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MEMORANDUM

To: Chairman Powell & the Senate Committee on Natural Resources
From: Tamera Lawrence, Assistant Revisor of Statutes
Date: March 8, 2016
Subject: HB 2479—Noxious Weeds

House Bill 2479 amends existing noxious weed law and adds five new sections to such law, which would be known as the “noxious weed act.”

Section 1 provides the citation of the act and definitions of certain terms. The term “noxious weed” would mean any species of plant that the secretary determines to be a noxious weed in rules and regulations adopted by the secretary.

Section 2 allows the secretary to make an emergency declaration of noxious weeds and would establish the requirements for such a declaration. It would also require the secretary to call a meeting of the state advisory committee within 90 days of such emergency declaration.

Section 3 establishes the state noxious weed advisory committee. The committee would have 13 voting members. The bill provides for terms of office and duties of the state advisory committee, which would include reviewing the state weed management plan, recommending designation and classification of noxious weeds, reviewing rules and regulations, reviewing eradication and control methods and reporting expenditures of state funds on noxious weed control.

Section 4 provides for unlawful practices relating to noxious weeds and exceptions for research sanctioned by a state or federal agency or an accredited university or if specifically permitted by the secretary.

Section 5 requires all alfalfa, grass, hay or other forage, straw or mulch carried onto or used for any purpose within the boundaries of any lands owned or managed by the state government or any of its agencies to be certified as noxious weed free.

Sections 6 and 7 expire the current list of noxious weeds on December 31, 2017, and would require the secretary to adopt rules and regulations to declare which weeds of the state are noxious weeds. The secretary could not declare any species a noxious weed without the recommendation of the state advisory committee, except under an emergency declaration. The

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bill also allows a board of county commissioners, with the approval of the secretary, to publish a list of species to be controlled in the county. The board of county commissioners would be required to submit to the secretary for approval, the official methods for the control and eradication of such species. If any species listed by a board of county commissioners is later declared to be a noxious weed by the secretary, the methods of control adopted by the secretary supersede any county methods. Cost share chemicals would be made available. And on December 31, 2017 and every four years thereafter, the secretary would submit a report to the house committee on agriculture and natural resources and the senate committee on agriculture the list of weeds considered to be noxious weeds.

Section 8 strikes language that currently allows the secretary to designate any county as a sericea lespedeza disaster area and provides for the control and eradication of sericea lespedeza within the county after consultation with the board of county commissioners.

Section 9 places the responsibility for enforcement of the act in the board of county commissioners as to lands within the county. It would allow cities and townships to enter into agreements with the county to take upon themselves responsibility of enforcement of the act. The bill also changes how a county weed supervisor makes a survey of the infestations of noxious weeds. The weed supervisor would be required to make an annual survey of weed infestations and the approximate amount of land infested by October 31 of each year. The weed supervisor would also be required to compile data on areas eradicated and under treatment by March 15 of each year to the board of county commissioners for signatures and then to the secretary. The weed supervisor would also be required to prepare and submit a management plan for the coming year.

Section 10 strikes current law requiring the county commissioners and the governing body of cities to report to the secretary the extent and official method of control and eradication of noxious weeds to be undertaken in their jurisdiction.

Section 11 allows each county, city or township to either make a tax levy or set aside a portion of the county general fund to pay for the cost of control and eradication of noxious weeds. The bill also requires that all records relating to funds received into and spent from the noxious weed eradication fund and the noxious weed capital outlay fund be retained by the county for at least five years and shall be made available to the department upon request. The secretary would be required to collect information from each county on their weed budgets and expenditures and annually report such costs and expenditures to the legislature.

Section 15 increases fines for violations of the act from \$100 per day to \$200 per day up to a maximum fine of \$2,500.

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Section 17 amends current law regarding legal notice requirements to the owner and operator or supervising agent to noxious weed infested land and instead would require the secretary to adopt rules and regulations defining the legal notice to be given to such persons. Prior to issuing any legal notice, the bill allows the weed supervisor of the county to notify the owner, operator or supervising agent by electronic means of the noxious weed infestation in addition to the currently authorized notification via telephone call, personal contact or first class mail.

Various sections of the bill allow counties greater flexibility in financing their noxious weed programs. If the program is funded primarily through the county general fund, counties may accept payments into such fund and make payments out of such fund. If the program is funded from more than one source, all moneys collected shall be paid from each source in proportion to which it contributes to the noxious weed program. (Sections 9(d), 12(b), 13, 14(f), 17(b) and 18).

Section 18 allows counties to either collect up to 50% of the cost of treatment from a landowner or establish a payment plan for payment of the full amount of the lien over time.

The bill also repeals K.S.A. 2-1316a, 2-1325, 2-1326, 2-1327, 2-1328, 2-1329 and 2-1334.