

MINUTES OF THE SENATE AGRICULTURE COMMITTEE.

The meeting was called to order by Chairperson Derek Schmidt at 8:30 a.m. on March 6, 2001 in Room 423-S of the Capitol.

All members were present except: Senator Downey - excused

Committee staff present: Raney Gilliland, Legislative Research Department
Jill Wolters, Revisor of Statutes
Betty Bomar, Secretary

Conferees appearing before the committee:

Others attending: See attached list

HB 2101 - Creating the plant pest emergency response fund

Raney Gilliland, Analyst, Legislative Research Department, explained that **SB 2101** creates the Plant Pest Emergency Response Fund in the State Treasury. The fee is fixed by rules and regulations, not to exceed \$5.00, and imposed until the fund reaches an amount not to exceed \$15,000. The Secretary of Agriculture is authorized to make expenditures from the fund in order to mitigate plant pests that are identified as being of potential damage to agriculture, horticulture, or the environment.

Mr. Gilliland stated there may be a typographical error in the bill as on Page 1, line 30, the amount should be \$5,000. The House Committee amended **HB 2101** to reflect that the fee is to be imposed only until there is \$15,000 in the fund and then the fee is to be suspended until the balance of the fund is \$5,000 or less at which time the fee is reimposed.

Jamie Clover Adams, Secretary, Kansas Department of Agriculture (KDA), testified in support of **HB 2101**, stating that in establishing a plant pest emergency response fund, the KDA would be able to more effectively fulfill its responsibility to protect the state's natural and cultivated resources from plant pests. The fund provides KDA the capability to rapidly respond to the introduction of harmful plant pests - - insects, plant disease and weeds in the state.

Kansas is a net importer of nursery stock and each year imports plant materials from over 30 states to satisfy consumer demand. Each state has unique pest problems that do not occur in Kansas. Regulatory pest exclusion authority and techniques provided in the Kansas Plant Pest Act, such as quarantines, host plant inspection and pest detection, are utilized to direct activities toward regulation of high-risk pests. The department's ability, however, to mitigate new pest introductions is limited. The emergency response fund allows the department to more quickly mitigate pest introductions that occur.

Currently, these issues are addressed on an ad hoc basis depending on savings and year-end fund availability, as well as the department's participation in the Interstate Pest Control Compact. The state is currently fighting infestation of the pine pitch moth in Thomas County and the Grecian foxglove infestation in Wilson County.

A surcharge of \$5 for each nursery dealer license and certificate of nursery inspection will generate approximately \$7,000 annually. **HB 2101** prohibits the secretary from collecting the fee when the balance in the fund exceeds \$15,000, and requires the secretary to commence collecting again when the balance in the fund drops below \$15,000. The Secretary submitted a proposed amendment to **HB 2101** which strikes the ~~shall~~ on Page 1, at Line 30, and inserts the word "may", making the reinstatement of fee collection permissive rather than mandatory. (Attachment 1)

There being no further conferees desiring to be heard, the hearing was concluded.

CONTINUATION SHEET

The Chair stated the Committee would postpone action on HB 2101 until its next meeting.

SB 334 - Commercial feeding stuffs; seizures thereof

The Chair submitted a proposed amendment on Page 3, Line 1, which raises the criminal penalty to a class A, nonperson misdemeanor, for which the penalty is up to 1 year in the county jail and a fine of up to \$2,500. The proposed amendment addresses the ambiguity between the civil penalty imposed by SB 334, and the criminal penalty.

Senator Morris moved, seconded by Senator Lee that SB 334 be amended on Page 3, at line 1 following the "a" by inserting "class A, nonperson", and striking the balance of the paragraph. The voice vote was in favor of the amendment.

Senator Morris moved, seconded by Senator Umbarger, that SB 334 be recommended favorably for passage as amended. The voice vote was unanimous in favor of the motion.

SB 255 - Reciprocity for pesticide applicators, fee paid shall be the amount paid in Kansas

The Committee discussed SB 255. There was no recommendation for action.

Senator Umbarger moved, seconded by Senator Morris that SB 255 be stricken in its entirety and new language be inserted relating to the levying of a civil penalty against any person who sells or distributes any custom blended fertilizer who does not hold a valid license. The voice vote was in favor of the Motion.

Senator Tyson moved, seconded by Senator Huelskamp that the Minutes of the February 27th and February 28th meetings be approved. The vote was unanimous in favor of the motion.

The meeting adjourned at 9:00 a.m.

The next meeting is scheduled for March 7, 2001.

SENATE AGRICULTURE COMMITTEE GUEST LIST

DATE: March 7, 2001

NAME	REPRESENTING
Tom Tunnell	KGFA / KFCA
Dore Wareham	KGFA / KFCA
Dean Stokoff	KAWG
Jamie Clover Adams	KDA
GREG A. Foley	KDA
Tom Sim	KDA

STATE OF KANSAS

BILL GRAVES, GOVERNOR

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KANSAS DEPARTMENT OF AGRICULTURE

Senate Agriculture Committee

H.B. 2101

March 6, 2001

Jamie Clover Adams, Secretary

Chairman Schmidt and members of the Senate Agriculture Committee, I am Jamie Clover Adams, Kansas Secretary of Agriculture. Since the Kansas Department of Agriculture (KDA) requested introduction of this bill, I appear today in support of House Bill 2101.

Rationale

Establishing a plant pest emergency response fund will allow KDA through the plant pest and weed control program to more effectively fulfill its responsibility to protect the state's natural and cultivated resources from plant pests by providing the capability to rapidly respond to the introduction of harmful plant pests – insects, plant disease and weeds -- in the state.

The movement of nursery stock shipped in commerce is one of the highest risk pathways of new pest introduction. Kansas is a net importer of nursery stock and each year imports plant materials from over 30 states to satisfy consumer demand. Each state supplying nursery stock to the Kansas nursery industry has unique pest problems that do not occur in Kansas. Regulatory pest exclusion authority and techniques provided in the Kansas Plant Pest Act, such as quarantines, host plant inspection and pest detection, are utilized to direct activities toward regulation of high-risk pests. However, the department's ability to mitigate new pest introductions is limited. Establishing an emergency response fund will allow the department to more quickly mitigate pest introductions that occur.

Rapid mitigation will reduce the potential harm to Kansas agriculture, horticulture and the environment by reducing the amount of pesticides needed to control a newly introduced pest, should it become established and widely distributed in the state. Mitigation decisions will be risk-based following established national standards to ensure the most efficient and effective use of funds provided for this purpose.

Senate Agriculture Committee

Date 3-06-01

Attachment # 1-1 thru 1-5

Currently, these issues are addressed on an ad hoc basis depending on savings and year-end fund availability, as well as our participation in the Interstate Pest Control Compact.¹

However, with the rapidly increasing amount of nursery stock entering the state, and therefore increased risk, a more methodical approach should be used. No federal funds are available for this purpose.

High Risk Pests

KDA is currently using program and agency savings to fund efforts at 11 sites in three northwest Kansas counties infested with **pine pitch moth**. Two infested sites in Thomas County have been eradicated. The moth larvae bore into the trunks of pine trees and kill them. If left unchecked, this moth could be devastating to wind breaks that took years to establish.

KDA has been addressing a **Grecian foxglove** infestation for approximately five years at a site in Wilson County. Infested acreage has been reduced from approximately 20 acres to three acres. Plant density is also reduced. This plant is a threat to livestock production as it produces high levels of digitalis, a cardiac stimulant. One cow and one sheep on the property have been killed and the landowner had to be hospitalized after trying to control the plant. KDA received \$12,000 in Interstate Pest Control Compact (IPCC) funds for this project in 1998, but the funds will be depleted in 2001. While work will remain beyond this year, it is unlikely the IPCC will provide additional funds.

Another pest KDA is watching is the **oriental beetle**. It attacks the roots of many species of trees and shrubs. We have surveyed for this pest in recent years and it is not known to be present in Kansas. However, it is present in states in the eastern United States from which nursery stock is shipped to Kansas. If it were to become established in Kansas, it would be difficult to control and would cause losses in nurseries and landscapes.

Financial Impact

H.B. 2101 establishes a surcharge of \$5 for each nursery dealer license and certificate of nursery inspection issued by KDA to generate emergency response funds. The current annual fees for a nursery dealer license and a certificate of nursery inspection are \$40 and \$30, respectively. The surcharge would generate approximately \$7,000 annually. The bill has the support of the Kansas Nurseryman's Association as outlined in the attached letter.

As amended, H.B. 2101 prohibits the secretary from collecting the fee when the balance in the fund exceeds \$15,000. Further, the amended bill requires the secretary to begin collecting again when the balance in the fund drops below \$15,000. I respectfully request the Committee make reinstatement of fee collection permissive as illustrated on the attached balloon. We are aware of two other states who have similar funds. Wisconsin, for example has implemented surcharges to combat the gypsy moth and Oregon has established a surcharge to fund research on nursery stock pest control techniques.

¹Kansas is a member of the Interstate Pest Control Compact. This organization remains a potential source for pest mitigation funds. However, not all plant pest control applications are approved, and the length of time to prepare and process an application seldom takes less than four to six months.

Conclusion

KDA currently has no ability to methodically address the introduction of high-risk pests in Kansas. To date these issues have been funded with program savings and agency year-end savings. Under current and foreseeable future budget scenarios, it is unreasonable and irresponsible to continue to rely on savings to fund these important prevention activities.

KDA asks for your favorable consideration of H.B. 2101. I would answer questions at the appropriate time.

1 As Amended by House Committee

2 *Session of 2001*

3 **HOUSE BILL No. 2101**

4 By Committee on Agriculture

5 1-22

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9
10 AN ACT concerning agriculture; relating to plant pests; creating the
11 plant pest emergency response fund; amending K.S.A. 2-2126 and re-pealing
12 the existing section.

13
14 *Be it enacted by the Legislature of the State of Kansas:*

15 New Section 1. (a) There is hereby created a plant pest emergency
16 response fund in the state treasury. Such fund shall be funded by a fee
17 assessed in addition to the fees assessed a nursery dealer or nursery certificate
18 holder under article 21 of chapter 2 of the Kansas Statutes An-notated.
19 The additional fee shall be fixed by rule and regulation prom-ulgated
20 by the secretary of agriculture, except that such additional fee
21 shall not exceed \$5 **annually on each nursery dealer and nursery**
22 **certificate holder**. The secretary is authorized and empowered to collect
23 ~~the fee and to reduce the fee whenever in the secretary's discretion the~~
24 ~~fund has sufficient revenue to pay the expenses for potential pest miti-gation~~
25 ~~expenses.~~ **the fees provided in this section. When the total**
26 **amount of fees deposited in the fund is equal to or exceeds**
27 **\$15,000, the secretary shall not collect any such fees as provided**
28 **in this section. When expenditures made from the fund result in**
29 **the total amount of the fees deposited in the fund to be less than**
30 **\$15,000, the secretary shall /resume the assessment and collection**

may

31 **of such fees as provided in this section.**
32 (b) The secretary is authorized and empowered to make expenditures
33 from the plant pest emergency response fund and that in the discretion
34 of the secretary mitigate pests that have been identified by the secretary
35 as high risk pests having the potential to damage agriculture, horticulture
36 or the environment. Such expenditures may include the costs of enforce-ment
37 to protect against high risk pests identified by the secretary. All
38 expenditures from such fund shall be made in accordance with appro-priation
39 acts upon warrants of the director of accounts and reports issued
40 pursuant to vouchers approved by the secretary or by a designee of the
41 secretary.

42 (c) The plant pest emergency response fund shall be a fund separate
43 and distinct from the entomology fee fund referred to in K.S.A. 2-2128,



Kansas Nursery and Landscape Association

January 30, 2001

Representative Dan Johnson
House Agriculture Committee
426-S, State Capitol
300 SW 10th Ave.
Topeka, KS 66612

Dear Representative Johnson:

This correspondence is to show the support of the Kansas Nursery & Landscape Association (KNLA) for House bill number 2101.

It has been brought to the attention of the KNLA that there is no fund set aside to combat high risk pests brought into the State. It is the belief of this organization that an emergency pest fund could help protect the environment against such pests. The KNLA would support an additional fee associated with the Nursery Dealer License and Nursery Inspection Fee to fund the emergency pest fund.

Respectfully,
Mary Odgers
Executive Secretary
Kansas Nursery & Landscape Association