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To: House Committee on Agriculture  
Rep. Kyle Hoffman, Chair

From: Tucker A. Stewart, Associate Counsel, Kansas Livestock Association

Re: **HB 2135 concerning agriculture; relating to fees for milk, cream and dairy businesses;**

Date: February 6, 2017

*The Kansas Livestock Association (KLA), formed in 1894, is a trade association representing nearly 5,200 members on legislative and regulatory issues. KLA members are involved in many aspects of the livestock industry, including seed stock, cow-calf and stocker cattle production; cattle feeding; dairy production; swine production; grazing land management; and diversified farming operations.*

The Kansas Livestock Association (KLA) opposes HB 2135 but would be supportive if the committee adopts two amendments that KLA proposes. HB 2135 extends the sunset for Dairy Inspection Program fees and gives the Secretary of Agriculture authority to lower the fees by order.

The first amendment KLA proposes is to reduce the sunset from 2028 to 2023. In the past, this sunset has been every five years and KLA suggests leaving it at five years. KLA believes ten years is excessively long and legislative oversight should occur more frequently. Also, with new manufacturing entering the state, a five year sunset gives the legislature an opportunity to lower the fee cap as new fee money is generated.

The second amendment is to strike an exemption for manufacturing plants that are located on a dairy. In Kansas, it is common for dairies to have ownership in manufacturing plants whether or not the plants are located physically on a dairy. The new Dairy Farmers of America plant, being built in Garden City, will be owned by the same dairies that will supply the plant with milk. However, the milk that will supply the plant will be charged a producer fee on the farm and a second fee (manufacturing fee) at the plant because the plant is not physically on a dairy. On the other hand, if a plant is located on a dairy only a producer fee is charged. KLA believes it necessary for the legislature to address this inequity by removing the manufacturing exemption. This would also likely bring in more program dollars that could be used to lower the fee burden on all dairies.

KLA also understands that it may be important to the Kansas Department of Agriculture to offer an incentive to smaller dairies to invest in value-added processes like pasteurizing and selling their own milk. With that in mind, KLA is supportive of keeping an exemption for manufacturing plants if that plant is located on a dairy and only processing less than 6,000,000 pounds of milk in a year. A 200 cow dairy would produce roughly 6,000,000 pounds of milk per year. This would allow companies like Hildebrand Farms Dairy to continue their niche market and supply retailers with pasteurized milk without losing their current exemption.

KLA respectfully requests the committee to pass HB 2135 with the aforementioned amendments also attached.

## HOUSE BILL No. 2135

By Committee on Agriculture

1-23

1 AN ACT concerning agriculture; relating to fees for milk, cream and dairy  
2 businesses; authorizing the Kansas secretary of agriculture to collect a  
3 fee for processing paper documents; amending K.S.A. 74-576 and  
4 K.S.A. 2016 Supp. 65-778 and 65-781 and repealing the existing  
5 sections.  
6

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

8 Section 1. K.S.A. 2016 Supp. 65-778 is hereby amended to read as  
9 follows: 65-778. (a) Any person who engages in business as a dairy  
10 manufacturing plant shall first apply for and obtain a dairy manufacturing  
11 plant license from the secretary and shall pay a license fee of \$120, or  
12 commencing July 1, 2002, and ending June 30, ~~2018~~ 2023, a license fee of  
13 \$200.

14 (b) Any person who engages in business as a distributor of milk, milk  
15 products or dairy products shall first apply for and obtain a milk distributor  
16 license from the secretary and shall pay a license fee of \$120, or  
17 commencing July 1, 2002, and ending June 30, ~~2018~~ 2023, a license fee of  
18 \$200. No milk distributor license shall be required for a licensed dairy  
19 manufacturing plant which distributes only those products which it  
20 manufactures.

21 (c) Any person who engages in business as a milk hauler shall first  
22 apply for and obtain a milk hauler license from the secretary and shall pay  
23 a license fee of \$25 or commencing July 1, 2002, and ending June 30,  
24 ~~2018~~ 2023, a license fee of \$35. As part of the application, the secretary  
25 may require the applicant to be tested regarding proper procedures for  
26 sampling, testing and weighing milk or cream and state laws and rules and  
27 regulations.

28 (d) Any person who operates a milk or cream transfer station or milk  
29 or cream receiving station shall first apply for and obtain a milk or cream  
30 station license from the secretary and shall pay a license fee of \$50, or  
31 commencing July 1, 2002, and ending June 30, ~~2018~~ 2023, a license fee of  
32 \$100.

33 (e) Any person who engages in business as a manufacturer of single  
34 service dairy containers or manufacturer of single service dairy container  
35 closures shall first apply for and obtain a single service manufacturing  
36 license from the secretary and shall pay a license fee of \$50, or

1 commencing July 1, 2002, and ending June 30, ~~2018~~ 2023, a license fee of  
2 \$100.

3 (f) Any person who operates a milk tank truck cleaning facility shall  
4 first apply for and obtain a milk tank truck cleaning facility license from  
5 the secretary and shall pay a license fee of \$100.

6 (g) Any license issued under this section shall be renewed annually.

7 (h) The dairy manufacturing plant license, milk distributor license,  
8 milk tank truck cleaning facility license, milk or cream station license and  
9 single service manufacturing license shall expire on December 31 of the  
10 year for which it was issued unless suspended or revoked by the secretary  
11 pursuant to this act. The milk hauler license shall expire on June 30  
12 following the date of issuance unless suspended or revoked by the  
13 secretary pursuant to this act.

14 (i) No license issued under this section shall be transferable. No  
15 license shall be renewed if any assessments or fees required under this act  
16 are delinquent.

17 (j) Each applicant for a license or for the renewal of such license shall  
18 submit an application on a form supplied by the secretary accompanied by  
19 the license fee. All licenses shall be conspicuously displayed in the  
20 applicant's place of business.

21 (k) ~~The secretary is authorized and directed to may, by order,~~ reduce  
22 any license fee in subsections (a) through (f) whenever the secretary  
23 determines that such fee is yielding more than is necessary for  
24 administering the provisions of this act. *In the event that the secretary,*  
25 *after reducing such fee, finds that sufficient revenues are not being*  
26 *produced by such reduced fee,* the secretary ~~is authorized to may, by order,~~  
27 increase any license fee in subsections (a) through (f), when such license  
28 fee is necessary to produce sufficient revenues for administering the  
29 provisions of this act. License fees in subsections (a) through (f) shall not  
30 be increased in excess of the amounts provided in this section.

31 Sec. 2. K.S.A. 2016 Supp. 65-781 is hereby amended to read as  
32 follows: 65-781. The following fees for the statewide system of milk  
33 inspection and regulatory services are hereby established:

34 (a) A fee of \$.01, or commencing July 1, 2002, and ending June 30,  
35 ~~2018~~ 2023, a fee of \$.015 for each 100 pounds of milk produced by milk  
36 producers under Kansas grade A inspection shall be paid. Each producer is  
37 hereby charged with such fee which shall be paid to the milk producers'  
38 cooperative, milk processor or milk distributor to whom the milk is sold or  
39 delivered. Each cooperative, processor or distributor is hereby charged  
40 with the duty of collecting such fees which shall be remitted to the  
41 secretary.

42 (b) A fee of \$.01, or commencing July 1, 2002, and ending June 30,  
43 ~~2018~~ 2023, a fee of \$.02 for each 100 pounds of packaged grade A

This fee shall not be paid if the milk is processed or manufactured at the dairy where such milk is produced and less than 6,000,000 pounds of milk is processed annually.

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1 pasteurized milk or milk products sold in Kansas at retail to the final  
2 consumer shall be paid. Each distributor is hereby charged with such fee  
3 which shall be remitted to the secretary.

4 (c) A fee of \$.01, or commencing July 1, 2002, and ending June 30,  
5 2018 **2023**, a fee of \$.02 per 100 pounds or fraction thereof of grade A raw  
6 milk for pasteurization delivered to a milk processor within the state of  
7 Kansas which is processed into grade A milk or grade A milk products  
8 shall be paid. Each milk processor is hereby charged with such fee which  
9 shall be remitted to the secretary. ~~This fee shall not be paid if the milk is~~  
10 ~~processed or manufactured at the dairy where such milk is produced.~~

11 (d) A milk fee of \$.01, or commencing July 1, 2002, and ending June  
12 30, 2018 **2023**, a fee of \$.015 per 100 pounds of milk or cream for  
13 manufacturing purposes produced by milk producers under Kansas  
14 manufacturing grade milk inspection shall be paid. Each producer is  
15 hereby charged with such fee which shall be paid to the milk producers'  
16 cooperative, dairy manufacturing plant or any other person to whom the  
17 milk or cream for manufacturing purposes is sold or delivered. Each  
18 cooperative, dairy manufacturing plant or other person is hereby charged  
19 with the duty of collecting such fees which shall be remitted to the  
20 secretary.

21 (e) A fee of \$.0075, or commencing July 1, 2002, and ending June 30,  
22 2018 **2023**, a fee of \$.02 per 100 pounds of Kansas produced milk or  
23 cream for manufacturing purposes or other Kansas produced milk  
24 delivered to a dairy manufacturing plant shall be paid on all Kansas milk  
25 used in the manufacturing of dairy products. As used in this subsection,  
26 the term dairy products shall not include any frozen dairy dessert or frozen  
27 dairy dessert mix. Each dairy manufacturing plant shall pay such fee  
28 which shall be remitted to the secretary. ~~This fee shall not be paid if the~~  
29 ~~milk is processed or manufactured at the dairy where such milk is~~  
30 ~~produced.~~

31 (f) In lieu of the fee prescribed in subsection (e), a fee of \$1, or  
32 commencing July 1, 2002, and ending June 30, 2018 **2023**, a fee of \$2 per  
33 thousand gallons of frozen dairy dessert or frozen dairy dessert mix shall  
34 be paid by the manufacturer thereof. Each manufacturer of frozen dairy  
35 dessert or frozen dairy dessert mix is hereby charged with such fee which  
36 shall be remitted to the secretary. Frozen dairy dessert mix which is further  
37 processed into the corresponding frozen dairy dessert by the manufacturer  
38 of the frozen dairy dessert mix shall not be subject to the fee required by  
39 this subsection.

40 (g) A fee of \$1, or commencing July 1, 2002, and ending June 30,  
41 2018 **2023**, a fee of \$2 per thousand gallons of frozen dairy dessert or  
42 frozen dairy dessert mix imported for retail sale in Kansas shall be paid by  
43 the milk distributor who imports these products.

This fee shall not be paid if the milk is processed or manufactured at the dairy where such milk is produced and less than 6,000,000 pounds of milk is processed annually.

1 (h) A fee of \$50 for the annual inspection of a milk tank truck as  
2 required by this act. The milk transportation company that owns or leases  
3 the milk tank truck shall pay such fee which shall be remitted to the  
4 secretary.

5 (i) If any fee computed pursuant to subsection (a) through (e) is less  
6 than \$2.50, then the sum of \$2.50 shall be paid in lieu of the computed fee.  
7 If any fee computed pursuant to subsection (f) or (g) is less than \$7.50, a  
8 minimum fee of \$7.50 shall be paid in lieu of the computed fee.

9 (j) All fees established herein shall be paid to the secretary in the  
10 following manner:

11 (1) The fees established in subsections (a) and (c) through (e) shall be  
12 remitted on or before the 30<sup>th</sup> day of each month for the calendar month  
13 immediately preceding and shall be accompanied by a report, in the form  
14 prescribed by the secretary, indicating the quantities upon which the  
15 remittance is based.

16 (2) The fees established in subsections (b), (f) and (g) shall be  
17 remitted on April 30, July 31, October 31 and January 31 for the three  
18 calendar months immediately preceding and shall be accompanied by a  
19 report, in the form prescribed by the secretary, indicating the quantities  
20 upon which the remittance is based.

21 (3) The fee established in subsection (h) shall be remitted within 60  
22 days from the date of inspection.

23 (k) Any person who fails to remit all or any part of the required fee or  
24 to submit the required report by the date due may be assessed an additional  
25 charge equal to 1% of the amount of delinquent fees for each day after the  
26 date due, or \$5, whichever amount is greater.

27 (l) ~~The secretary is hereby authorized and directed to~~ *may, by order,*  
28 reduce any inspection fee in subsections (a) through (h) whenever the  
29 secretary determines that such fee is yielding more than is necessary for  
30 administering the provisions of this act. *In the event the secretary, after*  
31 *reducing such fee, finds that sufficient revenues are not being produced by*  
32 *such reduced fee, the secretary is authorized to *may, by order,* increase any  
33 inspection fee in subsections (a) through (h) when such inspection fee is  
34 necessary to produce sufficient revenues for administering the provisions  
35 of this act. License fees in subsections (a) through (h) shall not be  
36 increased in excess of the amounts provided in this section.*

37 Sec. 3. K.S.A. 74-576 is hereby amended to read as follows: 74-576.  
38 In addition to the specific powers and duties conferred upon the secretary  
39 of agriculture by the laws of this state, the secretary is hereby authorized  
40 to:

41 (a) Make and enter into contracts and agreements necessary or  
42 incidental to the execution of the laws relating to the department of  
43 agriculture; ~~and~~

1       (b) *charge and collect, by order, a fee necessary for the*  
2 *administration and processing of paper documents, including*  
3 *applications, registrations, permits, licenses, certifications, renewals,*  
4 *reports and remittance of fees which are necessary or incidental to the*  
5 *execution of the laws relating to the department of agriculture. Such fee*  
6 *shall be in addition to any fee the secretary is authorized to charge by law*  
7 *and shall not exceed \$50; and*

8       (c) foster and promote the development and economic welfare of the  
9 agricultural industry of the state.

10       Sec. 4. K.S.A. 74-576 and K.S.A. 2016 Supp. 65-778 and 65-781 are  
11 hereby repealed.

12       Sec. 5. This act shall take effect and be in force from and after its  
13 publication in the statute book.