

MINUTES OF THE SENATE NATURAL RESOURCES COMMITTEE

The meeting was called to order by Chairman Carolyn McGinn at 8:30 a.m. on February 1, 2007, in Room 423-S of the Capitol.

All members were present with the exception of Senator Terry Bruce.

Committee staff present:

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

Conferees appearing before the committee:

Proponents:

Steve Swafford, Director of Natural Resources, Kansas Farm Bureau
Greg Foley, Executive Director, Kansas Conservation Commission
Tracy Streeter, Director, Kansas Water Office
Mike Beam, Director, Kansas Livestock Association
Adrian Polansky, Secretary, Kansas Department of Agriculture (written only)

Opponents:

Mary Jane Stankewicz, Vice President and General Counsel, Kansas Grain and Feed Association and Kansas Agribusiness Retailers Association
Leslie Kaufman, Executive Director, Kansas Cooperative Council
Matt Johnson, Director of Feed Ingredient Procurement, Seaboard Foods
Thomas Palace, Petroleum Marketers Convenience Store Association of Kansas (written)
Tim Stroda, President and CEO, Kansas Pork Association (written)

Neutral:

Dana Peterson, Kansas Association of Wheat Growers
Don Whittemore, Kansas Geological Survey

Others attending:

See attached list.

Chairman McGinn had a bill pertaining to certain beverage containers that she had been asked to introduce by Senator Derek Schmidt. Senator Ostmeyer made a motion to introduce the bill, seconded by Senator Taddiken. The motion carried.

Senator Francisco introduced a bill that would revise the statutes regarding the method of destroying, controlling, and managing the prairie dogs. Senator McGinn made a motion to introduce the bill, seconded by Senator Wysong. The motion carried.

Chairman McGinn opened the hearing on **SB 123, Establishment of upper Arkansas river conservation reserve enhancement program**. Because of the large number of conferees, Chairman McGinn told the Committee that the first portion of the hearing would be an overview by Legislative Research staff, with the remaining time divided equally between the conferees. Conferees were asked to tell the Chairman if they were from out of town so that they would have the opportunity to testify.

Raney Gilliland, Kansas Legislative Research Department, explained **SB 123**, which authorizes the agreement with the federal government to establish a program called Conservation Reserve Enhancement Program (CREP). The program had been discussed in previous years and was resurfacing because of action taken by the Legislature last year. A line item from the appropriations bill is devoted to the Conservation Reserve Enhancement Program for about \$4.5 million. **SB 123** is the authorizing language for the agreement to occur for the Conservation Reserve Enhancement Program, which is an extension of the more common Conservation Reserve Program in southwest Kansas. The bill targets land along the Arkansas River, payments to landowners, and permanent dismissal of water rights by those individuals because this is irrigated land. The State of Kansas is the primary entity responsible for the allocation of water rights and would also be the decision making body with regard to the dismissal of water rights on properties in southwest Kansas. Land would be taken out of production for agricultural purposes for 15 years.

CONTINUATION SHEET

MINUTES OF THE Senate Natural Resources Committee at 8:30 a.m. on February 1, 2007, in Room 423-S of the Capitol.

Steve Swafford, Director of Natural Resources for Kansas Farm Bureau, testified as a proponent of **SB 123** (Attachment 1). Mr. Swafford told the Committee that many of the people in the audience were Farm Bureau members and on Farm Bureau's national environmental resources committee. Mr. Swafford addressed the issue of declining water levels in the High Plains aquifer from irrigated crop production and that permanent retiring of water rights will help slow the process of aquifer decline. The program would allow irrigated production to be extended for a longer period of time but on fewer acres. Kansas Farm Bureau believes the voluntary program may reduce the need for regulatory or court ordered action.

Farm Bureau's position is that the Conservation Reserve Enhancement Program may help cushion the economic losses to the region, with less severe economic impacts than allowing water to be used until depleted, or regulatory action by the Division of Water Resources to restrict water usage. Mr. Swafford told the Committee that the program offers the best opportunity to leverage state funds into federal funds.

Greg Foley, Executive Director, State Conservation Commission, testified as a proponent of **SB 123** (Attachment 2). Mr. Foley explained that the Conservation Reserve Enhancement Program (CREP) would be a joint agreement between the Kansas Water Office and the State Conservation Commission that, once established, would be administered and implemented by the State Conservation Commission.

Mr. Foley told the Committee that the voluntary program would enable landowners to receive incentive payments for setting aside irrigated land for soil and water conservation by retiring water rights. Conversion to native vegetation would be eligible for a contract period of 15 years. Mr. Foley told the Committee that all water rights will not be qualified for enrollment, but only those which have been used in three of the last five years and which have reported at or above 50% of their authorized quantities during that period. Because there is a potential for a large amount of water rights that could be involved, support personnel knowledgeable in developing and implementing agency rules and regulations would be required. Additionally, producers must be allowed opportunities to learn about the CREP, how they might be affected, and whether they choose to participate.

Tracy Streeter, Director, Kansas Water Office, testified as a proponent of **SB 123** (Attachment 3). Mr. Streeter told the Committee that the proposed bill is a collaboration with other agencies and organizations in developing a comprehensive proposal for a Conservation Reserve Enhancement Program (CREP) and is submitted per instructions of the 2006 Legislature. Mr. Streeter told the Committee that the bill addresses the documented serious water level declines along the Arkansas River valley, and without a voluntary, incentive based program, irrigators and the regional economy will be impacted with wells going dry as water levels continue to decline. He stated that CREP alone won't solve all the shortages, but will help slow the decades of water declines and help assure water for a viable western Kansas into the future.

Mike Beam, Director, Kansas Livestock Association, testified as a proponent of **SB 123** (Attachment 4). Mr. Beam told the Committee that the beef cattle industry depends on grain and forage, and a stable price level and availability of corn and hay. Taking productive irrigated land out of production is a concern to the industry, but in spite of these concerns the Kansas Livestock Association supports the use of the Conservation Reserve Enhancement Program (CREP) to address water right holders and business interests that benefit from a long-term supply of groundwater. He encouraged the Committee to support the CREP targeting the prioritizing of water rights retirement to 1) areas identified by the state as having an impact on interstate compliance; 2) portions of the Arkansas River where impairment actions are pending or likely to occur; 3) basins or sub-basins where an IGUCA order has been issued or proposed; and to include a mechanism to amend CREP contracts to allow dryland farming if changes at the federal level allow.

Don Whittemore, Kansas Geological Survey, provided information on the effects of pumping in the Upper Arkansas Basin and the effects of the Conservation Reserve Enhancement Program (Attachment 5). The handout contained graphs showing the water level declines and the estimated usable lifetime for the High Plains aquifer; groundwater levels relative to the Arkansas River; sulfate concentrations in the High Plains aquifer; predicted migration of saline groundwater along the Arkansas River corridor; estimated usable lifetime of the High Plains aquifer; and water quality of the Arkansas River at the Colorado-Kansas state line. The CREP could extend the usable lifetime of the aquifer, slow the rate of saline water migration, and slow groundwater declines.

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Tom Thompson testified as a proponent on behalf of the Sierra Club ([Attachment 6](#)). Mr. Thompson told the Committee that creating a joint federal and state program to decrease water usage would help the health of the Arkansas River and its tributaries, re-establish prolific habitation of migrating wildlife, and improve the quality of life for all Kansans.

Adrian Polansky, Secretary of Agriculture, Kansas Department of Agriculture, provided written testimony in support of **SB 123** ([Attachment 7](#)).

Mary Jane Stankiewicz, Vice President and General Counsel for the Kansas Feed and Grain Association and the Kansas Agribusiness Retailers Association, provided testimony opposing **SB 123** ([Attachment 8](#)). Ms. Stankiewicz rebutted the state's claim that water would be saved by instituting a CREP program, when in fact the water from the rights forfeited could be used by the surrounding water right users. Ms. Stankiewicz cited an economic impact study done by KSU last year that concluded the CREP program would result in a decrease in household income, loss of tax revenues, job losses, and would take 30-40 years to rebound. She told the Committee there are other options to save water, but do not have large amounts of federal matching funds attached to them. Ms. Stankiewicz urged the Committee to focus on programs that actually save water and do not wreck the local economies of at least ten counties.

Leslie Kaufman, Executive Director, Kansas Cooperative Council, testified in opposition to **SB 123** ([Attachment 9](#)). Ms. Kaufman detailed the Kansas Cooperative Council position of opposing a Conservation Reserve Enhancement Program until dryland farming is allowable on CREP acres. The main issues for opposition to the program are the negative economical impact on the region, the lack of enforcement and oversight mechanisms, taking land out of production in areas that are historically heavy grain production, and lower agriculture property valuations.

Matt Johnson, Director of Feed Ingredient Procurement for Seaboard Foods, presented testimony in opposition to **SB 123** ([Attachment 10](#)). Mr. Johnson told the Committee that Seaboard Foods produces hogs in Western Kansas and much of its operation depends on the availability of grain grown locally to process into feed in Seaboard's own feed mills. Taking land out of grain production through the CREP program affects not only pork production, but affects the expanding ethanol industry in the western corn belt, impacts negatively the rural communities' economies, increases taxes on Seaboard and other industries, and reduces the quality of life in some rural communities.

Thomas Palace, Executive Director of the Petroleum Marketers and Convenience Store Association of Kansas, offered written testimony in opposition to **SB 123** ([Attachment 11](#)). Mr. Palace proposed that if the CREP becomes reality, that the Committee advance this issue to the congressional level to allow dryland farming to offset the negative impact of taking farmland out of production.

Tom Stroda, President and CEO of the Kansas Pork Association, provided testimony in opposition to **SB 123** ([Attachment 12](#)). Mr. Stroda told the Committee that because of the rapidly expanding ethanol industry, demand for grain has grown dramatically, and the production costs of the Kansas Pork Industry has risen 25 percent in a few months. Mr. Stroda explained that the CREP program penalizes the pork producers through increased taxes, and urged the Committee to vote no on **SB 123**.

Dana Peterson, Producer Policy Specialist, Kansas Association of Wheat Growers, presented testimony neutral on **SB 123** ([Attachment 13](#)).

Chairman McGinn told the conferees and others attending that **SB 123** will probably be worked the week after next and that the hearing will be left open for questions at that time.

Chairman McGinn adjourned the Committee meeting at 9:35 a.m.

The next meeting will be on Friday, February 2.