

MINUTES OF THE HOUSE COMMITTEE ON AGRICULTURE.

The meeting was called to order by Chairman Dan Johnson at 3:30 p.m. on March 7, 2001, in Room 423-S of the Capitol.

All members were present except: Representative Flora - absent
Representative Hutchins - excused

Committee staff present: Raney Gilliland, Legislative Research Department
Gordon Self, Revisor of Statutes Office
Kay Scarlett, Committee Secretary

Conferees appearing before the committee:

Jamie Clover Adams, Secretary, Kansas Department of Agriculture
Steve Woolington, Director, Division of Operations, Kansas Department of Transportation
Randy Allen, Executive Director, Kansas Association of Counties
Tracy Lasher, Reno County Noxious Weed Director, and President, County Weed Director Association of Kansas
Rodney Biesenthal, Pottawatomie County Noxious Weed Director
Russ Frey, Riley County Commissioner
Kerri Ebert, Chairman, Kansas Agricultural Alliance
Bill Fuller, Associate Director, Public Policy Division, Kansas Farm Bureau
Doug Wareham, Kansas Fertilizer and Chemical Association and Kansas Grain and Feed Assn.
Mike Beam, Executive Secretary, Cow-Calf/Stocker Division, Kansas Livestock Association
Chris Wilson, Kansas Seed Industry Association and Kansas Agricultural Aviation Association
Joe Lieber, President, Kansas Cooperative Council

Others attending: See attached list

Hearing on HB 2468 - Enacting the land stewardship and productivity act.

Chairman Johnson opened the hearing on **HB 2468**. Raney Gilliland explained that **HB 2468** to be known as the Land Stewardship and Productivity Act would rewrite and update Kansas noxious weed law. The bill defines "responsible party" and establishes three categories and two subcategories of noxious weeds. The Kansas Department of Agriculture would be required to adopt, through rules and regulations, an official control plan for each noxious weed identified in the state and to adopt official methods for the management of noxious weeds.

The bill would require that each county weed director prepare a weed management plan and offer a financial incentive for the control of noxious weeds in the containment category and primary management subcategory. The county may offer a financial incentive for the control of noxious weeds in the secondary management subcategory and offer for sale products and materials for the control and management of noxious weeds. The bill provides for both criminal and civil penalties for failure to control and manage noxious weeds. Hay used as mulch on public lands or along public right-of-way must be certified to be free of noxious weeds. A number of drafting errors in the bill were identified.

Jamie Clover Adams, Secretary, Kansas Department of Agriculture, appeared in support of **HB 2468** providing a history of the current noxious weed law which has had no major changes since it was enacted in 1937. She explained that a group of Kansans from various organizations, facilitated by KDA staff, began meeting in January 1999 to review the current law and develop proposals to improve the control and management of noxious weeds in Kansas. Included with her testimony is a balloon containing technical amendments and clarification of the proposed language. (Attachment 1)

CONTINUATION SHEET

Steve Woolington, Director, Division of Operations, Kansas Department of Transportation, discussed the requirements in **HB 2468** that pertain to the control and management of noxious weeds that infiltrate public right-of-ways and the use of certified mulch. Because of the limited availability of certified mulch and time frames associated with letting of projects, KDOT asked for an amendment that would allow them sufficient time to phase in the use of certified mulch. KDOT could support this bill provided that all projects let before January 1, 2002, were excluded from this provision. ([Attachment 2](#))

Randy Allen, Executive Director, Kansas Association of Counties, expressed support for **HB 2468**. He reported that from a financial perspective, county budgets reflect an annual investment of about \$18 million in noxious weed programs, compared to approximately \$200,000 in state funds appropriated for program oversight. The Kansas Association of Counties supports enactment of a standard classification system based on acreage of noxious weeds in each county to enable prioritization of resources to eradicate noxious weeds, as long as financial incentives for various control practices are locally determined and that the list of state-declared noxious weeds continues to be accomplished by legislative enactment. KAC also supports strengthened enforcement penalties. ([Attachment 3](#))

Tracy Lasher, Reno County Noxious Weed Director and President of the County Weed Director Association of Kansas, appeared in support of **HB 2468**. Their association feels the minimum and maximum acres for the classifications may be too low and deserves more study. The Association supports the practice of listing noxious weeds through the legislative process; believes the cost share certificate program should remain a county option; supports strengthened enforcement strategies; supports greater collaborative efforts involving counties, KDA, KSU Research and Extension, and others; and supports continued or increased funding for noxious weed control within the Department of Agriculture. ([Attachment 4](#))

Rodney Biesenthal, Pottawatomie County Noxious Weed Director, shared his concerns in regard to **HB 2468**. He noted several technical errors with the bill as written and outlined various recommendations and amendments. ([Attachment 5](#))

Russ Frey, Riley County Commissioner, and Vice President of the Kansas Association of Counties, testified in support of **HB 2468** on behalf of County Commissioners and KAC leadership. He expressed the need for maximum local flexibility in management of programs by counties for compliance and cost share of chemicals used in noxious weed control. ([Attachment 6](#))

Kerri Ebert, Chairman, Kansas Agricultural Alliance, representing 21 agricultural associations, appeared in support of **HB 2468**. She offered an amendment on behalf of the Alliance that would require the same financial incentive apply whether the responsible party purchases chemicals from the county noxious weed department or a registered Kansas pesticide dealer. ([Attachment 7](#))

Bill Fuller, Associate Director, Public Policy Division, Kansas Farm Bureau, testified in support of **HB 2468** and the amendment presented by the Kansas Agricultural Alliance that would allow landowners to acquire chemical controls from registered pesticide providers and receive the same savings as available through the county weed department. ([Attachment 8](#))

Doug Wareham, representing both the Kansas Fertilizer and Chemical Association and the Kansas Grain and Feed Association, appeared in support of **HB 2468** and the mandatory cost-share certificate program amendment proposed by the Kansas Agricultural Alliance. ([Attachment 9](#))

Mike Beam, Executive Secretary, Cow-Calf/Stocker Division, Kansas Livestock Association, testified in support of **HB 2468** and the proposed amendment by the Kansas Agricultural Alliance. The Kansas Livestock Association also proposed an amendment that would authorize the Department of Agriculture, through the rules and regulation process, to list noxious weeds in Kansas. ([Attachment 10](#))

Chris Wilson, representing both the Kansas Seed Industry Association and the Kansas Agricultural Aviation Association, appeared in support of **HB 2468** and the amendment offered by the Kansas Agricultural Alliance. ([Attachment 11](#))

CONTINUATION SHEET

Joe Lieber, President, Kansas Cooperative Council, testified in support of **HB 2468** and the amendment proposed by the Kansas Agricultural Alliance. (Attachment 12)

As there were no other conferees, the Chairman closed the hearing on **HB 2468**.

Raney Gilliland provided a summary of Federal Title IX - Trade Sanctions Reform and Export Enhancement legislation as published in the Federal Register in late February 2001. This information relates to **HCR 5017** heard in committee on February 28, 2001. (Attachment 13)

The meeting adjourned at 5:40 p.m. The next meeting is scheduled for March 12, 2001.

HOUSE AGRICULTURE COMMITTEE GUEST LIST

DATE: March 7, 2001

NAME	REPRESENTING
Rebecca Reed	KS Dept. of Agriculture
Sustin Holstin	KS Co-op Council
Joe Lieber	KS Co-op Council
Bill Sullos	Kansas Farm Bureau
Tracy Lasher	County Weed District Association
Randy Allen	Kansas Assoc. of Counties
Russ FREQ	Ks Assoc of Counties & Riley Co
Mary Shivers	KDOT
Doug Wareham	KGFA / KFCA
Tom Tunnell	KGFA / KFCA
Steve Worlington	KDOT
Jim Ausemus	Grantford Co. Noxious Weed Dir
Joe Kennedy	Soldier KS
Robert Abel, Jr.	Jefferson County, KS
Rodney Biesenthal	Pottawatomie Co NXWD
Keri Elbert	Kansas Dairy Association
Marvin E. Smith	Shawnee County resident
JOHN KABUS	SHAWNEE COUNTY, KS
Pat Hollison	LABETTE Co Noxious Weed Dept.

STATE OF KANSAS

BILL GRAVES, GOVERNOR

Jamie Clover Adams, Secretary of Agriculture

109 SW 9th Street

Topeka, Kansas 66612-1280

(785) 296-3556

FAX: (785) 296-8389



KANSAS DEPARTMENT OF AGRICULTURE

House Agriculture Committee

March 7, 2001

Testimony Regarding HB 2468

Jamie Clover Adams, Secretary of Agriculture

Good afternoon Chairman Johnson and members of the committee. I am Jamie Clover Adams, Kansas Secretary of Agriculture. I appear today to support House Bill 2468, the land stewardship and productivity act. The title accurately reflects our goals in revamping our noxious weed law.

History

The noxious weed law, originally enacted in 1937, has been adjusted in recent years, but no major conceptual amendments to the statute have been made since it was enacted. A Legislative Post Audit study was conducted in 1985, which led to an Interim Committee review in 1987 to address legislative concerns about consistent enforcement and noxious weed control across Kansas. The concepts embodied in HB 2468 are the result of the first major review of the statute since then and, among other provisions, it attempts to provide increased enforcement flexibility and responsiveness.

Many aspects of weed management and control have changed radically since the law was adopted. Agricultural production practices and government operations also have evolved considerably in the last 60 years. As you know, the legislature identifies in statute the following noxious weeds:

- | | | | |
|-----------------|--------------|------------------|-------------------|
| Field Bindweed | Musk Thistle | Johnson Grass | Sericea Lespedeza |
| Leafy Spurge | Bur Ragweed | Canada Thistle | Hoary Cress |
| Pignut | Quack Grass | Russian Knapweed | Kudzu |
| Multiflora Rose | Bull Thistle | | |

Current law requires shared responsibility – between landowners, counties and the state (with primary enforcement responsibility placed with county commissioners) – for mandatory eradication of all weeds identified in the statute.

Impetus for Change

From a historical perspective, there were 2.4 million acres infested with noxious weeds in 1984. That number rose to 2.9 million acres in 1998. Even taking into account the addition of sericea lespedeza to the noxious weed list, the other weeds continued to infest 2.6 million acres in 1998.

House Agriculture Committee
March 7, 2001
Attachment 1

While the mix of weeds may have changed, the numbers show that despite our best efforts our current approach is not eradicating weeds. Only one weed, musk thistle, decreased in acreage between 1993 and 1998. Most weeds with major acreage have seen at least double-digit increases in the percentage of land infested.

Put in its best light, we are in a holding pattern. We can do better. HB 2468 is a practical, risk-based approach to controlling noxious weeds that can do no worse than the holding pattern of the past 20 years.

Review Process

Based on a recommendation included in the KDA Plant Protection and Weed Control Program's peer review study, which occurred in December 1998, a group of Kansans, facilitated by KDA staff, began meeting in January 1999 to review the law to develop suggested modifications designed to modernize the system to control noxious weeds in Kansas. The organizations represented in the working group included:

County Noxious Weed Association of Kansas – Rodney Biesenthal
Kansas County Commissioners Association – Linda Peterson
Kansas Farm Bureau – Bill Fuller
Kansas Fertilizer and Chemical Association – Doug Wareham
Kansas Livestock Association – Mike Beam
Kansas Nursery and Landscape Association – Darrell Westervelt
Kansas Seed Improvement Association – Chris Wilson
Kansas Agricultural Aviation Association – Chris Wilson
Kansas State University – Dallas Peterson

The group met a total of seven times in 1999 – first to identify the concepts and vision of an effective noxious weed law structure, then to develop the conceptual operating framework for the proposed revisions and, ultimately, to review the detailed approach outlined in legislation that was introduced in 2000. Additionally, the conceptual framework was made available for review by the participating organizations during their 1999 annual meetings to promote discussion among their general membership.

During the 2000 session, it was apparent that despite the extensive stakeholder process, consensus was not achieved. Then Senate Agriculture Chairman Steve Morris asked the Department to meet with the Kansas Association of Counties during the summer of 2000 to share information and build further consensus. That was done at three regional meetings in July and August 2000. To seek consensus, after the annual meeting season the Department brought together the original stakeholder group with additional representation from the KAC. The bill before you is the result of this exhaustive stakeholder process.

Everyone gave up something to achieve consensus. For example, KDA strongly advocated establishing the noxious weed list by rule and regulation. However, this was opposed by the KAC. While we believe there will be a disconnect in the movement of a weed from the foreign weed category to the containment category, we conceded the point to ensure a bill could be brought to the 2001

Legislature. As noted in a letter to Chairman Johnson in late January 2001, the components of the bill were agreed to by all stakeholders.

General Approach to Weed Control

Throughout 1999 and 2000, the review group was committed to developing recommendations that provide as much flexibility as possible to counties, yet maintain a broad set of standards under which county programs may operate. Individual landowners, or supervisors or managers of land, will continue to be responsible for controlling noxious weeds on their property. County governments continue to be responsible for day-to-day operations of the law, but will be given a number of measures that enhance flexibility to target their unique needs. KDA will continue to provide a menu of control standards. In addition, the proposed bill allows Kansas to swiftly address the threat of weeds encroaching on Kansas soil. Kansas State University will continue to play a role in the educational aspects of noxious weed control.

Significant Portions of HB 2468

Perhaps the most significant modification is the adoption of a biologically based noxious weed classification scheme. Noxious weeds will be placed into three categories based on the acreage of each weed present in each county. Through this classification system it will be recognized that certain weeds cannot be eradicated, but they must be effectively managed. Weeds that can be eradicated from a county will receive a higher targeted priority. HB 2468, through the purpose statement, still sets eradication as the goal of all weed control efforts.

The categories set out in the bill are as follows:

Foreign Weeds. This category is for weeds with the potential to cause economic or environmental harm, found in close proximity to Kansas, but not yet present. These weeds will be identified by KDA under a risk-based method. It is envisioned that this categorization will allow counties to begin containment activities immediately upon discovery of the weed. However, it will be subject to the timetable of the legislature adding the weed to the noxious weed list. After a foreign weed is discovered in Kansas, the weed will move to the containment or management category, depending on its prevalence within a county. For instance, several knapweed species that exist in Nebraska are moving southward; tropical soda apple, which exists in southern states, is moving north.

Containment. This category is for those weeds with the potential to be effectively contained (not allowed to spread) and possibly eradicated. Generally, these are noxious weeds with a fairly limited distribution (100 acres or less) within a county. A map attached to my testimony outlines the number of acres in each county with acreage in this category.

Management. This category is for widespread noxious weeds (greater than 100 acres within a county). Noxious weeds in this category will be subject only to control and management practices, as eradication is not biologically possible. It is divided into two subcategories:

Primary Management. This describes weeds infesting more than 100 acres within a county, but less than 10,000 acres statewide. It provides a regional “slow-the-spread” approach to protect counties with lower infestation levels. A map attached to this testimony outlines by county the acreage in this category. The foremost example of a weed in this category is Canada Thistle, which is moving across the northwest portion of the state.

Secondary Management. This subcategory encompasses noxious weeds with more than 100 acres within a county and more than 10,000 acres statewide.

Under this approach, each county will have its own unique noxious weed priorities based on their biological occurrence and distribution within the county. Since counties will function as the basic unit of program operations, this approach provides them with the maximum amount of flexibility in operation.

Two major program operations – enforcement and financial incentives – are linked to the three-tier classification scheme.

Financial incentives are mandatory for all containment and primary management noxious weeds in each county. Financial incentives for secondary management noxious weeds are optional at the discretion of the county. Counties will have the authority to provide a financial incentive in the amount they deem appropriate, as long as an incentive is provided for official control practices identified by the county for use in controlling noxious weeds in the secondary management category.

Enforcement options include both criminal and civil penalties. The county is given the authority to assess civil penalties following an appeal process and civil penalty matrix to be established by KDA in rule and regulation. Criminal penalties continue to be processed by local law enforcement and apply to the control and management of weeds, or when a financial incentive is taken without following an official control method.

Changes in Cost-Share and Reimbursement

Currently, the practice of cost-share is available only for herbicide products identified in the official control plans developed by KDA. Under HB 2468, incentives will be expanded to include all control practices identified in the official control plans. Each county will choose practices for which a financial incentive will be provided for noxious weeds in each category. This approach will recognize the ever-growing variety and diversity of control practices, including non-chemical ones, landowners are using to achieve weed control.

Counties will have the authority to identify which approved control practices will be eligible for reimbursement and to determine appropriate incentive amounts. County weed directors will be expected to work closely with landowners whose properties are infested with containment and primary management noxious weeds. These will have priority over secondary management noxious weeds.

To pay the expenses of the program, counties will continue to have the authority to establish a levy for program operations in the county. Counties still will be expected to monitor the acreage of

noxious weeds within their borders. This base information will be essential to determine an appropriate minimum levy. The acreage of containment and primary management noxious weeds will require a levy to generate sufficient funds to ensure appropriate containment of these weeds. If a county chooses to pay an incentive in secondary management noxious weed control, the level will need to be adjusted accordingly.

Conclusion

Attached to this testimony is a balloon containing technical amendments and clarification of the proposed language. When the committee works HB 2468, we ask that you consider these amendments.

The rate of scientific advancement and change in every aspect of our lives continues to accelerate at a mind-boggling pace. We believe changes will continue to affect noxious weed control both rapidly and substantially. HB 2468 creates the framework for the partners – landowners, associated private industry, counties and the state – to operate in a system that is realistic, flexible, adaptable and locally driven to address whatever changes that lie just beyond the horizon.

Thank you for the opportunity to testify in support of HB 2468. I will be glad to answer your questions at the appropriate time.

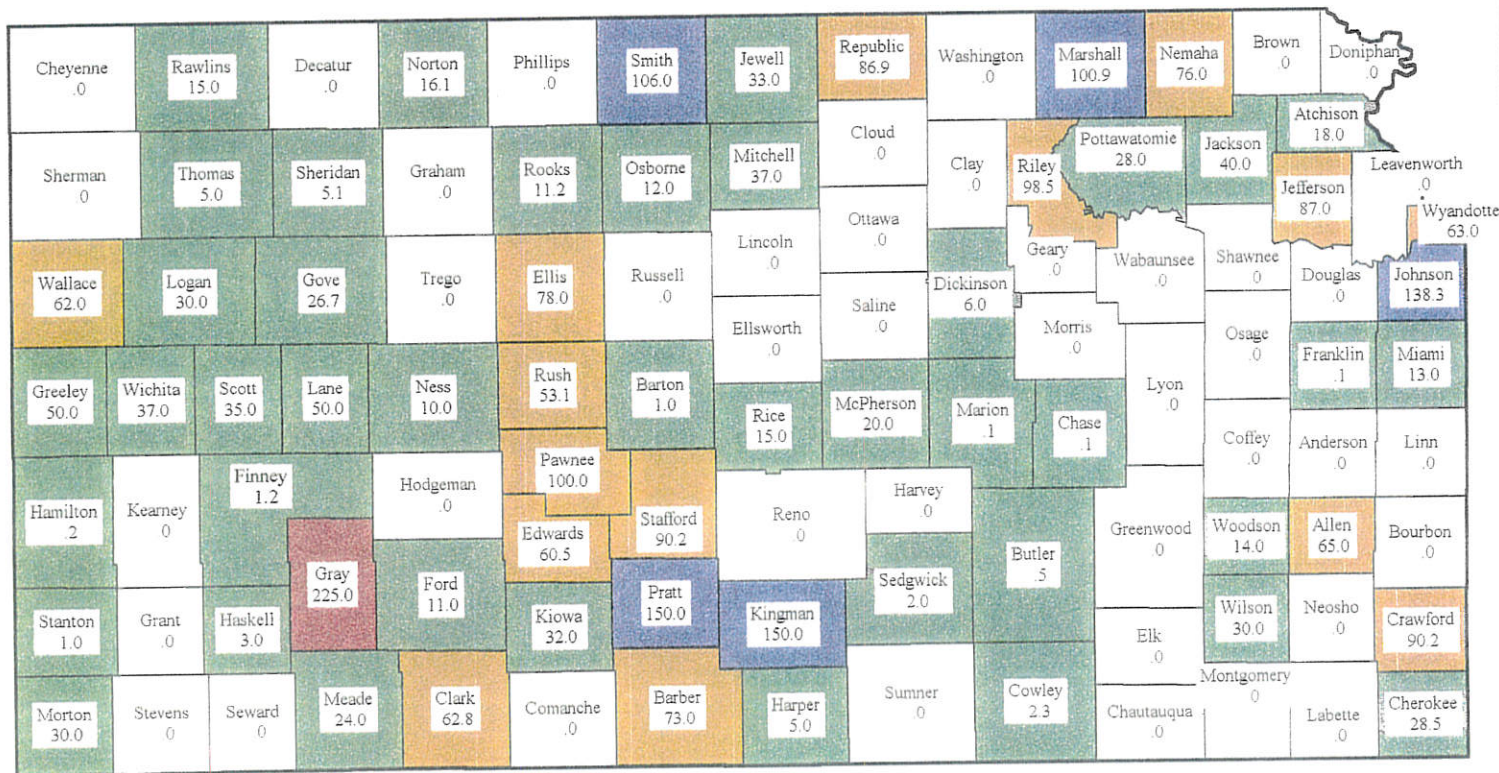
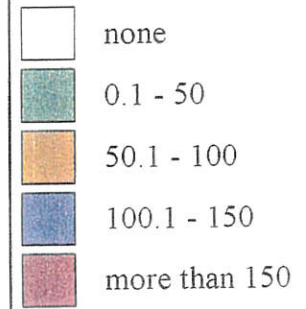
Acres of Primary Management Category Noxious Weeds

based on 1998 infestation data provided by counties

Cheyenne 1,705.0	Rawlins 2,070.0	Decatur 137.5	Norton 810.0	Phillips .0	Smith .0	Jewell .0	Republic .0	Washington .0	Marshall 560.0	Nemaha .0	Brown .0	Doniphan .0	
Sherman 1,065.0	Thomas 438.0	Sheridan 339.0	Graham 175.0	Rooks 800.0	Osborne .0	Mitchell .0	Cloud .0	Clay .0	Riley .0	Pottawatomie .0	Jackson .0	Atchison .0	
Wallace 303.0	Logan .0	Gove .0	Trego 154.0	Ellis .0	Russell .0	Lincoln .0	Ottawa .0	Geary .0	Wabaunsee .0	Shawnee .0	Jefferson .0	Leavenworth .0	
Greeley .0	Wichita .0	Scott .0	Lane .0	Ness .0	Rush .0	Barton .0	Ellsworth .0	Saline .0	Dickinson .0	Morris .0	Osage .0	Franklin .0	
Hamilton .0	Keamey .0	Finney .0	Hodgeman .0	Pawnee .0	Rice .0	McPherson .0	Marion .0	Chase .0	Lyon .0	Coffey .0	Anderson .0	Linn .0	
Stanton .0	Grant .0	Haskell .0	Gray .0	Ford .0	Edwards .0	Stafford .0	Reno .0	Harvey .0	Butler .0	Greenwood .0	Woodson .0	Allen .0	
Morton .0	Stevens .0	Seward .0	Meade 210.0	Clark .0	Kiowa .0	Pratt .0	Kingman .0	Sedgwick .0	Elk .0	Wilson .0	Neosho .0	Crawford .0	
					Comanche .0	Barber .0	Harper .0	Sumner .0	Cowley .0	Chautauqua .0	Montgomery .0	Labette .0	Cherokee .0

Acres of Containment Category Noxious Weeds based on 1998 infestation data provided by counties

ACRES INFESTED



12/09/99

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43

Session of 2001
HOUSE BILL No. 2468
Committee on Agriculture
2-9

AN ACT enacting the land stewardship and productivity act; amending K.S.A. 2-1321 and 19-211 and K.S.A. 2000 Supp. 2-1314, 2-1318, 2-1319, 2-1320, 2-1322 and 2-1323 and repealing the existing sections; also repealing K.S.A. 2-1315, 2-1316a, 2-1317, 2-1324, 2-1325, 2-1326, 2-1327, 2-1328, 2-1329 and 2-1330 and K.S.A. 2000 Supp. 2-1316, 2-1331 and 2-1332.

Be it enacted by the Legislature of the State of Kansas:

New Section 1. (a) This act shall be known and may be cited as the land stewardship and productivity act.

(b) The purpose of this act is to establish a program whose goal is to eradicate noxious weeds on public and private land and thereby protect the viability of the agricultural economy and natural resources of Kansas.

the goal of which is to eradicate noxious weeds on public and private land and thereby protect the state's natural and cultivated resources.



New Sec. 2. As used in this act:

- (a) "Association of persons" means any organization, corporation or other entity that has legal responsibility for the ownership, management, control or supervision of land.
- (b) "Competent in weed control and management" means the individual meets the requirements set forth in rules and regulations of the secretary.
- (c) "Containment category" is the category of noxious weeds growing on less than 100 acres in a county and having the potential to be contained and possibly eradicated in that county.
- (d) "Control" means preventing the production of viable seed and destroying the plants ability to reproduce by vegetative means both in conformity with the official control plan for that particular noxious weed.
- (e) "Governmental unit" means a political subdivision or those supervising state-owned land.
- (f) "Foreign weed category" is the category of noxious weeds not identified as growing in Kansas at the time they are declared by the secretary by rule and regulation to be noxious but that pose a threat to Kansas requiring immediate control if the noxious weeds were found to be growing in Kansas.
- (g) "Management" means the planning and implementation of a coordinated program for the containment, suppression and, where possible,

1 eradication of noxious weeds.

2 (h) "Management category" means the category of noxious weeds
3 identified as growing on more than 100 acres in a county and the eradi-cation
4 of which is not biologically feasible. Management category shall
5 include the primary management subcategory and secondary manage-ment
6 subcategory.

7 (i) "Noxious weed" other than foreign weed means any plant declared
8 by the legislature to be noxious.

9 (j) "Primary management subcategory" is the category of noxious
10 weeds growing on more than 100 acres in the county but on less than
11 10,000 acres statewide and the eradication of which is not biologically
12 feasible.

13 (k) "Responsible party" means a person, association of persons, a gov-ernmental
14 entity, a railroad, an airport authority or those supervising
15 state-owned land, any of whom own, manage, control or supervise land.

16 (l) "Secondary management subcategory" is the category of noxious
17 weeds growing on more than 100 acres in a county and more than 10,000
18 acres statewide and the eradication of which is not biologically feasible.

19 (m) "Secretary" means the Kansas secretary of agriculture.

20 (n) "Those supervising state-owned land" means the ultimate legal
21 authority of the subdivision of state government having responsibility for
22 the management, control or supervision of state land.

23 (o) "Weed director" means a person employed by the county or city
24 and competent in weed control and management.

25 New Sec. 3. (a) Each responsible party shall control and manage, in
26 accordance with the rules and regulations adopted by the secretary, any
27 noxious weed on any land owned, managed, controlled or supervised by
28 any such responsible party.

29 (b) The secretary, a designee of the secretary, any weed director or
30 other public official is authorized to inspect any property, both public or
31 private, at any reasonable time to administer this act.

32 (c) Each responsible party shall provide free access and entry upon
33 any premises owned, managed, controlled or supervised by the respon-sible
34 party so that the secretary, a designee of the secretary, any weed
35 director or other public official who administers this act may inspect any
36 property, both real and personal, at any reasonable time.

37 New Sec. 4. [The secretary shall establish ~~or adopt~~ by rules and reg-ulations]
38 an official control plan for each noxious weed. Any person may
39 request that the secretary consider a control or management practice not
40 included in an official control plan.

41 New Sec. 5. The number of acres of a noxious weed found growing
42 in each county shall determine the classification of a noxious weed. The
43 classification categories are as follows:

- 1 (a) Foreign weed category;
- 2 (b) containment category; or
- 3 (c) management category:
- 4 (1) Primary management subcategory; or
- 5 (2) secondary management subcategory.
- 6 New Sec. 6. The secretary is authorized to:
- 7 (a) Adopt official methods for the management of noxious weeds and
- 8 to publish such methods;
- 9 (b) adopt rules and regulations as in the judgment of the secretary
- 10 are necessary to carry out the provisions of this act, and to alter or suspend
- 11 such rules and regulations when necessary; and
- 12 (c) enter into agreements and to cooperate with other governmental
- 13 entities, including the federal government, to administer this act.
- 14 New Sec. 7. (a) The board of county commissioners of each county
- 15 shall, and the governing body of any city may, employ a weed director.
- 16 (b) The board of county commissioners of each county and the gov-
- 17 erning body of any city that employs a weed director shall:
- 18 (1) Prepare an annual report. The annual report shall be in the form
- 19 and contain the information required by the secretary in rules and reg-
- 20 ulations. The annual report shall be submitted to the secretary by Feb-
- 21 ruary 15 and cover the preceding calendar year. The annual report shall
- 22 include the weed director's certification of the following:
- 23 (A) For each financial incentive paid, an authorized control method
- 24 was applied on all land identified in the annual report as being infested
- 25 with noxious weeds in the containment category and primary manage-
- 26 ment subcategory; or
- 27 (B) for each financial incentive paid, an authorized control method
- 28 was applied on land identified in the annual report as being infested with
- 29 noxious weeds in the secondary management subcategory. Certification
- 30 under this paragraph may include a scientifically representative sample
- 31 of the land infested with noxious weeds in the secondary management
- 32 subcategory for which a financial incentive was provided and is not re-
- 33 quired to be a certification for all land in such subcategory.
- 34 (2) Cooperate with the secretary in implementing the provisions of
- 35 this act.
- 36 (3) Prepare a weed management plan. The weed management plan
- 37 shall contain the activities to be conducted during the upcoming calendar
- 38 year to detect, monitor and control any noxious weed found growing in
- 39 the jurisdiction. The weed management plan shall be submitted to the
- 40 secretary by June 1 of each year.
- 41 (4) Establish a procedure to provide a financial incentive to a re-
- 42 sponsible party for the control and management of noxious weeds on a
- substantiated and measurable basis. In no event shall a governmental

1 entity or government employee obtain a financial incentive to control
2 noxious weeds on government land.

from a county or a city

3 (5) Provide a financial incentive for the control and management of
4 noxious weeds on a substantiated and measurable basis to a responsible
5 party who pays to control and manage weeds in accordance with this act
6 on private property in the containment category or the primary management
7 category.

8 (6) Specify practices contained in the official control plan for each
9 noxious weed present in the county or city for which a financial incentive
10 shall be provided and identify what financial incentives, if any, the governmental
11 entity shall provide for each control practice identified and
12 what substantiated and measurable basis such financial incentive is
13 provided.

14 (7) Provide a grievance system, established in the rules and regulations
15 of the secretary, allowing landowners or members of the public to
16 complain about noxious weeds growing on another's land.

17 (8) Be subject to review and audit by the secretary, and shall make
18 all its books and records pertaining to this act available for inspection
19 upon request of the secretary.

20 (9) Ascertain the approximate acreage infested with each kind of noxious
21 weed in the governmental entity's jurisdiction. This information shall
22 be reported by June 1 of each year to the county, and any city or township
23 within the county's boundaries.

24 (c) The board of county commissioners of each county and the governing
25 body of any city that employs a weed director, in cooperation with
26 the weed director may:

27 (1) Provide a financial incentive on a substantiated and measurable
28 basis to a responsible party who pays to control and manage weeds in
29 accordance with this act on private property in the secondary management
30 subcategory.

31 (2) Offer for sale any product or material identified in the official
32 control plan. The price for products or materials offered for sale shall be
33 determined by the following formula: Price of product or material paid
34 by the county or city plus any storage or handling amount minus the
35 financial incentive.

36 New Sec. 8. (a) At least annually, the board of county commissioners
37 of each county and the governing body of any city that employs a weed
38 director shall give the public general notice in the official county or city
39 newspaper of all noxious weeds identified by the weed director as growing
40 in the geographic area for which the weed director is responsible. The
41 notice to the general public shall follow the requirements adopted by
42 rules and regulations of the secretary.

43 (b) The board of county commissioners of each county and the gov-

1-12

governing body of any city that employs a weed director, in cooperation with the weed director, shall attempt to develop, or cause to be developed, an individual noxious weed management plan with a responsible party for land infested with noxious weeds in the containment category or primary management category. An individual weed management plan shall: (1) Follow the official control methods for the noxious weed identified on the land; and (2) specify the time within which the responsible party shall complete treatment pursuant to an official control method. If a responsible party fails to comply with the provisions of the individual weed management plan or refuses to enter into an individual weed management plan, the weed director shall issue a notice as described in subsection (c).

(c) The board of county commissioners of each county and the governing body of any city that employs a weed director shall give notice by certified mail to a responsible party who fails to comply with the provisions of subsection (b). The notice required by this subsection shall:

(1) Contain the procedures described in the official control methods for the noxious weed identified on the land and a legal description of the land where noxious weeds are growing.

(2) Specify the time within which the responsible party shall complete treatment pursuant to an official control method. The time for completion shall not be less than 10 working days after mailing of the notice.

(3) Include a statement that unless the responsible party completes the required noxious weed control and management method within the time specified in the notice, the weed director may enter or cause to be entered upon the land as often as necessary to use any approved method to control and manage the noxious weed identified in the notice.

New Sec. 9. In the event the weed director enters upon land to control noxious weeds, after service of notice pursuant to section 8, and amendments thereto, the weed director shall notify or cause to be notified, by certified mail, a responsible party that such party shall pay for the weed management control performed upon the default of the responsible party in section 8, and amendments thereto. The notice required by this section shall include an itemized statement of services and the statement may include any penalty provided by K.S.A. 2-1323, and amendments thereto. The board of county commissioners of each county and the governing body of any city that employs a weed director shall provide notice and an opportunity for a responsible party aggrieved by a statement of services or penalties to be heard. Any notice and hearing shall be conducted in accordance with rules and regulations adopted by the secretary.

New Sec. 10. (a) It shall be the duty of all persons to minimize the presence of noxious weeds or noxious weed seed in agricultural commodities, products or equipment. If a county weed director suspects that

1 a commodity, product or equipment is infested with noxious weeds or
2 may contain noxious weed seed, the county weed director shall report the
3 director's suspicions in a timely manner to the secretary.

4 (b) Any hay obtained by any governmental entity for use as mulch on
5 public lands or along a public right-of-way shall be certified prior to such
6 use as being free of noxious weeds. Certification shall be in the form
7 required by the secretary, and filed with the weed director in the county
8 where the hay is to be used.

9 Sec. 11. K.S.A. 2000 Supp. 2-1314 is hereby amended to read as
10 follows: 2-1314. It shall be the duty of ~~persons, associations of persons,~~
11 ~~the secretary of transportation, the boards of county commissioners, the~~
12 ~~township boards, school boards, drainage boards, the governing body of~~
13 ~~incorporated cities, railroad companies and other transportation compa-nies~~
14 ~~or corporations or their authorized agents and those supervising~~
15 ~~state-owned lands~~ a responsible party to control and manage the spread
16 of and to eradicate all weeds declared by legislative action to be noxious
17 on all lands owned, managed, controlled or supervised by them and to
18 use such methods for that purpose and at such times as are approved and
19 adopted by the department of agriculture secretary. [The term noxious
20 weeds shall mean kudzu] (Pueraria lobata), field bindweed (Convolvulus
21 arvensis), Russian knapweed (Centaurea repens), hoary cress (Cardaria
22 draba), Canada thistle (Cirsium arvense), quackgrass (Agropyron repens),
23 leafy spurge (Euphorbia esula), bur ragweed (Ambrosia grayii), pignut
24 (Hoffmannseggia densiflora), musk (nodding) thistle (Carduus nutans L.),
25 Johnson grass (Sorghum halepense) and sericea lespedeza (Lespedeza
26 cuneata).

27 Sec. 12. K.S.A. 2000 Supp. 2-1318 is hereby amended to read as
28 follows: 2-1318. The county weed supervisor of each county is hereby
29 directed and it shall be the duty of the county weed supervisor to ascertain
30 each year the approximate amount of land and highways infested with
31 each kind of noxious weeds and its location in the county, and transmit
32 such information tabulated by cities and townships not later than June 1
33 of each year, to the secretary of the state board of agriculture, board of
34 county commissioners, and to the governing body of each city and town-ship
35 in the district pertaining to such noxious weed infestation in their
36 respective jurisdiction. On the basis of such information the annual report
37 or weed management plan, the tax levying body of each county, township
38 or incorporated city shall make a tax levy each year for the purpose of
39 paying their part of the cost of control and eradication thereof as provided
40 in to implement this act and, in the case of cities and counties, to pay a
41 portion of the principal and interest on bonds issued under the authority
42 of K.S.A. 12-1774, and amendments thereto, by cities located in the
43 county. Each county, city, and township, separately, shall make a levy

Undelete bracketed area

1 each year for such purpose. Any *city governmental unit* may budget ex-
2 penditures for weed control within its general operating fund in lieu of
3 levying a special tax therefor or maintaining a separate noxious weed
4 eradication fund. Moneys collected from such levy, except for an amount
5 to pay a portion of the principal and interest on bonds issued under the
6 authority of K.S.A. 12-1774, and amendments thereto, by cities located
7 in the county, shall be set apart as a noxious weed eradication fund and
8 warrants *Warrants* duly verified by the county or city supervisor if such
9 be *weed director*, if such *weed director* is employed or if no supervisor
10 be *weed director* is employed, then by county, township or city clerk, as
11 the case may be, may be drawn against this fund for all items of expense
12 incident to control of and manage noxious weeds in such district respec-
13 tively. Any moneys remaining in the noxious weed eradication fund at the
14 end of any year for which a levy is made under this section may be trans-
15 ferred to the noxious weed capital outlay fund for making of capital ex-
16 penditures incident to the control of noxious weeds *governmental unit*.

17 Sec. 13. K.S.A. 2000 Supp. 2-1319 is hereby amended to read as
18 follows: 2-1319. (a) The cost of controlling and eradicating *managing* nox-
19 ious weeds on all lands or highways owned or supervised by a state agency,
20 department or commission shall be paid by the state agency, department
21 or commission supervising such lands or highways from funds appropri-
22 ated to its use; on county lands and county roads, on township lands and
23 township roads, on city lands, streets and alleys by the county, township
24 or city in which such lands, roads, streets and alleys are located, and from
25 funds made available for that purpose; on drainage districts, irrigation
26 districts, cemetery associations and other political subdivisions of the
27 state, the costs shall be paid from their respective funds made available
28 for the purpose: *government land shall be borne by the governmental unit*
29 *responsible for noxious weed control and management within such unit's*
30 *jurisdiction*. If the governing body of any political subdivision owning or
31 supervising *governmental unit that owns or supervises* lands infested with
32 noxious weeds within their jurisdiction fails to control such noxious weeds
33 after 15 10 days' notice directing any such body to do so, the board of
34 county commissioners shall proceed to have proper control and eradica-
35 tion *management* methods used upon such lands, and shall notify the
36 governing body of the political subdivision *governmental unit* by certified
37 mail of the costs of such operations, with a demand for payment. The
38 governing body of the political subdivision *governmental unit* shall pay
39 such costs from its noxious weed fund, or if no such fund is available,
40 from its general fund or from any other funds available for such purpose.
41 *Copy* A copy of the statement, together with proof of notification, shall
42 at the same time be filed with the county clerk, and if the amount is not
43 paid within 30 days, such clerk shall spread the amount *due by any po-*

1 *litical subdivision* upon the tax roll of the subdivision, and such amount
2 shall become a lien against the entire territory located within the partic-ular
3 political subdivision, and shall be collected as other taxes are
4 collected.

5 (b) All moneys collected pursuant to this section shall be paid into
6 ~~the county allocated for noxious weed eradication fund control and man-agement.~~


7 (c) As used in this section *as it pertains to the levy of taxes*, “governing
8 body” means the board, body, or persons in which the powers of a political
9 subdivision as a body corporate are vested; and “political subdivision”
10 means any agency or unit of the state authorized to levy taxes or empow-ered
11 to cause taxes to be levied.

12 (d) ~~On all other lands the owner thereof shall pay the cost of control
13 and eradication of noxious weeds. Except as provided in K.S.A. 2-1333
14 and amendments thereto, chemical materials for use on privately owned
15 lands may be purchased from the board of county commissioners at a
16 price fixed by the board of county commissioners which shall be in an
17 amount equal to not less than 50% nor more than 75% of the total cost
18 incurred by the county in purchasing, storing and handling such chemical
19 materials. However, once the tax levying body of a county, city or town-ship
20 has authorized a tax levy of 1.5 mills or more, the board of county
21 commissioners may collect from the owner of privately owned lands an
22 amount equal to 75% but not more than 100% of the total cost incurred
23 by the county in purchasing, storing and handling of chemical materials
24 used in the control and eradication of noxious weeds on such privately
25 owned lands. Whenever official methods of eradication, adopted by the
26 state board of agriculture, are not followed in applying the chemical ma-terials
27 so purchased, the board of county commissioners may collect the
28 remaining portion of the total cost thereof.~~

29 Sec. 14. K.S.A. 2000 Supp. 2-1320 is hereby amended to read as
30 follows: 2-1320. ~~In case the county weed supervisor or city weed super-visor
31 When a weed director enters upon land or and furnishes weed con-trol
32 materials pursuant to a contract or an agreement with an owner,
33 operator or supervising agent of noxious weed infested land for the con-trol
34 of such noxious weeds and, as a result of such weed control methods,
35 there are any unpaid accounts outstanding by December 31 of each year,
36 and management by contract, pursuant to an individual weed manage-ment~~

37 *plan, or upon refusal of a responsible party to control / weeds, the* → noxious

38 county commissioners or governing body of the *a city that employs a weed*
39 *director* shall immediately notify or cause to be notified, such owner *re-sponsible*
40 *party* with an itemized statement as to the cost of material,
41 labor and use of equipment and further stating *state* that if the amount
42 of such statement is not paid to the county or city treasurer wherein such
43

1 real estate is located within 30 days from the date of such notice, a penalty
 2 charge of 10% of the amount remaining unpaid shall be added to the
 3 account *in addition to any other penalty assessed pursuant to K.S.A. 2-*
 4 *1323, and amendments thereto*, and the total amount thereof shall be-come
 5 a lien upon such real estate. The unpaid balance of such account
 6 and such penalty charge shall draw interest from the date of entering into
 7 such contract *or upon accrual of the costs to provide*  *weed control and* noxious

8 *management either through an individual weed management plan or upon*
 9 *the refusal of a responsible party to control weeds* at the rate prescribed
 10 for delinquent taxes pursuant to K.S.A. 79-2004, and amendments
 11 thereto. A copy of the statement, together with proof of notification, shall
 12 at the same time be filed with the register of deeds in such county and
 13 the county or city clerk, as the case may be, and if such amount is not
 14 paid within the next 30 days the county or city clerk, as the case may be,
 15 shall spread the amount of such statement upon the tax roll prepared by
 16 the clerk and such amount shall become a lien against the entire contig-uous
 17 tract of land owned by such person or persons of which the portion
 18 so treated is all or a part, and shall be collected as other taxes are collected,
 19 and all moneys so collected shall be ~~paid into~~ *the allocated for* noxious
 20 weed ~~eradication fund, except that not more than 5% of the assessed~~
 21 ~~valuation of the entire contiguous tract of land of which the portion so~~
 22 ~~treated is all or a part shall be spread on the tax rolls against such land in~~
 23 ~~any one year control and management.~~ If any land subject to a lien im-posed
 24 under this section is sold or transferred, the entire remaining un-paid
 25 balance of such account plus any accrued interest and penalties shall
 26 become due and payable prior to the sale or transfer of ownership of the
 27 property, ~~and upon collection shall be paid to the noxious weed eradi-cation~~
 28 ~~fund.~~

29 Sec. 15. K.S.A. 2-1321 is hereby amended to read as follows: 2-1321.
 30 If any ~~person shall be~~ *responsible party is* dissatisfied with the charge
 31 ~~made for material or rent of equipment used in in the statement of charges~~
 32 ~~assessed against them for the control and eradication management of nox-ious~~
 33 ~~weeds, said person shall~~ *the responsible party*, within ten 10 days
 34 from the mailing of the ~~account showing such charge, statement, shall~~ file
 35 a protest with the board of county commissioners, who shall hold a hear-ing
 36 thereon and shall have the power to either adjust or affirm such
 37 charge. If any ~~person shall be~~ *responsible party is* dissatisfied with the
 38 decision rendered by the board of county commissioners said person shall
 39 ~~the responsible party, within thirty 30 days, shall~~ file a written notice of
 40 appeal with the clerk of the district court of the county ~~and thereupon~~
 41 ~~an action shall be docketed in the district court and be tried the same as~~
 42 ~~other actions as provided by the Kansas act for judicial review.~~ Upon the
 43 final determination of any change in the account, if any, the county or

1 city clerk shall correct the records in his or her *the clerk's* office in accordance
2 therewith.

3 Sec. 16. K.S.A. 2000 Supp. 2-1322 is hereby amended to read as
4 follows: 2-1322. (a) ~~The board of county commissioners, or the governing~~
5 ~~body of incorporated cities, cooperating with the secretary of the state~~
6 ~~board of agriculture, shall purchase or provide for needed and necessary~~
7 ~~equipment and necessary chemical material for the control and eradication~~
8 ~~of noxious weeds. The board of county commissioners of any county~~
9 ~~or the governing body of any city may use any equipment or materials~~
10 ~~purchased as provided for in this section, upon the highways, streets and~~
11 ~~alleys, for the treatment and eradication on public land for the control~~
12 ~~and management of weeds which have not been declared noxious by legislative~~
13 ~~action.~~

14 (b) ~~Except as provided in K.S.A. 2-1333 and amendments thereto,~~
15 ~~the board of county commissioners shall sell chemical material to the~~
16 ~~landowners in their jurisdiction at a price fixed by the board of county~~
17 ~~commissioners which shall be in an amount equal to not less than 50%~~
18 ~~nor more than 75% of the total cost incurred by the county in purchasing,~~
19 ~~storing and handling such chemical materials used in the control and~~
20 ~~eradication of noxious weeds, and may make such charge for the use of~~
21 ~~machines or other equipment and operators as may be deemed by them~~
22 ~~sufficient to cover the actual cost of operation. However, once the tax~~
23 ~~levying body of a county, city or township has authorized a tax levy of 1.5~~
24 ~~mills or more, the board of county commissioners may collect from the~~
25 ~~landowners in their jurisdiction an amount equal to 75% but not more~~
26 ~~than 100% of the total cost incurred by the county in purchasing, storing~~
27 ~~and handling of chemical materials used in the control and eradication of~~
28 ~~noxious weeds.~~

29 (c) ~~Whenever official methods of eradication adopted by the state~~
30 ~~board of agriculture are not used in applying the chemical material purchased,~~
31 ~~the board of county commissioners may collect the remaining~~
32 ~~portion of the total cost thereof from the landowner.~~

33 (b) *If a responsible party fails to use a control method other than an*
34 *official method adopted by the secretary, the board of county commissioners*
35 *and the governing body of any city that employs a weed director*
36 *may collect from the responsible party the full amount of the costs incurred*
37 *by the city or county to control and manage the noxious weeds.*

, OR USES A CONTROL METHOD

38 (d) (c) ~~The board of county commissioners, township boards, and the~~
39 ~~governing body of cities any city that employs a weed director shall: (1)~~
40 ~~Keep a record showing purchases of material and equipment for control~~
41 ~~and eradication management of noxious weeds. The board of county commissioners~~
42 ~~and the governing body of cities shall also; (2) keep a complete~~
43 ~~itemized record showing all sales for cash or charge sales of material and~~

8/1/1

1 shall; and maintain a record of charges and receipts for use of equipment
2 owned by each county or city on public and private land. Such records
3 shall be open to inspection by citizens of Kansas at all times.

4 Sec. 17. K.S.A. 2000 Supp. 2-1323 is hereby amended to read as
5 follows: 2-1323. (a) Any person, association of persons, corporation,
6 county or city or other official who shall violate or fail to comply with any
7 of the provisions of this act and acts amendatory thereof or supplemental
8 thereto violates or fails to comply with the control and management
9 requirements for noxious weeds in the containment category, primary
10 management subcategory or secondary management subcategory, or who
11 takes a financial incentive to control noxious weed without controlling
12 noxious weeds shall be guilty of a misdemeanor and shall be punished. A
13 misdemeanor under this subsection shall be punishable upon conviction
14 thereof by a fine of \$100 per day for each day of noncompliance up to a
15 maximum fine of \$1,500.

16 (b) Any weed director may assess a civil penalty against any person,
17 association of persons, corporation, county or city official or other official
18 who violates or fails to comply with the requirements of the containment
19 category, primary management category or secondary management category,
20 or who takes a financial incentive to control noxious weeds without
21 controlling noxious weeds within such person's or entity's jurisdiction.
22 Any assessment of a civil penalty shall follow the fine schedule and appeal
23 procedure established by rules and regulations of the secretary. A civil
24 penalty under the subsection may be assessed in addition to any other
25 penalty or costs allowed by this act. In no event shall a civil penalty
26 assessed under this subsection be less than the amounts cited in subsection

27 (a).
28 (c) The secretary may assess a civil penalty against any person, association
29 of persons, corporation, county or city official or other official
30 who violates or fails to comply with the requirements of section 7, and
31 amendments thereto, the notice or planning requirements of section 8,
32 and amendments thereto, the hearing requirements of section 9, and
33 amendments thereto, the requirements of subsection (b) of section 10, and
34 amendments thereto, and the requirements of K.S.A. 2-1318, and amend-ments
35 thereto. Such assessment shall be made in accordance with the
36 Kansas administrative procedure act.

37 Sec. 18. K.S.A. 19-211 is hereby amended to read as follows: 19-211.
38 (a) Except for any property belonging to a county law enforcement de-partment
39 and as otherwise provided in this section, no property, the value
40 of which is more than \$50,000, belonging to any county shall be sold or
41 disposed of by any board of county commissioners without a unanimous
42 vote of such commissioners and public notice of such sale or disposition.
43 Such notice shall state the time or date of the sale or disposition or the

→ for a use other than to comply with this act

→ for a use other than to comply with this act

→ not including the costs or expenses associated with controlling noxious weeds not controlled by the person, association or persons, corporation, county or city or other official responsible for controlling noxious weeds, or not including the sale or disposition of the property subject to controlling noxious weeds.

1 date after which the property will be offered for sale or disposal, the place
2 of the sale or disposition and the terms and conditions of the sale or
3 disposition. Such notice shall be published at least once each week for
4 three consecutive weeks prior to the sale or disposition in the official
5 newspaper of the county. The property shall be sold or disposed of pub-
6 licly, in the manner deemed prudent by the board of county commis-
7 sioners, to the person or entity tendering the highest and best bid as
8 determined by the board. The board of county commissioners shall have
9 the right to reject any or all bids.

10 If, within 45 days after the first publication of the notice of sale or
11 disposition a petition signed by not less than 2% of the qualified electors
12 of the county is filed with the county election officer, such property shall
13 not be sold or disposed of unless the proposition of sale or disposal of
14 such property is submitted to a vote of the electors of the county at a
15 question submitted election called therefor. The election shall be called,
16 noticed and held in the manner provided by K.S.A. 10-120, and amend-
17 ments thereto, or at a general election. If a majority of the votes cast at
18 any such election authorizes any sale or disposition, such sale or dispo-
19 sition shall be made upon the notice hereinbefore prescribed by publi-
20 cation, to the person or entity tendering the highest and best bid, as
21 determined by the board. The board of county commissioners shall have
22 the right to reject any or all bids.

23 (b) If the board of county commissioners rejects all bids or if no bids
24 are received, the board may proceed to sell or dispose of the property
25 publicly, in the manner deemed prudent by the board, to the person or
26 entity tendering the highest and best bid or offer as determined by the
27 board. If the notice of sale or disposition has been previously published
28 in the manner set forth in subsection (a), no further notice of sale shall
29 be published before the property is sold or disposed of pursuant to this
30 subsection. When property of the county is sold or disposed of pursuant
31 to this subsection, the board shall cause to be published as a part of the
32 statement required by K.S.A. 19-227, and amendments thereto, a detailed
33 account of such sale or disposition which shall list such property, the
34 person who acquired the property and the purchase price.

35 (c) If the value of the property does not exceed \$1,000, such notice
36 by publication shall not be required prior to the sale or disposition of such
37 property. When property of the county having a value of more than \$50
38 but not more than \$1,000 is sold or disposed of, the board of county
39 commissioners shall cause to be published as a part of the statement
40 required by K.S.A. 19-227, and amendments thereto, a detailed account
41 of such sale or disposition which shall list such property, the person who
42 acquired the property and the purchase price.

(d) Upon a finding by the board that any property is no longer re-

1 required, or cannot prudently be used for public purposes of the county,
2 the board, by a unanimous vote, may sell or dispose of such property, the
3 value of which does not exceed \$50,000, by public or private sale or by
4 negotiation, as determined by the board. Notice of the board's intent to
5 sell or dispose of such property shall be published at least two times in
6 the official county newspaper. Such notice shall include the time, place
7 and conditions of such sale or disposition.

8 (e) The board, by unanimous vote, may sell or dispose of any real
9 property interest belonging to the county, including any interest derived
10 through dedication, plat, condemnation, reversion, abandonment, reser-
11 vation or tax foreclosure, which the board determines, after notice and
12 public hearing, to be surplus property not required for public use, and to
13 be unmarketable property. Such property interest may be sold or dis-
14 posed of by the county by the adoption of a resolution providing that the
15 interest of the county shall be vacated and transferring by quitclaim, with-
16 out benefit of warranties of title, whatever right, title or interest the
17 county has or may have in the property. The resolution shall provide for
18 the reservation to the county and the owners of any lesser property rights
19 for public utilities, the rights-of-way and easements for public service
20 facilities which are in existence and in use across the property. Upon
21 adoption of the resolution, the property interests vacated and conveyed
22 shall revert to and vest in the owners of the real estate immediately abut-
23 ting thereon, in proportion to the frontage of such land, except in cases
24 where such land may have been acquired for public use in a different
25 proportion, in which event it shall revert and vest in the owner of the
26 adjoining real estate in the same proportion that it was acquired.

27 Following the adoption of the resolution, the county clerk shall record
28 the conveyance upon the transfer records of the county and shall cause
29 a notice of the transfer to be published at least two times in the official
30 county newspaper and to be sent by certified mail to each owner of the
31 adjoining real estate to whom the property is being transferred, at the
32 address where the owner's tax statement is sent. A copy of the transfer
33 and the notice shall be recorded with the register of deeds of the county,
34 and no fee shall be charged by the county clerk or the register of deeds
35 recording the transfer.

36 (f) In the event of any sale or disposition of real property pursuant
37 to the authority under this section, the board, in its discretion, may enter
38 into and execute contracts for sale or lease-purchase agreements for a
39 term of not more than five years.

40 (g) The provisions of this section shall not apply to or restrict the
41 conveyance of real property by any county to the state of Kansas, the title
42 to which was previously conveyed to such county by the state of Kansas.

4 (h) The provisions of this section shall not apply to or restrict the

1 conveyance of real property by any county to a nonprofit corporation
2 organized under the laws of Kansas if such real property is acquired and
3 conveyed by the county for the purpose of development of an industrial
4 or business park on such real property comprised of businesses engaged
5 in: (1) Manufacturing articles of commerce; (2) conducting research and
6 development; or (3) storing or processing goods or commodities. If the
7 real property is to be conveyed for an amount which is less than the
8 amount the county paid to acquire such property, the board of county
9 commissioners shall publish a notice of its intent to convey such property.
10 The notice shall include a description of the property, the cost of acquir-
11 ing the property and the amount for which such property is to be con-
12 veyed. Such notice shall be published once each week for three consec-
13 utive weeks in the official county newspaper. If, within 45 days after the
14 first publication of such notice a petition signed by not less than 2% of
15 the qualified electors of the county is filed with the county election officer,
16 such property shall not be conveyed unless the proposition of sale or
17 disposal of such property is submitted to and approved by a majority of
18 the qualified voters of the county at an election called therefor. The elec-
19 tion shall be called, noticed and held in the manner provided by K.S.A.
20 10-120, and amendments thereto, or at a general election.

21 (i) The provisions of this section shall not apply to or restrict the
22 conveyance of real property by any county to a port authority if such real
23 property is acquired and conveyed by the county for the purpose of de-
24 velopment of an industrial, commercial or business park on such real
25 property. The board of county commissioners shall publish a notice of its
26 intent to convey such property. The notice shall include a description of
27 the property, the cost of acquiring the property and the amount for which
28 the property is to be conveyed. Such notice also shall include the time
29 and date of the public hearing at which the board proposes to consider
30 the conveyance of such property. Such notice shall be published at least
31 once in the official county newspaper. Following the public hearing, the
32 board of county commissioners may convey such property.

33 (j) Whenever it is required by this section that the board of county
34 commissioners approve a sale or disposition of property by unanimous
35 vote and a county has a five-member board, such board may approve a
36 sale or disposition of property by a $\frac{4}{5}$ majority.

37 (k) The provisions of this section shall not apply to the conveyance
38 of property pursuant to ~~K.S.A. 2-1319~~ subsection (c)(2) of section 7, and
39 amendments thereto.

40 New Sec. 19. If any provision of this act or the application thereof
41 to any person or circumstance is held invalid, the invalidity shall not affect
42 other provisions or applications of the act which can be given effect with-
out the invalid provision or application, and to this end the provisions of

this act are severable.

2 Sec. 20. K.S.A. 2-1315, 2-1316a, 2-1317, 2-1321, 2-1324, 2-1325, 2-
3 1326, 2-1327, 2-1328, 2-1329, 2-1330 and 19-211 and K.S.A. 2000 Supp.
4 2-1314, 2-1316, 2-1318, 2-1319, 2-1320, 2-1322, 2-1323, 2-1331 and 2-
5 1332 are hereby repealed.

6 Sec. 21. This act shall take effect and be in force from and after
7 January 1, 2002, and its publication in the statute book.

8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43

1-22



**KANSAS DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY OF TRANSPORTATION**

E. Dean Carlson
Secretary of Transportation

**Docking State Office Building
915 SW Harrison Street, Rm. 730
Topeka, Kansas 66612-1568
Ph. (785) 296-3461 FAX (785) 296-1095
TTY (785) 296-3585**

**Bill Graves
Governor**

**TESTIMONY BEFORE
HOUSE AGRICULTURE COMMITTEE**

**REGARDING HOUSE BILL 2468
LAND STEWARDSHIP AND PRODUCTIVITY ACT**

March 7, 2001

Mr. Chairman and Committee Members:

I am Steve Woolington, Director of the Division of Operations, Kansas Department of Transportation.

House Bill 2468, among other things, provides for the use of certified mulch to be used in managing the noxious weeds that infiltrate the right-of-way. This bill, as written, would require KDOT and the local weed directors to develop plans to contain/eradicate low acreage from noxious weeds. The bill would also require KDOT to require that all mulch used on public right-of-ways be certified as being free of noxious weeds, and that the bill would take effect January 1, 2002.

Although there will be an increase in the cost of seeding on construction projects due to the requirement to use certified mulch, KDOT is not opposed to this provision. However, projects that have already been let and those let before we make certified mulch a requirement would require a change order if they were seeded after January 1, 2002. At this time there has been only a limited amount of mulch that has been certified in the state of Kansas. It is not currently a statewide practice and thus availability of it is also an issue. Mulch is certified before it is cut thus requiring at least one haying season to implement this specification.

Because of the limited availability of certified mulch and time frames associated with letting of projects, KDOT would like to ask for an amendment that would allow us sufficient time to phase in the use of certified mulch. KDOT could support this bill provided that all projects let before January 1, 2002 be excluded from this provision. This extra time would allow KDOT and its contractors and suppliers time to accomplish the required change for this construction practice.

House Agriculture Committee
March 7, 2001
Attachment 2



KANSAS
ASSOCIATION OF
COUNTIES

TESTIMONY
concerning House Bill 2468
Land Stewardship and Productivity Act

Presented to House Agriculture Committee
Randy Allen, Executive Director
Kansas Association of Counties
March 7, 2001

Mr. Chairman and members of the committee, my name is Randy Allen, Executive Director of the Kansas Association of Counties. I am here today to express support for HB 2468, the Land Stewardship and Productivity Act.

Background: The eradication of noxious weeds has long been a public policy goal of the State of Kansas. The noxious weed law was originally enacted in 1937. Noxious weed eradication is not unlike many other programs for which responsibility is shared by the State of Kansas and its counties. From a strict financial perspective, county budgets reflect an annual investment of about \$18 million in noxious weed programs, compared to approximately \$200,000 in state funds annually appropriated for program oversight through the Kansas Department of Agriculture. If counties appear to be especially protective in the process of considering changes to laws relating to the noxious weed program, therefore, please understand that our behavior stems from a significant and long-standing financial and psychological investment in the program's success. The partnership aspect of the program is strongly desired by counties. In fact, we believe that the partnership can and should be stronger.

Study Process: A Noxious Weed Law review group was convened by the Secretary of Agriculture in 1999 to review the entire law and develop recommendations, as appropriate, based on changes in agricultural production, weed control practices, and governmental roles over the past several years. Policy stakeholders, including counties, were active in a process of reviewing the noxious weed law and determining potential areas of improvement. A legislative proposal (SB 572) was advanced to the Senate Agriculture Committee during the 2000 legislative session. While there were aspects of SB 572 which counties could support, overriding objections and concerns forced us to oppose the legislation. *What became clear during the 2000 Senate Agriculture Committee hearings, however, was that there is considerable room for improved understanding and dialogue about the public policy purposes of noxious weed eradication programs and how the policy objectives can be best fulfilled.*

In response to a request by our Association to Secretary of Agriculture Jamie Clover Adams one year ago, we were granted an opportunity to pull back and engage in a process of dialogue involving county commissioners, county noxious weed directors, the Secretary of Agriculture and her staff. Last summer, the Association hosted four well-attended dialogue sessions in Garden City, Hays, Topeka, and Hutchinson for the purpose of developing an improved common understanding of the perceived strengths and drawbacks of the current

6206 SW 9th Terrace
Topeka, KS 66615
785•272•2585
Fax 785•272•3585
email kac@ink.org

House Agriculture Committee
March 7, 2001
Attachment 3

noxious weed law, gaining feedback about legitimate concerns about existing law and the 2000 legislative proposal (i.e. SB 572), as well as soliciting other ideas and suggestions. From the four regional dialogues, the Association convened an internal working group of five county commissioners, five noxious weed directors, and one county counselor for the purpose of hammering out a position counties could support. Our focus was on what we support, in contrast to what we oppose. A position statement was prepared, and ultimately adopted by the Association's membership in November, 2000. It is as follows:

The Kansas Association of Counties believes that the eradication of noxious weeds is important to maintain the viability of Kansas' agricultural economy, protect property values, preserve our natural resources, and protect the public health and safety. The KAC seeks to strengthen the partnership between the State Department of Agriculture and counties. The KAC supports enactment of a standard classification system based on acreage of noxious weeds in each county to enable prioritization of resources to eradicate noxious weeds, as long as (1) financial incentives (i.e. cost sharing) for various control practices (chemical, cultural, biological) are locally determined; and (2) the list of state-declared noxious weeds continues to be accomplished by legislative enactment. Further, the KAC supports strengthened enforcement strategies and greater collaborative efforts involving counties, the State Department of Agriculture, KSU Research and Extension, and others to find better control methods with the purpose of eradication of noxious weeds.

HB 2468 and the Bases of the Association's Support:

Explicit Policy Purpose Statement

HB 2468 (New Section 1) sets forth the public purpose of the act, i.e. "to establish a program whose goal is to eradicate noxious weeds on public and private land and thereby protect the viability of the agricultural economy and natural resources of Kansas"

Retention of Shared Responsibilities

HB 2468 continues a policy of shared responsibilities among the State, counties, and property owners.

Establishment of a Classification System

HB 2468 creates a system in which noxious weeds can be classified based on their occurrence and infestation levels in each county. The number of acres of a noxious weed found growing in each county determines the classification of a noxious weed. The system will assist counties to target their financial resources for use on weeds of the highest risk, as follows:

Foreign: a category for weeds not yet present in Kansas but close enough in proximity to our borders to be a concern.

Containment: a category for weeds not widely distributed in a county (i.e. < 100 acres) with the potential to be contained and possibly eradicated.

Management: a category for high-acreage noxious weeds in each county, for which it is practically impossible to fully eradicate but which can be controlled and managed. The category is further divided into two sub-categories, including Primary Management, for noxious weeds growing on more than 100 acres in a county but on less than 10,000 acres statewide (weeds of regional significance), and Secondary Management, for noxious weeds growing on more than 100 acres in a county and more than 10,000 acres statewide (weeds generally distributed throughout the state).

Local Flexibility for Financial Incentives

HB 2468 permits counties to provide financial incentives for all approved control practices (including chemical, cultural, and biological) while allowing counties discretion to provide financial incentives for one control practice but not another. Under HB 2468, the amount of any financial incentive (i.e. cost share) for approved control practices would be *decoupled* from the county's property tax mill levy for noxious weeds. Currently, if a county does not levy 1.5 mills for noxious weed eradication, then the county can collect only 75% of its cost from participating property owners. If a county levies 1.5 mills for noxious weed eradication, then the county can collect 100% of its costs.

While HB 2468 requires that financial incentives be provided for noxious weeds listed in the containment category and primary management subcategory, the amount of financial incentive provided would be at the discretion of the board of county commissioners. Further, the basis for calculating the financial incentive would be established at the discretion of the board of county commissioners as long as it is on a "substantiated and measurable basis." No financial incentive would be required, although it would be permitted, for noxious weeds listed in the other categories.

Strengthened Enforcement Options

HB 2468 also affords additional enforcement options, including the ability to impose civil penalties for compliance while retaining the criminal provisions of the existing law (Section 17 (b)).

Certified Noxious Weed-Free Mulch Required

Section 10 (b) of HB 2468 requires that any hay used by the State (e.g. KDOT, Wildlife and Parks), counties, or other governmental entities on public rights of way be certified noxious-weed free prior to such use. This is a new requirement. **We enthusiastically support this section of HB 2468. If we expect private landowners to eradicate**

noxious weeds, we must hold ourselves (i.e. all governmental entities) to the same standard.

- In addition, the Association supports HB 2468 for a couple significant things that it *does not do*. First, HB 2468 does not mandate counties to reimburse property owners if they purchase noxious weed control products (herbicides) from sources other than the noxious weed department. Counties routinely purchase herbicides from private firms following a competitive bidding process. If counties were to be required to reimburse property owners for chemicals purchased from other sources, the cost to counties and its taxpayers would inevitably increase.

It should be noted that existing law (K.S.A. 2-1333) authorizes boards of county commissioners to establish a program to provide discount certificates to landowners, prior to the purchase of chemicals from chemical dealers, for the landowners to present to the chemical dealer at the time chemicals are purchased. After the purchase is made, the dealer then sends the certificate and a copy of an itemized invoice to the county weed director. After the normal review process, the county reimburses the chemical dealer for the amount stated on the certificate. This program, popularly known as the cost-share certificate program, operates well in a few counties. It is an option, however, and one that is not addressed by HB 2468. We would strongly resist any attempt to make the cost-share certificate program a mandate upon counties.

Second, HB 2468 does not remove the listing of noxious weeds from the legislative process. The "foreign weed" category allows the Secretary of Agriculture to anticipate and hopefully limit new types of noxious weed infestations through the rule and regulation process, but counties would not be financially committed to eradication programs for noxious weeds in the foreign category. Given counties' overwhelming responsibility for funding noxious weed programs in Kansas, we believe that the current legislative process of listing noxious weeds works well and should not be changed.

- **Summary**

In summary, the Kansas Association of Counties supports the principles embodied in HB 2468. The bill is a work product of many diverse constituencies represented by several associations and agencies which do not always agree. Some advocates may urge you to go beyond the scope of the current HB 2468. In your deliberations, I urge you to remember that county governments are the primary financiers of noxious weed programs and therefore refrain from imposing mandates which could make this bill unacceptable. Thank you for this opportunity to present my comments.

The Kansas Association of Counties, an instrumentality of member counties under K.S.A. 19-2690, provides legislative representation, educational and technical services and a wide range of informational services to its member counties. Inquiries concerning this testimony should be directed to Randy Allen or Judy Moler by calling (785) 272-2585.

TESTIMONY
Concerning House Bill 2468
Land Stewardship and Productivity Act

Presented to House Agriculture Committee
Tracy Lasher, Reno County Noxious Weed Director and
President of the County Weed Director Association of Kansas
March 7, 2001

Committee Members,

My name is Tracy Lasher, Reno County Noxious Weed Director and President of the County Weed Directors Association of Kansas. On behalf of the County Weed Directors Association, I would like to express our general support of the concepts in HB 2468 as it currently reads. Numerous members of our association as well as other county officials attended the regional dialogue meetings hosted by the Secretary of Agriculture to discuss and share ideas of how to improve the noxious weed law. These meetings were a welcomed dialogue between counties, Secretary Clover-Adams and the Kansas Department of Agriculture. It is our goal as an association to improve the working relationship with the Secretary, the Department of Agriculture and appreciate Secretary Clover-Adams intention to do the same.

Our organization was represented on the noxious weed law review committee established by the Kansas Department of Agriculture and Secretary Clover-Adams last year. From the many discussions held between K.D.A., county commissioners, county noxious weed directors, Secretary Clover-Adams, Kansas Association of Counties as well as the private parties represented on the K.D.A. review committee, an agreed upon consensus was reached that translates into HB 2468 which is before you.

Our association does have a few concerns that I would like the committee to consider. We feel the minimum and maximum acres for the classification may be too low and deserve more studying. HB 2468 continues the practice of listing noxious weed through the legislative process. We feel the legislature is a capable body who reports to the landowners of the state and can make the right decisions relating to which weeds should be on the noxious weed list.

House Agriculture Committee
March 7, 2001
Attachment 4

There is a potential that the number of noxious weeds could be greatly increased through a rules and regs process. For these reasons, we are pleased that HB 2468 retains the current process of listing noxious weeds by legislative enactment. We believe the county option for a cost share certificate program should remain as it is in the current law, a county option. This gives each county the option of implementing or not implementing a certificate program based on the desires of its citizens. Furthermore, we support strengthened enforcement strategies and greater collaborative efforts involving counties, K.D.A., KSU Research and Extension as well as others to find better control methods for the purpose of eradication of noxious weeds. Lastly, our association supports continued or increased funding for noxious weed control within the Department of Agriculture. Counties spend in the neighborhood of \$18,000,000 annually for noxious weed control and the K.D.A. budgets approximately \$200,000. An increase in funding would be a welcomed addition to K.D.A.'s efforts in noxious weed control.

For these reasons, I am testifying as a proponent of this bill in its current form.

I appreciate the opportunity to come before you and would be happy to answer any questions.

Thank you.

Testimony for March 7, 2001
HB-2468

My name is Rodney Biesenthal, Pottawatomie County Noxious Weed Director, and have held the position for 14 years. I have been involved with this bill and its predecessor for the past two years, since the working groups inception. I come before you today representing the CDWAK not in opposition but with some concerns of mine and our organization.

I would ask of you to turn page 6, lines 19-26. In one of the bills that I have, the noxious weeds are listed and in another copy they are not. This request is for clarification purposes.

I will try to be brief and to the point. The first concerns or recommended amendments are what I consider to be grammar changes or oversights. I believe that I have KDA's concurrence on some of these concerns.

- 1.) Page 1 Line 33, remove the word "both".
- 2.) Page 3 Line 33, remove the words "to be a certification".
- 3.) Page 6 Lines 5 and 6, remove the words "such use" and replace with "harvest".
- 4.) Page 6 Lines 19 and 20, replace the words "The term Noxious Weeds shall mean Kudzu" and then continue listing.
- 5.) Page 7 Line 2, insert the word "Noxious" between the words for and weed. (Non-noxious work is listed on page 10, lines 8-12.)
- 6.) Page 7 Line 12, change manage to "management of".
- 7.) Page 8 Line 32, When a weed director enters, add "or causes to be entered"
- 8.) Page 10 line 33, remove the words fails to and change the word "use to uses".
- 9.) Page 11 Section 17 Line 15, add "and refunds the financial incentive if applicable".
- 10.) May be subject to discord Page 7 Line 43 and Page 8 Lines 1-4. Can we place a lien on other governmental units (political subdivisions)? I would suggest the wording "such clerk shall withhold the appropriate amount due the county from the next tax distribution to the political subdivision".

I believe that KSA 2-1314B has not been altered and would still allow bull thistle and multiflower rose to be noxious weeds by county option and that KSA 2-1333 has also been left unaltered (voluntary cost share certificate) that was enacted approximately ten years ago.

Other areas of the bill that may need additional changes are:

- 1.) Wording on who shall purchase chemical, tenants or landowners. If a tenant purchases how would a county recover a bad bill. If charging is eliminated this would seriously hinder commercial aerial and ground application.
- 2.) Who is the responsible party on US Corp of Engineer property that is leased to wildlife and parks that may then be partially subleased to farmers and ranchers for agriculture purposes.
- 3.) Reporting suspicious activities to the Secretary of Agriculture. Under what authority can KDA proceed?
- 4.) In regards to the 100 acre figure that is used to determine the category that a weed may fall in. If this figure is to be increased, our association would not be opposed to a change.
- 5.) Civil penalty's, I have concerns of the repercussions of the civil penalty's of misuse of authority. Everyone from the Secretary of Ag to the Noxious Weed Directors would have the authority to impose fines.
- 6.) Would allow for inconsistencies amongst neighboring counties.
- 7.) Most working parts of the law would be addressed by rules and regulations instead of statute and remain unknown at the present time.

I would also like to point out some differences between this bill and the old noxious weed law of 50+ years that has worked so well with only minor changes:

- 1.) No levy limits nor guidelines to establish the amount of the financial incentive offered by counties.
- 2.) Eliminates the state paying part of a weed director's salary. The state has not paid a % for decades.
- 3.) Eliminate five unlawful acts KSA 2-1325-----KSA 2-1329.
- 4.) Allows funding by the general fund.

PAGE 3

- 5.) Capital outlay fund no longer necessary for carry over funds.
- 6.) Eliminates 5 and 10% restrictions on collecting bad bills.
- 7.) Allows for financial incentives to be paid for mowing, disking, biological practices and for chemical control.
- 8.) Cooperate with KSU.

In ending, I wish to thank you for HB-2101 establishing a fee fund to control exotic plant pests before they become widespread and cause an economic threat. This will fit quite well with the foreign weed category. Again, I thank you for your time and consideration for this bill.

TESTIMONY
Concerning House Bill 2468
Land Stewardship and Productivity Act

Presented to House Agriculture Committee
Russ Frey, Riley County Commissioner
March 7, 2001

Dear Chairman and members of the House Agriculture Committee;

My name is Russ Frey, chairman of the Riley County Commission and also serve in leadership as Vice President of the Kansas Association of Counties.

Our Executive Director, Randy Allen, Rodney Biesenthal, and Tracy Lasher, representing the County Weed Directors of Kansas have provided background and support of HB 2468. Let me on behalf of County Commissioners and KAC leadership express our support of the bill.

We appreciate the opportunity provided by Secretary of Agriculture, Jamie Clover-Adams and her staff to visit with weed directors and county commissioners at 4 different regions in Kansas (Garden City, Hays, Topeka and Hutchinson), during the past summer. I, along with Randy Allen, attended all of these meetings, as did Secretary Clover-Adams and members of her staff.

I believe it is safe to say that we heard different messages in different regions of the state and need for maximum local flexibility in management of programs by counties for compliance and cost share of chemical used in control.

We also had a consensus building meeting of weed directors, county commissioners and Wade Dixon, serving as County Attorney's affiliate representative to the KAC leadership to find common ground in consensus of this legislation.

We also appreciate the impact of other members of the Kansas Agricultural Alliance and their input into working of the coalition and consensus which was provided in the collaborative process of working this bill.

Thank you for this opportunity to support this legislation and I would be happy to stand for questions.

Thank you, I remain,

Sincerely,

Russ Frey

Riley County Commissioner

House Agriculture Committee
March 7, 2001
Attachment 6

Kansas Agricultural Alliance

Kansas Agricultural Aviation Association

Kansas Agri-Women

Kansas Association of Ag Educators

Kansas Association of Conservation Districts

Kansas Association of Wheat Growers

Kansas Cooperative Council

Kansas Corn Growers Association

Kansas Crop Consultant Association

Kansas Dairy Association

Kansas Ethanol Association

Kansas Farm Bureau

Kansas Fertilizer and Chemical Association

Kansas Grain and Feed Association

Kansas Grain Sorghum Producers Association

Kansas Nursery & Landscape Association

Kansas Livestock Association

Kansas Pork Association

Kansas Seed Industry Association

Kansas Soybean Association

Kansas Veterinary Medical Association

Western Retail Implement and Hardware Association

March 7, 2001

**Testimony To House Agriculture Committee
Regarding HB 2468
From The Kansas Agricultural Alliance
by Kerri Ebert, Chairman of The Kansas Agricultural Alliance**

Chairman Johnson and members of the Committee, I am Kerri Ebert, chairman of the Kansas Agricultural Alliance. The Kansas Agricultural Alliance, represents the 21 agricultural associations listed on our letterhead. The Alliance only takes positions when our membership is in unanimous agreement, as we are today with regard to HB 2468. The Kansas Ag Alliance supports HB 2468 and respectfully requests that the Committee consider adding the attached amendment that will allow flexibility in purchasing weed control chemicals.

Our amendment, on the sheet attached to my testimony, applies to the provision of financial incentive for the control and management of noxious weeds. We would like to insert on Page 4, Section (5), Line 7: "The same financial incentive shall apply whether the responsible party purchases chemicals from the county noxious weed department or a registered Kansas pesticide dealer." We request that the same sentence be added on Page 4, Line 30.

Alliance members represent both farmers and agri-businesses. Members of the Alliance and the individuals each of our Associations represent, feel strongly that farmers should have the opportunity to choose where and from whom they purchase weed control chemicals and that any financial incentives offered for weed control should apply, regardless of where that chemical is purchased. The Alliance respects and applauds county weed departments for their leadership in noxious weed control in Kansas. This amendment is not intended to discourage purchases from county weed departments. The intent is to allow people to control noxious weeds by making chemical purchases convenient for the purchaser, while maintaining the standard that the chemical must be purchased from a **Kansas registered** pesticide dealer OR the county weed department.

On behalf of the Kansas Ag Alliance, I request your support for the amendment. Thank you for your consideration.

House Agriculture Committee
March 7, 2001
Attachment 7

7-2

1 city or government employee obtain a financial incentive to control
2 noxious weeds on government land.

3 (c) Provide a financial incentive for the control and management of
4 noxious weeds on a substantiated and measurable basis to a responsible
5 party who pays to control and manage weeds in accordance with this act
6 on private property in the containment category or the primary manage-
7 ment category.

8 (6) Specify practices contained in the official control plan for each
9 noxious weed present in the county or city for which a financial incentive
10 shall be provided and identify what financial incentives, if any, the gov-
11 ernmental entity shall provide for each control practice identified and
12 what substantiated and measurable basis such financial incentive is
13 provided.

14 (7) Provide a grievance system, established in the rules and regula-
15 tions of the secretary, allowing landowners or members of the public to
16 complain about noxious weeds growing on another's land.

17 (8) Be subject to review and audit by the secretary, and shall make
18 all its books and records pertaining to this act available for inspection
19 upon request of the secretary.

20 (9) Ascertain the approximate acreage infested with each kind of nox-
21 ious weed in the governmental entity's jurisdiction. This information shall
22 be reported by June 1 of each year to the county, and any city or township
23 within the county's boundaries.

24 (c) The board of county commissioners of each county and the gov-
25 erning body of any city that employs a weed director, in cooperation with
26 the weed director may:

27 (1) Provide a financial incentive on a substantiated and measurable
28 basis to a responsible party who pays to control and manage weeds in
29 accordance with this act on private property in the secondary manage-
30 ment subcategory.

31 (2) Offer for sale any product or material identified in the official
32 control plan. The price for products or materials offered for sale shall be
33 determined by the following formula: Price of product or material paid
34 by the county or city plus any storage or handling amount minus the
35 financial incentive.

36 New Sec. 8. (a) At least annually, the board of county commissioners
37 of each county and the governing body of any city that employs a weed
38 director shall give the public general notice in the official county or city
39 newspaper of all noxious weeds identified by the weed director as growing
40 in the geographic area for which the weed director is responsible. The
41 notice to the general public shall follow the requirements adopted by
42 rules and regulations of the secretary.

43 (b) The board of county commissioners of each county and the gov-

The same financial incentive shall apply whether the responsible party purchases chemicals from the county noxious weed department or a registered Kansas pesticide dealer.

The same financial incentive shall apply whether the responsible party purchases chemicals from the county noxious weed department or a registered Kansas pesticide dealer.



PUBLIC POLICY STATEMENT

HOUSE COMMITTEE ON AGRICULTURE

RE: HB 2468 – Enacting the Land Stewardship and Productivity Act.

**March 7, 2001
Topeka, Kansas**

**Prepared by:
Bill R. Fuller, Associate Director
Public Policy Division
Kansas Farm Bureau**

Chairman Johnson and members of the House Committee on Agriculture, we are here to support HB 2468 that proposes to update the noxious weed statute. This law has not changed very much in more than 50 years, thus it does not include many new technologies, products and practices.

My name is Bill Fuller. I serve as the Associate Director of the Public Policy Division for Kansas Farm Bureau.

I accepted the invitation by former Kansas Secretary of Agriculture Allie Devine to participate on a Task Force charged with reviewing and updating the state's noxious weed law. The first of several meetings occurred in January of 1999. Additional meetings were held in 2000 to review the current statutes and examine proposals to improve the law. Eleven organizations participated in developing HB 2468 that is under consideration today:

- County Noxious Weed Directors Association of Kansas
- Kansas County Commissioners Association
- Kansas Association of Counties
- Kansas Farm Bureau
- Kansas Fertilizer and Chemical Association
- Kansas Livestock Association
- Kansas Cooperative Council

House Agriculture Committee
March 7, 2001
Attachment 8

- Kansas Nursery and Landscape Association
- Kansas Seed Improvement Association
- Kansas Agricultural Aviation Association
- Kansas State University

The proposals contained in HB 2468 are desirable improvements to the current 50-year old noxious weed law. Examples include:

- Continues the shared responsibility approach between landowners, counties and the state.
- Provides counties additional authority and flexibility to control and manage noxious seeds within the borders of their county.
- Authorizes counties to provide financial incentives for the use of cultural practices and biological methods of control, in addition to the current authority that limits cost-share for only herbicides.
- Allows the Kansas Department of Agriculture through the administrative rule and regulation procedure to use a science based risk-analysis process to place plants on the noxious weed list that exist in other states which are expected to become a problem in Kansas.
- Requires government entities to control and manage noxious weeds on land under their respective jurisdictions.

The 435 farmers and ranchers serving as Voting Delegates at Kansas Farm Bureau's 82nd Annual Meeting in Wichita last November developed new policy while reaffirming existing policy relating to noxious weeds. KFB member-adopted policy includes these statements:

- Landowners need added flexibility to use new alternative control practices.
- Counties should be authorized to adopt control practices best suited to the local area.
- A system of classifying noxious weeds should be developed to focus the limited resources on weeds posing the most serious challenges and on implementing the most realistic control measures.
- The process should allow counties to monitor and develop control measures for weeds not yet known to exist in the state, but are moving toward Kansas.

- County Weed Directors should vigorously enforce noxious weed laws on both private and public lands, including railroads; rail trail sponsors and utilities holding or managing land.
- Control procedures and cost-share should include the use of herbicides, cultural practices and biological methods.
- The state should provide technical assistance and provide increased oversight authority.
- The authority for placing weeds on the noxious list should be transferred from the legislative process to a process that incorporates science and risk analysis that is administered by the Kansas Department of Agriculture. The listing process must provide the opportunity for input by producers, agronomists and weed scientists.
- Landowner and tenant cost-share incentives for herbicides should be available through County Weed Departments and private agricultural chemical dealers.

Kansas Farm Bureau is a member of the Kansas Agricultural Alliance (KAA). We strongly support the amendment suggested by KAA that will allow landowners to acquire chemical controls from registered pesticide providers and receive the same savings available through the county weed department.

The committee has heard a great deal from weed directors, county commissioners and industry representatives in regards to the proposals to update the noxious weed law that are outlined in HB 2468. We believe it is extremely important for you to consider the views of farmers and ranchers who are agricultural producers and landowners. As a part of the year-long policy development process at Kansas Farm Bureau, the State Resolutions Committee prepared and distributed a policy development questionnaire to the more than 42,000 farm and ranch members. We share with you member responses to noxious weed policy questions:

1. The cost-share assistance currently limited to herbicides should be expanded to include cultural practices and biological methods that are also approved noxious weed control practices.

Strongly Agree
146-24%

Agree
324-53%

Undecided
67-11%

Disagree
63-10%

Strongly Disagree
16-2%

2. Landowners should have the opportunity to acquire herbicides for noxious weed control from both the county weed departments and private agricultural chemical dealers.

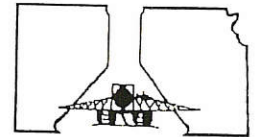
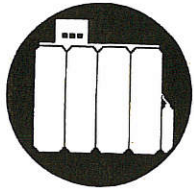
- Strongly Agree 251-41% Agree 311-50% Undecided 30-5% Disagree 16-3% Strongly Disagree 9-1%

3. The authority for placing weeds on the noxious weed list should be transferred from a legislative process determined by Representatives and Senators to an administrative rule and regulation process that incorporates recommendations based upon science and risk analysis by the Kansas Department of Agriculture.

- Strongly Agree 141-23% Agree 308-50% Undecided 93-15% Disagree 35-6% Strongly Disagree 34-6%

HB 2468 contains many of the provisions that are compatible with Farm Bureau member-adopted policy. We support efforts to provide maximum flexibility to counties, additional convenience to landowners and sufficient state oversight. We respectfully request the committee adopt the amendment offered by KAA and advance HB 2468 to the full House of Representatives.

Thank you!



STATEMENT OF THE
KANSAS GRAIN & FEED ASSOCIATION
AND THE
KANSAS FERTILIZER & CHEMICAL ASSOCIATION
PRESENTED TO
HOUSE AGRICULTURE COMMITTEE
REGARDING HOUSE BILL 2468
REP. DAN JOHNSON, CHAIR
MARCH 7, 2001

KGFA & KFCA MEMBERS ADVOCATE PUBLIC POLICIES THAT ADVANCE A SOUND ECONOMIC CLIMATE FOR AGRIBUSINESS TO GROW AND PROSPER SO THEY MAY CONTINUE THEIR INTEGRAL ROLE IN PROVIDING KANSANS AND THE WORLD THE SAFEST, MOST ABUNDANT FOOD SUPPLY.

816 SW Tyler, Topeka KS 66612 - 785-234-0461 -

House Agriculture Committee
March 7, 2001
Attachment 9

Chairman Johnson and members of the House Agriculture Committee, I am Doug Wareham appearing today on behalf of both the Kansas Fertilizer and Chemical Association (KFCA) and the Kansas Grain and Feed Association (KGFA). KFCA's over 550 members are primarily plant nutrient and crop protection retail dealers with a proven record of supporting Kansas producers by providing the latest crop protection products and services. KGFA is comprised of 1100 member firms including country elevators -- both independent and cooperative -- terminal elevators, grain merchandisers, feed manufacturers and associated businesses. KGFA's membership represents 99% of the over 860 million bushels of commercially licensed grain storage space in the state of Kansas.

We appreciate the opportunity to appear in support of House Bill 2468, which provides a much needed overhaul of the Kansas Noxious Weed Law and ensures a statewide coordinated plan of attack to address Kansas' most threatening plant pests. The general components of House Bill 2468 make sense for Kansans. We believe this bill will improve the control of noxious weeds by:

- Giving the highest priority to noxious weeds that can and should be contained or eradicated.
- Providing uniformity of control methods through the development of an official control plan for each noxious weed.
- Providing counties with greater flexibility to target financial incentives for noxious weed control as they deem appropriate for their particular county.
- Providing the Secretary of Agriculture and County Weed Directors with civil penalty authority as an enforcement tool to ensure compliance with this act.

While House Bill 2468 provides greater flexibility to Kansas counties and cities charged with the control and eradication of noxious weeds, it fails in its present form to provide landowners with an equal level of flexibility. We hope this committee will recognize that unless the amendment offered by the Kansas Agricultural Alliance is included, many landowners today will not receive the financial incentive provided by this act because they either can't, or for various reasons choose not, to purchase noxious weed control chemicals from county weed departments. For the past decade, our organizations have

expressed our frustration with the unwillingness of most County Weed Department's to provide Kansas landowners and farmers with the "freedom of choice" when it comes to where they purchase noxious weed control chemicals. While the Kansas Legislature provided counties with the option of implementing cost-share certificate programs over 10 years ago, only a handful of counties have afforded their farmers and landowners that choice.

Why should landowners be given a choice?

- Many landowners must travel over 25 miles to a county noxious weed department to purchase noxious weed chemicals and receive a financial incentive, when a local registered dealer with the same products on hand would have been more convenient. Farmers/Landowners should not be forced to "give up" the financial incentive simply because they "choose" to shop closer home.
- Many farmers/landowners own or rent land in numerous counties. Does it make sense that farmers/landowners that operate in multiple counties are required to travel to 2, 3 or more county seats to purchase noxious weed control chemicals when they could simply purchase the products from one local dealer?
- Many counties only offer noxious weed control chemical products in small packages. Bulk product are available from a local pesticide dealers and are more economical, convenient, and environmentally friendly. Purchasing product in bulk from a local dealer eliminates the need for plastic containers that are getting more and more difficult to dispose of. Disposal of plastic containers cost counties and their local taxpayers even more money.
- Because they are forced to purchase chemicals from the county weed department, if they hope to receive a financial incentive, many farmers are left with odd amounts of chemical left over that they must store.
- Some county noxious weed departments are only open to sell chemicals on a part-time basis or by appointment, which is not convenient to the farmer/landowner. Most local farm chemical dealerships are open longer hours and on weekends to serve their customers. Should a farmer/landowner be forced to wait until the county weed department opens on Monday, when a local dealer has the very same product available and on-hand on Saturday?

- Restricting access to the financial incentive restricts many absentee landlords and farmers retired from active agriculture from receiving financial assistance. Absentee landlords or disabled farmers/landowners that are simply unable to travel and pick-up product from a county weed department, but depend rather on professional dealers to treat their infested acres are forced to bear a greater cost because counties restrict financial incentives.
- Many farmers/landowners find it less expensive to purchase noxious weed control chemicals from registered dealers even without the financial incentive because dealers apply bulk product instead of using small containers. Imagine the farmer/landowners savings if he were free to purchase bulk products from the dealer and also receive the financial incentive provided by the county weed program.
- Most importantly, farmers/landowners should be free to make the choices that are best for their individual farming operation.

What do Kansas Agricultural Retailers think about the unwillingness of counties to provide landowners/farmers with the freedom of choice?

- We find it troubling that counties appear more interested in protecting their program and the revenue it generates than affording farmers/landowners with the widest variety of purchase options and professional services available when battling noxious weeds.
- We also find it troubling when county weed directors state they would be overwhelmingly burdened if they had to follow-up and inspect the application of chemicals by registered dealers. We feel this is a poor excuse because we know county weed directors presently only periodically or randomly follow-up on applications of products they sell through their own programs.
- Finally, we also find it troubling that county noxious weed directors are receiving gifts, such as tickets to sporting events and enjoying free hospitality compliments of chemical suppliers for selling large quantities of products. It appears county

weed departments want to enjoy the perks associated with a private business without competing on a level playing.

I would like to remind this committee of a piece of legislation that we believe to be very similar to the amendment you are being asked to consider today. Just 12 days ago the full Kansas House of Representatives considered and adopted on a vote of 120 to 4, H.B. 2369, which restricts counties from selling paving supplies and paving services on the open market. This would seem to be a clear signal that the Kansas House of Representatives believes government at any level should not be in a competition with local taxpaying businesses. However, it is not our position that counties be restricted from selling noxious weed control chemicals. In fact, we support the existence of sound, credible and enforceable laws to control noxious weeds in Kansas and we believe county weed departments play a significant role in battling noxious weeds. We do, however believe that landowners should have all available options when it comes to purchasing weed control chemicals. Ag chemical dealerships, ag chemical distributors/suppliers, limited liability ag chemical partnerships, and the advent of chemical sales over the internet have fostered a new age of competition that literally gives today's landowner/farmer a host of sources for purchasing products to control weeds. These choices generally mean competition and savings for Kansas farmers. Unfortunately, the restrictions currently in place and in practice, restrict landowners/farmers from the options (choices) currently available in today's marketplace. The amendment offered by the 20+ member organizations of the Kansas Agricultural Alliance will simply enable those options to be realized.

Mr. Chairman, I appreciate the opportunity to appear in support of House Bill 2468 and the amendment, which will provide farmers/landowners the right to choose. I would be happy to stand for questions at the appropriate time.



COUNTY ADMINISTRATOR

RENO COUNTY
206 West First Ave.
Hutchinson, Kansas 67501-5245
316-694-2929
Fax: (316) 694-2928
TDD: Kansas Relay Center 1-800-766-3777

January 18, 2001

Collingwood Grain, Inc.
Mr. Alan Stone
P.O. Box 2150
Hutchinson, KS 67504-2150

Dear Mr. Stone,

This correspondence is in response to your letter dated December 12, 2000 requesting the adoption of a cost share certificate program in Reno County. The Board of Commissioners discussed the pros and cons as well as mechanics involved in a certificate program during their regularly scheduled study session on January 9, 2001.

The suggested method for issuing certificates would still require a trip to the Weed Department thereby negating any mileage savings. The Weed Department is responsible for the proper use of certificates and would have difficulty ensuring that abuse did not occur. Also, there are budget considerations involved in such a program since our FY 2001 budget is already in place. After careful consideration, the Reno County Board of Commissioners do not believe at this time that such a change in this program is desirable or in the best interest of their constituents.

If you have additional questions, you may contact the Reno County Noxious Weed Director or County Administrator. Your interest and support of the noxious weed program is most appreciated.

Sincerely,

Mr. Ed Williams
County Administrator

Mr. Tracy Lasher
Noxious Weed Director

Cc. Board of Commissioners



January 16, 2001

Johnny Schaben
Farm Service Center
85 SE 115 Ave
Ellinwood, KS 67526

RE: Cost Share Certificate Program

Dear Mr. Schaben:

In reference to your recent inquiry related to the use of the cost share certificates within the Barton County Noxious Weed Department, we have elected to not participate in the program. Our position on this issue relates to the fiscal impact of the program on County budgets, the additional reimbursements and the administration of the program. Concerns also relate to maintaining the system as honest as possible with the least amount of error.

Barton County has a strong Noxious Weed program in which we take pride and the current operations meet the needs of our citizens. The department cooperates fully with the dealers of Barton County now and this practice will continue.

Sincerely,



Kirby Krier
Chairman

LOGAN COUNTY COMMISSIONERS

Virginia B. Beamer
Commissioner 1st District

Douglas Mackley
Commissioner 3rd District
Chairman

Donita M. Sparks
Commissioner 2nd District

710 West Second • Oakley, Kansas 67748-1233 • Telephone 785-672-4244

December 19, 2000

Mr. Keith Karnes
Co-Ag Crop Production Mgr.
415 W. 2nd.
Oakley, KS 67748

RE: Cost Sharing Chemicals

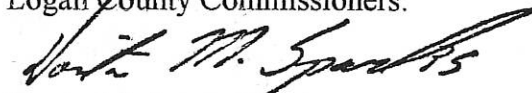
Dear Mr. Karnes:

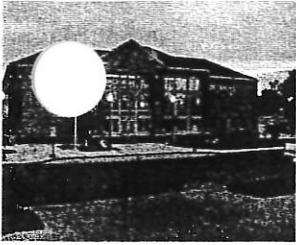
The Board of Logan County Commissioners met for their regular meeting on Monday, December 18, 2000 and discussed your letter regarding cost sharing chemicals. After discussing and considering the matter with the Logan County Weed Director, the Board unanimously agreed not to implement the program at this time. In their decision, the Board felt the program would be too costly to Logan County taxpayers and only a few would benefit from this program.

If you have any further questions or comments regarding this matter, please do not hesitate to contact the Board of Logan County Commissioners at the above phone number and address.

Merry Christmas & Happy New Year!

Logan County Commissioners:


Donita M. Sparks, Chairman



**Administrative Center
Finney County, Kansas**

RECEIVED
JAN 30 2001
BY: _____

311 North Ninth Street
Garden City, Kansas 67846

Board of County Commissioners
Roman Halbur, DST 1
Jerry M. Davis, DST 2
Irv C. Stephens, DST 3
Clifford Mayo, DST 4
Alan Fankhauser, DST 5

County Clerk
Carol Brown

County Treasurer
Raylene Dick

Register of Deeds
Rita Alsop

County Administrator
Peter H. Olson

Human Resources
Debbie Hays

County Appraiser
Alan Roop

Maintenance Supervisor
Louis Mendoza

Computer Support Coordinator
Marti Bremer

Alan Stone
Collingwood Grain Inc.
P.O. Box 2150
Hutchinson, KS 67504-2150

January 19, 2001

Dear Mr. Stone,

The Finney County Board of Commissioners reviewed your request that Finney County implement the "Cost Share Certificate Program" in our Noxious Weed Department. This was discussed in regular session on January 16th, 2001. After consideration, we at this time have decided not to implement the requested certificate program.

Noxious weed control and infestation prevention is important to the economics of Finney County agriculture. We feel our current program of purchasing needed herbicides at wholesale prices, with the additional reductions based on the Noxious Weed Law percentages, will provide Finney County landowners with the most economical prices at this time. If we were to implement the "Cost Share Certificates", we feel as though the retail prices, less the same budgeted incentives, would raise end user prices and result in reduced noxious weed control efforts. We were also concerned that the landowner would have to make two trips to accomplish the herbicide purchase, one to procure the certificate from the county and one to the chosen retailer.

We also decided we did not desire to have two separate incentive distribution procedures, by implementation of both the current and the requested methods.

Thank you for your request and the information you provided about the program. If you would like to discuss this further with this board, feel free to contact us.

Sincerely,

Alan Fankhauser
Chairman

Cc: Board of County Commissioners
County Administrator

HARVEY COUNTY SPECIAL PROJECTS

Director: Roy Patton
P.O. Box 687 • Newton, KS 67114
PH: 316-263-1890

December 19, 2000

Joseph W. Schauf
Field Solutions, L.L.C.
418 N. Washington
Sedgwick, KS 67135

Dear Sir,

I'm writing in response to a letter you wrote to Max Graber Harvey County Commissioner, regarding noxious weed control chemicals.

On December 17, 2000 the Harvey County Commission met at 2:00p.m. to discuss the letter. The commission took no action. They chose to leave the sales the way they are.

Sincerely,



Roy Patton
Hv Co Special Projects

Att: Doug

Kevin M. Hill, County Attorney - 742-2181
Grace L. Miller, County Clerk - 742-2581
Lamar Shoemaker, Sheriff - 742-7125

COUNTY COMMISSIONERS

.....
Steve Roberts, District #1
Luther Pederson, District #2
Warren L. Ploeger, District #3
(785) 742-2471 - FAX-(785) 742-3255

Deborah E. Roland, Treasurer - 742-2051
Nancy Prawl, Registrar of Deeds - 742-3741
Tom Brown, Appraiser - 742-7232

COUNTY OF BROWN, STATE OF KANSAS

COURTHOUSE - 601 OREGON ST.
HIAWATHA, KS 66434-2283

December 18, 2000

Warren L. Beavers
White Cloud Grain Co., Inc.
PO Box 276
Hiawatha KS 66434

Dear Mr. Beavers:

I received your letter requesting our consideration of a program that would enable the landowners of Brown County to purchase approved noxious weed control chemicals from retail chemical dealers on a discount basis.

After discussion, it was decided that at the current time we, as a Board of County Commissioners, are not interested in this program.

Sincerely,



Steve Roberts, Chairman
Brown County Commissioners



McPHERSON COUNTY

January 30, 2001

Collingwood Grain Inc.
Alan Stone
P.O. Box 2150
Hutchinson, KS 67504-2150

Dear Mr. Stone:

The McPherson Board of County Commissioners discussed your request dated December 14, 2000, for a cost-share certificate program with retail chemical dealers. The Board of County Commissioners reviewed McPherson County's chemical cost-share program; comments and concerns expressed by other county weed department officials, one of which currently uses cost-share certificates; and, concerns expressed by Dan Schrag, McPherson County's Noxious Weed Director.

McPherson County Board of Commissioners, with a unanimous vote, voted to make no changes to McPherson County's current noxious weed program.

If you have any questions, please give me a call.

Sincerely,

Duane Patrick, Chairman
McPherson Board of County Commissioners

DP/iv

9-12

How does the financial incentive (cost-share) program work in Marion County?

1. Farmer contacts the county weed department and gives the county weed director the legal description of the land where the noxious weed infestation exists.
2. The weed director faxes the completed certificate to the dealer. (Neither farmers or dealers are required to drive to the County Noxious Weed Department.)
3. The dealer bills the farmer for the retail price minus whatever credit or financial incentive the county has established.
4. The dealer then sends an invoice to the County Weed Department, which reimburses the dealer for the same amount that was credited to the farmer.

How does Marion County's Noxious Weed Director monitor their certificate program to ensure dealers and/or landowners are not abusing the program?

- The county weed director does periodically follow-up to ensure the chemicals sold were applied on the appropriate tract of land.
- The Marion County Weed Director also randomly checks dealer invoices to ensure the credit amount to the farmer and the amount reimbursed to the dealer match.

COST-SHARE CERTIFICATE FOR NOXIOUS WEEDS

Issued By Marion County, Kansas

No. _____

Date _____ 19 _____

Owner/Operator _____		C/S/Z _____	
Land to be treated:	Section _____	Township _____	Range _____
	Section _____	Township _____	Range _____
Noxious weeds to be treated: _____		Crop treated: _____	
Chemical to be applied: _____		Units needed (lbs/gal) _____	
Cost share per unit: _____		Total cost share: _____	

Owner/Operator _____		C/S/Z _____	
Land to be treated:	Section _____	Township _____	Range _____
	Section _____	Township _____	Range _____
Noxious weeds to be treated: _____		Crop treated: _____	
Chemical to be applied: _____		Units needed (lbs/gal) _____	
Cost share per unit: _____		Total cost share: _____	

RESTRICTED USE HERBICIDE:	
Applicator's Name: _____	Address: _____
Applicator's License No. _____	Expiration Date: _____

- A. I hereby agree that I will not seek any claim against the county or any of its employees for any damages resulting from their acts in the fulfillment of this agreement.
B. I agree that this chemical will be used only for the treatment of noxious weeds according to the Noxious Weed Law of the State of Kansas.

- | | |
|------------------------------------|-----------------------------------|
| <input type="checkbox"/> Phone | <input type="checkbox"/> Dealer |
| <input type="checkbox"/> In Person | <input type="checkbox"/> Operator |

Chemical purchased on _____ 19 _____

Owner/Operator _____

Chemical Retailer _____

Issued By _____

Signature _____

THIS CERTIFICATE EXPIRES 30 DAYS FROM ISSUE DATE

9-14

***Example where a farmer could have saved additional money if the financial incentive were provided when they purchase directly from a dealer.

Farm Service Center, Ellinwood, Kansas

Roundup Ultra RT \$33.00 per gallon bulk

Barton County Weed Department, Great Bend, Kansas

Roundup Pro	\$40.00 per gallon (2.5 gallon containers)
Minus Financial Incentive	\$4.00 per gallon (approx.)
Price Paid by the Farmer	\$36.00 per gallon

Both Roundup Pro and Roundup Ultra RT are approved for control of Johnsongrass. The only difference is that Roundup Ultra RT is only available in bulk.

If the county would provide the same \$4.00 financial incentive when the farmer went to the dealer the farmer could have purchased Roundup Ultra RT from Farm Service Center for \$29.00 per gallon bulk.

Information provided by Doug Wareham
Vice President, Government Affairs
Kansas Fertilizer & Chemical Association
(785) 234-0463



Since 1894

To: The House Agriculture Committee
Representative Dan Johnson, Chairman

From: Mike Beam, Executive Secretary, Cow-Calf/Stocker Division

Subject: Support of HB 2468 - Amendments to the Noxious Weed Laws

Date: March 7, 2001

Mr. Chairman, and House Agriculture Committee members, the Kansas Livestock Association (KLA) appears today in support of House Bill 2468. This legislation is an overhaul and improvement in the existing statutes governing noxious weed control programs in Kansas.

We were privileged to serve on the task force that met on several occasions throughout 1999 and again late last year. I learned a great deal from other task force members who represented various and important interests on this issue. I applaud the Secretary of Agriculture and her staff for all their patience and persistent efforts to work with these groups and craft legislative language that is agreeable to most parties. They have spent countless hours fine-tuning this bill to reflect the consensus of the task force and address several concerns of producers, weed directors, fertilizer and chemical dealers, and county commissioners.

There are several positive aspects of this legislation. In the interest of time I'd like to mention a few provision that we believe improves the counties and state's ability to control, manage, or eradicate noxious weeds.

Categorization of Noxious Weeds

Perhaps the most significant change proposed in this bill is to recognize various noxious or problem weeds deserve different emphasis and management options. New Section 5 establishes three categories (foreign weed, containment, or management) and two subcategories (primary management or secondary management) under the management category. These changes allow the state and counties to move swiftly to contain and eradicate new and small areas of noxious weeds.

House Agriculture Committee
March 7, 2001
Attachment 10

The bill also recognizes noxious weeds in large geographic areas of Kansas are not likely to be eradicated or eliminated. Landowners are required, however, to treat weeds in the containment category and manage and control certain weeds listed in the management category of the noxious weed law. Counties must provide financial assistance for weeds listed in the containment category and the primary management subcategory of the act. Furthermore, if a county wants to devote the resources to aid producers to control weeds in the secondary management subcategory they are empowered to levy sufficient funds to accomplish this purpose.

It should be noted that counties are only required to establish a procedure for providing financial incentives to responsible parties for the control of noxious weeds. Last year's bill mandated counties establish a procedure for a per acre payment incentive. This bill gives counties more flexibility in determining how this incentive may be provided. In some instances biological or mechanical control procedures may be the most economic and efficient method of control. It makes sense for these incentives to be given on a per acre or per treatment basis. Again, local officials would make this determination.

Certified Free Mulch Hay

It is a common belief by many observers that mulch hay used along roadsides has been a source for some noxious weed infestations. We support the new language in New Section 10, subsection b, requiring mulch hay on public lands and along public right-of-ways to be certified free of noxious weeds.

Collecting for Control Expenses from Delinquent Landowners

Current law, found in Section 14, authorizes county officials to assess a landowner's property for costs of controlling noxious weeds if the responsible party refuses to control or pay for the control of noxious weeds. The county is limited in the amount that can be collected in one year. County commissioners in the Flint Hills area have been reluctant to enforce the noxious weed law on *Sericea lespedeza* infested pastures because the county would have to basically finance the costs over a multi-year period. The changes in HB 2468 authorize the collection of these expenses in one year. We believe this change is necessary for adequate enforcement of the noxious weed laws.

Civil Penalties

Section 17 of the bill allows weed directors and the Secretary to assess civil penalties for noncompliance of the noxious weed law. We believe this will be a useful tool to encourage compliance without the necessity of burdening county attorneys.

Additions to HB 2468

We would support **two amendments** to this legislation. First, KLA strongly supports changes to the noxious weed law to list or de-list noxious weeds through the Department of Agriculture's rules and regulation process. We believe listing a plant, as a threat to native plants and agriculture operations is more of a science-based decision than a political call. The House and Senate Agriculture Committees have many important issues to consider each year. You have considerable demands on your valuable and limited legislative clock. We contend it's the Department of Agriculture's role, rather than the legislature's responsibility, to list and categorize noxious weeds. You certainly have an oversight responsibility, and I don't envision this role changing if you adopt our recommendation.

In addition, there is some inconsistency with the listing of weeds under HB 2468. The Secretary of Agriculture determines weeds in the "foreign weed" category. I interpret the bill to give the legislature sole authority to determine which weeds are "containment" or "management" categories. Again, we urge this committee to amend the bill to authorize the Department of Agriculture, through the rules and regulation adoption process, to list Kansas's noxious weeds.

KLA also supports the proposed amendment offered by the Kansas Agricultural Alliance. The ability of producers to purchase herbicides for controlling noxious weeds at a private registered pesticide dealer adds more flexibility to the noxious weed law. This amendment is different than past proposals that prohibited county noxious weed departments from selling, distributing, and applying herbicides for noxious weed control. We believe it is appropriate for the private sector to have the ability to distribute chemicals while allowing our farmers and ranchers to benefit from any county financial incentive programs.

This bill is not a proposal that has been put together without much discussion and consideration. We believe it offers a significant improvement to the state noxious weed laws and KLA urges this committee to give our amendments and HB 2468 your favorable consideration.

Thank you!

STATEMENT OF THE KANSAS SEED INDUSTRY ASSOCIATION

TO THE HOUSE AGRICULTURE COMMITTEE

REP. DAN JOHNSON, CHAIR

REGARDING H.B. 2468

MARCH 7, 2001

Mr. Chairman and Members of the Committee, I am Chris Wilson, Legal Counsel and Director of Member Services of the Kansas Seed Industry Association (KSIA).

KSIA is the state trade and professional organization of those involved in the growing, processing, marketing and distribution of seed. Our more than 150 member companies include farmer seed growers, wholesalers and retailers of seed.

KSIA supports H.B. 2468, which provides a long needed revision to the Kansas noxious weed law. KSIA was a member of the task force which the Department of Agriculture established to bring stakeholders together to revise the law. KSIA also supports the amendment offered by the Kansas Agricultural Alliance, of which we are a member. The KAA amendment would provide growers with the option of purchasing crop protection chemicals for the treatment of noxious weeds through a local retailer or from the county, while still receiving the financial incentive, regardless of where the chemical is purchased. We believe this is a measure to provide convenience, efficiency and cost-saving to the producer, thereby enhancing the purpose of the law which is to control noxious weeds.

KSIA would further support an amendment to give authority to the Department of Agriculture to establish the list of noxious weeds through regulation, rather than statute, according to a scientific process. That's the way 49 other states determine which weeds are noxious in their states, and it's good public policy. It would give the agency the flexibility to modify the list by regulation rather than requiring a statutory change, yet assure that the list makes sense for Kansas by requiring the scientific process. It was not included in the task force's draft because of opposition from the county weed directors, based on a concern that too many weeds would be on the list. We are convinced that this process, based on sound science, would absolutely not result in placing numerous weeds on the noxious list that should not be there for Kansas. Should the Committee choose to adopt such an amendment to H.B. 2468, we would encourage you to also amend the Kansas Seed Law to likewise name noxious weed seeds by regulation, so that the two lists would be the same.

Thank you for your consideration of our positions, and we urge your favorable recommendation of H.B. 2468, including the KAA amendment on chemical sales and the amendment to name noxious weeds by regulation of the Department of Agriculture.

#####

**STATEMENT OF THE KANSAS AGRICULTURAL AVIATION ASSOCIATION
TO THE HOUSE AGRICULTURE COMMITTEE**

REP. DAN JOHNSON, CHAIR

REGARDING H.B. 2468

MARCH 7, 2001

Mr. Chairman and Members of the Committee, I am Chris Wilson, Executive Director of Kansas Agricultural Aviation Association (KAAA). KAAA is the state trade and professional association of the aerial application industry. Our 300 members include pilots and allied industry representatives involved in the aerial application of crop protection chemicals and fertilizers.

KAAA supports H.B. 2468, as developed by the Department of Ag task force, which we were involved in, and also supports the KAA amendment. We are pleased the task force was able to come together to develop a revision to the noxious weed law.

We strongly support the work and the role of the county weed directors. Our members work closely with the county weed directors and in most counties have a good relationship, working together toward the control and eradication of noxious weeds. In many such counties, weed directors have come up with a variety of attempts to try under current law to accomplish what the KAA amendment would – greater convenience and flexibility for growers. Weed directors have done such things as leaving county chemical on hand at local applicators' places of business so it would be where it was needed when it was needed; allowing applicators to use their own chemical, then later replenish with county chemical; allowing use of the applicator's chemical, then

financially reimbursing the applicator. A lot of these attempts are admirable and have helped the situation, but are not really anticipated under the current law and are fraught with questions of liability that are troublesome for the applicator. Currently, if they apply the county's chemical they have liability without having had control over the purchase of the chemical, nor have they made any profit from the sale. So it sounds like a poor business decision to do it, but they often do it just to provide a service to their customers, taking the risk in order to make things more convenient or timely for their customers.

Another frequent situation is that applicators will themselves make a forty mile round trip to the county seat to pick up chemical for a customer. It's frustrating to have to take the time to do this when you need to be in the air, treating crops. It's even more frustrating when another customer calls that day and you need to make another trip to the county seat to pick up more chemical.

The KAA amendment provides the best solution to this problem by allowing the grower to choose where to purchase his chemical, yet still receive the county financial incentive for noxious weed treatment regardless of where he purchases it. Then the grower can make the decision, based on price, location, convenience and service. And applicators won't have to worry about their liability for using the county's chemical.

Thank you for this opportunity to present our position, and we urge your favorable recommendation of H.B. 2468, including the KAA amendment.

####

Testimony on HB 2468
House Agricultural Committee
March 7, 2001
Prepared by Joe Lieber
Kansas Cooperative Council

Mr. Chairman and members of the committee, I'm Joe Lieber, President of the Kansas Cooperative Council. The Council has a membership of over 200 cooperative businesses, who have a combined membership of nearly 200,000 Kansans. Approximately 120 of our members are farm supply cooperatives that sell chemicals to their member/owners.

The Council supports the passage of HB 2468 because, as it's name implies, it's purpose is to establish a program to get rid of noxious weeds and therefore protect our natural resources and our agricultural economy.

We would also like to take this opportunity to thank Secretary of Agriculture Adams and her department as well as the other members of the working group for their efforts in developing the provisions in 2468.

Earlier you heard a proposal to amend to HB 2468 offered by the Kansas Agricultural Alliance (KAA) that would promote a financial incentive program in the counties.

There are several reasons why the Council supports this amendment. First of all, last year we heard testimony that in 1984, there were over 2 million acres in Kansas that were infested with noxious weeds. In 1998 there were over 3 million acres. We believe that information clearly shows that the current program, making farmers and

ranchers drive to the county seat to get discounts on chemicals, is not working.

Allowing these producers to purchase their chemicals at the nearest location and still get the discount should help the noxious weed program.

The second reason why we support the amendment is philosophical. We have a real concern with the county government, or any government, competing against private business. It is our understanding that the noxious weed program is a profit center for the counties. Our members are in the chemical business and if the counties are able to give a discount and we can't this affects our bottom line.

We would like to congratulate those counties in the state that already have an incentive programs. Our members in these counties feel it is a win-win-win situation. The state gets rid of noxious weeds, the dealer sells chemicals and the producers save money and time.

A few of our members have contacted their county asking for an incentive program and in most cases, the counties have declined. This is a lose-lose-lose situation.

We think with the passage of the KAA amendment more counties will get involved.

Again, we support the passage of HB 2468 and the KAA amendment.

Thank you for your time.

I would be happy to attempt to answer any questions.

SUMMARY

Falling agricultural exports and declining commodity prices led farm groups and agribusiness firms to urge the 106th Congress to pass legislation exempting foods and agricultural commodities from U.S. trade sanctions against certain countries. In debating P.L. 106-387 (the FY2001 agriculture appropriations bill), Congress codified the lifting of sanctions on commercial sales of food, agricultural commodities, and medical products to Iran, Libya, North Korea, and Sudan, and extended this policy to apply also to Cuba. Accompanying provisions place financing and other conditions on sales to these countries. Those that apply to Cuba, though, are more restrictive than for the other countries.

With the exception of the provisions concerning Cuba, Title IX of P.L. 106-387 largely codifies rules that the Clinton Administration formalized in July 1999 allowing licensed commercial sales of food and medical products to three countries then subject to U.S. unilateral economic sanctions - Iran, Libya, and Sudan. In addition, Title IX also codifies a June 2000 Administration decision to allow unlicensed agricultural sales to North Korea. With respect to Cuba, the act broadens the scope of permitted transactions to allow sales of agricultural and medical products to any Cuban buyer, and not just to private and non-governmental entities as under previous policy. Codifying a food and medical sales exemption for Cuba generated a great deal of controversy and delayed enactment of the agriculture spending bill until late October 2000. Supporters of the policy change argued that such trade sanctions rarely are effective and that maintaining them against Cuba, which many view as a sizable potential market for U.S. agricultural sales, harms the U.S. agricultural sector. Others argued that opening up trade with Cuba, which has been subject to a comprehensive U.S. embargo since 1962, would be a way to pursue a "constructive engagement" policy with that country. Opponents countered that an exemption would undercut a U.S. policy designed to keep maximum pressure on the Castro government until political and economic reforms are attained. In reaching a compromise among these positions that allowed the measure to pass, conferees included language that the Clinton Administration argued overly restricts the U.S. government's flexibility in foreign policy dealings with Cuba, particularly in the areas of travel and the ability to implement future sanctions policy.

The rules to implement Title IX's provisions to all agricultural exports to Cuba and the other countries under the legislated conditions are expected to be published in the Federal Register by late February 2001. Since President Bush during the campaign went on record against the Cuba provisions of Title IX, and Cuban officials have already criticized the law's restrictions on U.S. exports to Cuba, renewed debate on the issue is likely to arise early in the 107th Congress.

TITLE IX--TRADE SANCTIONS REFORM AND EXPORT ENHANCEMENT

SEC. 901. SHORT TITLE.

This title may be cited as the "Trade Sanctions Reform and Export Enhancement Act of 2000".

SEC. 902. DEFINITIONS.

In this title:

(1) Agricultural commodity.--The term "agricultural commodity" has the meaning given the term in section 102 of the Agricultural Trade Act of 1978 (7 U.S.C. 5602).

(2) Agricultural program.--The term "agricultural program" means--

(A) any program administered under the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.);

(B) any program administered under section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431);

(C) any program administered under the Agricultural Trade Act of 1978 (7 U.S.C. 5601 et seq.);

(D) the dairy export incentive program administered under section 153 of the Food Security Act of 1985 (15 U.S.C. 713a-14);

(E) any commercial export sale of agricultural commodities; or

(F) any export financing (including credits or credit guarantees) provided by the United States Government for agricultural commodities.

(3) Joint resolution.--The term "joint resolution" means--

(A) in the case of section 903(a)(1), only a joint resolution introduced within 10 session days of Congress after the date on which the report of the President under section 903(a)(1) is received by Congress, the matter after the resolving clause of which is as follows: "That Congress approves the report of the President pursuant to section 903(a)(1) of the Trade Sanctions Reform and Export Enhancement Act of 2000, transmitted on _____.", with the blank completed with the appropriate date; and

(B) in the case of section 906(1), only a joint resolution introduced within 10 session days of Congress after the date on which the report of the President under section 906(2) is received by Congress, the matter

after the resolving clause of which is as follows:

``That Congress approves the report of the President pursuant to section 906(1) of the Trade Sanctions Reform and Export Enhancement Act of 2000, transmitted on _____.", with the blank completed with the appropriate date.

(4) Medical device.--The term ``medical device" has the meaning given the term ``device" in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321).

(5) Medicine.--The term ``medicine" has the meaning given the term ``drug" in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321).

(6) Unilateral agricultural sanction.--The term ``unilateral agricultural sanction" means any prohibition, restriction,

[[Page 114 STAT. 1549A-68]]

or condition on carrying out an agricultural program with respect to a foreign country or foreign entity that is imposed by the United States for reasons of foreign policy or national security, except in a case in which the United States imposes the measure pursuant to--

(A) a multilateral regime and the other member countries of that regime have agreed to impose substantially equivalent measures; or

(B) a mandatory decision of the United Nations Security Council.

(7) Unilateral medical sanction.--The term ``unilateral medical sanction" means any prohibition, restriction, or condition on exports of, or the provision of assistance consisting of, medicine or a medical device with respect to a foreign country or foreign entity that is imposed by the United States for reasons of foreign policy or national security, except in a case in which the United States imposes the measure pursuant to--

(A) a multilateral regime and the other member countries of that regime have agreed to impose substantially equivalent measures; or

(B) a mandatory decision of the United Nations Security Council.

SEC. 903. RESTRICTION.

(a) New Sanctions.--Except as provided in sections 904 and 905 and notwithstanding any other provision of law, the President may not impose

a unilateral agricultural sanction or unilateral medical sanction against a foreign country or foreign entity, unless--

(1) not later than 60 days before the sanction is proposed to be imposed, the President submits a report to Congress that--

(A) describes the activity proposed to be prohibited, restricted, or conditioned; and

(B) describes the actions by the foreign country or foreign entity that justify the sanction; and

(2) there is enacted into law a joint resolution stating the approval of Congress for the report submitted under paragraph (1).

(b) Existing Sanctions.--The President shall terminate any unilateral agricultural sanction or unilateral medical sanction that is in effect as of the date of enactment of this Act.

SEC. 904. EXCEPTIONS.

Section 903 shall not affect any authority or requirement to impose (or continue to impose) a sanction referred to in section 903--

(1) against a foreign country or foreign entity--

(A) pursuant to a declaration of war against the country or entity;

(B) pursuant to specific statutory authorization for the use of the Armed Forces of the United States against the country or entity;

(C) against which the Armed Forces of the United States are involved in hostilities; or

[[Page 114 STAT. 1549A-69]]

(D) where imminent involvement by the Armed Forces of the United States in hostilities against the country or entity is clearly indicated by the circumstances; or

(2) to the extent that the sanction would prohibit, restrict, or condition the provision or use of any agricultural commodity, medicine, or medical device that is--

(A) controlled on the United States Munitions List established under section 38 of the Arms Export Control Act (22 U.S.C. 2778);

(B) controlled on any control list established under the Export Administration Act of 1979 or any successor statute (50 U.S.C. App. 2401 et seq.); or

(C) used to facilitate the development or production of a chemical or biological weapon or weapon of mass

destruction.

SEC. 905. TERMINATION OF SANCTIONS.

Any unilateral agricultural sanction or unilateral medical sanction that is imposed pursuant to the procedures described in section 903(a) shall terminate not later than 2 years after the date on which the sanction became effective unless--

(1) not later than 60 days before the date of termination of the sanction, the President submits to Congress a report containing--

(A) the recommendation of the President for the continuation of the sanction for an additional period of not to exceed 2 years; and

(B) the request of the President for approval by Congress of the recommendation; and

(2) there is enacted into law a joint resolution stating the approval of Congress for the report submitted under paragraph (1).

SEC. 906. STATE SPONSORS OF INTERNATIONAL TERRORISM.

(a) Requirement.--

(1) In general.--Notwithstanding any other provision of this title (other than section 904), the export of agricultural commodities, medicine, or medical devices to Cuba or to the government of a country that has been determined by the Secretary of State to have repeatedly provided support for acts of international terrorism under section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371), section 6(j)(1) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(1)), or section 40(d) of the Arms Export Control Act (22 U.S.C. 2780(d)), or to any other entity in such a country, shall only be made pursuant to 1-year licenses issued by the United States Government for contracts entered into during the 1-year period of the license and shipped within the 12-month period beginning on the date of the signing of the contract, except that the requirements of such 1-year licenses shall be no more restrictive than license exceptions administered by the Department of Commerce or general licenses administered by the Department of the Treasury, except that procedures shall be in place to deny licenses for exports to any entity within such country promoting international terrorism.

(2) Exception.--Paragraph (1) shall not apply with respect to the export of agricultural commodities, medicine, or medical

devices to the Government of Syria or to the Government of North Korea.

(b) Quarterly Reports.--The applicable department or agency of the Federal Government shall submit to the appropriate congressional committees on a quarterly basis a report on any activities undertaken under subsection (a)(1) during the preceding calendar quarter.

(c) Biennial Reports.--Not later than 2 years after the date of enactment of this Act, and every 2 years thereafter, the applicable department or agency of the Federal Government shall submit a report to the appropriate congressional committees on the operation of the licensing system under this section for the preceding 2-year period, including--

- (1) the number and types of licenses applied for;
- (2) the number and types of licenses approved;
- (3) the average amount of time elapsed from the date of filing of a license application until the date of its approval;
- (4) the extent to which the licensing procedures were effectively implemented; and
- (5) a description of comments received from interested parties about the extent to which the licensing procedures were effective, after the applicable department or agency holds a public 30-day comment period.

SEC. 907. CONGRESSIONAL PROCEDURES.

(a) Referral of Report.--A report described in section 903(a)(1) or 905(1) shall be referred to the appropriate committee or committees of the House of Representatives and to the appropriate committee or committees of the Senate.

(b) Referral of Joint Resolution.--

(1) In general.--A joint resolution introduced in the Senate shall be referred to the Committee on Foreign Relations, and a joint resolution introduced in the House of Representatives shall be referred to the Committee on International Relations.

(2) Reporting date.--A joint resolution referred to in paragraph (1) may not be reported before the eighth session day of Congress after the introduction of the joint resolution.

SEC. 908. PROHIBITION ON UNITED STATES ASSISTANCE AND FINANCING.

(a) Prohibition on United States Assistance.--

(1) In general.--Notwithstanding any other provision of law,

no United States Government assistance, including United States foreign assistance, United States export assistance, and any United States credit or guarantees shall be available for exports to Cuba or for commercial exports to Iran, Libya, North Korea, or Sudan.

(2) Rule of construction.--Nothing in paragraph (1) shall be construed to alter, modify, or otherwise affect the provisions of section 109 of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (22 U.S.C. 6039) or any other provision of law relating to Cuba in effect on the day before the date of the enactment of this Act.

(3) Waiver.--The President may waive the application of paragraph (1) with respect to Iran, Libya, North Korea, and Sudan to the degree the President determines that it is in

[[Page 114 STAT. 1549A-71]]

the national security interest of the United States to do so, or for humanitarian reasons.

(b) Prohibition on Financing of Agricultural Sales to Cuba.--

(1) In general.--No United States person may provide payment or financing terms for sales of agricultural commodities or products to Cuba or any person in Cuba, except in accordance with the following terms (notwithstanding part 515 of title 31, Code of Federal Regulations, or any other provision of law):

(A) Payment of cash in advance.

(B) Financing by third country financial institutions (excluding United States persons or Government of Cuba entities), except that such financing may be confirmed or advised by a United States financial institution.

Nothing in this paragraph authorizes payment terms or trade financing involving a debit or credit to an account of a person located in Cuba or of the Government of Cuba maintained on the books of a United States depository institution.

(2) Penalties.--Any private person or entity that violates paragraph (1) shall be subject to the penalties provided in the Trading With the Enemy Act for violations under that Act.

(3) Administration and enforcement.--The President shall issue such regulations as are necessary to carry out this section, except that the President, in lieu of issuing new regulations, may apply any regulations in effect on the date of the enactment of this Act, pursuant to the Trading With the Enemy Act, with respect to the conduct prohibited in paragraph

(1).

(4) Definitions.--In this subsection--

(A) the term "financing" includes any loan or extension of credit;

(B) the term "United States depository institution" means any entity (including its foreign branches or subsidiaries) organized under the laws of any jurisdiction within the United States, or any agency, office or branch located in the United States of a foreign entity, that is engaged primarily in the business of banking (including a bank, savings bank, savings association, credit union, trust company, or United States bank holding company); and

(C) the term "United States person" means the Federal Government, any State or local government, or any private person or entity of the United States.

SEC. 909. PROHIBITION ON ADDITIONAL IMPORTS FROM CUBA.

Nothing in this title shall be construed to alter, modify, or otherwise affect the provisions of section 515.204 of title 31, Code of Federal Regulations, relating to the prohibition on the entry into the United States of merchandise that: (1) is of Cuban origin; (2) is or has been located in or transported from or through Cuba; or (3) is made or derived in whole or in part of any article which is the growth, produce, or manufacture of Cuba.

SEC. 910. REQUIREMENTS RELATING TO CERTAIN TRAVEL-RELATED TRANSACTIONS WITH CUBA.

(a) Authorization of Travel Relating to Commercial Sale of Agricultural Commodities.--The Secretary of the Treasury

[[Page 114 STAT. 1549A-72]]

shall promulgate regulations under which the travel-related transactions listed in subsection (c) of section 515.560 of title 31, Code of Federal Regulations, may be authorized on a case-by-case basis by a specific license for travel to, from, or within Cuba for the commercial export sale of agricultural commodities pursuant to the provisions of this title.

(b) Prohibition on Travel Relating to Tourist Activities.--

(1) In general.--Notwithstanding any other provision of law or regulation, the Secretary of the Treasury, or any other

Federal official, may not authorize the travel-related transactions listed in subsection (c) of section 515.560 of title 31, Code of Federal Regulations, either by a general license or on a case-by-case basis by a specific license for travel to, from, or within Cuba for tourist activities.

(2) Definition.--In this subsection, the term "tourist activities" means any activity with respect to travel to, from, or within Cuba that is not expressly authorized in subsection (a) of this section, in any of paragraphs (1) through (12) of section 515.560 of title 31, Code of Federal Regulations, or in any section referred to in any of such paragraphs (1) through (12) (as such sections were in effect on June 1, 2000).

SEC. 911. EFFECTIVE DATE.

(a) In General.--Except as provided in subsection (b), this title shall take effect on the date of enactment of this Act, and shall apply thereafter in any fiscal year.

(b) Existing Sanctions.--In the case of any unilateral agricultural sanction or unilateral medical sanction that is in effect as of the date of enactment of this Act, this title shall take effect 120 days after the date of enactment of this Act, and shall apply thereafter in any fiscal year.