

MINUTES OF THE SENATE NATURAL RESOURCES COMMITTEE

The meeting was called to order by Chairman Carolyn McGinn at 8:30 a.m. on February 16, 2007, in Room 423-S of the Capitol.

All members were present.

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:

Others attending:

See attached list.

Chairman McGinn brought the minutes of the February 1, 2, 8, and 9 before the Committee for approval. Senator Taddiken made a motion, seconded by Senator Ostmeyer to approve the minutes. The motion carried.

Chairman McGinn called the Committee's attention to balloon amendments on **SB 15, Establishing the Kansas dam rehabilitation program to provide cost-share assistance to rehabilitate certain deficient dams**, which had been previously distributed for the members' review.

Chairman McGinn told the Committee they would discuss **SB 123, Establishment of upper Arkansas river conservation reserve enhancement program (CREP)**, until about 9:20 and stop the discussion in order to take up **SB 15** again in hopes of moving it out of Committee.

Discussion resumed on **SB 123** and Chairman McGinn called attention to written testimony submitted by Groundwater District No. 3 (Attachment 1), and from Big Bend Groundwater Management District No. 5 in favor of **SB 123** (Attachment 2).

Senator Ostmeyer brought amendments to **SB 123** before the Committee (Attachment 3), one of which contained changes in certain bill language, and made a motion to move his amendment. There were questions by Committee members, and Chairman McGinn asked the Committee to discuss related amendments to see what could be grouped together.

Senator Huelskamp asked David Pope of the Kansas Water Office if the money received from the Colorado settlement was for the impacted area, and Mr. Pope responded that the area included for damages was from the Colorado state line to Garden City, which included an area north and south of the river thought to be in the CREP area.

Senator Ostmeyer explained his second amendment and stated that dryland crops should be allowed to be planted in these CREP areas. Senator Lee asked for clarification of the term "agricultural commodity" under the CRP program and if the definition excludes grass and cattle. Senator Ostmeyer answered that the term would include grain or grain products, but the Committee as a whole should be able to determine and have flexibility regarding grassland and grazing of cattle.

Senator Ostmeyer explained his third amendment which stated that no money would be expended on the CREP until it is appropriated by the Legislature, with a signed negotiated agreement with the USDA and the State of Kansas and presented to the Legislature, and the rules and regulations of the program presented to the Legislature. Senator Ostmeyer told the Committee he was concerned about an article in the Dodge City newspaper advertising for sign-up to the program which is not yet in effect and for which no money has been appropriated.

Senator Taddiken asked Senator Ostmeyer for clarification of the intent of his third amendment in which the wording "presented to the Legislature" should have "and approved" added. Senator Ostmeyer agreed that wording could be added after further discussion of the amendments.

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Chairman McGinn offered her amendments which she said could work in conjunction with those by Senator Ostmeyer, and passed copies to Committee members (Attachment 4). Chairman McGinn explained the priority status language of her amendments and interpretation of federal law allowing it.

Senator Lee asked Tracy Streeter if money was appropriated for the proposed program, whether it could go into effect before next session. Mr. Streeter said he believed that Senator Ostmeyer's amendment would preclude use of the money before the next session, but that Chairman McGinn's would not. Senator Taddiken asked Mr. Streeter if the money came from the Colorado settlement and whether it could be used statewide rather than the affected area, and Mr. Streeter answered that the money had no restrictions. Senator Ostmeyer asked how quickly the federal money would be available, and Mr. Streeter said it is already available.

Chairman McGinn asked the Committee if there was agreement that the higher priority area is from Garden City west. There was discussion on whether Pawnee County should be added to the CREP area. Senator Ostmeyer remarked that the Committee needs to start somewhere and the small amount of money available needs to fix a big problem, so the area west of Garden City is a good start. Chairman McGinn told the Committee that as a compromise, with federal money and the Colorado money combined, they could move forward the Finney County west area with or without dryland farming. Senator Ostmeyer stated that if they move forward the money will be coming in and they could come back next year and rework provisions.

In response to questions, David Pope told the Committee that the affected area went through Finney County, not just to Garden City. Senator Taddiken remarked that he had looked at a geological survey map and it appeared the area extending from Gray County west would be in the affected area. The areas closed for further appropriation include those beyond the Great Bend area to the Colorado line, and the rules affect all of the proposed CREP area.

Chairman McGinn recommended to the Committee that her amendment could allow dryland farming if determined at a later date. Chairman McGinn stated that we could start receiving federal dollars in the most affected areas as a first priority for the money. Putting everything else in the secondary priority could make it contingent on dryland farming.

Chairman McGinn said once a first priority area has been designated, the Committee would know the impact of CREP and how far the dollars will go. This is a new program that can be changed year to year to best address the water usage. She asked for any further amendments. Senator Huelskamp passed out copies to the Committee (Attachment 5). Provisions of the amendments included the following: if the CREP program goes forward, prohibit any IGUCA in the CREP areas; clearly define water rights; and lands enrolled in CRP cannot not roll over into CREP. Chairman McGinn appointed a subcommittee of Senators Huelskamp, Lee, Francisco and McGinn to work together on some of the issues discussed before proceeding.

Chairman McGinn closed discussion on **SB 123**.

Discussion was opened on **SB 15**. Art Griggs passed out amendments from Senators Francisco and Huelskamp (Attachment 6). Senator Huelskamp explained his amendment that would ensure that money is focused on private individuals and not government entities. There was a motion by Senator Huelskamp, seconded by Senator Taddiken to accept the ballon to the Senator Huelskamp's amendment.

Senator Francisco expressed concern that small cities and towns located in a county without zoning would be impacted by development outside their city limits if the status of a dam changed, and that those small cities would not receive funds to repair the dam. Senator Taddiken told the Committee that he would be willing to work with staff to come up with an amendment that would exempt small cities of a certain class from having the burden of dam repair without assistance to pay for the repair.

A motion was made by Senator Taddiken, seconded by Senator Bruce, to approve **SB 15** as amended. The motion carried.

Chairman McGinn called the Committee's attention to the handout on the hunting incident report submitted by Chris Tymeson of Kansas Wildlife and Parks (Attachment 7), and that they would discuss it at the next Committee meeting. Chairman McGinn told the Committee they would be meeting on Tuesday, February

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20, to wrap up bills pending before the Committee.

The meeting adjourned at 9:30 a.m.