

MINUTES OF THE HOUSE COMMITTEE ON AGRICULTURE.

The meeting was called to order by Chairman Dan Johnson at 3:30 p.m. on January 28, 2002, in Room 423-S of the Capitol.

All members were present except: Representative Flora - absent  
Representative O'Brien - excused

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

Conferees appearing before the committee:

Steve Baccus, Sunflower Producer, Minneapolis, Kansas  
Mike Beam, Kansas Livestock Association  
Jamie Clover Adams, Secretary, Kansas Department of Agriculture  
Rebecca Reed, Special Assistant to the Secretary, Kansas Department of Agriculture  
Greg Foley, Assistant Secretary, Kansas Department of Agriculture

Others attending: See attached list

Steve Baccus, a sunflower producer from Minneapolis, Kansas, requested introduction of a committee bill to establish a sunflower commodity commission. Representative Freeborn moved to introduce this request as a committee bill. Seconded by Representative Hutchins, the motion carried. (Attachment 1)

Mike Beam, Kansas Livestock Association, requested introduction of a committee bill to include notice of termination of pastureland tenancies in the statutes. Representative Feuerborn moved to introduce this request as a committee bill. Seconded by Representative Schwartz, the motion carried. (Attachment 2)

Raney Gilliland, Legislative Research Department, provided a written summary of each of the four fee fund bills proposed by the Kansas Department of Agriculture: **HB 2687**, **HB 2689**, **HB 2700** and **HB 2701**. (Attachment 3)

Jamie Clover Adams, Secretary, Kansas Department of Agriculture, provided an overview of the four bills comprising the comprehensive fee fund package requested by the department. She discussed adjustments made by the legislature and the department to improve operations and meet increasing expectations since 1995, as well as advocacy efforts on behalf of agriculture. (Attachment 4)

**Hearing on HB 2687 - Repealing regulation of livestock remedies law.**

Rebecca Reed, Special Assistant to the Secretary, Kansas Department of Agriculture, presented testimony in support of **HB 2687** to repeal the livestock remedies requirement from the Kansas Department of Agriculture's list of statutory authorities. She explained that livestock remedies are basically over-the-counter medications for animals, and that repealing the livestock remedies requirement would not leave consumers without protection because FDA must verify a product is safe as labeled before it can be marketed and distributed. The department estimates a decrease in fee revenues of approximately \$17,000. She noted that repealing the livestock remedies requirement would allow their Agricultural Commodities Assurance Program staff to spend more time checking eggs, feed, and seed. (Attachment 5)

As there were no other conferees, the Chairman closed the hearing on **HB 2687**.

**Hearing on HB 2689 - Fees and inspections of dams, levees and other water obstructions.**

Greg Foley, Assistant Secretary of Agriculture, Kansas Department of Agriculture, presented testimony in support of **HB 2689** addressing proposed changes in current statutes that regulate flood plain fill and levees,

CONTINUATION SHEET

dams, and channel changes or stream obstructions. He explained that the Water Structures program needed policy changes and new fees for the department to prioritize and refocus on the greatest risk components, to create an incentive to comply with current statutes, to address problems during the planning stage instead of dealing with problems that occur after the construction of an unreviewed and unpermitted structure, and to ensure that dams that potentially threaten life and/or property receive periodic safety inspections. All fees collected would be deposited in a Water Structures Fund to be created by this legislation. The department expects to generate approximately \$165,000 in fees during FY 2003. (Attachment 6)

There being no other conferees, Chairman Johnson closed the hearing on **HB 2689**.

The meeting adjourned at 4:40 p.m. The next meeting is scheduled for January 30, 2002.

# HOUSE AGRICULTURE COMMITTEE GUEST LIST

DATE: January 28, 2002

NAME	REPRESENTING
Jim Allen	Sea Grant
Chris Wilson	KS Ag Aviation Assn
Rebecca Reed	KS Dept of Agriculture
Joe Lieber	KS Co-op Council
Judd Johnson	Kansas Livestock Assn.
Tom Bruno	Tri-County Drainage Districts
Matt Bertholf	Kansas Coop Council
MAX FOSTER	KS. DEPT. of AGRICULTURE
Karla Goodland	GOD'S office
Matt A. Scherer	KS Dept of Agriculture
Jamie Clover Adams	KS Dept. of Agriculture
GREG A. FOLEY	KDA
Constantine Cotsoradis	KDA
Doug Wareham	Kansas Grain & Feed Assn. Kansas Agribusiness Retailers Assn.
Wendy Mathews	Kansas Aggregate Producers' Assn
Woody Moses	KAPA - KRMCA
Mike Beam	Ks. Livestock Assn.
Greg Kressek	KCGA

# HOUSE COMMITTEE ON AGRICULTURE

**RE: Bill Request Establishing a Commodity Commission for Sunflowers.**

January 28, 2002  
Topeka, Kansas

**Requested by:  
Steve Baccus, Sunflower Producer  
Minneapolis, Kansas**

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Chairman Johnson and members of the House Committee on Agriculture, thank you for the opportunity to appear before you today on behalf of sunflower producers in Kansas. My name is Steve Baccus and I operate a diversified farming operation in Ottawa County rotating wheat, corn, milo, soybeans and sunflowers.

Kansas farmers planted roughly 330,000 acres of sunflowers in 2001 and harvested more than 400 million pounds of seed. That translates to nearly \$40 million dollars for the sunflower sector of the Kansas agriculture economy. As sunflower production has grown over the years, producers see the need to establish a state commodity check-off program for sunflowers. Kansas has become the largest sunflower producing State without a check-off program.

As such, we respectfully request this committee introduce a bill that will:

- Amend current commodity commission statutes (KSA 2-3001 et seq.) to establish a sunflower commission;
- Maintain representation based on crop reporting districts, as with other commissions;
- Allow the sunflower commission to contract for an administrator, including a contract with another commission;
- Levy the assessment at \$0.03 per cwt, as do other states with sunflower commissions.

These are the main provisions we would like to see in place. Obviously, the Revisor of Statutes would craft the legal language to accomplish the creation of such a commission. We stand ready to assist in any manner possible.

In closing, we thank you for your consideration and look forward to the opportunities a sunflower commodity commission could help provide for Kansas sunflower producers.

Thank You!

*Steve Baccus*  
707 N. Third Ave.  
Minneapolis, KS 67467  
785-392-2587

House Agriculture Committee  
January 28, 2002  
Attachment 1



Since 1894

K.S.A. 58-2506 is amended to read as follows: **Termination of farm and pastureland tenancies; notice.** (a) Except as may be otherwise provided by this section or by a written lease signed by the parties thereto, in cases of tenants occupying and cultivating farms the notice to terminate such a farm tenancy must be given in writing at least 30 days prior to March 1 and must fix the termination of the tenancy to take place on March 1.

{Strike (b)(c); insert (1)(2)}

(1) When a notice of termination is given pursuant to subsection (a) after a fall seeded grain crop has been planted, as to that part of the farm which is planted to a fall seeded grain crop on cropland which has been prepared in conformance with normal practices in the area, the notice shall be construed as fixing the termination of the tenancy of such portion to take place on the day following the last day of harvesting such crop or crops, or August 1, whichever comes first.

(2) When a notice of termination is given pursuant to subsection (a) after the 30<sup>th</sup> day preceding March 1 and prior to the planting of a fall seeded grain crop on cropland which has been prepared in conformance with normal practices in the area, in any year in which a fall seeded grain crop has been or will be harvested, the notice shall be construed as fixing the termination of the tenancy of that part of the farm devoted to fall seeded grain crops on the day following the last day of harvesting such crop or crops in the succeeding year or August 1 of such succeeding year, whichever comes first.

{New Section (b)}

*(b) Except as may be otherwise provided by a written lease signed by the parties thereto, in cases of tenants occupying pastureland the notice to terminate such pastureland tenancy must be given in writing at least 30 days prior to January 1 and must fix the termination of the tenancy to take place on January 1. For purposes of this section pastureland means land used for livestock grazing and or hay production which includes perennial vegetation, including but not limited to, native vegetation, grass-like plants, forbs, shrubs, savannas, shrublands, marshes, and meadows.*

{Renumber existing section (d) to (c) and add italicized language below}

(c) Subject to the provisions of subsections (a) and (b) a farm or pastureland tenant becomes a tenant from year-to-year by occupying the premises after the expiration of the term fixed in a written lease, in which case the notice of termination of tenancy must fix the termination of tenancy to take place on the same day of the same month following the service of the notice as the day and month of termination fixed in the original lease under which the tenant first occupied the premises. Such notice shall be written and given to the tenant at least 30 days prior to such termination date.

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**To:** House Committee on Agriculture  
**From:** Raney Gilliland, Principal Analyst  
**Re:** Summary of HB 2687

The bill would amend statutes which refer to the Livestock Remedy Law and would repeal a number of statutes which comprise the Livestock Remedy Law. Among the laws repealed is the one which imposed a livestock remedy product registration. Attached below are the provisions of the Livestock Remedy Law being repealed.

47-501. Definitions. For the purpose of this act:

(A) "Livestock remedy" means all drugs, combinations of drugs, and combinations of drugs and other ingredients, proprietary medicines and preparations which are prepared or compounded (1) for the treatment, mitigation, prevention or cure of any disease or ailment of any animal except man, (2) (other than feeds) to affect the structure or any function of the body of any animal except man. The term "livestock remedy" is not intended to include drugs or preparations compounded at the request of the purchaser by a licensed pharmacist or prescribed by registered veterinarians, after diagnosis of animals, and vaccines, serums and bacterins.

(B) "Person" means all individuals, associations, partnerships, agents and corporations.

(C) "Secretary" means the secretary of the state board of agriculture.

(D) "Animal" means any animate being endowed with the power of voluntary action other than man.

47-502. Registration; application; label; sample; advertising matter; secrecy. Any person desiring to sell, offer or expose for sale, or distribute, or take any orders or contract for the sale or distribution in Kansas of any livestock remedy shall first file with the secretary an application for registration thereof truthfully stating:

(A) The name and principal address of the person responsible for placing such livestock remedy on the market;

(B) The name, brand, or trade-mark under which the remedy is to be sold;

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(C) The minimum net contents of the container, package or parcel of such livestock remedy expressed by weight or count and weight in the case of solids and by measure in the case of liquids, and by both count and weight or measure per unit in case of dosage forms;

(D) The English name of each ingredient used in the manufacture of such livestock remedy including the name, kind, and quantity per dose, tablet, capsule, or other specified unit of all anthelmintic drugs, strychnine, arsenic, mercury, chloroform, alcohol, all sulfonamides, or any derivative or preparation of such substance or substances, and if present, the quantity of vitamin A in United States pharmacopoeia units per gram, vitamin D for poultry in association of official agricultural chemists chick units per gram, vitamin D for other animals in U.S.P. units per gram, and all other vitamins in U.S.P. units per gram, pound or count in the case of solids and per milliliter, fluid ounce, or pint in the case of liquids.

The application for registration shall be accompanied by the label or proposed copy thereof. If such application and label appear to meet the requirements of, and are not in violation of any provision of this act, the secretary shall cause such livestock remedy to be registered, and a certificate of registration issued to such applicant upon the payment of a registration fee as hereinafter provided. There shall be furnished by the applicant for such registration, when the secretary or his authorized agent shall so request, a sealed package of such livestock remedy, with the label and advertising matter pertaining thereto, and an affidavit that the said sample is representative and a true sample of such livestock remedy, and when necessary for proper consideration of the application, upon request, the quantity or proportion of any or all ingredients used in the manufacture of the livestock remedy: Provided, however, That the secretary or his authorized agents shall not reveal such information so furnished to other than those assisting in the enforcement of this act, or to the courts when relevant in any judicial proceeding under this act.

47-503. Labels; contents. Every sack, box, carton, bottle or other package of livestock remedy sold, offered or exposed for sale, or distributed within this state shall have a label affixed thereto or printed thereon in a conspicuous place on the outside thereof bearing a legible and plainly printed statement in the English language clearly and truthfully stating:

(A) The name and principal address of the manufacturer or person responsible for placing such livestock remedy on the market;

(B) the name, brand, or trademark under which the livestock remedy is sold;

(C) the minimum net contents of the container, package, or parcel of such livestock remedy expressed by weight or count and weight in the case of solids and by measure in the case of liquids, and by both count and weight or measure per unit in case of dosage forms;

(D) the English name of each ingredient used in the manufacture of such livestock remedy including the name, kind, and quantity per dose, tablet, capsule, or other specified unit of all anthelmintic drugs, strychnine, arsenic, mercury, chloroform, alcohol, all sulfonamides, or any derivative or preparation or such substance or substances, and, if

present, the quantity of vitamin A in United States pharmacopoeia units per gram, vitamin D for poultry in association of official agricultural chemists chick units per gram, vitamin D for other animals in U.S.P. units per gram, and all other vitamins in U.S.P. units per gram, pound or count in the case of solids and per milliliter, fluid ounce, or pint in the case of liquids;

(E) adequate directions for use;

(F) such adequate warnings against use in those pathological conditions where its use may be dangerous to health, or against unsafe dosage or methods or duration of administration or application; in such manner and form, as are necessary for the protection of animals.

K.S.A. 47-504 (a) On and after the effective date of this act through June 30, 1999, the registration fee shall be \$12 for each livestock remedy or brand thereof. On and after July 1, 1999, The registration fee shall be \$10 for each livestock remedy or brand thereof.

(b) All registrations shall expire on December 31 of each year. On and after the effective date of this act through June 30, 1999, the registration may be continued in force and effect upon the payment of a renewal fee of \$12 per year per brand. On and after July 1, 1999, The registration may be continued in force and effect upon the payment of a renewal fee of \$10 per year per brand. For a period of less than six months the registration fee shall be 1.2 the annual fee.

(c) When a livestock remedy has been registered and the registration fee paid by the manufacturer or distributor no other person shall be required to pay the fee. When a package of livestock remedy is or has been sold in Kansas during the period when a valid registration was in force and effect and the registration fee paid, the sale of the package shall not be subject to the payment of further registration fees.

(d) If the fees herein stated provide more revenue than necessary for the enforcement of this act, the state board of agriculture is hereby authorized to adopt rules and regulations under this section to reduce the original registration or renewal fee or either of them by regulation, or to adopt rules and regulations under this section to increase the registration or renewal fee if decided necessary, but not in excess of the amounts of the fees set forth in this act.

(e) The secretary of the state board of agriculture shall remit all moneys received by or for the secretary under the acts contained in article 5 of chapter 47 of the Kansas Statutes Annotated, and amendments thereto, to the state treasurer at least monthly in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. On and after the effective date of this act through June 30, 1999, upon receipt of any such remittance the state treasurer shall deposit the entire amount thereof in the state treasury and an amount equal to \$2 per registration fee shall be credited to the laboratory equipment fund created by K.S.A. 2000 Supp. 74-554, and amendments thereto, and the remainder shall be credited to the livestock remedies fee fund. On and after July 1, 1999, Upon receipt of any *each* such remittance, the state treasurer shall deposit the entire amount thereof in the state treasury and the same shall be credited to the credit of the livestock remedies fee fund. All



expenditures from such fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of the state board of agriculture or by a person or persons designated by the secretary.

47-505. Refusal or cancellation of registration; change of ingredients; rules and regulations, standards and methods of testing. The secretary shall have power to refuse to register any livestock remedy under a name, brand or trade-mark which would be misleading or deceptive, or which would tend to mislead or deceive as to the materials of which it is composed, or when the label or the advertising thereof shall bear or contain any statement, design or device which is false or misleading, or when the English name of each ingredient used in its manufacture, with the quantity or proportion as required by K.S.A. 47-502 and 47-503, are not stated. He shall also have the power to refuse to register more than one livestock remedy under the same name or brand when offered by the same person.

Should it be established by a hearing, as provided for in K.S.A. 47-509, to the satisfaction of the secretary, (a) that any livestock remedy has been registered in error, (b) or that any false or misleading statement, design, or device are on, or contained in, the package, label or advertising, either printed, or written, or any oral representation (c) or that any such product has been sold in violation of any of the provisions of this act, the said secretary shall cancel the registration of such brand or brands of livestock remedy, and if canceled for the reasons set forth in (b) or (c) no registration shall be acceptable from such person. The said secretary shall not permit any person to change the ingredients of any brand of his livestock remedy registered for sale in this state unless satisfactory reasons are presented for making such change or changes.

The state board of agriculture is hereby empowered to promulgate and adopt such rules and regulations, official standards and methods of testing as may be deemed necessary to carry into effect the full intent and meaning of this act, which shall be enforced by the secretary. For the purpose of this act, in determining whether the labeling is misleading, there shall be taken into account, among other things, not only representations made or suggested by statement, work, design, device, or any combination thereof, but also the extent to which the labeling fails to reveal facts material in the light of such representations or material with respect to consequences which may result from the use of the article to which the labeling relates under the conditions of use prescribed in the labeling thereof or under such conditions of use as are customary or usual, and any statement on the label or advertising, directly or indirectly implying that the product is recommended or endorsed by any governmental agency shall be considered misleading.

47-507. Analysis of samples; stop sale orders; judicial review. (a) The secretary of the state board of agriculture or the authorized agent of the secretary shall have free access to all places of business, mills, factories, buildings, vehicles, cars, vessels and parcels, of whatsoever kind, which are used in the manufacture, transportation, importation, sale or storage of any livestock remedy and may open any parcel containing, or supposed to contain, any livestock remedy and may take therefrom, in the manner prescribed in K.S.A. 47-508 and amendments thereto, samples for analysis. The secretary or the authorized representative of the secretary shall pay the retail price of the sample or samples procured. Insofar as is practicable and the revenue provided by this act is sufficient, it shall be the duty

of the secretary to annually cause to be analyzed at least one sample so taken of every livestock remedy sold, offered or exposed for sale, or distributed in this state.

(b) The secretary or a duly authorized representative of the secretary, acting as the enforcing officer, may issue and enforce a written or printed stop sale order to the owner or custodian of any quantity of a livestock remedy which the secretary or duly authorized representative determines is not registered or labeled or is adulterated or misbranded in violation of the provisions of the statutes contained in article 5 of chapter 47 of the Kansas Statutes Annotated and acts amendatory thereof or supplemental thereto, or any rules and regulations adopted thereunder. The stop sale order shall prohibit further sale and movement of such livestock remedy, except on approval of the enforcing officer, until the enforcing officer has evidence that the law and rules and regulations have been complied with and issues a release from the stop sale order. Any stop sale order issued pursuant to this subsection is subject to review in accordance with the act for judicial review and civil enforcement of agency actions. The provisions of this subsection shall not be construed as limiting the right of the enforcement officer to proceed as authorized by other provisions of the statutes contained in article 5 of chapter 47 of the Kansas Statutes Annotated and amendments thereto.

47-508. Method of sampling remedies. An official representative sample of each brand of livestock remedy sold, offered or exposed for sale, or distributed within the state shall be taken by the secretary of the state board of agriculture or his duly authorized agent in the presence, when practicable, of at least one witness. An unbroken original package must be taken as an official sample where the livestock remedy is packed in small bottles, cartons, or other small packages. Where the remedy is packed in large containers, portions for the official sample must be taken from not less than five separate original packages unless there be fewer than five separate original packages in the lot in which case portions for the official sample must be taken from each original package; if the livestock remedy is in bulk, portions shall be taken from not less than five different places in the lot: Provided, That this does not exclude sampling in bulk when not exposed sufficiently to take portions from five different places, in which case portions are to be taken from as many places as practicable. If the sample thus secured is larger than is required, it shall be mixed and quartered until a sample of suitable size remains. All official sample shall be sealed for delivery to the said secretary who shall cause them to be examined or analyzed and the results of such examination or analysis, together with such additional information as the said secretary may deem advisable, shall be promptly transmitted to the manufacturer or person responsible for placing the commodity on the market and shall be published in reports or bulletins from time to time.

If the manufacturer or person responsible for placing upon the market any livestock remedy be unable to secure a portion of the package or lot of livestock remedy in question, he shall, upon request of the secretary of the state board of agriculture within ten days from the date of the report of the analysis or other examination, be furnished with a portion of the official sample, and be given sufficient time, not to exceed fifteen days, in which to review the work of the official analyst.

47-509. Violations of act; hearing; prosecutions. If it shall appear that any manufacturer, importer, jobber, firm, association, corporation or person has violated any of the provisions

of this act the secretary of the state board of agriculture shall cause notice to be given to the said manufacturer, importer, jobber, firm, association, corporation or person that a hearing in relation thereto will be had at a date and place named in said notice. Whereupon said secretary of the state board of agriculture or his authorized agent shall hold a hearing and may take testimony under oath giving said manufacturer, importer, jobber, firm, association, corporation or person or their representative an opportunity to be heard in his or their defense under such rules and regulations as may be prescribed by the said secretary of the state board of agriculture. In case any manufacturer, importer, jobber, firm, association, corporation or person shall fail to appear at the time and place designated in said notice the said secretary of the state board of agriculture or his authorized agent shall conduct the hearing the same as though said manufacturer, importer, jobber, firm, association, corporation, or persons were present.

If it be established by such hearing, either in the presence or absence of such manufacturer, importer, jobber, firm, association, corporation, or person to the satisfaction of the said secretary that prosecution is warranted the said secretary shall certify the facts to the proper prosecuting attorney and furnish that officer with an official report of the result of such hearing and a copy of the result of any analysis or other examination which may have a bearing on the case, duly authenticated by the analyst or other officer making the examination, under the oath of such officer. Such prosecuting attorney shall thereupon proceed to file and prosecute such case. 47-510. Unlawful acts; penalties; injunction; seizure and condemnation. (1) It shall be deemed a violation of this act for any person to sell, offer or expose for sale, or distribute, or to take or receive any order for, or to directly or indirectly contract for the sale of any livestock remedy: (A) Which is not registered as required by the provisions of this act; (B) which is not labeled as required by the provisions of this act; (C) which is misbranded. A livestock remedy shall be deemed to be misbranded: (a) If its labeling is false or misleading in any particular; (b) if its container is so made, formed, or filled as to be misleading or deceptive; (c) if it is dangerous to health of animals when used in the dosage, or with the frequency or duration prescribed, recommended, or suggested in the labeling thereof, or if the directions for use be inadequate; (d) if any word, statement, or other information required by or under authority of this act to appear on the label or labeling is not prominently placed thereon with such conspicuousness, as compared with other words, statements, designs, or devices in the labeling, and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use; (e) if its composition, purity, strength, quality or quantity falls below or differs from that which is purported or is represented to possess by its labeling. The standard for quality, strength, or purity shall be that recognized in an official compendium, but a livestock remedy shall not be deemed to be adulterated or misbranded if its quality, strength, or purity differs from that set forth in such compendium, if the difference in strength, quality or purity from such standard is plainly stated on the label. The secretary is authorized and directed to make allowances for reasonable variations.

(2) It shall be deemed a violation of this act for any person: (A) To disseminate any false advertisement, either printed, written, or oral, pertaining thereto which bears or contains any false or misleading statement, design or device regarding the curative or therapeutic effects of such livestock remedy, or any of the ingredients or substances contained therein. No person or medium for the dissemination of an advertisement, except the manufacturer, packer, distributor, or seller of the article to which a false or misleading

advertisement relates, shall be subject to the penalties of this act by reason of the dissemination by him or her of such false or misleading advertisement, unless he or she has refused, on the request of the secretary to furnish the name and address of the manufacturer, packer, distributor, seller, or advertising agency who caused him or her to disseminate such advertisement; (B) to alterate, mutilate, destroy, obliterate or remove the label or any part thereof, or to do any act which may result in the misbranding or false labeling of such article; (C) to fail to state or to falsely state in the application or on the label the English name of each and every ingredient used in the manufacture of the livestock remedy, the kind and quantity thereof as required by this act; (D) to impede, obstruct, hinder, or otherwise prevent, or attempt to prevent, the secretary or the secretary's authorized agent, in the performance of the secretary's duty in connection with the provisions of this act or acts to which it is supplemental or amendatory.

Any person who shall violate any provisions of this act or the rules and regulations promulgated and adopted or fail or neglect to comply with any requirement of this act or the rules and regulations promulgated and adopted shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than one hundred dollars (\$100) for the first violation and not less than one hundred (\$100) or more than five hundred dollars (\$500) for each subsequent violation. Penalties recovered under this act shall be paid to the state treasurer pursuant to K.S.A. 20-2801, and any amendments thereto. The district courts of the state of Kansas shall have jurisdiction to restrain and enjoin violations of this act by injunction.

Livestock remedies which are adulterated or misbranded shall be considered as a common nuisance and contraband, and may be seized and taken into possession by the sheriff or the secretary or the secretary's agents, who shall cause a complaint to be filed in the district court for the seizure and condemnation of the livestock remedy in accordance with the procedure as provided in K.S.A. 41-805, except as otherwise expressly provided. The court may in its discretion release the product for sale if the adulteration or misbranding can be and is corrected by proper labeling or processing, providing all fines and costs assessed are paid, and a good and sufficient bond in an amount fixed by the order of the court is filed with the clerk of the court, conditioned on compliance with the order of the court and the provisions of this act. The relabeling or processing shall be under the supervision of the secretary or the secretary's agents. If the product is not released for sale it shall be destroyed by the sheriff, or sold for salvage under the direction of the court.

47-513. Invalidity of 47-501 to 47-505, 47-507 to 47-510. Should it be decided upon final judicial hearing that any section or clause of this act is invalid such decision shall only apply to the section or clause so found to be invalid and shall not invalidate the entire act.

47-514. Acceptance of fee tags and stamps under prior act; reimbursement for unused. The secretary is hereby authorized to accept livestock remedy inspection fee tags and stamps issued under the provisions of sections 47-501 to 47-513, inclusive of the Kansas Statutes Annotated, as payment for registration fees under the provisions of this act, and to make reimbursement for unused inspection fee tags and stamps, upon receipt of the inspection fee tags and stamps and an affidavit of the person stating the quantity and value thereof, which shall be at the rate of forty cents per ton of livestock remedy.

47-515. Termination of rights under prior act. That all registrations of livestock remedies on file under the provisions of article 5 of chapter 47 of the Kansas Statutes Annotated and all rights thereunder shall terminate and expire upon the effective date of this act.

January 28, 2002

**To:** House Committee on Agriculture

**From:** Raney Gilliland, Principal Analyst

**Re:** Summary of HB 2689

This bill would create the Water Structures Fund where the moneys from the new fees imposed by the bill would be credited.

One set of new fees would be imposed on the construction of any fill or levee. The table below illustrates the fees to be imposed.

Fills and Levee Permit pre-construction by size	0	\$100 - \$500	New
Fills and Levee Permit construction in progress by size	0	\$200 - \$1,000	New

In addition, the bill would impose fees on the construction of dams and other water obstructions based upon three criteria. The three are:

- The size of the dam expressed in volume and height;
- The hazard class of the dam, as defined by rule and regulation; and
- The stage of construction when the application is submitted.

Fees also would be imposed on dam modifications as well. The table below illustrates these new fees.

Dam Construction Permit pre-construction (by size)	0	\$150 - \$800	New
Dam Construction Permit construction in progress (by size)	0	\$300 - \$2,400	New
Dam Permit Modification pre-construction by size	0	\$150 - \$800	New
Dam Permit Modification construction in progress by size	0	\$300 - \$1,600	New

The bill also would impose new fees for applications for stream obstructions and channel changes based on two criteria. The two criteria would be classification of the

stream and stage of construction when the application is submitted. Those new fees are outlined below.

Stream Obstruction, Channel Change Applications pre-construction (by size)	0	\$100 - \$500	New
Stream Obstruction, Channel Change Applications construction in progress (by size)	0	\$200 - \$1,000	New

The bill also would require dam inspection once a dam has been determined to be unsafe. This determination would be made by the Chief Engineer. The inspection would be made annually until the dam is either in compliance with all laws and regulations or is removed. The safety inspection would be conducted by the Chief Engineer or authorized representatives and the cost would be paid for by new fees outlined below based on the size of the dam.

Unsafe Dam Inspections	0	\$1,500 - \$4,000	New
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Each hazard class C dam would be required to have a safety inspection conducted by a licensed professional engineer qualified in design, construction, maintenance, and operation of dams once every three years. The same would be required of hazard class B dams except the inspection would be required every five years. The qualified engineer would be required to report within 60 days of inspection to the Chief Engineer. If the inspection does not occur, then a mandatory inspection would occur and the costs for the inspection would be paid for by the owner, in addition to any other remedies provided for violations of the act.

Failure to file a complete and timely report as required, or the failure to submit fees would be deemed a violation of the Stream Obstruction Act and subject to the penalties in KSA 82a-305a.

January 28, 2002

**To:** House Committee on Agriculture

**From:** Raney Gilliland, Principal Analyst

**Re:** Summary of HB 2700

The bill would rename the Plant Pest Act the Plant Pest and Agriculture Commodity Certification Act. The bill would give authority to the Secretary of Agriculture to regulate plant pests, live plant dealers, plants and plant products and commodity certification. The bill would modify some of the definitions, but would establish new ones for "live plant dealer," "live plant," "quarantine pest," "regulated nonquarantine pest," "official control," "regulated area," "bee," "beekeeping equipment," "bee pest," and "viable."

The bill would give the Secretary the authority to carry out official control operations to locate, suppress, prevent, or retard the spread of any plant disease. The Secretary is given authority to enter and inspect any private dwelling. The current law gives this authority for residences. The bill further would allow the Secretary to pursue plant pests in "regulated articles."

The bill would give the Secretary specific authority to establish regulations defining pest freedom standards for live plants, plants and plant products, or other regulated articles that pose risk of moving plant pests.

New authority is given to the Secretary to provide inspection services for certification purposes for regulated articles intended for shipment interstate or internationally. Inspection fees would not exceed \$100 per hour, but would be established by regulation. If a certificate is requested an additional fee not to exceed \$100 would be assessed.

Authority to inspect bees or beekeeping equipment also would be established in the bill.

Live plant dealers would have to pay a fee of \$150 (under current law dealers pay a fee of \$50). All valid certificates of nursery inspection and nursery dealer licenses that are scheduled to expire in 2002 would remain valid until January 31, 2003. Live plant dealers may sell only live plants which are in compliance with all quarantines and regulated nonquarantine pest freedom standards.

Electronic or mail order sales of live plants would be subject to the act. Violations of the act or failure to comply with the act may result in new civil penalty of not less than \$100 nor more than \$1,000 per offense.



New language would require that all live plants offered for sale or distribution must be in a viable condition and must be stored and displayed under conditions that will maintain viability.

Statutes relating to apiary inspection would be repealed.

January 28, 2002

**To:** House Committee on Agriculture

**From:** Raney Gilliland, Principal Analyst

**Re:** Summary of HB 2701 as Proposed by Department of Agriculture

The following outlines the fees being increased or imposed by HB 2701.

Program	Service	Current Charge	Proposed Charge	Last Fee Increase	Sec. No.
Pesticide & Fertilizer	Failure to file affidavit and pay inspection fees	\$5 per day	\$10 per day		Sec. 1
Pesticide & Fertilizer	Pesticide Product Registration	\$130	\$150	1987	Sec. 2
Pesticide & Fertilizer	Business License Application	\$112 per category	\$140 per category	1987	Sec. 3
Pesticide & Fertilizer	Uncertified Applicator Registration	\$10	\$15	1982	Sec. 3
Pesticide & Fertilizer	Government Agency Registration	\$35	\$50	1982	Sec. 3
Pesticide & Fertilizer	Technician Registration	\$25	\$40	1987	Sec. 4
Pesticide & Fertilizer	Commercial Certification Application	\$35 per category	\$50 per category	1982	Sec. 5
Pesticide & Fertilizer	Commercial Certification Examination per category	\$25	\$35	1982	Sec. 6
Pesticide & Fertilizer	Private Certification Application	\$10	\$25	1982	Sec. 7
Pesticide & Fertilizer	Soil Amendment Product Registration	\$50	\$60	1982	Sec. 8
Pesticide & Fertilizer	Soil Amendment Inspection Fee	\$0.020 / ton	\$0.28 / ton	1976	Sec. 9
Pesticide & Fertilizer	Soil Amendment Penalty – failure to file accurate & timely inspection fee or registration	\$1 per day	\$10 per day	1976	Sec. 9
Pesticide & Fertilizer	Agricultural Liming Material Registration	\$25	\$30	1976	Sec. 10
Pesticide & Fertilizer	Agricultural Liming Material Inspection Fee	\$0.05 / ton	\$0.07/ton	1976	Sec. 11
Pesticide & Fertilizer	Chemigation User Permit	\$50	\$75	1985	Sec. 12

Program	Service	Current Charge	Proposed Charge	Last Fee Increase	Sec. No.
Pesticide & Fertilizer	Chemigation User Permit for additional points of diversion	\$10	\$15	1989	Sec. 12
Pesticide & Fertilizer	Chemigation Equipment Operator Exam and Certification	\$10	\$25	1989	Sec. 13
Meat & Poultry Inspection	Business License	\$50	\$75	1991	Sec. 16
Meat & Poultry Inspection	Slaughter Only Registration – 300 animal units or less	\$150	\$225	1991	Sec. 16
Meat & Poultry Inspection	Custom Slaughter / Processing Registration	\$200	\$300	1991	Sec. 16
Meat & Poultry Inspection	Inspected Slaughter / Processing Registration – more than 300 animal units	\$250	\$375	1991	Sec. 16
Meat & Poultry Inspection	Late Registration Reinstatement Fee, 01/15 to 01/31 of the year of renewal	\$10	\$20	2001	Sec. 16
Meat & Poultry Inspection	Late Registration Reinstatement Fee for each month after 01/31 of the year of renewal	\$25 /month	\$50/month	2001	Sec. 16
Dairy Inspection	Dairy Manufacturing Plant License	\$120	\$155	1991	Sec. 19
Dairy Inspection	Distributor License	\$120	\$155	1991	Sec. 19
Dairy Inspection	Milk Hauler License	\$25	\$35	1993	Sec. 19
Dairy Inspection	Receiving/Transfer Station License	\$50	\$65	1991	Sec. 19
Dairy Inspection	Single Service License	\$50	\$65	1991	Sec. 19
Dairy Inspection	Grade "A" Milk Produced	\$0.01 per hundred wt.	\$0.015 per hundred wt.	1991	Sec. 20
Dairy Inspection	Grade "A" Milk Distributed	\$0.01 per hundred wt.	\$0.015 per hundred wt.	1991	Sec. 20
Dairy Inspection	Grade "A" Milk Processed	\$0.01 per hundred wt.	\$0.015 per hundred wt.	1991	Sec. 20
Dairy Inspection	Mfg Grade Milk Produced	\$0.01 per hundred wt.	\$0.015 per hundred wt.	1991	Sec. 20
Dairy Inspection	Mfg Grade Milk Processed	\$0.0075 per hundred wt.	\$0.01 per hundred wt.	1991	Sec. 20
Dairy Inspection	Frozen Dessert—Mfg or Imported	\$0.001 per gallon	\$0.0015 per gallon	1991	Sec. 20
Water Appropriations	Permit to Appropriate 0-100 acre foot	\$100	\$200	1989	Sec. 23
Water Appropriations	Permit to Appropriate 101-320 acre foot	\$150	\$300	1989	Sec. 23

Program	Service	Current Charge	Proposed Charge	Last Fee Increase	Sec. No.
Water Appropriations	Permit to Appropriate More than 320 acre foot	\$150 plus \$10 /ea. additional 100 acre foot	\$300 plus \$20 /ea. additional 100 acre foot	1989	Sec. 23
Water Appropriations	Water Storage Permit 0 to 250 acre-feet	\$100	\$200		Sec. 23
Water Appropriations	Water Storage Permit more than 250 acre feet plus an amount for each additional 250 acre feet	\$100 plus \$10 for each additional 250 acre feet	\$200 plus \$20 for each additional 250 acre feet		Sec. 23
Water Appropriations	Change Point of Diversion – 300 ft or less	\$50	\$100	1989	Sec. 24
Water Appropriations	Change Point of Diversion – more than 300 ft	\$100	\$200	1989	Sec. 24
Water Appropriations	Change Place of Use	\$100	\$200	1989	Sec. 24
Water Appropriations	Use Made of Water	\$150	\$300	1989	Sec. 24
Water Appropriations	Ownership Change	0	\$100	New	Sec. 24
Water Appropriations	Any Two Above	\$150	\$300	1989	Sec. 24
Water Appropriations	Any Three Above	\$250	\$500	1989	Sec. 24
Water Appropriations	Field Inspection Fee	\$200	\$400	1989	Sec. 25
Water Appropriations	Extension Requests	\$50	\$100	1989	Sec. 25
Water Appropriations	Water Right or Permit to Appropriate Reinstatement	\$100	\$200	1989	Sec. 25
Water Appropriations	Temporary permit	\$100	\$200	1989	Sec. 26
Water Appropriations	Water Right Administration Fee paid annually with the Water Use Report	0	\$20	New	Sec. 27
Water Appropriations	Failure to File Accurate Report – Include with the current requirement to file a timely report	0	\$250 (in current law)	New	Sec. 27
Weights & Measures	Annual Facility Authorization – One small scale	0	\$15	New	Sec. 29
Weights & Measures	Annual Facility Authorization – 2 - 3 small scales	0	\$25	New	Sec. 29
Weights & Measures	Annual Facility Authorization – 4 or more small scales	0	\$40	New	Sec. 29
Weights & Measures	Annual Facility Authorization – one large scale	0	\$60	New	Sec. 29
Weights & Measures	Annual Facility Authorization – 2-3 large scales	0	\$115	New	Sec. 29
Weights & Measures	Annual Facility Authorization – 4 or more large scales	0	\$170	New	Sec. 29
Weights & Measures	Annual Facility Authorization – ≤ 3 scanners	0	\$30	New	Sec. 29

Program	Service	Current Charge	Proposed Charge	Last Fee Increase	Sec. No.
Weights & Measures	Annual Facility Authorization - ≥ 3 scanners	0	\$60	New	Sec. 29
Weights & Measures	Meter Device	0	\$25	New	Sec. 29
Weights & Measures	Scale Co. License	\$50	\$100	1996	Sec. 30
Weights & Measures	Scale Co. License Renewal	\$50	\$100		Sec. 30

In addition, the bill would impose annual inspection fees for animal facilities where the Department of Agriculture has reviewed and approved nutrient utilization plans. The fees would be due March 1 of each year. Failure to submit fees would result in suspension or forfeiture of the plan approval by the agency. Those fees are shown below.

Program	Service	Current Charge	Proposed Charge	Last Fee Increase	Sec. No.
Pesticide & Fertilizer	NUP inspection fee – less than 3725 animal units	0	\$100	New	Sec. 14
Pesticide & Fertilizer	NUP inspection fee – greater than 3725 animal units	0	\$200	New	Sec. 14

Also, the bill would make amendment to the Kansas Meat and Poultry Inspection Act to add definitions for the terms “wholesaler,” “distributor,” and “public warehouseman.” Individuals engaged in these activities would have to have a license. People engaging in the sale of meat and poultry products for youth fund raising activities would have to register.

The law dealing with dairy products would be amended to eliminate the agency’s responsibility with respect to licensure of counter freezers and homemade ice cream manufacturing. The following fees would be eliminated.

Program	Service	Current Charge	Proposed Charge
Dairy Inspection	Home made Ice Cream Manufacturer License	\$50	Repeal
Dairy Inspection	Counter Freezer License	\$50	Repeal

Further, the bill amends the Water Appropriation Act to require that people file complete, accurate, and timely water use reports to the Division of Water Resources.

The new fees assessed under the Weights and Measures Law would be credited to the Weights and Measures Fee Fund.

Finally, the bill would create the Fertilizer and Pesticide Compliance and Administration Fund, where an amount equal to \$0.5 per ton of fertilizer sold would be deposited.

STATE OF KANSAS

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KANSAS DEPARTMENT OF AGRICULTURE

House Agriculture Committee

January 28, 2002

Statement Regarding Fee Fund Proposals

Jamie Clover Adams, Secretary of Agriculture

The Kansas Department of Agriculture is proposing four bills that make up a comprehensive fee fund package for the agency. The package creates some new fees and increases some of our existing fees, while other fees will remain at current levels and the feed inspection fee will be reduced. We also propose repealing three existing statutes.

Last spring, when I reviewed the agency's budget history and analyzed the future budget picture, I concluded that the Department of Agriculture would erode to the point of irrelevancy if new revenue was not found. To counter that trend, we began developing the package before you today. Legislative Research analysis shows that since fiscal year 1994 the SGF portion of the KDA budget has increased 4.5 percent and the overall budget has increased 7.1 percent. We face significant general fund shortfalls for fiscal year 2003, and the Division of the Budget projects significant general fund needs in fiscal years 2004 and 2005. Clearly, KDA cannot expect general fund increases any time in the next three to four years. In addition, most KDA fees have not increased in more than a decade.

The FY 2001 budget for KDA was \$18,084,295. The funding mix is 55 percent state general funds, 29.5 percent state required fees and 15.5 percent from federal grants financed by the nation's taxpayers. KDA had 303.2 FTEs in FY 2001, down from 326.5 in FY 1994.

Our package of bills is intended to ensure that the Department of Agriculture retains its regulatory credibility and that the Secretary remains a viable voice for Kansas agriculture. Our package includes:

Bill Description	House Bill Number	Senate Bill Number
Livestock Remedy Repeal	2687	435
Structures Program Changes	2689	436
Plant Pest Act Changes	2700	437
Agency Fee Bill	2701	438

House Agriculture Committee  
January 28, 2002  
Attachment 4

## **Adjustments to Improve Operations and Meet Increasing Expectations**

- 1995
- Became a cabinet level agency
  - Clearly defined the mission – administer the laws and programs assigned to the Department in an effective and efficient manner which, if challenged, will be proven credible.
  - Established Karnal bunt laboratory; Worked with Allied Signal to develop a one of a kind automated microscope.
  - Completed review of statutes, rules and regulations
- 1996
- Transferred agricultural marketing to Department of Commerce & Housing. Four positions were retained and pushed to field operations.
  - Flattened agency chain of command. Removed an entire layer of bureaucracy. Each manager now reports directly to the Secretary or Assistant Secretary.
  - Overhauled the Weights & Measures program. Acquired the fuel pump inspection program. Plan for improvement was developed through a peer review, stakeholder meetings and a system analysis of the program.
- 1997
- Consolidated and centralized support functions.
  - Began agency computerization and database integration working to do away with multiple databases and equipment and software which were incompatible.
  - Acquired the Grain Warehouse Examination program after the abolishment of the Kansas Grain Inspection Department.
  - Performed a Water Structures Program systems analysis to improve program operations.
- 1998
- Disbanded the official seed laboratory. Permissive services are now performed by the private sector. KDA retained regulatory sample responsibility.
  - After DeBruce explosion, trained grain warehouse examiners to recognize unsafe conditions and report it to the Kansas Department of Human Resources.
- 1999
- Overhauled the Meat and Poultry Inspection program. Changes made after a peer review with USDA and state program directors from Oklahoma and Texas, as well as a systems analysis which included inspection staff and industry representatives.
  - Revamped the water appropriation decision making process requiring that applicants receive due process under KAPA and requiring the movement of policies to rules and regulations as required by the Kansas Supreme Court.
  - Peer review of the Plant Protection and Weed Control program was conducted.
- 2000
- Completed review of statutes, rules and regulations.
  - Privatized grain commodity commissions.
  - Reorganized ACAP program. Created the Pesticide & Fertilizer Program to address national environmental regulatory trends.
- 2001
- Disbanded the Apiary Program.
  - Narrowed the involvement of KDA in implementing the Kansas Noxious Weed Law.
  - Made major strides toward database integration with completion scheduled for 2002.
  - Performed a Water Appropriations Program Fail Mode Effects Analysis to improve program efficiency and implementation.

2002

- Repeal three obsolete laws and programs.
- Implement top recommendation from the fail mode effects analysis of the water appropriations process.
- Narrow the scope and responsibility of the Water Structures program.

During this time period, **nearly every program has undergone a peer review**, systems analysis, internal or external audit, or sought advice from stakeholder teams in order to improve efficiency and effectiveness. These include meat and poultry, plant health, pesticide and fertilizer, ACAP, water structures, water appropriations, the nutrient utilization program and weights and measures.

November 21, 2001



## **Advocacy Efforts on Behalf of Agriculture**

### Protecting and Expanding Markets

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- Proactive response to Karnal bunt wheat threat continues to protect export markets for Kansas wheat. The structure used to develop detection data was also used to respond to the Khapra beetle, another pest highly regulated by most foreign countries that import Kansas commodities.
- Governor Graves served as chairman of the Governor's Ethanol Coalition. KDA promoted ethanol before the California Energy Board and has worked with the Kansas Department of Commerce and Housing to develop an ethanol template for use by firms exploring ethanol production opportunities in Kansas. During 1999, Governor Graves led 23 state governors in promoting the use of ethanol as an alternative fuel. All this benefits Kansas grain producers.
- Secretary Clover Adams actively supported a wheat export initiative for funding by the Kansas Wheat Commission to open markets for high-quality Kansas wheat in Mexico.
- Signed an memorandum of agreement with the North American Weed Free Forage Association to open new markets for Kansas producers who raise weed-free certified forage.
- Implemented a boll weevil trapping program to assure USDA and the United States cotton industry that Kansas was free of boll weevils. No boll weevils were found in 2001, which negated the need for a statewide boll weevil eradication program paid for by growers.

### Reasonable, Customer-Friendly Laws and Regulations

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- Supported SB 237, which contained provisions for water banking and five-year flex accounts, for more flexibility in surface water and groundwater appropriations. KDA supported this legislation because of the flexibility it offered water users and its potential to contribute to water conservation.
- Developed and made available a computer program that aids creation of nutrient plans for fields as part of KDA's responsibility to regulate nutrient management planning for swine facilities. Although originally developed to assist swine producers under HB 2950, the program has been made available to any producer using any other fertilizer source.
- Supported amending the grain warehouse law to allow irrevocable letters of credit, giving grain storage facilities greater flexibility to meet their producers' needs.
- Proposed amendments to anhydrous ammonia regulations to allow farmer cooperatives and fertilizer dealerships the opportunity to use new technology to meet the needs of producers.

- Funded a portion of the KSU mobile irrigation laboratory to provide Kansas producers with information and education to reduce nitrate pollution of groundwater possibly caused by the application of fertilizers through irrigation equipment. The risk of pollution is greatly reduced by appropriate timing of fertilizer application.
- In 2001, the Kansas dairy statutes were reorganized and updated. Obsolete laws were removed and the remaining laws were organized into sections for easier reference by the user. Further, KDA contracted with the Kansas Dairy Commission to produce a Kansas Dairy Producer's Handbook to help producers identify legal requirements that impact their operations and by providing best management practice information on waste lagoon management and maintenance.

#### Ensuring Availability of Pesticides and Other Innovative Pest Management Practices

- In May 2001, secured a Section 18 emergency exemption from EPA to use Vista to control sericea lespedeza in Kansas rangeland and permanent grass pastures. The approval means ranchers and land managers now have a more cost-effective tool to battle this noxious weed.
- Funded FQPA assessments of pesticides needed by farmers for on-farm stored grain, cattle production, post-harvest grain sorghum stored in elevators and apple and peach production. This effort precluded EPA from using worst-case default assumptions to determine agricultural pesticide use and hazards. KDA also is funding profiles of a number of Kansas crops, which EPA will use to make pesticide registration decisions. Kansas is the only state to use tax dollars to fund these studies and profiles. In other states producers have paid for them.
- The Kansas Secretary of Agriculture is a member of the USDA-EPA Committee to Advise on Reassessment and Transition (CARAT), the successor to the Tolerance Reassessment Advisory Committee (TRAC), which was formed to help implement the Food Quality Protection Act. Secretary Clover Adams is the only secretary of any state agricultural agency to sit on this committee. She serves to protect Kansas producers in the implementation of new safety standards for evaluating pesticide active ingredients used in food, while not stepping on the interests of other states.
- Worked to provide agricultural producers access to pesticides needed for crop protection in the face of severe weather and pest challenges. KDA approved 20 special pesticide use permits in 1998 and 1999, one of which saved a grain sorghum producer \$1.5 million worth of seed and a certain and significant loss of income.
- Examining and using biocontrol methods for combating noxious weeds (Musk Thistle, Canada Thistle, Multiflora Rose, Purple Loosestrife) and pests (Japanese Beetle, Pine Sawfly, Alfalfa Weevil), which is a benefit to both agriculture and the environment. Biocontrol methods allow producers to achieve some level of control over pests without using pesticides, which is especially important in environmentally sensitive areas.

#### Natural Resource Protection

- With help from the Department of Wildlife and Parks and the State Conservation Commission, KDA brought together the landowner, conservation, commodity, environmental, wildlife and agribusiness interests that formed the Kansas Farm Bill Conservation Coalition. The group met several times during the summer of 2001 to develop its recommendations to Congress for the conservation title of the next farm bill.
- Hosted KDA's second Agriculture Earth Day on May 8, 2001. This annual event rotates across the state to reach more individuals and to reinforce the message of agricultural stewardship in Kansas.
- Supported the Agriculture and Specialty Chemical Remediation Act, which provides financial aid to property owners faced with clean-up costs associated with soil and groundwater contamination caused by agricultural and speciality chemicals (fertilizers and pesticides).

#### Water Quality Improvements

- Encouraged—and committed resources—to intervene in the TMDL lawsuit to ensure that our state's rights are protected.
- Helped the State Conservation Commission fund a study to determine primary sources of coliform bacteria in Kansas surface waters and to test the effectiveness of farm best management practices to reduce bacterial contamination of streams, lakes and rivers.
- Actively support voluntary, incentive-based approaches to achieve water quality improvements. In that vein, KDA provided some funding for Extension watershed specialists and a NRCS field conservationist, who will provide full-time educational and technical assistance to farmers and ranchers in high-priority TMDL watersheds.
- Actively participated in the 2000 EPA rulemaking regarding Kansas Water Quality Standards. Submitted a 47-page document detailing why EPA should not proceed with its proposed rule. These comments were supplemented with an 8-inch stack of supporting materials documenting many measures the state has taken to improve water quality. Secretary Clover Adams also appeared at the public hearing in Dodge City to oppose the proposed rule.
- Actively supported passage of SB 204 during the 2001 session. When implemented, this legislation will allow the state of Kansas and landowners to focus their limited resources on improving water quality rather than chasing paper problems. This new water quality framework allows all parties to focus on the highest priorities and improve water quality.

#### Enhancing Food Safety

- Strongly believe that Kansas farmers and ranchers benefit from consumer confidence in the Kansas meat, milk and egg supply. To that end, KDA has aggressively

improved the state meat and poultry inspection program and updated the Kansas egg law to comply with federal regulations enacted to improve egg safety.

- Partnered with the Kansas Public Health Association on Kansas Conference for Food Protection October 9 and 10, 2001, in Wichita, which provided an opportunity for food safety officials to discuss state and federal issues that impact public health.
- Worked closely with the Kansas Department of Health and Environment and the FDA to address misapplications of pesticide to wheat. KDA provided laboratory analysis, grain warehouse auditing to locate potentially contaminated wheat, and general administrative guidance on pesticide use and grain handling information. Partnerships like these are essential to food safety, pesticide regulation and the protection of our state's leading export commodity.
- Applied for and received an FDA grant to develop Spanish-language training materials to better meet the needs of Kansas' rapidly changing dairy industry. Spanish is the first language of many individuals now working in Kansas dairies and as milk haulers. A written training guide, test and training video were translated into Spanish for milk haulers. The materials will help ensure safe handling of Kansas milk.

#### Moving Government to the Private Sector to Benefit Agriculture

- Supported legislation to restructure Kansas' four grain commodity commissions. The new structure privatizes the commissions' operations, allows each commission to elect its own leadership from registered producers and returns control of checkoff funds to each commission.
- Dedicated one member of the Secretary's staff to facilitate the commodity commissions' transition to privatization. This individual developed a database, informational materials and a website for the new commissioner election process, and promoted the election through media interviews, trade shows and visits to individual counties.
- Supported privatization of grain inspection services in May 1997. Kansas was one of very few states where inspections were done in the public sector.

#### Protecting Agricultural Producers

- Initiated producer awareness campaign to minimize the possibility of Karnal bunt being introduced to Kansas wheat when USDA expanded its Karnal bunt quarantine to include four north-Texas counties in June 2001. Secretary Clover Adams recorded public service announcements to air on farm radio stations statewide, and fact sheets were made available to affected stakeholders and all county extension offices.
- Promoted Kansas' interests in daily conference calls sponsored by USDA's Animal and Plant Health Inspection Service in response to the spread of Karnal bunt to four north-Texas counties in June 2001.

- After USDA expanded its quarantine of Karnal bunt-infected areas, Secretary Clover Adams ordered that all wheat seed must test Karnal bunt-free before it may be offered for sale in Kansas.
- KDA took a proactive stance to protect Kansas' livestock from contagious animal illnesses like foot-and-mouth disease. Inspectors who come into contact with animals susceptible to contagious disease are trained to spot signs of illness and know which steps to take to contain the disease. Also, administrative staff and an agency veterinarian participated in emergency management training to help the state prepare its response to an outbreak of contagious animal disease.
- Secured legislative approval for enhanced regulations and civil penalty authority regarding feedstuffs. This allows KDA to more effectively prevent material believed to be responsible for bovine spongiform encephalopathy, or mad cow disease, from entering the food chain through ruminants.
- Opposed EPA-proposed rules for confined animal feeding operations because of the detrimental economic impact they would have on smaller livestock producers and their overall ineffectiveness to achieve their stated goal of improved water quality.
- Actively supported legislation to update the antiquated Kansas Restraint of Trade Act to bring Kansas anti-trust laws into the 21<sup>st</sup> century. It provides consumers, businesses and commodity producers with an effective avenue of recourse against market-distorting practices of unscrupulous businesses.
- Provided comments to the U.S. Fish and Wildlife Service regarding their proposed critical habitat for the Arkansas Shiner. Created an internal Endangered Species Workgroup to monitor endangered specie activities in Kansas and to identify opportunities for KDA to be involved in the listing, habitat designation and recovery process.

#### Measuring Public Opinion

- Shared with Kansas Department of Commerce and Housing the cost of conducting a statistical survey to determine Kansans' attitudes about agriculture, which serve as the basis for an information campaign by agricultural trade associations.

#### Renewable Energy to Benefit Farmers and Ranchers

- The Kansas Department of Agriculture has been a sponsor of the first and second annual Kansas Wind Energy Conferences. We support research and commercialization of technology making wind a renewable energy source and an income supplement for farmers and ranchers. Kansas is a good source of wind energy and wind turbines can provide another source of income to Kansas farmers and rural residents.

# KDA Fee Proposal

4-9

Program	Service	Current Charge	Proposed Charge	Last Fee Increase
ACAP	Livestock Remedy Product Registration	\$10	Repeal	1945
Dairy Inspection	Grade "A" Milk Produced	\$0.01 per hundred wt.	\$0.015 per hundred wt.	1991
Dairy Inspection	Mfg Grade Milk Produced	\$0.01 per hundred wt.	\$0.015 per hundred wt.	1991
Dairy Inspection	Grade "A" Milk Distributed	\$0.01 per hundred wt.	\$0.015 per hundred wt.	1991
Dairy Inspection	Grade "A" Milk Processed	\$0.01 per hundred wt.	\$0.015 per hundred wt.	1991
Dairy Inspection	Mfg Grade Milk Processed	\$0.0075 per hundred wt.	\$0.01 per hundred wt.	1991
Dairy Inspection	Frozen Dessert	\$0.001 per gallon	\$0.0015 per gallon	1991
Dairy Inspection	Milk Hauler License	\$25	\$35	1993
Dairy Inspection	Home made Ice Cream Manufacturer License	\$50	Repeal	
Dairy Inspection	Counter Freezer License	\$50	Repeal	

4-10

# KDA Fee Proposal

Program	Service	Current Charge	Proposed Charge	Last Fee Increase
<b>Dairy Inspection</b>	Dairy Manufacturing Plant License	\$120	\$155	1991
<b>Dairy Inspection</b>	Receiving/Transfer Station License	\$50	\$65	1991
<b>Dairy Inspection</b>	Single Service License	\$50	\$65	1991
<b>Dairy Inspection</b>	Distributor License	\$120	\$155	1991
<b>Meat &amp; Poultry Inspection</b>	Business License	\$50	\$75	1991
<b>Meat &amp; Poultry Inspection</b>	Slaughter Only Registration – 300 animal units or less	\$150	\$225	1991
<b>Meat &amp; Poultry Inspection</b>	Custom Slaughter / Processing Registration	\$200	\$300	1991
<b>Meat &amp; Poultry Inspection</b>	Inspected Slaughter / Processing Registration – more than 300 animal units	\$250	\$375	1991
<b>Meat &amp; Poultry Inspection</b>	Late Registration Reinstatement Fee, 01/15 to 01/31 of the year of renewal	\$10	\$20	2001
<b>Meat &amp; Poultry Inspection</b>	Late Registration Reinstatement Fee for each month after 01/31 of the year of renewal	\$25 /month	\$50/month	2001

# KDA Fee Proposal

4-11

Program	Service	Current Charge	Proposed Charge	Last Fee Increase
<b>Pesticide &amp; Fertilizer</b>	Pesticide Product Registration	\$30	\$50	1987
<b>Pesticide &amp; Fertilizer</b>	Commercial Certification Examination per category	\$25	\$35	1982
<b>Pesticide &amp; Fertilizer</b>	Private Certification Application	\$10	\$25	1982
<b>Pesticide &amp; Fertilizer</b>	Commercial Certification Application	\$35	\$50	1982
<b>Pesticide &amp; Fertilizer</b>	Business License Application	\$100	\$140	1987
<b>Pesticide &amp; Fertilizer</b>	Government Agency Registration	\$35	\$50	1982
<b>Pesticide &amp; Fertilizer</b>	Uncertified Applicator Registration	\$10	\$15	1982
<b>Pesticide &amp; Fertilizer</b>	Technician Registration	\$25	\$40	1987
<b>Pesticide &amp; Fertilizer</b>	Chemigation Equipment Operator Exam and Certification	\$10	\$25	1989
<b>Pesticide &amp; Fertilizer</b>	Chemigation User Permit	\$50	\$75	1985
<b>Pesticide &amp; Fertilizer</b>	Chemigation User Permit for additional points of diversion	\$10	\$15	1989
<b>Pesticide &amp; Fertilizer</b>	NUP inspection fee – less than 3725 animal units	0	\$100	New



# KDA Fee Proposal

4-12

Program	Service	Current Charge	Proposed Charge	Last Fee Increase
Pesticide & Fertilizer	NUP inspection fee – greater than 3725 animal units	0	\$200	New
Pesticide & Fertilizer	Failure to file affidavit and pay inspection fees	\$5 per day	\$10 per day	
Pesticide & Fertilizer	Agricultural Liming Material Inspection Fee	\$0.05 / ton	\$0.07 / ton	1976
Pesticide & Fertilizer	Agricultural Liming Material Registration	\$25	\$30	1976
Pesticide & Fertilizer	Soil Amendment Inspection Fee	\$0.020 / ton	\$0.28 / ton	1976
Pesticide & Fertilizer	Soil Amendment Product Registration	\$50	\$60	1982
Pesticide & Fertilizer	Soil Amendment Penalty – failure to file accurate & timely inspection fee or registration	\$1 per day	\$10 per day	1976
Plant Protection & Weed Control	Apiary Inspection Fee	\$30 per hour	Repeal	1982
Plant Protection & Weed Control	Apiary Registration Fee	¢50 per colony	Repeal	1982
Plant Protection & Weed Control	Apiary Import Permit	¢50 per colony or \$5 per app	Repeal	1982

# KDA Fee Proposal

4-13

Program	Service	Current Charge	Proposed Charge	Last Fee Increase
<b>Plant Protection &amp; Weed Control</b>	Interstate or International Shipment Inspection – live plants, plant products, bees, beekeeping equipment or other regulated articles		\$100 per hour	New Consolidated
<b>Plant Protection &amp; Weed Control</b>	Certificate of Inspection – live plants, plant products, bees, beekeeping equipment or other regulated articles		\$100	New Consolidated
<b>Plant Protection &amp; Weed Control</b>	Live Plant Dealer License		\$150	New
<b>Water Appropriations</b>	Permit to Appropriate 0-100 acre feet	\$100	\$200	1989
<b>Water Appropriations</b>	Permit to Appropriate 101-320 acre feet	\$150	\$300	1989
<b>Water Appropriations</b>	Permit to Appropriate More than 320 acre feet	\$150 plus \$10 /ea. additional 100 acre feet	\$300 plus \$20 /ea. additional 100 acre feet	1989
<b>Water Appropriations</b>	Permit to Appropriate for Storage 0 - 250 acre feet	\$100	\$200	1989

# KDA Fee Proposal

4-14

Program	Service	Current Charge	Proposed Charge	Last Fee Increase
Water Appropriations	Permit to Appropriate for Storage More than 250 acre feet	\$100 plus \$10/ ea. additional 250 acre feet	\$200 plus \$20/ ea. additional 250 acre feet	1989
Water Appropriations	Temporary permit	\$100	\$200	1989
Water Appropriations	Change Point of Diversion – 300 ft or less	\$50	\$100	1989
Water Appropriations	Change Point of Diversion – more than 300 ft	\$100	\$200	1989
Water Appropriations	Change Place of Use	\$100	\$200	1989
Water Appropriations	Use Made of Water	\$150	\$300	1989
Water Appropriations	Any Two Above	\$150	\$300	1989
Water Appropriations	Any Three Above	\$250	\$500	1989

# KDA Fee Proposal

4-15

Program	Service	Current Charge	Proposed Charge	Last Fee Increase
Water Appropriations	Field Inspection Fee	\$200	\$400	1989
Water Appropriations	Extension Requests	\$50	\$100	1989
Water Appropriations	Water Right or Permit to appropriate Reinstatement	\$100	\$200	1989
Water Appropriations	Ownership Change	0	\$100	New
Water Appropriations	Water Right Administration Fee paid annually with the Water Use Report	0	\$20	New
Water Appropriations	Failure to File Accurate Report – Include with the current requirement to file a timely report	0	\$250 (in current law)	New
Water Structures	Stream Obstruction, Channel Change Applications pre-construction (by size)	0	\$100 - \$500	New
Water Structures	Stream Obstruction, Channel Change Applications construction in progress (by size)	0	\$200 - \$1000	New
Water Structures	Dam Construction Permit pre-construction (by size)	0	\$150 - \$1200	New

# KDA Fee Proposal

4-16

Program	Service	Current Charge	Proposed Charge	Last Fee Increase
Water Structures	Dam Construction Permit construction in progress (by size)	0	\$300 - \$2400	New
Water Structures	Unsafe Dam Inspections	0	\$1500-\$4000	New
Water Structures	Dam Permit Modification pre-construction by size	0	\$150 - \$800	New
Water Structures	Dam Permit Modification construction in progress by size	0	\$300 - \$1600	New
Water Structures	Fills and Levee Permit pre-construction by size	0	\$100 - \$500	New
Water Structures	Fills and Levee Permit construction in progress by size	0	\$200 - \$1000	New
Weights & Measures	Scale Co. License	\$50	\$100	1996
Weights & Measures	Annual Facility Authorization – One small scale	0	\$15	New
Weights & Measures	Annual Facility Authorization – 2 - 3 small scales	0	\$25	New
Weights & Measures	Annual Facility Authorization – 4 or more small scales	0	\$40	New

# KDA Fee Proposal

Program	Service	Current Charge	Proposed Charge	Last Fee Increase
Weights & Measures	Annual Facility Authorization – one large scale	0	\$60	New
Weights & Measures	Annual Facility Authorization – 2-3 large scales	0	\$115	New
Weights & Measures	Annual Facility Authorization – 4 or more large scales	0	\$170	New
Weights & Measures	Annual Facility Authorization – $\leq 3$ scanners	0	\$30	New
Weights & Measures	Annual Facility Authorization – $\geq 3$ scanners	0	\$60	New
Weights & Measures	Meter Device	0	\$25	New

4-17

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KANSAS DEPARTMENT OF AGRICULTURE

House Agriculture Committee

January 28, 2002

Testimony Regarding  
House Bill 2687

Rebecca Reed, Special Assistant  
to the Secretary of Agriculture

Mr. Chairman and members of the committee, I am Rebecca Reed with the Kansas Department of Agriculture. Thank you for the opportunity to present testimony regarding the repeal of the livestock remedies requirement for the Kansas Department of Agriculture.

**Background**

The original livestock remedies law was introduced during the 1910s. In the 1920s it was transferred to the Board of Agriculture and, in the 1940s, more authority was given to enforce the provision. While documentation of the reason for its introduction is sketchy, history shows that questionable remedies were being introduced to consumers at every corner. There was no federal oversight from the Food and Drug Administration, so states were responsible for consumer protection in the livestock remedies industry. The label requirement and oversight by a state agency were most likely intended to deter manufacturers of questionable medicated potions.

Currently manufacturers are required to register their label with KDA and to pay a \$10 fee. The label must contain:

1. The name and address of the person responsible for putting the remedy on the market;
2. The name, brand, or trademark under which the remedy will be sold;
3. The minimum net contents of the container, package, or parcel;
4. English name of each ingredient used.

Livestock remedies are, in general terms, over-the-counter medications for animals. Field inspectors typically check livestock remedy products for product registration, labeling requirements and the expiration date. We have done 279 livestock remedy inspections since October 1999, 218 of which were in co-ops and feed mills, 48 at farm supply stores, seven at pet shops and six at vet suppliers. KDA issued 155 stop sale orders, most of which were for out-of-date product still on the shelves.

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## Repeal

Repealing the livestock remedies requirement from KDA's list of statutory authorities will not leave consumers without protection. Before a product can be marketed and distributed, FDA verifies that it is safe as labeled. Consumers are savvy enough to check expiration dates and to read the label to understand product uses.

The Agricultural Commodities Assurance Program (ACAP) regulates livestock remedies, as well as eggs, feed and seed. In fiscal year 2001, the total budget for this seven-employee program was \$361,212. Ninety percent of the budget came from fees, 8 percent came from a grant and 2 percent came from federal funds. The livestock remedies registrations contribute roughly \$16,000 a year to the ACAP budget, which is not enough to make the program economically viable. Repealing the livestock remedies requirement will allow staff to spend more time checking eggs, feed and seed.

I ask for a repeal of the livestock remedies requirement for KDA. Thank you for your time and I will stand for questions.



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KANSAS DEPARTMENT OF AGRICULTURE

House Agriculture Committee

January 28, 2002

Testimony Regarding HB 2689

Greg A. Foley, Assistant Secretary of Agriculture

Good morning Chairman and members of the committee. I am Assistant Secretary of Agriculture Greg Foley. Thank you for the opportunity to appear today to present testimony on House Bill 2689.

The proposed bill addresses changes in current statutes that regulate floodplain fill and levees, dams, and channel changes or stream obstructions. The Water Structures program regulates human activities that affect the flow of rivers and streams, to ensure that those activities are properly planned, constructed, operated and maintained for their authorized purposes without adversely affecting the public's health, welfare or safety, the environment, or public and private property. Water resource regulation is accomplished primarily through permitting structures constructed in a floodplain, or that alter the course, current, or cross-section of a stream.

Why does this program need policy changes and new fees? These changes are needed for the agency and the program to prioritize and refocus on the greatest risk components, to create an incentive to comply with current statutes, to address problems during the planning stage instead of dealing with problems that occur after the construction of an unreviewed and unpermitted structure, and to ensure that dams that potentially threaten life and/or property receive periodic safety inspections. New fees will provide additional staff to process applications in a timely manner, to review inspection reports and/or inspect high- and significant-hazard dams, particularly those that have been declared unsafe by the chief engineer. In addition, this allows priority of resources to continue to address construction inspections, and utilize current staff on application review and approval.

Fill and levee permitting currently has no fee associated with it. Between 1998 and 2000, we received 317 applications for levees and floodplain fills. This proposal bases the fee on the type of project and the status of the project. We estimate that it will generate approximately \$8,960. K.A.R. 5-45-1 and 5-45-8 outline definitions applicable to the floodplain and classifications for levees, and those were used to establish three types of projects: major, moderate and minor. The fees actually address the status of the project, whether it is pre-construction or planning stage, construction or completed stage. The agency receives many after-

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the-fact applications to permit structures that do not comply with current statutes. Therefore, we propose that fees defined in this bill be doubled for noncompliant fills or levees. The last modification relative to fill or levees clarifies that the fees are in addition to any other penalty under law.

The next proposed amendment deals with application and inspection fees on new construction, modification and unsafe dams currently authorized under K.S.A. 82a-302 and 82a-303b. Between 1998 and 2000, the dams unit processed 192 permit applications. The proposed fees are new fees and are estimated to generate around \$21,500. The fee structure throughout this bill parallels the philosophy of doubling the fee amount for after-the-fact permits. The fees are assessed based on the size, hazard classification and the construction status of each individual structure. This basis is relative to the complexity and hazard review requirement of the structure.

K.S.A. 82a-303c authorizes the chief engineer to issue an order on any dam where conditions exist in the construction, modification, operation or maintenance of a dam, or other water obstruction, which may present a hazard to the public's safety. When a dam is declared unsafe by the chief engineer, the proposed amendment in this bill requires an annual inspection by his staff until the dam is either in compliance or is removed. The estimated first-year fees will generate approximately \$58,900. The long-run funding from this source is anticipated to decline significantly as dams come into compliance or are removed. The fees for this category of dams range from \$1,500 to \$4,000, depending on size, to establish a significant disincentive for noncompliance. In addition, this places a very high priority on the safety of citizens and property in Kansas. To carry on that concept, hazard classification B (significant-hazard) and C (high-hazard) dams are proposed to be required to be inspected by a licensed professional engineer at least every three or five years respectively. The inspection is to be followed by a written report within 60 days from the date of inspection. If a dam owner fails to comply, the chief engineer will conduct a mandatory inspection, and the fees, referenced above for the unsafe dams, will be paid by the owner. Failure to file a complete and timely report will subject the owner to criminal penalty as provided in K.S.A. 82a-305a.

The last and most significant workload area for the structures unit is reviewing and permitting channel changes and stream obstructions. Between 1998 and 2000, the unit processed 1,283 projects of this type. The fees are doubled for post-construction applications. Permit fees will be based on drainage area in categories of major, moderate and minor, with costs ranging from \$100 to \$1,000. We estimate that this fee structure will generate approximately \$37,500.

I know there are concerns about the burden of fees on the farm economy. The department delineated the fees into three categories to outline who will be paying them. The categories include the agriculture producer and private citizen (10 percent), agricultural business (13 percent) and nonagricultural related (77 percent). The annual Water Structures program budget for fiscal year 2001 was \$892,887, 91 percent of which came from public tax dollars. Approving this portion of the fee package will modify funding from the public to 77 percent, and fee funds and state water plan funding to 23 percent.

I would like to stress that the department reviewed the needs of this program to implement the statutory requirements for a five-year period, the relationships of other state programs and what is bearable on the regulated entity. The Kansas Department of Agriculture believes that this bill, as a component of the agency's fee package, is essential to ensure public safety and property protection. Action on this bill will show Kansans that public safety is a legislative priority.

Thank you for the opportunity to appear before you today. I will stand for questions at the appropriate time.