

**Testimony in Support of HB 2583 to
The House Agriculture and Natural Resources Committee
By Chad Bontrager
Kansas Department of Agriculture
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Chairman Hoffman and members of the committee, I am Chad Bontrager, director of the Division of Agribusiness Services for the Kansas Department of Agriculture (KDA). KDA is responsible for administering the Kansas Noxious Weed Law. Noxious weeds are a threat to the Kansas environment as they displace native plant species, interfere with the production of agricultural crops, increase erosion, destroy wildlife habitat and decrease property values.

HB 2583 targets three areas for improvements in the Kansas Noxious Weed Law. The following information covers the proposed changes.

HB 2583 creates the Kansas Noxious Weed Advisory Committee and places the state noxious weed list under regulation.

- Weeds will be added to or removed from the noxious weed list upon recommendation of the advisory committee to the Secretary of Agriculture and promulgation of regulations by the Secretary.
- There are currently 12 weeds on the noxious weed list in statute. This list will expire on Dec 1, 2020, in order to give KDA time to add these weeds into regulation and prevent a gap in coverage.
- The advisory committee will consist of 11 members appointed by the Secretary. The committee will represent landowners, weed scientists, county weed directors and herbicide businesses that will provide science-based recommendations on the control of noxious weeds.
- The expertise of this committee of individuals, who have an extensive and working knowledge of the management of weeds, will guide and advise the Secretary, providing an improved response to potentially noxious weeds in terms of eradication and control. This advisory committee will also provide for a thorough, scientific and objective evaluation of weeds under consideration.

HB 2583 makes changes to the Kansas Noxious Weed Law that will streamline the administration of the law by KDA and county weed departments.

- The bill gives counties the ability to more effectively manage the money for the noxious weed program through their general fund, if they so choose, and allows for money to be carried over from year to year for noxious weed control activities.
- County commissioners, weed directors and KDA are more fully incorporated into the requirements for weed management activities and reporting, so that all parties can be more knowledgeable of the processes.
- HB 2583 will also allow counties to either collect up to 50 percent of the cost of treatment from a landowner through property taxes or negotiate a payment plan and return money to the noxious weed capital outlay fund in a more timely manner.

- Counties are given the ability to have county-specific noxious weeds, if they so choose. HB 2583 clarifies that counties are responsible for the control of all noxious weeds within the county border unless that responsibility has been taken on by a city or township.
- The bill clarifies the records retention process for counties and KDA. HB 2583 gives landowners added protection and improves compliance with the noxious weed law by increasing the penalty for violations to \$200 per day.

HB 2583 updates the Kansas Noxious Weed Law in order to accommodate the changes outlined above, as well as address outdated and unused provisions.

- The option for a declaration of sericea lespedeza disaster area is removed, along with the requirement for conducting research on sericea lespedeza control.
- The outdated reference to the Division of Noxious Weeds is removed.
- The requirement that KDA pay a quarter of the county weed directors' salaries is removed.
- The section of the noxious weed law requiring weed supervisors to file a surety bond is removed.
- County commissioners will no longer be required to submit an annual report.
- Notification requirements are updated to allow for the use of websites and email.

Many members of the committee are familiar with this bill, as it has been heard under different bill numbers in previous sessions. In each of those sessions there has been some opposition based on a variety of issues. Most of these issues have had something to do with noxious weeds; few have been directly related to the bill itself.

In October 2017, KDA hosted an open meeting for anyone interested in talking about noxious weeds and associated issues. We specifically invited people we received comments from over the past several years, and tailored the agenda to work through all their concerns. We had good attendance and the list of topics was wide-ranging including better noxious weed control on public lands, what to do about old world bluestem and its presence in native pasture, alternatives to pesticide use for the control of weeds, and many more issues. When the group's discussion focused specifically on the proposed changes to the Kansas Noxious Weed Law and concerns they had, it boiled down to the issue of increased authority for the Secretary of Agriculture.

KDA's offer to the group in October was to look for a method of oversight from the Legislature related to the noxious weed list promulgated by the Secretary. Our first thought, and a solution that I believe would have satisfied the group, was to have legislative ratification of the noxious weed list. Basically the Kansas Noxious Weed Advisory Committee would make a recommendation to the Secretary, the Secretary would promulgate the regulation with the noxious weed list, and the Legislature would then either approve the list or not.

KDA was comfortable with this approach but as we began to work on the legislation, we were led to understand that it would be unconstitutional. The discussed legislative ratification would violate the separation of powers because the Legislature could not give authority to the executive branch, then countermand that authority.

Based on this discovery, the solution we have arrived at — and that is included in HB 2583 — is that the Secretary must report the list of noxious weeds to the Legislature. In section 6 (c) of the bill, it states that the Secretary will report the proposed list of noxious weeds to the Legislature prior to adopting rules and regulations. This does not prohibit the Secretary from going ahead with the regulations, but does at least make the Legislature aware and gives them the opportunity to express any concerns to the Secretary. While not ideal in the eyes of all stakeholders, we do believe this is a workable compromise.

The other issue of concern with the stakeholder group was the makeup of the Kansas Noxious Weed Advisory Committee. While we believe the proposed members of the committee to be a satisfactory place to start, we are also open to modifications. Previous suggestions have included a representative from the Kansas Biological Survey and a specialty crop grower; both would be acceptable additions to the committee from our perspective. From an effectiveness standpoint, we would like to keep an odd number of members and the size of the committee to not get much larger.

In addition to addressing this bill with the stakeholder group, we also committed to a couple of other activities not directly related to the bill but certainly related to the noxious weed discussion. KDA has agreed to begin work on quarantining old world bluestem seed and we have a draft of that quarantine that we are moving through the process of implementation. We also committed to a thorough review of the approved noxious weed control methods, specifically looking to include more alternatives to pesticide use and to include a broader group of stakeholders in that review process. The control methods are set in regulation and we will begin that review this summer once we know the outcome of this bill.

Thank you for the opportunity to testify in support of HB 2583 and the proposed changes to the Kansas Noxious Weed Law. These changes are important to improving the eradication and control of noxious weeds in Kansas. I will stand for questions at the appropriate time.