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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) Until such voting members of the board are so elected and qualified after the effective date of this act, the board of directors of the Kansas cotton association shall act as interim board members for the Kansas cotton boll weevil program submit seven nominations to the secretary of agriculture. The secretary of agriculture shall appoint five
voting members to the board from among such nominees.

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

(d) Upon a vacancy in the board or at least 30 days prior to the expiration of the term of any voting member of the board, the board of directors of the Kansas cotton association shall submit seven nominations to the secretary of agriculture for each such vacancy or expiring term. The secretary of agriculture shall appoint a voting member to the board from among the growers of the state from among such nominees.

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

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

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

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

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

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

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

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

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

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

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

(2) accept grants and donations;

(3) sue and be sued;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) If an out-of-state cotton gin is serving as the selling agent for the cotton produced, such gin may, subject to any contract with the board:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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