

Approved February 25, 1991
Date

MINUTES OF THE Senate COMMITTEE ON Agriculture

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

10:11 a.m./~~XX~~ on February 21, 1991 in room 423-S of the Capitol.

All members were present except: Senator Daniels (excused)
Senator Harder (excused)
Senator McClure (excused)
Senator Sallee (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: Gary Hall, Acting Secretary, State Board of
Agriculture
Don L. Jacka, Jr., Assistant Secretary, State
Board of Agriculture

Senator Allen called the Committee to order and called on Gary Hall for an update on the Kansas State Board of Agriculture.

Mr. Hall provided copies of his comments (attachment 1) and stated that 1990 had been a good year for agriculture and that 1991 looked to be the same. Mr. Hall called on Don Jacka to present legislation requests from the Board of Agriculture.

Mr. Jacka gave the Committee copies of the information of the requests for amendments for present laws with bill drafts (attachment 2). The legislation requests are in the areas of the Meat and Poultry Inspection Act, Grade A Dairy Law, Feeding Stuffs Law, Anhydrous Ammonia Act, and Kansas Soybean Commission Check-off.

The Chairman called for Committee action on the legislation request.

Senator Lee made a motion the Committee request introduction of the legislation requested by Mr. Jacka. Senator Montgomery seconded the motion. Motion carried.

The Chairman called for action on Committee minutes.

Senator Doyen made a motion the minutes of February 20 be approved. Senator Montgomery seconded the motion. Motion carried.

The Chairman adjourned the Committee at 10:43 a.m.

BRIEFING

SECRETARY GARY HALL

FEBRUARY 21, 1991

FIRST, MR. CHAIRMAN LETS REVIEW 1990 IN AGRICULTURE, IT WAS AN EXCELLENT YEAR AND TO HIGHLIGHT THAT, WOULD BE THE RECORD PRODUCING WHEAT CROP WIRTH APPROXIMATELY 417 MILLION BUSHEL, ESTIMATED VALUE AT 1.242 BILLION DOLLARS.

CORN PRODUCTION AT 189 MILLION BUSHEL, LARGEST CROP SINCE 1906. THE VALUE OF THAT CROP ABOUT 420 MILLION DOLLARS.

GRAIN SORGHUM PRODUCTION, AT 185 MILLION BUSHEL. VALUE OF THAT, 430 MILLION DOLLARS. THIS IS THE SEVENTH CONSECUTIVE YEAR THAT KANSAS HAS LEAD THE NATION IN GRAIN SORGHUM PRODUCTION.

SOYBEAN CROP 47 MILLION BUSHEL VALUE OF THAT IS 253 MILLION DOLLARS.

GOING NEXT TO LIVESTOCK, ALL CATTLE AND CALVES APPROXIMATELY 5.7 MILLION HEAD AND THE CASH RECEIPT FROM SALES ARE ESTIMATED AT 4 BILLION DOLLARS.

PORK INDUSTRY APPROXIMATELY 1.5 MILLION HEAD VALUED AT 335 MILLION DOLLARS.

*Senate agriculture Committee
2-21-91
attachment 1*

PAGE 2

THE REASON I'M BRINGING UP THESE FIGURES MR. CHAIRMAN, IS TO INDICATE THE VALUE AND IMPORTANCE OF THE INDUSTRY. GIVEN THE ESTIMATED DOLLAR VALUE OF THOSE COMMODITIES, AND USING MULTIPLIER OF 2.5 TO REPRESENT THE MONETARY TURNOVER IN THE ECONOMY, THAT VALUE IS CLOSE TO 13 BILLION DOLLARS. THIS IS WAY WE CLEARLY STATE AN ACTIVELY STATE TO THE AGRICULTURE INDEED TO THE INDUSTRY IN THE STATE OF KANSAS.

I'M NOT ONLY VERY PLEASE WITH WHAT OCCURRED IN 1990. BUT LOOKING INTO MY CRYSTAL BALL AND WHAT WE LOOK AT, THE DECADE IN THE '90'S, I THINK FOR A GOOD REASON TO BE OPTIMISTIC. ONE REASON INDEED IS BECAUSE OF WHAT WE HAVE SEEN OCCURRED IN THE LAST COUPLE OF YEARS IN THE WORLD WIDE MARKET PLACE. THE DEMISE OF THE STRUCTURE WARSAW PACT COUNTRIES, DEMOCRACIES SPREADING THROUGHOUT THE WORLD, THE UNIFICATION OF GERMANY, EUROPE IN '92, THE FREE TRADE AGREEMENT WITH CANADA, AND HOPEFULLY VERY SOON WITH MEXICO. ALL INDICATE A PHENOMENON THAT I BELIEVE WILL BE SETTING THE TONE FOR THE 1990'S AND BEYOND THAT PHENOMENON, THAT PREMISE THAT WE'RE OPERATING ON IS THE ECONOMIC CONSIDERATION INTRANS IN POLITICAL CONSIDERATIONS.

I INDEED BELIEVE WE'RE GOING TO SEE TRADE BARRIERS REDUCED, QUOTAS LIFTED, AND MAY I BE SO AUDACIOUS, AS WE APPROACH THE MILLENNIUM, WE'LL SEE TRADE BETWEEN COUNTRIES BECOME AS

PAGE 3

COMMONPLACE AS WHAT WE NOW SEE AS TRADE BETWEEN THE STATES. AND WHEN THAT OCCURS, THAT WILL BE EXCELLENT FOR AGRICULTURE INDUSTRY. I THINK IT IS IMPORTANT TO REALIZE THAT WE HAVE TO POSITION OURSELVES, OUR INDUSTRY, PARTICIPATE IN THOSE OPPORTUNITIES AND NOT BE MERELY OBSERVES OF THE OPPORTUNITIES.

ANOTHER IMPORTANT POINT TO BRING TO YOUR ATTENTION IS, THE FACT THAT TRADE BARRIERS ARE REDUCED AND QUATOS LIFTED. SO WE NEED TO REALIZE THAT THE MARKET PLACE IS GOING TO BE KEPT. SO ITS NOT ONLY IMPORTANT THAT WE POSITION OURSELVES TO PARTICIPATE IN THE OPPORTUNITIES BUT WE ALSO MUST TAKE A LOOK AT WHAT WE ARE DOING IN AGRICULTURE RESEARCH IN THE STATE OF KANSAS AND MAKE SURE THAT INDUSTRY STAYS ON THE CUTTING EDGE OF TECHNOLOGY.

WE DO NOT WANT TO ALLOW WHAT IS HAPPENING IN THE AUTOMOBILE INDUSTRY TO HAPPEN IN THE AGRICULTURAL INDUSTRY. TO ADDRESS SOME OF THOSE CONCERNS AND ISSUES, THE BOARD OF AGRICULTURE HAS ADDRESSED THE INTERNATIONAL MARKET PLACE BY PRESENTING A STRATEGY ENDING, BEGINNING A NATIONAL MARKET PLACE. WE HAVE HIGHLIGHTED FOUR COUNTRIES, JAPAN AND TAIWAN, THAILAND, MEXICO AS AREAS WE BELIEVE WE NEED TO CONCENTRATE. WE HAVE ALREADY PARTICIPATED IN THE JAPANESE MARKET PLACE IN NOVEMBER AND DECEMBER IN THE BEEF PROMOTION, IN TAIWAN WE VISITED WITH COOPERATORS IN THAT COUNTRY,

PAGE 4

AND SEE EXCELLENT POTENTIAL THE FIRST WEEK OF MARCH. WE'LL BE IN MEXICO DOING A MAJOR FOOD PROMOTION IN MEXICO CITY WITH MAJOR CORPORATIONS OF KANSAS. SO I'M VERY PLEASED TO ADDRESS THIS ISSUE.

I BEEN WORKING CLOSELY WITH SECRETARY NICHOLL, DEPARTMENT OF COMMERCE TO SEE HOW WE EFFECTIVELY CAN WORK TOGETHER AND STRETCH THOSE STATE DOLLARS TO INSURE THE STATE IS DOING A GOOD JOB IN THE INTERNATIONAL MARKET PLACE. ITS CLEAR TO BOTH SECRETARY NICHOLL AND MYSELF THAT THE EXPERTISE AND AG PRODUCT LIES WITH THE BOARD OF AGRICULTURE AND HARD PRODUCT LIES IN COMMERCE, BUT INDEED WE MUST CONTINUE TO WORK TOGETHER.

CONCERNING AG RESEARCH THE BOARD OF AGRICULTURE HAS INITIATED AN AGRICULTURE RESEARCH COMMITTEE, IT'S THREE GOALS ARE: (1) TO IDENTIFY AGRICULTURAL RESEARCH REQUIREMENTS AND NEEDS FOR THEIR INDUSTRY FOR THE NEXT FIVE YEARS, (2) TO PROVIDE DEFINITE PROPOSALS TO ACCOMPLISH THOSE IDENTIFIED NEEDS, AND (3) TO RECOMMEND A STRATEGY FOR SOURCES OF FUNDING TO MARCH THOSE NEEDS. WE HAVE DIVIDED THE INDUSTRY IN NINE COMPONENTS: WHEAT, FEED-GRAINS, OILSEEDS, HORTICULTURE, MEAT PROCESSING, LIVESTOCK, GRAIN PROCESSING, HAY & FORGE, AGRI-BUSINESS. WE HAVE APPOINTED COMMITTEE CHAIRMAN WHO WILL BE RESPONSIBLE TO FACILITATE THE COMMITTEES AND ACCOMPLISH THE GOALS SET OUT. THE RESULTS SHOULD COME IN MAY OR

1-4

PAGE 5

JUNE, THEN GO THROUGH THE PROCESS OF INTRODUCING RECOMMENDATIONS TO THE COMMITTEE IN THE SUMMER AND PROBABLY IN THE FALL, WINTER AND PERHAPS HAVE A PROPOSAL FOR THE '92 LEGISLATIVE SESSION.

AN ADDITIONAL ITEMS I WOULD LIKE TO BRING TO YOUR ATTENTION MR. CHAIRMAN IS CONCERNING ENVIRONMENTAL CONCERNS, AND OF COURSE, WE IN THE INDUSTRY ADDRESS ENVIRONMENTAL CONCERNS IN A VERY PROACTIVE MAJOR. RECENTLY THE EPA HAS ANNOUNCED THAT THEY ARE LOWERING THE HEALTH ADVISORY LEVEL OF ATRAZINE IN DRINKING WATER FROM 150 PARTS BILLION, DOWN TO 3 PARTS BILLION. AS ALLOWED IN STATUE. I HAVE APPOINTED THE PROCESS OF APPOINTING A PESTICIDE MANAGEMENT DISTRICT TECHNICAL ADVISORY COMMITTEE TO CONSULT WITH ME TO DETERMINE WHETHER OR NOT WE SHOULD ESTABLISH A PESTICIDE MANAGEMENT DISTRICTS TO ADDRESS THE PROBLEM OF ATRAZINE IN DRINKING WATER AND SURFACE WATER. WE'RE GOING TO NEED SAMPLING DONE, WHICH SOME HAS BEEN DONE ALREADY, WE NEED TO FIND OUT EXACTLY WHAT EPA IS GOING TO DO AS FAR AS THEIR PROCEDURES TO DETERMINE WHETHER ITS A YEAR ROUND SAMPLING THAT THEY ARE AFTER OR PERHAPS A DIFFERENT MEANS. ONCE WE GET ALL THE INFORMATION THEN THE DETERMINATION WILL MADE ON HOW WE WILL ADDRESS THE ATRAZINE SITUATION.

MR. CHAIRMAN, THIS CONCLUDES MY REMARKS FOR THIS MORNING.

1-5

STATE OF KANSAS



STATE BOARD OF AGRICULTURE

GARY HALL, Acting Secretary

DONALD L. JACKA, JR., Assistant Secretary

MEMORANDUM

TO: Senator Jim Allen, Chairman
Senate Committee on Agriculture

FROM: Gary Hall, Secretary
Kansas State Board of Agriculture

DATE: 21 February 1991

RE: Requests for Legislation, 1991 Legislature

Appended, please find the requests for legislation required by the Kansas State Board of Agriculture. These legislative requests include:

- (1) Meat & Poultry Inspection Act - Amending to provide the State Board of Agriculture civil penalty authority in the regulation of Meat & Poultry slaughter;
- (2) Grade A Dairy Law - The fees for dairy inspection/registration were amended through 1990 Session, Senate Bill 419, the appended request would provide non-substantive, technical changes necessary to clean-up that legislation;
- (3) Feeding Stuffs Law - In regulatory sampling, amend to allow a reduced number of samples of canned pet food to be a representative sample for testing purposes;
- (4) Anhydrous Ammonia Act - Amend present law to allow a stop-use order for non-compliant anhydrous ammonia storage and application equipment; and
- (5) Kansas Soybean Commission Check-off - Provide language in present law to bring the Kansas Check-off provisions into compliance with the new National Soybean Check-off.

The State Board of Agriculture respectfully requests that the Senate Committee on Agriculture draft these proposals as legislation before the 1991 Legislature.

*Senate Agriculture Committee
2-21-91
attachment 2*

LEGISLATIVE PROPOSAL

Priority # 1

K.S.A. 1989 Supp. 65-6A-18 et. seq.

Should the Kansas Meat and Poultry-Inspection Act be amended to provide for civil penalty remedies for persons found to have violated provisions of the Act?

1. Bill Summary --- The legislation would provide for civil penalties to be imposed on persons, corporations or firms found to have violated provisions of the Kansas Meat and Poultry Inspection Act and regulations promulgated thereunder. The new section proposed to be added to the Kansas Meat and Poultry Inspection Act would read as follows:

(see attachment)

2. Fiscal Impact --- Minimal, if any, fiscal impact is anticipated with the adoption of this legislation. Existing agency resources, legal counsel, hearing officer, and program staff would be able to enforce the provisions of this legislation. The only fiscal impact would result in the cost of printing new copies of the Act which are budgeted for annually.

3. Policy Implication/Background --- The purpose of this proposed legislation is to expedite and close cases in which violations of the Act have been documented. Presently, violations of the Act are referred to legal counsel, who in turn refers them to the county or district attorney in whose jurisdiction the violation was committed. This process, in several instances, has taken six to eight months before charges have been filed in district court. In most cases, the parties charged have plead guilty and paid the fine imposed on them.

Civil penalties will allow the secretary's designee to issue a written order against any person, corporation or firm found to have violated the Kansas Meat and Poultry Inspection Act.

Most cases filed in the past have been for product adulteration which was a result of substituting cheaper product and allowed the violator an unfair economic gain. County and District Attorney's, in some cases, have been reluctant to file charges against violators or have had other "more important" cases pending and have placed a low priority on cases involving meat products.

4. Impact on Other State Agencies --- No other state agencies will be impacted by this proposed legislation.

PROPOSED LEGISLATION TO PROVIDE CIVIL PENALTY AUTHORITY
FOR MEAT AND POULTRY INSPECTION ACT

New Section 1. (a) Any person who violates any of the provisions of the Kansas meat and poultry inspection act and amendments thereto, or any rule and regulation promulgated thereunder, in addition to any other penalty provided by law, may incur a civil penalty imposed under subsection (b) in the amount fixed by rules and regulations of the board in an amount not less than \$100.00 nor more than \$5,000.00 for each violation and, in the case of a continuing violation, every day such violation continues shall be deemed a separate violation.

(b) A duly authorized agent of the secretary, upon finding that any person or agent or employee thereof has violated any provision of the Kansas meat and poultry inspection act or any rule and regulation promulgated thereunder, may impose a civil penalty as provided by this section upon such person.

(c) No civil penalty shall be imposed pursuant to this section except on written order of the duly authorized agent of the secretary to the person who committed the violation or to the person whose agent or employee committed the violation. Such order shall state the violation, the penalty to be imposed and the right of such person to appeal to the secretary. Any such person, within 20 days after notification, may make written request to the secretary for a hearing in accordance with the provisions of the Kansas administrative procedures act. The secretary shall affirm, reverse or modify the order and shall specify the reasons therefor.

(d) Any person aggrieved by an order of the secretary made under this section may appeal such order to the district court in the manner provided by the act for judicial review and civil enforcement of agency actions.

(e) Any civil penalty recovered pursuant to the provisions of this section shall be remitted to the state treasurer, deposited in the state treasury and credited to the state general fund.

(f) This section shall be part of and supplemental to the Kansas meat and poultry inspection act.

New Section 2. This act shall be in force and effect from and after its publication in the state register.

LEGISLATIVE PROPOSAL

Priority # 2

K.S.A. 65-745

1. Bill Summary --- Section 5(b)-of 1990 S.B. 419 amending K.S.A. 65-745 establishing a minimum mil inspection fee on package Grade A pasteurized milk or Grade A milk products imported into Kansas and sold at retail to final consumers, needs to be amended and strike the words, "on and after the effective date of this act, no fee shall be assessed pursuant to this subsection."
2. Fiscal Impact --- None.
3. Policy Implication/Background --- This is a clean-up of excessive wordage in Senate Bill 419 passed in 1990 Legislation.
4. Impact on Other State Agencies --- None.

PROPOSED BILL TO MAKE A TECHNICAL LANGUAGE CHANGE IN
K.S.A. 1990 SUPP. 65-745

Section 1. K.S.A. 1990 Supp. 65-745 is hereby amended to read as follows: 65-745.

The following fees for the statewide system of milk inspection and regulatory services, established pursuant to K.S.A. 65-737a, and amendments thereto, are hereby established.

(a) A fee fixed by rules and regulations adopted by the state board of agriculture for each 100 pounds of milk produced by milk producers under Kansas grade A inspection, except that such fee shall not exceed \$.01 for each such 100 pounds. Each such producer is hereby charged with such fee, which shall be paid to the milk producers' cooperative, milk processor or milk distributor to whom the milk is sold or delivered. Each such cooperative, processor or distributor is hereby charged with the duty of collecting such fees, which shall be remitted to the state dairy commissioner in accordance with the provisions of K.S.A. 65-746, and amendments thereto. The amount of the fee in effect under this subsection 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 amount therefor under this subsection.

(b) A fee fixed by rules and regulations adopted by the state board of agriculture for each 100 pounds of packaged grade A

pasteurized milk or milk products sold in Kansas at retail to the final consumer, or sold to any person for resale in Kansas at retail to the final consumer, by a milk distributor, except that such fee shall not exceed \$.01 for each such 100 pounds. Each such distributor is hereby charged with the fee provided for in this subsection, which shall be remitted to the state dairy commissioner in accordance with the provisions of K.S.A. 65-746, and amendments thereto. The amount of the fee in effect under this subsection 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 amount therefor under this subsection. If any fee computed pursuant to this subsection is less than \$2.50, then the sum of \$2.50 shall be paid in lieu of such computed fee. ~~On and after the effective date of this act, no fees shall be assessed pursuant to this subsection.~~

(c) A fee fixed by rules and regulations adopted by the state board of agriculture for each 100 pounds of packaged grade A pasteurized milk or milk products which are processed by a milk processor in Kansas for distribution outside the state, except that such fee shall not exceed \$.01 for each such 100 pounds. Each such processor is hereby charged with the fee provided for in this subsection, which shall be remitted to the state dairy commissioner in accordance with the provisions of K.S.A. 65-746, and amendments thereto. The amount of the fee in effect under this subsection 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 amount therefor under this

subsection. On and after the effective date of this act, no fees shall be assessed pursuant to this subsection.

(d) On and after the effective date of this act, a fee of \$.01 per 100 pounds or fractions thereof of grade A raw milk for pasteurization delivered to a milk processor within the state of Kansas which is processed into grade A milk or grade A milk products shall be paid. Each such milk processor is hereby charged with such fee which shall be remitted to the state dairy commissioner in accordance with the provisions of K.S.A. 65-746, and amendments thereto. If any fee computed pursuant to this subsection is less than \$2.50, then the sum of \$2.50 shall be paid in lieu of such computed fee.

Section 2. K.S.A. 1990 Supp. 65-745 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

Priority # 3

K.S.A. 2-1009

1. Bill Summary --- K.S.A. 2-1009, of the Kansas Feeding Stuffs Law requires that no action be taken for violation of the law based upon analysis of a sample from less than five (5) separate original packages in the lot. In the case of canned pet food producers, the Board would be required to obtain five (5) cans of each product, blend them together and analyze it.

The law also requires that a portion of the sample is to be furnished to the manufacturer at their request. This would require the purchase of five (5) additional cans. Since canned product is purchased from retailers (whereas dry product samples can be removed without destroying the integrity of the product and can be co-mingled from 5 separate containers and the unused portion of the sample, if in noncompliance, can be supplied to the manufacturer) it would be cost prohibitive to purchase ten (10) cans of each pet food sampled.

2. Fiscal Impact --- There would be no fiscal impact upon industry and only a minor increase in cost to the Board if two (2) samples are purchased of each canned product lot sampled.
3. Policy Implication/Background --- The requested change in the Feeding Stuffs Law would permit improved and more appropriate enforcement action by the Board. Current requirements are cost and enforcement prohibitive.
4. Impact on Other State Agencies --- None.

PROPOSED BILL TO AMEND SAMPLING AUTHORITY UNDER THE
COMMERCIAL FEEDING STUFFS ACT

Section 1. K.S.A. 2-1009 is hereby amended to read as follows: 2-1009. (a) A representative sample of each brand of commercial feeding stuffs found, sold, offered or exposed for sale shall be taken by the said secretary or the secretary's duly authorized representative. Except as provided in subsection (b) of this section, no No action shall be maintained for a violation of the provisions of this act, based upon an analysis of a sample from less than five (5) separate original packages, unless there be less than five (5) separate original packages in the lot, in which case portions for the official sample shall be taken from each original package; if the commercial feeding stuffs is in bulk, portions shall be taken from not less than five (5) different places in the lot: Provided, That this does not exclude sampling in bulk when not exposed sufficiently to take portions from five (5) different places, in which case portions are to be taken from as many places as practicable. If the sample thus secured is larger than is required, it shall be mixed and quartered until a sample of suitable size remains. Said sample shall be placed in a container and sealed. The said secretary shall analyze the sample or cause it to be analyzed and the results of such analysis, together with such additional information as the said secretary may deem advisable, shall be promptly transmitted to the manufacturer, or person responsible for the placing of the commodity on the market, and may be published in reports or bulletins from time to

time. The manufacturer or person responsible for the placing of any commodity so sampled upon the market shall upon request to the secretary be furnished with a portion of the official sample referred to in this section.

(b) For canned pet food, a single package of the pet food shall be deemed to be a representative sample upon which action may be taken.

Section 2. K.S.A. 2-1009 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

Priority # 4

K.S.A. 2-1217

1. Bill Summary --- K.S.A. 2-1217-deals with the Kansas Anhydrous Ammonia Law. This program provides for safety related inspections of anhydrous storage and application equipment. Equipment found to be unsafe or not in compliance with current regulations are taken out of service by attaching a "stop use" tag to the equipment. "Stop use" authority is not specifically granted under current law. This modification requests the specific verbiage to rectify the problem.
2. Fiscal Impact --- No change in current action nor fiscal impact will occur.
3. Policy Implication/Background --- It has been common practice to issue a "Stop Use Order" when certain violations were found. These violations usually pertained to those that would affect the safe use of anhydrous ammonia equipment; such as a damaged hose, broken pressure or percentage of fill gauge, bad safety relief valves and/or leaks. Currently, enforcement and issuance of "stop use orders" is based upon an administrative policy adopted in 1988. The current law, however, does not provide for issuance of the "Stop Use Order".
4. Impact on Other State Agencies --- No impact upon other agencies would occur.

PROPOSED BILL FOR PLACING STOP SALE OR STOP USE AUTHORITY
IN THE ANHYDROUS AMMONIA LAW

New Section 1. (a) The secretary and authorized representatives of the secretary shall make such inspection of any facility or equipment used for the storage, handling or transportation of anhydrous ammonia as may be deemed necessary to ascertain whether any person using or operating such facility or equipment is complying with all of the provisions of this act.

(b) The secretary or a duly authorized representative of the secretary, acting as the enforcing officer, may issue and enforce a written or printed stop sale or stop use order to the owner or custodian of any facility or equipment used for the storage, handling or transportation of anhydrous ammonia which the secretary or duly authorized representative determines is not in compliance with the provisions of K.S.A. 2-1212 through 2-1220 inclusive and amendments thereto, or any rules and regulations adopted thereunder. The stop sale or stop use order shall prohibit the sale of anhydrous ammonia or prohibit further use of such facility or equipment for the handling, storage or transportation of anhydrous ammonia, except on approval of the enforcing officer, until the enforcing officer has evidence that the law and rules and regulations have been complied with and issues a release from the stop sale or stop use order. Any stop sale or stop use order issued pursuant to this subsection is subject to review in accordance with the act for judicial review and civil enforcement

of agency actions. The provisions of this subsection shall not be construed as limiting the right of the enforcement officer to proceed as authorized by other provisions of the statutes contained in article 12 of chapter 2 of the Kansas Statutes Annotated and amendments thereto.

(c) This section shall be part of and supplemental to the provisions of the K.S.A. 2-1212 through 2-1220 inclusive.

New Section 2. This act shall take effect and be in force from and after its publication in the statute book.

LEGISLATIVE PROPOSAL

K.S.A. 2-3001 et. seq.

Should the Soybean Check-off provisions be amended to provide for State compliance with the Federal Marketing Order establishing a National Soybean Check-off?

1. Bill Summary -- This legislation would provide for state coordination of the National Soybean Check-off, proposed through the 1990 Farm Bill. The legislation, attached, will provide necessary language to allow the present Soybean Commission to accept check-off funds in accordance with the National Marketing Order and remit a portion of those funds to the federal government.
2. Fiscal Impact -- As a result of this legislation, in conjunction with the National Soybean Check-off, the Kansas Soybean Commission will enjoy additional revenues for promotion and market development. There will be, additionally, a necessity to establish a no-limit fee fund for the deposit of check-off funds to be remitted to the National Soybean Promotion and Research Committee.
3. Policy Implication/Background -- The purpose of this legislation is to establish a mechanism in Kansas to accommodate cooperation with the National Soybean Check-off. This legislation would provide for a mechanism in which National Soybean Check-off funds can be collected and remitted to the National Soybean effort. The Kansas Soybean Commission will be the agent for the National Soybean Promotion, not only during the interim period, prior to referendum, but also subsequent to the referendum.
4. Impact on Other State Agencies -- No other state agencies will be impacted by this proposed legislation.

NATIONAL CHECKOFF FOR SOYBEANS

Section 1. Since the United State Congress has enacted Public Law 101-624, The Soybean Promotion, Research And Consumer Information Act of 1990, which establishes a national checkoff promotion for soybeans, the Kansas Soybean Commission established pursuant to K.S.A. 2-3001 et seq. shall be the state promotion entity for soybeans under that act upon certification by the national board or other certifying entity established under Public Law 101-624.

Section 2. K.S.A. 2-3005 is hereby amended to read as follows:
K.S.A. 2-3005. (a) In the administration of this act each said commission shall have the following duties, authorities and powers:

- (1) To recommend to the secretary policy regarding marketing, campaigns of development, education and publicity for the Kansas grain commodity and products made therefrom represented by it;
- (2) to recommend to the secretary the acceptance of grants and donations;
- (3) to recommend the secretary enter into such contracts as may be necessary or advisable for the purposes of this act;
- (4) to recommend that the secretary cooperate with any local, state, national or international organization or agency, whether voluntary or created by the law of any

state or by federal law, engaged in work or activities similar to the work and activities of each said commission, and to direct the division to enter into contracts with such agencies or organizations for carrying on campaigns of development, education or publicity;

(5) to be advisory to and cooperate and work with Kansas state university or other educational or research facilities regarding research and development connected with the grain commodities represented by each said commission-;

(6) to recommend that the secretary submit to the national board established pursuant to Public Law 101-624 any reports required describing the manner and procedure for collection of the voluntary assessments established on soybeans pursuant to Public Law 101-624;

(7) to recommend that the secretary certify to the national board established pursuant to Public Law 101-624 that assessments will be collected on all of the soybeans sold within the state;

(8) to recommend that the secretary certify to the national board established pursuant to Public Law 101-624 that funds collected pursuant to the nationally established assessment will be remitted as required by the national board established pursuant to Public Law 101-624;

(9) to recommend that the secretary certify to the national board established pursuant to Public Law 101-624 that requests for refunds will be honored; and
(10) to recommend that the secretary and division perform such other duties as may be necessary to comply with Public Law 101-624 pertaining to the national checkoff program for soybeans and any rules, regulations or marketing orders promulgated or issued thereunder.

Section 3. K.S.A. 2-3006 is amended to read as follows:

2-3006. The division shall have the following duties, authorities and powers:

- (1) To implement and coordinate the policies and practices of each grain commission represented by it;
- (2) to sue and be sued;
- (3) to prosecute in the name of Kansas any suit or action for the collection of the ~~assessment~~ assessments provided ~~for by K.S.A. 2-3007~~ under this act;
- (4) to adopt rules and regulations deemed necessary for the ~~procedure and~~ exercise of its powers and the performance of its duties under this act;
- (5) to hire, subject to the approval of a majority of the members of the commission affected, an administrator for such commission; and
- (6) to hire such clerical or other personnel deemed necessary to carry out the provisions of this act.;

(7) to establish record keeping requirements deemed necessary by the commodity commission affected; and
(8) to inspect and audit any records required to be kept pursuant to this act.

Section 4. K.S.A. 2-3007 is amended to read as follows:

2-3007. (a) There is hereby levied an assessment of three mills per bushel upon grain sorghum marketed through commercial channels in the state of Kansas. There is hereby levied an assessment of five mills per bushel upon corn marketed through commercial channels in the state of Kansas. There is hereby levied an assessment upon soybeans marketed through commercial channels in the state of Kansas. The soybean commission shall set the assessment at a rate of not more than 20 mills per bushel. The soybean commission shall not change the assessment rate, either to increase or reduce, more than once a year. Such assessment shall be levied and assessed to the grower at the time of sale, and shall be shown as a deduction by the first purchaser from the price paid in settlement to the grower. Under the provisions of this act, no corn, grain sorghum or soybeans shall be subject to the assessment more than once. The division shall furnish to every first purchaser receipt forms which shall be issued by such first purchaser to the grower upon the payment of such assessment. The form shall indicate thereon the procedure by which the grower may obtain a refund of any such assessment, except a refund shall not be issued unless the amount of the refund is \$5 or more. Within one year after any and all sales during such period the grower may

upon submission of a request therefor to the division, obtain a refund in the amount of the assessments deducted by the first purchaser. Such request shall be accompanied by evidence of the payment of the assessments which need not be verified.

(b) The division shall keep complete records of all refunds made under the provisions of this section. Records of refunds may be destroyed two years after the refund is made. All funds expended in the administration of this act and for the payment of all claims whatsoever growing out of the performance of any duties or activities pursuant to this act shall be paid from the proceeds derived from such assessment. In the case of a lien holder who is a first purchaser as defined herein, the assessment shall be deducted by the lien holder from the proceeds of the claim secured by such lien at the time the corn, grain sorghum or soybeans are pledged or mortgaged. The assessment shall constitute a preferred lien and shall have priority over all other liens and encumbrances upon such corn, grain sorghum or soybeans. The assessment shall be deducted and paid as herein provided whether such corn, grain sorghum or soybeans are stored in this or any other state.

(c) Any corn or grain sorghum acquired by a grower as defined in K.S.A. 2-3001, and amendments thereto, under the provisions of any federal payment-in-kind (PIK) program shall be subject to the provisions of this section.

(d) No assessments for soybeans shall be collected pursuant to paragraph (a) of this section while the national checkoff program for soybeans established pursuant to Public Law 101-624

remains in effect. Collection of assessments pursuant to paragraph (a) of this section shall be reinstated upon the withdrawal of the national checkoff program for soybeans established pursuant to Public Law 101-624.

Section 5. K.S.A. 2-3008 is hereby amended to read as follows:

2-3008. (a) Except as provided in section 6 of this act, the The assessment hereby imposed shall on or before the twentieth day of the calendar month following the date of settlement be paid by the purchaser to the division. The division shall issue a receipt to the purchaser therefor and shall remit all moneys received in payment of such assessment to the state treasurer at least monthly. Upon receipt of each such remittance the state treasurer shall deposit the entire amount thereof in the state treasury. Twenty percent (20%) of each such deposit shall be credited to the state general fund and the amount of the balance of each such deposit which is derived from the assessment of each respective grain shall be credited to the Kansas corn commission fund, the Kansas grain sorghum commission fund and the Kansas soybean commission fund, respectively. Money derived from the assessment of each respective grain shall be credited only to the fund established for such grain. Whenever refunds are made from the Kansas corn commission fund, the Kansas grain sorghum commission fund or the Kansas soybean commission fund, the amounts credited to the state general fund from subsequent deposits in the state treasury pursuant to this section shall be reduced by amounts which equal twenty percent (20%) of such refunds.

(b) All money so credited to the Kansas corn commission fund, Kansas grain sorghum commission fund and Kansas soybean commission fund shall be expended for the respective grain commissions in the administration of this act, and for the payment of claims based upon obligations incurred in the performance of the activities and functions set forth in this act, and for no other purpose.

(c) All expenditures from such funds shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the director of the division of markets of the state board of agriculture for each respective grain commission or by a person or persons designated by the director.

(d) Assessments collected pursuant to the national checkoff program for soybeans established pursuant to Public Law 101-624 shall be deposited in a separate fund established pursuant to section 7 of this act.

Section 6. On and after the effective date of the national checkoff program for soybeans established pursuant to Public Law 101-624, the assessment shall be collected upon all soybeans sold in the state of Kansas. Such assessment shall be levied and assessed to the grower at the time of sale and shall be collected pursuant to the terms of the national checkoff program for soybeans established pursuant to Public Law 101-624 and any rules and regulations or marketing orders promulgated or issued thereunder. Under the provisions of this act, no soybeans shall be subject to assessment more than once. Assessments made under this section

shall constitute a preferred lien and shall have a priority over all other liens and encumbrances upon such soybeans. Any assessment made under this section shall be deducted and paid as herein provided whether such soybeans are stored in this or any other state.

Section 7. (a) Any assessment collected pursuant to the national checkoff program for soybeans established pursuant to Public Law 101-624 shall be paid to the division on or before the 20th day of the calendar following the date of settlement and shall be paid by the purchaser of the soybeans to the division. The division shall issue a receipt to the purchaser and shall remit all monies received in payment of such assessment to the state treasurer at least monthly. Upon receipt of each such remittance the State Treasurer shall deposit the entire amount thereof in the State Treasury and shall be credited to the soybean promotion and research fee fund which is hereby created.

(b) Whenever refunds are made from the national checkoff program for soybeans established pursuant to Public Law 101-624, such refunds shall be made as authorized by Public Law 101-624 and not be subject to the refund provisions found in K.S.A. 2-3007 and amendments thereof.

(c) All money so credited to the soybean promotion and research fee fund shall be expended for the soybean commission in the administration of the national checkoff program for soybeans established pursuant to Public Law 101-624, the administration of this act and for the payment of claims upon obligations incurred

in the performance of the activities and functions set forth in this act and for no other purpose.

(d) All expenditures made from these funds shall be in accordance with the appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the director of the division of markets of the state board of agriculture for the soybean commission or by a person or persons designated by the director.

(d) The Kansas soybean commission shall have the ability to pay and transfer portions of the assessments collected pursuant to the national checkoff program for soybeans established pursuant to Public Law 101-624 to the national board established by the Public Law 101-624 as required.

Section 8. K.S.A. 2-3009 is hereby amended to read as follows:

2-3009. If any the assessment is not paid to the division as provided in ~~K-S-A--2-3008~~ in this act, or within ten (10) days thereafter, the lien thereby created shall be foreclosed after the expiration of such ten-day period in the district court of the county in which the grain was grown, or sold, or in which such grain may be found, or in which such grain may have been commingled with other like grain.

Section 9. K.S.A. 2-3005, 2-3006, 2-3008, 2-3009 and K.S.A. 1990 Supp. 2-3007 are hereby repealed.

Section 10. This act shall become effective from and after its publication in the State Register.

2-24