

SESSION OF 2017

**SUPPLEMENTAL NOTE ON HOUSE SUBSTITUTE FOR
SENATE BILL NO. 60**

As Recommended by House Committee on
Agriculture

Brief*

House Sub. for SB 60 would extend the sunset for certain fees assessed by the Kansas Department of Agriculture (KDA) on pesticides, fertilizer, and milk, cream, and dairy products. Additionally, the bill would reinstate certain dam inspections fees and allow the KDA to assess a fee for processing certain paper documents when an electronic alternative for submission exists.

Pesticide and Fertilizer Fees

The bill would extend the sunset for certain pesticide and fertilizer fees from July 1, 2015, to July 1, 2023. The following table outlines the program, the specific fee, the amount the fee most would revert to on July 1, 2018, the fee amount which would be extended, and the section number where the change can be found.

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

Modifications to Statutory Language Imposing Certain Fees by the Kansas Department of Agriculture

Program	Service	Amount the Current Fee Would Revert to on July 1, 2018	Extended fee under bill	Sec. No.
Pesticide & Fertilizer	Failure to file affidavit and pay inspection fees	\$5 per day	\$10 per day	1
Pesticide & Fertilizer	Business License Application	\$112 per category	\$140 per category	2
Pesticide & Fertilizer	Uncertified Applicator Registration	\$10	\$15	2
Pesticide & Fertilizer	Government Agency Registration	\$35 maximum	\$50 maximum	2
Pesticide & Fertilizer	Pest Control Technician Registration	\$25 maximum	\$40 maximum	3
Pesticide & Fertilizer	Commercial Certification Examination per category and re-exam per category	\$35 maximum	\$45 maximum	4
Pesticide & Fertilizer	Certified Private Applicator Certificates	\$10 maximum	Fee fixed by rule and regulation	5
Pesticide & Fertilizer	Chemigation User Permit	\$55	\$75	6
Pesticide & Fertilizer	Chemigation User Permit for additional points of diversion	\$10	\$15	6
Pesticide & Fertilizer	Chemigation Equipment Operator Certification or renewal	\$10	\$25	7
Water Appropriations	Application for a permit to appropriate water based on acre feet	\$100 \$150 \$150+\$10	\$200 \$300 \$300+\$20	12
Water Appropriations	Application for a permit to appropriate water for storage based on acre feet	\$100 \$100+\$10 for each additional 250	\$200 \$200+\$20 for each additional 250	12
Water Appropriations	Application to change a point of diversion less than 300 feet	\$50	\$100	13
Water Appropriations	Application to change a point of diversion more than 300 feet	\$100	\$200	13

Program	Service	Amount the Current Fee Would Revert to on July 1, 2018	Extended fee under bill	Sec. No.
Water Appropriations	Application to change the place of use	\$100	\$200	13
Water Appropriations	Application to change the use made of water	\$150	\$300	13
Water Appropriations	Term permit based on acre feet	\$100 \$100 \$150+\$10 for each additional 100	\$200 \$300 \$300+\$20 for each additional 100	14
Water Appropriations	Term permit for storage based on acre feet	\$100 \$100+\$10 for each additional 250	\$200 \$200+\$20 for each additional 250	14
Water Appropriations	Reinstatement Request	\$100	\$200	15
Water Appropriations	Extension of time for diversion work or perfection of water right	\$50	\$100	15
Water Appropriations	Temporary permit or extension	\$100	\$200	15

In addition, the bill would authorize fees for inspection of Class 1 and Class 2 dams that are conducted by the Chief Engineer or authorized representative in the amount of \$1,500.

Milk, Cream, and Dairy Fees

The bill also would extend the sunset to June 30, 2023, on several fees imposed by the Secretary of Agriculture (Secretary) in relation to milk, cream, and dairy businesses. The following table outlines the fee, the amount the fee would revert to on July 1, 2018, the fee amount that would be extended, and the section number where the change can be found.

**Modifications to Statutory Language Imposing Certain Fees by
the Kansas Department of Agriculture**

Fee	Amount the Current Fee Would Revert to on July 1, 2018	Extended fee under bill	Sec. No.
Dairy Manufacturing Plant License	\$120	\$200	8
Milk Distributor License	\$120	\$200	8
Milk Hauler License	\$25	\$35	8
Milk or Cream Transfer Station License	\$50	\$100	8
Single Service Manufacturing License	\$50	\$100	8
Grade A Inspection - Milk Producer	\$.01 per 100 pounds of milk produced	\$.015 per 100 pounds of milk produced	9
Grade A Inspection - Packaged Milk or Milk Products Sold in Kansas at Retail	\$.01 per 100 pounds	\$.02 per 100 pounds	9
Grade A Raw Milk for Pasteurization	\$.01 per 100 pounds	\$.02 per 100 pounds	9
Milk or Cream for Manufacturing Purposes - Produced by Milk Producers	\$.01 per 100 pounds	\$.015 per 100 pounds	9
Milk or Cream for Manufacturing Purposes - Delivered to Dairy Manufacturing Plant	\$.0075 per 100 pounds	\$.02 per 100 pounds	9
Kansas-Manufactured Frozen Dairy Dessert or Frozen Dairy Dessert Mix	\$1 per 1,000 gallons	\$2 per 1,000 gallons	9
Imported Frozen Dairy Dessert or Frozen Dairy Dessert Mix	\$1 per 1,000 gallons	\$2 per 1,000 gallons	9

The bill would require the Secretary, through administrative rules and regulations, to reduce any license or inspection fee whenever the Secretary determines the fee is producing more revenue than is needed for administering the provisions of the statute. The bill also would allow the Secretary, through administrative rules and regulations, to raise any license or inspection fee if the Secretary determines that additional revenue is needed to administer the provisions of the statute.

The bill also would amend two current exemptions from inspection fees. Under current law, any manufacturing plant

located on a dairy is exempted from paying the fees for delivering Grade A raw milk for pasteurization or for delivering milk or cream for manufacturing purposes. The bill would amend that exemption to include only dairies where less than 7.0 million pounds of milk is processed annually. This revised exemption would go into effect on January 1, 2018.

In addition, the bill would authorize the Secretary to charge and collect, by order, a fee necessary for administering and processing paper documents, but only if an electronic option is available for submitting the documents. The fee would be in addition to any fee the Secretary is authorized to charge by law, but could not exceed \$50.

Background

Senate Background on SB 60

The bill was introduced by the Senate Committee on Agriculture and Natural Resources at the request of a spokesperson from the Kansas Department of Agriculture (KDA).

At the Senate Committee hearing on the bill, a spokesperson from KDA testified in support of the bill and described its original content. Appearing as a neutral conferee was a spokesperson jointly representing the following organization: Kansas Agribusiness Retailers Association; Kansas Cooperative Council; and Kansas Grain and Feed Association.. The conferee indicated the groups he represented were neutral on the bill, but had the following concerns: some of the fees were higher than some of those in surrounding states; the State Water Plan Fund has not been receiving statutory transfers from the State General Fund and the Economic Development Initiatives Fund; and the original bill proposes to raise the amount of administrative fee that the KDA could receive for administration of the Agricultural Chemical Remediation Reimbursement Program. No opponent testimony was provided.

The Senate Committee on Agriculture and Natural Resources amended the bill to:

- Delete proposed language that would have given authority to the Secretary to charge and collect the amount of money necessary to administer the Fertilizer Registration Program;
- Delete provisions that would have allocated the fertilizer registration moneys on a percentage basis to the State Water Plan Fund, the Fertilizer Research Fund, and for administration of the agency's program;
- Add a provision that would allocate \$1.35 rather than \$1.40 of the fertilizer registration fee to the State Water Plan Fund;
- Add language that would require the Secretary to reduce the inspection fee on fertilizer whenever the fee is yielding more than is necessary for administration;
- Add language that would allow the Secretary to increase the inspection fee on fertilizer whenever the fee does not raise adequate revenue to administer the program;
- Add language similar to the language above to reduce and increase the fee on agricultural chemical (pesticides) depending upon the ability of the Secretary to administer the program regarding agricultural chemicals;
- Add language requiring \$100 of the agricultural chemical registration fee be credited to the State Water Plan Fund regardless of the amount of the registration fee;

- Delete proposed language that would have allowed the Secretary to charge and collect an amount necessary for the purpose of covering costs for the Agricultural Chemical Remediation Reimbursement Program;
- Add language to limit the maximum amount the Secretary may charge for administration of the Agricultural Chemical Remediation Reimbursement Program from \$150,000 to \$180,000; and
- Clarify the new inspection fees for Class 1 and Class 2 dams would be for those inspections conducted by the Chief Engineer or a designee of the Chief Engineer.

House Background on SB 60

At the House Committee on Agriculture hearing, a spokesperson from KDA testified in support of the bill and described its content as amended by the Senate Committee.

Appearing as a neutral conferee was a spokesperson jointly representing the following organization: Kansas Agribusiness Retailers Association; Kansas Cooperative Council; and Kansas Grain and Feed Association.. The conferee stated they were pleased with the Senate Committee changes to the bill pertaining to the Kansas Agricultural Remediation Boards authority to reimburse the KDA for administrative expenses. The League of Kansas Municipalities also presented neutral testimony, and a representative of WaterOne submitted written neutral testimony. No other testimony was provided.

During its work on the bill, the House Committee recommended the creation of House Sub. for SB 60, which incorporates language pertaining to certain fertilizer tonnage fees, dam inspection fees, and fee sunset dates. Additionally, the House Committee amended House Sub. for SB 60 by

inserting the contents of SB 61 as amended by the House Committee.

Unlike the original bill and the bill, as amended by the Senate Committee, the Substitute Bill would make no changes to certain fund remittance amounts made by the State Treasurer for tons of commercial fertilizer sold. The bill, as introduced, would have changed the dollar amount defined in statute to percentages, and the bill as amended by the Senate Committee would have reduced the amount remitted to the State Water Plan Fund from \$1.40 (current law) per ton to \$1.35 per ton of commercial fertilizer sold.

Fiscal Note Information on SB 60

The fiscal note prepared by the Division of the Budget on SB 60, as introduced, indicates enactment of the bill would give the KDA authority to directly offset administrative costs associated with the services described in the original bill from fee receipts. Currently, the agency is paying 100.0 percent of the charges assessed for online fees and registrations, although the agency's share of the fee receipts is much less. The fiscal note states the original bill would allow the agency to distribute the online charges to the other entities for which KDA is receipting money, such as the Kansas Water Office, Kansas State University, and the Kansas Agricultural Remediation Board. This would reduce KDA expenditures from its fee funds by \$54,507 in FY 2018 and \$81,761 in FY 2019. These amounts are based on a 50.0 percent online renewal adoption rate in FY 2018 and a 75.0 percent online renewal adoption rate in FY 2019. The agency estimates enactment of the bill would increase fee fund receipts for dam inspections by \$21,000 in FY 2018 and \$7,500 in FY 2019. An updated fiscal note on House Sub. for SB 60 was not immediately available.

Senate Background on SB 61

The bill was introduced by the Senate Committee on Agriculture and Natural Resources at the request of the KDA. At the Senate Committee hearing on the bill, a representative of KDA testified in support of the bill. According to the representative, the difference between the current fees and the sunset fees was approximately 21.0 percent of the Dairy and Feed Safety budget within KDA.

At the same hearing, a representative of the Kansas Livestock Association (KLA) testified in opposition to the bill, but stated KLA could support the bill, if amended. The representative proposed reducing the extension of the sunsets from ten years (June 30, 2028) to five years (June 30, 2023). In addition, the representative proposed revising the current exemption for manufacturing plants located on dairies by allowing only small-scale producers to retain the exemption. No neutral testimony was offered at the hearing.

During its work on the bill, the Senate Committee adopted the following amendments:

- Reduce the time period of extension of sunsets from June 30, 2028, to June 30, 2023;
- Amend existing fee exemption for manufacturing plants located on dairies to include only dairies producing less than 6.0 million pounds of milk annually [*Note: the House Committee increased the exemption to 7.0 million.*];
- Specify the effective date of the amended exemption regarding manufacturing plants located on dairies as January 1, 2018;
- Require the Secretary to reduce any license or inspection fee through administrative rules and regulations if the fee is producing more revenue

than is needed to administer the provisions of the statute;

- Clarify language regarding the Secretary's authority to raise a license or inspection fee through administrative rules and regulations; and
- Eliminate Sec. 3 of the bill, which would have authorized the Secretary to collect a fee up to \$50 for the processing of paper documents [*Note:* the House Committee reinserted this language, which appears in Sec. 10 of the substitute bill.].

House Background on SB 61

At the House Committee on Agriculture hearing, the KDA and KLA testified in favor of the bill. The KDA requested that language removed by the Senate pertaining to charging a fee for paper processing of applications be reinserted into the bill. The KLA representative noted they supported the bill, as amended by the Senate Committee. No other testimony was provided.

The House Committee adopted the following amendments:

- Change the sunset of several milk and dairy fees from June 30, 2028, to June 30, 2023;
- Insert language allowing the KDA to charge and collect a \$50 fee for the administration and processing of paper applications, registrations, permits, licenses, certifications, and renewals when an electronic option exists to submit such documents;
- Amend fee exemption for manufacturing plants located on dairies to include only dairies producing less than 7.0 million pounds of milk annually; and

- Clarify that provisions of the act will take effect on or after January 1, 2018.

Fiscal Note Information on SB 61

According to the fiscal note prepared by the Division of the Budget on SB 61, as introduced, a failure to extend the fee sunsets included in the bill would result in the loss of approximately \$278,000 in fee fund revenues, annually.