

MINUTES OF THE SENATE AGRICULTURE COMMITTEE

The meeting was called to order by Chairman Mark Taddiken at 8:30 a.m. on February 18, 2009 in Room 446-N of the Capitol.

All members were present.

Committee staff present:

Raney Gilliland, Kansas Legislative Research Department
Corey Carnahan, Kansas Legislative Research Department
Jason Thompson, Revisor of Statutes Office
Judy Seitz, Committee Assistant

Conferees appearing before the Committee:

Mark Hassman, General Manager, Hassman Termite and Pest Control, on behalf of the Kansas Pest Control Association
Lindsey Douglas, Environmental Policy Specialist, Kansas Department of Agriculture (KDA)
Mark Lytle, Golf Course Superintendent, Salina Municipal Golf Course, on behalf of the Kansas Golf Course Superintendents Association
Ron Seeber, Vice President of Government Affairs, Kansas Agribusiness Retailers Association (KARA)
Leslie Kaufman, Executive Director, Kansas Cooperative Council (KCC)

Others attending:

See attached list.

Vice Chairman Ostmeier introduced Gunnar Hayes; a student from his district, who is "shadowing" him today.

Chairman Taddiken opened the hearing on **SB 256 - Creating the pesticide safety education fee fund.** The Chairman noted the Committee received copies of the fiscal note for **SB 256.**

Mark Hassman, General Manager, Hassman Termite and Pest Control, spoke as a representative of the Kansas Pest Control Association in support of **SB 256 (Attachment 1)**. He said this bill addresses a huge budgetary shortfall for the Pesticide Safety Education Program (PSEP) in Kansas. He said the PSEP program is mandated by statute and gives primary responsibility for pesticide safety education to the Kansas State University Cooperative Extension Service. He also stated the shortfall is a result of changes in Federal EPA Pass-Thru funding and the conversion of the United States Department of Agriculture (USDA) Integrated Pest Management (IPM), Pass-Thru dollars to competitive and more restricted funding. Mr. Hassman gave a brief synopsis of the background of the program, its duties, the needs and where the shortfalls lie, and explained how **SB 256** would be a solution. He testified that this bill would properly fund the program and allow the program to meet all obligations. He said **SB 256** proposes a budget that would properly fund the program to allow the program to meet all its obligations. This bill proposes an additional fee of \$20.00 per commercial certificate applicant for a three-year re-certification.

Mr. Hassman offered to stand for questions.

Lindsey Douglas, Environmental Policy Specialist, Kansas Department of Agriculture (KDA), appeared in support of **SB 256 (Attachment 2)**. She stated that the PSEP is important to pesticide applicators. **SB 256** was proposed by the Kansas Pest Control Association and the Kansas Golf Course Superintendents Association to ensure that Kansas State University can continue to operate the PSEP.

Ms. Douglas offered to stand for questions.

Mark Lytle, Golf Course Superintendent, Salina Municipal Golf Course, on behalf of the Kansas Golf course Superintendents Association (**Attachment 3**) spoke in favor of **SB 256**. Mr. Lytle said his association has concerns that the private applicators may not be shouldering their share of the costs of the safety and certification program. He stated another concern that a PSEP is mandated by state statute but this program receives little funding support from the governing body that requires the program to exist.

CONTINUATION SHEET

Minutes of the Senate Agriculture Committee at 8:30 a.m. on February 18, 2009 in Room 446-N of the Capitol.

Mr. Lytle offered to take questions.

Ron Seeber, Vice President of Government Affairs, Kansas Agribusiness Retailers Association (KARA) (Attachment 4) appeared in opposition to **SB 256**. He said KARA believes it is important to review how the money for the PSEP is administered and if there are other sources of information or how important is the need for this program when there are duplicate programs in place. KARA's key opposition to the bill is in the funding mechanism which singles out commercial pesticide applicators as the sole source of funding for the program, yet allows private applicators a free ride.

Mr. Seeber took questions from the Committee.

Leslie Kaufman, Executive Director, Kansas Cooperative Council (KCC), presented testimony in opposition to **SB 256** (Attachment 5). She stated the KCC cannot support a fee structure for the pesticide safety and education fund which implements a new charge solely on "commercial applicators" and not on "private applicators," as well.

Ms. Kaufman answered questions from the Committee.

Ms. Douglas took questions.

Constantine Cotsoradis, Deputy Secretary, KDA, answered questions regarding updating manuals.

Thomas Phillips, Head of the Entomology Department, Kansas State University, Interim Coordinator for Pesticide Safety Education Program, answered questions from the Committee regarding funding for the PSEP.

Mr. Hassman took further questions.

Hal Hudson, Executive Director, Kansas Pest Control Association, stated that the training for the commercial applicants is up-to-date.

Chairman Taddiken asked if Brad Harrelson, Kansas Farm Bureau, would like to comment on **SB 256**. He said that if the Committee works the bill and includes fees applied to private applicants; the KFB would probably raise concerns.

Mike Hutfles, Mid-American Green Industry Council, provided written testimony in opposition to **SB 256**. (Attachment 6)

The hearing on **SB 256** was closed.

Senator Francisco made a motion to change the language in line 30 and 34 to state the fee amount would be set at \$20.00, seconded by Senator Lee. Motion carried.

Senator Lee moved to change the statute number in line 27 and 28 to K.S.A. 2-2443a, and make all sections part of the pesticide law, seconded by Senator Barnett. Motion carried.

No action was taken on **SB 256**.

The next meeting is scheduled for February 24, 2009.

The meeting was adjourned at 9:30 a.m.

SENATE AGRICULTURE COMMITTEE GUEST LIST

DATE: 2-18-09

NAME	REPRESENTING
Ron Seiber	KART
Fessie Kaufman	Ks Coop Council
Gary Meyer	KDA
Lindsey Douglas	KDA
Constantine Cotsoradis	KDA
Bob Hudson	KPCA
Mike Hutches	Southwestern Assoc.
Joe Mosimann	Hein Law Firm
Tom Phillips	KSU
Mark Hassman	KPCA
Mark Lytle	Kansas Golf Course SA
JJ Jones	Commerce
SEAN MILLER	CAPITOL STRATEGIES
BRAD HARRISON	KFB
Wanda Kinney	Ks. Cattlemen's Association

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Testimony of Mark Hassman
on Senate Bill 256
Before the Senate Committee on Agriculture
Wednesday, February 18, 2009

Thank You Mr. Chairman and Members of the Committee:

My name is Mark Hassman. I reside in Salina and am part of a pest control business which my family has started some 46 years ago. We are also very active in our trade association and I am here today as a representative of the Kansas Pest Control Association to speak in support of Senate Bill 256.

Senate Bill 256 was derived out of two separate stakeholder meetings, one that was held December 15, 2008 and one on January 6th of 2009. This Bill addresses a huge budgetary shortfall for the Pesticide Safety Education Program in Kansas. This shortfall is the result of changes in Federal EPA Pass-Thru funding and the conversion of USDA Integrated Pest Management (IPM), Pass-Thru dollars to competitive and more restricted funding.

I would like to present a very brief synopsis of the background of the program and its duties, next address the needs and where the shortfalls lie, and finally explain how this Bill will help solve our dilemma.

The Pesticide Safety Education Program (PSEP) is mandated by statute K. S. A. 2-2445a, K. S. A. 2-2459a and K. A. R. 4-13-14 and gives primary responsibility for pesticide safety education to the Kansas State University Cooperative Extension Service. It has numerous responsibilities such as Kansas Department of Health and Environment spill reporting, Project Good Neighbor, Master Gardener Pesticide Training and creation of educational materials for Commercial certification. The PSEP provides education on Worker Protection Standards for commercial applicators, private applicators, Landowners/Homeowners and also for employees of schools and other such facilities that may require occasional pesticide application. Training is provided on pest identification, control strategies, pesticide toxicity, environmental concerns and Federal and State regulations. If that were not enough, the PSEP Extension Program also coordinates with the Kansas Department of Agriculture on certification and recertification

Senate Agriculture Committee
2-18-09
Attachment 1

training issues, answers EPA information requests, coordinates training manual updates and creates new manuals as needed.

The Kansas Cooperative Extension Service has supplied a current PSEP budget and I have that attached to my written testimony. It also identifies where the funding for the various duties is derived. As you may already see, even though this is a statutorily mandated program, it is not funded by any Kansas Taxpayer monies. I think you will agree that this is a broad range of responsibilities for only a \$74,000.00 budget. The reality is that it is far too demanding.

As I mentioned earlier the IPM funding mechanism has changed. The latest Federal Farm bill now requires that these funds be allocated to the state Land Grant Universities on a competitive basis. That means the IPM funding will not simply "pass thru" to the Cooperative Extension Service for broadly defined uses (such as pesticide safety training), but will come to Kansas only after a nationwide competition, and spending will be restricted solely to Integrated Pest Management training, with less flexibility for use in the PSEP. Currently IPM comprises 60% of the budget and yet demands a smaller portion of the time and expenses. Herein lies the problem. The majority of the work to be done for pesticide training in Kansas will have little to no operating funds starting October 1, 2009, the start of the 2010 Federal fiscal year. To compound the issue, the job requirements have grown to a point that one individual cannot properly handle them. The PSEP Coordinator has often turned down requests for training and the training manuals have become outdated and are in desperate need of revision.

This program is important. This is the primary, and in some cases the only, avenue of continuing education that certain pesticide applicators have in Kansas. There are some applicators that do have the luxury of having a trade association represent them and offer training. There are other applicators who do not have such a luxury, and will never have such. Two prime examples are the newly added categories 1D (cut stump treatments) and 5 S (Sewer Root treatments). Pesticide safety education for these categories is mandated, but funds may not exist to provide such training if we do not act.

This Bill proposes a budget that will allow for a Program Coordinator, a Program Assistant and a small amount for student labor, travel, and office supplies. It properly funds the program and allows that program to meet all its obligations. A copy of a projected 2010 budget is attached to the testimony as well.

To fund the shortfall indicated on the 2010 budget and for future years, we are proposing a separate fee be established for all commercial certified applicators that are recertifying. This fee would be \$ 20.00 per applicant for a three-year recertification. This breaks down to \$ 6.67 per year—a relatively small amount as a business expense for a very important benefit to the safety of individual pesticide applicators, the buildings and outdoor environments they treat with pesticides, and for the general health and welfare of all Kansans.

During the stakeholder meetings, several ideas were bounced around. It was felt that the best way to fund this was by deriving funds from those individuals and companies who derive their livelihood by performing 'for hire' pesticide applications. Although there may be a number of ways that the pie can be sliced, we at the Kansas Pest Control Association believe that this makes the most sense and is the fairest of all options.

This is a very important issue. I appreciate your valuable time to hear our concerns and I would be happy to answer any questions that you may have.

Current K-State PSEP Budget Expenses (2008/2009)

<u>Salaries, wages and Fringe Benefits:</u>		<u>Current Anticipated Source:</u>
Coordinator/Program Administrator (70% appt.)	\$37,817	EPA/IPM (\$22,500/\$15,317)
Student labor	<u>\$10,000</u>	IPM
Total salaries and wages	\$47,817	
Fringe Benefits (31.5% on Coord.+Asst.; 2% on students)	<u>\$12,112</u>	IPM
Salary and FB Total:	\$59,929	
<u>Supplies:</u>		
Training supplies	\$1700	Con. Ed. Fees
Office/Computer supplies	<u>\$1,500</u>	Con. Ed. Fees
Supplies Total:	\$3,200	
<u>Travel:</u>		
State vehicle rental, mileage, gas, etc.	\$3,000	IPM/Con. Ed. Fees (\$2,000/\$1,000)
Annual PSEP Meeting Travel (1 person)	<u>\$1,500</u>	EPA pass-thru
Travel Total:	\$4,500	
<u>Other Direct Costs:</u>		
NSPIRS Database Subscription	\$1,200	IPM
Telephone	\$1,000	Con. Ed. Fees
Postage/shipping	\$1,000	Con. Ed. Fees
Publication Fees	<u>\$3,500</u>	IPM
ODC Total:	\$6,700	
Total Costs for FY 2008/2009:	<u>\$74,329</u>	

<u>PSEP Budget Breakdown:</u>	
EPA Pass-Thru Funding:	\$24,000
IPM Pass-Thru Funding:	\$44,129
Continuing Education Training Fees	<u>\$ 6,200</u>
TOTAL	\$74,329

**Projected FY-2010 Budget
Kansas State University
Pesticide Safety Education Program**

	<i>Anticipated</i>		Shortfall
	USDA (IPM)	EPA	
<u>Salaries, wages and Fringe Benefits:</u>			
Coordinator/Program Administrator (70%)	\$37,817	\$16,207	
Program Assistant (100%)			\$36,000
Student labor		\$2,000	\$8,000
Fringe Bens. (31.5% on Coord.+Asst.; 2% on students)	\$11,912	\$5,145	\$11,540
Salary and FB Total:	\$49,729	\$23,352	\$55,540
<u>Expendable Supplies:</u>			
			\$6,000
<u>Travel:</u>			
State vehicle rental, mileage, gas, etc.	\$5,000		\$5,000
Annual PSEP Meeting Travel (2 people, 75%)			\$2,625
Travel Total:			\$7,625
<u>Other Direct Costs:</u>			
NSPIRS Database Subscription			\$1,200
Telephone			\$1,000
Postage/shipping			\$1,000
Publication Fees			\$3,500
<u>ODC Total:</u>			\$5,700
Subtotal Costs for FY 2010:	\$54,729	\$23,352	*\$74,865
TOTAL COSTS FOR FY 2010:			\$152,946

*Projections for yearly increases to "Shortfall" funds, at 2% per year:

FY 2011	\$76,362
FY 2012	\$77,889
FY 2013	\$79,447
FY 2014	\$81,036

**Testimony on SB 256
to
the Senate Agriculture Committee**

**by Lindsey M. Douglas
Environmental Policy Specialist
Kansas Department of Agriculture**

February 18, 2009

Good morning, Chairman Taddiken and members of the committee. I am Lindsey Douglas, environmental policy specialist with the Kansas Department of Agriculture. I am here in support of Senate Bill 256.

The bill is a proposal from the Kansas Pest Control Association and the Kansas Golf Course Superintendents Association. These groups want to ensure that Kansas State University can continue to operate the Pesticide Safety Education Program. K-State has been working with us for several years trying to find a secure, stable revenue source, and when these two associations learned of the program's funding challenges, they stepped forward with the current fee proposal. We appreciate their efforts.

The Pesticide Safety Education Program is important to pesticide applicators. The program develops educational materials, including manuals on which the department's certification tests are based. The program also organizes annual training in all categories that Kansas offers for commercial pesticide applicator certification. Each year, staff from the Pesticide Safety Education Program answer hundreds of calls and questions from applicators. Funding in this bill will allow the program to continue to provide services to a broad range of constituents.

The department believes that the Pesticide Safety Education Program is valuable to pesticide applicators and to the state.

I will stand for questions at the appropriate time.

Good Morning Mr. Chairman and committee members,

My name is Mark Lytle and I am from Salina. I am the golf course superintendent at Salina Municipal Golf Course. I have been a golf course superintendent, and a licensed certified pesticide applicator in the State of Kansas for over 30 years. I am here today on behalf of the Kansas Golf Course Superintendents Association and our member clubs which represents over 150 plus courses around the state.

I have been a certified pesticide applicator since the conception of the program some thirty years ago and I am paying the same registration fees today that I paid thirty years ago. While I applauded the Kansas Department of Agriculture for holding the line on costs, I also realize a fee increase may be necessary to help fund the Pesticide Safety Education Program (PESP) which is administrated by Kansas State University.

Mr Hassman who spoke before me has provided you with many of the intricate details of the proposed bill so I will not waste your time reviewing the specifics. The KGCSA membership is for the most part in favor of bill 256 which would increase the licensing fees that our members would pay per year in the future.

I represent a very forward thinking industry that realizes an integral part of our business model is that we be proactive in the safe and proper use of pesticides at our facilities, and to protect and preserve the environment we all live in.

While we support Senate bill 256, a concern we do have is that some segments of pesticide applicators may not be shouldering a proportionate share of the costs of the safety and certification program, that being the private applicators.

We also have a concern that the (PSEP), while mandated by state statute, receives little funding support from the governing body that requires the program to exist. It is unfortunate that changing one word in the federal farm bill would have such a significant impact on this program, but such is politics.

Given the circumstances the KGCSA still supports Senate Bill 256 but asks that a more complete and timely review of all pesticide applicators costs and fees take place in the near term in an effort to accomplish a more equitable distribution of costs for the program.

We the members of the KGCSA feel it is our responsibility as an industry, to be a leader and to step forward with additional support for the program, and to also encourage all stake holders, both private and commercial, who apply pesticides, to do the same.

Thank you for your time, and attention to this issue.

Senate Agriculture Committee
2-18-09
Attachment 3



KANSAS AGRIBUSINESS RETAILERS ASSOCIATION

SAFE AND ABUNDANT FOOD THROUGH SOUND SCIENCE

**Testimony in Opposition to SB 256
Senate Agriculture Committee
Senator Mark Taddiken, Chairman
February 18, 2009**

Thank you Mr. Chairman and members of the Committee for the opportunity to submit testimony on SB 256, legislation establishing an additional fee to on commercial pesticide applicator applications in order to fund a Kansas State University Pesticide Safety and Education Program. My name is Ron Seeber, I am the Vice President of the Government Affairs for the Kansas Agribusiness Retailers Association (KARA). KARA is a voluntary state association made up of over 700 business locations across the state. Our members are primarily ag retail facilities but they include agronomy services, chemical, fertilizer and seed sales and manufacturing companies, and equipment manufacturing, distribution and sales companies.

On behalf of the members of KARA, I stand in strong opposition to SB 256 because of the various concerns and unanswered questions that we have about this program.

When we met last summer with KSU and KDA, we were told that KSU could get through the year without a fee increase. However, at the meeting with KSU in January, the need had dramatically increased. I understand that some federal money may be in jeopardy, but last we were updated, this issue has not been resolved yet and that KSU may still receive this grant money. In reviewing this program, we think it is important to review how the money is administered and if there are other sources of information or how important the need when there are duplicate programs in place.

KARA also would like to point out that this bill singles out commercial pesticide applicators as the sole source of funding for the program, yet allows private applicator a free ride. Our membership would be more open to yet another fee IF the bill was amended to include a fee also on private pesticide applicators. This program is to provide training materials for applicators, therefore, they should be required to assist in the payments for the costs of a program that they will benefit from instead of allowing them to enjoy this program free of charge.

We also wonder if the statute should be changed so that other entities could provide the publication services. In these changing times, it may be more prudent to allow other qualified entities to provide this service.

We appreciate KSU and KDA's willingness to keep stakeholders involved and receive feedback with regard to regulatory changes we believe this program needs more discussion. Another option would be to wait a year until we have time to look other options before mandating another fee on the industry.

Again, we feel that such a program should be funded by all parties who participate within the program, not just the politically expedient low hanging fruit. We also think that it is time for a thorough review of this program, how it is funded, how the money is used and who might be best situated to provide these services.

Thank you for allowing my testimony, I would gladly stand for questions.



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Senate Agriculture Committee

February 18, 2009
Topeka, Kansas

SB 256 - pesticide safety and education fund.

Chairman Taddiken and members of the Senate Agriculture Committee, thank you for the opportunity to comment on SB 256. I am Leslie Kaufman and I serve the Kansas Cooperative Council as Executive Director. The Kansas Cooperative Council (KCC) represents all forms of cooperative businesses across the state -- agricultural, utility, credit, financial and consumer cooperatives. Approximately half of our members are grain elevator/farm supply cooperatives. Many of these farm supply cooperatives engage agricultural chemical sales and application. These member-owned businesses will be impacted by the fee proposal before you in SB 256.

The Kansas Cooperative Council cannot support a fee structure for the pesticide safety and education fund which implements a new charge solely on "commercial applicators" and not on "private applicators", as well. The KCC has long-standing policy supporting regulation of agricultural chemicals based on sound science and under programs that focus on the product not the purchaser/applicator. Given the changes in the modern farming environment, the significant distinctions in training for a commercial applicator's certificate versus the requirements for a certified private applicator certificate are, in our opinion, not as easily defensible as they once may have been. Particularly when you consider that private applicators may apply product to another's land under a bartering exchange.

Private applicators may be certified based on training materials and a test available through their local extension office. The tie between private applicator training and extension is statutorily designed. To us, this illustrates why bringing private applicators under the proposed fee structure of SB 256 is the more equitable approach.

We also question the timing of this bill. It is our understanding from information presented to stakeholders before session, that there is enough money to fund extension training measures through this year and that grant monies may be available. We certainly believe that all non-fee solutions should be examined before we add a new "user tax" on the backs of agriculture.

Our association encourages equitable treatment in training requirements, including any education fees. As such, we respectfully request the committee not advance this measure at this time. Thank you.

*Senate Agriculture Committee
2-18-09
Attachment 5*



The Honorable Mark Taddiken
Chairman, Agriculture Committee

The Mid-America Green Industry Council supports pesticide certification, education and training. We also value our relationship with Kansas State University and the extension services offered to our industry. Our members and the association support the University and the services they provide to our industry in any way we can.

However, we are opposed to Senate Bill #256.

We represent more than 100 small businesses in the Kansas. We feel that the burden should be funded by the State or at the very least be a shared responsibility, and not just the responsibility of the commercial applicator. The fee should be shared by all participants in the Kansas Pesticide Certification program, private and commercial applicators. It is just not the commercial applicators sole responsibility to support the State's extension services for the pesticide safety and education fund. It is the responsibility of many more.

Small business, and especially the sector of small business that we represent, has had an awful lot asked of them in recent years. There have been added responsibilities placed on our small businesses that did not exist in the past (i.e. immigration, DOT requirements, certification requirements, etc.). Many of them are 'principal' issues such as this one. When is 'enough' actually 'enough'? I think our statement here answers that very question.

We ask that you please question this bill and ask yourselves where the responsibility lies. If you read into it, you will find that if the responsibility is most definitely not only the commercial applicators' responsibility.

Thank you for your consideration.

Sincerely,
Mid-America Green Industry Association
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