

Written Testimony in Opposition of House Bill 2160  
House Committee on Agriculture and Natural Resources

Prepared by  
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The Kansas Highway Patrol (KHP) appreciates the opportunity to provide written testimony in opposition of House Bill 2160 as introduced, and we respectfully request the Committee consider our agency's concerns. House Bill 2160 would exempt trucks, trailers, or semi-trailers that are transporting cotton bales from the load securement requirements outlined in K.S.A. 8-1906 if the following conditions are met:

- *The cotton bales are being transported intrastate within 150 miles from the place of production or storage to a market, place of storage or place of use if:*
  - (a) Cotton bales are fully loaded from front to back on such truck, trailer or semitrailer in a single layer;*
  - (b) the truck, trailer or semitrailer is equipped with cradles; and*
  - (c) the truck, trailer or semitrailer is equipped with stakes or side posts that are a minimum of four feet high.*

Kansas is an agricultural state and as such, farmers are exempt from a large portion of the motor carrier safety and rules regulations as defined under K.S.A. 66-1,129(c)(1). Farm exemptions currently include the load securement requirements that are being discussed today. The KHP supports the purpose of farm exemptions as they aid in the transportation of raw materials from the field to the market during the surges created by the harvest seasons.

As it is currently written, HB-2160 does not only exempt farmers from proper load securement but it also exempts what would normally be federally regulated private and public (for-hire) motor carriers who operate commercial motor vehicles. A "for hire" carrier is a person who is engaged in the transportation of commodities for direct compensation as opposed to transporting their own commodity exclusively. HB-2160 causes concern as it relates to "for hire" motor carriers that operate vehicles or a combination of vehicles with a Gross Vehicle Weight Rating (GVWR) greater than 26,001 lbs. Currently these combinations are subject to all Federal Motor Carrier Regulations even if they are only involved in intrastate movements. HB-2160 would create an exemption for federal regulations and that would be problematic for the KHP and our public safety partners.

As a part of the KHP's mission and goals, we pledge to be responsive to concerns of citizens and public safety partners. The Federal Motor Carrier Safety Administration (FMCSA) is one of our public safety partners. The FMCSA provides the State of Kansas with the Motor Carrier Safety Assistance Program

(MCSAP) Grant. The MCSAP Grant provides financial assistance to states to reduce the number and severity of crashes and hazardous materials incidents involving commercial motor vehicles (CMVs).

The private and “for hire” exemption created in HB-2160 creates an incompatibility or noncompliance issue between the State of Kansas and the FMCSA. This capability issue jeopardizes the MCSAP Grant and has the potential for a negative fiscal impact on the KHP and the State of Kansas. KHP applies for and receives \$8,221,786 annually in MCSAP Grant funding. HB-2160, as it is currently written, may cause a decrease in MCSAP funding and may jeopardize our ability to apply for future grants. Without MCSAP Grant funding, expenditures may need to be drawn from other funding sources and the number of positions/FTEs would have to be reviewed.

The incompatibility or noncompliance issues in HB-2160 may also trigger the withholding of other funds based on Kansas’ noncompliance. The procedure for the FMCSA and the Federal Highway Administration to withhold funds based on noncompliance can be found in CFR 384.401.

**384.401 Withholding of funds based on noncompliance.**

- (a) *Following the first year of noncompliance. An amount up to 4 percent of the Federal-aid highway funds required to be apportioned to any State under 23 U.S.C. 104(b)(1) and (2) shall be withheld from a State on the first day of the fiscal year following such State's first year of noncompliance under this part.*
- (b) *Following second and subsequent year(s) of noncompliance. An amount up to 8 percent of the Federal-aid highway funds required to be apportioned to any State under 23 U.S.C. 104(b)(1) and (2) shall be withheld from a State on the first day of the fiscal year following such State's second or subsequent year(s) of noncompliance under this part.*

[86 FR 35642, July 7, 2021]

The withholding of funds for noncompliance corresponds to the ‘National Highway Performance Program’ and the ‘Surface Transportation Block Grant Program’ columns in the Federal Highway Administration’s apportionment table (FHWA).

State	National Highway Performance Program	Surface Transportation Block Grant Program	Highway Safety Improvement Program <sup>1</sup>	Railway-Highway Crossings Program	Congestion Mitigation & Air Quality Improvement	Metropolitan Planning	National Highway Freight Program	Carbon Reduction Program	PROTECT Formula Program	Apportioned Total
Kansas	286,003,650	139,136,911	25,752,746	6,678,025	10,576,174	2,620,968	13,367,712	12,406,374	14,106,937	510,649,497
4%	~\$11,440,146	~\$5,565,476								

Based on the current numbers in the above table, Kansas would risk approximately \$17 million in federal highway withholdings for a potential noncompliance issue the first year after HB-2160 would go into effect.

In closing, the Kansas Highway Patrol opposes HB-2160 because it contradicts the mission and goals of the Kansas Highway Patrol and the Federal MCSAP Grant Program. Exemptions already exists for Kansas’ agricultural producers. K.S.A. 1906 already requires load securement, reducing the need for HB-2160. The agricultural exemption that will be extended to private and “for hire” motor carriers may create federal grant funding capability issues. These incompatibility or noncompliance issues may lead to the withholding of federal funds used to promote highway safety through enforcement and infrastructure improvement.