

## MINUTES OF THE HOUSE AGRICULTURE &amp; NATURAL RESOURCES COMMITTEE

The meeting was called to order by Chairman Larry Powell at 9:00 a.m. on February 15, 2011, in Room 783 in the Docking State Office Building.

All members were present except:

Representative Rocky Fund - Excused  
Representative Kyle Hildabrand - Excused  
Representative Michael Peterson - Excused

Committee staff present:

Sean Ostrow, Office of the Revisor of Statutes  
Raney Gilliland, Kansas Legislative Research Department  
Michael Wales, Kansas Legislative Research Department  
Kay Scarlett, Committee Assistant

Conferees appearing before the Committee:

Lane Letourneau, Water Appropriation Program Manager, Kansas Department of Agriculture  
Kent Askren, Water Resources Specialist, Kansas Farm Bureau (written only)  
Chris Wilson, Deputy Secretary, Kansas Department of Agriculture  
Ron Hein, Kansas Restaurant and Hospitality Association

Others attending:

See attached list.

**Hearing on HB 2231 – Updating the provisions regarding water bank flex accounts.**

Chairman Powell opened the hearing on **HB 2231**. Sean Ostrow, Office of the Revisor of Statutes, explained the proposed changes to the multi-year flex account program. The bill would adjust the years of data to be used to calculate the base average usage and allow for current year enrollments.

Lane Letourneau, Water Appropriation Program Manager, Kansas Department of Agriculture, testified in support of **HB 2231**. He explained that the multi-year flex account program allows a water right user to get a five-year allotment of water to be used as necessary, allowing greater use than the annual authorized quantity in some years, as long as the five-year allotment is not exceeded. The Department hopes that the proposed changes will make the program more attractive to those in need of some flexibility exercising their water rights.

The Kansas Department of Agriculture requested a technical correction on page 1, line 1, of **HB 2231**, “water bank” should be corrected to “multi-year” flex accounts. They also requested clarifying language on page 2, line 31, to add “authorized by the term permit” to the end of the sentence. (Attachment 1)

Kent Askren, Water Resources Specialist, Kansas Farm Bureau, provided written testimony in support of **HB 2231**. (Attachment 2)

There being no other conferees, Chairman Powell closed the hearing on **HB 2231**.

**Hearing on HB 2282 – Lodging inspections and food safety fees.**

Chairman Powell opened the hearing on **HB 2282**.

Sean Ostrow, Office of the Revisor of Statutes, explained that this bill would amend the Food Service and Lodging Act of the Kansas Department of Agriculture. The bill would retain the base license fee of \$30 for establishments having up to nine rooms; however, fees for establishments with ten or more rooms would increase the multiplier for each additional ten rooms from \$5 to \$10, with a maximum license fee of \$300. The maximum amount for the application fee would be increased from \$100 to \$200 and the fee for a duplicate license would increase from \$3 to \$5. The bill would clarify that the Secretary could inspect a facility when a complaint is received. **HB 2282** would clarify the provision that directs all fees received are deposited in the agency's fee fund rather than the State General Fund. The bill would also make changes as to how funds would be receipted between the food safety fee fund and the food inspection fee fund.

## CONTINUATION SHEET

The minutes of the House Agriculture & Natural Resources Committee at 9:00 a.m. on February 15, 2011, in Room 783 of the Docking State Office Building.

Chris Wilson, Deputy Secretary, Kansas Department of Agriculture, testified in support of **HB 2282** to provide a fee funded lodging inspection program. She said that although the funding will not allow them to do routine inspections as done prior to 2010, it should allow their Food Safety and Lodging Program to inspect all new licenses and respond to consumer complaints at licensed lodging facilities. The Department plans to hire one additional inspector who, along with existing inspectors, will be cross-trained to perform both food safety and lodging inspection. This should increase program efficiency, help reduce travel time, and allow for the maximum number of facilities to be inspected. The bill also clarifies the provision that directs all fees received are deposited in the agency's fee fund rather than the State General Fund and would make changes as to how funds would be receipted between the food safety fee fund and the food inspection fee fund.

She explained that the 2010 legislature authorized a proviso in the budget creating a lodging inspection fee fund. The Kansas Department of Agriculture requests this proviso be placed in substantive law so it is clear all money received from lodging license fees goes into that fund. A proposed balloon amendment to **HB 2282** is included with her testimony. (Attachment 3)

Erik Wisner, Food Safety Policy Director, Kansas Department of Agriculture, answered committee questions concerning lodging complaints received by the Department.

Ron Hein, Kansas Restaurant and Hospitality Association, appeared as neutral on **HB 2282** as it currently reads. As written, he believes the bill has some problems, but understands that the Kansas Department of Agriculture will be submitting proposed amendments which will solve the deficiencies in the current bill. He said the industry supports the regulation of lodging facilities by the Kansas Department of Agriculture, and understands that the fees to provide such regulation will inherently need to come from the industry. (Attachment 4)

There being no other conferees, the hearing on **HB 2282** was closed.

### **Discussion and action on HB 2184 – Including noncommercial aviation use as a recreational purpose for the purposes of premises liability.**

Chairman Powell opened **HB 2184** for discussion. Raney Gilliland, Legislative Research Department, reviewed this bill to add noncommercial aviation use as a recreational purpose as it concerns premises liability.

Representative Moxley moved to recommend **HB 2184** favorably for passage. Seconded by Representative Wetta, the motion carried.

### **Discussion and action on HB 2205 – Continuing the use of weights and measures standards.**

Chairman Powell opened **HB 2205** for discussion and asked Raney Gilliland to review the bill. It was explained that this bill would remove the sunset date on the exception to weights and measures standards and requirements for aggregate scales up to 50,000 lbs., passed by the 2001 legislature and renewed by the 2005 legislature.

Representative Brookens moved to recommend **HB 2205** favorably for passage. Seconded by Representative Williams, the motion passed.

The meeting adjourned at 10:25 a.m. The next meeting of the House Agriculture & Natural Resources Committee is scheduled for February 16, 2011.

HOUSE AG & NATURAL RESOURCES COMMITTEE  
GUEST LIST

DATE: FEBRUARY 15, 2011

[illegible]



**Testimony on HB 2231, Flex Accounts  
to  
House Committee on Agriculture and Natural Resources  
by  
Lane Letourneau  
Water Appropriation Program Manager  
Kansas Department of Agriculture  
Division of Water Resources**

**February 15, 2011**

Chairman Powell and members of the committee, I am Lane Letourneau, Water Appropriation Program Manager of the Kansas Department of Agriculture's Division of Water Resources (DWR). I appear before you today to provide testimony on HB 2231.

K.S.A. 82a-736 provides authorization for a water right to enter in to a flex account, which is a multi-year, flexible appropriation of water. The statute authorizes an owner of a water right to have a five-year term permit that can be approved for an amount of water that is five times the annual average use of the water right over a 10-year base period, times 90 percent to achieve 10 percent conservation. In exchange for conserving some water, the owner receives a five-year allotment of water to pump as needed over a five-year term. For example, this could be used to help save a crop in an exceptionally dry year or to grow a more water-intensive crop some years.

HB 2231 requests the following amendments to K.S.A. 82a-736:

- 1) Updates the current 10-year base period. This allows permits or water rights approved after 2002 to be eligible.
- 2) Extend the normal filing date to November 1. The current statute requires a October 1 filing deadline. This amendment moves the deadline to November 1, giving the water user an additional month to plan their water usage. The quantity would be calculated as stated above.
- 3) There is an amendment to allow applications to be filed after November 1 and for water users about to exceed their authorized quantity. This amendment is requested to provide a tool for someone who might be water short in the current year and can plan for less water use in future years. The term permit would start during the current year. Therefore the quantity already pumped will be accounted for by the term permit.

Again, this is an option for a water user in a dry year to maximize their water use and to scale back their use in future years.

We request a technical correction to the first line of the bill: "water bank" should to be corrected to "multi-year". We also request some clarification wording at the end of line 31 on page 2. We need to add "authorized by the term permit" to the end of that sentence.

I will stand for questions. Thank you.



**Kansas Farm Bureau  
Policy Statement**

**House Agriculture and Natural Resources Committee  
HB 2231; An act concerning water**

**February 15, 2011**

**Submitted by:**

**Kent Askren**

**Water Resources Specialist**

**KFB Natural Resources Division**

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Chairman Powell and members of the committee, thank you for this opportunity to provide written testimony on House Bill 2231 relating to multi-year water flex accounts. I am Kent Askren, Water Resources Specialist for the Kansas Farm Bureau. As written, KFB stands in support of HB 2231.

Water flex accounts provide a unique opportunity for water right holders to maximize their water right potential over a 5 year period instead of just the usual per calendar year basis. This opportunity is especially valuable to those with "short" water rights or during drought conditions.

HB 2231 makes adjustments to current multi-year flex account statute by improving the opportunity for participation and making adjustments to the representative years for determination of base average usage. These improvements will help make the program more attractive to those in need of some flexibility exercising their water rights.

By improving and maintaining multi-year flex accounts water will be better utilized to its highest economic value by enabling producers to adequately irrigate a crop based upon the moisture needs that may have otherwise exceeded the legal limits of the water right. Additionally, this will help detour the over pumping of water rights and the costs associated with such actions.

Thank you for the opportunity to provide this written testimony for your consideration.



**Testimony on House Bill 2282  
to  
the House Agriculture and Natural Resources Committee  
by  
Chris Wilson  
Deputy Secretary  
Kansas Department of Agriculture**

**February 15, 2010**

Good morning, Chairman Powell, 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.



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.

We would seek to make one balloon amendment that is attached to the testimony. The 2010 legislature authorized a proviso in the budget creating a lodging inspection fee fund. We request this proviso be placed in substantive law so it is clear all money received from lodging license fees goes into that fund.

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.

## **Memorandum**

To: Vicki Helsel, Division of Budget

From:

Subject: Fiscal Impact of **HB 2282**

Date:

### **Analysis of Legislation:**

HB 2282 amends KSA 36-502 to increase the license fees for lodging establishments in the state. It keeps the base license fee for lodging establishments with 1-9 rooms but increased the multiplier for each additional 10 rooms or fraction of 10 rooms from \$5 to \$10 with a maximum license fee of \$300. The maximum amount for the application fee is increased from \$100 to \$200 and the fee for a duplicate license increases from \$3 to \$5.

HB 2282 amends KSA 36-518 to clarify that the Secretary can inspect a facility when a complaint is received.

HB 2282 deletes KSA 36-512 that directs all fees received pursuant to the food service and lodging act goes into the state general fund. The bill also amends KSA 74-591 which modifies the food safety fee fund to allow money that was going into the food inspection reimbursement fund to go into the food safety fund which was authorized under the deleted statute. The bill also directs money that was going into the food inspection fee fund to now go into food safety fee fund. This is currently in a budget proviso that has been reauthorized by the legislature since KDA assumed responsibility for all food safety inspections in the state.

### **Agency responsibility impact:**

HB 2282 would result in funding to reimplement the lodging inspection program which had been temporarily suspended in January 2010 due to the November Governor's Allotments in November 2009 the lodging inspection program. The agency would need the authority to hire one FTE in order to implement the provisions of the bill. The FY 2011 budget eliminated three FTE's within the program that were responsible for lodging inspection prior to suspension of the program.

### **Budgetary Impact:**

HB 2282 would generate \$72,000 in revenue annually through license and application fees. In calendar year 2011, the agency expects to license about 750 facilities in the state and collect application fees for about 85 new facilities in the state. The fees collected will be deposited in KDA's Lodging Fee Fund.



**Fiscal Assumptions:**

The fees generated will allow KDA's Food Safety and Lodging program to inspect all newly licensed facilities in the state as required by KSA 36-502. In addition, the fees will allow KDA to inspect all facilities which have received a complaint as required under amendments to KSA 36-518. KDA will perform all follow-up inspections based on violations found in new and complaint inspections. We will still not perform any routine inspections.

**Implementation:**

The lodging fees will fund one inspector position along with associated vehicle and equipment costs within KDA's Food Safety and Lodging program. These positions along with other positions will be cross-trained to perform both food safety and lodging inspections. This will minimize windshield time and allow for the maximum number of facilities to be inspected.

**Long range fiscal impact:**

No long range fiscal impact to the State General Fund is expected

## HOUSE BILL No. 2282

By Committee on Agriculture and Natural Resources Budget

2-11

AN ACT concerning lodging inspections; relating to lodging inspection fees; amending K.S.A. 2010 Supp. 36-502, 36-518 and 74-591 and repealing the existing sections; also repealing K.S.A. 2010 Supp. 36-512.

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

[Section] 1. K.S.A. 2010 Supp. 36-502 is hereby amended to read as follows: 36-502. (a) It shall be unlawful for any person to engage in the business of conducting a lodging establishment unless such person shall have in effect a valid license therefor issued by the secretary of agriculture. Applications for such licenses shall be made on forms prescribed by the secretary, and each such application shall be accompanied by the appropriate license fee required by subsection (c) of this section. Prior to the issuance of any such license, the secretary shall inspect or cause to be inspected the lodging establishment designated in the application, to determine that it complies with the standards for lodging establishments promulgated pursuant to this act. If such lodging establishment is found to be in compliance, the secretary shall issue the license. If the application for license is denied, the secretary shall give written notice thereof to the applicant, stating also that the applicant is entitled to a hearing thereon if a written request therefor is filed with the secretary within 20 days of the date such notice is sent. Such hearing shall be held in accordance with the provisions of the Kansas administrative procedure act.

(b) Each license shall designate whether the licensed lodging unit is a hotel, rooming house or boarding house. Any person obtaining a license to engage in the business of conducting a rooming house or boarding house shall not have the right to use the name "hotel" in connection with such business. Every license issued hereunder shall be displayed conspicuously in the lodging establishment for which it is issued, and no such license shall be transferable to any other person or location. Whenever any such license is lost, destroyed or mutilated, a duplicate license shall be issued to any otherwise qualified licensee upon application therefor and the payment of a fee in the amount of \$3 \$5.

(c) The fee for a license to conduct a lodging establishment in this state for all or any part of any calendar year shall be \$30, except that the fee for any lodging establishment containing 10 sleeping rooms shall be \$35 \$40 and for every additional 10 rooms therein, an additional fee of \$5

**Comment [ew1]:** *New Section. There is hereby created the lodging inspection fee fund. The secretary shall remit all license fees received by the secretary under the provisions of K.S.A. 2009 Supp. 36-502, and amendments thereto, and all license renewal fees for lodging establishments under K.S.A. 36-505, 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 lodging fee fund. All expenditures from the lodging 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 designated by the secretary. This section shall be a part of and supplemental to the food service and lodging act.*

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**Testimony Re: HB 2282  
House Agriculture and Natural Resources Committee  
Presented by Ron Hein  
on behalf of  
Kansas Restaurant and Hospitality Association  
February 15, 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 as it currently reads and as we anticipate that it will eventually be proposed for amendments by the Kansas Department of Agriculture. As written, the bill has some problems, but we understand that KDA will be submitting proposed amendments which, we believe, will solve the deficiencies we see in this current draft of the bill.

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.

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.

Therefore, we indicate that we have no objections to HB 2282, but express that we are formally neutral on this bill.

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