

MINUTES OF THE SENATE NATURAL RESOURCES COMMITTEE

The meeting was called to order by Chairman Carolyn McGinn at 8:30 a.m. on March 7, 2007, in Room 423-S of the Capitol.

All members were present.

Committee staff present:

Raney Gilliland, Kansas Legislative Research Department
Art Griggs, Revisor of Statutes Office
Judy Holliday, Committee Assistant

Conferees appearing before the committee:

Others attending:

See attached list.

Chairman McGinn brought the minutes of the March 1 meeting before the Committee for consideration and asked that the members look them over for approval at the end of the meeting.

Chairman McGinn opened the discussion on **SB 123, Establishment of upper Arkansas river conservation reserve enhancement program (CREP)**. Chairman McGinn told the Committee that the Subcommittee on CREP met last Friday, March 2, to discuss the proposed amendments. In addition, there were two meetings with conferees and stakeholders to try to find solutions to their concerns. She told the Committee she would like to start discussion with her amendment, that she had one other amendment to propose, and would like to discuss any amendments that Committee members may have.

Art Griggs, Revisor of Statutes office, passed out copies of a balloon amendment to **SB 123 (Attachment 1)**. Chairman McGinn told the Committee that there had been concerns about limiting the CREP to the areas from Finney County west and that there were other areas that people were wanting to include in the CREP. She explained that the (a) on the balloon allows the Committee to look at more than one CREP in different areas. The Committee had previously discussed that CREP should not exceed 100,000 acres, but it was not spelled out in the bill. Another point of discussion was that Finney County had the most damage due to the lack of Colorado water and that it should have top priority. With that in mind, Chairman McGinn put into the balloon a provision that states "Prior to December 31, 2008, not more than 20,000 acres may be enrolled in CREP, and applications may only be accepted from water users within Finney, Kearny or Hamilton Counties or existing or proposed intensive groundwater use control areas. After December 31, 2008, applications may be accepted from regions designated by the Kansas Water Office as critical to interstate water compact compliance or groundwater management districts whose members have voted to participate in the CREP."

Chairman McGinn asked Art Griggs to pass out one other amendment (**Attachment 2**). The Chairman asked for comments or other amendments from the members of the Committee. She told the Committee that based on what she was hearing from the Committee members and others, that dryland farming on CREP acres needs to be a part of the bill. She read the proposed amendment and asked for discussion. She told the Committee that she wanted to hear all the amendments and address any concerns that Committee members may have. Chairman McGinn explained that the Subcommittee was a working group formed to discuss the CREP issue, to give the Committee members the opportunity to offer their amendments, and to reach a compromise on an amendment they can support.

There was discussion on the provision of the bill regarding federal law, and that the bill needs to express what Kansas wants, not what is permitted by federal law. Chairman McGinn stated that the provision regarding December 31, 2008, was in there because the new Farm Bill would be coming out in January of 2008, and that the Legislature could come back and amend the bill to read, "subject to legislative approval." There were concerns expressed by Committee members that the bill does not do anything to guarantee dryland farming.

Chairman McGinn entertained a motion on the original balloon she originally presented. **Senator Francisco moved that the balloon be added, seconded by Senator Lee.** No action was taken. There was discussion that all members may not get all of their amendments in the bill, but the balloon amendment is a base from which to start and they could always come back next year and address the language. The issue of the 20,000 acres

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before 2008 was discussed, and that wording could be added that legislative authorization would be needed before the acreage would increase to 100,000 acres.

Chairman McGinn said she would like for the Senate Natural Resources Committee and the House Agriculture and Natural Resources Committee to jointly decide on a year-to-year basis whether or not this is a good program, and if they decided it was not they could walk away. Senator Taddiken voiced his support for the bill because it is a base to work from, but not a final work product.

Chairman McGinn asked for a vote to accept the balloon amendment as presented. Senator Francisco made a motion, seconded by Senator Wysong, and the motion passed.

Chairman McGinn remarked that she wanted to discuss Senator Huelskamp's amendments. Senator Huelskamp asked for an explanation of Senator Ostmeyer's amendments. Chairman McGinn told the Committee that based on discussion by the Committee as a whole, an attempt was made to better define the term "agricultural commodity." In addition, Senator Ostmeyer's amendment did not specify the 20,000 acres, but that she thought there was consensus on the devastated area and that this would help to provide assistance to people in that area. She also told the Committee that she was open to Senator Taddiken's amendment, if he had one ready, that would address Senator Ostmeyer's third amendment.

Senator Taddiken told the Committee that he views this 20,000 acres as a pilot project. He explained that the water will eventually run out whether or not the Legislature does anything; there will be 1) an attempt to convince Secretary of Agriculture Johannes to approve dryland farming; and 2) there will be an attempt to amend the Farm Bill to say that the Secretary *shall* approve dryland farming. It is not known whether either attempt will be successful, but Senator Taddiken believes that the Committee has to come back after December 31, 2008, to authorize any further expansion. By then, they will know if there were any benefits or problems, or what the dryland issue would be. Senator Taddiken told the Committee he would offer an amendment conceptually that the 20,000 acres be retained in the current amendment, but that the Legislature would need to authorize the additional 80,000 acres. Senator Francisco seconded the motion. Chairman McGinn asked Art Griggs of the Revisors Office if the language could be inserted after the third amendment by Senator Ostmeyer. Mr. Griggs responded that it could.

There was discussion that other states may work against Kansas' efforts to get dryland farming, and that by doing so they would receive more money for their state. It was suggested that, since the Secretary of Agriculture is from Nebraska, an effort should be made to contact the appropriate agricultural groups there to convince the Secretary that this would be good not only for Kansas, but for Nebraska as well. There was a question as to whether the 20,000 acres was limited to specific soil types, and it was determined that there was no distinction made regarding soil type.

Chairman McGinn asked Tracy Streeter of the Kansas Water Office if he could see a potential problem with the concept put forth by Senator Taddiken. Mr. Streeter replied that he was unsure, but felt that authorizing the 20,000 acres for now, but amending the additional acreage later, was an alternative.

Chairman McGinn told the Committee that Art Griggs could work on language that would allow some sort of legislative approval. Senator Huelskamp told the Committee that if the Committee decided to add the 20,000 acres to the amendment, then they should do it and if needed, come back next year to amend it rather than add the language, "subject to legislative approval."

Chairman McGinn asked Senator Taddiken if he wanted to move or withdraw his motion. Senator Taddiken stated that in light of Tracy Streeter's remarks, he would withdraw his motion.

Chairman McGinn asked Senator Huelskamp to discuss his amendments. Senator Huelskamp stated that he wanted to offer Senator Ostmeyer's second amendment next. Chairman McGinn asked Art Griggs to take number 4 and add it after the language that says December 31, 2008, and add "grazing and production of crops for cellulosic or biomass materials, etc." from the amendment. There was discussion that if the dryland or agriculture uses is not added to the bill that the federal government would not look at it; but if the federal government sees that this is the only way that they can do business with Kansas, then maybe it will consider

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it. There were comments that the CRP program affects not only the farmers, but grain elevators and small businesses in the community that will lose jobs because the idle land takes away from the economy of the areas involved.

Chairman McGinn stated that after the December 31, 2008, language, the amendment should include a provision for grazing and dryland farming.

Senator Pyle made a motion to table the bill until the Secretary of Agriculture on the rules issue of dryland farming on CREP acres, seconded by Senator Huelskamp. Chairman McGinn asked for discussion.

There was consensus that considerable time had been spent, and a number of amendments offered, to get to this point in the debate, and although everyone who offered amendments would not get all that they wanted, it was felt that the Committee should not table the bill and walk away. It was suggested that the Subcommittee work this out and come back to the Committee with some type of recommendation.

Chairman McGinn told the Committee that from the comments made by Committee members, that more discussion on this bill is needed. Senator Pyle withdrew his motion regarding tabling the bill, and Senator Huelskamp withdrew his second.

The meeting was adjourned at 9:30 a.m.

SENATE NATURAL RESOURCES COMMITTEE

Guest Roster

3/7/2007

(Date)

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| CV Costoradis | KDA |
| Dave Starkey | KDA |
| David G. Pope | KDA |
| LANE P. LETOURNEAU | KDA |
| STEVE FROST | SCA |
| Susan Stover | KWO |
| Joe Fund | KWO |
| Earl Lewis | KWO |
| Tracy Stroeter | KWO |
| Tam Thompson | Sierra Club |
| Steve Adams | KDWP |
| Mary Jane Staniewicz | KARA |
| Mike Beam | Ks. Livestock Assn. |
| Allie W. ... | " " |
| Leslie Kaufman | Ks Co-op Council |
| Kent Astren | KFB |
| TERREY HODREW | KFB |
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SENATE BILL No. 123

By Committee on Ways and Means

1-18

9 AN ACT concerning water; providing for establishment of ~~an upper Ar-~~
10 ~~kansas river~~ conservation reserve enhancement program.

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12 *Be it enacted by the Legislature of the State of Kansas:*

13 Section 1. (a) As used in this section:

14 (1) "Farm services agency" means the United States department of
15 agriculture farm services agency.

16 (2) "Arkansas river corridor" means those portions of the upper Ar-
17 kansas river basin within Hamilton, Kearny, Finney, Gray, Ford, Ed-
18 wards, Pawnee, Stafford, Barton and Rice counties.

19 (b) Upon execution of an agreement between the state of Kansas and
20 the farm services agency for implementation of ~~an upper Arkansas river~~
21 conservation reserve enhancement program (CREP), the state conser-
22 vation commission and the Kansas water office are hereby authorized to
23 establish such program. The program shall be a joint state-federal pro-
24 gram, to be administered for the state by the state conservation
25 commission.

a

26 (c) The CREP shall have the purpose of reducing withdrawal de-
27 mands on the high plains aquifer, improving water quality, protecting
28 public water supplies and enhancing wildlife habitat. The program shall
29 provide for voluntary retirement of water rights ~~in the Arkansas river~~
30 ~~corridor~~, in accordance with: ~~(1) A program prepared and submitted by~~
31 ~~the state conservation commission and the Kansas water office and pre-~~
32 ~~sented to the senate committee on natural resources and the house com-~~
33 ~~mittee on agriculture and (2) rules and regulations adopted by the state~~
34 ~~conservation commission.~~

35 (d) The state conservation commission shall adopt rules and regula-
36 tions for the implementation and administration of the CREP. Such rules
37 and regulations shall include, but not be limited to, eligibility require-
38 ments for and conditions of participation in the program and incentives
39 to participate in the program.

40 Sec. 2. This act shall take effect and be in force from and after its
41 publication in the statute book.

the following criteria:

(1) Total number of acres for enrollment in Kansas in CREP shall not exceed 100,000.

(2) Prior to December 31, 2008:

(A) Not more than 20,000 acres may be enrolled in CREP; and

(B) applications may only be accepted from water users within:

(i) The Arkansas River corridor located in Finney, Kearny or Hamilton counties; or

(ii) existing or proposed intensive groundwater use control areas.

(3) After December 31, 2008, in addition to the applicants outlined in subsection (c)(2)(B) applications may be accepted from water users within: (A) Regions designated by the Kansas water office as critical to interstate water compact compliance; or (B) groundwater management districts whose members have voted to participate in the CREP.

*Senate Natural Resources
March 7, 2007
Attachment 1*

2007

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Proposed Amendment to
SENATE BILL NO. 123

New Sec. ___ To the extent permitted by federal law, CREP applications may be accepted that permit the use of the land for agricultural purposes such as planting of agricultural commodities including, but not limited to, grains, cellulosic or biomass materials, alfalfa, grasses, legumes or other cover crops.

Senate Natural Resources
March 7, 2007
Attachment 2