

MINUTES OF THE SENATE NATURAL RESOURCES COMMITTEE

The meeting was called to order by Chairman Carolyn McGinn at 7:30 a.m. on March 13, 2007, in Room 231-N 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 opened the hearing on **SB 123, Establishment of upper Arkansas river conservation reserve enhancement program (CREP)**. Chairman McGinn told the Committee that the Subcommittee on CREP had met on Monday, March 12 to discuss and combine the many amendments into one balloon amendment, copies of which were passed to each Committee member (Attachment 1).

Chairman McGinn read the provisions of the balloon amendment. The criteria of this amendment to the CREP program includes: a provision that the total number of acres enrolled in CREP shall not exceed 100,000; that no CREP acre can go in unless a CRP acre has gone out, so there's no net gain of idle acres; lands enrolled in CRP as of January 1, 2007, are not eligible to be enrolled in CREP; no more than 25% of the acreage in CREP can be in any one county; only water rights in good standing are eligible for CREP; and various oversight provisions under the authority of the State Conservation Commission.

The Revisors Office advised Chairman McGinn that there was a motion passed last week to accept the balloon as amended, so the Committee would need to adopt a substitute for that balloon amendment before this one could be adopted.

After discussion, Senator Lee made a motion to adopt the substitute balloon on SB 123, seconded by Senator Francisco. The motion carried.

There was discussion on the water rights and violations by persons who overpump the amount allowed, but are not penalized. There was consensus that there is no way for the Committee to know the percentage of those pumping water in the area who actually overpump and thus would not be eligible to enroll in the CREP program. Chairman McGinn told the Committee that she would be willing to work with members on a bill stiffening the penalties for overpumping and use the money to start checking people who are overpumping.

Some Committee members expressed concern about the lack of language in the bill dealing with production agriculture and that without the specific language they could not support the bill. It was noted that some farmland was put into the CRP program that should never have been taken out of production, and putting that land back into production would offset any acreage put into the CREP program. There was discussion about leaving the business decisions to the individual farmers who voluntarily put their land into CREP, and not have the Legislature make that decision. With the current prices as incentive to produce more grain, fewer acres will be left out of production. There was discussion on the biomass plant and the ethanol plant being proposed for construction in two of the CREP areas, taking prime farm land out of production.

Senator Huelskamp offered another amendment to the balloon (Attachment 2) and made a motion, seconded by Senator Ostmeyer, to amend the balloon. There was more discussion on working the current bill as amended, or on waiting another year and coming back with a bill giving stronger support for the provision allowing dryland production. Some Committee members expressed the opinion that the amendment killed the program for this year. The amendment was not adopted.

Mike Beam, Director, Kansas Livestock Association, passed copies to the Committee of the current CRP enrollment in the proposed Arkansas River CREP corridor (Attachment 3).

CONTINUATION SHEET

MINUTES OF THE Senate Natural Resources Committee at 7:30 a.m. on March 13, 2007, in Room 231-N of the Capitol.

Senator Bruce made a motion to adopt a conceptual amendment to **SB 123** to require that only one acre of CREP can be enrolled after two acres are unenrolled in CRP unless the federal government allows dryland farming on CREP acres, at which time one acre of CREP may be enrolled after one acre of CRP is unenrolled. Senator Lee seconded the motion. The question was called. A voice vote was taken, followed by a show of hands. The motion passed. Senator Ostmeyer asked that he be recorded as voting against the amendment.

Senator Huelskamp offered another amendment (Attachment 4), and after discussion by the Committee, withdrew the amendment.

Senator Wysong made a motion to move **SB 123** as amended out of Committee, seconded by Senator Francisco. The motion carried.

The meeting adjourned at 8:40 a.m.

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.

11
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.

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.

(e) The CREP program shall be subject to the following criteria:

(1) The total number of acres for enrollment in Kansas in the CREP shall not exceed 100,000;

(2) The number of acres eligible for enrollment in the CREP in Kansas shall be limited to the number of acres represented by contracts in the federal conservation reserve program that have expired in the prior year in the CREP area;

(3) lands enrolled in the conservation reserve program as of January 1, 2007, shall not be eligible to be in the CREP;

(4) no more than 25% of the acreage in the CREP may be in any one county; and

(5) only water rights in good standing are eligible for the CREP. To be a water right in good standing the following criteria must be met: (A) At least 50% of the maximum annual quantity authorized to be diverted under the water right has been used in any three years from 2001 through 2005; (B) in the years 2001 through 2005 the water rights used for the acreage in the CREP shall not have exceeded the maximum annual quantity authorized to be diverted and has not been the subject of enforcement sanctions by the division of water resources in the last four years; and (C) the water right holder has submitted the required annual water use report required by K.S.A. 82a-732, and amendments thereto, for the most recent 10 years.

Sec. 2. (see attached)

Senate Natural Resources
March 13, 2007
ATTACHMENT 1
CREP SUBCOMMITTEE

Sec. 2. The state conservation commission shall submit a CREP report annually to the senate committee on natural resources and the house committee on agriculture and natural resources. Such report shall contain a description of program activities and shall include:

(a) The total water rights, measured in acre feet, retired each year in the CREP;

(b) the acreage in the CREP;

(c) the dollar amounts received and expended for the CREP;

(d) the economic impact of the CREP;

(e) the change in groundwater levels in the CREP area;

(f) the annual amount of water usage in the CREP area;

(g) an assessment of meeting each of the program objectives identified in the agreement with the farm service agency; and

(h) such other information as the state conservation commission shall specify.

And reletter the remaining section accordingly

Gray shading indicates wording to be stricken

SENATE BILL No. 123

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and upper Republican river basin

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

"CREP area" means: (A)

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

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18 ~~wards, Pawnee, Stafford, Barton and Rice~~ counties.

; and (B) the upper Republican river basin.
(3) "USDA" means United States
department of agriculture

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~~
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a

in the CREP area

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
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CREP area

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41 publication in the statute book.

(e) No moneys shall be expended on the CREP until it is specifically appropriated by the legislature and: (1) The actual negotiated agreement to be signed by USDA and the state of Kansas is presented to the legislature; and (2) the rules and regulations for implementing the program have been presented to the next regular session of the legislature.

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

(e) Notwithstanding any other provision of this act, the state of Kansas shall not enter into any conservation program agreement with the federal government unless it permits all or part of the land enrolled in such program to be devoted to the product of an agricultural commodity during a crop year.

Senate Natural Resources
 March 13, 2007
 ATTACHMENT 3

Current county by county Conservation Reserve Program (CRP) enrollment in 10 counties of proposed Arkansas River CREP corridor, with breakout of CRP acres included in contracts scheduled for expiration in 2007-2011

	total active crp acres	acres that expire 9/30/2007	acres that expire 9/30/2008	acres that expire 9/30/2009	acres that expire 9/30/2010	acres that expire 9/30/2011	<i>total</i>
Hamilton	136,155	11,337	355	2,936	28,423	26,153	69,204
Kearny	70,516	6,137	317	10,084	23,777	12,756	53,071
Finney	85,719	2,491	2,209	12,887	12,930	9,210	39,727
Gray	72,100	6,007	2,016	2,786	10,389	11,607	21,210
Ford	86,160	3,663	2,008	7,509	8,552	17,208	38,940
Edwards	36,810	2,677	171	2,255	11,148	8,632	24,883
Pawnee	34,054	1,544	158	10,982	8,717	4,342	25,743
Stafford	49,418	8,099	372	1,003	4,380	11,369	25,223
Barton	26,153	3,264	196	983	3,673	3,737	11,853
Rice	15,613	603	285	185	3,796	4,711	9,580
<i>total</i>	612,698	45,822	8,087	51,610	115,785	98,130	319,434

Source - USDA FSA website (Expiring acreage statistics may not reflect recent contract enrollment/extension offers)

03.09.07mmb

Talking Points for Amendment to SB 123

- Still limits total acreage that can be enrolled to 100,000 acres.
- Only allows acres to be enrolled in CREP as they expire in traditional CRP, thereby reducing the economic impacts
- No net gain of idled acres.
- Still gains the aquifer benefits and reduces the potential economic impacts.
- Allows the program to get started now, but gradually. Potential infusion of \$155 Million Federal dollars of economic impact to the area.
- Voluntary Program.

CRP Statistics in CREP Area

County	County Cropland	CRP acres enrolled	Acres expired in FFY 2007	Estimated Acres Expiring in FFY 2008-2012	Percent of county acres currently enrolled in CRP
Hamilton	452,243	136,154	11,380	110,993	27.6%
Kearny	398,896	70,507	6,136	37,636	16.1%
Finney	599,096	85,719	2,491	29,461	13.9%
Gray	488,163	71,076	6,006	2,586	13.3%
Ford	543,059	86,259	3,663	16,467	15.2%
Edwards	317,936	36,809	2,677	18,570	10.7%
Pawnee	398,712	34,034	1,544	19,601	8.1%
Stafford	371,908	49,230	8,099	8,832	11.1%
Rice	419,781	26,167	603	6,915	5.4%
Barton	327,991	15,614	3,342	4,463	4.6%
Totals	4,317,785	611,569	45,941	255,524	

Senate Bill No. 123
Proposed New Section

New Sec. __. If any township in the counties of Meade, Seward, Morton or Stevens has an estimated useful lifetime of 100 years or more for the high plains aquifer in such township as determined by the division of water resources, the area shall be open to appropriation of new water rights. Such estimated useful life shall be based on groundwater trends from 1996 to 2006 and the minimum saturated thickness required to support well yields at 400 gpm under a scenario of 90 days of pumping with wells on one-quarter sections.

Note: Title to bill will be modified by adding "; concerning appropriations of water rights"

Sen. Huelskamp

Senate Natural Resources
March 13, 2007
ATTACHMENT 4