

As Amended by House Committee

Session of 2022

HOUSE BILL No. 2559

By Committee on Agriculture

1-26

1 AN ACT concerning agriculture; creating the Kansas cotton boll weevil
2 program; relating to the powers and duties thereof; requiring the
3 program to levy an assessment upon Kansas-produced cotton in order
4 to monitor and mitigate the risk of boll weevils.

5
6 *Be it enacted by the Legislature of the State of Kansas:*

7 Section 1. Section 1 et seq., and amendments thereto, shall be known
8 and may be cited as the Kansas cotton boll weevil act.

9 Sec. 2. As used in section 1 et seq., and amendments thereto:

10 (a) "Act" means the Kansas cotton boll weevil act.

11 (b) "Board" means the board of directors of the Kansas cotton boll
12 weevil program established by section 3, and amendments thereto.

13 (c) "Cotton pest" means *Anthonomus grandis* Boheman, commonly
14 known as boll weevils, or any other pest that may infest, destroy or
15 otherwise inhibit the growth of cotton.

16 (d) "Grower" means any person engaged in the growing of cotton in
17 this state who owns such cotton or shares in the ownership and risk of loss
18 of such cotton, whether as a landlord or tenant.

19 (e) "Person" means a natural person, public or private corporation,
20 partnership, association or other legal entity.

21 (f) "Secretary" means the secretary of agriculture or the secretary's
22 designee.

23 Sec. 3. (a) There is hereby established the Kansas cotton boll weevil
24 program.

25 (b) The board of directors of the Kansas cotton boll weevil program
26 is hereby established to administer and implement the Kansas cotton boll
27 weevil program. The board shall consist of:

28 (1) ~~Five voting members who shall be elected and qualified at the~~
29 ~~annual meeting of the Kansas cotton association from among the voting~~
30 ~~members of the association; and~~

31 (2) three ex officio nonvoting members, as provided in subsection (f).

32 (c) ~~Until such voting members of the board are so elected and~~
33 ~~qualified~~ **After the effective date of this act**, the board of directors of the
34 Kansas cotton association shall ~~act as interim board members for the~~

1 ~~Kansas cotton boll weevil program~~ **submit seven nominations to the**
2 **secretary of agriculture. The secretary of agriculture shall appoint five**
3 **voting members to the board from among such nominees.**

4 ~~(d) The board of directors of the Kansas cotton association shall fill~~
5 ~~any vacancy for an unexpired term on the board of directors of the Kansas~~
6 ~~cotton boll weevil program by appointment prior to the expiration of such~~
7 ~~term from among the growers of the state.~~

8 **(d) Upon a vacancy in the board or at least 30 days prior to the**
9 **expiration of the term of any voting member of the board, the board**
10 **of directors of the Kansas cotton association shall submit ~~seven~~ {three}**
11 **nominations to the secretary of agriculture for each such vacancy or**
12 **expiring term. The secretary of agriculture shall appoint a voting**
13 **member to the board from among the growers of the state from**
14 **among such nominees.**

15 (e) (1) Except as provided in paragraph (2), each ~~elected~~ **appointed**
16 board member shall serve a term of four years. Board members appointed
17 to fill a vacancy for an unexpired term shall serve for the remainder of
18 such unexpired term.

19 (2) Two of the board members first ~~elected~~ **appointed** on and after
20 the effective date of this act shall be ~~elected~~ **appointed** for a term of two
21 years.

22 (f) The dean of the college of agriculture of Kansas state university or
23 the dean's designee, the secretary or the secretary's designee and the
24 Kansas cotton association chairman or the chairman's designee shall serve
25 as ex officio, nonvoting members of the board.

26 (g) The board shall annually elect a chairperson from the voting
27 members of the board.

28 (h) The board shall meet at least once every calendar year in
29 conjunction with the Kansas cotton association's annual meeting.

30 Sec. 4. (a) In order to administer and implement the Kansas cotton
31 boll weevil program, the board shall have the authority to:

32 (1) Establish and implement a cotton pest monitoring plan that shall
33 include the following:

34 (A) The development and distribution of educational materials; and

35 (B) authority for the board's designee to enter private property to:

36 (i) Subject to the notice requirements of subsection (b), perform
37 inspections of any cotton field upon such private property for the purpose
38 of determining whether an infestation of cotton exists or whether cotton
39 pests are present on the property; and

40 (ii) subject to the notice requirements of subsection (b), set traps and
41 monitor such traps;

42 (2) accept grants and donations;

43 (3) sue and be sued;

1 (4) appoint and compensate an administrator who is knowledgeable
2 about the cotton industry and establish an office for such administrator at
3 any place in the state selected by the board. With the approval of the
4 board, the administrator may appoint other personnel as needed; and

5 (5) enter into such contracts as may be necessary or advisable for the
6 purposes of this act, including, but not limited to, collection of the
7 assessment, or coordination with any local, state or national organization
8 or agency, whether private or created by state or federal law, engaged in
9 work or activities similar to the work and activities of the board.

10 (b) Any individual conducting an inspection or setting or monitoring
11 traps pursuant to a cotton pest monitoring plan shall, before or
12 immediately upon entering any premises:

13 (1) ~~Attempt to Notify, if practicable,~~ the owner, operator or lessee of
14 the premises of the purpose for such entry; and

15 (2) allow any such present and notified owner, operator or lessee of
16 the premises, or any representative thereof, to accompany the individual
17 conducting the inspection or setting or monitoring traps.

18 Sec. 5. If the presence of boll weevils or any other cotton pest is
19 discovered within the state, the board may authorize the development of an
20 eradication plan and implement such plan in coordination with the
21 secretary pursuant to the plant pest and agriculture commodity certification
22 act, K.S.A. 2-2112 et seq., and amendments thereto.

23 Sec. 6. (a) There is hereby levied an assessment set by the board not
24 to exceed \$2 per cotton bale. The assessment shall be reviewed, set and
25 communicated annually to growers.

26 (b) The assessment imposed shall be levied on a grower at the time of
27 deposit at the cotton gin and shall be collected and remitted to the board
28 as follows:

29 (1) If an in-state cotton gin serves as the selling agent for the cotton
30 products, such cotton gin shall:

31 (A) Collect the assessment on behalf of the grower at the time of
32 deposit at the gin by deducting the assessment from the ginning price of
33 the cotton as a ginning cost or from any funds advanced for ginning costs;

34 (B) provide monthly reports to the board on or before the 15th day of
35 each month regarding the assessments collected;

36 (C) remit all of the assessments collected each month to the board;

37 (D) provide the board with any other information reasonably
38 requested by the board to ensure the collection of the assessments for each
39 grower; and

40 (E) provide a copy of the sales invoice or other document evidencing
41 the transaction to the grower that shows the amount of the assessment
42 collected.

43 (2) If an out-of-state cotton gin is serving as the selling agent for the

1 cotton produced, such gin may, subject to any contract with the board:

2 (A) Collect the assessment on behalf of the grower at the time of
3 deposit at the gin; and

4 (B) remit all of the assessments collected each month to the board.

5 (c) Each cotton gin that is required to collect an assessment pursuant
6 to this section shall forward to the board by June 1 of each year:

7 (1) An accounting of all assessments collected and paid; and

8 (2) payment for all assessments previously collected but not paid.

9 (d) All funds expended by the board in the administration of this act
10 and for the payment of all claims arising out of the performance or neglect
11 of any duties or activities pursuant to this act shall be paid from the
12 proceeds derived from the assessment levied pursuant to this section.

13 (e) Each bank account used for operating and conducting the boll
14 weevil program's duties shall be secured by pledge of securities in the
15 manner prescribed for state bank accounts under K.S.A. 75-4218, and
16 amendments thereto, or, if such bank account is in an institution outside
17 the state of Kansas, the institution shall be licensed by a state or the federal
18 government.

19 (f) All money collected from the assessments levied pursuant to this
20 section shall be expended in the administration of this act, and for the
21 payment of claims based upon obligations incurred in the performance of
22 the activities and functions set forth in this act, and for no other purpose.

23 Sec. 7. Any violation of this act shall be a class C nonperson
24 misdemeanor.

25 Sec. 8. (a) The boll weevil program, or any activity conducted under
26 the program, may be discontinued upon resolution of the program or such
27 activity and with approval by the secretary, if the board determines that the
28 program or such activity is no longer necessary or reasonable to operate
29 pursuant to this act.

30 (b) (1) Prior to any such dissolution of the boll weevil program, the
31 board shall file a final report with the secretary, including a financial
32 report, and submit all remaining funds into the Kansas cotton association.
33 Final books of the boll weevil program shall be filed with the secretary and
34 are subject to audit by the secretary.

35 (2) The secretary shall pay from the boll weevil program remaining
36 funds all of the program's outstanding obligations and may continue to
37 collect assessments until all such obligations are paid.

38 (3) Funds remaining after payment under paragraph (2) shall be
39 returned to the Kansas cotton association.

40 (4) The secretary shall provide a final report to the legislature upon
41 conclusion of all activities related to the dissolution of the program.

42 Sec. 9. This act shall take effect and be in force from and after its
43 publication in the statute book.