

Jackie McClaskey, Secretary

Governor Sam Brownback

**Testimony in Support of SB 60 to
the House Committee on Agriculture
by Chad Bontrager, Deputy Secretary
Kansas Department of Agriculture
March 8, 2017**

Good afternoon, Chairman Hoffman and members of the committee. I am Chad Bontrager, Deputy Secretary for the Kansas Department of Agriculture (KDA), and I appreciate the opportunity to provide testimony in support of SB 60. SB 60 is the senate version of HB 2134 on which I testified before this committee during the hearing on February 6, 2017.

Pesticide and Fertilizer Fees

- Fees charged by the pesticide and fertilizer program authorized in K.S.A. 2-3304-3306, 2-1205 and 2-2440 will sunset to lower levels on July 1, 2018. SB 60 proposes to retain the current fees and extend the sunset to 2025. These fees represent approximately \$390,000 in revenue for the pesticide and fertilizer program, roughly 16 percent of the program's budget.
- SB 60 also gives KDA the ability to pay the transaction fees associated with online payments prior to distributing the licensing fees to the various funds. In regard to this point, we have an amendment we would recommend for SB 60 based on continued stakeholder feedback. In regard to the Kansas Agriculture Remediation Board, we would like to bill the board for the online fees post-distribution rather than paying the fees up front. KDA customers have been very clear in their expectations regarding online renewal and their ability to pay for licenses and registrations with credit cards, and we are eager to deliver this capability.
- Senate changes:
 - Page 2, lines 27–31, changes the proposed move to percentages that would accommodate KDA's ability to pay transaction fees prior to distributing the money collected from fertilizer tonnage fees to set amounts. The adjusted amounts provide the ability to pay the transaction fees and we are comfortable with this change.
 - Page 4, lines 7–26, removes the proposed move to percentages that would accommodate KDA's ability to pay transaction fees prior to distributing money collected from agriculture chemical registration. The senate change strikes the introduced amendment holding the process constant with how it exists today and limits our ability to offer electronic registration. Attached to my testimony is suggested language for an amendment that would re-insert the proposed changes.

- Page 12, lines 13–17, appears to remove KDA’s ability to collect a fee. However, the fee is still referenced and is still needed. Discussion in the senate committee hearing and working of the bill didn’t seem to indicate a desire for us to stop collecting. We defer to the revisor but have suggested language to clarify our ability to collect the fee attached to this testimony.
- Page 14, line 17, through page 16, line 33, adopts KDA’s proposed amendment offered in cooperation with the Kansas Agriculture Remediation Board and Kansas Agribusiness Retailers Association that increases the ability of the board to pay administrative fees thus allowing KDA to bill KARB for online transaction fees and be reimbursed for the cost of collection. We appreciate the senate’s adoption of this amendment.

Division of Water Resources Fees

- Fees charged by the Division of Water Resources authorized in K.S.A. 82a-708a, 708b, 708c, and 714 will sunset to lower levels on July 1, 2018. SB 60 proposes to retain the current fees and extend the sunset to 2025. These fees represent approximately \$917,000 in revenue for the Division of Water Resources, roughly 23 percent of the division’s budget.
- There were no senate changes to this portion of the bill.

Dam Safety Inspection Fees

- K.S.A. 82a-303b(a)(3) requires all hazard class B (Significant Hazard) dams have a safety inspection conducted by a professional engineer once every five years. K.S.A. 82a-303b(a)(2) requires all hazard class C (High Hazard) dams have a safety inspection conducted by a professional engineer once every three years.
- K.S.A. 82a-303b(a)(5) requires that if a dam owner fails to comply with the timing requirements, the safety inspection shall be completed by the chief engineer or his authorized representative with the cost being paid by the owner. K.S.A. 82a-303b(a)(1) sets the inspection fees for size 3 and 4 dams.
- In 2013, the Stream Obstruction Act was amended to reduce the number of dams required to obtain permits for construction. During this amendment, the inspection fees for size 1 and 2 dams were removed.
- Without the ability to recover the department’s costs for delinquent safety inspections on size 1 and 2 Significant and High Hazard dams, these inspections have not been conducted by KDA since 2013.
- Safety inspections include assessments of the condition of the dam, analysis of the hydrology and hydraulics, identification of any deficiencies that threaten the structural integrity of the dam, and review of the current Emergency Action Plan. Failure to conduct safety inspections could potentially put Kansas citizens and their property at risk.
- There are currently 91 size 1 and 2 Significant and High Hazard dams in the state, 18 of which are delinquent in conducting a safety inspection. This delinquent inspection list has grown by three to five additional dams each year, and that number will likely continue to grow if the fee schedule is not restored.

- SB 60 seeks to restore the fee schedule for safety inspections of size 1 and 2 dams previously defined in statute at \$1500 and would allow the department to complete the inspections of the 18 delinquent inspections, as well as any future delinquent inspections.
- Following is a comparison of the \$1500 fee to the estimated actual department costs to conduct the safety inspections and the cost for hiring a private professional engineer to conduct the inspection.

Dam Size	Requested Fee Restoration	Estimated Actual Cost to Department*	Estimated Cost for Private Professional Engineer
1	\$1500	\$1950 - \$3100	\$4,500 - \$7,500
2	\$1500	\$2500 - \$4100	\$4,500 - \$7,500

* Range reflects department costs for dam safety inspections and breach analyses, as required.

- The size of a dam is defined by rules and regulations. Size 1 dams have an effective height of less than 25 feet and an effective storage of less than 50 acre-feet. Size 2 dams have an effective storage of less than 3,000 acre-feet. Sizes 3 and 4 dams have effective storage of 3,000 to 30,000, and more than 30,000 acre-feet, respectively.
- The hazard class of a dam is also defined by rules and regulations and is based on the impact that would occur in the event of failure of the dam. Failure of a hazard class A (Low Hazard) dam could damage farm or other uninhabited buildings, undeveloped land, or traffic on low volume roads. Failure of a hazard class B (Significant Hazard) dam could endanger lives, damage isolated homes or traffic on moderate volume roads. Failure of a hazard class C (High Hazard) dam could result in extensive loss of life, damage to more than one home, damage to industrial or commercial facilities, inundate frequently used recreation areas, interrupt public utility service to a large number of customers, or impact traffic on high volume roads. These risk classifications are consistent no matter the size of the dam and the failure of even a small dam can result in the loss of life and damage to property.
- There were no senate changes to this portion of the bill.

Thank you for the opportunity to present testimony. I will stand for questions at the appropriate time.

Kansas Department of Agriculture
Proposed Balloon Amendment for Senate Bill 60

Amend Section 2, subsection (e) to strike all of subsection (e) which begins on page 4, lines 4 through 43 and continues through page 5, lines 1 through 3. Insert new subsection (e) to include the following language in Senate Bill 60, as introduced:

(e) On the date of registration, the registrant shall pay a fee fixed by rules and regulations adopted by the secretary of agriculture. Such fee shall equal an amount per registered agricultural chemical, not to exceed \$150 per year. ~~Such fee shall be deposited in the state treasury and credited as follows:~~ *The secretary may charge and collect an amount necessary for the purpose of administering the provisions of this act. Such amount shall not exceed the cost for administering this act and shall be collected from the fee imposed herein, prior to any other remittance by the secretary. The secretary shall remit the remaining moneys received by or for the secretary in accordance with the provisions of K.S.A. 2-2212, and amendments thereto, to the state treasurer. Upon receipt of each such remittance, the state treasurer shall deposit the amount in the state treasury and shall credit such remittance as follows: (1) An amount equal to \$100* For each year of registration, 67% of such amount shall be credited to the state water plan fund created by K.S.A. 82a-951, and amendments thereto; and (2) ~~the remainder~~ 33% of such amount shall be credited to the agricultural chemical fee fund to be used for carrying out the provisions of this act. The annual fee for each agricultural chemical registered which is in effect on the day preceding the effective date of this act shall continue in effect until the secretary of agriculture adopts rules and regulations fixing a different fee therefor under this subsection. The secretary of agriculture is hereby authorized and empowered, whenever it determines that the fee imposed by this subsection and paid into the state treasury as provided by law is yielding more revenue than is required for the purposes to which such fee is devoted by law, to reduce the fee imposed by this subsection for such period as the secretary shall deem justified by adopting rules and regulations under this subsection but not for less than one year. In the event that the secretary, after reducing such fee, finds that sufficient revenues are not being produced by such reduced fee, the secretary is authorized and empowered by adopting rules and regulations under this subsection, to restore in full or in part such fee to an amount which, in the judgment of the secretary, will produce sufficient revenues for the purposes as provided in this section, but not exceeding the maximum amount of the fee imposed by this subsection.

Amend Section 8, subsection (d) to strike all of subsection (d) which begins on page 12, lines 13 through 24 and insert new subsection (d) to include the following language in Senate Bill 60, as introduced:

(d) *The secretary may charge and collect an amount necessary for the purpose of administering the provisions of this act. Such amount shall not exceed the cost for administering this act and shall be collected from the fee imposed herein, prior to any other remittance by the secretary. All fees remaining moneys received under this section shall be remitted to the state treasurer in accordance with K.S.A. 2-2464a, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount thereof in the state treasury and 75% of such amount shall be credited to the pesticide use fee fund to be used for carrying out the provisions of*

this act and 25% of each such amount shall be credited to the publications fee fund of the Kansas department of agriculture.

Amend Section 9 to include the following language in Senate Bill 60, as introduced:

Sec. 9. K.S.A. 2016 Supp. 2-2464a is hereby amended to read as follows: 2-2464a. *Except as otherwise provided in K.S.A. 2-2469(d), and amendments thereto*, the secretary shall remit all moneys received by or for the secretary under this act and amendments thereto, to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the pesticide use fee fund. All expenditures from the pesticide use fee fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of agriculture or by a person or persons designated by such secretary.