

**Testimony in Support of SB 40
to the Senate Committee on Agriculture and Natural Resources
by Kenneth Titus, Chief Counsel
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Good morning Chairman Kerschen and members of the committee. I am Kenneth Titus and I serve as Chief Counsel for the Kansas Department of Agriculture (KDA). Thank you for this opportunity to provide testimony in support of Senate Bill 40.

Senate Bill 40 provides a general cleaning up and updating of all statutes that are administrated by KDA's Division of Conservation. In 2012 the State Conservation Commission was merged into KDA pursuant to K.S.A. 74-5,126. As is common with executive reorganization orders, K.S.A. 74-5,127 established the Secretary of Agriculture as the successor of all powers previously held by the State Conservation Commission and all references to State Conservation Commission were to be deemed to apply to the newly formed Division of Conservation within KDA and under the direction of the Secretary of Agriculture. Finally, K.S.A. 74-5,128 declares that the State Conservation Commission was to be continued in existence within the Division of Conservation with respect to those powers, duties, and functions that were transferred.

This continuation in existence of the State Conservation Commission, while at the same time substituting almost all references to the State Conservation Commission with the Division of Conservation, has made it difficult to understand plainly what the Conservation Districts Law (K.S.A. 2-1901 *et seq.*) requires of which entity. These laws are even more confusing because many of these statutes were long overdue for a general cleanup, as references still exist to the State Conservation Commission's predecessor, the State Soil Conservation Committee. Therefore, KDA staff and the State Conservation Commission conducted a review of the Conservation Districts Law and clarified what each reference should be throughout these statutes. We believe these amendments clarify the role of the State Conservation Commission, the Division of Conservation, and the Secretary of Agriculture and allow the State Conservation Commission to continue to contribute in a meaningful way as a program policy board.

Along with the many references that were clarified, the mission of the Division of Conservation and the local conservation districts was also clarified. As the type of projects necessary to protect the health of the state's natural resources has evolved, it is important to clarify that it is proper for conservation districts to focus on water quality projects, control of invasive plant species, and soil and grassland health.

Finally, the Division of Conservation also administers the Surface-Mining Land Conservation and Reclamation Act. This Act provides for the restoration of surface mining sites once production at a site is completed. As this program has moved from agency to agency over the course of time, its statutes had also become outdated. Therefore, we have proposed updates that

will make it easier to commence the bond forfeiture procedure when needed, clarified the enforcement and appeal process to be consistent with KDA programs, and removed the reference to enforcement by the Attorney General as the Division of Conservation is served by KDA's legal staff.

Based upon comments from the Kansas Department of Health and Environment (KDHE), we would suggest an additional amendment to K.S.A. 2-1908(h), found in Sec. 5 of page 9 in Senate Bill 40 to clarify that local conservation districts cannot unilaterally act in place of KDHE regarding water quality projects. The additional changes are in italics and underlined.

(h) to take over, by purchase, lease, *gift*, or *donation* ~~otherwise~~, and to administer, any soil-conservation, erosion-control, ~~or soil and grassland health~~, erosion-prevention, flood prevention, *water quality* or water management project located within its boundaries undertaken by the United States or any of its agencies, or by this state or any of its agencies *subject to the authority of the authorizing state or federal agency*; to manage, as agent of the United States or any of its agencies, or of this state or any of its agencies, any soil-conservation, erosion-control, or erosion-prevention, flood prevention or water management project within its boundaries; to act for the district or as agent for the United States, or any of its agencies, or for this state or any of its agencies, in connection with the acquisition, construction, operation, maintenance, or administration of any soil- conservation, erosion-control, ~~or soil and grassland health~~, erosion- prevention, flood prevention, *water quality* or water management project within its boundaries; to accept donations, gifts, and contributions in money, services, materials, or otherwise, from the United States or any of its agencies, or from this state or any of its agencies, and from persons, firms, corporations or associations, and to use or expend such moneys, services, materials, or other contributions in carrying on its operations;

Last session this bill passed the House by a vote of 125-0 and was recommend for approval by this committee before the session was halted.

Thank you for the opportunity to testify in support of Senate Bill 40. KDA believes adoption of this bill will clarify operation of the Division of Conservation and provide a much-needed modernization of the Conservation Districts Law and related acts.