

Approved: 03/06/12  
Date

## MINUTES OF THE SENATE AGRICULTURE COMMITTEE

The meeting was called to order by Chairman Mark Taddiken at 8:40 a.m. on February 8, 2012, in Room 159-S of the Capitol.

All members were present except:  
Senator Steve Morris- excused

Committee staff present:  
David Wiese, Office of the Revisor of Statutes  
Jason Thompson, Office of the Revisor of Statutes  
Laura Jurgensen, Kansas Legislative Research Department  
Abigail Boudewyns, Kansas Legislative Research Department  
Judy Seitz, Committee Assistant

Conferees appearing before the Committee:  
Clancy Holeman, Riley County Counselor  
Greg Foley, Executive Director, Division of Conservation, Kansas Department of Agriculture (KDA)  
Michael Irvin, Staff Attorney, Kansas Farm Bureau (KFB)  
Patrick Lehman, Executive Director, Kansas Association of Conservation Districts (KACD)  
Melissa Wangemann, General Counsel & Director of Legislative Affairs, Kansas Association of Counties (KAC)  
Aaron Popelka, Vice President Legal & Governmental Affairs, Kansas Livestock Association (KLA)  
Others attending:  
See attached list.

Chairman Taddiken opened the hearing on **SB 357 – Wind erosion; duties of county commissioners, conservation districts.**

David Wiese, Office of the Revisor of Statutes, briefed the Committee on **SB 357**.

Clancy Holeman, Riley County Counselor, testified on behalf of the Board of Riley County Commissioners. He spoke in support of **SB 357** in its amended form. (Attachment 1) He said the amended form is a collective work of Riley County, the Kansas Association of Counties (KAC), Kansas Farm Bureau (KFB) and the Kansas Livestock Association (KLA). Mr. Holeman said that under the proposed revisions county commissioners will retain their authority to address blowing dust whenever it represents a threat to public safety. He said that all other complaints involving less serious situations will be first vetted by the local soil conservation district. Mr. Holeman took questions.

Greg Foley, Executive Director, Division of Conservation, Kansas Department of Agriculture (KDA), spoke in support of **SB 357**. (Attachment 2) He said this bill would provide a methodical procedure for conservation districts to provide written recommendations, when requested, to county commissions on best management practices to address soil erosion caused by wind. He also noted that the conservation

## CONTINUATION SHEET

MINUTES OF THE Senate Agriculture Committee at 8:30 a.m. on February 8, 2012, in Room 159-S of the Capitol.

districts shall act only in an advisory capacity and any authority for corrective action is the responsibility of county commissions. Mr. Foley answered questions from the Committee.

Michael Irvin, Staff Attorney, Kansas Farm Bureau (KFB), offered testimony in support of **SB 357**. (Attachment 3) He said that this bill provides the Commissioners emergency powers to act in urgent situations. He also said that this bill provides a process that will allow parties that are disputing blowing dirt (non-emergency situation) to seek assistance from the local conservation district boards who can then tap into the assistance of the Natural Resources Conservation Service (NRCS) experts. This provides the sound science and a reasonable process that the KFB seeks instead of a potentially arbitrary decision rendered by the Commissioners. Mr. Irvin offered to take questions.

Patrick Lehman, Executive Director, Kansas Association of Conservation Districts (KACD), testified in support of **SB 357**. (Attachment 4) He said that the county conservation districts' duties and authorities provide for the comprehensive planning and guidance to landowners and other entities to prevent soil erosion by wind and other means and the KACD encourages conservation districts to work closely with county commissioners to resolve natural resource concerns such as water and wind erosion. Mr. Lehman offered to stand for questions.

Melissa Wangemann, General Counsel and Director of Legislative Affairs, Kansas Association of Counties (KAC) spoke in favor of **SB 357** with the proposed amendments. (Attachment 5) The KAC welcomes the requirements for scientific-based evidence in deciding the issue of blowing dirt and believes the new references to the NRCS and the assistance provided by the local conservation district will help commissioners protect the public without burdening landowners.

### **Written Testimony in support of the bill:**

Alvan Johnson, Chairman, Riley County Board of Commissioners (Attachment 6)

Aaron Popelka Vice President of Legal and Governmental Affairs, Kansas Livestock Association (KLA) offered testimony in opposition to **SB 357**. (Attachment 7) He said the changes proposed will accomplish the goals of limiting government intervention on private property and make certain that if any intrusion occurs, it is based on necessity and sound science. Mr. Popelka also stated that the substitute amendment sets forth a structure that allows immediate action by the county commission only if the situation "poses an extreme and immediate physical danger to public safety." Mr. Popelka took questions from the Committee.

Chairman Taddiken said that Mr. Popelka's testimony should have been listed as a proponent or neutral with amendments.

A copy of proposed amendments to **SB 357** was distributed. (Attachment 8)

Chairman Taddiken closed the hearing on **SB 357**.

The next meeting is scheduled for February 14, 2012. The meeting was adjourned at 9:30 a.m.