

MINUTES OF THE SENATE AGRICULTURE COMMITTEE

The meeting was called to order by Chairman Derek Schmidt at 8:30 a.m. on March 17, 2004 in Room 423-S of the Capitol.

All members were present.

Committee staff present:

Raney Gilliland, Legislative Research
Lisa Montgomery, Office of the Revisor of Statutes
Robert Myers, Committee Secretary

Conferees appearing before the committee:

Adrian Polansky - Secretary, Kansas Department of Agriculture
Greg Foley - Kansas Department of Agriculture
Doug Wareham - Senior Vice President, Kansas Agribusiness Retailers Association

Others attending:

See Attached List.

HB 2622: Fees collected by department of agriculture.

Chairman Schmidt opened the hearing on **HB 2622**.

Adrian Polansky appeared before the committee as a proponent of **HB 2622** in its original form, before it was amended on the floor of the House of Representatives. He emphasized that the bill only maintains the status quo for the Kansas Department of Agriculture, further stating that it does not increase a single fee. He then referred to the 2005 sunset that was put in place, in certain statutes of the fee bill, back in 2002 in hopes that the state's general fund balances would recover. Pointing out that this desired recovery has not taken place, he explained the need for removing the sunset by way of the bill. He assured the committee that the fees in question have indeed been used efficiently and effectively, and that no concerns from stakeholders have been heard with regard to the amounts paid. Furthermore, he urged the removal of the House amendment to the bill that would allow the sunset to be extended only to 2006 as opposed to being removed altogether.

Adrian continued by stating that the Kansas Department of Agriculture regularly reviews its fee balances, eliminating unnecessary fees and ensuring that only what is needed is being charged. As shown in his written testimony, he proceeded to disclose the specific fees contained in the bill as well as the specific areas that are affected by them. In addition, he brought to the attention of the committee the fact that, prior to the original implementation of the bill in 2002, many fees had not been changed in 10-20 years, thus not keeping up with inflation. Mr. Polansky also listed, among others, the following benefits of the fees: enhanced limited regulatory presence in metropolitan areas, with regard to pesticide operations; more timely and efficiently processed water permit applications as a result of two additional positions added to the water appropriations program; and increased in-store and on-farm consumer protection inspections for milk. In closing, he stated once again that the bill would not increase a single fee, and urged that the committee pass the bill, preferably after having been stripped of the 2006 sunset that had been added by the House of Representatives (Attachment 1).

Chairman Schmidt pointed out to Adrian Polansky and the committee the difficulty with which the original fee bill had been passed back in 2002. He also questioned the concern over extending the bill's sunset at this point, noting that it does not expire until 2005.

Adrian Polansky responded by saying that the current push to extend the sunset is due to the desire to accommodate budget planning, a process that he indicated would begin for the year 2005 in a few months.

Chairman Schmidt further questioned Adrian Polansky with regard to the absence of producer groups at the hearing, noting that they had a strong presence at the hearing for the original fee bill in 2002.

CONTINUATION SHEET

MINUTES OF THE SENATE AGRICULTURE COMMITTEE at 8:30 a.m. on March 17, 2004 in Room 423-S of the Capitol.

Adrian Polansky responded that the producer groups understand the Kansas Department of Agriculture's need for the funds in question in order to operate. He did, however, note that he was hesitant to speak on the behalf of these groups.

Greg Foley appeared before the committee in response to a question from Senator Umbarger regarding whether or not any of the fees in question had been recuperated by the State. His response was that two of the funds had indeed been tapped into, the fertilizer fee fund being one of them, and that \$200,000 had been taken from each of these two.

Senator Downey expressed to the committee her discouragement with regard to the future unlikelihood of being able to remove the fees in question and, thus, being able to support the Kansas Department of Agriculture (KDA) adequately by way of the state general fee fund. She continued by questioning the reasonableness of a mere one year extension of the bill's sunset, stating that it seems ridiculous in terms of being able to allow any real long-term planning within the KDA.

Doug Wareham appeared before the committee as a proponent of **HB 2622**. He reminded the committee that the Kansas Agribusiness Retailers Association did testify in support of the bill when it was initially considered by the House Agriculture Committee in 2002, despite expressing concern and opposition with regard to many of the proposed fees. He then pointed out the specific fees listed within his written testimony as impacting agribusiness retailers in Kansas. Furthermore, he expressed an understanding for the direction being taken by the Kansas Department of Agriculture and others toward more and more support from fees. He noted that the Kansas Agribusiness Retailers Association is actually getting close to being totally fee-funded.

Doug continued by expressing opposition toward the sweeping of dedicated fee funds. Furthermore, he showed support for the House Appropriations Committee's recent reinstatement of money to many of the fee funds that would be impacted by the adoption of the bill in question. He stated that the Kansas Agribusiness Retailers Association's support for the extension or removal of the bill's 2005 sunset is contingent upon the mentioned reinstatement of funds being upheld. More specifically, he noted his disapproval of raiding the same funds whose sunset would be extended or removed by the bill. Included with his written testimony is a listing of Kansas Department of Agriculture fee funds that have had fee increases since the 2000 Session (Attachment 2).

Adrian Polansky appeared before the committee in order to respond to a question posed by Chairman Schmidt regarding the total amount of money affected by the bill in question (i.e., the total amount of money that would be lost by the Kansas Department of Agriculture upon allowing the fee increases to sunset as planned in the 2002 bill). He responded that the sum would be approximately \$850,000. He also confirmed that approximately \$57,000 of these funds are used for employee pay raises.

Chairman Schmidt expressed concern with regard to the committee having been asked to break the promise of a three year fee increase that had been made upon the original introduction of the bill in 2002. Furthermore, he further acknowledged the use of a portion of the fee money for employee pay raises, questioning this use as opposed to putting the funds toward the programmatic needs originally presented to the committee.

Senator Umbarger expressed his support for the bill, but also noted the difficulty of the decision at hand. He spoke of the difficulty of explaining another fee increase to constituents.

Leslie Kaufman of the Kansas Cooperative Council submitted written testimony to the committee in support of **HB 2622** (Attachment 3).

Chris Wilson of the Kansas Dairy Association submitted written testimony to the committee in support of **HB 2622** as amended by the House of Representatives (Attachment 4).

Rock Creek #45, Long-Scott #93, Taury Creek #82, Rock Creek #84, Vermillion Creek #70, and Roy's Creek #75 watershed districts collectively submitted written testimony to the committee in opposition to

CONTINUATION SHEET

MINUTES OF THE SENATE AGRICULTURE COMMITTEE at 8:30 a.m. on March 17, 2004 in Room 423-S of the Capitol.

HB 2622 (Attachment 5).

Chairman Schmidt announced that action was planned to be taken on **HB 2593**, **HB 2594**, and **HB 2622** at the next meeting.

The next meeting is scheduled for Tuesday, March 23, 2004.

SENATE AGRICULTURE COMMITTEE GUEST LIST

DATE: 3-17-2004

NAME	REPRESENTING
Nancy Ulrich	KAHQ
GEORGETHAGARDEN	KAHQ
Doug Wareham	KARA/KGFA
Lester Kaufman	Ks Coops
GREG FOLEY	KDA
Adrian Polansky	KDA
Carole Jordan	KDA
Donn Teske	KFU
Wenda Kinney	KCA
Doran JuneK	KCA
KEV RAHTJES	KAAA
Edd Johnson	KLA
BRAD HARRELSON	KFB
Robt My	HEW Low Firm
Mike Jensen	Ks Pork Assn



KANSAS

DEPARTMENT OF AGRICULTURE
ADRIAN J. POLANSKY, SECRETARY

KATHLEEN SEBELIUS, GOVERNOR

Testimony on HB 2622, Maintaining Current Level of Fees

to

The Senate Committee on Agriculture

By Adrian Polansky
Secretary
Kansas Department of Agriculture
March 17, 2004

Good morning, Chairman Schmidt and members of the committee. I am here to ask for your support of HB 2622, and specifically to consider supporting the bill in the original form before it was amended on the floor of the House of Representatives.

HB 2622 only maintains the status quo for the Department of Agriculture. It keeps fees in a number of our programs at the same rate they have been since this body passed legislation to update the fees during the 2002 session. It doesn't increase a single fee.

The fee bill in 2002 was amended to include sunset provisions on the fees included in today's bill. As you may remember, we were hopeful that the state's general fund balances would recover and that adjusting fees downward might be possible within a few years. Therefore, a 2005 sunset was placed in the appropriate statutes.

As we all know, recovery has not taken place, and the current fee levels are vital to program operations. As introduced and passed by the House Agriculture Committee, House Bill 2622 merely removed the July 1, 2005, sunset to allow fees to stay at current levels. An amendment on the floor added a new sunset of 2006 to these statutes.

We understand concerns about over-reliance on fees and avoiding undue burdens on agriculture; however, we believe we can prove we are using these fees efficiently and effectively. We have not heard concerns about the fee amounts from our stakeholders, and it is clear that we need these dollars to maintain our already lean operations.

We hope you can consider removing the 2006 sunset amendment so that the Department of Agriculture and its staff can focus on positive policy issues affecting Kansas agriculture, rather than spending staff time to revisit this issue each year.

*Senate Agriculture
March 17, 2004
Attachment 1*

109 SW 9TH ST., TOPEKA, KS 66612-2180

Voice (785) 296-3556

Fax (785) 296-8389

<http://www.accesskansas.org/kda>

I also might remind you that our department has a history of regular reviews of its fee balances to ensure only what is necessary is being charged. When these specific fees were changed in 2002, we also removed a fee by repealing the counter freezer program. That repeal eliminated \$55,000 in fees.

We also repealed the Livestock Remedy Law, basically because it was antiquated and unnecessary. That repeal eliminated some \$16,000 in fees. Also in recent years, fees for fertilizers and feeds have been reduced when our analysis showed us collections were higher than needed to run the programs.

Returning to discussion of specific fees contained in HB 2622, in their first full year they generated some \$798,500 for agency operations. In FY 2004, they are projected to generate \$853,372. They are an important component of our total \$20 million budget. The funds are needed to maintain current levels of service, without any enhancement, in five of our programs.

Specific areas affected are commercial fertilizer fees, chemigation fees, soil amendment registration and inspection, agricultural liming materials inspection and registration, commercial applicator licenses, pest control technician registration, pest control business licenses, pesticide commercial applicator licenses, private applicator certification, water appropriation permit fees, dairy inspection and regulatory fees, weights and measures service company licensing, and dairy business license fees.

We believe the dollars generated in the past two years have been put to good use. Our programs are not static. There are changes in personnel and program focus. In general, however, programs that received these fees have used them to match costs of services with the fee charged. Prior to 2002, many fees were last changed 10-20 years ago, so they had not kept pace with inflation. They also helped us make up for cuts in other revenue sources and to keep pace with increases in employee health care costs and other benefits. They helped us refine our focus in specific areas, as many of our constituents had said was needed to ensure a level playing field for businesses, or to provide timely permit and license processing.

Pesticide fees were used to enhance our limited regulatory presence in metropolitan areas through organized pesticide sweep operations and on-site inspections. Our outputs in the pesticide and fertilizer program have increased strikingly. Our enhanced presence benefits the environment and ensures that all businesses are abiding by the same set of regulations.

Funds devoted to the division of water resources' water appropriation program allowed us to fill two positions to more timely and efficiently process water permit applications. Besides the new positions, other personnel were directed to focus on improving application processing times and to meet a new requirement to either issue or dismiss all applications within 150 days. Although the program has struggled with the 150-day deadline — primarily due to the backlog they started with — they have made great progress. In March 2002, there were 608 pending new applications to appropriate water. The number of new applications to appropriate water that were pending as of March 4, 2004 was 400. DWR is making progress. They also have devoted funds to ensure Kansas is protected in the Arkansas River Compact Administration.

Fees to the dairy program have increased in-store and on-farm consumer protection inspections for milk and paid for up-to-date laboratory equipment to do tests needed to ensure that FDA will allow Kansas to sell milk across state borders. This is a benefit to producers, and it provides a foundation for new food safety duties the Department of Agriculture will accept through ERO 32.

KDA will continue to work hard to explain needs and programs to our stakeholders, and we appreciate the support of groups that understand our challenges in these difficult economic times.

In conclusion, I'll remind you once more that HB 2622 does not raise a single fee. It simply allows our department to provide services at the current level. I urge your support of the bill, and, if possible, of removing the sunset entirely from these fee funds.

KANSAS AGRIBUSINESS RETAILERS ASSOCIATION



KARA is
*"Committed to
Professional
Development
and Business
Viability for
the Retail Crop
Production
Industry"*

Statement of the
Kansas Agribusiness Retailers Association

Presented to the
Senate Agriculture Committee

In support of
House Bill 2622

Senator Derek Schmidt, Chairman

March 17, 2004

Presented by:

Doug Wareham
Senior Vice President

Kansas Agribusiness Retailers Association
(785) 234-0463

Senate Agriculture
March 17, 2004
Attachment 2

Chairman Schmidt and Members of the Senate Agriculture Committee, I am Doug Wareham appearing on behalf of the Kansas Agribusiness Retailers Association (KARA). KARA's membership includes nearly 750 agribusiness firms that are primarily retail facilities that supply fertilizers, crop protection chemicals, seed, petroleum products and agronomic expertise to Kansas farmers. KARA's membership base also includes ag-chemical and equipment manufacturing firms, distribution firms and various other businesses associated with the retail crop production industry. I appear before you in support of H.B. 2622.

House Bill 2622 extends the June 30, 2005 sunset language that was adopted during the 2002 State Legislative Session when several Kansas Department of Agriculture Program Fees were increased. Listed below are the specific fee increases that impact agribusiness retailers in Kansas:

- Pesticide Product Registration: \$130 to \$150 (per product)
- Business License Application: \$112 to \$140 (per category)
- Certification Application \$35 to \$50 (per category)
- Certification Exam \$25 to \$35 (per category)
- Soil Amendment Registration \$50 to \$60 (per product)
- Soil Amendment Inspection \$.20/ton to \$.28/ton
- Ag Lime Registration \$25 to \$30 (per product)
- Ag Lime Tonnage Fee \$.05/ton to \$.07/ton

For the record, KARA testified in support of H.B. 2622 when this issue was initially considered by the House Agriculture Committee and we supported the bill as originally drafted, which would have permanently removed the sunset from the fee increases imposed during the 2002 Legislative Session. We understand and appreciate the intentions of House Members that supported the floor amendment that changed the impact of this bill from removal of the sunset to a one-year extension of the sunset. It is our understanding that action was taken in response to the sweeping of fee funds within the Kansas Department of Agriculture, including several fee funded programs that have experienced fee increases in recent years.

KARA opposes the sweeping of dedicated fee funds. Furthermore, KARA supports action taken recently by the House Appropriations Committee that reinstated \$31,539 to many of the same fee funds that we would be impacted by the adoption of H.B. 2622. Our support for extension or removal of the sunset is contingent upon the House Appropriation's Committee's action being upheld.

KARA has vested interest in the effectiveness of the Kansas Department of Agriculture's Pesticide and Fertilizer Program. We support adequate funding of this program and believe that failing to extend or remove the sunset adopted in 2002, would weaken KDA's abilities to maintain a credible program.

I appreciate the opportunity to appear in support of H.B. 2622 and I would be happy to stand for questions.

Attachment A

Kansas Department of Agriculture

The following fee funds have had fee increases since the 2000 Session:

Fund	FY 2005 BEST Reduction	Calendar Year	Fee Increase
Meat and Poultry Inspection Fee	\$902	2003	Overtime charge increased from \$18/hour to \$25/hour
Water Structures	855	2002	New fees for approval or permits for water structures Fund created in 2000, fees assessed on grain stor- age facilities and agricultural chemical dealers and products
KS Ag. Remediation Fund	5,803		
Dairy Fee	3,565	2000	Increases for various dairy licenses and fees Fund created in 2001, receipts related to water bank- ing
Water Resources Cost Fund	137	2001	
Soil Amendment Fee	20	2002	Increases for various soil amendment fees Increase in quarry site and inspection tonnage fees
Agricultural Liming Materials	701	2002	
Weights and Measures	3,035	2002	Increases for various weights and measures fees Increases for various fees pertaining to water rights
Water Approp. Certification	7,832	2002	
Chemigation Fee	268	2002	Increases for various chemigation safety law fees Fund created in 2001, temporary \$5 fee on live plant dealers
Plant Pest Emer. Response	9	2001	
Agricultural Chemical Fee	1,397	2002	Pesticide registration fee increased from \$130 to \$150 Increase in late penalty, decrease in transfer to fund
Fertilizer Fee	3,618	2002	
Pesticide Use Fee	3,354	2002	Increases in various pesticide user fees Fund created in 2002 with funds transferred from Fertilizer Fee Fund
Fert/Pesticide Compliance	43	2002	
TOTAL	\$31,539		

The total BEST transfer for this agency is \$57,449, including \$10,174 from SGF and \$47,275 from special revenue funds. Most of the above listed fee increases are the result of the 2002 legislation to increase fees for a three year period from July 1, 2002 to June 30, 2005.



**Leslie Kaufman, Director
Government Relations
Kansas Cooperative Council**

SENATE COMMITTEE ON AGRICULTURE

March 17, 2004

RE: HB 2622 -- Kansas Department of Agriculture Fees

Chairman Schmidt and members of the Senate Committee on Agriculture, thank you for the opportunity to appear today in support of HB 2622 continuing the fees that were enacted in 2002. I am Leslie Kaufman and I serve the Kansas Cooperative Council as Government Relations Director. The Council has a membership of 186 cooperative businesses who have a combined membership of nearly 200,000 Kansans.

The Kansas Cooperative Council supports a strong state Department of Agriculture. KDA programs should be adequately staffed and funded. Many of the Department's current programs rely heavily on fee funding. The KCC realizes continuation of these fees is necessary for programs to continue.

The Council also encourages the Department, the Legislature and the Governor to find new means of infusing state general funds into the Department of Agriculture, particularly for supporting programs that benefit/protect the state as a whole. This was the main reason we suggested the legislature consider extending the sunset on the fees rather than simply making them permanent when we testified before the House

*Senate Agriculture
March 17, 2004
Attachment 3*

Agriculture Committee. The House Ag Committee did not choose to do this, but as you know, such an amendment was added on the House floor.

We do understand that dealing with a sunset forces the KDA and the legislature to revisit an issue that really has become a mainstay for the department to continue to provide critical functions for the agriculture industry and the state. We understand the agency's desire to see that portion removed. We supported HB 2622 before that provision was added and will continue to support the bill whether the sunset is retained or removed.

Having said that, and in light of some of the budgeting techniques being examined, we would respectfully encourage the KDA to manage their fee funds so that significant balances are not left at the end of the year which could be "swept".

We appreciate the opportunity to appear before you today and support HB 2622.
Thank you.

**STATEMENT OF THE KANSAS DAIRY ASSOCIATION
AND KANSAS AGRICULTURAL AVIATION ASSOCIATION
TO THE SENATE AGRICULTURE COMMITTEE
SENATOR DEREK SCHMIDT, CHAIR
REGARDING H.B. 2622**

Mr. Chairman and Members of the Committee, I am Chris Wilson, representing the Kansas Dairy Association and the Kansas Agricultural Aviation Association. We appreciate the opportunity to comment on H.B. 2622.

We did not take a position when this bill was before the House of Representatives. As when the fee increases passed the Legislature in 2001, we did not oppose the fee increases because we understood the budget challenges the Department of Agriculture faces. While these have been very difficult economic times for our members, we recognize the need for the fee increases at this time and want the Department to be able to do its job.

We do, however, come before you today to support the House floor amendment to this bill which does not simply remove the sunset on the fee increases, but continues them through the 2006 Session. This provides that the fees will again be reviewed in two years to determine if the increase needs to be continued. This amendment was offered by the House Chair of the Agriculture and Natural Resources Subcommittee of Appropriations, and we believe it is wise and prudent.

Committee, we urge you to retain the House amendment and recommend H.B. 2622 favorable for passage. I would respond to any questions.

Senate Agriculture
March 17, 2004
Attachment 4

2To: Senator Derek Schmidt
Chairman of the Senate Agriculture Committee
Reg: House Bill 2622 Sec. 18 K.S.A.2003 Supp. 82a-714
Specific (d) (e) and (f)

Six organized and active watershed districts would like to ask consideration for elimination of the fees listed in Sections d, e, and f of Supp. 82a-714. We note that this fee schedule is due to expire June 30, 2005 and also note that this Bill 2622 would reinstate these fees as a part of an on going fee schedule.

Certification of the completion of a watershed structure (d) is repeated three times during the approval process. A watershed structure, when completed, is certified by the watershed district's professional engineer to the Division of Water Resources at a cost in excess of \$750.00. The Water Structures Section of the Division of Water Resources again certify the dam completed as per approved plans though an in-field check out. This inspection has no added fee. The Water Rights Section of the Division of Water Resources also (supposedly) do the third field inspection. Their fee is \$400. The Water Structures Section and the Water Rights Section are on the same floor of the Mills Building at 109 SW 9th. It would seem a far more efficient use of time and funds to cross the aisle between the two entities and inquire about the completion of the dam.

Also Sec.(e) requires a \$100 fee if an extension of time is requested. Watershed structures are not funded on a timely schedule. The watershed district is at the mercy of the State Conservation Commission regarding cost-share assistance. Sometimes an application for watershed assistance for a dam can be over a period of several years before funds are received. In turn, this period of years can require a \$100 extension-of-time permit over and over. Sometimes this results in the cancellation of the water rights (f) which in turn requires a \$200.00 reinstatement for that water right.

The fees within this section were attached to a fee bill late in the legislative session in 2001. The application fee of \$200 for watershed structures for change of a point of diversion and change of place were implemented as stated in Sec. 17 K.S.A.2003 Supp. 82a-708b at that time. In 2002 these fees were doubled to \$400.00 per structure. The watershed districts had no prior knowledge that these fees were going to be imposed against them.

It would seem that these fees are excessive and are taking tax revenue out of one pocket and putting it into other pockets. We believe the watershed districts should be exempt from these redundant fees.

Thank you for the opportunity to express our concerns.
Ethel A. King, Manager and Contracting Officer for Watershed Districts: Rock Creek #45, Long-Scott #93, Tauy Creek #82, Rock Creek #84, Vermillion Creek #70, and Roy's Creek #75

Senate Agriculture
March 17, 2004
Attachment 5