

Approved January 23, 1990
Date

MINUTES OF THE Senate COMMITTEE ON Agriculture

The meeting was called to order by Senator Jim Allen at
Chairperson

10:12 a.m./~~pm~~ on January 17, 1990 in room 423-S of the Capitol.

All members were present except: Senator Harder (excused)

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

Conferees appearing before the committee: Tom Wilson, Director, Grain Inspection Department
Don Jacka, Assistant Secretary, State Board of
Agriculture

Senator Allen called the Committee to order and announced that the Committee would receive requests for bills and then called on Tom Wilson.

Mr. Wilson gave the Committee copies (attachment 1) of a proposed bill prepared by staff that updates and clarifies with additions and deletions to the statutes pertaining to the Grain Inspection Department.

Senator Karr made a motion the Committee introduce the bill requested by Mr. Wilson. Senator Montgomery seconded the motion. Motion carried.

The Chairman called on Don Jacka to request legislation.

Mr. Jacka provided the Committee with copies of information explaining requested legislation (attachment 2).

Senator Frahm made a motion the Committee introduce the requested legislation from Mr. Jacka in the form of two bills. Senator Doyen seconded the motion. Motion carried.

Staff requested the Committee introduce a bill concerning clean-up language in the scale section of the weights and measures statutes.

Senator Francisco made a motion the Committee introduce the legislation as requested by staff concerning the weights and measures statutes. Motion was seconded by Senator Lee. Motion carried.

The Chairman called for action on Committee minutes. It was requested that in the third word in line nine of the third paragraph of the January 10 minutes that the 's' be changed to 'c'. Senator Doyen made a motion the minutes of January 10 be approved as corrected. Senator Daniels seconded the motion. Motion carried.

The Chairman adjourned the Committee at 10:37 a.m.

PROPOSED BILL NO. _____

By

AN ACT concerning the Kansas state grain inspection department; relating to the department's functions; fees; grain storage; amending K.S.A. 34-101, 34-233 and 34-235 and K.S.A. 1989 Supp. 34-103a and 34-228 and repealing the existing sections.

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

Section 1. K.S.A. 34-101 is hereby amended to read as follows: 34-101. (a) A state department of record to be designated as the "Kansas state grain inspection department" is hereby established. Said Such 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 Such 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:--Provided7--That. Where great railroad terminals lie

Senate Agriculture Committee

1-17-90

attachment 1

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, and amendments thereto. Such stations shall be located as conveniently to the interest served as practicable: ~~And provided-further, That.~~ The owner may direct that his such owner's grain may not be inspected by writing or stamping upon the bill of lading thereof, "no inspection desired" or words to that effect.

(c) The department shall have the authority to cooperate with any local, state or national organization or agency, whether voluntary or created by the law of any state, or by national law, engaged in work or activities similar to the work and activities of the department, and to enter into contracts and agreements with such organizations or agencies for carrying on a joint campaign of development, education and publicity.

Sec. 2. K.S.A. 1989 Supp. 34-103a is hereby amended to read as follows: 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 following fee schedule:

	Not more
	than
Carlot, per inspection or reinspection.....	\$ 20
Extra sample secured at time of original, per	

request.....	6
New sample secured after original, per request....	7
Truck or trailer, per inspection or reinspection.....	10
Extra sample secured at time of original, per request.....	5
Bin inspection, plus applicable sampler hourly rate..	7
Submitted sample inspection, per sample.....	7
Warehouse sample-lot inspection, per sample.....	10
Diverter-type sample at points outside inspection point switching limits, plus applicable sampler hourly rate and mileage.....	10
Barge inspection or reinspection, per 1,000 bu. or fraction.....	5
All reinspections of above carriers based on file sample.....	7
Initial checktest and approve country point diverter-type samplers and train elevator sampler, plus hourly and travel time rate and mileage.....	60
Diverter-type review checktest visits at country points, hourly rate plus mileage.....	16
Checktesting diverter-type samplers at terminal points, hourly rate (with one hour minimum fee)...	16
Chemical test (bleaching per sample).....	10
Protein, grains other than wheat.....	15
Oil, grains other than wheat.....	15
Protein initial or reinspection.....	5
<u>Aflatoxin test (quick test).....</u>	<u>30</u>
<u>Aflatoxin test (quantitative test).....</u>	<u>30</u>
Factor only determination, one factor.....	5
Factor only determination, 2 or more factors, per factor (not to exceed full grade fee).....	5
Each approved statement requested in addition to grade requirement.....	5
Duplicate certificate.....	3
Stowage examination, carlot, per request.....	10

Stowage examination, barge, per request.....	15
DHV count.....	7
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
Charge per hour for sampler or weigher by special arrangement, per man.....	16
Edible bean inspection (official warehouse lot), per certificate.....	25
Edible bean inspection (official car sample), per certificate.....	25
Edible bean inspection (official truck sample), per certificate.....	20
Edible bean inspection (submitted sample), per certificate.....	15
Edible bean inspection sampling fee, check weighing or checkloading, per hour.....	16
Carlot, per class I weight, 100% supervision (Minimum of 2 cars weighed per hour or hourly charges apply on top of weighing charge).....	8
Carlot per class II weight, 25% supervision.....	5
Barge weight, per 1,000 bu. or fraction.....	5
Truck or trailer, per weight.....	8
House transfer weight, per 1,000 bu. or fraction.....	5
Weigh-up, annual, per 1,000 bu. or fraction.....	3
In weighing, sacked cars, per manhour.....	16
Out weighing, sacked cars, with count, per manhour...	16
Out weighing, sacked cars, with count and weight each sack, per manhour.....	16
Hopper scale per test.....	150
Hopper scale per F.G.I.S. test, plus hourly charge on site.....	150
Hopper scale at points where certified weights are not issued, plus mileage and subsistence.....	150

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

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

Special services..... 30

(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.

Sec. 3. K.S.A. 1989 Supp. 34-228 is hereby amended to read as follows: 34-228. (a) Any person desiring to engage in business as a public warehouseman in this state shall, before the transaction of any such business, make written application to the director of the Kansas state grain inspection department for a license for each separate warehouse (or, if the applicant owns more than one warehouse at one point, all of such warehouses may be incorporated in one application) at which the person desires

to engage in such business. The application for a license shall be on a form designated by the director and shall contain the individual name and address of each person interested as principal in the business (and, if the business is operated or to be operated by a corporation, setting forth the names of the president and secretary) and such further information as the director may require.

(b) (1) Every application for a public warehouse license shall be accompanied by a current financial statement. The statement shall include such information as required by the director to administer and enforce the public warehouse laws of this state, including but not limited to a current balance sheet, statement of income (profit and loss), statement of retained earnings and statement of changes in financial position. The applicant shall certify under oath that the statement as prepared accurately reflects the financial condition of the applicant as of the date specified and presents fairly the results of operations of the applicant's public warehouse business for the period specified. The financial statement shall be prepared in accordance with generally accepted accounting principles and shall be accompanied by: (A) A report of audit or review conducted by an independent certified public accountant or an independent public accountant in accordance with standards established by the American institute of certified public accountants and the accountant's certifications, assurances, opinions, comments and notes with respect to the statement; or (B) a compilation report of the financial statement, prepared by a grain commission firm or management firm which is authorized pursuant to rules and regulations of the federal commodity credit corporation to provide compilation reports of financial statements of warehousemen.

(2) The director, upon request of an applicant, may grant a waiver of the requirements of this subsection for a period of not more than 30 days if the applicant furnishes evidence of good and substantial reasons for the waiver.

(c) (1) Every applicant for a license to operate one or more public warehouses and every person licensed to operate one or more warehouses shall at all times maintain total net worth liable for the payment of any indebtedness arising from the conduct of the warehouse or warehouses equal to at least \$.25 per bushel of the storage capacity of the warehouse or warehouses except: (A) No person shall be granted a license or shall continue to be licensed unless the person has a net worth of at least \$25,000 and (B) any deficiency in net worth required above the \$25,000 minimum may be supplied by an increase in the amount of the applicant's or licensee's bond as provided by K.S.A. 34-229 and amendments thereto.

(2) In determining total net worth: (A) Credit may be given for insurable property such as buildings, machinery, equipment and merchandise inventory only to the extent that the property is protected by insurance against loss or damage by fire and (B) capital stock, as such, shall not be considered a liability.

(d) No license shall be issued to a person or entity not previously licensed in this state and making application for an original license who, in this state or any other jurisdiction, within the 10 years immediately prior to the date of the application of the person or entity for a license, has been convicted of or has pleaded guilty or nolo contendere to any crime which would constitute:

(1) Embezzlement;

(2) any felony defined in any statute contained in article 37 of chapter 21 of the Kansas Statutes Annotated and amendments thereto;

(3) unauthorized delivery of stored goods;

(4) any felony defined in any statute contained in chapter 34 of the Kansas Statutes Annotated and amendments thereto; or

(5) a violation of the United States warehouse act (7 U.S.C. 241 et seq.).

(e) The director may investigate any applicant making application for an original license for the purpose of

determining if such person would be qualified to receive such license under the provisions of this section.

(f) (1) Every application for a public warehouse license shall be accompanied by a license fee which shall be determined and fixed by the director by rules and regulations. Prior to determining and fixing the license fees, the director shall consider recommendations thereon by the state grain advisory commission. The license fee shall not be more than the applicable amount shown in the following fee schedule plus ~~\$100~~ not more than \$300 for each functional unit:

Capacity in Bushels	ANNUAL FEE
	Not more than
1 to 100,000.....	\$350
100,001 to 150,000.....	375
150,001 to 250,000.....	400
250,001 to 300,000.....	425
300,001 to 350,000.....	450
350,001 to 400,000.....	475
400,001 to 450,000.....	500
450,001 to 500,000.....	525
500,001 to 600,000.....	550
600,001 to 700,000.....	575
700,001 to 800,000.....	600
800,001 to 900,000.....	625
900,001 to 1,000,000.....	650
1,000,001 to 1,750,000.....	875
1,750,001 to 2,500,000.....	1,000
2,500,001 to 5,000,000.....	1,250
5,000,001 to 7,500,000.....	1,500
7,500,001 to 10,000,000.....	1,700
10,000,001 to 12,500,000.....	1,850
12,500,001 to 15,000,000.....	2,000
15,000,001 to 17,500,000.....	2,150

17,500,001 to 20,000,000.....	2,300
For each 2,500,000 bushels or fraction over 20,000,000 bushels.....	250

(2) Whenever a licensed warehouseman purchases or acquires additional facilities, the warehouseman, if otherwise qualified, may acquire a license for the remainder of an unexpired license period by paying to the director a license fee computed as follows: If the unexpired license period is nine months or more, the annual fee; if the unexpired license period is more than six months and less than nine months, 75% of the annual fee; if the unexpired license period is more than three months and not more than six months, 50% of the annual fee; and if the unexpired license period is three months or less than three months, 25% of the annual fee.

(3) In addition to any other applicable fee, the director shall charge and collect a fee each time a public warehouse license is amended in an amount of not more than \$75 which shall be determined and fixed by the director by rules and regulations.

(4) Nothing in this subsection shall be construed to authorize a refund for any unused portion of an issued license.

(g) The director shall examine each warehouse operated by a licensed public warehouseman at least once in each 12-month period. The licensed public warehouseman may request additional examinations of any warehouse operated by the warehouseman. The cost of additional examinations when requested by the warehouseman shall be charged to the warehouseman requesting the examination. The cost of each additional examination requested by a warehouseman shall be an amount determined therefor in accordance with an hourly rate fixed by the director of not more than \$20 per hour, subject to a minimum charge of four hours for the examination, plus amounts for subsistence expense at the rate fixed under K.S.A. 75-3207a and amendments thereto and for mileage expense in accordance with the schedule of charges established under K.S.A. 75-4607 and amendments thereto. The director, at the director's discretion, may make additional

examinations of a warehouse and if a discrepancy is found on that examination, or if one was found on the last previous examination, the cost of the examination shall be paid by the warehouseman.

(h) When the director authorizes a grain handling facility to be physically monitored, pursuant to paragraph (6) of subsection (a) of K.S.A. 34-102, and amendments thereto, the cost and expenses of the monitoring shall be paid by the owner of the facility at the same rates fixed in subsection (g).

(i) As used in this section, "functional unit" means a public warehouse which has the capacity to store, weigh in and weigh out grain. Any outlying storage facility which is not a functional unit shall have its storage capacity included as part of the combined capacity of the warehouseman's nearest functional unit.

Sec. 4. K.S.A. 34-233 is hereby amended to read as follows:
 34-233. (a) Every public warehouseman shall receive for storage or shipment, so far as the available capacity of the warehouse shall permit, all grain in a suitable condition for storage tendered to the warehouseman in the usual course of business, without discrimination of any kind. A representative sample of grain offered for storage shall be taken and agreed upon both by the owner and the warehouseman as being a true and representative sample of the lot of grain offered for storage. ~~This sample shall be sent to an official inspector of the Kansas state grain inspection department, designated by the director, and the inspector who receives the sample shall grade it according to the official grain standards and issue a certificate of grade which shall state the name of the owner, the warehouse at which it is stored, and the official grade of such grain, and such official grade shall be stated on the warehouse receipt.~~

(b) ~~The sample submitted to the inspector shall be held by the inspector for a period of at least 10 days from its receipt and if either party to the transaction is dissatisfied with the grade assigned that party may have a reinspection and appeal upon~~

~~request. The fees for the inspection of such sample shall be paid by the warehouseman and added to the storage charges of the grain.~~ If the owner of the grain and the warehouseman agree as to the grade, the grain may be stored and warehouse receipt issued on the agreed grade ~~and the warehouse receipt must state that the grade is an agreed grade,~~ but either party shall have an official inspection if such party so elects at the time of storing the grain by submitting an agreed sample to an inspector designated by the director. ~~If the owner requests and the warehouseman consents thereto, the owner's grain of the same grade may be kept in a bin by itself apart from that of other owners and such bin shall be marked and known as a special bin. If a warehouse receipt is issued for grain so kept separate, it shall state on its face that it is a local bin and shall state the number of each bin.~~ The fees for the inspection of such sample shall be paid by the warehouseman and added to the storage charges of the grain.

(c) All grain taken into a public warehouse shall be carefully weighed by the warehouseman or one of the warehouseman's employees and a certificate of weight in the form approved by the director shall be issued and the weight so shown by the certificate shall be stated on the warehouse receipt. When grain is delivered out of storage at a public warehouse and if either of the parties to the transaction requests or if any dispute or disagreement arises between the party receiving and the party delivering the grain, the same method of determining the grade shall be used as prescribed for taking grain into storage. Any warehouseman desiring to issue warehouse receipts against the warehouseman's own grain in store may do so by complying with the regulations governing the methods of taking samples of grain tendered for storage and the director may designate the manner in which a sample shall be taken if grain is delivered on warehouse receipts at the public warehouses.

Sec. 5. K.S.A. 34-235 is hereby amended to read as follows:
34-235. The owner, operator or manager of any public warehouse

before being licensed under the laws of this state to conduct a grain warehouse shall file with the director a schedule of charges to be made by ~~him-or-her~~ such owner, operator or manager for storage of grain if licensed. The director shall have authority to determine whether such schedule of charges is reasonable and proper. ~~But,~~ but in no case shall such schedule of charges filed by a local public warehouse be less than the schedule of minimum charges or exceed the schedule of maximum charges as established by the commission and the director pursuant to the provisions of K.S.A. 34-125, and amendments thereto.

The amount to be charged for storage of grain as listed on the warehouseman's schedule of charges filed with the director as hereinabove provided shall include the cost of receiving, unloading, loading, insuring, handling (except extraordinary handling), storage and delivery of grain and no additional or special charge shall be made for any ~~of--the--aforesaid~~ such services. Any licensee may change ~~his-or-her~~ such licensee's schedule of charges by sending the proposed new schedule to the director in writing and shall state the reasons therefor. It shall be unlawful for any public warehouseman to assess any charge other than those charges listed in ~~his--or-her~~ such warehouseman's schedule of charges as filed with the director. Every public warehouseman shall keep posted and exposed at a conspicuous place on the premises of such public warehouse, which place shall be accessible to the public, a copy of ~~his--or--her~~ such warehouseman's current approved schedule of charges.

Sec. 6. K.S.A. 34-101, 34-233 and 34-235 and K.S.A. 1989 Supp. 34-103a and 34-228 are hereby repealed.

Sec. 7. This act shall take effect and be in force from and after its publication in the statute book.

STATE OF KANSAS



STATE BOARD OF AGRICULTURE

SAM BROWNBACK, Secretary

DONALD L. JACKA, JR., Assistant Secretary

MEMORANDUM

TO: Senator Jim Allen, Chairman
Senate Committee on Agriculture

FROM: Sam Brownback, Secretary of Agriculture

DATE: 17 January 1990

RE: Proposed Legislation, Kansas State Board of Agriculture

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

- * Abolition of the Annual Meeting of Agriculture expenditure limitation;
- * Kansas Pesticide Law Fee increases for Governmental Registrations; and
- * Kansas Pesticide Law -- Inclusion of dealers of household pesticides in the dealer registration program.

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.

Senate Agriculture Committee

1-17-90

attachment 2

-/-

LEGISLATIVE PROPOSAL/1990 LEGISLATURE

KANSAS STATE BOARD OF AGRICULTURE

DIVISION: Central Office

TOPIC: Annual Meeting of Agriculture/Expenditure Limitation Increase

1. Bill Summary. This bill (appended) would amend K.S.A. 1988 Supp. 74-503 to increase the present expenditure limitation placed on the conduct of the Annual Meeting of Agriculture. This proposed legislation would abolish the expenditure limitation established for the conduct of the Annual Meeting of Agriculture.
2. Fiscal Impact. The passage of this legislation would have no fiscal impact upon the Kansas State Board of Agriculture.
3. Policy Implications/Background. K.S.A. 1988 Supp. 74-503 currently establishes the ceiling on expenses of the Annual Meeting. The ceiling presently is established at a \$10,000 maximum expenditure. The legislative history of this statute reveals that the expense limitation first appeared in 1917 in the amount of \$3,500. In 1931 the amount of this expense limitation was increased to \$5,500. Finally, in 1953 the Annual Meeting of Agriculture expense limitation was increased to its present level of \$10,000 and has not been changed since. Over the past 36 years the State Board of Agriculture has conducted the Annual Meeting -- paid speaker expenses, hosted a banquet, and disseminated information -- within the statutory limitations imposed. In recent years the conduct of the Annual Meeting under the 36 year old expenditure limitation has become impossible.
4. Impact on Other State Agencies. No impact.

ANNUAL MEETING EXPENSE

Section 1. K.S.A. 1988 Supp. 74-503 is hereby amended to read as follows:

74-503. It shall be the duty of the officers and the members of the state board of agriculture, together with so many of the authorized delegates as shall be in attendance, to meet at the capital of the state on the second Wednesday of January of each year, and proceed to elect two members of the board from each agricultural district hereinafter established, who shall constitute the state board of agriculture. Notwithstanding the provisions of K.S.A. 75-4318, and amendments thereto, board members may be nominated in caucus by voice vote, show of hands or if requested, by secret ballot. If a secret ballot is requested, voting slips shall be provided to voting members of the caucus. Board members presiding at caucus meetings shall appoint a secretary for the purpose of keeping minutes of such meetings and for the purpose of taking attendance of qualified delegates eligible to participate in caucus elections. Board members may be elected at the general assembly by voice vote, show of hands or, if requested, by secret ballot. For the purpose of appointment and tenure of office of the state board of agriculture, the state is hereby divided into six agricultural districts which shall be constituted as follows:

First district, the counties of Marshall, Nemaha, Brown, Doniphan, Pottawatomie, Jackson, Atchison, Shawnee, Jefferson, Leavenworth, Wyandotte, Osage, Douglas, Franklin and Johnson.

Second district the counties of Miami, Coffey, Anderson, Linn, Woodson, Allen, Bourbon, Wilson, Neosho, Crawford, Montgomery, Labette and Cherokee.

Third district, the counties of Republic, Washington, Cloud, Clay, Riley, Ottawa, Dickinson, Geary, Wabaunsee, Saline, Morris, McPherson, Marion, Chase and Lyon.

Fourth district, the counties of Ellsworth, Rice, Reno, Harvey, Butler Greenwood, Kingman, Sedgwick, Harper, Sumner, Cowley, Elk and Chautauqua.

Fifth district, the counties of Greeley, Wichita, Scott, Lane, Ness, Rush, Barton, Hamilton, Kearny, Finney, Hodgeman, Pawnee, Stafford, Stanton, Grant, Haskell, Gray, Ford, Edwards, Kiowa, Pratt, Morton, Stevens, Seward, Meade, Clark, Comanche and Barber.

Sixth district, the counties of Cheyenne, Rawlins, Decatur, Norton, Phillips, Smith, Jewell, Sherman, Thomas, Sheridan, Graham, Rooks, Osborne, Mitchell, Wallace, Logan, Gove, Trego, Ellis, Russell and Lincoln.

Members shall be elected for terms of three years except that of the successors to the members from the second district whose terms expire in 1985 one member shall be elected for a term of one year and one member for a term of three years at the meeting in January, 1985; of the successors to the members from the third district whose terms expire in 1986, one member shall be elected for a term of one year and one member for a term of three years at the meeting in January 1986. Nothing herein shall affect the terms of the members of the board in office on the effective date of this act and they respectively shall hold office for the terms for which they were respectively elected, except that the successor of one of the members from the second district whose term expires in 1985 shall be elected from the fifth district at the meeting in January, 1985, for a term of three years. At the expiration of the terms of these members, succeeding members shall be elected from their designated districts for terms of three years or until their successors are elected and qualified. The members shall elect from their number a president, vice-president and treasurer for a term of one year. The secretary of the board of agriculture shall be elected by the members of the board for a term of two years. Every newly elected secretary of the state board of agriculture elected on or after the effective

date of this act shall be elected subject to confirmation by the senate as provided in K.S.A. 75-4315b and amendments thereto. The secretary of the state board of agriculture shall prepare for the annual meeting a program of speakers, or other features calculated to be of value in promoting the state's agricultural industry the annual meeting to continue in session until such time as the business requiring attention shall have been completed. The annual meeting shall not remain in session for more than three days. Each delegate to the annual meeting of the state board of agriculture and each officer and member of the state board of agriculture shall be entitled to one vote in all business coming before the annual meeting. The actual traveling and hotel expenses of each officer and member of the state board of agriculture, of each speaker to appear before the meeting, and all other actual expenses contingent to the holding of the annual meeting, shall be paid out of the treasury of the state of Kansas in a sum not to exceed ~~\$10,000~~ annually.

Section 2. K.S.A. 1988 Supp. 74-503 is hereby repealed.

Section 3. 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: PLANT HEALTH

TOPIC: KANSAS PESTICIDE LAW FEES - GOVERNMENT AGENCY REGISTRATION

1. Bill Summary. This proposed legislation would amend the Kansas Pesticide Law (K.S.A. 2-2438a et seq.) to increase the maximum fee for government agency registration from \$35 to \$60. K.S.A. 2-2440(e) requires most government agencies which apply pesticides on property not owned, leased or operated by such agency to obtain annual government agency registration. Registration is issued on a calendar year basis and expires on December 31 of the year for which it is issued.
2. Fiscal Impact. This legislation was not proposed in the FY 1991 budget submission. Additional costs to the agency would be negligible. There are presently 167 government agency registrations, and this number has remained fairly constant over the years. Additional fees collected by the agency would be approximately \$4,175 ($\$60 - \$35 = \$25 \times 167 = \$4,175$).
3. Policy Implications/Background. The fee for government agency registration was established at \$25 when the Kansas Pesticide Law was passed in 1976. It was increased to \$35 in 1982. A recent study of the agency's fees by David M. Griffith & Associates indicated that the total cost to the agency for issuing government agency registrations (\$9,123) exceeded fees collected (\$5,915) by \$3,208, and agency costs are increasing each year. The fee increase requested will make this program self-supporting.
4. Impact on Other State Agencies. None.

GOVERNMENT AGENCY REGISTRATION FEE INCREASE

Section 1. K.S.A. 1989 Supp. 2-2440 is hereby amended to read as follows:

K.S.A. 2-2440. (a) Subject to the provisions of subsection (d) it is unlawful for any pesticide business which has not been issued a pesticide business license to: (1) Advertise, offer for sale, sell or perform any service for the control of a pest on the property of another or apply a pesticide to the property of another within this state; or

(2) perform any service for the control of a pest or apply any pesticide on or at the premises of another person under any commission division of receipts or subcontracting arrangement with a licensed pesticide business.

Nothing in this subsection shall be construed to require the licensing of any person applying restricted use pesticides to the property of another as a certified private applicator or under the supervision of a certified private applicator.

(b) Application for a pesticide business license or renewal shall be made in writing to the secretary on a designated form obtained from the secretary's office and shall be accompanied by an application fee per category in which the licensee applies and an additional fee for each uncertified individual employed by the applicant to apply pesticides. The application fee per category and the additional fee for each such uncertified individual employed by the applicant to apply pesticides. The application fee per category and the additional fee for each such uncertified employee shall be fixed by rules and regulations adopted by the state board of agriculture except that such fees shall not exceed an application fee of \$100 per category in which the licensee applies and an additional fee of \$10 for each uncertified individual employed by the applicant to apply pesticides. The application fee per category and the additional fee

for each uncertified employee in effect on the day preceding the effective date of this act shall continue in effect until the state board of agriculture adopts rules and regulations fixing a different fee therefor under this subsection. Any uncertified individual employed for a period of more than 10 days in a 30-day period or for five consecutive days by a licensee to apply pesticides subsequent to such application shall be reported to the secretary within 30 days of such employee's hiring and the fee shall be paid at that time. Each application shall also include the following:

(1) The business name of the person applying for such license or renewal;

(2) if the applicant is an individual receiver trustee, representative, agent, firm, partnership, association, corporation or other organized group of persons whether or not incorporated, the full name of each owner of the firm or partnership or the names of the officers of the association, corporation or group;

(3) the principal business address of the applicant in the state and elsewhere; and

(4) any other information the secretary by rules and regulations, deems necessary for the administration of this act.

(c) The secretary may issue a pesticide business license to apply pesticides in categories for which an applicant has applied if the applicant files the bond or insurance required under K.S.A. 2-2448 and amendments thereto satisfies the requirements of subsection (b) and pays the required fees. Such license shall expire at the end of the calendar year for which it is issued unless it has been revoked or suspended prior thereto. If a license is not issued as applied for, the secretary shall inform the applicant in writing of the reasons therefor.

(d) The following persons shall be exempted from the licensing requirements of this act:

(1) State or federal personnel using pesticides or pest control services while engaged in pesticide use research;

(2) veterinarians or physicians using pesticides as a part of their professional services; and

(3) any person or such person's employee who applies pesticides on or at premises owned leased or operated by such person.

(e) Subject to the provisions of subsection (d) it is unlawful for any governmental agency which has not been issued a government agency registration to apply pesticides with this state. Application for government agency registration shall be made in writing to the secretary on a designated form obtained from the secretary's office and shall be accompanied by a fee fixed by rules and regulations adopted by the state board of agriculture, except that such fee shall not exceed ~~\$25~~ \$60. The governmental agency registration fee in effect on the day preceding the effective date of this act shall continue in effect until the state board of agriculture adopts rules and regulations fixing a different fee therefor under this subsection. No fee shall be required of any township located within a county which has previously applied for and received government agency registration. Each application for registration shall contain information including but not limited to:

(1) The name of the government agency;

(2) the mailing address of the applicant;

(3) the name and mailing address of the person who heads such agency and who is authorized to receive correspondence and legal papers. Such person shall be (A) the mayor or city manager for municipalities, (B) the chairperson of the board of county commissioners for counties. (C) the township trustee for

townships or (D) any person designated by any other governmental agency; and

(4) any other information the secretary by rules and regulations, deems necessary for the administration of this act.

(f) If the secretary finds the application to be sufficient the secretary shall issue a government agency registration. The government agency is not required to furnish a surety bond under this act. Such government agency registration shall expire at the end of the calendar year for which it is issued unless it has been revoked or suspended prior thereto. If a registration is not issued as applied for the secretary shall inform the applicant in writing of the reasons therefor.

(g) A pesticide business license or government agency registration may be renewed by meeting the same requirements as for a new license or registration. Neither the pesticide business license nor the government agency registration shall be transferable, except that, in the event of the disability incapacity or death of the owner, manager or legal agent of a pesticide business licensee, a permit may be issued by the secretary to permit the operation of such business until the expiration period of the license in effect at the time of such disability incapacity or death if the applicant therefor can show that the policies and services of such business will continue substantially as before, with due regard to protection of the public and the environment.

(h) No pesticide business license may be issued to any person until such person is or has in such person's employ one or more individuals who are certified commercial applicators in each of the categories for which the license application is made.

Section 2. K.S.A. 1989 Supp. 2-2440 and 1988 Supp. 2-2469 are hereby repealed.

Section 3. This act shall take effect and be in force from and after its publication in the statute book.

LEGISLATIVE PROPOSAL/1990 LEGISLATIVE

KANSAS STATE BOARD OF AGRICULTURE

DIVISION: PLANT HEALTH

TOPIC: KANSAS PESTICIDE LAW FEES - PESTICIDE DEALER REGISTRATION

1. Bill Summary. The proposed legislation would amend the Kansas Pesticide Law (K.S.A. 2-2438a et seq.) to require businesses which sell general use pesticides for household use only to register with the state board of agriculture as pesticide dealers and pay the associated fees. K.S.A. 2-2469 requires all pesticide dealers to be registered except those which sell pesticides only as an integral part of such business pesticide application service, governmental agencies which provide pesticides only for their own programs, individuals who are the final purchasers of pesticides for application, and businesses which sell general use pesticides for household use only. The annual registration costs \$15 and expires on June 30 following issuance.
2. Fiscal Impact. This legislation was not proposed in the FY 1991 budget submission. There are presently approximately 1,800 registered pesticide dealers. The proposed amendment would cover approximately 2,000 additional business at \$15 each for a total of \$30,000 in new revenues. Cost to the agency would be negligible.
3. Policy Implications/Background. The dealer registration requirements were added to the Kansas Pesticide Law by the 1985 legislature. Registration provides the agency with a means to communicate with dealers and to keep them informed of recent actions taken against pesticide products by the U.S. Environmental Protection Agency (EPA). Such EPA actions often involve cancellation or suspension of the federal registrations of household use products. Information is relayed from EPA to the pesticide manufacturer but often does not reach the dealer. Recent examples include aerosol containers of insecticide that tended to explode and a product for flea control on pets that frequently killed the pet as well. Dealers who sell or offer for sale products that have been cancelled or suspended are subject to civil penalties of up to \$5,000 per occurrence. Including dealers of household use products in the pesticide dealer registration requirement will provide the agency with a means of notifying dealers of EPA actions and may save them from federal civil penalties.
4. Impact on Other State Agencies. None.

PESTICIDE DEALER LAW

Section 1. K.S.A. 1988 Supp. 2-2469 is hereby amended to read as follows:

K.S.A. 2-2469. (a) Each person who is a pesticide dealer shall register with the state board of agriculture. Registration shall be required for each business location distributing pesticides and shall be on a form provided by the secretary. Each registration shall expire on June 30 following issuance unless such registration is renewed annually. A registration fee of \$15 shall accompany the application.

(b) The provisions of this section shall not apply to a licensed pesticide business which sells pesticides only as an integral part of such business' pesticide application service when the pesticides are dispensed only through equipment used for this pesticide application, ~~nor to the sale of general use pesticides purchased for household use only~~ nor to any federal, state, county or municipal agency which provides pesticides only for its own programs nor to any individual who is the final purchaser of a pesticide for application to property or property rights owned, leased, or otherwise acquired by such person.

(c) Each registered pesticide dealer is responsible for the acts of each individual employed by such dealer in the solicitation and sale of pesticides and all claims and recommendations for use of pesticides. The dealer's registration shall be subject to denial, suspension, or revocation after a hearing for any violation of this act whether committed by the dealer or by the dealer's officers, agents or employees.

(d) All fees received under this section shall be remitted to the state treasurer in accordance with K.S.A. 2-2464a and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount thereof in the state treasury and such amount shall be credited to the pesticide use fee fund.