

MINUTES OF THE HOUSE COMMITTEE ON AGRICULTURE AND SMALL BUSINESS

The meeting was called to order by Representative Susan Roenbaugh at _____
Chairperson

9:02 a.m./p.m. on January 18, 1990 in room 423-S of the Capitol.

All members were present except: Representative Eckert
Representative Lacey

Committee staff present: Raney Gilliland, Legislative Research Department
Lynne Holt, Legislative Research Department
Jill Wolters, Revisor of Statutes Office
Pat Brunton, Committee Secretary

Conferees appearing before the committee: Chris Wilson, Kansas Fertilizer and Chemical Association, Inc., Topeka
Nancy Kantola, Committee of Kansas Farm Organizations, Topeka
Donald L. Jacka, Jr., State Board of Agriculture, Topeka

Chairman Roenbaugh announced the hearings on HB 2582 would continue.

Chris Wilson, Kansas Fertilizer and Chemical Association, Inc., testified in support of HB 2582 asking the committee to consider amending the bill with the registration fee provision which the State Board of Agriculture has requested. (Attachment I). A question and answer period followed the testimony.

Nancy Kantola, Committee of Kansas Farm Organizations, testified in support of the change in the Kansas Seed Law. (Attachment II).

Chairman Roenbaugh closed hearings on HB 2582.

Donald L. Jacka, Jr., State Board of Agriculture, requested the committee introduce three bills which it feels are necessary to improve the functioning of this agency. (Attachment III). Questions and answers followed each request.

A motion by Representative Amos to introduce the three bills was made with a second by Representative Jenkins. The motion carried.

Attorney General Robert Stephan recommended legislative action regarding 1/Fraud against Senior Citizens and 2/Credit Card Information on Checks. (Attachment IV).

Representative Freeman moved to introduce this legislation and Representative Ensminger seconded the motion. The motion carried.

Representative Jenkins made a motion to introduce legislation requested by Alan Alderson regarding certain contracts to maintain stocks of outdoor power equipment. The motion was seconded by Representative Amos. The motion carried.

Representative Amos made a motion to approve committee meeting minutes of January 10, 1990. Representative Jenkins seconded the motion. Motion carried.

Chairman Roenbaugh adjourned the meeting at 9:20 a.m. The next meeting of the House Agriculture and Small Business Committee will be Tuesday, January 23, 1990, in Room 423-S at 9:00 a.m.



KANSAS FERTILIZER AND CHEMICAL ASSOCIATION, INC.

816 S.W. Tyler St. P.O. Box 1517 A/C 913-234-0463 Topeka, Kansas 66601-1517

STATEMENT OF THE
KANSAS FERTILIZER AND CHEMICAL ASSOCIATION
TO THE HOUSE AG AND SMALL BUSINESS COMMITTEE
REP. SUSAN ROENBAUGH, CHAIRMAN
REGARDING HB2582

JANUARY 17, 1990

Madam Chairman and Members of the Committee, I am Chris Wilson, Director of Governmental Relations of the Kansas Fertilizer and Chemical Association (KFCA). KFCA is the professional trade association of the Kansas agricultural chemical industry, with over 500 members. We appreciate the opportunity to comment in support of HB 2582, recommended by the interim committee, and other revisions to the Kansas Seed Law.

I will address three areas: 1) the plant variety protection provision in the bill; 2) a seed dealer registration fee; and 3) the need for greater plant variety protection enforcement.

First, we support the provision in HB2582 which gives plant variety protection status to varieties for which PUPA certification is applied for as well as after approved. This would help in situations such as when the Arkan variety application was not acted on for a prolonged time.

Secondly, we ask you to consider amending the bill with the registration fee provision which the State Board of Agriculture has requested. This would allow the Board to collect revenues for the seed inspection program from seed dealers. While the \$10 registration fee would not fund a major portion of the cost of the program, we feel the seed industry should at least be allowed to contribute in some way. Currently, much of the seed program is funded through excess fertilizer tonnage fees. A recent Board of Agriculture study showed that only about 1/3 or 10 cents of the 30-cent per ton fertilizer fee is used to fund

AG. SB
1-18-90
ATTACHMENT I

the fertilizer inspection program. The excess collected is used to aid in funding other programs. We believe that, as much as possible, user fees should be paid by those who are truly using or benefitting from a particular government program.

We have been aware for some time that this situation of overpayment of the fertilizer tonnage fee existed. Over the years, the fertilizer industry has paid in millions of dollars in excess of the cost of the program to the state. However, we were not sure of the extent of the overpayment, and we were also aware that the Board of Ag needed these funds to operate other programs mandated by the law. So, we have said and complained little. Former Secretary of Agriculture Harland Priddle, recognizing the unfairness of the situation, attempted in 1986 to cut the fertilizer tonnage fee in half. However, those funds were not made up elsewhere and he subsequently was forced to leave the tonnage fee at 30 cents.

For the first time, we now have quantified documentation of the overpayment situation and the seed dealer registration fee proposal affords the first opportunity for the Legislature to provide additional revenue to the Board of Ag. The Board has indicated that if the Legislature were to pass the seed dealer registration fee, the fertilizer tonnage fee could be reduced by 4 cents per ton. While that is a small amount, it would be an important step toward making user fees more fair and a more accurate reflection of beneficiaries/users of specific programs. We would note that there are inequities in several areas of user fees, such as with the feed tonnage fee. The Board of Ag study revealed that the 10¢/ton feed fee is also in excess of costs of the feed inspection program. We urge you to take action to help alleviate such inequities.

Third, we want to express our concern about protected varieties. Unless variety developers are able to recoup the significant costs of research and development of their varieties, Kansas producers will lose this important source of plant material. You are all aware of the critical importance to Kansas of wheat breeding efforts. Unless protected varieties are truly protected, it will be economically impossible for private firms to continue to develop varieties for Kansas. The recent decision of Pioneer to withdraw from Kansas is a serious loss

and should not be treated lightly. This situation must be addressed, or Kansas producers and the industry and state economy will pay too high a price. The federal law clearly defends plant variety property rights. Unless the state law reflects this and is stringently enforced, Kansas growers will lose more varieties and have fewer new varieties in the future.

Thank you for this opportunity to comment on the Kansas Seed Law. I would be glad to respond to any questions you may have.

* * * * *

COMMITTEE OF ... KANSAS FARM ORGANIZATIONS

Nancy E. Kantola
Legislative Agent
3604 Skyline Parkway
Topeka, KS 66614
(913) 273-5340

STATEMENT OF POSITION OF THE
COMMITTEE OF KANSAS FARM ORGANIZATIONS

RE: HB 2582

January 17, 1990

Madam Chairman, Members of the Committee, I am Nancy Kantola, representing the Committee of Kansas Farm Organizations. Our group, as you know, is a coalition of twenty-two of the major farm and agribusiness associations in the State of Kansas.

Yesterday, at our regular weekly meeting, the membership unanimously reaffirmed support for this change in the Kansas Seed Law.

This change affords protection to new crop varieties when application is made, rather than when the certificate is issued. You've heard the need as explained by the Kansas Seed Dealers Association; it will also conform to federal law.

We ask your support for this change. Thank you.

Ag. SB
1-18-90
ATTACHMENT II

STATE OF KANSAS



STATE BOARD OF AGRICULTURE

SAM BROWNBACK, Secretary

DONALD L. JACKA, JR., Assistant Secretary

MEMORANDUM

TO: Representative Susan Roenbaugh, Chairperson
House Committee on Agriculture and Small Business

FROM: Sam Brownback, Secretary of Agriculture

DATE: 18 January 1990

RE: Proposed Legislation, Kansas State Board of Agriculture

The Kansas State Board of Agriculture respectfully requests that the House Committee on Agriculture and Small Business introduce three bills which it feels are necessary to improve the functioning of this agency. These proposals include:

- * Create a no-limit Statistical Service Special Revenue Fund;
- * Transfer of Headhouse (hopper scale) scale testing from the Department of Grain Inspection; and
- * Establish charges for late registration -- meat and poultry facility registration.

Appended to this memorandum are detailed summaries of the impacts of these proposals. Also attached are the proposed amendments in bill form.

If further information is requested, this Agency stands prepared to address all inquires.

KANSAS STATE BOARD OF AGRICULTURE
DIVISION: Statistics
TOPIC: No Limit Fee Fund

1. Bill Summary. This No Limit Fee Fund is designed to allow the Division of Statistics to receive reimbursable monies for the purpose of meeting both public and private data needs related to agricultural statistics.
2. Fiscal Impact. There is no fiscal impact related to this legislative proposal. The purpose of this new Agricultural Statistics Fee Fund is to enable the Division of Statistics to accept funds from public or private entities to perform reimbursable studies related to agriculture as requested. No State Board of Agriculture funds will be expended from this fee fund. The fund must be a revolving No Limit Fee Fund to accept monies for studies as they are requested.
3. Policy Implications/Background. The Division of Statistics currently receives frequent requests to perform statistical studies on various aspects of the Kansas agricultural industry. Recent requests for such studies include: surveys of farmers' opinions regarding farm programs; farm energy use; user evaluation of marketing and regulatory services; and special drought statistics. Kansas Agricultural Statistics (Division of Statistics, State Board of Agriculture) has the ability and credibility to develop and publish accurate, dependable statistics on a wide range of agricultural and rural issues, if funds are provided. This new fund would allow reimbursement by public and private entities for Kansas Agricultural Statistics to perform studies as requested.
4. Impact on Other State Agencies. This legislation should not adversely affect any other state agency. It will provide a source for any state agency or private entity to contract with Kansas Agricultural Statistics to perform statistical studies related to agriculture effectively and efficiently. This provision will provide state agencies a cost effective means for obtaining survey data, and therefore, should reduce the cost to these agencies.

STATISTICS

Section 1. K.S.A. 74-504b Is hereby amended to read as follows:

74-504b. For the attainment of these objectives, the state board of agriculture is authorized:

- (a) To provide means of more effective assistance to county clerks and deputy assessors in securing a complete and accurate annual agricultural enumeration;
- (b) to secure statistics relating to summer fallow and continuous crop acreage, depth of soil moisture, winter wheat abandonment and utilization of abandoned wheat acreage;
- (c) to secure information relative to acreage of wheat by varieties;
- (d) to secure monthly information on prices received by farmers for agricultural commodities sold by grades and classes;
- (e) to gather monthly information relating to livestock slaughtered, market receipts by class, average weight and price;
- (f) to gather information on monthly receipts and sales of milk for fluid consumption and prices received by producers and paid by consumers for milk;
- (g) to determine farm and commercial grain storage capacity and secure information concerning soybean and flaxseed processing and alfalfa dehydrating plants in Kansas, and
- (h) to secure such other data as may be of service in the upbuilding and prosperity of the state's agriculture;
- (i) to prepare and disseminate the information thus gathered ~~to be prepared and disseminated~~ in a suitable manner on a county, area and state basis;
- (j) To make agreements with any other agency or educational institution of this state or its sub-divisions or with any agency or educational institution of any other state or with the United States Government or any of its agencies or any other person or entity for data collection processing of data, research studies, or any other purpose related to performing the duties of the statistical service of the state board of agriculture;
- (k) to conduct statistical surveys and studies for any other agency or educational institutions of this state or its subdivisions or with any agency or educational institution of any other state or with the United States Government or any of its agencies or any other person or entity, and to make a reasonable service charge for conducting such studies; and

- (1) to receive and accept funds from the United States government, or any of its agencies, or from any agency or educational institution of the State of Kansas or from any other source whatsoever for performing statistical studies, data collection or for any other purposes related to the performance of any duties of the agency's statistical service.

Section 2. The State Board of Agriculture shall remit all moneys received under K.S.A. 74-504b and amendments thereto to the state treasurer at least monthly. Upon receipt of any such remittance, the state treasurer shall deposit the entire amount thereof in the state treasury and the same shall be credited to the agricultural statistics fund. All expenditures from such fund shall be made for any purpose consistent with this act and 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 the state board of agriculture or a person designated by the secretary.

Section 3. K.S.A. 74-504b is hereby repealed

Section 4. This act shall take effect and be in force from and after its publication in the statute book.

LEGISLATIVE PROPOSAL/1990 LEGISLATURE

KANSAS STATE BOARD OF AGRICULTURE
DIVISION: INSPECTIONS - ACAP
TOPIC: TRANSFER OF HEAD HOUSE PROGRAM

1. Bill Summary. The statutory authority for testing of these devices is held in K.S.A. 34-101, 34-107, 34-251, and K.S.A. 1988 Supp. 34-102 and 34-103a both as amended by legislature 1989, ch. 121. (Privitization requires a change in K.S.A. 1988 Supp. 83-301.
2. Fiscal Impact. This proposal is included only at FY 1991 Budget Level "C". The operating costs of the program, after transfer will be funded through monies generated from testing services rendered. The program as budgeted requests \$49,933 (of which \$5,500 is the one time cost of a trailer to haul the weights used to test the head-house scales. The deficit in funding will be picked up in charges for travel to the facilities to test the scales as is now charged by the metrologist and state sealer when traveling for specific work or at the behest of special testing of devices. The money generated through travel fees will off set the shortfall now existing in funding and will be charged to industry, who is now paying the cost of this program.

The increased funding should amount to \$13,000 per year based upon 520 hours travel (@ \$25.00 per hour) or an increase of less than \$100 per elevator (of which 137 are tested).

3. Policy Implications/Background. Testing of commercial scales statewide, with the exception of scales in the headhouses of elevators, is a responsibility of Kansas State Board of Agriculture, Division of Inspections, Agricultural Commodity Assurance Program. Testing of Headhouse scales at grain elevators is currently the responsibility of the Kansas Grain Inspection Department. This process involves testing the scales in the upper portion of grain elevators or "headhouses". These types of scales are referred to as "hopper" scales due to their design. These scales are tested several times each year by the one inspector assigned to this program. Kansas Grain Inspection charges for this service. This inspector transports 10,000 lbs of 50 lb weights in a trailer pulled by a one-ton pickup. The inspector transports the weights by hand inside the elevator, puts them on a "manlift" (normally 100 lbs at a time) and the "manlift" carries them to the top of the elevator (headhouse), when sufficient weights have been transported up the "manlift" (most often 10,000 lbs), the scale is tested for accuracy. After the scale is tested, the weights are returned to the ground by way of the manlift and returned to the trailer. The inspector then travels to another elevator to begin the testing process over again. The scales tested by this inspector are normally used as outgoing grain scales, over which much of the grain in Kansas is sold. These hopper scales discharge into rail cars, transport trucks and barges for shipment to milling operations and/or overseas shipment. Accuracy of these devices is critical to the profitability of elevators selling and handling, as well as receivers of these grains.
4. Impact on Other State Agencies. This program is currently a function of Grain Inspection, and both Kansas State Board of Agriculture and Grain

Inspection are in agreement that this program should function as an inspection process under the direct supervision of the State Sealer who is responsible for enforcing most other Weights and Measures laws in Kansas. No other agencies will be impacted. The industries impacted by the transfer are cognizant of the transfer and support it.

HEAD HOUSE AND HOPPER CAR SCALE TESTING PROGRAM TRANSFER

Section 1. K.S.A. 34-101 is hereby amended to read as follows:

K.S.A. 34-101 (a) A state department of record to be designated as the "Kansas state grain inspection department" is hereby established. Said department shall have exclusive control of the official sampling inspection grading weighing and protein analysis and the certification of grades, weights, and protein content of all grain at all places where inspection stations are now or may hereafter be established. The certificates issued by the department shall be conclusive evidence to all parties interested and shall form the basis of all settlements between the buyer and seller unless an appeal is taken therefrom in the manner provided by law and all freight charges shall be based on the official state weights.

(b) The department shall have supervision and regulation of all warehouses operated under the Kansas public warehouse laws relating to storage of grain. Said department is authorized and empowered by and with the consent of the governor to establish, maintain and operate inspection stations covering all or any part of its service at great railway terminals and points where organized grain markets are regularly maintained, and at other points where operating costs are guaranteed by special arrangements with the industries served or the managing officers in charge: Provided, That where great railroad terminals lie partly within the state of Kansas and partly in an adjoining state and a larger part of the department's service at such terminal is for the account of firms having offices in such adjoining state it shall be lawful for the department to maintain and operate an inspection station covering part or all of its services in such adjoining state: Provided, That no sampling or weighing of grain shall be done by the department outside of the state of Kansas except as provided in K.S.A. 34-101d. Such stations shall be located as conveniently to

the interest served as practicable: And provided further That the owner may direct that his grain may not be inspected by writing or stamping upon the bill of lading thereof, "no inspection desired" or words to that effect.

(c) No provision of this section shall be construed to prohibit or prevent either the secretary of the state board of agriculture or the state sealer or any of their respective authorized representatives from inspecting any weighing or measuring device or otherwise performing any of their duties pursuant to any provision of chapter 83 of Kansas Statutes Annotated as amended and supplemented.

Section 2. K.S.A. 1989 Supp. 34-102 shall be amended to read as follows:

K.S.A. 34-102 (a) The director shall:

(1) Generally supervise the inspection sampling sampling for inspection and weighing of grain as required by law;

(2) supervise the handling inspection sampling sampling for inspection, weighing protein analysis and storage of grain;

(3) adopt any rules and regulations necessary to enforce the laws of this state relating to inspection sampling sampling for inspection, weighing protein analysis and storage of grain and management of public warehouses;

(4) keep proper records of all the inspection, sampling sampling for inspection protein analysis and weighing done in and out of warehouses licensed by law to do business in this state for which purpose the director shall provide books blanks and other material needed in order to keep perfect and proper records;

(5) investigate all complaints of and to the extent possible correct occurrences of fraud or oppression in the grain trade; and

(6) investigate and at the director's discretion monitor a grain handling facility when the director believes it is operating as a public grain warehouse without a valid federal or state warehouse license.

(b) No person or entity shall have charge of weighing grain or issue official certificates of weight on grain at any point within the state except:

(1) Private industries for the purpose of making settlement with their own customers; and

(2) Officials or employees of the Kansas state grain inspection department on the regular form of weight certificates adopted and approved by the director.

(c) All scales over which official state weights of carlots of grain are taken shall be equipped with type-registering beams or electronic print-out tape in order that an original punched scale ticket shall become the property of the Kansas state grain inspection department and shall be filed as a record of the weight.

(d) No person or entity shall install or continue to maintain at any elevator mill or warehouse where official state weights are given any blower suction fan cleaner or other device for the purpose of removing dirt seeds sticks chaff or similar substances from grain unloaded into the elevator mill or warehouse before the grain has been officially weighed.

(e) No person shall in any manner change or alter an official state inspection or weight certificate after it has been issued.

(f) If an official state weight certificate has been issued on any lot of grain the purchaser must make settlement on the basis of the amount of grain shown on that weight certificate.

(g) Violation of any provision of this section is a class B misdemeanor.

(h) No provision of this section shall be construed to prohibit or prevent either the secretary of the state board of agriculture or the state sealer or any of their respective authorized representatives from inspecting any weighing or measuring device or otherwise performing any of their duties pursuant to any provision of chapter 83 of Kansas Statutes Annotated as amended and supplemented.

Section 3. K.S.A. 1989 Supp. 34-103a is hereby amended to read as follows:

K.S.A. 34-103a (a) The Kansas state grain inspection department shall collect from an applicant requesting services a fee for such services rendered by the department. Such fees shall be determined and fixed by the director by rules and regulations. Prior to determining and fixing such fees, the director shall consider recommendations thereon by the state grain advisory commission. Such fees shall not be more than the amounts shown in the follows fee schedule:

Carlot per inspection or reinspection	\$20.00
Extra sample secured at time of original per request	6.00
New sample secured after original per request	7.00
Truck or trailer per inspection or reinspection	10.00
Extra sample secured at time of original per request	5.00
Bin inspection plus applicable sampler hourly rate	7.00
Submitted sample inspection per sample	7.00
Warehouse sample-lot inspection per sample	10.00
Diverter-type sample at points outside inspection point switching limits plus applicable sampler hourly rate and mileage	10.00
Barge inspection or reinspection per 1,000 bu. or fraction	5.00
All reinspection of above carriers based on file sample	7.00
Initial checktest and approve country point diverter-type samplers and train elevator sampler plus hourly and travel time rate and mileage	60.00
Diverter-type review checktest visits at country points hourly rate plus mileage	16.00

Checktesting diverter-type samplers at terminal points, hourly rate (with one hour minimum fee)	16.00
Chemical test (bleaching per sample)	10.00
Protein grains other than wheat	15.00
Oil, grains other than wheat	15.00
Protein initial or reinspection	5.00
Factor only determination one factor	5.00
Factor only determination 2 or more factors, per factor (not to exceed full grade fee)	5.00
Each approved statement requested in addition to grade requirement	5.00
Duplicate certificate	3.00
Stowage examination carlot per request	10.00
Stowage examination barge, per request	15.00
DHV count	7.00
Charge for services performed on overtime (after eight hours per day) by state grain personnel upon request by grain industry including Saturdays, Sundays and holidays per overtime hour	16.00
Charge per hour for sampler or weigher by special arrangement, per man	16.00
Edible bean inspection (official warehouse lot) per certificate	25.00
Edible bean inspection (official car sample) per certificate	25.00
Edible bean inspection (official truck sample) per certificate	20.00
Edible bean inspection (submitted sample), per certificate	15.00
Edible bean inspection sampling fee check weighing or checkloading per hour	16.00
Carlot, per class I weight, 100% supervision (Minimum of 2 cars weighed per hour or hourly charges apply on top of weighing charge)	8.00

Carlot per class II weight, 25% supervision	5.00
Barge weight per 1,000 bu. or fraction	5.00
Truck or trailer per weight	8.00
House transfer weight per 1,000 bu. or fraction	5.00
Weigh-up annual, per 1,000 bu. or fraction	3.00
In weighing sacked cars per manhour	16.00
Out weighing, sacked cars, with count per manhour	16.00
Out weighing sacked cars with count and weight each sack, per manhour	16.00
Hopper scale per test	150.00
Hopper scale per F.G.I.S. test, plus hourly charge on site	150.00
Hopper scale at points where certified weights are not issued, plus mileage and subsistence	150.00
Mileage charge for special trips by the hopper testing scale truck per mile	1.25
Labor of scale inspector for repair work outside inspector's regular inspecting or adjusting of scale per hour	16.00
Charge for services performed on call in or call back after designated working hours by state grain personnel upon request by grain industry, including Saturdays Sundays and holidays per hour (with two hours minimum fee)	16.00

(b) Where any service is performed in a business community where the department does not regularly maintain an inspection station the department may charge for subsistence and transportation of personnel and equipment from the headquarters of such personnel to such point and return. Such charges shall be set by adoption of rules and regulations as provided by law. The director may fix the manner in which the charges are collected.

(c) If any person warehouse or railroad corporation or any of their agents or employees refuses or prevents the officers of the department from having access to their scales elevators warehouses and other places in the

regular performance of their duties in inspecting sampling sampling for inspection and weighing grain or other property in accordance with the tenor and meaning of this act or any law now in force or that may be enacted in relation to the same such persons or corporations shall be guilty of a misdemeanor.

Section 4. K.S.A. 34-107 is hereby amended to read as follows:

K.S.A. 34-107. (a) The director the first assistant director and other officers of the Kansas state grain inspection department shall have exclusive control of the inspection sampling sampling for inspection and weighing of grain in all places where inspection sampling, sampling for inspection or weighing is or shall be established under this act. The action and certificate of any such officer shall be conclusive to all parties interested unless appealed from as provided by law.

(b) No provision of this section shall be construed to prohibit or prevent either the secretary of the state board of agriculture or the state sealer or any of their respective authorized representatives from inspecting any weighing or measuring device or otherwise performing any of their duties pursuant to any provision of chapter 83 of Kansas Statutes Annotated as amended and supplemented.

Section 5. K.S.A. 34-251 is hereby amended to read as follows:

K.S.A. 34-251. (a) All persons owning property or who may be interested in the same in any public warehouse and all duly authorized examiners of such property shall be at full liberty to inspect and to examine any and all property stored in any public warehouse in the state at all times during regular business hours. All proper facilities shall be extended to such persons by the public warehouseman and the warehouseman's agents and employees for such examinations and inspection. The director shall inspect, or cause to be inspected by a duly authorized examiner every warehouse the business thereof and the mode of conducting the same at such times as the director deems necessary. The property

books, records, accounts, papers and proceedings kept at such warehouses, so far as they relate to the operation or management of public storage which have reference only to the quantity, quality and insurance on grain in storage, shall be subject to examination and inspection of the director or the director's duly authorized examiner at all times during regular business hours. All scales or weighing or measuring devices used for weighing or measuring of property in public warehouses shall be subject to tests by any duly authorized ~~inspector-weighmaster or scaler of weights and measurers~~ inspector or weighmaster or by the secretary of the state board of agriculture or the secretary's authorized representative at anytime when required by any such officer or by any person or agent whose property has been or is to be weighed on such scales.

(b) Any public warehouseman who uses scales for grain weighing that have been found on inspection to be inaccurate and that have not been pronounced correct and properly sealed shall be liable to be proceeded against as hereinafter provided.

(c) No inspector or employee of the state grain inspection department shall disclose any information obtained by such inspector or employee in the course of employment or employee in the course of employment which is relative to the affairs or transactions of any warehouseman other than as permitted by this act without first having obtained the express permission in writing of such warehouseman or of the director except when ordered to do so by a court of competent jurisdiction. Upon application of any person the director may disclose or direct any inspector or employee of the Kansas state grain inspection department to disclose any information which, in the opinion of the director the person making the application is entitled to receive. If any inspector or employee discloses any such information except as permitted by this act the inspector or employee shall be guilty of a misdemeanor.

Section 6. K.S.A. 1989 Supp. 83-301 is hereby amended to read as follows:

K.S.A. 83-301 (a) "Scale" means any device used for commercial weighing of commodities ~~but shall not include hopper scales tested by the state grain inspection department;~~

(b) "Person" means any individual partnership association, corporation or governmental agency;

(c) "State sealer" means the state sealer of weights and measurers;

(d) "Place of business" means any location from which a scale testing and service company or one or more representatives or employees thereof sell and perform services for the purpose of testing repairing adjusting or calibrating scales;

(e) "Technical representative" means an individual who is employed by a scale testing and service company and who is responsible for the proper repair adjustment or calibration of scales by the scale testing and service company at a place of business.

Section 7. K.S.A. 1988 Supp. 83-214 is hereby amended to read as follows: 83-214. (a) the secretary may try and prove weights, measures, balances and other measuring devices on request for any person corporation or institution and when the same are found or made to conform to the state standards and otherwise fulfill such reasonable requirements as the secretary may make, the secretary or an authorized representative of the secretary may seal the same with a seal which is kept for that purpose.

(b) Except as otherwise provided by statute, the secretary or the authorized representative of the secretary may charge for services provided by the agency in conjunction with the testing and proving of weights, measures and other devices as provided in subsection (a) at a rate per hour or fraction thereof which is fixed by rules and regulations adopted by the state board of

agriculture, except that such charge shall not exceed ~~\$25~~ \$50 per hour or fraction thereof. In addition to these charges, where the state board of agriculture does not regularly maintain an inspection station under the weights and measures program, the secretary may charge for subsistence and transportation of personnel and equipment to such point and return. Such charges shall be set by rules and regulations adopted by the state board of agriculture. The secretary may fix the manner in which any charges made pursuant to this subsection are collected.

(c) the secretary shall remit all moneys received under subsection (b) to the state treasurer at least monthly. Upon receipt of any such remittance the state treasurer shall deposit the entire amount thereof in the state treasury and the same shall be credited to the weights and measures fee fund which is hereby created. All expenditures from the weights and measures 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 or by a person designated by the secretary.

New Section 8. (a) All of the powers, duties and functions of the director of the Kansas state grain inspection department with regard to the Kansas grain inspection laws pertaining to the actual inspection of the scales and other weighing and measuring devices specified in chapter 34 of Kansas Statutes Annotated, and amendments thereto are hereby transferred to and conferred and imposed upon the secretary of the state board of agriculture.

(b) The secretary of the state board of agriculture shall be the successor in every way to the powers, duties and functions of the director of the Kansas state grain inspection department with regard to the Kansas grain inspection laws pertaining to the actual inspection of the scales and other weighing and measuring devices specified in Chapter 34 of Kansas Statutes Annotated. and

amendments thereto in which the same were vested prior to the effective date of this act. Every act performed in the exercise of such powers, duties and functions by or under the authority of the secretary of the state board of agriculture shall be deemed to have the same force and effect as if performed by the director of the Kansas state grain inspection department with regard to the Kansas grain inspection laws in which such powers duties and functions were vested prior to the effective date of this order.

(c) Whenever the director of the Kansas state grain inspection department or words of like effect with regard to the Kansas grain inspection laws pertaining to the actual inspection of the scales and other weighing and measuring devices specified in Chapter 34 of Kansas Statutes Annotated, and amendments thereto is referred to or designated by a statute, contract or other document such reference or designation shall be deemed to apply to the secretary of the state board of agriculture.

(d) All rules and regulations of the director of the Kansas state grain inspection department with regard to the Kansas grain inspection laws pertaining to the actual inspection of scales and other weighing and measuring devices specified in Chapter 34 of Kansas Statutes Annotated and amendments thereto in existence on the effective date of this act shall continue to be effective and shall be deemed to be duly adopted rules and regulations of the secretary of the state board of agriculture until revised, amended, revoked or nullified pursuant to law.

(e) All orders and directives of the director of the Kansas state grain inspection department with regard to the Kansas grain inspection laws pertaining to the actual inspection of the scales and other weighing and measuring devices specified in Chapter 34 of Kansas Statutes Annotated, and amendments thereto in existence on the effective date of this act shall continue to be effective

and shall be deemed the orders and directives of the secretary of the state board of agriculture until revised amended or nullified pursuant to law.

(f) The secretary of the state board of agriculture shall succeed to whatever right title or interest the director of the Kansas state grain inspection department, with regard to the Kansas grain inspection laws pertaining to the actual inspection of the scales and other weighing and measuring devices specified in Chapter 34 of Kansas Statutes Annotated. and amendments thereto has acquired in any real or personal property in this state, and the secretary shall hold the same for and in the name of the state of Kansas.

(g) On and after the effective date of this act whenever any statute contract. deed or other document concerns the power or authority of the director of the Kansas state grain inspection department with regard to the Kansas grain inspection laws pertaining to the actual inspection of the scales and other weighing and measuring devices specified in Chapter 34 of Kansas Statutes Annotated and amendments thereto to acquire, hold or dispose of real or personal property or any interest therein. the secretary of the state board of agriculture shall succeed to such power or authority.

New Section 9. On the effective date of this act officers and employees who immediately prior to such date, were engaged in the performance of powers. duties or functions of the Kansas grain inspection laws pertaining to the actual inspection of the scales and other weighing and measuring devices specified in Chapter 34 of Kansas Statutes Annotated. and amendments thereto, and who in the opinion of the secretary of the state board of agriculture, are necessary to perform the powers. duties and functions of the Kansas grain inspection laws pertaining to the actual inspection of the scales and other weighing and measuring devices specified in Chapter 34 of Kansas Statutes Annotated and amendments thereto shall be transferred to and shall become officers and

employees of the state board of agriculture. Any such officer or employee shall retain all retirement benefits and all rights of civil service which had accrued to or vested in such officer or employee prior to the effective date of this act. The service of each such officer and employee so transferred shall be deemed to have been continuous.

New Section 10. (a) When any conflict arises as to the disposition of any property power duty or function or the unexpended balance of any appropriation as a result of any abolition transfer attachment or change made by or under authority of this act, such conflict shall be resolved by the governor whose decision shall be final.

(b) The Kansas state board of agriculture shall succeed to all property property rights and records which were used for or pertain to the performance of the powers duties and functions transferred to the secretary of the state board of agriculture. Any conflict as to the proper disposition of property or records arising under this section and resulting from the transfer attachment or all or part of the powers duties and functions of the director of the Kansas state grain inspection department shall be determined by the governor whose decision shall be final.

New Section 11. (a) No suit, action or other proceeding judicial or administrative lawfully commenced, or which could have been commenced by or against the director of the Kansas state grain inspection department with regard to the Kansas grain inspection laws or by or against any officer of the state in such officer's official capacity or in relation to the discharge of such officer's official duties shall abate by reason of the transfers effected under the provisions of this act. The court may allow any such suit action or other proceeding to be maintained by or against the secretary of the state board of agriculture or any officer affected.

(b) No criminal action commenced or which could have been commenced by the state shall abate by the taking effect of this act.

New Section 12. (a) On the effective date of this act, the balance of all funds appropriated and reappropriated to the director of the Kansas state grain inspection department, the actual inspection of scales and other weighing and measuring devices with regard to the Kansas grain inspection laws is hereby transferred to the Kansas state board of agriculture and shall be used only for the purpose for which the appropriation was originally made.

(b) On the effective date of this act the liability for all accrued compensation or salaries of officers and employees who immediately prior to such date were engaged in the performance of powers duties or functions of any state agency or officer transferred by this act or which becomes a part of the Kansas state board of agriculture or the powers duties and functions of which are transferred to the secretary of agriculture shall be assumed and paid by the Kansas state board of agriculture.

Section 13. K.S.A. 34-101, 34-107 and 34-251 and K.S.A. 1989 Supp. 34-102 34-103a and 83-301 are hereby repealed.

Section 14. This act shall take effect and be in force from and after its publication in the statute book.

KANSAS STATE BOARD OF AGRICULTURE
DIVISION: INSPECTIONS - MEAT AND POULTRY
TOPIC: LATE CHARGE ON MEAT AND POULTRY REGISTRATION FEE

1. Bill Summary. This proposed legislation would require the Kansas Meat and Poultry Inspection Act K.S.A. 65-6a18 et. seq. be amended to provide for the assessment of late charge on meat and poultry registration fees collected annually. K.S.A. 65-6134 requires person, corporation or firms operating a packing house, sausage plant, poultry packing plant, slaughterhouse or poultry dressing plant register and pay the applicable fee established. Fees paid during the year expire on December 31 of each year. In order to operate a meat/poultry plant the operator must register by January 1 of the year operations are intended.

In previous years a few plants have been delinquent in remitting payment of the fees due. Only after several letters and referral to the agency counsel, who also had to write and threaten legal action prior to receiving payment.

Proposed legislation should contain languages which allow a fifteen (15) day grace period after the fee is due, January 1. A \$10 penalty would be imposed on registration received between January 15 and January 31. February 1 and each month thereafter a \$25 penalty would be imposed.

2. Fiscal Impact. This legislation was not proposed in FY 1991 budget submission.

The annual costs for implementation would be negligible, as only approximately 260 plants are required to register. In 1989 31 firms which are required to register, were notified on January 15, 1989, that their fee had not been received. February 1, 1989, seven (7) firms had not yet registered and March 1, 1989, four (4) firms had not registered.

Using these figures \$795 in late charges would have been due in 1989 if this proposal had been in effect (31 X \$10 = \$310; 7 X \$35 = \$245; 4 X \$60 = 240). The administration and collection of these late charges could be accomplished without additional personnel.

3. Policy Implication/Background. The purpose of this proposed legislation would be to speed up the registration process and impose a penalty on those firms who are habitually late in remitting their fees.
4. Impact on Other State Agencies. None

MEAT AND POULTRY ACT - LATE FEES

Section 1. K.S.A. 1988 Supp. 65-6a34 is hereby amended to read as follows:

K.S.A. 65-6a34 (a) No person shall (1) engage in business in or for intrastate commerce, as a meat broker or animal food manufacturer (2) engage in business in such commerce as a wholesaler of any carcasses, or parts or products of the carcasses, of any livestock, domestic rabbits or poultry, whether intended for human food or other purposes, or (3) engage in business as a public warehouseman storing any such articles in or for such commerce, without first having registered with the secretary such person's name and the address of each place of business at which, and all trade names under which, such person conducts such business and having paid the registration fee established by this section, if applicable.

(b) No person shall engage in business or operate a packing house, sausage plant, poultry packing plant, slaughterhouse or poultry dressing plant without registering such person's name and place of business with the secretary, and paying the registration fee established by this section.

(c) (1) Prior to January 1, 1987, an annual registration fee of \$200 shall be charged for the registration of a packing house, sausage plant or poultry packing plant, and such registration shall expire on December 31 of each year.

(2) Prior to January 1, 1987, an annual registration fee of \$150 shall be charged for the registration of a slaughterhouse or poultry dressing plant and such registration shall expire on December 31 of each year.

(d) (1) Commencing on January 1, 1987 an annual registration fee of \$50 shall be charged for the registration of each meat broker poultry product broker animal food manufacturer seasonal poultry packing or dressing plant state-owned slaughter or processing facility operated in conjunction with

education and research and located at institutions under the jurisdiction of the state board of regents or slaughter or processing facility operated in conjunction with education and research and located at a public secondary school and each such registration shall expire on December 31 of each year.

(2) Except for persons who register under paragraph (1) of this subsection (d), commencing on January 1, 1987, an annual registration fee of \$150 shall be charged for the registration of each slaughter facility which slaughters 300 animal units or less annually and such registration shall expire on December 31 of each year.

(3) Commencing on January 1, 1987, an annual registration fee of \$200 shall be charged for the registration of each slaughter or processing facility which operates solely on a custom basis as defined by subsection (b)(1) of K.S.A. 65-6a31 and amendments thereto and such registration shall expire on December 31 of each year.

(4) Except for those persons who have registered under paragraphs (1) (2) or (3) of this subsection (d) commencing on January 1, 1987, an annual registration fee of \$250 shall be charged for each processing facility and each slaughter facility which slaughters more than 300 animal units annually and such registration shall expire on December 31 of each year.

(5) As used in this subsection (d), animal units shall be computed by using one unit for each bovine, bison, horse, mule or other equine, .6 unit for each swine, .4 unit for each sheep or goat and as specified by rule and regulation for other animal units.

(e) Any person whose completed application for renewal of a registration required by this section is not received by January 15 of the year of renewal shall be subject to a reinstatement fee which shall be paid in addition to the required registration fee. If the completed application for renewal of a

registration required by this section is received by the secretary after January 15 and on or before January 31 of the year of renewal the reinstatement fee shall be \$10. If the completed application for renewal of a registration required by this section is received after January 31 of the year of renewal the amount of the reinstatement fee shall be increased at the rate of \$25 per month for each additional month or fraction thereof the registration renewal is received after January 31st . No registration required by this section shall be reinstated if it has been delinquent for one year. No registration required by this section shall be issued until all applicable reinstatement fees if any. have been paid.

Section 2. K.S.A. 1988 Supp. 65-6a34 is hereby repealed.

Section 3. This act shall take effect on and after January 1, 1991.



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612-1597

ROBERT T. STEPHAN
ATTORNEY GENERAL

MEMORANDUM

MAIN PHONE: (913) 296-2215
CONSUMER PROTECTION: 296-3751
TELECOPIER: 296-6296

TO: Representative Susan Roenbaugh
Chairperson, House Agriculture and
Small Business Committee

FROM: Attorney General Bob Stephan

DATE: January 16, 1990

RE: Legislative Recommendations

1. Fraud Against Senior Citizens - Amend K.S.A. 50-636 in the Consumer Protection Act to enhance civil penalties for consumer protection violations committed against senior citizens. The enhanced portion of the penalty would be spent for senior citizen education.
2. Credit Card Information on Checks - Restrict the practice of merchants requiring the use of credit card numbers as an identification on checks.

AB & SB
1-18-90
ATTACHMENT IV