

MINUTES OF THE SENATE AGRICULTURE COMMITTEE.

The meeting was called to order by Chairperson Derek Schmidt at 8:30 a.m. on March 26, 2002 in Room 423-S of the Capitol.

All members were present except:

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

Conferees appearing before the committee:

Others attending: See attached list

HB 2123 - Disposition of moneys to certain agricultural related fee funds

Senator Lee moved, seconded by Senator Schmidt that the language in HB 2123 be stricken in its entirety and language relating to outlawing cockfighting as found in "lrs2350" be inserted. (Attachment 1) The voice vote was in favor of the motion.

Senator Downey moved, seconded by Senator Lee that Substitute for HB 2123 be recommended favorably for passage. The voice vote was in favor of the motion with Senator Corbin voting "no".

SB 436 - - Fees and inspection of dams levees and other water obstructions

Senator Lee moved, seconded by Senator Umbarger that SB 436 be amended as reflected in the subcommittee "balloon". (Attachment 2). The voice vote was in favor of the motion.

Senator Lee moved, seconded by Senator Schmidt that SB 436 be recommended favorably for passage as amended. The voice vote was in favor of the motion.

SB 438 - - Powers, duties and responsibilities of secretary of agriculture related to fees and penalties.

Senator Umbarger distributed a paper entitled "SB 438 Talking Points", which contained a balloon amending **SB 438**. The proposed amendments decrease the amounts raised through fees and penalties from \$1.8 million to approximately \$1.64 million. (Attachment 3)

The Committee thoroughly discussed the "pros and cons" of **SB 438** and the proposed amendments.

Senator Umbarger moved, seconded by Senator Morris, that SB 438 be amended as reflected in the above referenced "balloon". The motion failed on a division vote of "yes - 3; no - 5".

Senator Huelskamp moved SB 438 be tabled. The motion failed for lack of a second.

Upon motion by Senator Huelskamp, seconded by Senator Downey, the Minutes for March 19 and 20 were unanimously approved.

The meeting adjourned at 9:30 a.m.

The next meeting is scheduled for March 27, 2002

SENATE AGRICULTURE COMMITTEE GUEST LIST

DATE: March 26, 2002

NAME	REPRESENTING
Daz Wareham	KARA
JOHN KABUS	CWDPAK
Joe Kennedy	Jackson Co
Lee Mattix	MG county
Matt Bartholf	Ks. Co-op Council
Joe Licha	Ks. co-op Council
Frances Kastner	K's Food Dealers Assn
Don Repen	KACD
Donna Shuler	Kansas Farmers Union
Rodney Bicsenthat	Pott Co Noxious Weed
Steve Pargie	KDHE
Keith Bradshaw	Dir. of the Budget
Joe Lawton	LPA
Jim Beckwith	self.
Mike Repen	Edswick County
Jim Allen	Seaboard
Tom Bruno	Farm Credit Council
Scott Heider	Gardner Brader Barber
Earl Lewis	Kansas Water office

SENATE AGRICULTURE COMMITTEE GUEST LIST

DATE: _____

NAME	REPRESENTING
Leslie Kaufman	Ks Farm Bureau
Justin Holstin	Propane Marketers Ass'n
Tom Tummell	KS GRAIN & FEED ASSN.
Jodd Johnson	KLA
Edward Rome	League Women Voters /KS
Kevin BAZORE	Hein law Firm
Haula	Gov's Office
Randall Allen	KS. Assoc. of Counties

SENATE BILL NO. _____

By

AN ACT concerning cockfighting; amending K.S.A. 21-4313 and K.S.A. 2001 Supp. 21-4310 and repealing the existing sections.

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

Section 1. K.S.A. 2001 Supp. 21-4310 is hereby amended to read as follows: 21-4310. (a) Cruelty to animals is:

(1) Intentionally killing, injuring, maiming, torturing or mutilating any animal;

(2) abandoning or leaving any animal in any place without making provisions for its proper care;

(3) having physical custody of any animal and failing to provide such food, potable water, protection from the elements, opportunity for exercise and other care as is needed for the health or well-being of such kind of animal; ~~or~~

(4) intentionally using a wire, pole, stick, rope or any other object to cause an equine to lose its balance or fall, for the purpose of sport or entertainment; or

(5) unlawful conduct of cockfighting.

(b) The provisions of this section shall not apply to:

(1) Normal or accepted veterinary practices;

(2) bona fide experiments carried on by commonly recognized research facilities;

(3) killing, attempting to kill, trapping, catching or taking of any animal in accordance with the provisions of chapter 32 or chapter 47 of the Kansas Statutes Annotated;

(4) rodeo practices accepted by the rodeo cowboys' association;

(5) the humane killing of an animal which is diseased or disabled beyond recovery for any useful purpose, or the humane killing of animals for population control, by the owner thereof or the agent of such owner residing outside of a city or the owner thereof within a city if no animal shelter, pound or licensed veterinarian is within the city, or by a licensed veterinarian at the request of the owner thereof, or by any officer or agent of an incorporated humane society, the operator

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Attachment # *1-1 thru 1-3*

of an animal shelter or pound, a local or state health officer or a licensed veterinarian three business days following the receipt of any such animal at such society, shelter or pound;

(6) with respect to farm animals, normal or accepted practices of animal husbandry;

(7) the killing of any animal by any person at any time which may be found outside of the owned or rented property of the owner or custodian of such animal and which is found injuring or posing a threat to any person, farm animal or property;

(8) an animal control officer trained by a licensed veterinarian in the use of a tranquilizer gun, using such gun with the appropriate dosage for the size of the animal, when such animal is vicious or could not be captured after reasonable attempts using other methods; or

(9) laying an equine down for medical or identification purposes.

(c) As used in this section, "equine" means a horse, pony, mule, jenny, donkey or hinny.

(d) Cruelty to animals is a class A nonperson misdemeanor.

Sec. 2. K.S.A. 21-4313 is hereby amended to read as follows: 21-4313. As used in ~~this act~~ K.S.A. 21-4310 through 21-4313, and amendments thereto, and K.S.A. 47-1710, and amendments thereto, unless the context otherwise requires;

{1} (a) "Animal" means every living vertebrate except a human being.

{2} (b) "Farm animal" means an animal raised on a farm or ranch and used or intended for use as food or fiber.

{3} (c) "Retailer" means a person regularly engaged in the business of selling tangible personal property, services or entertainment for use or consumption and not for resale.

{4} (d) "Wild animal" means a living mammal or marsupial which is normally found in the wild state, but shall not include a farm animal.

{5} (e) "Domestic pet" means any domesticated animal which is kept for pleasure rather than utility.

(f) "Unlawful conduct of cockfighting" means: (1) Causing for amusement or gain, any gamecock to fight with or injure another gamecock; (2) knowingly permitting such fighting or injuring on premises under one's ownership, charge or control; (3) training, owning, keeping, transporting or selling any gamecock for the purpose or with the intent of having it fight with or injure another gamecock; or (4) attending the unlawful conduct of cockfighting as defined in this subsection.

Sec. 3. K.S.A. 21-4313 and K.S.A. 2001 Supp. 21-4310 are hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.

SENATE BILL No. 436

By Committee on Agriculture

Proposed Subcommittee Amendments to SB

1-24

Senate Agriculture Committee
Date March 26-2002

Attachment # 3-1 thru 2-8

9 AN ACT concerning dams, levees and other water obstructions; fees;
10 inspections; amending K.S.A. 24-126, 82a-302 and 82a-303b and re-
11 pealing the existing sections

82a-301,

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

14 Section 1. K.S.A. 24-126 is hereby amended to read as follows: 24-

; also repealing K.S.A. 82a-304

15 126. (a) It shall be unlawful for any person, corporation, drainage or levee
16 district, county, city or township, without first obtaining the approval of
17 plans for the same by the chief engineer of the division of water resources,
18 to construct, cause to be constructed, maintain or cause to be maintained,
19 any levee or other such improvement on, along or near any stream of this
20 state which is subject to floods, freshets or overflows, so as to control,
21 regulate or otherwise change the flood waters of such stream. Any person,
22 corporation, county, city, township or district violating any provision of
23 this act shall be deemed guilty of a misdemeanor, and upon conviction
24 shall be punished by a fine of not less than \$100 nor more than \$1,000,
25 or by imprisonment in the county jail for a period of not more than one
26 year, or by both such fine and imprisonment. Each day any structure is
27 maintained or caused to be maintained shall constitute a separate offense.

28 (b) Subject to the provisions of subsection (e) (e), plans submitted for
29 approval shall include maps, profiles, cross sections, data and information
30 as to the effect upon upstream and downstream areas resulting from the
31 proposed levee or other such improvement, *the required fee as provided*
32 *in subsection (c)* and such other data and information as the chief engineer
33 of the division of water resources may require.

34 (c) (1) *Fill and levee approval fees shall be as follows:*

Type		Pre- construction	Construction in progress
Major	(Fill in defined floodway class C levee)	\$500	\$1000
Moderate	(Fill in flood plain without defined floodway class B levee)	\$300	\$600
Minor	(Fill in floodway fringe class A levee)	\$100	\$200

construction in progress

43 (2) The ~~greater~~ fee for projects where construction began prior to

shall be applicable

1 approval by the chief engineer ~~is applicable~~ in addition to any other pen-
 2 alty under law for unapproved fill or levee construction. Projects that
 3 require approval under both this act and obstructions in streams act,
 4 K.S.A. 82a-301 et seq., and amendments thereto, shall be required to pay
 5 only the greater of the two fees when seeking approval from the chief
 6 engineer.

. Such fee shall be

7 (d) If the chief engineer finds from an examination of such plans and
 8 pertinent information that the construction of the proposed levee or other
 9 such improvement is feasible and not adverse to the public interest, the
 10 chief engineer shall approve the ~~same~~ proposed levee or other such im-
 11 provement. In determining whether or not the construction of any pro-
 12 posed levee or other such improvement designed so as to reduce flood
 13 risks to a chance of occurrence in any one year of 1% or less is adverse
 14 to the public interest, the chief engineer shall consider the following: (1)
 15 The effect upon areas downstream or upstream as a result of the con-
 16 struction of such proposed levee or other such improvement; and (2) the
 17 effect of the proposed levee or other such improvement and any other
 18 existing or proposed levees or other such improvements upon down-
 19 stream and upstream areas. In the event any such levee or other such
 20 improvement is about to be constructed, is constructed or maintained by
 21 any person, corporation, county, city, township or district without ap-
 22 proval of plans by the chief engineer, it shall be the duty of the attorney
 23 general, to file suit in a court of competent jurisdiction, to enjoin the
 24 construction or maintenance of such levee or other such improvement.

25 ~~(e)~~ (e) For fills other than levees located in the floodway fringe within
 26 a participating community as defined and identified in the national flood
 27 insurance act, all required data and information shall be specified by rules
 28 and regulations adopted by the chief engineer. Within 90 days of receipt
 29 of plans and such data and information as required by the chief engineer
 30 for fills other than levees located in the floodway fringe within a partici-
 31 pating community as defined and identified by the national flood insur-
 32 ance act, the chief engineer shall approve or disapprove the plans for such
 33 fills. If the chief engineer fails to approve or disapprove a plan within the
 34 ~~ninety-day~~ 90-day period required by this section, such plan shall be
 35 deemed approved. The chief engineer shall provide, in writing, specific
 36 reasons for any disapproval which shall include any hydrologic and hy-
 37 draulic analyses or other data upon which such disapproval is based.

38 ~~(f)~~ (f) Prior to the adoption of a general plan of drainage and flood
 39 protection, as provided in K.S.A. 24-901, and amendments thereto, and
 40 the commencement of construction in carrying such plan into effect, the
 41 chief engineer of the division of water resources may give temporary
 42 approval for the repair and maintenance of any levee or other drainage
 43 work in existence on May 28, 1929; but such approval for such temporary

1 repair and maintenance shall be without prejudice to withdrawal of such
2 approval when a general plan shall be adopted. Nothing contained in this
3 section shall apply to any drainage district heretofore organized under
4 K.S.A. 24-401 *et seq.*, and amendments thereto, and having therein prop-
5 erty of an assessed valuation of \$50,000,000 or more.

6 (e) (g) The chief engineer shall adopt such rules and regulations
7 deemed necessary to administer and enforce the provisions of this section.

8 (h) All fees collected by the chief engineer pursuant to this section
9 shall be remitted to the state treasurer as provided in section 4, and
10 amendments thereto.

Insert Sec. 2. K.S.A. 82a-301 (See Attachment)

3.

11 Sec. ~~2.~~ K.S.A. 82a-302 is hereby amended to read as follows: 82a-
12 302. (a) Each application for the consent or permit required by K.S.A.
13 82a-301, and amendments thereto, shall be accompanied by complete
14 maps, plans, profiles and specifications of such dam or other water ob-
15 struction, or of the changes or additions proposed to be made in such
16 dam or other water obstruction, the required application fee as provided
17 in subsection (b) unless otherwise exempted, and such other data and
18 information as the chief engineer may require.

Notwithstanding any law to the contrary, an applicant for the consent or permit required by K.S.A. 82a-301, and amendments thereto, may have the application reviewed by a licensed professional engineer approved by the chief engineer and if such licensed professional engineer finds that such dam or other water obstruction meets established standards for the construction, modification, operation and maintenance of dams and other water obstructions, such findings shall be submitted to the chief engineer. Upon such submittance, the chief engineer shall grant such consent or permit. Such applicant shall pay all costs associated with the review by the licensed professional engineer.

19 (b) (1) The application fee ~~is based upon three criteria and are as~~
20 follows:

21 (A) The size of the dam expressed in volume and height of dam as
22 defined by regulation;

23 (B) the hazard class of dam, as defined by regulation; and

24 (C) the stage of construction when application is submitted. The ad-
25 ditional fees for permits for construction begun prior to obtaining a permit
26 are in addition to any other applicable penalty for an unpermitted struc-
27 ture.

Fees for new dam applications

Size	Hazard classification	A-construction in progress	B	B	C	C
	A-pre construction					
1	\$150	\$300	\$300	\$600	\$450	\$900
2	\$400	\$800	\$600	\$1200	\$800	\$1600
3	\$600	\$1200	\$800	\$1600	\$1000	\$2000
4	\$800	\$1600	\$1000	\$2000	\$1200	\$2400

Fees for dam modification applications

Size	Pre-Construction	Construction in Progress
1	\$150	\$300
2	\$400	\$800
3	\$600	\$1200
4	\$800	\$1600

shall be based upon the stage of construction at the time that a complete application has been submitted. The construction in progress fee shall be applicable for construction begun prior to approval by the chief engineer. Such fee shall be in addition to any other penalty for an unpermitted structure. Such fees shall be as follows:
Fees for new dam or dam modification applications
Pre-construction Construction in progress
\$200 \$500

43 (2) Permit fees for stream obstructions/channel changes application

2-H

1 fee is based upon two criteria and are as follows:

- 2 (A) The ~~classification of the stream~~;
- 3 (B) the stage of construction when the application is submitted.

drainage area category

4 Stream classification	Pre-Construction	In Progress
5 Major (Drainage area greater than 50 square miles)	\$500	\$1000
6 Moderate (Drainage area 5 to 50 square miles)	\$200	\$400
7 Minor (Drainage area less than 5 square miles)	\$100	\$200
8 General Permit	\$100	\$200

Construction

9 (c) All fees collected by the chief engineer pursuant to this section
10 shall be remitted to the state treasurer as provided in section 4, and
11 amendments thereto.

12 Sec. ~~3~~ K.S.A. 82a-303b is hereby amended to read as follows: 82a-
13 303b. (a) (1) In order to secure conformity with adopted rules and reg-
14 ulations and to assure compliance with the terms, conditions or restric-
15 tions of any consent or permit granted pursuant to the provisions of K.S.A.
16 82a-301 ~~to through 82a-303, inclusive, and any amendment thereof and~~
17 ~~amendments thereto~~, the chief engineer or an authorized representative
18 of the chief engineer shall have the power and ~~it shall be his or her~~ the
19 duty to inspect any dam or other water obstruction. Upon a finding pur-
20 suant to subsection (a) of K.S.A. 82a-303c, and amendments thereto, by
21 the chief engineer that a dam is unsafe, the chief engineer shall order an
22 annual inspection of the dam until it is either in compliance with all
23 applicable provisions of this act, any rules and regulations promulgated
24 pursuant to this act, permit conditions and orders of the chief engineer;
25 or the dam is removed. The safety inspection shall be conducted by the
26 chief engineer or authorized representative and the cost shall be paid by
27 the dam owner. Inspection fees are as follows:

28 Size of Dam As Defined by Regulation	Inspection fee
29 Class 1	\$1,500
30 Class 2	\$1,500
31 Class 3	\$2,500
32 Class 4	\$4,000.

33 (2) Each hazard class C dam ~~as defined by rule and regulation~~ shall
34 be required to have a safety inspection conducted by a licensed profes-
35 sional engineer qualified in design, construction, maintenance and oper-
36 ation of dams once every three years, unless otherwise ordered by the
37 chief engineer.

38 (3) Each hazard class B dam ~~as defined by rule and regulation~~ shall
39 be required to have a safety inspection conducted by a licensed profes-
40 sional engineer qualified in design, construction, maintenance and oper-
41 ation of dams once every five years unless otherwise ordered by the chief
42 engineer.

43 (4) Within 60 days of the date of inspection, a report of the inspection

4.

The class and size of a dam provided for by the provisions of this act shall be defined by rules and regulations adopted by the chief engineer pursuant to K.S.A. 82a-303a, and amendments thereto.

2-5

1 shall be provided to the chief engineer by the licensed professional engi-
 2 neer who conducted the inspection. The report shall document the phys-
 3 ical condition of the dam, describing any deficiencies observed, an analysis
 4 of the capacity of the dam and its spillway works, compliance of the dam
 5 with approved plans and permit conditions, changes observed in the con-
 6 dition of the dam since the previous inspection, an assessment of the haz-
 7 ard classification of the dam including a statement that the engineer either
 8 agrees or disagrees with the current classification, and any other infor-
 9 mation relevant to the safety of the dam or specifically requested by the
 10 chief engineer.

11 (5) Upon failure of a dam owner to comply with the applicable in-
 12 spection interval, the chief engineer or such chief engineer's authorized
 13 representative shall conduct a mandatory inspection of the dam and the
 14 costs as established by this act for the inspection shall be paid by the
 15 owner, in addition to any other remedies provided for violations of this
 16 act.

17 (6) The failure to file a complete and timely report as required or the
 18 failure to submit the fees assessed for inspections conducted by the chief
 19 engineer or such chief engineer's authorized representative shall be
 20 deemed a violation of this act and subject to the penalties provided by
 21 K.S.A. 82a-305a, and amendments thereto.

by the provisions of this act

22 (b) For the purpose of inspecting any dam or other water obstruction,
 23 the chief engineer or an authorized representative of the chief engineer
 24 shall have the right of access to private property. Costs for any work which
 25 may be required by the chief engineer or the authorized representative
 26 prior to or as a result of the inspection of a dam or other water obstruction
 27 shall be paid by the owner, governmental agency or operator thereof of
 28 such dam or other water obstruction.

29 (c) All fees collected by the chief engineer pursuant to this section
 30 shall be remitted to the state treasurer as provided in section 4, and
 31 amendments thereto.

32 New Sec. 4. There is hereby created in the state treasury the water
 33 structures fund. The chief engineer of the division of water resources,
 34 Kansas department of agriculture shall remit all moneys received under
 35 K.S.A. 82a-302, 82a-303b and 24-126, and amendments thereto, to the
 36 state treasurer in accordance with the provisions of K.S.A. 75-4215, and
 37 amendments thereto. Upon receipt of each such remittance, the state
 38 treasurer shall deposit the entire amount in the state treasury to the credit
 39 of the water structures fund. All expenditures from the water structures
 40 fund shall be made in accordance with appropriation acts upon warrants
 41 of the director of accounts and reports pursuant to vouchers ap-
 42 proved by the secretary of agriculture or by a person designated by the
 43 secretary.

1 Sec. ~~5~~ K.S.A. 24-126, 82a-302 ~~and 82a-303b~~, are hereby repealed.
 2 Sec. ~~6~~ This act shall take effect and be in force from and after its
 3 publication in the statute book.

7.

8.

82a-301

,

and 82a-304

New Sec. 6. On or before January 1, 2003, the secretary of agriculture shall submit and present a report to the committee on agriculture of the senate and house of representatives of the state of Kansas summarizing the department's efforts to affect changes in the water structures program, review of the structure of the water resources programs and actions related to the recommendations of the performance audit report of the legislative division of post audit submitted in March of 2002.

Sec. 2. K.S.A. 82a-301 is hereby amended
 , read as follows: 82a-301. (a) Without the
 prior written consent or permit of the chief
 engineer of the division of water resources
 of the ~~state-board~~ Kansas department of
 agriculture, it shall be unlawful for any
 person, partnership, association, corporation
 or agency or political subdivision of the
 state government to: ~~(a)~~ (1) Construct any
 dam or other water obstruction~~;~~ (2)
 make, construct or permit to be made or
 constructed any change in any dam or other
 water obstruction~~;~~ (3) make or permit to
 be made any change in or addition to any
 existing water obstruction~~;~~ (4)
 change or diminish the course, current, or
 cross section of any stream within this
 state. Any application for any permit or
 consent shall be made in writing in such form
 as specified by the chief engineer. Jetties
 or revetments for the purpose of stabilizing
 caving bank which are properly placed shall

not be construed as obstructions for the purposes of this section.

(b) As used in K.S.A. 82a-301 et seq., and amendments thereto, "dam" means any artificial barrier including appurtenant works with the ability to impound water, waste water or other liquids that has a height of 25 feet or more; or has a height of six feet or greater and also has the capacity to impound 50 or more acre feet. The height of a dam or barrier shall be determined as follows: (1) A barrier or dam that extends across the natural bed of a stream or watercourse shall be measured from the downstream toe of the barrier or dam to the top of the barrier or dam; or (2) a barrier or dam that does not extend across a stream or watercourse shall be measured from the lowest elevation of the outside limit of the barrier or dam to the top of the barrier or dam.

S.B. 438 Talking Points

General Items

S.B. 438 with KDA amendments raises approximately \$1.64 million

The compromise amendments reduce the package by \$401,615.

All fees benefit the program that raises them. Water Appropriations accounts for nearly 52% of the amended fee package. Water Appropriations account for 33% of KDA SGF allocation.

Since FY 1994, KDA SGF allocation has only grown 4.5%. Costs have grown by substantially more.

Funds are need to replace erosion of SGF allocations.

New Fees in package

- Annual Nutrient Utilization Plan Fee
- Annual Water Administration Fee
- Failure to file an accurate water use report
- Annual Weights and Measures Facility Fee
- Meat & Poultry Wholesaler/Broker Registration Fee

Repeals the Counter Freezer program

Contents of the balloon

Water Appropriations

- Drop the change in ownership charge
- Keep the failure to file an accurate report assessment
- Keep the increases in existing fees
- Refine the water administration fee based upon the authorized quantity of the water right as follows:

	Per File Number Fee	Total Generated
0 - 100 acre ft.	\$10	\$91,230
101 - 320 acre ft.	\$15	\$229,935
321 - 1000 acre ft.	\$20	\$127,680
1001 - 5000 acre ft.	\$30	\$25,290
more than 5000 acre ft.	\$200	\$25,000
Total		\$499,135

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Attachment # *3-1 thru 3-6*

Weights and Measures

- Drop the fee on large scales
- Facility cap of \$120
- Clarify that meter fees do not include fueling devices. They already support the program through the petroleum inspection fee.

3-3

1 to appropriate water. If the chief engineer disapproves the application for
2 change, the rights, priorities and duties of the applicant shall remain un-changed.

3 Any person aggrieved by an order or decision by the chief en-gineer
4 relating to an application for change may petition for review
5 thereof in accordance with the provisions of K.S.A. 2001 Supp. 82a-1901
6 and amendments thereto.

7 (b) Each application to change the place of use, the point of diversion
8 or the use made of the water under this section shall be accompanied by
9 the application fee set forth in the schedule below:

- 10 (1) Application to change a point of diversion 300 feet or less \$50 \$100
- 11 (2) Application to change a point of diversion more than 300 feet . . . 100 200
- 12 (3) Application to change the place of use..... 100 200
- 13 (4) Application to change the use made of the water 150 300
- 14 (5) ~~Application to change ownership~~ 100

15 Any application submitted which requests two of the types of changes set
16 forth above shall be accompanied by a fee of \$150 ~~300~~. Any application
17 which requests three types of changes shall be accompanied by a fee of
18 ~~\$250~~ \$500.

→ Not to exceed

→ Not to exceed

19 (c) All fees collected by the chief engineer pursuant to this section
20 shall be remitted to the state treasurer as provided in K.S.A. 82a-731 and
21 amendments thereto.

22 Sec. 25. K.S.A. 2001 Supp. 82a-714 is hereby amended to read as
23 follows: 82a-714. (a) Upon the completion of the construction of the
24 works and the actual application of water to the proposed beneficial use
25 within the time allowed, the applicant shall notify the chief engineer to
26 that effect. The chief engineer or the chief engineer's duly authorized
27 representative shall then examine and inspect the appropriation diversion
28 works and, if it is determined that the appropriation diversion works have
29 been completed and the appropriation right perfected in conformity with
30 the approved application and plans, the chief engineer shall issue a cer-tificate
31 of appropriation in duplicate. The original of such certificate shall
32 be sent to the owner and shall be recorded with the register of deeds in
33 the county or counties wherein the point of diversion is located, as are
34 other instruments affecting real estate, and the duplicate shall be made
35 a matter of record in the office of the chief engineer.

36 (b) Not later than 60 days before the expiration of the time allowed
37 in the permit to complete the construction of the appropriation diversion
38 works or the time allowed in the permit to actually apply water to the
39 proposed beneficial use, the chief engineer shall notify the permit holder
40 by certified mail that any request for extension of such time must be filed
41 with the chief engineer before the expiration of the time allowed in the
42 permit.

43 (c) Unless the applicant requests an extension or the certificate has

B-H

1 cation submitted for a temporary permit or extension thereof shall be
2 accompanied by an application fee of ~~\$100~~ \$200.

3 (b) The chief engineer shall adopt rules and regulations to effectuate
4 and administer the provisions of this section.

5 (c) Nothing in this section shall be deemed to vest in the holder of
6 any permit granted pursuant to provisions of this section any permanent
7 right to appropriate water except as is provided by such permit.

8 (d) All fees collected by the chief engineer pursuant to this section
9 shall be remitted to the state treasurer as provided in K.S.A. 82a-731 and
10 amendments thereto.

11 Sec. 27. K.S.A. 82a-732 is hereby amended to read as follows: 82a-732.

12 (a) The owner of a water right or permit to appropriate water for
13 beneficial use, except for domestic use, shall file an annual water use
14 report on a form prescribed by the chief engineer of the division of water
15 resources of the ~~state board department of agriculture and submit an~~
16 ~~administration fee of \$20 per water right or permit to appropriate water~~
17 on or before March 1 following the end of the previous calendar year.

as established herein, for each

18 The report shall completely and accurately set forth such water use in-formation
19 as requested by the chief engineer.

The fee shall be based upon the authorized quantity for each
water right file number as follows:

20 (b) Any person failing to file a *complete, accurate and timely* water
21 use report or other documents *or to submit the administration fee* re-quired
22 under the provisions of subsection (a) shall be subject to a civil
23 penalty in an amount not to exceed \$250. The chief engineer upon a
24 finding that the owner of a water right or permit to appropriate water for
25 beneficial use has failed to file such a *complete, accurate and timely* report
26 *or to submit the administration fee* may impose a civil penalty as provided
27 in this section. Any person filing a document knowing it to contain any
28 false information as to a material matter shall be guilty of a class C mis-
29 demeanor.

<u>Authorized quantity</u>	<u>Annual Administration Fee</u>
0-100 acre feet	\$10
101-320 acre feet	\$15
321-1,000 acre feet	\$20
1,000-5,000 acre feet	\$30
over 5,000 acre feet	\$200

30 (c) All fines collected by the chief engineer pursuant to this subsection
31 shall be remitted to the state treasurer as provided in K.S.A. 82a-731,
32 and amendments thereto.

33 Sec. 28. K.S.A. 83-201 is hereby amended to read as follows: 83-201.
34 As used in article 2 of chapter 83 of the Kansas Statutes Annotated and
35 K.S.A. 83-502, and amendments thereto:

36 (a) "Weights and measures" means all commercial weights or meas-ures
37 of every kind, instruments and devices for weighing and measuring,
38 and any appliance and accessories associated with any or all such instru-ments
39 and devices and any point-of-sale system.

40 (b) "Weight" as used in connection with any commodity means net
41 weight, except if the label declares that the product is sold by drained
42 weight, the term means net drained weight.

43 (c) "Correct" as used in connection with weights and measures means

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(p) "Large scale" means a weighing device with a capacity of greater than 2000 pounds.

(q) "Small scale" means a weighing device with a capacity of 2000 pounds or less.

Sec. 29. K.S.A. 83-205 is hereby amended to read as follows: 83-205.

(a) There is hereby established in the department of agriculture a weights and measures inspection program to enforce the provisions of chapter 83 of the Kansas Statutes Annotated, and amendments thereto or any rules and regulations adopted thereunder. The program shall be under the supervision of the secretary, and the secretary shall employ an administrator of the program and appoint such personnel as may be necessary for the proper administration of chapter 83 of the Kansas Statutes Annotated, and amendments thereto. The administrator shall be in the unclassified service of the Kansas civil service act.

(b) The weights and measures inspection program shall perform the following functions:

- (1) Assure that weights and measures in commercial service within the state are suitable for their intended use, properly installed, accurate and are so maintained by their owner or user;
- (2) prevent unfair or deceptive dealing by weight or measure in any commodity or service advertised, packaged, sold or purchased within this state;
- (3) make available to all users of physical standards or weighing and measuring equipment the precision calibration and related metrological certification capabilities of the weights and measures facilities of the department of agriculture;
- (4) promote uniformity, to the extent such conformance is practicable and desirable, between weights and measures requirements of this state and those of other states and federal agencies;
- (5) encourage desirable economic growth while protecting the consumer through the adoption by rule and regulation of weights and measures requirements as necessary to assure equity among buyers and sellers;

and
(6) assess an authorization fee to provide for the administration of this act. Such fee shall be assessed on every place of business or person who operates a weighing or measuring device, a scanning device, a point of sale system, or metering device for commercial purposes or measuring commodities, which are subject to the jurisdiction of the secretary. The fee shall be due March 1 and shall be assessed as follows:

- (A) small scales per facility - 1 \$15/facility;
- (B) small scales per facility - 2-3 \$25/facility;
- (C) small scales per facility - 4 or more \$40/facility;
- (D) large scales per facility - 1 \$60/facility;

For the purposes of this fee, "metering device" shall not include dispensing devices as defined by K.S.A. 83-401(a)

\$25/facility

1	(E) large scales per facility - 2-3.....	\$115/facility;	→	\$50/ facility
2	(F) large scales per facility - 4 or more	\$170/facility;	→	\$75/ facility
3	(G) scanning devices or point of sale system - 1-3.....	\$30/facility;		
4	(H) scanning devices or point of sale systems - 4 or more	\$60/facility; or		
5	(I) metering device	\$25/facility;	→	
6	(J) Facility Fee Cap (any combination)	\$120/ facility		

7 (7) The secretary shall remit all moneys received under this section
 8 to the state treasurer in accordance with the provisions of K.S.A. 75-4215,
 9 and amendments thereto. Upon receipt of each such remittance, the state
 10 treasurer shall deposit the entire amount in the state treasury to the credit
 11 of the weights and measures fee fund; and
 12 (8) such other functions as may be specified by law or deemed nec-essary
 13 by the secretary to carry out the duties and functions of chapter
 14 83 of the Kansas Statutes Annotated, and amendments thereto or any
 15 rules and regulations adopted thereunder.
 16 Sec. 30. K.S.A. 2001 Supp. 83-302 is hereby amended to read as
 17 follows: 83-302. (a) Each person, other than an authorized representative
 18 of the secretary or an authorized representative of a city or county de-partment
 19 of public inspection of weights and measures established pur-suant
 20 to K.S.A. 83-210, and amendments thereto, desiring to operate and
 21 perform testing and other services as a company in Kansas shall apply to
 22 the secretary for a service company license, on a form to be supplied by
 23 the secretary, and shall obtain such license from the secretary before
 24 operating and performing testing or other services as a service company.
 25 Each service company shall obtain a license for each place of business
 26 maintained in Kansas and shall pay a license application fee of \$50 \$100
 27 and thereafter an annual license renewal application fee of \$50 \$100 for
 28 each place of business. Each service company license shall expire on June
 29 30 following issuance, shall be void unless renewed prior to the expiration
 30 and shall not be transferable.
 31 (b) If any service company maintains any out-of-state places of busi-ness
 32 which the company operates in serving Kansas patrons, the service
 33 company seeking to obtain or renew a license under this section shall list
 34 in the application such places of business and the firm names under which
 35 the company operates at each such place of business. If any out-of-state
 36 place of business is established by a service company after being licensed
 37 under this section, the licensee shall supply such information to the sec-retary
 38 before any work is performed in Kansas from such out-of-state
 39 location. Each nonresident service company shall designate a resident
 40 agent upon whom service of notice or process may be made to enforce
 41 the provisions of chapter 83 of the Kansas Statutes Annotated, and
 amendments thereto, or any liabilities arising from operations thereun-der.
 Each nonresident service company which maintains no established
 place of business in Kansas shall obtain a license under this section for

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