

MINUTES OF THE SENATE AGRICULTURE COMMITTEE

The meeting was called to order by Chairman Mark Taddiken at 8:30 a.m. on March 8, 2011, in Room 159-S of the Capitol.

All members were present except:

Garrett Love – excused  
Steve Morris - excused

Committee staff present:

Tamera Lawrence, Office of the Revisor of Statutes  
Jason Thompson, Office of the Revisor of Statutes  
Heather O'Hara, Kansas Legislative Research Department  
Judy Seitz, Committee Assistant

Conferees appearing before the Committee:

Woody Moses, Managing Director, Kansas Aggregate Producers Association (KAPA)  
Chris Wilson, Deputy Secretary, Kansas Department of Agriculture (KDA)  
Ron Hein, Kansas Restaurant and Hospitality Association (KRHA)

Others attending:

See attached list.

Chairman Taddiken opened the hearing on **HB 2205--Continuing the use of weights and measures standards.**

Tamera Lawrence, Office of the Revisor of Statutes, reviewed **HB 2205** stating that this bill would remove the sunset date of June 30, 2011 on the exception to standards and requirements for mechanical vehicle scales.

Ms. Lawrence offered to take questions.

Woody Moses, Managing Director, Kansas Aggregate Producers Association, appeared in support of **HB 2205 (Attachment 1)**. He said that during the 2001 legislative session an amendment was passed to K.S.A. 82-202 granting a limited tolerance variance for aggregate scales from the tolerance requirements mandated by the National Institute of Standards and Technology (NIST). The current variance was authorized with a sunset by the 2001 Legislature and renewed by the 2005 Legislature with a June 30, 2011 sunset date.

Mr. Moses took questions from the Committee.

The hearing on **HB 2205** was closed.

Chairman Taddiken opened the hearing on **HB 2282--Lodging inspections and food safety fees.**

Ms. Lawrence reviewed **HB 2282**. She said this bill would amend the Food Service and Lodging Act of the Kansas Department of Agriculture (KDA). This bill would consolidate the Food Service Inspection Reimbursement Fund and the Food Inspection Fee Fund into the Food Safety Fee Fund. **HB 2282** also addresses the inspections of lodging establishments.

Ms. Lawrence offered to take questions.

Chris Wilson, Deputy Secretary, Kansas Department of Agriculture (KDA), testified in support of **HB 2282 (Attachment 2)**. She said the fee increases proposed would generate about \$75,000 which would allow the KDA's Food Safety and Lodging program to inspect all newly licensed facilities and investigate complaints involving lodging establishments.

Ms. Wilson stood for questions.

Erick Wisner, Food Safety Policy Director, KDA, answered questions from the Committee.

## CONTINUATION SHEET

Minutes of the Senate Agriculture Committee at 8:30 a.m. on March 8, 2011, in Room 159-S of the Capitol.

Ron Hein, Kansas Restaurant and Hospitality Association (KRHA), presented neutral testimony on **HB 2282**. (Attachment 3). He said the KRHA supports the regulation of lodging facilities by the KDA and understands the fees to provide this legislation will need to come from their industry. Mr. Hein stated that the KRHA has traditionally not supported fee increases, but have no objection to this proposed legislation and the included fee adjustments.

Mr. Hein took questions from the Committee.

Chairman Taddiken closed the hearing on **HB 2282**.

Chairman Taddiken noted that the Committee had received a map showing the Kansas population growth and loss by county provided by the Kansas Department of Agriculture (Attachment 4.) This information had been requested by a committee member in a prior meeting.

Senator Teichman made a motion to approve the minutes of the February 22 Committee meeting. Motion was seconded by Senator Abrams. Motion carried.

The next meeting is scheduled for March 9, 2011.

The meeting was adjourned at 9:13 a.m.

DATE: March 8, 2011

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[illegible]

## KANSAS AGGREGATE PRODUCERS ASSOCIATION

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Edward R. Moses, Managing Director

### TESTIMONY

**Date:** March 8, 2011

**Before:** The Senate Committee on Agriculture

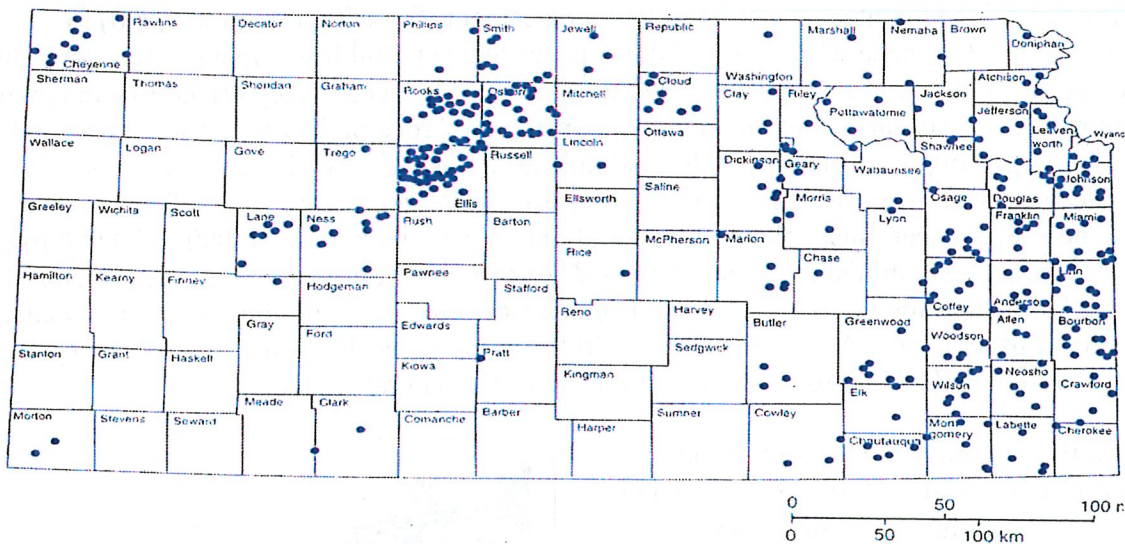
**By:** Woody Moses, Managing Director  
Kansas Aggregate Producers Association

**Regarding:** HB 2205 – An act concerning standards and requirements of commercial weighing and measuring devices.

Good Morning Mr. Chairman and Members of the Committee:

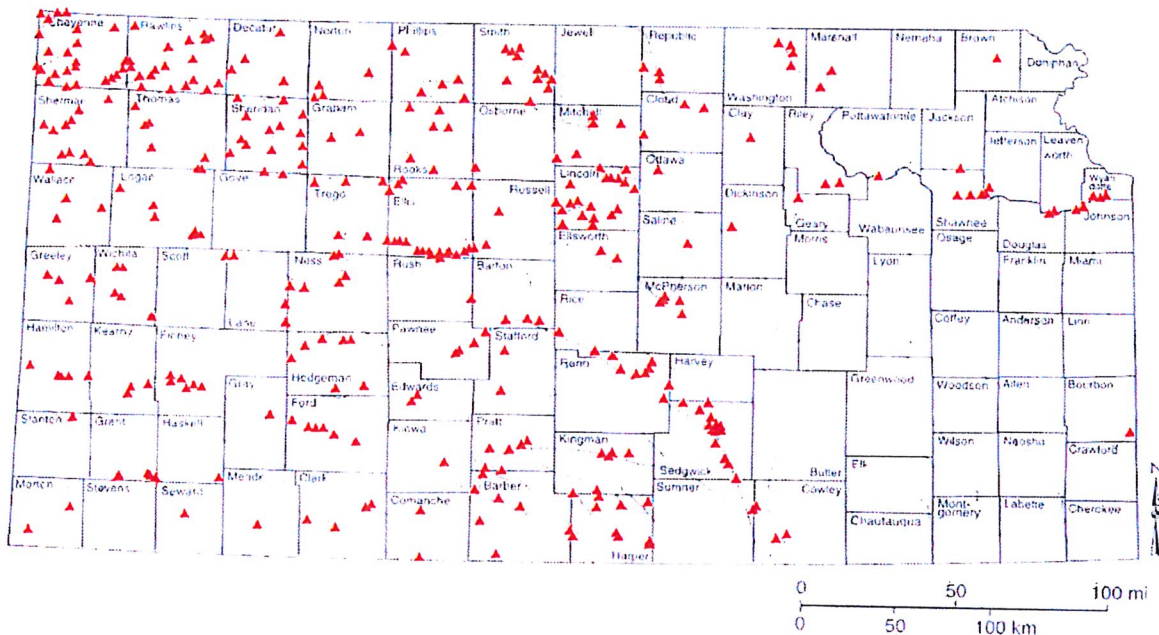
My name is Woody Moses, Managing Director of the Kansas Aggregate Producers Association. The Kansas Aggregate Producers Association (KAPA) is an industry wide trade association comprised of over 170 members located or conducting operations in all 165 legislative districts in this state, providing basic building materials to all Kansans. I appreciate the opportunity to appear before you today in support of HB 2205.

Unlike Missouri and many eastern states blessed with abundant sources of limestone in formations with thick ledges, the Kansas mining industry is forced to mine from several small widely scattered quarries and pits in order to service our clients (primarily local units of government).



CRUSHED STONE QUARRIES IN KANSAS

*Senate Agriculture Committee  
3-8-11  
Attachment 1*



#### SAND AND GRAVEL OPERATIONS IN KANSAS

In order to serve this market the common practice is to locate a portable crusher at the site and then produce and stockpile 2-3 years worth of material in 2-3 months. Over the course 2-3 years our clients then purchase this inventory and it is weighed by a set of scales permanently left at the site.

Most of the scales sited at these locations, while adequate to the task of weighing rock in 100 lbs. increments, are usually unable to meet modern testing and tolerances (implemented in the late 90's) which require accuracy to within  $\pm 20$  lbs for annual certification or  $\pm 10$  lbs for acceptance. The costs of sustained maintenance or complete replacement (from \$25,000 to \$50,000) to achieve a  $\pm 10$  lbs. tolerance when only  $\pm 50$  lbs. is needed, is prohibitive. In a small quarry, this could add up to \$2.50 per ton (\$25,000/10,000 tons) to a product commonly priced in a range of \$3-4 per ton. Such a scenario could increase a township road rock budget by 50%. Simply put, the high fixed operating costs and low sales and unit values associated with these operations make it uneconomical to continue operations. This is especially true in the case of older pits or quarries where a producer must balance the cost of extracting a remaining 10,000 to 20,000 tons of reserves against the diminishing return provided. At some point the operation must be closed forcing local units to transport road materials from consolidated high volume operations usually located much further away. Any measure that will lower the costs allows the operator and the public served to reap the benefits of full development of the natural resource.

To address this situation, we requested and received during the 2001 session an amendment to K.S.A. 82-202 granting a limited tolerance variance for aggregate scales from the tolerance requirements mandated by the National Institute



of Standards and Technology (NIST) Handbook 44 which the state of Kansas adopts by reference. Please note this variance only concerns the national standard up to 50,000 lbs., after 50,000 lbs., where most transactions occur, we are in full compliance with NIST Handbook 44. For example, transactions weighed in standard double axle dump still meet the standard.

The current variance was initially authorized with a sunset by the 2001 Legislature and renewed by the 2005 Legislature with a June 30, 2011 sunset. The bill before you today, HB2205, would simply make this variance permanent. Adoption of HB 2205 will provide many benefits to all Kansans, among them:

1. Adoption of HB 2205 will allow Kansas aggregate producers to continue serving small markets at a fair and reasonable price by extending the life of quarries and pits equipped with older scales.
2. Adoption of HB 2205 will prevent undue and unnecessary price or cost increases to local units of government.
3. Adoption of HB 2205 will allow the Kansas Division of Weights & Measure to allocate their limited resources to higher priority areas. For example, the division itself enjoys a variance in the testing fuel pumps.
4. Adoption of HB 2205 will not allow a total exemption for aggregate scales. Aggregate scales will continue to be regulated in all other aspects and to be fully regulated above 50,000 lbs.
5. Adoption of HB 2205 will not create a great disparity in uniformity with NIST standards, which, as evidenced by the attached table, is not all that uniform to begin with.

In 2001 the Kansas Legislature acted wisely by adopting a policy to address local needs as opposed to national conformance. The result has been beneficial to Kansas consumers and has not resulted in any unintended consequences during the last ten years it has been in effect. We urge this committee to continue this policy by recommending HB 2205 favorable for passage. Thank you for the opportunity to come before you with our comments on HB 2205.

I will be happy to respond to any questions you may have.



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## DISTANCE MATTERS

CalCIMA created DistanceMatters.org in support of reducing carbon emissions by thinking globally and acting locally.

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California's infrastructure projects have a carbon footprint. Construction materials that build California's roads, mass transit, single family homes and high-density smart growth--all depend on large quantities of construction aggregates (sand and gravel) transported to job sites by heavy-duty trucks. Reducing the distances these trucks travel is a key strategy in reducing greenhouse gases and reducing the state's carbon footprint.

➤ [Learn more](#)

fact

A single mile of a single lane of road construction requires **20,000 tons of aggregate**. That's 40,000,000 pounds of sand and gravel!

The aggregate is delivered to road construction projects in trucks carrying 25 tons. A single mile of a single lane requires 850 truckloads and twice that number of trips, 1700 trips. CalTrans estimates that these trucks burn .153 gallons of diesel per mile (getting only 6-7 miles per gallon).

➤ [See more carbon emissions facts](#)

source ▼

CalCIMA stands for California Construction and Industrial Materials Association. We are California's statewide trade association for aggregate, ready mixed concrete, and industrial mineral producers. In all, there are over 100 producer member companies that include over 500 production sites in California. Our members also include over 60 supplier and service providers to the industry. ➤ [Learn more](#)

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### What You Can Do

#### What is a TON of Carbon?

A ton of carbon is released each time you:

- Travel 5,000 miles in an airplane
- Drive 2,500 miles in a medium-sized car
- Cut down and burn a tree that was about one foot in diameter and 40 feet tall



**Testimony on House Bill 2282  
to  
the Senate Agriculture Committee**

**by Chris Wilson  
Deputy Secretary  
Kansas Department of Agriculture**

**March 8, 2011**

Good morning, Chairman Taddiken, and members of the committee. I am Chris Wilson, Deputy Secretary of the Kansas Department of Agriculture, and I am here in support of House Bill 2282.

HB 2282 amends several statutes to provide a fee funded lodging inspection program. Prior to 2010 the lodging program was funded through an appropriation from the state general fund. The annual cost of operating the program at that time was about \$245,000. Unfortunately, to meet our November 2009 allotment, we were forced to temporarily suspend the program beginning January 2010. Although lodging facilities did pay fees they were only about \$50,000 and this is not sufficient to operate even a bare bones program.

Fees to fund this program will come from an increase to the lodging establishment license and application fees. The base license fee of \$30 for 1-9 rooms remains the same while the fee for each additional 10 rooms is increased from \$5 to \$10 with a maximum fee of \$300. For instance, a facility that has 49 rooms would see an increase in their annual license fee from \$45 to \$60. Over half the facilities in the state would see their fee increase by less than \$15. The maximum fee for a new license application is increased from \$100 to \$200, and the fee for a duplicate license is increased from \$3 to \$5.

These increases should generate about \$75,000, which would allow our Food Safety and Lodging program to inspect all newly licensed lodging facilities as required by KSA 36-502. In addition, the bill proposes amendments to K.S.A. 36-518, which requires our department to investigate complaints involving lodging establishments and this funding will cover those inspections along with resulting follow-up inspections if violations are found. Although, the funding will not allow us to do routine inspections as we had done prior to 2010, it will allow us to inspect all new licenses and respond to consumer complaints at licensed lodging facilities. We plan to hire one additional inspector who, along with existing inspectors, will be cross-trained to perform both food safety and lodging inspections. This will increase program efficiency, help reduce travel time and allow for the maximum number of facilities to be inspected.

*Senate Agriculture Committee  
3-8-11  
Attachment 2*

This bill also places into substantive law a budget proviso passed during the 2010 legislative session creating the lodging inspection fee fund. This would continue to ensure all money received from lodging license fees goes into that fund as opposed to the state general fund.

The bill also deletes a statute that directs to the state general fund all fees received pursuant to the food service and lodging act, and this provides an opportunity to simplify how fees are pooled to fund food safety inspections. The deleted statute required some food service fees to go into a food inspection reimbursement fee fund. Provisions of this bill will allow those fees to now go into the food safety fee fund. This bill also allows fees now going into the food inspection fee fund to also go into the food safety fee fund. This creates a single pool for all food safety fees from which to operate food safety functions. The food safety fee fund currently is authorized by a budget proviso that was part of KDHE's budget when we took over the program. We believe this should be in substantive law, and the bill clarifies this intent.

It is important that a state-operated lodging inspection program exist because it instills confidence in Kansas residents and visitors that our hotels are being inspected and are operating under the required sanitation standards. We worked with industry and feel these changes will maintain these standards. We support HB 2282 because it will provide for a program that meets the needs of the lodging industry, tourism and consumers, and it will do it for a lower cost than the program we suspended.

I will stand for questions at the appropriate time.

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## **Testimony Re: HB 2282**

### **Senate Agriculture Committee**

#### **Presented by Ron Hein**

#### **on behalf of**

### **Kansas Restaurant and Hospitality Association**

**March 8, 2011**

Mister Chairman, Members of the Committee:

My name is Ron Hein, and I represent the Kansas Restaurant and Hospitality Association (KRHA). The Kansas Restaurant and Hospitality Association, founded in 1929, is the leading business association for restaurants, hotels, motels, country clubs, private clubs and allied business in Kansas. Along with the Kansas Restaurant and Hospitality Association Education Foundation, the association works to represent, educate and promote the rapidly growing industry of hospitality in Kansas.

KRHA is neutral on HB 2282. Our industry is cognizant of the budget issues facing the state, and is also cognizant of the poor economy facing our industry. Our industry supports the regulation of lodging facilities by the Department of Agriculture, and understands that the fees to provide such regulation will inherently need to come from our industry.

This bill would provide for an increase in licensure fees for lodging facilities, but would also avoid what might have been an even larger increase in such fees, at a time when the lodging industry can least afford additional costs, governmental or otherwise. The fees generated by this bill will permit the KDA to conduct initial licensure inspections for new lodging facilities, and would also permit the KDA to inspect lodging facilities on a complaint driven basis. The KRHA supports this level of inspection by the KDA.

The previous administration threatened withholding all lodging regulation due to budget challenges, and our industry opposed such an approach by the agency because Missouri, and other surrounding states, were unfairly benefitting from that situation by suggesting that Kansas lodging facilities were not to be inspected, thus giving themselves a competitive advantage with regards to consumer for lodging facilities. This regulatory approach that KDA is proposing will insure that Kansas lodging facilities are not put to such a competitive disadvantage.

Traditionally, the KRHA has not supported fee increases on our industry, yet we wish to express that we have no objections to this proposed legislation, and the included fee adjustments, and prefer this option to no state lodging inspection. We appreciate the willingness of the KDA and their representatives to work with the lodging industry, and the KRHA, at arriving at this particular approach to this important issue.

Thank you very much for permitting me to testify, and I will be happy to yield to questions.

*Senate Agriculture Committee*  
*3-8*

*Attachment 3*

Senate Agriculture Committee  
3-8-11  
Attachment 4

