

MINUTES OF THE HOUSE COMMITTEE ON AGRICULTURE.

The meeting was called to order by Chairman Dan Johnson at 3:30 p.m. on February 4, 2002, in Room 423-S of the Capitol.

All members were present except: Representative Compton - excused  
Representative Faber - excused  
Representative Hutchins - excused  
Representative O'Brien - excused

Committee staff present: Gordon Self, Revisor of Statutes  
Kay Scarlett, Committee Secretary

Conferees appearing before the committee:

Jamie Clover Adams, Secretary, Kansas Department of Agriculture  
Leslie Kaufman, Associate Director, Public Policy Division, Kansas Farm Bureau  
Jim Herynk, Kansas Nursery and Landscape Association  
Mary Odgers, Executive Secretary, Kansas Nursery and Landscape Association  
Doug Wareham, Kansas Grain & Feed Association and Kansas Agribusiness Retailers Assn.  
Mark Hassman, Chairman, Government Affairs, Kansas Pest Control Association  
Frances Kastner, Director, Governmental Affairs, Kansas Food Dealers Association  
Art Brown, Mid-America Lumbermens Assn. and Western Retail Implement and Hardware Assn.  
Justin Holstin, Executive Vice President, Propane Marketers Association of Kansas  
Joe Lieber, President, Kansas Cooperative Council  
Chris Wilson, Legislative Counsel and Director of Member Services, Kansas Seed Industry Assn.  
Tom Palace, Executive Director, Petroleum Marketers and Convenience Store Assn. of Kansas  
Wayne Bossert, Northwest Kansas Groundwater Management District No. 4

Others attending: See attached list

The Kansas Association of Conservation Districts submitted written testimony requesting that wetlands planned and constructed through the USDA Wetlands Reserve Program be exempt from the provisions of **HB 2689** heard in committee on January 28. (Attachment 1)

Representative Showalter requested introduction of a committee bill on behalf of humane societies to issue special license plates with the fees going toward spaying and neutering of cats and dogs. Seconded by Representative Thimesch, the motion carried.

**Hearing on HB 2700 - Regulation of plant pests, plants and plant products and plant dealers and certain agriculture commodities.**

Chairman Johnson opened the hearing on **HB 2700** rescheduled from January 30 due to the weather.

Jamie Clover Adams, Secretary, Kansas Department of Agriculture, provided an overview of **HB 2700** requested by the department. She explained that **HB 2700** would replace the term "nursery stock" with "live plants"; license all live plant dealers and simplify the inspection fee structure; set one fee for all domestic and international inspection certificates; establish pest freedom standards based on risk; and grant the department civil penalty authority. The bill would also repeal the Kansas Apiary Inspection Act. The department estimates that an additional \$84,400 in fee revenues would be generated by this legislation. (Attachment 2)

Leslie Kaufman, Associate Director, Public Policy Division, Kansas Farm Bureau, appeared in qualified support for **HB 2700** and **HB 2701**. Kansas Farm Bureau policy states that "Regulatory functions provided primarily for the protection of the general population should receive significant funding from State General Fund monies. Programs that have a more limited scope of benefit may be candidates for a funding mix that includes reasonable user fees..." (Attachment 3)

## CONTINUATION SHEET

Jim Herynk, Kansas Nursery and Landscape Association and member of the Kansas Plant Pest Act Review Group, provided written testimony in support of **HB 2700**, stating that the Kansas horticulture industry has changed enough to warrant the revisions proposed by the Kansas Department of Agriculture. ([Attachment 4](#))

Mary Odgers, Executive Secretary, Kansas Nursery and Landscape Association, submitted written testimony in support of **HB 2700** asking that the committee honor the recommendations set forth by the industries involved in reviewing the Kansas Plant Pest Act. ([Attachment 5](#))

Doug Wareham, Senior Vice President, Kansas Grain & Feed Association, appeared in opposition to **HB 2700** in light of the proposed inspection and certification fee increases outlined in Section 7 on Page 5 beginning at line 25. ([Attachment 6](#))

This concluded the hearing on **HB 2700**.

### **Hearing on HB 2701 - Powers, duties and responsibilities of secretary of agriculture related to fees and penalties.**

Jamie Clover Adams, Secretary, Kansas Department of Revenue, reported that every program in the department is affected by **HB 2701** or one of its companion bills. The impact of the entire package would increase department fee fund revenues by approximately \$2.27 million. If the entire fee fund package is enacted, the overall funding mix will be 46 percent from state general funds, 36 percent from state fees, and 18 percent from federal grants. She discussed proposed changes in the Pesticide and Fertilizer Program, Meat and Poultry Inspection Program, Dairy Inspection Program, Weights and Measures Program, and the Water Appropriation and Water Management Services Programs. ([Attachment 7](#))

Mark Hassman, Chairman of the Government Affairs Committee of the Kansas Pest Control Association, testified that while their organization was not opposed to the fee increases proposed in **HB 2701**, they did have concerns about the performance of the Department's Pesticide Program in regulating their industry. ([Attachment 8](#))

Leslie Kaufman, Associate Director, Public Policy Division, Kansas Farm Bureau, again expressed Kansas Farm Bureau's qualified support for **HB 2701**. ([Attachment 3](#))

Frances Kastner, Director of Governmental Affairs, Kansas Food Dealers Association, submitted written testimony concerning **HB 2701**. Their members view the fees on scales at the bottom of page 36 and on scanners or point of sale systems at the top of page 37 as "reasonable" provided there isn't an increase every year. ([Attachment 9](#))

Doug Wareham, Vice President, Government Affairs, Kansas Grain and Feed Association, testified in opposition to **HB 2701** questioning the equity of the proposed new fees for weights and measure devices which will add significant costs to every grain handling facility and feed manufacturer in the state. ([Attachment 10](#))

Doug Wareham, on behalf of the Kansas Agribusiness Retailers Association, appeared in opposition to **HB 2701**, specifically, the new fees proposed for weights and measure devices and the increase in the Pesticide and Fertilizer Program business license application fee. ([Attachment 11](#))

Art Brown, Mid-America Lumbermens Association and the Western Retail Implement and Hardware Association, appeared in opposition to **HB 2701** regarding new fees being implemented for small scales. ([Attachment 12](#))

Justin Holstin, Executive Vice President, Propane Marketers Association of Kansas, testified in opposition to **HB 2701** as it pertains to fee increases for meter testing and licensing for private service companies. ([Attachment 13](#))

Joe Lieber, President of the Kansas Cooperative Council, appeared in opposition to **HB 2701** and any fee increase that would create a financial hardship for their members. ([Attachment 14](#))

CONTINUATION SHEET

Chris Wilson, Legislative Counsel and Director of Member Services of the Kansas Seed Industry Association, testified in opposition to **HB 2701** particularly the scales fees. She noted that many of the Department of Agriculture's programs are for the protection of the public and felt the public should provide for the cost of administration of those programs through the state's general fund. (Attachment 15)

Tom Palace, Executive Director of the Petroleum Marketers and Convenience Store Association of Kansas, asked that the committee oppose **HB 2701** or amend the bill to exempt motor fuel dispensers and vehicle tank meters from the \$25 annual fee. (Attachment 16)

Wayne Bossert, Northwest Kansas Groundwater Management District No. 4, submitted written testimony regarding **HB 2701** outlining their concerns associated with transitioning the Kansas Department of Agriculture away from traditional legislatively funded budgets toward more fee funded budgets. (Attachment 17)

Chairman Johnson closed the hearing on **HB 2701**.

The meeting adjourned at 5:40 p.m. The next meeting is scheduled for February 6, 2002.

# HOUSE AGRICULTURE COMMITTEE GUEST LIST

DATE: February 4, 2002

NAME	REPRESENTING
Janet McPherson	Ks Farm Bureau
Leslie Kaufman	Ks Farm Bureau
<del>John C. Bottender</del> John C. Bottender	KPA
Jim Allen	Sea board
Mike Beam	Ks. Livestock Assn.
Tom Palace	PMA of KS
Justin Holstin	Propane Marketers Ass'n of KS
Niwh Fisher	
Pat Brown	m.l.A. -- western Assn
Andy Sker	Kearney Law Office
Dave Watkins	KRHA
Rebecca Reed	KS Dept of Agriculture
W. Alan Carwood	Consulting Entomologist-Topeka
Ladd Johnson	Kansas Livestock Assn.
MAX FOSTER	KS. DEPT. OF AGRICULTURE
Constantine Cotsoradis	KS. Dept. of Agriculture
George Blush	KS. Dept. of Agric.
Matt Bertholf	Ks. Co-op Council
Joe Lipser	KS Co-op Council

# HOUSE AGRICULTURE COMMITTEE GUEST LIST

DATE: February 4, 2002

NAME	REPRESENTING
Tom Sim	Kansas Dept. of Agriculture
Hal Hudson	KPCA
Mark Hassman	KPCA
Tom Bruno	Farm Credit Council
Doug Wareham	KGFA / KARA
Mike Jensen	<del>B</del> Ks Pork Assn.
Keith Bradshaw	Dir of the Budget
Chris Wilson	KSIA



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**KANSAS HOUSE OF REPRESENTATIVES  
AGRICULTURE COMMITTEE**

**House Bill 2689 - AN ACT concerning dams, levees and other water obstructions; fees and inspections.**

**Presented by:**

**Kansas Association of Conservation Districts**

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**Chairman Johnson, and members of the Committee, the Kansas Association of Conservation Districts representing the 105 Kansas Conservation Districts appreciate the opportunity to express our concerns with House Bill 2689. Our concerns are not with the proposed fee changes, but with the permit procedures required for very shallow water areas developed through the USDA Wetlands Reserve Program.**

**At their 57th Annual Meeting November 20, 2001, the Conservation District of Kansas passed a resolution proposing a construction and water used permit exemption for shallow wetland areas developed through the Wetlands Reserve Program (WRP). (Copy Attached)**

**The WRP was created as a voluntary land-retirement program designed to assist landowners in restoring and protecting wetlands. The program does not create new wetlands but enhances and or improves existing areas that are designated as wetland. Areas having been identified as hydric soils and or with**

House Agriculture Committee  
February 4, 2002  
Attachment 1



hydrophytic plants. Those developed or planned for landowners in Kansas have fill areas less than of less five (5) feet and a water depth of less than two (2) feet. Wetlands developed through this program do not obstruct streams, have no water use other than temporary storage of flood flows and incidental wildlife use. They are designed under federal policies and regulations of the Natural Resources Conservation Service with concurrence of the U. S. Fish and Wildlife Service. They do provide significant environmental benefits to the surrounding area. Participants have given many reasons for signing up in the program, but the main reason is the belief that it is good for wildlife, conservation, and economically wise. Producers have commented, "These acres should never have been farmed."

Kansas has nearly 100 WRP contracts covering nearly 10,000 acres. Interest is greatest in the southeastern part of the state. Neosho County is leading the state with about 3,000 acres of WRP easements.

The permit requirements for WRP shallow water areas are nearly the same as for water storage areas designed for flood control, water supply, recreation, etc. These requirements are not practical or applicable to the WRP shallow water areas.

We ask the ~~Senate~~ <sup>HOUSE 2689</sup> Committee on Agriculture to amend ~~Senate~~ Bill ~~485~~ to exempt wetlands planned and constructed through the USDA, Wetlands Reserve Program.

(Attached are some photos of the WRP Wetlands constructed in Kansas)

KANSAS WILDLIFE, FORESTRY AND RECREATION COMMITTEE

RESOLUTION NO. 1: PERMIT EXEMPTION FOR WETLANDS RESERVE PROGRAM PARTICIPANTS

WHEREAS, the wetlands restored and protected through the Wetlands Reserve Program (WRP) are very shallow water areas developed to improve wildlife habitat; and

WHEREAS, WRP wetlands do not obstruct streams, have no water use other than temporary storage of flood flows and incidental wildlife use; and

WHEREAS, WRP wetlands provide significant environmental benefits to the surrounding area including, flood damage reduction, water quality improvement, and wildlife use; and

WHEREAS, WRP wetlands are designed under the federal policies and regulations of the Natural Resources Conservation Service with concurrence of the U.S. Fish and Wildlife Service; and

WHEREAS, the State of Kansas and the Kansas Division of Water Resources require the same permits for WRP wetlands shallow water areas as water storage areas designed for flood control, water supply, recreation, etc., and the forms and reports are not practical or applicable to WRP wetland shallow water areas;

THEREFORE, BE IT RESOLVED, that the Kansas Association of Conservation Districts work to exempt WRP wetland areas (which receive only water from natural runoff) from the requirements of the State Statutes.



STATE OF KANSAS

BILL GRAVES, GOVERNOR

Jamie Clover Adams, Secretary of Agriculture  
109 SW 9th Street  
Topeka, Kansas 66612-1280  
(785) 296-3556  
FAX: (785) 296-8389



KANSAS DEPARTMENT OF AGRICULTURE

House Agriculture Committee

January 30, 2002

Testimony Regarding HB 2700

Jamie Clover Adams, Secretary of Agriculture

Mr. Chairman and members of the committee, I am Jamie Clover Adams, Secretary of the Kansas Department of Agriculture. Thank you for the opportunity to appear today to support House Bill 2700.

**Current Program**

The Plant Protection and Weed Control program ensures the health and protection of the state's natural and cultivated plant resources from high-risk invasive insects, plant diseases and weeds. Most activities occur in three functional areas: safeguarding; export commodity assurance; and pest management, control and eradication. The 11 employees in this program respond to and deal with urban and rural issues that can range from fire ants to Karnal bunt. During fiscal year 2001, the program had a budget of \$919,175, 71 percent of which was from the state general fund, 25 percent from fees and 4 percent from federal funds.

**Stakeholder Group**

HB 2700 is the product of a stakeholder review of the Plant Pest Act. The group consisted of representatives from the Kansas Nursery and Landscape Association, the Kansas Greenhouse Growers Association and KDA. We met about six times between December 2000 and January 2002. In addition, a special meeting was held with Kansas Grain and Feed Association representatives.

The original intent of the meetings was to examine current law for needed updating. The last time the act was significantly changed was in 1964. Since the industry has changed, a close examination of the law was necessary to address those changes.

Current law requires that all Kansas nurseries be inspected and all nursery stock dealers be licensed annually. Nursery stock is defined to include only woody ornamental plants (trees, shrubs, roses, etc.). Further, current law requires that all nursery stock sold be free of pests.

House Agriculture Committee  
February 4, 2002  
Attachment 2

There are no provisions for risk-based decisions, so there is no method to focus limited resources on the highest risks.

The stakeholder group looked at all areas of the law, and they were in the final stages of making recommendations when the Karnal bunt issue arose last summer. The group met again in early January 2002 to complete their work. Following are conceptual modifications the stakeholder group believes are necessary to modernize and improve the act:

- Replace the term “nursery stock” with “live plants.” The scope of current law is too narrow because it does not cover annual, herbaceous, perennial or aquatic plants.
- License all live plant dealers and simplify the inspection fee structure.
- Have one fee for all domestic and international inspection certificates.
- Develop pest freedom standards based on risk to focus on the highest priorities, mainly imported plant materials.
- Develop civil penalty authority.

### **Requested Changes**

HB 2700 proposes the changes outlined above. Specifically, live plant is defined to mean any living plant, but it will not include field and forage crops, cut plants and greenery not used for propagation, seeds, and fruits and vegetables used for food or feed. KDA agreed with the stakeholder group to create an exclusion under the live plant dealer license to exempt persons with annual live plant retail sales of less than \$5,000 who offer only Kansas-produced live plants. All persons importing live plants from other states would need to obtain a license. We believe broadening the scope of the law to include all live plant dealers will increase the regulated community by 300.

HB 2700 sets the cap for the hourly inspection rate at \$100 per hour. We agree with the consensus of the stakeholder group and will set our rate at \$30 per hour. This rate reflects KDA’s actual costs and it excludes travel time to and from the inspection location. Further, the bill sets the cap for the live plant dealer license at \$150. Again, through consensus, we agreed to set the license fee at \$50. The average fee for each nursery in FY 2001 was \$72.

HB 2700 authorizes the Secretary to develop pest freedom standards. Such standards are intended to help identify those non-quarantine and restricted pests that should be regulated, since some level of infestation of some endemic, low-risk pests may be acceptable in plants for sale. The purpose of pest freedom standards is to focus limited resources on those pests of greatest concern. The bill also grants the Department of Agriculture civil penalty authority. Currently, the only enforcement mechanism is criminal prosecution, which is difficult since the criminal justice system has higher priorities.

Finally, HB 2700 repeals the Kansas Apiary Inspection Act (K.S.A. 2-411 *et seq.*). We propose this repeal because the state’s commercial honey and beekeeping industry has declined in recent years. Only one inspection was performed in 2001, and the state apiarist position was cut from the FY 2002 budget during the last legislative session. HB 2700 includes bees and

beekeeping equipment within the Plant Pest Act, which gives KDA the authority to accommodate anyone who wants to export bees or beekeeping equipment.

### **Comparison to Other States' Fees**

A recent survey by the Central Plant Board shows that the fees and hourly charges proposed in HB 2700 compare favorably to surrounding states.

<b>Nursery Dealer Licenses</b>	
Nebraska	\$100
Colorado	\$75
Missouri	\$50
Kansas Proposed	\$50
Oklahoma	\$38

<b>Phytosanitary Inspection Fees</b>	
Nebraska	\$15/hr plus mileage. Hourly rate includes drive time.
Colorado	\$32/hr. Includes drive time and per diem if special trip required.
Missouri	\$50/hr for first hour and \$20 for each additional hour.
Kansas Proposed	\$30/hr plus mileage. Hourly rate does not include drive time.
Oklahoma	Currently no charge. Drafting regulations this year.

### **Benefits to Kansas Stakeholders and KDA**

HB 2700 benefits the live plant industry and Kansas agriculture because it allows us to focus on the greatest threats to our cultivated and natural plant resources. The bill reduces administrative overhead by eliminating the need to issue certificates of nursery inspection for every nursery. It also establishes a license expiration date during the industry's off-peak season.

Finally, simplifying the fee structure – from nine types of licenses, certificates and authorizations down to three – will require less administrative overhead to manage for both the department and the regulated industry. Further, the simplified fee structure should create more opportunities for interaction and reciprocity with other states.

HB 2700 also strengthens KDA's ability to ensure that Kansas commodities are accepted in the domestic and international marketplace. Currently, staff conduct surveys of pests that are a concern to importing states and foreign countries to help meet the importing entity's plant pest quarantine requirements. This information is combined with final inspection data when the necessary phytosanitary certification is issued for the commodity. Staff have identified 391 Kansas pests that are a concern to Kansas' trading partners. In FY 2001, 77 of these pests were detected during phytosanitary surveys and/or inspections. Also in FY 2001, 38 foreign countries imported 22 Kansas-produced commodities. No shipments certified by KDA were rejected by an importing country.

The increased fees generated by HB 2700 will help supplement the general fund support for this important activity. In calendar year 2001, KDA received nearly \$29,000 in fees to certify \$70 million worth of Kansas commodities shipped to foreign countries. I believe the additional investment by the regulated community that is proposed in HB 2700 is not excessive in light of the benefit it offers Kansas producers and those who ship Kansas commodities.

Finally, general taxpayer support of this program remains strong even with the addition of the proposed fees. Under this proposal, general funds will contribute approximately 75 percent of the program budget. Further, I understand there is concern that increased fees place a burden on Kansas agriculture. Please understand that approximately 35 percent of the fees will be paid by traditional agriculture, while the remaining 65 percent are paid by the nursery and greenhouse industries.

### **Conclusion**

Modernizing the Plant Pest Act will allow KDA to focus its limited resources on the highest risks. Further, the fees proposed are reasonable when you weigh them against the important role the Plant Protection and Weed Control program has in ensuring that Kansas commodities are accepted in the domestic and international marketplace.

Thank you for the opportunity to appear today to support HB 2700. I will stand for questions at the appropriate time.



## **Kansas Farm Bureau**

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### **PUBLIC POLICY STATEMENT**

### **HOUSE AGRICULTURE COMMITTEE**

**RE: HB 2700 and 2701 – Regarding proposals allowing the Secretary of Agriculture to increase various program fees.**

**January 30, 2002  
Topeka, Kansas**

**Presented by:  
Patty Clark, Director  
Public Policy Division**

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Chairman Johnson and members of the House Agriculture Committee, thank you for the opportunity to appear today and comment on two bills that are part of the Kansas Department of Agriculture's (KDA) fee proposal package. I am Patty Clark, Director of Public Policy for Kansas Farm Bureau.

We appear today in qualified support for the Secretary's fee increase package and our written testimony will address HB 2700 and HB 2701 collectively, as our policy positions relate to the fee increases in general, rather than by individual program.

Secretary Adams approached our organization prior to the legislative session and outlined for us her ideas for covering budgetary shortfalls by increasing fee revenues to the Department. We appreciate this, because it provided us the opportunity to introduce the concept through our policy development process and receive member input. Our members reaffirmed existing policy and adopted new language regarding the State Department of Agriculture at our 83<sup>rd</sup> Annual Meeting of Kansas Farm Bureau this past November:

***“ . . . We strongly support the state Meat and Poultry Inspection Program administered by the Kansas Department of Agriculture. Meat is inspected for the protection of all consumers. All plants should be***

House Agriculture Committee  
February 4, 2002  
Attachment 3

***inspected and the program should be supported primarily by State General Fund appropriations . . .***

***Regulatory functions provided primarily for the protection of the general population should receive significant funding from State General Fund monies. Programs that have a more limited scope of benefit may be candidates for a funding mix that includes reasonable user fees. . . “***

We think it important when examining the Department's budgetary situation, to look back over previous year's budgets, as well. In real terms, the State General Fund (SGF) allotment for KDA programs has been steadily declining over the past several years. Secretary Adams saw the need to prepare an alternative, fee package even before the overall state projections hit new lows this fall.

As we understand it, the SGF dollars coming to the Department the past few years have not been sufficient to fully cover the cost of carrying out the obligations the legislature has statutorily given to KDA. We noted earlier in our policy language, that some programs, not affecting the general populace, might be candidates for a fee funding mix. But, we strongly urge the State of Kansas to ensure that programs designed to protect the public health, and Kansans at large, receive greater support from the State General Fund.

We know the state's budgetary situation this year, and possibly in fiscal '04 as well, is going to force a fee increase or a cut in some valuable programs. Our farmers and ranchers want a Kansas Department of Agriculture that will be a strong and vigorous voice for production agriculture. As such, they are willing to acknowledge, and even accept, some reasonable user fees. At the same time, we encourage the legislature, and succeeding legislatures, to look for new ways to prioritize KDA programs that benefit the general public and increase the Department's share of SGF funding, once the state is past this current fiscal crisis.

Thank you.

The Honorable Representative Don Johnson  
House Ag Committee  
January 29, 2002

**House Bill 2700 with Reference to SB 437**

My name is Jim Herynk. I am part of the Kansas Plant Pest Act Review Group, and represent the Kansas Landscape and Nursery Association as a board member. I am also a member of the Kansas Greenhouse Growers Association.

After much discussion and review of the current Kansas Plant Pest Act, we have determined that the Kansas Horticulture industry has changed enough to warrant revisions as proposed by Jamie Clover Adams, Kansas Secretary of Agriculture. Please consider the following 3 items:

**1. "Nursery Stock" Changed to "Live Plant Materials"**

The current act regulates "nursery stock", but the Kansas economy is no longer just being impacted by nursery stock. The Kansas "Green" industry now includes ornamental horticulture being produced in greenhouses and growing fields across our state. Redefining the green industry to include plants materials that would be more representative of the true picture of the Kansas Horticulture Industry is appropriate.

For this reason, we support replacing the exclusionary term "nursery stock" with the more inclusive term of "live plants". We also support a revision that applies a fee to all Live Plant Dealers, not just Nursery Stock Dealers.

**2. Fee for Live Plant Dealers with More Than \$10,000 in Retail Sales**

As a greenhouse grower, I am aware that, as a whole, our industry makes a great contribution to the economy of Kansas. But I also know that as individual growers, many are small enough that government regulations would be overwhelming.

For this reason we support a revision that would exclude persons with annual live plant retail sales of less than \$10,000 for Kansas produced live plants. Not included in this exclusion would be anyone who imported plant materials from other states.

We also support a revision that would change the fee for dealers to \$50, with an understanding that any increase in this fee would require a public hearing.

**3. Fee Adjustments for Plant Inspections**

One of our main goals is to prevent importation of harmful organisms into Kansas agriculture. I believe the Kansas Department of Agriculture does an excellent job of pest management, and is probably more vigilant than many states. Plant inspections are a necessary function of a healthy

agricultural industry. As a group we believe more discussion is needed as to what would be the best method and fee structure.

We do, however, support a \$30 per hour fee for live plant inspections, when these inspections are made at the request of the grower.

Thank you for your consideration.

A handwritten signature in black ink, reading "James P. Heryn". The signature is written in a cursive style with a long, sweeping underline that extends to the right.





# *Kansas Nursery and Landscape Association*

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January 28, 2002

Representative Dan Johnson  
House Agriculture Committee  
Room 426 S, State Capitol  
Topeka, KS 66612

Dear Representative Johnson:

The Kansas Nursery & Landscape Association (KNLA) would like to enter a written testimony for support of House Bill 2700 before the House Agriculture Committee today.

The KNLA has been working with The Kansas Department of Agriculture, as well as The Kansas Greenhouse Growers (KGGA) over the past year to arrive at an agreeable act for all concerned.

The highlights of the recommendations from this committee follow:

**1. Adopt a risk-based approach to plant pest regulation.**

The group believes that the adoption of a risk-based plant pest regulatory system is necessary to achieve the desired level of plant pest prevention while maximizing the use of available state resources. To adopt a risk-based system, it will be necessary to broaden the regulated industry base while maintaining the capability to provide appropriate inspection and certification as needed to allow for the orderly marketing of plant materials and to meet pest freedom standards of foreign countries and other states.

**2. Replace the term “nursery stock” with “live plants”.**

The group indicated the term “nursery stock” was too limited in scope and was archaic. Today’s green industry is broader than “nursery stock”. Live plants would include all live plants except aquatic plants sold for indoor use.

House Agriculture Committee  
February 4, 2002  
Attachment 5

### **3. License all live plant dealers.**

All live plant dealers will be required to obtain a business license. This license will be a business license and will not serve as a plant certification document. The current requirement that all nurseries in the state be inspected annually will be deleted. The group indicated KDA could better accomplish assigned pest prevention responsibilities by having more time to dedicate to high-risk activities.

KDA staff will work with those live plant dealers wishing to ship their plant materials to another state to ensure their plants meet the pest and inspection requirements of the importing state. A separate certification document will then be issued by KDA to cover the plant materials being shipped. The importing state will determine the type of certification to be issued. KDA will attempt to develop agreements with other states to expedite this process.

A licensing exclusion was developed for persons with annual live plant retail sales of less than \$5,000 who offered only Kansas-produced live plants. All persons importing live plants from other states regardless of sales level would need to obtain a business license.

### **4. Adjust Fees.** The following fees were developed:

\$50 for a live plant dealer business license. This license would expire annually on January 31.

\$30 per hour plus mileage for live plant inspections.

Inspections would generate fees only if an inspection was made at the request of the live plant dealer. Licensees would not pay fees for compliance inspections initiated by KDA staff. The standards for compliance inspections would be the pest freedom standards described below.

### **5. Pest Freedom Standards.**

The group recognized that the current requirement for all nursery stock to be pest-free is unattainable and unrealistic. The current requirement to inspect all nurseries forces KDA to spend time dealing with low-risk pests and commodities and prevents activities, which would focus on high-risk pests and commodities.

The group discussed the role of quarantine pests and regulated non-quarantine pests in defining pest freedom standards through regulations. Processes to identify these pests have been developed and are readily available. By utilizing risk-based analytical methods, it will be possible to define acceptable, non-economic levels of low-risk established plant pests on live plants offered for sale.

The application of these standards would apply to live plants imported from other states as well as those produced in Kansas.

The development of pest freedom standards in regulations would be a duty assigned to the Kansas secretary of agriculture.

#### **6. Civil Penalty.**

The addition of civil penalty authority would streamline KDA enforcement efforts. The only enforcement mechanism available under the current plant pest act is the criminal justice system. A matrix of civil penalties would be developed through the rule and regulations process and are subject to the limitations of the Kansas Administrative Procedure Act.

The KNLA asks that the committee honor the recommendations set forth by the industries involved in reviewing the Plant Pest Act.

Respectfully,



Mary Odgers  
Executive Secretary  
Kansas Nursery & Landscape Association

# KANSAS GRAIN AND FEED ASSOCIATION

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**STATEMENT OF THE  
KANSAS GRAIN & FEED ASSOCIATION  
BEFORE THE  
HOUSE AGRICULTURE COMMITTEE  
REPRESENTATIVE DAN JOHNSON, CHAIR  
REGARDING  
HOUSE BILL 2700**

**KGFA, promoting a viable business climate through  
sound public policy for more than a**



House Agriculture Committee  
February 4, 2002  
Attachment 6

Chairman Johnson and members of the House Agriculture Committee, my name is Doug Wareham and I am Senior Vice President for the Kansas Grain and Feed Association (KGFA). The KGFA is a voluntary state association with a membership encompassing the entire spectrum of the grain receiving, storage, processing and shipping industry in the state of Kansas. Our membership includes over 1,100 Kansas business locations and represents 98% of the commercially licensed grain storage in the state.

I appear today in opposition to H.B. 2700 in light of the proposed fee increases outlined in Section 7 on Page 5 beginning at line 25, where the bill states that inspection services for certification of regulated articles intended for shipment interstate or internationally shall be assessed at a rate of \$100 per hour, plus mileage. Presently, grain exporters in Kansas are assessed a \$50 flat fee/per commodity for phytosanitary inspection services performed by the Department. While it is difficult to pin down the actual cost increase in lieu of the mileage assessment, which would vary from location to location, the best we have been able to estimate is a direct cost to grain exporters from \$7,200 to \$17,200 per year. It is my understanding the Department only intends to charge \$30/hour for inspection services, but we are concerned that future administrations might not recall these proceedings and seek the opportunity to increase the hourly fee to \$100 down the road.

In that same section the bill calls for a fee to be assessed for the issuance of certificates not to exceed \$100. For the Kansas grain trade, this means an increase in the fee paid to receive phytosanitary certificates, which are required for grain that is shipped to Mexico or the Texas Gulf for export overseas. Today, grain handlers are assessed \$20 for phytosanitary certificates. The impact to grain handlers should this language be adopted is once again difficult to pin down. We have been told the Department only intends to raise certificate fees to \$50, however, the bill clearly gives them the authority to raise the fee to \$100 without review by this committee or the full legislative process. We once again attempted to determine the fiscal impact associated with this increase and based upon 900 certificates (a number provided to us by the Department following our request) this increase would mean \$27,000 to \$72,000 to Kansas exporters.

While these increases may seem insignificant to some, they become even more troublesome for grain exporters in Kansas when compared to the fees assessed by neighboring states that fall far below the fees proposed in H.B. 2700 and even the existing fees assessed by the Kansas Department of Agriculture today.

For example in Nebraska, the Nebraska Department of Agriculture recognizes "clean grade" logs submitted by the USDA Designated Grain Inspection Services that operate in that state. Therefore, grain exporters shipping from Nebraska are not required to pay for both grain inspection services and separate phytosanitary inspection services that are essentially looking for the same quality and pest concerns. It is also my understanding that phytosanitary certificates are issued in Nebraska for a \$30 fee. I have been informed by grain export firm representatives that Missouri and Iowa operate

similar programs that utilize USDA Designated Grain Inspection Service Logs when issuing phytosanitary certificates.

In addition to some of our bordering states, USDA itself regularly accepts "clean grade inspections" performed by USDA Designated Grain Inspection Agencies when they issue phytosanitary certificates at three of the four "export" cross-over points on the Mexico border. It is my understanding that USDA's APHIS will issue a phytosanitary certificate, based upon "clean grades" from the Kansas Grain Inspection Service for a \$50 fee plus a \$25 messenger delivery charge. APHIS will also provide phytosanitary certificates based upon Federal Grain Inspection Service grain grades issued at the Texas gulf.

The conclusion we have arrived at is the phytosanitary inspection and certificate fee increases contained in H.B. 2700 will not lead to increased revenue, but will instead encourage grain exporters to purchase these services elsewhere, further exacerbating the revenue situation for the Kansas Department of Agriculture's Plant Protection Program. Therefore, we support maintaining the current \$50 flat fee rate for phytosanitary inspections on grain export shipments and the present \$20 fee for phytosanitary certificates issued on grain exports until all options are thoroughly explored by KDA. We would be happy to bring in stakeholders and meet with the Secretary and her staff to ensure that any changes in fees will not simply lead to fewer companies utilizing the Department's program.

Thank you for the opportunity to share our concerns and I would be happy to respond to any questions.

STATE OF KANSAS

**BILL GRAVES, GOVERNOR**

Jamie Clover Adams, Secretary of Agriculture  
109 SW 9th Street  
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**KANSAS DEPARTMENT OF AGRICULTURE**

**House Agriculture Committee**

**January 29, 2002**

**Testimony Regarding HB 2701**

**Jamie Clover Adams, Secretary of Agriculture**

Mr. Chairman and members of the committee, I am Jamie Clover Adams, Secretary of the Kansas Department of Agriculture. Thank you for the opportunity to appear today to support House Bill 2701.

**HB 2701 Overview**

Every program in the department is touched by HB 2701 or one of its companion bills. The impact of the entire package – HBs 2687, 2689, 2700 and 2701 – increases KDA revenue by approximately \$2.27 million. However, KDA will be expected to contribute to the general fund shortfall to the tune of approximately \$500,000. This leaves the net revenue at approximately \$1.77 million. If the KDA fee package is enacted, the overall funding mix will be 46 percent from state general funds, 36 percent from state fees and 18 percent from federal grants.

Just slightly more than one-half of the increased revenue would fund the Water Appropriation and Water Management Services programs which currently account for nearly 33 percent of the general fund spending in the department. The Pesticide and Fertilizer program and the Weights and Measures program account for the majority of the remaining revenue.

An analysis of KDA fee funds show that agricultural producers would pay 53.2 percent of the fee increase. However, this is driven by the fees associated with the Water Appropriation program, in which 98 percent of the water rights are used by the agriculture industry. Agribusiness firms account for 10.4 percent of the new fee revenue and non-agricultural firms account for the remaining 36.4 percent.

The following sections address the specific aspects of each program included in HB 2701.

**Pesticide and Fertilizer Program**

The Pesticide and Fertilizer program is responsible for enforcing the Kansas statutes and regulations governing chemicals used to control pests or to enhance plant growth. In general, we make sure that only approved pesticides and fertilizers are offered for sale or use in Kansas; that

House Agriculture Committee  
February 4, 2002  
Attachment 7

they are safely stored so they do not harm people or the environment; and that all pesticides are used safely and according to label directions.

For the Pesticide and Fertilizer program, HB 2701 proposes:

- Creating a new annual fee for nutrient utilization plans (NUPs);
- No change to fees for fertilizer inspection, fertilizer product registration, fertilizer blender licenses, and pesticide dealer registration; and
- Increasing all other existing fees in aggregate just under 56.5 percent. Half of these fees have not been increased in 20 years and the remaining fees have not increased in more than 13 years.

The proposed increases do not unduly burden the regulated community. HB 2701 proposes a less than 60 percent increase for fees that have not been increased in 20 and 13 years respectively. Further, the overall burden of these increases on agribusiness is minimal. A sample of small, medium and large firms from across the state showed that for the entire package – not just increased pesticide and fertilizer program fees – the following annual increases are likely:

- Small firms – average \$230 per year
- Medium firms – average \$660 per year
- Large firms – average \$1,485 per year

Further, within the sample, the fee increases are 0.14 to 0.4 percent of net revenues and 0.017 to 0.177 percent, or less than two-tenths of one percent, of gross revenues. Finally, even with these fee increases, general tax dollars will contribute nearly \$700,000 to the program budget.

The increased revenue would be used to meet the basic responsibilities of the Pesticide and Fertilizer program as outlined above. This includes funding two positions that are cut from the FY 2003 proposed budget, completing Oracle database development, contributing a greater share to the Records Center program where program work accounts for nearly 50 percent of the records processed, contributing to the work of the legal section where program enforcement accounts for a substantial share of the work, basic enforcement of the pesticide containment regulations, increased chemigation inspections, contributing to a laboratory fund for new equipment when it is needed and funding nutrient utilization plan compliance inspections. Also, we should increase the number of regular inspections across the program to bolster less-than-satisfactory compliance rates.

HB 2701 also proposes creating a pesticide and fertilizer compliance and administration fund. It is funded with five cents from the existing fertilizer inspection fee. When I merged the fertilizer program with the pesticide program two years ago, I had hoped we could increase efficiencies and utilize fertilizer employees to improve outcomes within the pesticide programs. However, because of funding restrictions, this has not happened. Money from this fund could be used across all areas of the Pesticide and Fertilizer program. It would allow us to more efficiently deploy and utilize program employees.



## **Meat and Poultry Inspection Program**

The Meat and Poultry Inspection program ensures the safety and wholesomeness of meat and poultry products produced by Kansas slaughter and processing plants that are not under federal inspection. Its mission is to detect, and eliminate from commerce, meat and poultry items that pose a health threat, are improperly labeled, or serve as a source of economic fraud to the consumer.

For the Meat and Poultry Inspection program, HB 2701 proposes:

- Requiring wholesalers and brokers to remit a registration fee (currently they are required to register, and KDA inspects their facility, but they do not pay the fee);
- Increasing all other existing fees in aggregate 50 percent. These fees have not been increased in more than a decade.

The increased revenue would be used to meet the basic responsibilities of the Meat and Poultry Inspection program as outlined above. This includes contributing to a laboratory fund for new equipment when it is needed, hiring and retaining qualified inspectors, and increasing the number of compliance checks on ready-to-eat products.

## **Dairy Inspection Program**

The goal of the Dairy Inspection program is to ensure consumers safe, wholesome milk and dairy products by inspecting and/or sampling all areas of the dairy industry. The department regulates the dairy industry at the following levels: farm production, raw product transportation, processing, packaged product distribution, and wholesale and retail sale. Operation of the program must also comply with the Pasteurized Milk Ordinance (PMO) – FDA regulations regarding milk – to ensure that Kansas producers can continue to ship milk out of Kansas.

For the Dairy Inspection program, HB 2701 proposes:

- Repealing the counter freezer inspection program. KDA shares jurisdiction over these operations with KDHE. This repeal would give KDHE sole jurisdiction over counter freezer operations.
- Increasing all other existing fees in aggregate 50 percent. These fees have not been increased in more than a decade.

The proposed increases do not unduly burden the regulated community. HB 2701 requests a 50 percent increase for fees that have not been increased in more than a decade. A sample of small, medium, large and very large dairy producers showed that the following annual increases are likely:

- Small firms – approximately \$10 per year
- Medium firms – between \$42 and \$145 per year (majority of farms fall in this category)

- Large firms – between \$180 and \$440 per year
- Very large firms – between \$4,000 and \$5,000 per year

Within the sample, the fee increases are approximately 0.04 percent (four one-hundredths of one percent) of the producer's gross revenues. With these fee increases, the program funding mix will be 46 percent general funds and 54 percent fees. The current funding mix is 50 percent general fund and 50 percent fees.

The increased revenue would be used to meet the basic responsibilities of the Dairy Inspection program as outlined above. This includes contributing to a laboratory fund for new equipment when it is needed, inspector training and maintaining compliance rates to ensure Kansas producers are able to ship their milk into interstate commerce.

HB 2701 also repeals the counter freezer program that addresses soft serve frozen dairy desserts served in retail establishments. Currently, both KDA and KDHE have jurisdiction in this area. The legislative history indicates legislators wanted to keep everything dealing with dairy in the Department of Agriculture. However, under current budget circumstances, we believe it is wise to eliminate this duplication of service and give sole jurisdiction to KDHE since they already inspect these establishments. KDA currently spends approximately \$118,000 per year on this program. Repeal would eliminate \$55,000 in fees. However, I intend to continue to utilize the remaining general funds within the dairy program.

### **Weights and Measures Program**

Weights and measures is one of the oldest government functions. It is specifically mentioned in the Articles of Confederation and the United States Constitution. The global and United States economies depend on uniform standards of mass, volume and length. Thus, the Weights and Measures program serves a very important role in consumer protection and facilitating trade.

Weights and measures inspectors test all kinds of commercial weighing and measuring devices. Inspectors test scales used in grocery stores, grain elevators, livestock sale barns, pawn shops and other locations. They test gas pumps and meters used to sell chemicals or to sell propane to homeowners. Weights and measures inspectors check packages containing edible and inedible products to ensure that the consumer receives the quantity stated on the label. They even verify that scanners scan the correct price. Essentially, all consumer goods are subject, in one way or another, to the weights and measures law.

For the Weights and Measures program, HB 2701 proposes:

- Creating a new annual facility authorization fee with a graduated fee schedule based on the number of scales within the facility. Essentially, the larger the facility, the higher the fee.

- No increase in the petroleum inspection fee, which funds the gas pump inspection program.
- Increasing the annual scale company licensing fee.

In 1996, the Legislature overhauled the weights and measures law when an audit revealed widespread inaccuracies in Kansas weighing and measuring devices. In fact, it was the concern of the Packers and Stockyards Administration that large scales were not being tested properly that led to the post audit investigation. You will recall that the Weights and Measures program was “privatized” in the late 1980s, at a time when the state was facing a budget situation similar to what we face today. I believe the program’s failure was directly related to the idea that in tight budget times there was no need to follow-up on the private sector testing of scales. Currently, we have a good program with acceptable compliance rates. We should not risk allowing the program to falter by pulling back state oversight.

<b>FY 2001 Compliance Rates</b>	
Scanners	65%
Small Scales	92%
Large Scales	92%
Meters	73%

The number of inspections conducted under each category includes both random sampling and targeted follow-up. The mixture varies by category depending on the needs of the program and the resources available. We believe that the facility authorization fees proposed in HB 2701 reflect our actual costs of inspection for each category of weighing and measuring device. However, we acknowledge that the facility will still have to pay the private scale company to perform the annual inspection required by law.

Our data indicate that 25 percent of the devices are part of the agriculture sector while the remaining 75 percent are not. However, the agriculture sector would pay approximately 49 percent of the fees, while the non-agricultural sector would pay 51 percent. This is driven by the large scale facility fees and the higher costs associated with large scale inspections.

The increased revenue would be used to meet the basic responsibilities of the Weights and Measures program as outlined above. Fees could be used to focus on meters and scanners to increase compliance rates, as well as to respond to the use of carcass meters which are starting to be used to factor the price paid for cattle. Further, the program is part of the agency conversion to a common customer Oracle database, which will increase efficiencies and provide e-business opportunities for the regulated community.

The Weights and Measures program has come a long way since 1996. We should not let this program again erode to the point that Kansans can no longer have confidence in the weighing and measuring devices used in commercial transactions.

## Water Appropriation and Water Management Services Programs

The Water Appropriation program administers the provisions of the Kansas Water Appropriation Act, which provides the foundation for the acquisition and administration of water rights in the state. The programs primary functions are to:

- Process applications for permits to appropriate water for beneficial use;
- Issue certificates of appropriation in accordance with actual use within the terms, conditions and limitations of the permit;
- Process applications for a change to an existing water right;
- Process water transfer applications;
- Maintain a reporting and accounting system of the amount of water used as reported by each water right holder; and
- Allocate water during shortages, investigate impairment, waste, illegal wells or water use in violation of water right terms, conditions or limitations.

The Water Management Services program provides administrative and technical assistance to the Water Resource programs. The program also develops long-term water management programs to address interstate and intrastate issues, represents Kansas in interstate river basin compacts and addresses water conservation issues.

For the Water Appropriation program, HB 2701 proposes:

- Creating a new annual water administration fee to be paid each year when water use reports are filed.
- Creating new fees for ownership changes and failure to file accurate water use reports.
- Increasing all other existing fees in aggregate 100 percent. These fees have not been increased in more than a dozen years.

The Water Appropriation and Water Management Services programs utilize nearly 33 percent of the state general funds allocated to the department. To date, as the department has captured efficiencies and cut budgets in other areas, these programs have been held harmless. Likewise, of the total fees proposed in HB 2701, fees for these programs account for 51.5 percent of the total generated.

Further, the bulk of the funds generated by fees within these programs come from the \$20 per water right or permit annual administration fee. In a sample of water right holders grouped by the size of the operation, water right holders could expect to pay the following:

- Small operations – from \$20 to \$60 per year
- Medium operations – from \$20 to \$800 per year
- Large operations – from \$20 to \$1,400 per year
- Very large operations – from \$5,000 to \$10,000 per year

While this provides a wide range, we wanted to illustrate the impact on Kansas agriculture since 98 percent of the water rights are used for agricultural purposes. To put these costs into perspective, the \$20 water right administration fee accounts for 0.008 cents – eight one-thousandths of a cent – per bushel on land yielding 200 bushel corn.

I do not believe these fees place an undue burden on water right holders. The funds will ensure that the water right holder's real property rights continue to be protected. However, if cuts continue to be absorbed by KDA, protection of these real property rights cannot be guaranteed. As the water resource continues to mature, enforcement against overpumpers, investigation of impairment complaints, processing abandonments, implementing innovative but resource-intensive solutions to water declines will be necessary, but it may not be possible under the current resource scenario.

The increased revenue would be used to meet the basic responsibilities of the Water Appropriation and Water Management Services programs as outlined above. Fees could be focused on document imaging technology to increase efficiency and reduce data errors, as well as allow water right holders e-business opportunities. Further, fees would also be focused on obtaining greater compliance with permit conditions, meeting the needs outlined in the paragraph above and improving the timeliness of permit application processing.

Water is agriculture's most vital resource. HB 2701 asks water right holders to play a greater financial role in maintaining the resource that directly benefits them. If the proposal is passed, two-thirds of the program's funding would still come from the general fund.

### **The Alternatives**

If HB 2701 and its companion bills are not passed, I will cut the KDA budget at least 5 percent for fiscal year 2003. This includes two positions from the Pesticide and Fertilizer program, four positions from the Agricultural Statistics program and five positions from the Water Resource programs. The total cumulative cuts from FY 2000 to FY 2003 will be nearly \$1.1 million and nearly 26 positions. Further, if projections for FY 2004 and FY 2005 are correct, inaction on the KDA fee fund package will make it necessary to cut 3 percent to 5 percent more in each of those years.

The department has no more fat to cut and it will be unable to capture efficiencies because there will not be funds to invest in technology. Therefore, the bulk of the cuts will be people and possibly entire programs. (Nearly 80 percent of the KDA budget is allocated for salaries and wages and costs associated with inspection activities.) Most likely targets include our partnership with the National Agricultural Statistics Service, deep cuts to the Water Resources and Administration programs, as well as other state general funded programs. I believe the hole would be so deep, KDA would never be able to climb out of it given other state funding priorities.

This type of erosion will severely curtail the Secretary's ability to advocate for Kansas agriculture. Without staff, KDA would not be involved in such debates as water quality

standards, confined animal feeding regulations, endangered species management planning and general agricultural advocacy. Further, the Secretary's position would be weakened within the executive branch.

### **Conclusion**

As I have stated on many occasions, I bring this package out of necessity. I understand members' concerns about the fee-to-general-fund mix at KDA. The current and future budget picture makes increasing the KDA state general fund allocation impossible. However, as the adage goes, politics is the art of the possible. HB 2701 is what is possible for KDA.

I appreciate the opportunity to make my case for passing HB 2701 and its companion bills. I will stand for questions at the appropriate time.

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**KANSAS**

Serving the Pest Control  
Industry of Kansas Since 1948

**PEST CONTROL ASSOCIATION**

**INC**



**Statement by Mark Hassman, Chairman Government Affairs  
Kansas Pest Control Association  
On House Bill 2701  
Before the House Agriculture Committee**

**Wednesday, January 30, 2002**

Mr. Chairman and members of the committee: My name is Mark Hassman. I am currently the chairman of the Government Affairs committee of the Kansas Pest Control Association and Manager of Hassman Termite and Pest Control in both Salina and McPherson.

I am here today to voice concerns that the Kansas Pest Control Association has with regard to HB 2701.

The Kansas Pest Control Association is a 52-year-old organization comprised of about 100 member pest control companies in Kansas. The Association is the primary avenue that these companies have to collectively work with the Kansas Department of Agriculture (KDA) on issues of mutual concern. For several years we have had concerns about the performance of the Department's Pesticide Program in regulating our industry. While we continue to work with the Department, we have become increasingly frustrated at the lack of meaningful change to address our concerns.

The bill before you today would increase the fees charged to all Kansas pest control companies for our Business Licenses, Commercial Certification Applications, and Certification Exams, and would increase the Uncertified Applicator Fees and Technician Registration Fees. This action is being taken to compensate for the anticipated loss of budgeted State General Fund revenues for the Department. The economic reality is that KDA will be using this increased revenue as a source to make up for these budgetary shortfalls.

While we are sympathetic to their plight, we are reluctant to offer full support to these proposed fee increases. We are not opposed to the dollar amounts of the increases proposed in this bill. We are, however, opposed to the department receiving additional monies without performance criteria being attached to them.

Our industry struggles with conflicts between statutes and regulations that are antiquated and were written prior to the development of modern products whose labeling provides very specific instructions as to their proper use. We believe the label of the product should be the primary determining factor when enforcing proper use during the performance of our professional services, not statutes developed almost 50 years ago. We also continue to struggle with other issues on enforcement of the Kansas Pesticide law, as well.

Our members want all Kansas Consumers to be confident that they will receive safe and effective service from reputable companies that are properly trained and licensed. To that end, we will continue our efforts with the KDA Pesticide Program staff, but we do not believe that simply providing additional funding to the department will accomplish this. Program performance criteria should be tied to the funding.

Thank you for your time. I would entertain any questions.

House Agriculture Committee  
February 4, 2002  
Attachment 8



EXECUTIVE DIRECTOR  
JIM SHEEHAN  
Shawnee Mission

HOUSE AGRICULTURE COMMITTEE HB 2701 1-30-02

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DIRECTOR OF  
GOVERNMENTAL AFFAIRS

FRANCES KASTNER

I am Frances Kastner, Director of Governmental Affairs for the Kansas Food Dealers Association. Our membership includes retailers, distributors and manufacturers of food products throughout Kansas.

We understand the reasons for initiating fees on services that have been funded with tax dollars. However, I must say that we have always considered a FEE as a HIDDEN TAX.

Many legislators view a fee as easy revenue that doesn't impact their constituents since the business that pays the fee has to add that to their cost of doing business. Ultimately your constituents DO PAY for the fees you impose.

Whenever a business doesn't make a profit, they close their door. This results in lost sales tax, business tax, personal income tax their employees pay, and local property tax.

Our members are willing to pay for their fair share to insure that their customers are receiving accurate weights. It is equally important for grocers to be certain their scales are accurate.

We see the fees on scales at the bottom of page 36 and on scanners or point of sale systems on top of page 37 as "reasonable", if we can tell our members there will not be an increase each year.

Our members do not want to see their customers and neighbors put at a greater disadvantage than absolutely necessary, especially when they have no way to increase their income. We feel it is time for ALL our citizens to assume their fair share of the economic conditions of our state.

Thank you for the opportunity to express our concerns, and we respectfully request you to consider the full ramifications of this bill.

House Agriculture Committee  
February 4, 2002  
Attachment 9



# KANSAS GRAIN AND FEED ASSOCIATION

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**STATEMENT OF THE  
KANSAS GRAIN & FEED ASSOCIATION  
BEFORE THE  
HOUSE AGRICULTURE COMMITTEE  
REPRESENTATIVE DAN JOHNSON, CHAIR  
REGARDING  
HOUSE BILL 2701**

**KGFA, promoting a viable business climate through  
sound public policy for more than a**



House Agriculture Committee

February 4, 2002

Attachment 10

Chairman Johnson and members of the House Agriculture Committee, my name is Doug Wareham and I am Vice President, Government Affairs for the Kansas Grain and Feed Association (KGFA). The KGFA is a voluntary state association with a membership encompassing the entire spectrum of the grain receiving, storage, processing and shipping industry in the state of Kansas. Our membership includes over 1,100 Kansas business locations and represents 98% of the commercially licensed grain storage in the state.

I appear in opposition to H.B. 2701. While significant portions of this bill do not directly impact the grain and feed industry, the "new" proposed fees for weights and measure devices including small scales, large scales and meters will add significant new costs to every grain handling facility and feed manufacturer in the state of Kansas. These new assessments are featured in Sections 27 & 28 of H.B. 2701, with the fee schedules found on page 36, line 40 through 43 and on page 37, line 1 through 5.

It is our understanding that the provisions in H.B. 2701, which establish "new" fees for weights and measure devices, will generate roughly \$300,000 in additional annual revenue for the Department of Agriculture. While one might mistakenly assume \$300,000 divided between all entities operating small scales, large scales, scanners and meters used in commerce might prove to be nominal, that could not be farther from the truth for grain handlers and other agribusinesses operating in Kansas. Since grain handling firms utilize both small and large scales and often have multiple locations, they will be faced with paying several costly "new" fees. These new fees will mean hundreds of dollars for several grain handling firms and, coupled with the other fees contained in this bill, will in some cases mean thousands paid annually to the Department.

While we understand the Department needs resources to follow-up on the annually required inspections, which are performed by private inspection firms, we simply believe the Department's proposal is unjustified considering they do not intend to provide any additional service for the scale, scanner or meter owner. Grain handlers and feed manufacturers are already faced with \$20 to \$30 assessments for small scale inspections and \$50 to \$60 assessments for large scale inspections annually. Once again, these inspections are required by law and are performed by private sector service companies.

Furthermore, we believe the Department's own statistics, which indicate that both small and large scales are found to be in compliance 92% of the time compared to a compliance percentage of only 65% for scanners, gives additional cause for concern. If fees must be considered shouldn't the brunt of the fees being proposed be targeted where the greatest need for improvement presents itself?

We requested numbers from the Department of Agriculture and found the following:

Estimated Number of Facilities w/ Scanners:	2,000
Estimated Number of Small Scales:	12,000
Estimated Number of Large Scales:	4,000
Estimated Number of Meters:	2,700

While these numbers help us paint a picture of "who will pay", they do not explain the justification for assessing a large retail department store that may have 20 or more scanners, which statistics show are often out of compliance, a modest fee of \$60 annually when compared to the combined small scale fee (\$15 to \$40) and large scale fees (\$60 to \$170) paid by a grain handling firm for each facility they operate. It appears to us that grain handlers and other businesses that utilize numerous types of scales and meters, and may even have a scanner or two, are being assessed more than a reasonable amount. We simply fail to see equity when comparing devices presently being checked by the Department and the fee schedule proposed in this bill.

We hope this committee will agree that these "new" fees for weights and measure devices are costly and will not lead to any significant increase in compliance percentage for owners of scales and meters. What these fee increases will cause is unwanted paperwork for grain handlers and other agribusinesses, not to mention the problems that will occur when an employee purchases small scale #4 and an inspector from the Department of Agriculture arrives and finds it in use and the firm only paid a fee that enables them to use up to 3.

I appreciate the opportunity to share our concerns and I would be happy to respond to any questions you might have.

# KANSAS AGRIBUSINESS RETAILERS ASSOCIATION

Statement of the

Kansas Agribusiness Retailers Association

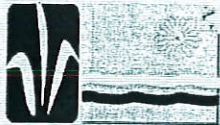
Presented to the

House Agriculture Committee

Representative Dan Johnson, Chair

Regarding House Bill 2701

House Agriculture Committee  
February 4, 2002  
Attachment 11



**KARA is**  
*"Committed to  
Professional  
Development  
and Business  
Viability for  
the Retail Crop  
Production  
Industry"*

Chairman Johnson and members of the committee, I am Doug Wareham appearing today on behalf of the Kansas Agribusiness Retailers Association (KARA). KARA's over 550 members are primarily retail agribusiness operations that provide fertilizer, crop protection chemicals, seed, fuel and propane products and services to Kansas producers. In addition to serving the interests of retail agribusiness, KARA also represents crop input distribution firms, ag chemical manufacturing firms, application equipment manufacturers and other businesses related to the crop production industry.

While the Kansas Agribusiness Retailers Association (KARA) has a mixed-view of the many fee increases contained in H.B. 2701, we do appear in opposition to the bill. I would like to begin by stating that KARA is specifically opposed to the new fees proposed for weights and measure devices. Agribusiness retailers typically utilize a combination of small and large scales and meter devices and once combine, the seemingly reasonable amounts proposed in H.B. 2701 quickly begin to add up. KARA supports striking the "new" fees for weights and measure devices.

Our organization has reviewed the various Pesticide and Fertilizer Program Fee Increases contained in the bill and will concur that many of the increases to existing fees may be necessary should the Department face significant cuts in general fund dollars for FY-2003. We have been informed by the Secretary that anticipated cuts in general funding could cause the elimination of two personnel from the Kansas Department of Agriculture's (KDA) Fertilizer and Pesticide Program Staff.

KARA believes that fee increases should only be considered as a last resort, but has agreed to accept increases to the following assessments to protect the integrity of the Departments Fertilizer and Pesticide Program:

- Pesticide Product Registration Increase
- Certification Exam Fee Increase
- Certification Application Fee Increase
- Uncertified Applicator Registration Fee Increase
- Ag Liming Material Inspection Fee Increase
- Ag Liming Material Registration Fee Increase
- Soil Amendment Inspection Fee Increase
- Soil Amendment Product Registration Increase

While these fees are not exclusively paid by agribusiness retailers, they are fees that are paid by Kansas agribusiness retailers. These fee increases will generate just over \$250,000 annually and should enable the Department to maintain an effective regulatory program that promotes the safe handling and storage of fertilizers and ag-chemical products in Kansas. While KARA has agreed to accept these increases, they do believe that any increase in fees should be accompanied by the enforcement tools needed for the Fertilizer and Pesticide Program to adequately enforce the Kansas Fertilizer Law and the Kansas Pesticide Law. In that regard, we believe civil penalty authority is a much needed tool, which would enable the Department to better enforce provisions of the Kansas Fertilizer Law. A recent review of the Fertilizer and Pesticide Program by Legislative Post Audit concurred with our opinion that civil penalty authority under the Kansas Fertilizer Law is a much needed tool. It only makes sense to provide the Department with the tools they need, before increasing license and registration fees.

I should point out that KARA is presently opposed to one fee related to the Pesticide and Fertilizer Program, that being the Business License Application. Our objection to this particular fee increase is two-fold. First, we believe a \$40 increase is a significant jump. 40% seems rather steep. Second, statistics obtained from the Department indicate there are 210 different government agencies that are presently assessed only \$35 for the right to apply pesticides. H.B. 2701 proposes to increase that amount to \$50.

I am sure members of this committee are well aware that KARA has had long-standing concerns over unfair competition from county-operated noxious weed programs that utilize the benefit of tax dollars to provide low-cost agricultural chemicals to landowners, often at the expense of local agribusiness retailers. We will continue to press for a state-wide noxious weed program that includes rather than excludes local agribusiness retailers, and we believe the fee paid by government agencies should equal those paid by the private sector.

Once again, we do have an appreciation for the Department's budget situation and do not want to see important regulatory programs suffer because of inadequate resources. We realize the benefits of a strong agriculture department and the advocacy role the department plays both in Kansas and on a national level. We believe our willingness to accept numerous fee adjustments to existing fees shows our commitment, however we do believe fee increases should clearly show a measurable return and fail to see that return with respect to the "new" weights and measures fees contained in this bill and the \$140 proposal for business license applications when compared to the \$50 proposal offered for government agencies.

Thank you for the opportunity to appear today and I would be happy to stand for questions.



**MID-AMERICA LUMBERMENS ASSOCIATION**

**TESTIMONY**

**House Bill No. 2701**

**House Agriculture Committee      January 30, 2001      RM: 423-S**

Mister Chairman, and members of the House Agriculture Committee, my name is Art Brown.

I represent the retail Lumber and Building material dealers in the State of Kansas through the Mid-America Lumbermens Association, and on this issue, the Hardware dealers in the State of Kansas through the Western Retail Implement and Hardware Association. As their representative, I am here to oppose the language in House Bill No. 2701 regarding new fees being implemented for small scales. This new language can be found on page 36 of the bill and commences on line 34 and ends on page 37, line 10. I will enumerate my reasons for wanting to eliminate this language to the Committee.

Attached to my testimony is a letter I wrote to Senator Dwayne Umbarger who asked for such a letter so that he could review the concerns our members had with this change. I will not take the Committees time in reading this letter to you, safe to say you can review it as you weigh your decision as to how you want to decide on the fate of the aforementioned language. I would point out to the Committee that while all the points are valid points expressed to us by members of the said Associations. The prime angst in the letter is the first point. This action creates a new fee,

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800-747-6529; 816-561-5323 • Fax: 816-561-1991 • E-M February 4, 2002

A PROUD MEMBER OF THE NATIONAL LUMBER AND BUILDING M Attachment 12

**Page 2—Testimony on HB 2701. House Ag. Committee, January 30, 2002**

thus a new cost of doing business that either must be sustained by the business, or passed on the consumer in higher cost for product. As with any fee charged by any State Agency, it will never be reduced in price, and it will never go away should economic times improve. We are stuck with it.

I feel I must give you an overview of how the current system for checking scales is administered in Kansas so that you can better understand our opposition to this new language being proposed. In the late 1980's, a privatization program was adopted by the Legislature to monitor scales in the State for compliance and accuracy. Independent Contractors pay a license fee to the State of Kansas to check scales to the specifications of the National Institute of Standards and Technology (NIST) Handbook No 44. (K.A.R. 99-25-1.)

The State of Kansas Wts. and Measures Division provides continuing educational training as noted in K.A.R. 99-25-4. Companies that employ such representatives must also have those technicians submit their weighing devices to an NIST laboratory once a year so that the devices are in compliance with NIST handbook 44 tolerances. (KSA 83-402.) Each owner of a small scale in the State of Kansas (some exceptions apply) must have their scale(s) tested on an annual basis by one of these licensed technician. (KSA-83-404.) It goes without saying that this said technician providing the service is going to charge a fee. Normal fees range (small scales) from \$25.00 to \$50.00 per scale based on travel time and time spent in testing the scale. If adjustments need to be made for the scale to meet compliance requirements, then of course additional costs are incurred. It is the responsibility of the scale owner to make sure these devices are checked on an annual basis. (Again, KSA 83-404.)

Attached to my testimony is a copy of the scale checking form required for this service and provided to technicians of license companies for a nominal fee. Please note the number in the far upper right hand corner (100002.) When this completed form is submitted to the State Wts.



**Pg. 3—Testimony to House Ag. Committee, House Bill No. 2701, January 30, 2002**

and measures division, it is entered into a computer with other such test results and such reports are randomly drawn for lack of a better term a “check the checker” program in which State licensed inspectors make random unannounced calls on the tests drawn to check to see that scales are being checked in a timely manner and that they are in compliance. The State charges no fee for this in that the licensed technician has already charged a fee for this service. Thank you for your indulgence in laying this groundwork to this point. Now, here is the basis for our objection to these new fees.

I have been around long enough to know that one of the first questions Legislators ask when discussing an issue of this nature is “what do other States do? Other States do not have a privatization program, but lets review the fees they do charge and what the merchants receive for such fees as pointed out in the attachment to my testimony. (NOTE: All neighboring States have the same compliance requirements as Kansas and require the same type of weighing device certification and criteria as Kansas does.)

What does this information tell us? It tells us that the fees being proposed are in line with what neighboring States charge their merchants. It also tells us we are in the same range as the number of inspectors in the field checking on scale compliance. The Oklahoma model is the only neighboring State that has any form of privatization involved in it’s wts. and measures program. The Kansas merchant in this case also has to pay another fee as noted earlier in my testimony and to us, that seems like a true double dip. As you will notice in Oklahoma this is a voluntary fee, not a mandatory one like being proposed in Kansas.

An example of how these costs can mount up, I just recently had a member in S.E. Kansas have his 2 scales checked at costs of \$40.00 per scale. Under the provisions of this new language, he would pay another \$25.00 to the State for having 2 scales at his facility. Total bill for the annual inspection from the licensed technician and the State fee for having 2 scales at his place of

**Pg. 4—Testimony to House Ag. Committee, House Bill No. 2701, January 30, 2002**

business--\$105.00! That is a lot to pass through to consumers from a small town hardware store. We have to ask this question: Does the average Kansas taxpayer feel that that much costs must be added and passed on to them just to assure them that they are getting a true pound of nails from their local hardware store or lumber yard? Not to us it doesn't.

What makes this all the more objectionable to us is that the fees being proposed in this bill are but a weigh station for fee increases that will occur in the future and knowing these fees will never disappear and never decline.

Tied in with the letter to Senator Umbarger expressing other concerns we have with this issue, the way neighboring States handle fees to their merchants, and the real life example I provided at the end of my testimony, I am hopeful that you will agree that implementation of this language is a poor policy to utilize for a revenue stream.

We take no position on the balance of the bill. We don't particularly like what we see, but we voice no strong objection to it. If it's the desire of the Committee to pass this bill out favorably, we recommend that you only do so by striking the language on pages 36 and 37 of the bill noted at the beginning of my testimony.

It has been my pleasure to visit with you about this issue and I thank the Committee for its indulgence in hearing our concerns. I now look forward to addressing any of your comments, questions or concerns regarding this testimony. Thank you.



## MID-AMERICA LUMBERMENS ASSOCIATION

January 15, 2002

The Honorable Dwayne Umbarger  
Assistant Majority Leader and Republican Senate Whip  
Room 401-South, Kansas State House  
Topeka, KS.

Senator Umbarger:

Welcome back to Topeka! One of the good things about the beginning of the Legislative session is being able to once again catch up with our friends in the Legislature. Over the years Senator, we have always appreciated your support and understanding of our issues.

This letter is in regard to the Senate Agriculture meeting this A.M. in which Ag. Secretary Jamie Clover Adams presented her overview of the Dept. of Ag. as well as needed budget resources for her department.

I will tell you before I go any further that I very much like the Secretary and worked with her "in her prior life" as a lobbyist. I know the sincerity she feels when she approaches you regarding the needs of her department and know the tenacity and energy she will expend to further the agenda for the Dept. of Ag. Her intent is for the good of the Dept. and of Kansas citizens and I respect her for that.

For years now, Agencies and Bureaus have approached the Legislature asking for fees, permits and licenses to assist in funding their budgets. The political wisdom while not dwelling on it is that the consumer pays for the services it wants from that particular agency through a fee, a permit, or a license rather than have the legislature pass some sort of tax increase. Obviously the above-mentioned revenue sources are passed on at the point of sale to the consumer from the impacted business or entity.

My concern, and I know it will be the concern of every lumber dealer and hardware store in Kansas, is the idea of paying a fee for having a scale located at their place of business. While the size of the fee is not particularly onerous, there are a few things regarding this policy that raise a red flag in my mind:

1. While the fee starts out as a small fee, the camel's nose has gotten under the tent. In subsequent years, the fee will increase and soon, it will be a noticeable cost of

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12-5

doing business. History will prove that over the years all such fees have followed such a course.

2. It is a stretch to even get the State involved in the first place. If you would, follow this example: As a business owner, you purchase a scale from the private sector, an independent contractor (Note: I was such and independent contractor for the Wts. and measures dept. for 13 years,) under the current privatization program checks for compliance and the State wants a fee for that scale being in that place of business? That Senator is going to be one tough sell to the small business owners impacted by this policy.
3. I have a hard time believing that the average consumer is going to come into one of our places of business and purchase a pound of fasteners and pay a portion of that costs to the State just to make sure they got a said pound and feel that it is money well spent. What I am saying here is if there is say 1 cent of compliance costs in a pound of nails (a truly wild guess I assure you but follow along if you will,) can we make a truly legitimate argument that that consumer really feels it necessary to pay that 1 penny to the State just to make sure they got a pound of nails? If the customer feels he is not getting the true pound of product, he can handle the matter at the point of sale. Why pay a fee to the State for this? Even at a ½ a cent or less, the principle is just not good policy. Again, as time progresses, these are just costs that will increase and become an additional costs of doing business.

Thank you taking the time to review the concerns I have expressed in this letter. As the friend to small business I know you to be, we as a membership stand ready to support you in any way we can to see that this policy is not implemented to our hardware and lumber operations in the State of Kansas.

Sincerely,

Arthur L. Brown  
Kansas Regional Manager

Copies to: Mid-America Lumbermens Assn. Kansas Board of Directors  
Jeff Flora, CAE, Executive Vice-President, Kansas City Office

Kansas Department of Agriculture  
Weights & Measures Division  
2016 SW 37th Street  
Topeka, KS 66611-2570  
Phone 913-267-4641

10000  
SMALL SCALE TEST REPORT

① FACILITY: Co / / / / Telephone

②  Address or Name Change  
If checked ⇒

③ OLD FACILITY: Co / / / / Telephone

④ TYPE OF CONTACT (circle one)

1 Serv. Co. Test	4 Quality Control
2 New Installation	5 Tech Check
3 Service Call	6 Complaint

⑤ ACTION TAKEN CODES

1 Approved	4 Rejected-Spec
2 Adjusted	5 Taken Out of Service
3 Rejected	6 Action Pending

⑥ DEVICE CATEGORY CODES

11 Food	14 Dockage
12 Pet Food	15 Hardware/Nursery
13 Shipping	16 Propane

Name of Facility ⑦ Facility Number ⑧ Location ⑨

Address City State Zip Code

Contact Person Phone Test Date ⑩ Last Test Date ⑪

Serial # ⑫	Serial #	Serial #
Make ⑬	Make	Make
Model ⑭	Model	Model

Device Category ⑮ Device Category Device Category

⑯ Commercial Non-Commercial Commercial Non-Commercial Commercial Non-Commercial

⑰ Capacity X d Capacity X d Capacity X d

⑱ Number of Scale Div. Number of Scale Div. Number of Scale Div.

⑲ Type Appr. Yes No Type Appr. Yes No Type Appr. Yes No

⑳ Mechanical Digital Mechanical Digital Mechanical Digital

㉑ Accuracy Class: Accuracy Class: Accuracy Class:

㉒ Tolerance Maint. Accept Tolerance Maint. Accept Tolerance Maint. Accept

Test	Error as Found	A	R	Error as Left	Test	Error as Found	A	R	Error as Left	Test	Error as Found	A	R	Error as Left
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Start on Zero					Start on Zero					Start on Zero				
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20 d					20 d					20 d				
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500 d or ¼ Cap					500 d or ¼ Cap					500 d or ¼ Cap				
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1500 d or ½ Cap					1500 d or ½ Cap					1500 d or ½ Cap				
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Shift Test					Shift Test					Shift Test				
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2000 d or ¾ Cap					2000 d or ¾ Cap					2000 d or ¾ Cap				
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Capacity					Capacity					Capacity				
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Decr. to 1500 d or ½ Cap					Decr. to 1500 d or ½ Cap					Decr. to 1500 d or ½ Cap				
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1000 d					1000 d					1000 d				
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500 d or ¼ Cap					500 d or ¼ Cap					500 d or ¼ Cap				
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Return to Zero					Return to Zero					Return to Zero				
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Action Taken ⑳	- + ± 1 2 3 ㉔				Action Taken	- + ± 1 2 3				Action Taken	- + ± 1 2 3			
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Comments: ㉕ Comments: Comments:

Comments: ㉖

Comments:

Comments:

Service Company (Print Name) ㉗	I.D. Number ㉘	Technician (Print Name) ㉙	I.D. Number ㉚
Owner/Operator (Signature) ㉛	Technician (Signature) ㉜	Time In ㉝	Time Out ㉞

**WTS AND MEASURES FEES OF STATES THAT BORDER KANSAS**

	<b>Fees Charged</b>		<b># of Field Inspectors</b>	<b>No. of small scales in State</b>
<b>NEBRASKA</b>	35 lbs and under	\$11.00	15	8200
	36 to 1000 lbs	\$14.00		
<b>Source:</b>	1001 to 4000 lbs	\$25.00		
Don Onwiler	4001-50000	\$29.00		
Program Director	50,000 - 150,000	\$34.00		
Wts. & measures	Over 150,000	\$55.00		

<b>MISSOURI</b>	Counter scales up to 100 lbs	\$5.00	15	over 10,000
	101 to 1000 lbs	\$10.00		
<b>Source:</b>	over 1000 lbs	\$20.00		
Steve Gill				
Program Administrator				

<b>COLORADO</b>	Scales up 174 lbs	\$5.00	19	not sure
	75 to 450 lbs	\$7.00		
<b>Source:</b>	451 to 2000 lbs	\$12.00		
Sandy Stennel	2001 to 10,000 lbs	\$20.00		
Administrative Asst.	10,001 to 30,000 lbs	\$40.00		
	30,001 to 80,000 lbs	\$75.00		
	Over 80,000 lbs	\$100.00		
	cordage charge	\$5.00		

<b>OKLAHOMA</b>	Scales up to 40 lbs	\$15.00		5000 +
	41-1000 lbs	\$25.00	12 part time	
<b>Source:</b>	over 1000 lbs	\$75.00	2 full time	
Charles Carter			3 large scale testers	
Program Director				

**Semi-Privatization program administered as follows:**

Scale companies pay a fee of \$100.00 per company for license to test scales. Each technician then pays a \$25.00 fee for 3 different levels of testing available. Company provides training to Handbook 44 specifications. Scale company only provides reports on scales that do not meet tolerances or need on site repair. No other report is sent to the State. They "check the checker" on a strictly random basis. Merchant can call State to have them come out to place of business to check scales. There is a \$10.00 milage fee on all sizes of scales. **Above noted fees only are applied if merchant calls State for above noted service.** Service companies charge fees to check scales, amount charge varies and not consistent like Kansas.

<b>KANSAS</b>	As proposed in SB 438 and HB 2701		6 for small scales 2 for large scale	12000
<b>Source:</b>			1 part time field part time administrative	
Constantine Cotsoradis				
Director				
Div. of Wts. & Measures				



# Propane Marketers Association of Kansas

214 S.W. 6th Avenue, Suite 305

Topeka, KS 66603-3719

Phone 785-354-1749

Fax 785-354-1740

e-mail: [jkholsin@pmak.net](mailto:jkholsin@pmak.net)

**Justin K. Holstin**  
Executive Vice President

**Testimony on HB 2701**  
**House Agriculture Committee**  
February 4, 2002

Mr. Chairman, members of the Committee, I appreciate the opportunity to speak with you today and address HB 2701. My name is Justin Holstin, and I am the Executive Vice President of the Propane Marketers Association of Kansas. PMAK has a membership of over 300 businesses and individuals representing every aspect of the propane industry including exploration, transportation, manufacturing, and local marketer service. The Propane Marketers Association of Kansas is opposed to several parts of the legislation, but remains neutral on the rest of the bill.

Kansas has a very strong and independent propane industry where marketers constantly self-police themselves to insure compliance with regulations and the law. In the propane industry, safety is paramount and good business decisions, constant upkeep of equipment, and continuous education ensure the highest degree of safety for the public, consumers, and employees of the propane industry.

We feel that fees for meter testing and licensing fees for private service companies should not be increased. Currently protection of the public and marketer compliance with laws and regulations is insured through the use of private service companies with established routes to visit propane marketers at least twice a year. Larger propane companies have service companies visit even more frequently. This is just good business. Businesses do not want to cheat customers by not giving them the correct amount, and in fact, most meters will tend to "give away" product if not working properly which means marketers are losing potential profits.

The cost of having a private company check meters varies, but is around \$100 per meter which includes calibration and adjustment, preventative maintenance, and no charge for driving time or mileage if on a route system. Private companies do not feel that an increase in meter or scale accuracy will result from an increase in fees or the hiring of more testers. In reality, both marketers and private testing companies feel that Weights & Measures is doing a good job of monitoring the industry and helping to protect the public. Marketers feel that a visit by the state testers is good, but they would rather rely on private companies for testing several times a year.

According to the legislation, starting with Section 29 on page 36 of the bill, the main goals of a weights and measures inspection program are to

1. Assure that weights and measures in commercial service within the state are suitable for their intended use, properly installed, accurate....
2. prevent unfair or deceptive dealing by weight or measure....

House Agriculture Committee  
February 4, 2002  
Attachment 13

3. encourage desirable economic growth while protecting the consumer....

We believe that these goals are currently being met through the reliance on private service companies and checking by state testers.

Through the checking and servicing by private companies, and the visits by state testers, there is little "unfair and deceptive dealing by weight or measuring..." because at any point, most meters for marketers are only 6 months away from a test by a service company.

An increase in fees will not "encourage desirable economic growth." Private service companies will suffer financially if fees are increased. Currently, state inspectors do not service or adjust any metering devices, only check to see if they are within the allowed tolerances. If marketers rely on state testers to test the meters and not private service companies, the "route" system may end. Service companies would need to increase their costs because marketers would only be calling for special trips after a state tester has visited instead of continuing to be on a route.

In short, the Propane Marketers Association of Kansas believes that consumers are protected by the good business decision of marketers to employ professional service companies. It is the opinion of many marketers that unless there is a drastic change in enforcement re-visits that the overall accuracy of meters in the state will not be greatly improved. Private service companies insure that the public is receiving what they are paying for and that marketers are complying with state requirements. The current system of private service companies and state testing is working.



Testimony on HB 2701  
House Agriculture Committee  
January 30, 2002  
Prepared by Joe Lieber, Kansas Cooperative Council

Mr. Chairman and members of the Committee, I'm Joe Lieber, President of the Kansas Cooperative Council. The Council has a membership of nearly 200 cooperative businesses who have a combined membership of nearly 200,000 Kansans.

The Council would like to take this opportunity to express our appreciation for the work that the Kansas Department of Agriculture does for Kansas agriculture. The Secretary and her staff have done an excellent job working with agribusinesses to promote and protect Kansas consumers and producers.

We understand that with the current budget problems that the state is going through that all state departments, including agriculture, have been asked to cut costs. We realize that it is hard to continue services with a lower budget, and that one way to maintain them is to raise fees on those services. But, raising fees at this time would create a real hardship on our members that would have to pay them.

Agriculture, as well as many other industries in the state, is going through some financial hardships. But this year seems especially hard on our members.

Most of you know because of the tragic events of 9-11 and fall of the stock market the insurance industry is going through some hard times. Because of this, insurance premiums have gone "sky high."

One of our member's insurance premiums has gone up 46% and the average has been over 20%. One of our members has seen their total insurance cost increase \$200,000. Most of you know it takes a lot of sales to add \$200,000 to the bottom line.

As I stated earlier, we understand where the Department of Agriculture is coming from, but we are opposed to any fee increase that would affect our members.

Thank you for your time. I would be happy to try to answer any questions

House Agriculture Committee  
February 4, 2002  
Attachment 14

**STATEMENT OF**  
**KANSAS SEED INDUSTRY ASSOCIATION**  
**TO THE HOUSE AGRICULTURE COMMITTEE**  
**REP. DAN JOHNSON, CHAIR**  
**REGARDING H.B. 2701**  
**FEBRUARY 4, 2002**

Mr. Chairman and Members of the Committee, I am Chris Wilson, Legislative Counsel and Director of Member Services of the Kansas Seed Industry Association (KSIA). Our approximately 150 member firms are involved in the production, processing, marketing and distribution of seed in Kansas and throughout the world. We appreciate the opportunity to comment on H.B. 2701, and to express some concerns with regard to fees of the Kansas Department of Agriculture.

We commend Secretary of Agriculture Jamie Clover-Adams and her staff for the manner in which they have analyzed and responded to the fiscal problems of their agency. We know seeking increases in fees is not an easy task, but one that they and we recognized is needed for the future of the agency.

We believe that it is unfortunate that our state was not better able to provide resources for the Department of Agriculture that could have avoided the situation that is now before us. We in America have taken our food supply and food safety for granted, and that is something we can and should all be grateful for. The Kansas Department of Agriculture has done a great job in protecting the food supply of our citizens, yet we have not provided it with the fiscal resources to continue to do so without some dramatic increases. This situation comes at a time when we realize the state does not have the

resources to provide such a dramatic increase without the kind of measure you are considering here today. But we do think it should be noted that many of the Department of Agriculture's programs are for the protection of the public, and that the public should provide for the cost of administration of those programs through the state's general funds.

We are especially concerned that we not get into a situation where fees are increased to support the increases the Department needs, only for state general fund contributions to the Department's budget to be decreased in efforts to balance the state budget. Then the Department would be no better able to continue to enforce its statutory programs, but the industries affected would be bearing a greater burden. As you know, the farm economy is not a bright picture at this time, and that fact is reflected in our state's financial woes. We are concerned about the impact of these fee increases on our state's farmers and ranchers at a time when they can ill-afford them nor pass them on to their customers.

As we look at the specific fees in H.B. 2701, the ones that cause us the most concern at this time are the scales fees. These fees would add a cost of approximately \$100 to \$200 per facility for our members. Seed companies are already paying private companies for the inspection of their scales. A check of some of our members found that companies pay varying annual amounts, depending on their facilities, location and private scale companies in their areas. The range I heard was from approximately \$90 to \$800 per facility annually. The scale fees in H.B. 2701 are not for the inspection of the scales, since that is done privately, but for the administration of the privatized program. Our members questioned whether the amount generated by the proposed fees wouldn't be high in comparison with the job of administration of the program.

Fees not in these bills at this time include those for seed dealer registration. The KSIA and Kansas Crop Improvement Association (KCIA) board of directors appreciated the opportunity to meet jointly with Secretary Clover-Adams recently. She discussed with us that seed registration fees can be increased by regulation under the existing statutory cap, should the fee increase package move through the Legislature. We appreciate her efforts to work with our industry toward a plan for how increased seed registration fees could be used to better enforce the Kansas Seed Law.

In conclusion, while we do not welcome fee increases, we understand the need for them at this time and want our Department of Agriculture to be strong. We do question the level of fees for scales. Thank you for the opportunity to address this bill. I would be glad to respond to any questions at the appropriate time.

####



MEMO TO: House Agriculture Committee  
FROM: Thomas M. Palace, Executive Director of the Petroleum Marketers and  
Convenience Store Association of Kansas  
DATE: January 30, 2002  
RE: Comments on HB 2701

Mr. Chairman and members of the House Agriculture Committee:

My name is Tom Palace and I am the Executive Director of the Petroleum Marketers and Convenience Store Association of Kansas (PMCA), a statewide trade association that represents over 360 independent petroleum marketers and convenience stores throughout Kansas.

I appreciate the opportunity to appear before you today in opposition to HB 2701. More specifically, section 29 relating to Weights and Measures proposed fees for inspections. In 1996, PMCA and the petroleum industry pushed for legislation that would enhance the Department of Agriculture, Weights and Measures Divisions ability to test fuel dispensers and check the quality of fuel, in other words establishment of a checks and balances system needed to run an effective program (SB 704). This is a "self-imposed tax/fee that petroleum marketers pay on a per gallon basis. I've been told that the additional fees/tax that is imposed by SB 438, do not impact fuel dispensers. However, there is no mention of an exemption for fuel dispensers in this bill. The bill uses the term "meter devices." Petroleum marketers have been paying into the petroleum inspection fee fund with the knowledge that both fueling dispensers and vehicle tank meters would be tested by the state on an annual basis. Marketers also pay private companies to test their meters throughout the year.

Petroleum marketers and Weights and Measures representatives agree that the program that is now in place has been very successful. A fee of \$.015 per barrel (50 gals) of motor fuel is paid into the Kansas petroleum inspection fee fund, which in turn pays for the salaries, travel and cost to test the pumps and check the quality of fuel. It should also be pointed out that \$250,000 is appropriated to the state general fund on a 1/3- 2/3 split. Funds are deposited into the state treasury and 2/3 of each deposit is credited to the state general fund with the balance of each deposit credited to the petroleum inspection fee fund. After \$250,000 is credited to the state general fund, remaining deposits are credited to the inspection fee fund.

Based on the Weights and Measures budget to run their program, plus the amount that is appropriated to the state general fund, petroleum marketers pay in excess of \$800,000 which generates fees to the state and the inspection fee fund. HB 2701 would require marketers to pay additional fees/taxes for inspections that the industry is currently funding.

Clearly petroleum marketers have gone the extra mile to make sure that motoring consumers "get what they pay for," and they are paying for it. We ask that the committee oppose this bill or amend the bill exempting motor fuel dispensers and vehicle tank meters from the \$25 annual fee.

Thank you !

Petroleum Marketers and Convenience Store Association of House Agriculture Committee  
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-----Original Message-----

**From:** Wayne Bossert [mailto:wbossert@ixks.com]

**Sent:** Monday, February 04, 2002 2:36 PM

**To:** johnson@house.state.ks.us

**Cc:** Pope, David L.; faber@house.state.ks.us; morrison@house.state.ks.us; ostmeyer@house.state.ks.us; ksag@KDA.STATE.KS.US

**Subject:** Testimony on HB 2701

Representative Johnson:

Just discovering that this bill is to be heard today and not being able to make it to Topeka in time, I was hoping that our testimony provided below could be introduced and considered. Thank you for your consideration in this matter. If you have any questions, please advise.

Northwest Kansas GMD 4 TESTIMONY FOR H.B. 2701, February 4, 2002

HB 2701 intends to use increased filing fees and additional administrative fees for the Kansas Department of Agriculture (KDA) to replace impending state budget reductions. The Northwest Kansas Groundwater Management District No. 4 board of directors would like to make the following comments on HB 2701.

1. Problems associated with transitioning the Kansas Department of Agriculture (KDA) away from the traditional Legislatively funded budgets toward more fee funded budgets are as follows:
  - Although most fees being increased are voluntary in nature, and fit well with the current trend of having those responsible for the costs paying those costs via specific fees, there are other considerations. For example, the Division of Water Resources has the responsibility to protect the water resources on behalf of all the citizens of the state – including those who do not currently use the permitting system. The proposed increases of filing fees begins to shift more of the responsibility onto only those directly using the system while in reality, we all should be sharing this responsibility. Perhaps other KDA responsibilities could be likewise considered.
  - Once a higher percentage of the operating budget is reliant upon user fees the agency budget suffers during any reduction of fee supported activities. This in turn necessitates either another increase in fees or a request to increase future Legislative support. Additional fee increases shifts yet more cost responsibility to only those directly involved in the system, and requested increases in legislative support become increasingly more difficult. KDHE is now in a similar dilemma with a combination of their user fees and federal support – both having replaced a significant portion of state funding support over time. What happens to this agency today if federal support is suddenly reduced?
  - There is also a point at which fees can become expensive enough to begin interfering with the public's ability to participate in the system – especially in times of lower economic conditions.

2/5/2002

House Agriculture Committee  
February 4, 2002  
Attachment 17

- Every step to a higher percentage of fee funding requires the agency to manage itself that much more like a private business. If the agencies did not have other responsibilities to the citizens of the state, and had clear and immediate control of their work force to immediately respond to fluctuations in increased or reduced income, this could be a good situation. This is not the case, however, with our state agencies, and any move to make them operate more like private business should carefully considered in this regard alone.
1. The levels of the fee increases in H.B. 2701 are also opposed by our board because this approach only takes into account the immediate needs of the state agency while not concerning itself with the economic condition of the regulated community. The present western Kansas economy is by most accounts "less than robust".
  2. The addition of an administrative fee to file any statutorily mandated annual report does not seem to us to be either good business or good government. The administrative fee for the mandated annual water use reports is clearly a segment of the KDA process that should remain completely administrative and NOT fee funded at all.
  3. These comments are intended also for the increased fee sections and additional administrative fees for mandated reports which are contained in S. 438, H.B. 2689, S. 436, H.B. 2700, and S. 437.
  4. The GMD 4 board is very concerned over the impending budget reductions of the KDA, and feels that this agency's reduced budget will adversely affect important regional services. However, because of the above reasons, we support some other solution to the impending budget shortfalls rather than further transitioning this agency toward more reliance upon user fees. We would appreciate more time to offer more definitive alternatives.

Respectfully submitted; GMD 4 Board of Direct

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