

MINUTES OF THE HOUSE AGRICULTURE & NATURAL RESOURCES COMMITTEE

The meeting was called to order by Chairman Larry Powell at 9:00 a.m. on March 10, 2011, in Room 783 in the Docking State Office Building.

All members were present except:

Representative Rocky Fund - Excused  
Representative Michael Peterson - Excused

Committee staff present:

Sean Ostrow, Office of the Revisor of Statutes  
Raney Gilliland, Kansas Legislative Research Department  
Michael Wales, Kansas Legislative Research Department  
Kay Scarlett, Committee Assistant

Conferees appearing before the Committee:

Karl Brooks, Regional Administrator, Region VII, U.S. Environmental Protection Agency  
Josh Svaty, Senior Advisor, Region VII, U. S. Environmental Protection Agency  
Randy Stookey, Staff Attorney, Kansas Department of Agriculture  
Leslie Kaufman, President/CEO, Kansas Cooperative Council

Others attending:

See attached list.

Chairman Powell welcomed the Kansas Environmental Leadership Program class from K-State Research and Extension that were in attendance.

Copies of the January 2011 *American Stewards Digest* were distributed. *American Stewards Digest* is published by American Stewards of Liberty, a nonprofit organization that works to protect the property rights of America's landowners.

Karl Brooks, Regional Administrator, and Josh Svaty, Senior Advisor, Region VII, U. S. Environmental Protection Agency, addressed the committee and provided an overview the the Environmental Protection Agency. The EPA was formed in 1970 by the Nixon Administration in an effort to give support to the states and reduce the patchwork of environmental regulation throughout the country. Most of the actual work of regulation is conducted by the states. The EPA is organized into ten regional offices throughout the country; Kansas is in Region VII headquartered in Kansas City, Kansas. As an agency within the executive branch of the federal government, they are subject to the President and Congress, and cannot act without statutory authority.

The Environmental Protection Agency does not have a specific division designated for agriculture or one program focused on regulating agriculture. Agriculture will meet environmental regulation through one or a combination of several statutes. Several programs that interact with the agriculture community include Air and Waste Management, Environmental Services, Superfund, Water, Wetlands, and Pesticides. In Kansas the EPA works most closely with the Kansas Department of Health and Environment, but also with the Kansas Department of Agriculture. As with any federal agency, their primary purpose is to fulfill their statutory responsibility of maintaining the public health of all Americans and the environmental health of our natural resources. (Attachment 1)

**Hearing on SB 186 – Pesticides; hearing prior to denial, suspension or revocation of license, registration or certification.**

Chairman Powell opened the hearing on **SB 186**. Sean Ostrow, Office of the Revisor of Statutes, explained that this bill would repeal KSA 2-2451, which provides notice of a hearing prior to denial, suspension, or revocation of a pesticide business license, governmental registration, or applicator's certification. The bill would allow the Secretary of Agriculture discretion in suspending a pesticide business license without a hearing until compliance is reached if a pesticide business does not employ one or more commercial applicators who are certified in each type of commercial pesticide application which the pesticide business applies. Currently, the law states the Secretary must suspend the license if the pesticide business is not in compliance with the law.

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Randy Stookey, Staff Attorney, Kansas Department of Agriculture, testified in support of **SB 186** and explained that during the 2010 Legislative Session various statutes regarding pesticide business licenses were amended and signed into law. This bill would repeal KSA 2-2451 which is in conflict with the statutes that were amended in 2010. The Department concurs with the Senate amendment in KSA 2-2450, as proposed by the Kansas Cooperative Council and the Kansas Agribusiness Retailers Association, to change the mandatory suspension language "shall suspend" to the more permissive language "may suspend," if a pesticide business licensee fails to employ a commercial applicator certified in the appropriate category. (Attachment 2)

Leslie Kaufman, President/CEO, Kansas Cooperative Council, on behalf of of the KCC and the Kansas Agribusiness Retailers Association, appeared in support of **SB 186** that would repeal KSA 2-2451 as it duplicates other provisions within the act. They support the modification in KSA 2-2450 that would give the Kansas Department of Agriculture Secretary discretion to suspend, without a hearing, the pesticide business license for that category until the pesticide business employs a commercial applicator with the appropriate certification. (Attachment 3)

There being no other conferees, the Chairman closed the hearing on **SB 186**.

### **Discussion and action on SB 123 – Establishing fees for wildlife and parks cabins.**

Chairman Powell opened discussion on **SB 123** and asked Raney Gilliland, Kansas Legislative Research Department, to review the bill. He explained that **SB 123** would change existing law to allow the Secretary of the Department of Wildlife and Parks, with the approval of the Kansas Wildlife and Parks Commission, to directly set fees for the use of cabins owned or operated by the Kansas Department of Wildlife and Parks, exempting the setting of cabin fees from the rules and regulations process. Maximum fees for use of KDWP cabins could not exceed \$250 per night; \$1,500 per week; and \$5,000 per month.

Representative Brookens moved to recommend SB 123 favorably for passage. The motion was seconded by Representative Grant.

Representative Kerschen moved to amend SB 123 on page 1, line 14, to set a maximum of \$1,000 per week. Seconded by Representative Prescott, the motion failed. Discussion ensued.

The motion by Representative Brookens, seconded by Representative Grant, to recommend SB 123 favorably for passage carried.

### **Discussion and action on HB 2357 – Arkansas River Gaging Fund.**

Chairman Powell opened discussion on **HB 2357**. Raney Gilliland, Kansas Legislative Research Department, explained that this bill would establish the Arkansas River Gaging Fund that would be administered by the Secretary of the Kansas Department of Agriculture. All expenditures from the fund would be for the operation and maintenance of the gages along the Arkansas River necessary to manage water levels in the river under the Arkansas River Compact. In addition, royalties from the state's oil and gas leases in Hamilton, Kearny, Finney, Gray, and Ford Counties would be deposited in the Arkansas River Gaging Fund. He noted that a technical amendment would be needed on page 1, line 8, to strike "Kansas-Colorado."

Representative Brookens moved to recommend HB 2357 favorably for passage. The motion was seconded by Representative Hayzlett.

Representative O'Hara moved to amend HB 2357 on page 1, line 14, to put a cap of \$75,000, annually, on royalty moneys from the state's oil and gas leases in the five counties to be credited to the Arkansas River Gaging Fund. Also, to amend HB 2357 on page 1, line 8, to strike "Kansas-Colorado" as proposed by staff. Seconded by Representative Arpke, the motion carried.

Representative Moxley moved to amend HB 2357 to state that after all expenditures are made during the fiscal year for the operation and maintenance of the gages along the Arkansas River necessary to manage the river under the Arkansas River Compact, any remaining moneys to be expended from the fund for the

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fiscal year shall be expended for the purposes of livestock market reporting, not to exceed \$20,000 in a fiscal year; and second if there are any remaining moneys authorized to be expended from the fund for the fiscal year after the expenditure for livestock market reporting, then expenditures shall be made from the fund for the purpose of funding the blue stem pasture report in an amount not to exceed \$5,000 in a fiscal year. The motion was seconded by Representative Brookens.

Due to the complicated nature of the amendment, the Chairman requested that the revisor draft the new language before the committee votes on the proposed changes to **HB 2357**.

The meeting adjourned at 10:45 a.m. The next meeting of the House Agriculture & Natural Resources Committee is scheduled for March 11, 2011.