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**Testimony in Support of HB 2134 to
the House Committee on Agriculture
by Chad Bontrager, Deputy Secretary
Kansas Department of Agriculture
February 6, 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 HB 2134.

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. HB 2134 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.
- HB 2134 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 HB 2134 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.

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. HB 2134 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.

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.
- HB 2134 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.

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 House Bill 2134**

Strike through Section 12 which begins on page 13, line 41 and continues through page 15, line 17.

Insert new Section 12 as follows:

Sec. 12. K.S.A. 2016 Supp. 2-3710 is hereby amended to read as follows: 2-3710. The board shall have the following powers, duties and functions:

(a) Administer the fund and the remediation reimbursement program.

(b) Subject to K.S.A. 2-3701 through 2-3714, and amendments thereto, adopt rules and regulations concerning the terms and conditions of any reimbursements from the fund.

(c) Adopt rules and regulations establishing, for purposes of the remediation linked deposit loan program and the remediation reimbursement program, criteria for classification and prioritization of properties where contamination was caused by a release of agricultural or specialty chemicals, or both. Classification and prioritization may account for the criteria contained in Kansas department of health and environment's voluntary clean up and property redevelopment program and state cooperator program.

(d) Establish operating standards and procedures which shall include, but not be limited to, the following:

(1) With respect to the remediation linked deposit loan program, provisions governing board approval of projects for which applications for loans may be made;

(2) with respect to the remediation reimbursement program, provisions governing application procedures, determination of eligible corrective action costs, determination of ineligible corrective costs and reimbursement or payment of eligible corrective action costs; and

(3) with respect to both programs, provisions governing conflicts of interest, appeals procedures, review and priority determinations and enforcement of the provisions of K.S.A. 2-3701 through 2-3714, and amendments thereto.

(e) Appoint or contract for qualified administrative services subject to the limitation that expenditures from the fund for the administrative expenses of the board and the programs established by K.S.A. 2-3701 through 2-3714, and amendments thereto, shall not exceed ~~\$150,000~~ \$225,000 in any fiscal year.

(f) Annually provide an independent audit of the fund.

(g) On or before February 1 of each year, submit to the governor, the senate standing committee on energy and natural resources and the house standing committee on environment an annual report of the activities and reimbursements for which money from the fund has been expended during the previous fiscal year, including a copy of the independent audit.

In section 1, section 2(e), section 8(d), change the inserted language to read 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 six percent of the total fee being collected and shall be collected from the fee imposed herein, prior to any other remittance by the secretary.