about one acre in size. A coterie usually consists of a single adult male, one to four adult females, and related yearlings and juveniles. Movement among wards is uncommon except during the late spring when juvenile males disperse from their natal coterie.

One of the most obvious features of a prairie dog colony is the abundance of mounds and holes. Colonies of black-tailed prairie dogs have from 10 to 100 burrow entrances per acre. Each burrow entrance leads to a tunnel that is usually 6 to 15 feet deep and 15 to 30 feet long, although the size and complexity of burrows vary greatly. Prairie dogs often dig small chambers just below the surface, where they sit and listen for aboveground activity. Females make nest chambers several feet belowground where they sleep and care for their young. Prairie dogs construct dome- and volcano-shaped mounds that are one to three feet high and three to ten feet in diameter with the soil that they excavate from their tunnels. The mounds serve as lookout stations, prevent water from entering their tunnels, and promote passive ventilation of the burrows. Burrowing can be beneficial to the soil because it results in the mixing of soil types, incorporation of organic matter, increased soil aeration, and decreased compaction.

Prairie dogs are active during the day, rising with the sun and retreating to their burrows around sunset. In the summer, prairie dogs feed mostly in the early morning and late afternoon. During the hottest part of the day, they go belowground where it is much cooler. Black-tailed prairie dogs are active year-round, but may stay underground for several days during severe winter weather. On sunny winter afternoons, they come out to forage and bask in the sun's warmth.

In addition to feeding and maintaining their burrows, black-tailed prairie dogs must also guard their territories from unrelated prairie dogs. An interloper that trespasses in the territory of another coterie may be charged by a resident. If the intruder is just searching for food or exploring, it will usually retreat after this first charge. The trespasser may not be so inclined to leave, however, if it is attempting to acquire mates or expand its territory. In such cases, the dominant male from the invaded coterie and the intruder will engage in a territorial dispute. The dispute involves some serious staring, tooth chattering, flaring of the tail, and bluff charges, but only limited physical contact usually occurs. Aggressive males, however, may fight to take over a new territory. The victor establishes himself as the dominant male of the coterie

and the loser retreats from the area. Dispersing males may replace older, less fit males and by moving among coterie, prevent inbreeding in the population.

Communication is the key

One of the most fascinating aspects of prairie dog behavior is the way they communicate. Black-tailed prairie dogs have at least 12 distinct calls and a variety of postures and displays. While foraging, prairie dogs frequently lift their heads or stand on their hind legs to survey their surroundings. When a prairie dog detects danger, such as a coyote, it retreats to a burrow mound and gives a series of short nasal yips as a warning. Prairie dogs that are nearby will stop what they are doing, stand on their hind legs, and look for the source of danger. If they spot a coyote, they will run and dive into their burrows or perch atop their burrow mounds and join in the “barking” chorus. In time, the prairie dogs that went underground will cautiously emerge from their burrows. Their large eyes and inconspicuous ears are set high on their heads, enabling them to examine the area without leaving the safety of their burrows. When the predator has departed, prairie dogs will emerge from their burrows and give “jump-yip” calls to indicate safety to the other prairie dogs.

Members of a coterie are very sociable and maintain unity through physical contact. When two coterie members meet, they often make open mouth-to-mouth contact. This “kiss” is used to distinguish a coterie member from a stranger. An intruder will often leave the area when faced by a resident with bared teeth. Coterie members, on the other hand, recognize and accept each other’s presence. Following the “kiss,” members often partake in elaborate grooming. All coterie members groom each other: the young, in particular, are quite persistent in seeking attention from the adults.

Life and death in a prairie dog town

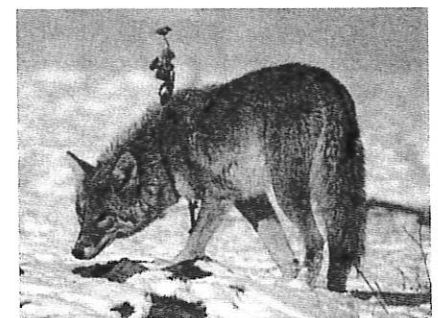
Most black-tailed prairie dogs reach sexual maturity after their second winter. In the southern portion of their range, they breed as early as January, while the breeding season does not begin until late March in northern areas. Black-tailed prairie dogs breed only once a year and their gestation period is about 35 days. Litters usually include four to six pups. The young are born naked, blind, and helpless and remain underground for the first five to six weeks of their lives. Most pups in the central plains emerge from their dens in May and are weaned shortly thereafter. Survival of young prairie dogs is about 50%, which is high compared to many other rodents. Life in a prairie dog town provides the benefits of a relatively safe underground home and warnings of danger by the many individuals that are watching over the town. Ironically, the pups are occasionally killed and eaten by related female prairie dogs. Infanticide has been found to be a major cause of mortality in some colonies.

Females usually spend their entire lives in their original coterie, while young males often move away in late spring when they are about 14 months old. Some move to adjacent coterie, while others travel up to five miles before establishing new territories. Dispersal is risky business and many young prairie dogs die during this time as they leave the safety of their coterie and well-established burrows.

In the wild, female prairie dogs usually live three to five years. Males have a shorter lifespan, because of their demanding territorial behavior. Even with their communal and underground lifestyle, predation is still a major cause of mortality. Badgers are a serious threat because they can dig deep into prairie dog burrows. With their streamlined bodies, black-footed ferrets can prowl through and capture prairie dogs in their burrows. Occasionally they



Prairie dog communication—the “jump-yip” call



Common predators of prairie dogs

dig prairie dogs out of their burrows, leaving a characteristic ramp of soil near the burrow entrance. Other predators, such as coyotes, bobcats, and swift foxes, must rely on their ability to stalk prairie dogs that are feeding on the outskirts of a town. Golden eagles regularly soar over towns in search of unsuspecting prairie dogs. Ferruginous hawks wait near mounds and capture prairie dogs as they emerge from their burrows. Prairie rattlesnakes and bull snakes may take some young, but are not a great threat to adult prairie dogs.

Prairie dogs are susceptible to several diseases, of which plague is the most notable. Plague is caused by the bacterium *Yersinia pestis*, which was unintentionally introduced to the United States in the late 1800s. Prairie dogs have little or no natural resistance to plague, so it is devastating in populations, leading to the rapid decline and even disappearance of entire colonies. It is transmitted by the bite of an infected flea or by direct and aerosol contact among prairie dogs. Plague is considered to be a major threat to all species of prairie dogs in the United States and is one of the reasons that the black-tailed prairie dog has been considered for listing as a threatened species. Other mortality factors that affect prairie dogs include accidents, competition, starvation, and weather, but human activities have caused the greatest decline in populations.

Human health concerns

Plague can be transmitted to humans by the bite of an infected flea or by handling infected animals. Also known as “black death,” it was responsible for the loss of one-third of the human population in Europe in the 1300s, before the advent of modern medicine and hygiene. During the past decade, 10 to 15 cases of human plague have occurred each year in the United States, of which 13% were attributed to contact with prairie dogs or their fleas. Symptoms often resemble those of the flu, including chills, fever, and swollen lymph nodes. The disease is curable in humans if diagnosed and treated in its early stages. The risk of contracting plague from prairie dogs is small. Awareness and avoidance are the keys to protecting you and your family from exposure.

Two other threats to humans in prairie dog towns are rattlesnakes and black widow spiders. Both are quite secretive and avoid contact with humans when given the chance, but they can deliver painful and potentially dangerous bites if threatened or disturbed. Rattlesnakes often rest in prairie dog burrows during the day and move through towns at night in search of food. Black widow spiders are most often found in abandoned or infrequently used prairie dog holes where they form a web and have their young. Bites from these animals are rare. You can safely enjoy exploring prairie dog towns if you use a little caution.



Prairie dogs feed on grasses and forbs

Plants and prairie dogs

Prairie dogs spend much of their time aboveground eating and looking for plants to eat. They primarily eat grasses, forbs, and sedges that are present within their territory. Grasses make up most of a prairie dog's diet on a grass-dominated prairie dog town. Forbs, however, become more prominent in their diet during the fall as green grasses become scarce. They also clip tall plants to allow a better view of predators in their area. In preparation for colder weather, prairie dogs eat seeds and occasionally insects that are high in fat and protein. In the winter, black-tailed prairie dogs will eat any available parts of plants, especially the roots.

A prairie dog may eat only about five percent of its body weight in plants each day, but in dense colonies during the summer, they can easily eat over 75 pounds of forage per acre each month. The ability of a plant species to survive in a prairie dog town depends on how well it can withstand the activities of prairie dogs, other grazing wildlife, and livestock. On mixed- and tall-grass prairies, the persistent burrowing, feeding, and digging by prairie dogs can, over time, change the number and type of plants growing in the area. The grasses found on prairie dog towns are more characteristic of the short-grass prairie. With reduced competition from the tall grasses, many other plant species, especially forbs, can become established. Rainfall, soil, and other site characteristics also influence the changes that occur.

Prairie dogs may actually increase the diversity of plants in prairies because their digging and scratching activities disturbs the soil, providing excellent sites for annual grasses and forbs to become established. These plants may not persist, however, because prairie dogs usually clip or eat the plants before the seeds mature. Perennial grasses, on the other hand, are not as affected since they do not rely on seeds to produce new plants, but rather spread by roots and stems. Long-term use of an area by prairie dogs appears to promote short perennial grasses such as buffalograss and blue grama in most of the Great Plains.

Animal associations

Historically, the immense herds of bison that roamed the Great Plains helped prairie dogs establish their towns. The bison grazed patches of the mixed-grass prairie, keeping the vegetation short enough for prairie dogs to colonize the areas. Prairie dogs alone had difficulty maintaining towns in mixed-grass prairie. The bison, however, returned occasionally to feed on the actively growing vegetation within the towns. Mule deer, elk, and pronghorns are also attracted to the highly nutritious plants that are growing in towns throughout most of the year.

Prairie dog colonies are unique areas of habitat that attract a variety of wildlife. Vacant prairie dog burrows serve as homes for cottontail rabbits and several species of small rodents. Deer mice are attracted by the annual plants that grow on the disturbed soils and grasshopper mice feed on beetles and grasshoppers that are found in prairie dog towns. Several species of birds such as horned larks, ferruginous hawks, and golden eagles frequent prairie dog towns in search of food. Three species of wildlife are very closely associated with prairie dog towns: the mountain plover, burrowing owl, and black-footed ferret. Mountain plovers prefer to nest and forage in the expanses of short grass and bare ground present in prairie dog towns.

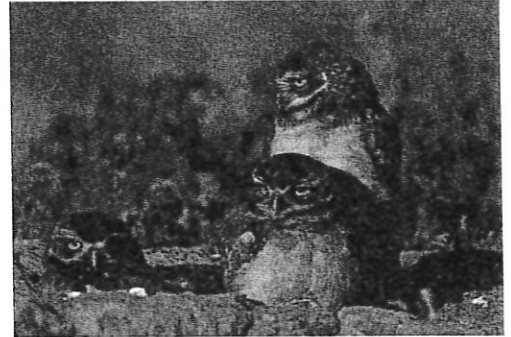
Burrowing owls typically nest in abandoned prairie dog burrows or badger holes. They rarely feed on prairie dogs, but instead, prefer the insects and smaller mammals found nearby.

The black-footed ferret is a special inhabitant of prairie dog towns. Once thought to be extinct, it was rediscovered near Meeteetse, Wyoming, in 1981, and continues to be one of the rarest species on earth. Black-footed ferrets establish their dens in prairie dog burrows and feed almost exclusively on prairie dogs. The decline in the number of prairie dogs in the last 100 years and the isolation and disappearance of many large towns nearly led to the demise of the ferrets. More recently, outbreaks of plague in prairie dog towns and canine distemper in black-footed ferrets raised concern for the populations. Eighteen surviving ferrets were captured in the mid-1980s, and a successful captive breeding program led to the reintroduction of ferrets to the wild. If black-footed ferrets are to survive in the wild, we need to ensure that they are provided with their preferred habitat — large and healthy prairie dog towns.

Prairie dog management

During the mid- to late-1800s, a large influx of livestock occurred across the Great Plains. Continuous grazing by cattle and sheep in the mixed- and tall-grass prairie allowed black-tailed prairie dogs to expand their population in the eastern portions of their range. Large prairie dog towns became established in eastern Kansas, Nebraska, Oklahoma, and the Dakotas. Even today, continuous and intensive grazing by livestock on rangeland encourages use by prairie dogs.

Unfortunately, the activities of prairie dogs are often viewed as being incompatible with livestock grazing, crop production, human health, and residential development. The impacts of prairie dogs on grasslands and livestock production are difficult to determine and depend on several factors, such as the number of prairie dogs, the size and age of towns, the number of livestock and other grazers present, and weather and site conditions. Prairie dogs feed on many of the same grasses and forbs that livestock do. In addition, prairie dogs often begin feeding on pastures and rangeland earlier in spring and clip plants closer to the ground than



*The
burrowing
owl*



*The
black-
footed
ferret*

livestock. Through their persistent feeding, clipping, and other activities, prairie dogs can reduce present and future forage yields for livestock. Continuous grazing by prairie dogs, however, may maintain vegetation at a higher nutritional level. Therefore, the reduction of available forage may be offset by the improved quality of the forage in prairie dog towns. Prairie dogs also feed on and remove some plants that degrade rangeland and are unpalatable to livestock. The level of competition between prairie dogs and livestock is difficult to determine and is dependent on individual site conditions.

As settlers moved into the Great Plains and Southwest, prairie dogs were viewed as pests. Since 1900, populations of prairie dogs have been reduced significantly in some areas and eliminated in others, due largely to the cultivation of prairie soils and prairie dog control programs. Many ranchers tolerate some prairie dogs but are concerned about large prairie dog towns and expanding populations. Homeowners are concerned about the potential health risks associated with living near prairie dogs, while others are concerned about the impacts of prairie dogs on land values and development potential. Today, prairie dog control is practiced by ranchers and government agencies, although to a lesser extent than in the early- to mid-1900s. Most toxicants for prairie dog control have been removed from the market because of the hazards they presented to other wildlife and the environment. Therefore, fewer options are available to landowners that experience problems with prairie dogs. Several state and federal agencies, Native American tribes, conservation organizations, and individuals are developing plans and programs to ensure the long-term viability of prairie dog populations and yet minimize the impacts of prairie dogs on private landowners.

Conclusion

Prairie dogs play an important role in the prairie ecosystem by creating unique patches of habitat in the expansive prairies of the American West. Their daily activities change the physical characteristics of the community, which leads to increased plant and animal diversity. Prairie dogs are a source of food for several predators, and their burrows provide homes for a variety of species, including the burrowing owl and endangered black-footed ferret. They also provide recreational opportunities for nature observers, photographers, and the sporting public. The presence of large, healthy prairie dog towns, however, is not always compatible with agriculture and other human land-use interests, but we can coexist. We should strive to conserve prairie dogs and their habitat while maintaining populations at acceptable levels. Through proper management, we can ensure that the complex community of plants and animals that are supported by and dependent on prairie dogs can continue to meet at the crossroads of the prairie.

Scott E. Hygnstrom, *Professor and Extension Wildlife Damage Specialist*

Dallas R. Virchow, *Extension Project Coordinator—Distance Education, Wildlife Damage*

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Black-tailed prairie dog, Nebraska Game and Parks Commission
Distribution, Paul Rand

Young prairie dogs, Mike Blair, Kansas Wildlife and Parks

"Jump-yip" call, Mike Blair

Common predators, Wendy Shattil/Bob Rozinski, © 1990

Centerfold illustration, Mark Marcuson

Prairie dogs feed, Wendy Shattil/Bob Rozinski, © 1990

Burrowing owl, Wendy Shattil/Bob Rozinski, © 1990

Black-footed ferret, Dean Biggins, U.S. Fish and Wildlife Survey



KANSAS

DEPARTMENT OF WILDLIFE & PARKS

KATHLEEN SEBELIUS, GOVERNOR

**Testimony on HB 2783 relating to Prairie Dogs
To
House Committee on Agriculture**

**By Keith Sexson
Assistant Secretary for Operations
Kansas Department of Wildlife and Parks**

February 13, 2006

House Bill No. 2783 would repeal currently existing laws related to prairie dogs and enact a new statute dealing with the management and control of prairie dogs. The provisions of this bill would be effective on July 1, 2006.

House Bill No. 2783 incorporates several ideas of various working groups throughout the years dealing with the black-tailed prairie dog. As background for the committee, the black-tailed prairie dog was petitioned for listing as a threatened species under the Federal Endangered Species Act. The United States Fish and Wildlife Service, after receiving the petition, determined that the listing of the black-tailed prairie dog was warranted but precluded at the time due to higher priority species. That preclusion gave each state within the historic range of the black-tailed prairie dog time to analyze in depth the extent to which the species existed within their respective states and to what extent steps could be taken to prevent that ultimate listing. The states formed the black-tailed prairie dog conservation working group and set goals for each state, set in individual state conservation plans. Ultimately, the work that was done by the states collectively led to the USFWS removing the species from the warranted but precluded listing in the recent past.

However, one of the specific reasons for the warranted but precluded listing at the time was the existence of onerous state statutes dealing with the eradication of the black-tailed prairie dog. Kansas is and continues to be a state with onerous laws regarding the eradication of the black-tailed prairie dog. As such, the Department firmly supports revisions to the century old laws in Kansas. The Department feels that the black-tailed prairie dog is a necessary and vital component to keeping the short grass prairie ecosystem healthy and in addition, would be a step in the right direction in the event that the USFWS is petitioned once again to list the species as threatened. Further, the Department is supportive of private-public cooperative agreements for the enhancement

House Agriculture Committee

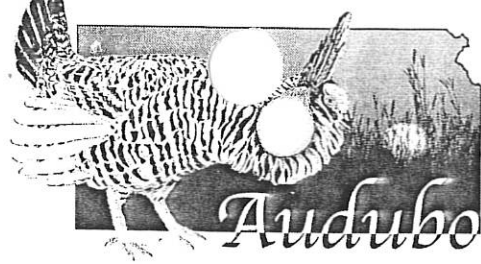
February 13, 2006

Attachment 7

Office of the Secretary

1020 S Kansas Ave., Suite 200, Topeka, KS

Phone 785-296-2281 Fax 785-296-6953 www.



Audubon of Kansas

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Statement of Ron Klatske
Executive Director, Audubon of Kansas
Regarding Support for H2783
to the
Kansas House of Representatives
Committee on Agriculture
February 13, 2006

Mr. Chairman and members of the committee, on behalf of the Audubon of Kansas Board of Trustees, listed on this letterhead, and approximately 5,000 Audubon members throughout Kansas, we thank you for considering House Bill 2783. We are honored to be here in partnership with organizations representing tens of thousands of other Kansas citizens including the Kansas Rifle Association, Kansas Farmers Union, Kansas Wildlife Federation, The Nature Conservancy and individual landowners who are providing leadership for us all.

In addition, members of the Kansas Nongame Wildlife Advisory Council, representing fourteen (14) science and education based organizations including the Kansas Academy of Science recently passed the resolution urging "all relevant entities of state, county, and township government to support and work with landowners who elect to maintain black-tailed prairie dogs and their colonies." Please see the complete copy of the resolution provided.

Although House Bill 2783 would be appropriate for consideration by the Wildlife, Parks and Tourism Committee, there is merit for asking your consideration.

- The antiquated statutes we are addressing don't just mandate eradication (on private land and/or statewide extinction) of prairie dogs in Kansas, the statutes eradicate the rights of landowners to conduct conservation of native wildlife as part of their land stewardship.

- The century-old statutes also eradicate an element of agri-tourism and outdoor recreation on private lands. The old statutes are a “takings” measure that can result in the poisoning of wildlife and their total eradication on a person’s property through a fifteen (15) day process. This can be done without consideration of the economic value of the resources for the private landowners or the conservation values of public interest. This is condemnation and eminent domain in its worst form. There are no safeguards and no consideration on current science and current conditions.
- In fact, 80-1208 specifies that township and county officials have no choice or they are automatically deemed guilty of a misdemeanor and are subject to a fine of not less than fifty dollars for each offense. The antiquated statutes undermine the concept of “Home Rule.” H2783 would restore a county’s authority to make 21st Century choices.
- In addition to “eradicating” landowners’ prospects of utilizing a renewable resource to complement other forms of income, these antiquated statutes eradicate all of these specific agri-tourism and nature-based tourism values of considerable and growing economic necessity for rural communities. These same economic values are important to our entire state.

As an owner and manager of farm and ranchland my family relies on three sources of income to help us pay the property taxes and support two students at Kansas State University and another at Fort Hays State University. These sources include livestock production and grazing, farm program payments, and recreational (hunting) access. In addition to the contribution of sportsmen to me for the opportunity for quality hunting they contribute substantially to the local communities. Last year we hosted two gentlemen from Alabama, an archer from Texas, two from Nebraska and one from Minnesota--along with several Kansas residents. They stayed in local motels, ate at numerous restaurants and purchased other supplies.

Agri-tourism and nature-based tourism helps to keep struggling businesses in rural open for the benefit of farm and ranch families who are able to stay on the land. I am always saddened to go home to Greenleaf, a community that cannot sustain a cafe or service station and only has a satellite grocery store from Hanover.

I had twenty-two (22) classmates in High School. All who graduated left the community, and their farms. We need to create opportunities for rural families and communities. Eradicating wildlife is not a commendable mandate for state statutes, and eradicating property rights and opportunities for ranch and farm families is even less understandable in light of the rural economic challenges.

Lastly, if prairie dogs once again become a candidate species for the Endangered Species list, will land have to be acquired by governmental agencies to maintain the species and all of the associated wildlife dependent upon prairie dog colonies?

We would prefer that private landowners be allowed to maintain prairie dog colonies on their land so that conservation needs identified by the Kansas Black-tailed Prairie Dog Conservation and Management Plan can be fulfilled on a private land voluntary basis. They are striving to do everyone a favor, and they are the real heroes in this initiative. By the way, that plan was developed by a broad-based group of organizational representatives (including both wildlife conservation and farm groups), agency and university personnel from KSU, FHSU, KU and Emporia State University.



Prairie Dog pups in May



Young Burrowing Owls

KANSAS NONGAME WILDLIFE ADVISORY COUNCIL

Established in 1979 by Jerald Conley, Director of the Kansas Fish and Game Commission

Resolution Adopted: December 6, 2005

To: All stakeholders involved with black-tailed prairie dog issues.

From: Kansas Nongame Wildlife Advisory Council

Re: Black-tailed prairie dogs and black-footed ferrets in Kansas.

The Kansas Nongame Wildlife Advisory Council supports the concept of experimental reintroductions of black-footed ferrets at appropriate sites in Kansas.

The Kansas Nongame Wildlife Advisory Council urges all relevant entities of state, county, and township government to support and work with landowners who elect to maintain black-tailed prairie dogs and their colonies.

This is consistent with the Kansas Black-tailed Prairie Dog Management and Conservation Plan, the potential reintroduction of black-footed ferrets, and the support of the prairie ecosystem and associated native wildlife populations.

Participating Organizations:

Kansas Academy of Science, Kansas Association for Conservation and Environmental Education, Audubon of Kansas, Kansas Chapter of the American Fisheries Society, Central Plains Society of Mammalogists, Kansas Chapter of The Nature Conservancy, Kansas Native Plant Society, Kansas Herpetological Society, Kansas Ornithological Society, Kansas Recreation and Parks Association, Kansas Rural Center, Kansas Chapter of the Wildlife Society, Kansas Wildlife Federation, Kansas Biological Survey

February 7, 2006

Representative Dan Johnson
Chairman, Committee on Agriculture
Kansas House of Representative

Re: prairie dog statutes,

I am a life long rancher and farmer in Logan County, Ks. following my father who started the ranch in 1941. He increased the ranch in his lifetime and I have doubled it in size during my tenure. My son now governs and maintains all of the livestock, fence, grazing, & owns part of the ranch, and has built a commercial feedlot on it. I own and operate approximately 10000 acres of grass and crop land. In that figure, is 800 acres of leased land. The ranch is in a contiguous block with Highway 40 being the only through road dividing approximately 10% of it on the North side of the Highway.

I have annually controlled prairie dogs for so many years I do not remember when controls started, but it has been over 30 years ago. In August of 2002" I placed a 2 line add in "The Kansas City Star". I received immediate phone calls and knew I had discovered a new, commercial "guest service", hunting facility. It soon was apparent that it would be one method of prairie dog control that would generate income, and provide recreation that seemed to be in demand.

In "2003" I advertised in The Kansas City Star in March and April and realized that a monetary reward was available if land owners would pursue it, and I have done so. The business has grown annually with 85% of my hunters returning annually. As of this writing for 2006, I have pre-booked 47 hunters, for 126 hunter days, averaging 2.68 days of hunt per hunter. And the spring advertising has not occurred yet. I make available hunting within the dates of April 15 through October 20 annually. With the spring adds going out soon, I expect the hunter days to go past 170 days this year.

We currently have wheel chair hunters [Paraplegic] and provide for some other types of handicap including older hunters with limited range of motion. I have converted a large trailer into a shooting deck

House Agriculture Committee
February 13, 2006
Attachment 9

5 1/2 feet above ground with a lift to place wheel chairs or anyone with stiff joints onto the shooting deck where chairs and shooting benches are furnished with sun cover overhead.

On February 6, 2006 the day prior to this writing, one of the Logan County Commissioners notified me verbally that the legal paperwork was ready with necessary help to forcefully enter and destroy all prairie dogs within 2 weeks. That would destroy my Agri-tourism business.

This demonstrates the need for guidelines that reflect current solutions to current problems. The century old law needs a tune up. Rural communities need agri-tourism and the monetary benefits to landowners and local businesses. That need is here to stay. The State of Kansas also needs it.

A few local people think that fee hunting is just not right. Some have enjoyed free hunting access in the area forever, and change bothers them--especially when they fail to recognize that providing access to land for recreational enjoyment is one of the rights of the land owners. Some want to disregard wildlife as an element of conservation, economic, and recreational value for land owners and their guests.

On August 1, 2005 the Logan County Commission called a public meeting to discuss the fate of the prairie dog. Some stated that one prairie dog is one too many and the only good prairie dog is a dead prairie dog. The Logan County Commission Chairman stated that if a complaint were filed with the County, the commissioners were bound by law to pursue extermination by force if necessary. They, and the public, were advised by the County Attorney that the commissioners had no choice because of statutes (80-1208) requiring county officials to implement eradication if a complaint were filed. Otherwise county officials could be charged with a misdemeanor and be subject to a fine.

Complaints were filed against some land owners by people not adjacent, one complaint was approximately 10 miles from the prairie dogs. I received two complaints, one has adjacent grass without any prairie dogs on it, and the other is 2 miles from my border with all

cropland between us. I have two adjacent land owners with prairie dogs, and we work mutually to control without complaint lodged against one another.

Land owner rights and management are at the forefront. I respectfully request the Kansas Legislature to address the problem created by the 100 year old statutes that result in violation of property rights and a lack of respect for the landowners who manage their own land and work with neighbors to resolve problems without state mandates. I have on going controls in place, but forcible entry to poison wildlife on our land should not be the state stance or policy.

Agri-tourism is being encouraged in Kansas. I have been registered under the limited liability law with the prescribed posters as required. My wife and I have attended Agri-tourism educational meetings and shows, but the present statutes giving forcible entry will result in the loss of a registered, functional, ongoing Agri-tourism business.

This needs attention.

At present, the hunters who visit our ranch are 90% out of state from Florida, Virginia, Maryland, Michigan, Missouri, Arkansas, Alabama, and Texas. They contribute to local economies as they travel across and visit other parts of Kansas. I am presently developing advertising designed to attract foreign hunters. This is Agri-tourism at work.

This is also a far better method of control than a poison campaign designed to kill out one species which winds up destroying several other species that depend on the prairie dog for their survival. I will always have to perform control work to protect neighbors but we must do better than to totally exterminate prairie dogs--as almost happened with Bison. One species that has totally disappeared from this ranch over 10 years ago is the Thirteen-lined Ground Squirrel. Why? They readily eat the bait that kills prairie dogs. They will go down the hole or on the surface to get it. Both Rozol and Zinc Phosphide kill them.

I thank you in advance for your consideration to land owners like myself who do not believe in extermination of wildlife, but do regard

wildlife conservation and land stewardship as "property rights" worthy of legislative protection.

I will have available for hand out at the Ag committee hearing on Feb. 13, 2006 examples of the "Notice of forcible entry" forms sent out in response to the state imposed law that essentially requires counties to eradicate prairie dogs.

Thank you.

Gene Bertrand
415 Quail
Wallace, Kansas 67761

785-891-3741

OFFICE OF COUNTY ATTORNEY
LOGAN COUNTY, KANSAS

ANDREA M. WYRICK
710 W. 2nd Street
OAKLEY, KANSAS 67748

Telephone: 785/672-8936
Fax: 785/672-0085
E-Mail: awyrick@st-tel.net

November 22, 2005

Gene L. & Anita L. Bertrand
415 Quail
Wallace, KS 67761

RE: Prairie Dogs in 23-12-37, 27-12-37, 29-12-37, 32-12-37, 33-12-37, 34-12-37, 10-13-37,
11-13-37, 14-13-37, 15-13-37, 17-13-37, 3-13-37, 4-13-37, 5-13-37, 7-13-37, 8-13-37, 9-
13-37, 28-12-37

To Whom it May Concern:

This is to advise that if the extermination of prairie dogs on the above-listed real estate has not been commenced by December 1, 2005, the county prairie dog director will proceed with the eradication and you will be billed accordingly.

Yours very truly,

OFFICE OF LOGAN COUNTY
ATTORNEY

BY: 
Andrea M. Wyrick
County Attorney

AMW/ge
cc: Logan County Commissioners

[prairie dogs4]

KANSAS STATE HOUSE COMMITTEE ON AGRICULTURE:

We Purchased a parcel with prairie dogs in 2005. We rented this same land since 2000 and applied poison as the landowner felt could be afforded without forfeiting all rent income.

Just a little history on this parcel:

In the 1990's the landowner (now deceased) was confronted with this antique statute by the then County Commissioners. The landowner told the Commissioners they were not to go on his land unless they, like the statute stated, eradicated the prairie dogs. The county went ahead and entered his land, applied poison but did not eradicate the prairie dogs; thus, not complying with state statutes. The conclusion of the story is that after the landowner's death we rented the parcel from the heir, and have gotten complaints filed against us in lieu of the landowner. Notices have been recieved regularly in spite of the fact that poison has been applied every year since 2000.

Upon contemplation of the purchase of said land, it was enrolled in Agri Tourism with the intention of paying for it in part with the income from the Agri Tourism program of shoots. At the same time the Logan County Commissioners will not talk to us about the Economic Development resulting from our enterprise; when for every dollar left with us, more than two dollars are left with the businesses of Oakley and the State of Kansas. Virginia Beamer told me that we out here do not understand the term "Economic Development". According to my dictionary, we are living the definition without acknowledgement of the county.

Our part of Kansas has been in a continous drought since 1999. We have developed a way of bringing in income when failed crops do not and we are having to dodge bullets for making an attempt to capitalize on the natural resources we have.

Another concern is that we as landowners are being strapped with the cost of controlling Kansas wildlife; whereas a Kansas hunting license is required to shoot prairie dogs. Therefore we support a change to current statutes as an attempt to share the burden of controlling and allowing management of prairie dogs.

As is currently being enforced in Logan County, only certain landowners are targeted as being the source of the problem when other landowners with as many or more prairie dog acres are considered treated once and in good standing regardless of how many rodents are running from mound to mound; and others are considered exempt for the program with the threat of withdrawing voluntary tax payment.

These antique statutes are in dire need of being eradicated themselves.

Respectfully
Joe and Lillian Becker

Three-day event draws bird enthusiasts to Brinkley, Arkansas

Ivory-billed Woodpecker Celebration is planned for February 23, 24 and 25

From the Cornell Lab of Ornithology in Ithaca, New York.

"THE CALL OF THE IVORY-BILLED Woodpecker Celebration" is being held at the Brinkley Convention Center in Brinkley Arkansas, February 23, 24 and 25. The public is invited to attend and celebrate the rediscovery of this magnificent bird.

Presentations will be offered by those who have actually seen the ivory-bill including Gene Sparling, Tim Gallagher and Bobby Harrison. Leaders of the Ivory-billed Woodpecker Recovery Team from Audubon Arkansas, The Nature Conservancy and the Cornell Lab of Ornithology will also be speaking. Visitors may attend talks by representatives of optics firms Leica, Eagle Optics and Zeiss, as well as by Pete Dunne from the Cape May Bird Observatory in New Jersey, wildlife photographer Marie Read and others.

The Arkansas Natural Heritage Commission, Arkansas Game and Fish Commission and the U.S. Fish and Wildlife Service will also present programs and be aiding participants throughout the celebration.

Visitors may take a guided bird watching tour in the bayou, browse the vendor expo, attend book signings and enjoy a delicious southern fish fry with music at the celebration dinner on Friday evening. A complete itinerary with times and fees is listed on the celebration's web site: www.ibwocelebration.org.

INTERESTED INDIVIDUALS may register online or call the Brinkley Chamber of Commerce at 870-734-2262 or e-mail <brinkleyc@futura.net>. Space for the event is limited, so early registration is recommended.

House Agriculture Committee
February 13, 2006
Attachment 11

CALL OF THE

Ivory billed woodpecker celebration

February 23, 24 AND 25

Presented by Brinkley Chamber of Commerce of Brinkley, Arkansas

Registration Form

Registration information (PLEASE PRINT):

NAME(S) _____

ADDRESS _____

CITY _____ STATE _____ ZIP _____

SELECTIONS (Check all you want to do)

Thursday — February 23

- 1:00 p.m. Bill Holimon - Red Cockaded WP _____
- 2:00 p.m. Peter Dunne - Cape May Observ _____
- 3:00 p.m. Stephen Ingraham - Zeiss Optics _____
- 4:00 p.m. AGFC - canoe basics / watch w/life _____
- 4:00 p.m. Euyless/ Aurora Holcomb-carving _____
- 6:30 p.m. Recovery Team Exec Committee _____

Friday — February 24

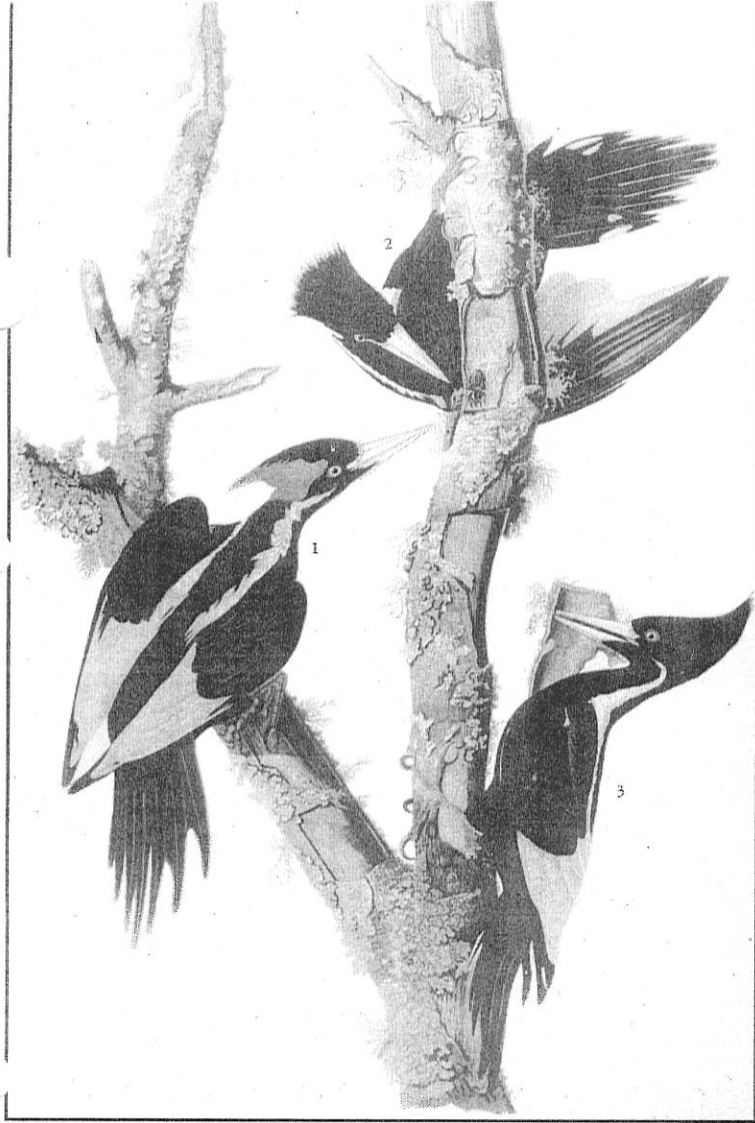
- 6:00 a.m. Bird Watching Tour _____
- 10:00 a.m. AGFC - canoe basics / watch w/life _____

Friday — February 24 - continued

- 3:00 p.m. Peter Dunne - Fishing to Attract Birds _____
- 4:00 p.m. M K Meacham/biology students _____
- 6:00 p.m. Marie Read - wildlife photographer _____
- 7:00 p.m. Fish Fry and local music _____

Saturday — February 25

- 6:00 a.m. Bird Watching Tour _____
- 10:00 a.m. Sharon Stiteler - Eagle Optics/Bird 101 _____
- 11:00 a.m. Dr. Dan Scheiman - Audubon Ark _____
- 12:00 noon Bird Watching Tour _____



Ivory-billed Woodpecker — Plate 66
 By John James Audubon
 Birds of North America
 Elephant Folio — Volume I
 1 male, 2 and 3 female, 1829

10:00 a.m. AGFC - Carve Basics/ Watch w life _____
 10:00 a.m. Ken Smith - ED Audubon Arkansas _____
 11:00 a.m. To Be Announced _____
 12:00 noon Bird Watching Tour _____
 2:00 p.m. Jeff Bouton - Leica Optics/Digiscoping _____

12:00 noon Bird Watching Tour _____
 2:00 p.m. Scott Simon - Nature Conservancy _____
 4:00 p.m. Rohrbaugh, Swarthout, Lammertink _____
 6:00 p.m. Dinner/program - Tim Gallagher, Bobby Harrison, Gene Sparling, David Luneau _____

FEES DUE
 (Student fees for ages 11-18)

Adults 3 days@ \$50/person \$ _____
 Students 3 days@ \$25/person \$ _____
 Adults Thursday only@ \$10/person \$ _____
 Students Thursday only@ \$5/person \$ _____
 Adults Friday only@ \$20/person \$ _____
 Students Friday only@ \$10/person \$ _____
 Adults Saturday only@ \$20/person \$ _____
 Students Saturday only@ \$10/person \$ _____

OPTIONAL PROGRAMS
 (Student fees for ages 11 and under)




Adults Friday Dinner @ \$12 \$ _____
 Students Friday Dinner @ \$9 \$ _____
 Adults Saturday Banquet @ \$25 \$ _____
 Students Saturday Banquet @ \$15 \$ _____

OPTIONAL FEE Sub-Total \$ _____

**Add Registration sub-total fee PLUS
 Optional sub-total fee for**

TOTAL AMOUNT DUE \$ _____

REGISTRATION FEE Sub-Total \$ _____

Please check payment method: cash check credit card   
MasterCard • Visa • Discover

(Make check or Money Order payable to: Brinkley Chamber of Commerce Foundation)

If paying by credit card, please complete the following: Visa M/C Disc

Card # _____ I.D. # _____ Exp date _____
Last 3 digits above signature/back of card

Mail correct remittance along with this completed Registration Form to:

**REGISTRATION
 BRINKLEY CHAMBER OF COMMERCE
 217 W CYPRESS ST
 BRINKLEY AR 72021**

Register online at www.ibwocelebration.org (Pay Pal is available online)

For information call the Brinkley Chamber of Commerce at 870-734-2262
E-mail <info@brinkleychamber.org> or <theivorybillnest@sbcglobal.net>

SPACE FOR THE EVENT IS LIMITED, SO EARLY REGISTRATION IS RECOMMENDED

11-2

Good afternoon, and thank you for this opportunity to speak. My name is Keith Yearout and I manage the 42,000 acre Z-Bar Ranch in Barber County for Turner Enterprises, Inc. and oversee the activities of the Turner Endangered Species Fund on the ranch.

Prior to becoming the Z Bar ranch manager, I served as a county commissioner in Sumner County for eight years and made my living farming and ranching.

Turner Enterprises, Inc's mission is to manage land owned by R. E. Turner in an economically sustainable and ecologically sensitive manner while promoting the conservation of native species.

The Fund's mission is to conserve biological diversity by ensuring the persistence of imperiled species with an emphasis on privately owned land.

Currently, black-tailed prairie dogs occupy about 250 acres of the ranch. We are actively promoting the growth of existing colonies and restoring others. Our objective is to establish prairie dogs over at least 1,000 acres near the center of the ranch.

An important aspect of our prairie dog conservation program is containment to ensure that colonies from the Z-Bar Ranch do not encroach onto neighboring lands. We have allowed several native towns along our perimeter to die out and are prepared to continue using a variety of tools to prevent encroachment including native predators, vegetative barriers and lethal control, if necessary.

Once our 1000 acre objective is achieved, we would promote collaboration with the Kansas Department of Wildlife and Parks and the U.S. Fish and Wildlife Service to restore black-footed ferrets to the Z-Bar Ranch.

For these reasons, I support passage of HB 2783 as a significant step toward improving conservation of the black-tailed prairie dog and the myriad species that utilize or depend on prairie dog towns.

I would like to invite you to visit and tour the ranch at your convenience.

If you have any questions, I will try to answer them.

Keith Yearout
Z Bar, LLC Ranch Manager
Lake City, KS 67071
Ph: 620-247-6465

House Agriculture Committee
February 13, 2006
Attachment 12

As the owner and manager of over 1500 acres of farm and ranchland in seven counties in central and western Kansas, I am writing to support a repeal of K.S.A. 80-1201-08.

There are two reasons to repeal K.S.A. 80-1201-08 dealing with the mandatory eradication of the Black-tailed Prairie Dog. First, Black-tailed Prairie Dogs are a native, keystone species of the western Kansas landscape. The Prairie Dog is the primary food source for several at-risk, endangered or threatened species including the Ferruginous Hawk, Golden Eagle and Black-footed Ferret. Other species require Prairie Dog towns for their nesting sites such as the Burrowing Owl. Mountain Plovers also often depend upon Prairie Dog colonies for nesting habitat. The fact is, without the Prairie Dog, numerous at-risk native species would further decline and some may vanish. As you know, the Black-footed Ferret has been extirpated in Kansas because of habitat loss and eradication of their principle food source, the Prairie Dog. Without the Prairie Dog, the natural cycle of the prairie will be further diminished and be pushed another step closer to a totally dysfunctional ecosystem. In light of the fact that Kansas was recently ranked last in the United States for care and maintenance of its park system, repeal of this statute would demonstrate at least a step in the direction of showing some level of concern for our natural heritage.

The second reason these statutes should be repealed is less of a conservation matter and more of a practical matter. This is a property rights issue. It is clear that several groups and many individuals, for whatever reason, do not want Black Tailed Prairie Dogs to exist in any number. However, other groups and individuals do. It is my fervent belief that those that do not want this species on their property should have every right to deal with them in a safe and effective manner on their own land. However, there is no circumstance under which some people should be able to direct others how to manage their land as it pertains to allowing a native species to be present. On this matter, there is the issue of fairness to consider. Both opponents and supporters of the Prairie Dog have their reasons, but neither should be able to dictate how to manage the other's land.

The greater good for Kansas will be served in several ways by supporting either H2782 or H2783 as introduced.

Sincerely,

Dan Pace

Testimony of Alan J. Pollom
Kansas State Director, The Nature Conservancy
700 SW Jackson, Ste. 804
Topeka, Kansas 66603
(785) 233-4400

**Testimony as a Proponent for change of the existing statutes regulating
control of prairie dogs**

Before the House Agriculture Committee
February 13, 2006

Mr. Chairman and members of the Committee, I appreciate this opportunity to address proposed changes to the current Kansas statutes dealing with the control of prairie dogs. The Nature Conservancy and its more than 6,000 Kansas members, seek to pass to future generations a legacy of the diverse landscapes of our state. In pursuit of that goal, we hope that public agencies, non-profit organizations, and private landowners will ultimately designate land for conservation management sufficient for the survival of meaningful examples of all of our native plants and wildlife.

The goal of a rich wildlife heritage in our state is compromised in an important way by the current statutes concerning prairie dogs. Prairie dogs are known as a "keystone species" in parts of the mixed grass and shortgrass prairie portions of Kansas. Hosts of other wildlife species are heavily dependent on prairie dogs and their burrows as a source of food and shelter.

Less than two years ago, the prairie dog was a candidate for Federal protection as a threatened species. If current Kansas statutes are aggressively prosecuted, it could force the hand of federal agencies and create a situation that precludes landowners who wish to control or limit prairie dogs from taking actions that cause direct harm. Such a development would seriously impact the management options available to Kansas landowners.

As one of the larger private landowners in Kansas, we have experienced first hand the dilemma of trying to host prairie dogs and the wildlife populations they support, while at the same time facing the uncertainty that all of our investment in land and management can be summarily undone. We are supportive of a change to the existing statutes that would provide more flexibility for private property owners who wish to host occurrences of prairie dogs on their land. We also recognize that other landowners and local governing bodies desire the ability to limit the occurrence of prairie dogs to a level that does not result in detrimental economic impacts to the landowner or community at large.

The Nature Conservancy believes that legislative action leading to a more progressive and wildlife friendly approach to prairie dog management should be pursued by this committee. We believe such action is in the long-term best interest of both landowners who desire the presence of prairie dogs and those who do not.

The Nature Conservancy would be pleased to engage other stake-holders in a collaborative effort to find common ground that accommodates all parties interested in this issue. Because of the lack of opportunity for our Board to collectively review HB 2783, at this time we are unable to determine if the language of HB 2783 is the vehicle that will accomplish that outcome.

House Agriculture Committee
February 13, 2006
Attachment 14

Testimony on HB 2783

By Kansas Farmers Union
To the House Ag Committee
Donn Teske
2-13-06

I am Donn Teske and am testifying today in support of HB 2783 on behalf of Kansas Farmers Union.

HB 2783 looks like a sensible bill that addresses the Prairie Dog issue pretty well. Representative Johnson has tried to address this issue for several years on the argument that the current regulations could eventually lead to the Prairie Dog being placed on the endangered species list, which none of us want to happen at all!

I don't much care for Prairie Dogs, they're a pest and they are hard on pastures, however there are many other pests we have out there also but they are not mandated for eradication. Those of us who are starting to get a little woolly behind the ears remember when we could collect a bounty for coyote ears, a dollar an ear, in an effort to control the coyote population. That program is long gone and so far we haven't been over-run with coyotes.

And most any time we can move a statute from mandatory to voluntary I will support it.

Thanks for your time,

Donn Teske

Donn Teske
17925 Goldenbelt Rd.
Wheaton, Ks. 66521
785-770-0336
dteske@bluevalley.net

**Kansas State Rifle Association
P.O. Box 108
Andover, KS. 67002**

The Honorable Dan Johnson
Room 426-S
Kansas State Capitol
300 SW 10th St.
Topeka, Kansas 66612

The Kansas State Rifle Association wishes to express its support for H.B. 2783 to the House Agriculture Committee. The Kansas State Rifle Association is an organization dedicated to:

- The right to keep and bear arms;
- The preservation of shooting sports and their lawful pursuit;
- The conservation of natural resources and wildlife management; and
- The maintenance of law and order.

K.S.R.A. endorses this bill for the following reasons:

1. Some ranchers would rather manage prairie dogs by shooting than by poisoning. If so, that should be their right as property owners, as long as no harm is done to neighboring property owners.
2. Current Kansas law may put us on a needless and unproductive collision course with federal law via the Endangered Species Act.

We urge you to pass this bill out of your committee and recommend the passage of this bill because:

1. Landowners whose management techniques benefit wildlife and natural resources without harming neighboring landowners should be free to manage their property as they see fit. As gunowners we are sensitive to unwarranted and mandatory government intrusion onto private property.
2. This bill will avoid what will be needless, expensive, and doomed legal proceedings should the state's current prairie dog extermination laws lead to a conflict with federal laws.
3. This bill will preserve shooting sport opportunities in the state of Kansas.

Thank you for your work on behalf of the state of Kansas. If you or any member of your committee has any questions for K.S.R.A., please feel free to contact me.

(785) 249-2165
DanWard@sunflower.com

House Agriculture Committee
February 13, 2006
Attachment 16



February 7, 2006

To Members of the Kansas House Agricultural Committee:

We would like to support any bill that is introduced that would repeal the century-old law that requires eradication of the prairie dog in Kansas. It is not necessary to kill all prairie dogs, and if a landowner prefers to retain prairie dogs on their land, they should be allowed to do so. These animals and the towns they form are key ecological habitats in the prairie and many other species depend on their existence. In particular, several special prairie birds, including the burrowing owl and the ferruginous hawk, utilize these prairie dog-driven habitats. Having a mandatory eradication plan for prairie dogs, essentially puts these other species at great risk as well, and if some landowners prefer to maintain this unique ecosystem of animals, they should be allowed to do so (and commended for their conservation efforts). Please allow prairie dog retention on private lands.

Yours sincerely,

Judith L. Roe
President, Northern Flint Hills Audubon Society

NFHAS
PO Box 1932
Manhattan, KS 66505-1932

House Agriculture Committee
February 13, 2006
Attachment 17

February 9, 2006

To: Kansas House of Representatives
Agricultural Committee Members

Subject: The Black Tailed Prairie Dog as an Agricultural resource

My pursuits in the hobby of long range rifle shooting have landed me in the middle of a brouhaha between Kansas ranchers who hate prairie dogs and those who see them as a source of economic benefit. I have included previous letters I have written to the Logan County Commission as attachments to this email. Please allow them to serve as background regarding my involvement in this matter over the past year.

I think it is prophetic to have received a request from Gene Bertrand of Wallace, Kansas to send this email within hours of having a discussion with a fellow I met in a local gun shop in St. Charles, Missouri. This fellow was telling the proprietor of the shop that he and several of his friends were planning on going to Kansas or South Dakota to shoot prairie dogs this summer. The proprietor of the shop told him that I was the person to talk to about that subject. This would have been a perfect opportunity for me to direct the fellow to western Kansas and send some much needed dollars in that direction. However, instead, I had to give him the name of contacts in Wyoming and South Dakota. The reason is that I knew that Gene Bertrand was the last bastion of prairie dog hunting in Western Kansas and I knew that he was booked for the entire season. In talking to the fellow, Kansas was his first choice because it is closer.

Thirty- six years ago I received my BS in Animal Science from Colorado State University. The prospects facing the family ranch/farm were dimming significantly then. Subsequently, I lived in Kansas for three years (1970-1974) while stationed at Fort Riley. I lived in Manhattan and got to know quite a few ranchers in the Olsburg and Westmoreland areas through my hunting pursuits. It was evident during these years that my friends were being challenged to continue their agrarian lifestyle. I don't think it will shock any of you that these challenges have become more difficult and that the family farm is in dire straits; which further endanger the small towns that support them.

One of the sources ranchers and farmers in many states have tapped for much needed revenue is agritourism/hunting. Working hand-in-hand with the State Conservation Authorities, landowners have improved habitat and altered farming and grazing practices to bring back game animals. A driving force behind this successful partnership was that the landowners realized an economic benefit from the replenished stocks of game. Many became outfitters and gave guided hunts. Others leased their land for hunting rights. The real entrepreneurs provided lodging and eating facilities and provided full service hunting lodges. Hunters came to areas that provided hunting opportunities and left economic benefit behind. They shopped in local stores, ate in local restaurants, stayed in local motels, bought gasoline and hunting supplies in local outlets. The State of Kansas

received the benefit of increased license and tag sales. It has been a win-win situation for all parties concerned. The rancher did not seek the eradication of the whitetail deer because it chose to eat the tender pods off his soybean plants. He did not groan about the acreage no longer available for tillage or grazing because it was now habitat for wild turkey, pheasant, quail and prairie chicken. Why? Because it was a proven fact that these game species represented dollars to him and his neighbors.

Yet what seems to be a logical extension of this proven benefit becomes a chasm of conflict when the subject of the black-tailed prairie dog is introduced into the equation. When we cut through the generations old prejudices and the pie-in-the-sky studies of the benefits of the prairie dog we are left with an obvious fact. They are not as detrimental as the kill-em-all faction maintains and they are not as beneficial as the aren't-they-cute crowd boasts. Left unchecked and out of control they will destroy grassland with their burrowing and overgrazing. On the other hand their eradication has seen their natural predators forced to seek a diet of game animals and young livestock. It has also been noticed that when the prairie dogs are poisoned out the rabbits move in; and, it hasn't been all that long ago that Kansas suffered the devastation caused from an overabundance of rabbits.

The point-of-view that I represent is that the black-tailed prairie dog can be a game animal and an economic resource. Allow those landowners that want to have them on their property be allowed to do so if they also allow them to be hunted as a game animal. I offer the following suggestions towards that end:

1. Put conservation of the black-tailed prairie dog under the control of the Kansas Department of Wildlife and Parks. Their study "The Kansas Black-Tailed Prairie Dog Conservation and Management Plan of July 2002" should serve as the beginning of the regeneration of prairie dogs in Western Kansas counties.
2. Rescind the ability of County and local governments to pursue eradication programs.
3. Continue to require the purchase of a Kansas small game hunting license to hunt the black-tailed prairie dog.
4. Establish a \$30.00 annual prairie dog tag required in addition to the small game license. Landowners would not be required to have the tag to shoot prairie dogs on their own property. Revenue from these tags to be split equally between the Wildlife & Parks Department and the county in which the tag was purchased: or if purchased in a non prairie dog county, the county stated by the hunter in which the activity was to take place.
5. Establish a means whereby the Kansas Tourism industry can connect prairie dog hunters with landowners having prairie dog hunting available.

I and my hunting buddy are bringing three new hunters to Gene Bertrand's in May for a week's hunt. Last year I was at Gene's four times for a total of 16 days. I brought my grandson on one hunt, thereby introducing a new generation to the sport. And, I am just one hunter. Tens of thousands other hunters are available to be introduced or reacquainted with Kansas prairie dog shooting. The majority of these hunters will return and many will bring other hunters.

Kansas has two outstanding things to offer as attractions; History and Hunting. I feel the current method of dealing with the black-tailed prairie dog in your state is shortsighted and is robbing western Kansas of many agritourism dollars. I would be more than willing to travel to Topeka at my own expense to testify before your committee. I am passionate about my sport and equally as passionate about the solid American way of life it can help support, if allowed.

Thank you for your time and Best Regards,

David R. London
217 Quail Run Drive
Defiance, Missouri 63341
636-398-8665
londondave@msn.com

Tuesday February 13, 2006

Honorable Representative Dan Johnson, Chairman
Members of the House Ag Committee

On behalf of Logan County I come before you to not only express my concern for HB 2782 & 2783 but to express the concern of many landowners in Logan County. As you may or may not be aware of, Logan County is and has been struggling with a tremendous infestation of prairie dogs and our only hope in getting this problem under control is allowing the County to manage and control prairie dogs when the landowner chooses not to do so themselves. In my opinion, if there are no laws to assist counties in managing and controlling prairie dogs, for Logan County it will result in a huge disaster. Prairie dogs not only affect the landowner who chooses not to manage and control them but it affects his neighbors too. An infestation of prairie dogs is devastating to our rangelands. We are not trying to tell these landowners that they cannot have prairie dogs on their property, but if they choose to have them, they should be responsible for the damage that they cause to the landowners around them. In 2005 alone, Logan County sold more than \$95,000.00 in prairie dog bait. This indicates that there is a huge outcry to manage and control prairie dogs but if we don't have cooperation from every landowner, our efforts are defeated. I can assure you that with the exception of a few landowners in Logan County, the majority want to manage and control their prairie dogs. HB 2783 states "a county may purchase material and hire people to manage and control prairie dogs which shall be paid from the General fund". Financially, this will break the counties. Every landowner should have the obligation to manage and control their own prairie dogs and not obligate each and every property owner to pay for it. We have laws protecting landowners from blowing weeds and blowing dirt K.S.A. 2-2004. These too are devastating acts of nature but we cannot allow these types of farming practices to impose on the people around them. One landowner stated in a public meeting that he has prairie dogs on one side of him and buffalo on the other side of him. Does he have to let the buffalo roam his land too? Case and point, if a landowner chooses to have prairie dogs on his property then he must be responsible for them like he should be with his livestock. Finally, on behalf of Logan County I ask you to reconsider and vote no on HB 2782 & 2783. Thank you for your time.

Carl Uhrich, County Commissioner
Logan County, Kansas
3408 Zest
Oakley, KS 67748
(785) 672-4393

House Agriculture Committee
February 13, 2006
Attachment 19



Kansas Farm Bureau
PUBLIC POLICY STATEMENT

House Agriculture Committee

HB 2783 – and act relating to prairie dog control.

February 13, 2006

Submitted by:

Steve M. Swaffar

Director of Natural Resources

Chairman Johnson and members of the committee, thank you for this opportunity provide comments on House Bill 2783 addressing the control of prairie dogs. I am Steve Swaffar, Director of Natural Resources for the Kansas Farm Bureau. KFB stands in opposition to HB 2783 which seeks to repeal existing state laws applying to prairie dog control.

As some of you may recall, Kansas Farm Bureau (KFB) offered support to a similar measure during the 2003 legislative session, HB 2027. At that time we had considerable concern that the black-tailed prairie dog would be listed as an endangered species under the Endangered Species Act and areas of Kansas would be designated as critical habitat. That designation could have severely limited the ability of landowners to control prairie dogs on their property.

One of the threats to prairie dogs identified by the U.S. Fish and Wildlife Service (USFWS) were state laws that required the eradication of prairie dogs. It was partially on that basis that we supported the proposed changes to Kansas' laws in 2003. If the change in the law would have prevented the listing, KFB believed that was far better for landowners than having the species listed. Because of those concerns for species listed under the ESA, KFB developed policies which endorse voluntary conservation management plans in lieu of listing species as threatened or endangered. Therefore the concepts contained within HB 2783 are not in conflict with KFB policy if the prairie dog were still a candidate species.

However, in August 2004, USFWS issued their finding that concluded the black-tailed prairie dog is not likely to become an endangered species within the foreseeable future, pursuant to the Endangered Species Act. Therefore, proposing a rule to list the species was not warranted, and it is no longer being considered to be a candidate species for listing. USFWS made this determination because recent distribution, abundance, and trend data indicated that the threats to the species are not as serious as earlier believed. It appears with this finding that Kansas' law no longer is viewed as great a threat to prairie dog populations.

KFB doesn't believe anything in existing law precludes individuals, townships, counties, state agencies or research institutions from participating in the development of management plans, cooperative agreements, providing technical assistance or any of the other activities listed in the bill. In fact, we would encourage landowners to develop and implement these kinds of plans for species that are or have been under consideration for listing; provided they are comfortable with this type of plan and can manage populations without infringing on others property rights.

We do believe however, there is a need for certain townships and counties in Kansas to have the authority to conduct prairie dog management activities when nuisance conditions are created and to seek restitution for their efforts in certain instances. Existing state law does provide that opportunity to townships and counties. Therefore, we do not support HB 2783. Thank you for this opportunity to provide these comments.



Kansas Farm Bureau

2627 KFB Plaza, Manhattan, Kansas 66503-8508 • 785.587.6000 • Fax 785.587.6914 • www.kfb.org
800 S.W. Jackson, Suite 817, Topeka, Kansas 66612 • 785.234.4535 • Fax 785.234.0278

PUBLIC POLICY STATEMENT

HOUSE COMMITTEE ON AGRICULTURE

RE: HB 2027 – and act relating to prairie dog control.

January 29, 2003
Topeka, Kansas

Presented by:
Steve M. Swaffar, Director
Natural Resources

Chairman Johnson and members of the committee, thank you for this opportunity provide comments on House Bill 2027 addressing the control of prairie dogs. I am Steve Swaffar, Director of Natural Resources for the Kansas Farm Bureau. Kansas Farm Bureau is a grassroots organization that develops policy through the input of our 105 county organizations and the more than 41,000 farmer and rancher members across the State.

Kansas Farm Bureau offers the following comments regarding HB 2027. The black-tailed prairie dog is a species that has caused considerable concern and damage to ranches in the western 2/3 of the state for last 150 years. Ranchers have spent thousands of dollars and many hours trying to prevent prairie dogs from damaging valuable livestock grazing areas. Yet the efforts to control populations of the black-tailed prairie dog and other factors have caused the U.S. Fish & Wildlife Service (USFWS) to consider listing the black-tailed prairie dog as a threatened species under the Endangered Species Act. Clearly, listing the black-tailed prairie dog will reduce the ability of ranchers to control prairie dogs and could be detrimental to ranchers who still need to control the animals to preserve the quality of their grazing lands.

Kansas Farm Bureau members through their policy development process have created the following language addressing threatened and endangered species:

As an alternative to placing species on threatened or endangered lists, we support developing conservation management plans that will increase or maintain the population and make listing unnecessary. Conservation management plans should be the result of cooperative efforts by landowners, agricultural producers, wildlife managers, conservation technicians, and the appropriate state and federal agencies. Any conservation management plans should be voluntary and provide incentives to private landowners for protecting or enhancing habitat for species needing protection.

Additionally, the American Farm Bureau Federation also has developed policy that is germane to this legislation:

We believe threatened and endangered species protection can be more effectively achieved by providing incentives to private landowners and public land users rather than imposing land use restrictions and penalties. Conservation agreements should be considered in lieu of listings provided they are consistent with Habitat Conservation Plans (HCP). Habitat Conservation Plans should be voluntary incentive-based programs. Private property must not be included in an HCP without the written permission of the private landowners.

In accordance with our policy, Kansas Farm Bureau has participated over the last two years in the Kansas Prairie Dog Working Group, formed by the Kansas Department of Wildlife and Parks. This group worked to create the Kansas Black-tailed Prairie Dog Conservation and Management Plan. Multiple stakeholders in this group helped identify potential threats to the species and conservation efforts that could preserve it in hopes of creating a plan that will prevent the listing of the prairie dog. One of the recommendations of the group is to amend Kansas law K.S.A. 80-304. Amending the law will demonstrate to USFWS that Kansas is interested in preserving and conserving prairie dog populations. By replacing the word "destroy" with "manage and control" and adding the ability for landowners to work with counties to maintain prairie dogs, should they chose to do so, we believe HB 2027 demonstrates Kansas' commitment to conservation of the species to USFWS. Equally important to members of our organization, HB 2027 maintains the ability for landowners to continue to prevent prairie dogs from damaging their property. Clearly, other steps may need to be taken in the future to prevent the black-tailed prairie dog from becoming a listed species. However, we believe amending the law as HB 2027 proposes is a good first step. Thank you for the opportunity to provide these comments.



KANSAS LEGISLATIVE POLICY GROUP

P.O. Box 555 • Topeka, Kansas 66601 • 785-235-6245 • Fax 785-235-8676

**Testimony of
Duane Mathes, President
Kansas Legislative Policy Group
Before the House Committee on Agriculture
RE: House Bill No. 2783**

Chairman Johnson and Members of the Committee:

Kansas Legislative Policy Group (KLPNG) is pleased to offer testimony regarding House Bill No. 2783. KLPNG represents the interests of more than 30 counties located in western Kansas.

Members of our Association have reviewed the proposed legislation and KLPNG opposes House Bill No. 2783.

This issue is always of keen interest to many of our members. Although attitudes and opinions vary with respect to the control and management of prairie dogs, KLPNG does support the existing State law regarding this issue. HB 2783 does not provide the counties with any authority to assist owners of land adjacent to sanctioned prairie dog conservation programs with the control or management. HB 2783 does not allow counties to recover costs for control and management when participating landowners do not follow the obligations of management plans and allow colonies to establish new territories or expand beyond the fixed boundaries of a conservation habitat. It is the nature of these animals to establish new territories and expand their habitat; landowners and local governments must be able to control these encroachments and to mitigate the damage to adjacent property.

KLPNG believes that our communities should have the ability to control prairie dogs at the local level.

We encourage the Committee to reject on House Bill No. 2783.

Thank you for your consideration and the opportunity to present these remarks.

(Mr. Mathes was unable to attend the hearing and Douglas E. Smith, representing KLPNG delivered his remarks).



Since 1894
TESTIMONY

To: The House Committee on Agriculture
Rep. Dan Johnson, Chairperson

From: Mike Beam, Senior Vice President

Date: February 13, 2006

Subj: **House Bill 2783** –A bill repealing prairie dog control statutes and replacing with new laws regarding township or county authority for controlling prairie dogs.

The Kansas Livestock Association (KLA), formed in 1894, is a trade association representing over 6,000 members on legislative and regulatory issues. KLA members are involved in many aspects of the livestock industry, including seed stock, cow-calf and stocker cattle production, cattle feeding, grazing land management and diversified farming operations.

The Kansas Livestock Association (KLA) opposes HB 2783.

A portion of the Kansas statutes governing local authority and responsibility for controlling prairie dogs are over 100 years old. In recent years, there have been several attempts to modify these laws. On each occasion, there has been considerable debate and consternation.

Background

In July of 1998, The National Wildlife Federation filed a petition to list the black-tailed prairie dog as a threatened species under the federal Endangered Species Act. Later, the Predator Conservation Alliance, Biodiversity Legal Foundation, and a private individual filed a supplementary petition.

On February 2, 2000, the U.S. Fish and Wildlife Service (USFWS) announced its response to the petitions. The USFWS stated in its news release ... "*After an extensive biological review, the U.S. Fish and Wildlife Service has determined that the black-tailed prairie dog warrants listing under the Endangered Species Act. However, because there are other species also awaiting listing that are in greater need of protection, the Service is not proposing to list the species at this time.*" USFWS cited a significant decline in habitat and state laws authorizing mandatory control of the species as key factors in their concern about the future of the prairie dog.

House Agriculture Committee
February 13, 2006

During the 2003 Kansas Legislative Session, a bill (House Bill No. 2027) drafted and supported by KLA, Kansas Farm Bureau, representatives of Wallace County, and the Kansas Department of Wildlife and Parks was introduced as a good faith effort to address concerns by the petitioners and USFWS.

Key provisions of HB 2027 included:

- Deleted words like "destroy," "infested," and "exterminate" and replaced them with terminology such as "manage" and "control".
- Declared prairie dogs a species of management concern and made note the species has a value to some, while being a nuisance to others.
- Provided authority to counties to determine that a prairie dog town is a threat to surrounding lands and to give notice to landowners to either: (1) submit a management and control plan, or (2) permit the county to undertake prairie dog management and control actions and bill the landowner for such costs.
- Provided authority to county officials to take action if a landowner is not meeting his/her obligations under the approved management and control plan, including an assessment of costs for controlling prairie dogs on surrounding lands.

Importance of KSA 80-1202

We believed in 2003 it was important to preserve the statute (KSA 80-1202) that allows local officials to control prairie dogs if they are determined to be a nuisance to neighboring ranchers and landowners. The bill before this committee today, HB 2783, proposes to repeal this statute.

We fully understand the desire by some landowners to harbor prairie dogs on their property. This issue, however, is similar to the situation with noxious weeds and invasive species. When a management decision is made to not control species that spread to neighboring landowners there should be a mechanism to allow local or state officials the ability to address this problem.

I have attached a copy of the existing statutes and a copy of HB 2027 as it passed the House of Representatives in 2003. If the committee feels it is necessary to take action in 2006, we urge you to consider a proposal similar to the 2003 plan.

Thank you for considering our comments. I'd be most willing to respond to any questions by the Committee.

Kansas Laws Regarding Prairie Dogs and Local Authority/Procedures to Control Populations on Private Lands

80-1201

Chapter 80.--TOWNSHIPS AND TOWNSHIP OFFICERS Article 12.--PRAIRIE DOGS, MOLES AND GOPHERS

80-1201. Destruction of prairie dogs, moles and gophers; expense from general fund. The township board of any township in this state, at any regular or special meeting, is hereby authorized to purchase material and to employ one or more suitable persons to destroy prairie dogs, moles and gophers within the limits of such township, any material so purchased and compensation for such services to be paid out of the general fund of such township.

History: L. 1901, ch. 273, § 1; R.S. 1923, 80-1201; L. 1965, ch. 548, § 1; June 30.

80-1202

Chapter 80.--TOWNSHIPS AND TOWNSHIP OFFICERS Article 12.--PRAIRIE DOGS, MOLES AND GOPHERS

80-1202. Eradication of prairie dogs; duties of township trustees; entry upon land, exceptions; assessment of costs. In addition to the duties now prescribed by law for township trustees, in counties infested by prairie dogs, they may do and perform the following services: That the township trustees of the several townships in this state infested by prairie dogs may enter upon the lands so infested in their respective townships and make diligent efforts to exterminate all prairie dogs thereon. For the purpose of enabling them to carry into effect the provisions of this act, the trustees are authorized and empowered to employ all such assistance and to purchase the poison or such appliances and material as they may deem necessary to exterminate such dogs. The work of such extermination shall all be done under the supervision and direction of the trustees: *Provided*, That in any county having a population of more than four thousand (4,000) and less than five thousand two hundred (5,200) which contains no city of the second class and not more than two (2) cities of the third class, the trustees shall before entering upon the lands give written notice to any landowner who shall fail or refuse to make use of the materials offered or provided, that unless he or she endeavors to control such prairie dogs according to the methods prescribed by the board of trustees will, within fifteen (15) days after the date specified in the notice enter upon his or her land and use the necessary materials to eradicate the prairie dogs thereon; and the trustees or their agents, may thereafter enter upon the land and proceed to eradicate such prairie dogs.

After eradication of such prairie dogs, the trustees shall immediately notify the landowner or landowners with an itemized statement of the costs thereof, and stating that unless such amount is paid within thirty (30) days from the date of the notice, that the amount shall become a lien upon their real estate. If such costs are not paid within thirty (30) days they shall be assessed against the property of the landowner and the township clerk shall, at the time of certifying other township taxes to the county clerk, certify the costs of such eradication and the county clerk shall extend the same on the tax roll of the township against such property and said costs shall be collected by the county treasurer and paid to the township as other township taxes are collected and paid.

History: L. 1909, ch. 181, § 1; L. 1919, ch. 315, § 1; R.S. 1923, 80-1202; L. 1965, ch. 548, § 2; L. 1969, ch. 472, § 1; L. 1972, ch. 384, § 1; March 20.

80-1203

Chapter 80.--TOWNSHIPS AND TOWNSHIP OFFICERS Article 12.--PRAIRIE DOGS, MOLESAND GOPHERS

80-1203. Same; report of expense to county commissioners; tax levy. The trustees of the several townships infested by prairie dogs shall appear before the board of county commissioners of their respective counties at their annual meeting in August of each year, when they convene to make the annual tax levy, and make a report of the probable expense to exterminate the prairie dogs in their respective townships. And the commissioners of the respective counties, after receiving said reports, shall cause to be levied on real estate assessed for taxation in each township thus infested by prairie dogs the approximate amount estimated by the several trustees as herein provided, or any part thereof: *Provided, however,* That no assessment for this purpose shall be greater than seventy cents on each one hundred dollars valuation as herein provided.

History: L. 1909, ch. 181, § 2; April 3; R.S. 1923, 80-1203.

80-1204

Chapter 80.--TOWNSHIPS AND TOWNSHIP OFFICERS Article 12.--PRAIRIE DOGS, MOLESAND GOPHERS

80-1204. Same; compensation of trustees and assistants. The trustees of each township and their assistants shall receive as compensation for their services for the time actually and necessarily employed. Such compensation shall be paid only out of the fund of the county created by this act for that purpose and shall be in an amount determined by the township board as provided by K.S.A. 80-207, and amendments thereto.

History: L. 1909, ch. 181, § 3; L. 1919, ch. 315, § 2; R.S. 1923, 80-1204; L. 1996, ch. 184, § 9; May 2.

80-1205

Chapter 80.--TOWNSHIPS AND TOWNSHIP OFFICERS Article 12.--PRAIRIE DOGS, MOLESAND GOPHERS

80-1205. Same; custody and disbursement of funds. The township trustees shall be the custodians of the fund created by this act, and disburse the same on vouchers audited by the township boards at their regular quarterly meetings and warrants drawn on the treasurer for the same: *Provided,* That no part of this fund shall be subject to the payment of claims other than those specified in this act.

History: L. 1909, ch. 181, § 4; April 3; R.S. 1923, 80-1205.

80-1206

Chapter 80.--TOWNSHIPS AND TOWNSHIP OFFICERS Article 12.--PRAIRIE DOGS, MOLESAND GOPHERS

80-1206. Same; payment of moneys to township treasurers. The county treasurers of the several counties of this state are hereby authorized and directed to pay over to the several township treasurers of their respective counties all the moneys collected for the purpose designated in this act, in the mode and manner as other township funds are paid over to said township treasurers.

History: L. 1909, ch. 181, § 5; April 3; R.S. 1923, 80-1206.

80-1207

Chapter 80.--TOWNSHIPS AND TOWNSHIP OFFICERS Article 12.--PRAIRIE DOGS, MOLESAND GOPHERS

80-1207. Same; surplus funds; use. Whenever any township of this state shall have rid itself of the prairie dogs and there shall cease to be a necessity of any future procedure under this act (which question shall be determined by the board of county commissioners and the trustee of such township), the surplus fund, if any, in the hands of the township treasurers shall be merged into the general township funds of said townships and to be used for general township purposes.

History: L. 1909, ch. 181, § 6; April 3; R.S. 1923, 80-1207.

80-1208

Chapter 80.--TOWNSHIPS AND TOWNSHIP OFFICERS Article 12.--PRAIRIE DOGS, MOLESAND GOPHERS

80-1208. Same; penalty for failure to perform duties. Any township trustee or board of county commissioners failing to perform any of the duties imposed upon them by this act shall be deemed guilty of a misdemeanor, and upon conviction thereof be subject to a fine of not less than fifty dollars nor exceeding one hundred dollars for each offense thus committed.

History: L. 1909, ch. 181, § 7; April 3; R.S. 1923, 80-1208.

1 [As Amended by House Committee of the Whole]

2
3 As Amended by House Committee

4 *Session of 2003*

5
6 **HOUSE BILL No. 2027**

7
8 By Committee on Agriculture

9
10 1-16

11
12 AN ACT concerning prairie dogs; relating to control thereof; duties and
13 authorities of county commissioners; assessment of costs; **prohibited**
14 **acts**; amending K.S.A. 80-304, 80-1201 and 80-1202 and repealing the
15 existing sections; also repealing K.S.A. 80-1203, 80-1204, 80-1205, 80-
16 1206, 80-1207 and 80-1208.

17
18 *Be it enacted by the Legislature of the State of Kansas:*

19 Section 1. K.S.A. 80-304 is hereby amended to read as follows: 80-
20 304. (a) The township trustee, at the regular meeting of the board of
21 county commissioners next succeeding the annual settlement of the town-
22 ship treasurer and road overseers, shall make a complete report of the
23 affairs of the township for the preceding year, stating in detail the items
24 of account audited and allowed, the nature of each account, and the name
25 of each person to whom such an account was allowed. Such report shall
26 specify the amount of compensation and amount of reimbursement of
27 expenses paid to members of the township board pursuant to K.S.A. 80-
28 207, and amendments thereto. Such report shall be verified by affidavit
29 and shall be examined by the board of county commissioners. If found
30 correct and in conformity to law, the board shall approve the report and
31 accounts and the same shall be filed in the office of the county clerk of
32 such county. Copies of the report shall be made available upon request.
33 If such report and accounts are found not correct, or not in conformity
34 to law, the board shall cite such township auditing board to appear before
35 it and correct any errors appearing therein. Such township auditing board
36 and their bondsmen shall be liable to their township for the amount of
37 any and all accounts or demands by them allowed or paid in excess of
38 that authorized by law for any purpose. It shall be the duty of the county
39 attorney of such county to prosecute any and all suits in the name of such
40 township for the recovery of the same, in any court of competent
41 jurisdiction.

42 (b) Payments made prior to August 2, 1996, to township officers for
43 duties and services performed pursuant to K.S.A. 68-525, 68-530, 68-531,

1 68-542, 80-207, 80-302, 80-304, 80-410, ~~80-1204~~, 80-1407, 80-1501, 80-
2 1544 and 80-2002, and amendments thereto, or while actually and nec-
3 essarily conducting township business are hereby validated.

4 Sec. 2. K.S.A. 80-1201 is hereby amended to read as follows: 80-
5 1201. The ~~township board of any township in this state~~ *county commission*
6 *of any county in the state*, at any regular or special meeting, is hereby
7 authorized to purchase material and to employ one or more suitable per-
8 sons to ~~destroy~~ *manage and control* prairie dogs, moles and gophers
9 within the limits of such ~~township~~ *county*, any material so purchased and
10 compensation for such services to be paid out of the general fund of such
11 ~~township~~ *county*. *Nothing in this act shall be construed to prevent a land-*
12 *owner from voluntarily managing and controlling prairie dogs on the*
13 *landowner's land nor independently conserving, managing and control-*
14 *ling prairie dogs, pursuant to the limitations described in K.S.A. 80-1202,*
15 *and amendments thereto.*

16 Sec. 3. K.S.A. 80-1202 is hereby amended to read as follows: 80-
17 1202. ~~In addition to the duties now prescribed by law for township trust-~~
18 ~~tees, in counties infested by prairie dogs, they may do and perform the~~
19 ~~following services: That the township trustees of the several townships in~~
20 ~~this state infested by prairie dogs may enter upon the lands so infested~~
21 ~~in their respective townships and make diligent efforts to exterminate all~~
22 ~~prairie dogs thereon.~~ *(a) Prairie dogs are a species of management concern*
23 *requiring both control and protection. Species of management concern or*
24 *its habitat, or both, are of value ecologically and aesthetically and at the*
25 *same time may be damaging for property owners. Species of management*
26 *concern may warrant protection at times, and control at others, depend-*
27 *ing on the rate of reproduction, climate, disease, population viability and*
28 ~~others~~ *other factors.*

29 *(b) Upon detection and identification of an uncontrolled or unman-*
30 *aged population of prairie dogs that has been determined by the county*
31 *commission to pose a threat of destructive, injurious or detrimental effect*
32 *upon the surrounding lands, either by virtue of a direct effect, or as a*
33 *carrier of disease or parasites, such county commission shall provide writ-*
34 *ten notice of the determination of the threat created by the unmanaged*
35 *prairie dog population and the specific location to the landowner or land-*
36 *owners. Such written notice shall indicate that management and control*
37 *measures have been deemed necessary to abate the detrimental or poten-*
38 *tially injurious effect and that the landowner is obligated to either:*

39 *(1) Submit and commence a management and control plan approved*
40 *by the county in consultation with the secretary of wildlife and parks*
41 *within 30 days of the written notice, with the purpose of such plan being*
42 *prevention of spread of the identified prairie dog population to adjoining*
43 *lands not owned by the landowner. The county may refuse to approve,*

1 *renew, suspend, revoke or deny the implementation of the landowner's*
2 *management and control plan if the plan does not meet such purpose; or*
3 (2) *permit the county to undertake prairie dog management and con-*
4 *trol measures on the landowner's property and reimburse the county for*
5 *costs accrued for such measures.*

6 (c) *For the purpose of enabling them to carry into effect the provi-*
7 *sions of this act, the trustees are authorized and county commission is*
8 *empowered to employ all such assistance and to purchase the poison or*
9 *such appliances and material as they may deem necessary to exterminate*
10 *such dogs. The work of such extermination shall all be done under the*
11 *supervision and direction of the trustees. Provided, That in any county*
12 *having a population of more than four thousand (4,000) and less than five*
13 *thousand two hundred (5,200) which contains no city of the second class*
14 *and not more than two (2) cities of the third class, the trustees shall with*
15 *implementation authority of prairie dog management and control meas-*
16 *ures deemed appropriate and necessary. Following the 30-day notice pe-*
17 *riod, and before entering upon the lands pursuant to subsection (b)(2),*
18 *the county shall give written notice to any landowner who shall fail or*
19 *refuse to make use of the materials offered or provided, fails or refuses*
20 *to submit, commence or implement a management and control plan pur-*
21 *suant to subsection (b)(1), that unless he or she endeavors to control such*
22 *prairie dogs according to the methods prescribed by the board of trustees*
23 *will, within fifteen (15) 15 days after the date specified in the notice the*
24 *county will enter upon his or her such landowner's land and use the*
25 *necessary materials to eradicate the prairie dogs thereon, and the trustees*
26 *or their agents, may thereafter enter upon the land and proceed to erad-*
27 *icate such prairie dogs to undertake prairie dog control measures.*

28 (d) *After eradication of such prairie dogs, the trustees employment*
29 *of control measures pursuant to subsection (c), the county shall immedi-*
30 *ately notify the landowner or landowners with an itemized statement of*
31 *the costs thereof, and stating that unless such amount is paid within thirty*
32 *(30) 30 days from the date of the notice, that the amount shall become a*
33 *lien upon their real estate. If such costs are not paid within thirty (30) 30*
34 *days they shall be assessed against the property of the landowner and the*
35 *township county clerk shall, at the time of certifying other township taxes*
36 *to the county clerk, certify the costs of such eradication control and man-*
37 *agement and the county clerk shall extend the same on the tax roll of the*
38 *township against such property and said the costs shall be collected by*
39 *the county treasurer and paid to the township county as other township*
40 *county taxes are collected and paid.*

41 (e) *A landowner implementing an approved management and control*
42 *plan pursuant to subsection (b)(1) shall not be subject to the provisions*
43 *of subsection (c) or (d). However, if a landowner who submits a manage-*

1 ment and control plan to the county is found to have failed or refused to
2 implement such plan, the county may undertake the measures described
3 in subsections (c) and (d). In addition, if a destructive, injurious or det-
4 rimental prairie dog population is found to have become established on
5 surrounding lands due to a landowner's failure or refusal to implement
6 an approved management and control plan, that landowner may be sub-
7 ject to the provisions of subsections (c) and (d) for necessary cost of prairie
8 dog control measures undertaken on those surrounding lands.

9 (f) Notwithstanding any provision of law to the contrary, the
10 secretary of wildlife and parks shall not adopt rules and regulations
11 to carry out the provisions of this section and K.S.A. 80-1201, and
12 amendments thereto.

13 ~~New Sec. 4. Trapping and transplanting [Transplanting] prai-~~
14 ~~rie dogs to any location outside of the Kansas traditional home~~
15 ~~range of the prairie dog is prohibited except when done in con-~~
16 ~~junction with a scientific, educational or exhibition permit issued~~
17 ~~pursuant to K.S.A. 32-952, and amendments thereto. As used in~~
18 ~~this section, "Kansas traditional home range" means that area of~~
19 ~~Kansas extending from the Kansas-Colorado border eastward and~~
20 ~~ending with the easternmost boundary of Washington, Clay, Dick-~~
21 ~~inson, Marion, Harvey, Sedgwick and Sumner counties and includ-~~
22 ~~ing all counties in between.~~

23 [New Sec. 5. Nothing contained in the provisions of this act
24 nor in any other provision of Kansas law shall prohibit the har-
25 vesting of prairie dogs for commercial purposes for sale outside of
26 the state of Kansas.]

27 Sec. ~~4~~ ~~5~~ [6.] K.S.A. 80-304, 80-1201, 80-1202, 80-1203, 80-1204,
28 80-1205, 80-1206, 80-1207 and 80-1208 are hereby repealed.

29 Sec. ~~5~~ ~~6~~ [7.] This act shall take effect and be in force from and after
30 its publication in the statute book.

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