

MINUTES OF THE HOUSE COMMITTEE ON AGRICULTURE.

The meeting was called to order by Chairperson Joann Flower at 9:00 a.m. on March 18, 1997, in Room 423-S of the Capitol.

All members were present except:

Committee staff present: Raney Gilliland, Legislative Research Department  
Don Cawby, Legislative Research Department  
Gordon Self, Revisor of Statutes  
Kay Scarlett, Committee Secretary

Conferees appearing before the committee:

Tom R. Tunnell, President, Kansas Grain and Feed Association  
Jere White, Executive Director, Kansas Corn Growers and Kansas Grain Sorghum Producers Assn.  
David J. Warrington, Collingwood Grain, Inc., representing the Kansas Grain Advisory Commission  
Don Watson, former Director, Kansas State Grain Inspection Department  
Allie Devine, Secretary, Kansas Department of Agriculture

Others attending: See attached list

Chairperson Flower asked committee members to review the minutes of March 6, 11, 12, and 13. If there are corrections or additions, members are requested to contact the committee secretary by 5:00 p.m. today, otherwise the minutes will stand approved as presented.

**Hearing on Sub. SB 317 - Abolishing the Kansas Grain Inspection Department, transferring the powers and duties thereof concerning public warehouses to the Department of Agriculture.**

Chairperson Flower opened the hearing on **Sub. SB 317.**

Raney Gilliland, Legislative Research Department, provided background information on the Kansas State Grain Inspection Department and **Sub. SB 317.** He provided a brief history of the functions and duties of the Kansas State Grain Inspection Department and outlined the funding problems of the agency. (Attachment 1) He explained that **Sub. SB 317** would abolish the Kansas State Grain Inspection Department. The bill would transfer all powers, duties, responsibilities, functions, property, and records of the Kansas State Grain Inspection Department with regard to public warehouses to the Kansas Department of Agriculture. The bill would transfer all property concerning grain inspection and grading to the Kansas Grain Inspection Service, Inc., a private entity, on July 1, 1997. He noted that the Senate amended the bill to transfer all of the \$1.2 million cushion maintained by the Kansas State Grain Inspection Department to a newly created Warehouse Fee Fund within the Kansas Department of Agriculture to assist in administering the warehouse program. (Attachment 2)

Tom R. Tunnell, President, Kansas Grain and Feed Association, testified in support of **Sub. SB 317** which was introduced at the request of the association. He said that privatizing the grain inspection program of the current Kansas State Grain Inspection Department would allow a more efficient, responsive, and cost-effective service, that can better deal with changes in the marketplace. He noted that 33 states have privatized grain inspection and that it is important that Kansas remain one designated inspection area. He explained that the new entity, Kansas Grain Inspection Service, Inc., a for-profit corporation, would operate in exactly the same way as the Kansas State Grain Inspection Department because it would become the federally approved agency in Kansas. He said that for the new privatized agency to receive the "official" designation from USDA, it must be established in such a way as to demonstrate that it is clearly independent and shielded from the direct influence of their association and membership. Casey McGinness, attorney for the association, explained the organizational structure of the new entity which is patterned after the USDA-approved structure used to set up the Lincoln Inspection Service, Lincoln, Nebraska, that was created by Clayton Yeutter, who later became the U.S. Secretary of Agriculture. (Attachment 3)

## CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON AGRICULTURE, Room 423-S Statehouse, at 9:00 a.m. on March 18, 1997.

Jere White, Executive Director, Kansas Corn Growers and Kansas Grain Sorghum Producers Associations, appeared in support of **Sub. SB 317** to privatize the grain inspection program. He said that cutting the size of government while responding to the needs of industry and producers at a lower cost is a win for all involved. He said the credibility of any grain inspection service is of extreme importance to producers; under the oversight of USDA's Grain Inspection, Packers, Stockyards Administration, producers will have the same confidence that currently exists. He noted that flexibility of managing necessary seasonal employees and the elimination of funding \$200,000 into the state general fund are real world benefits. (Attachment 4)

David J. Warrington, Collingwood Grain, Inc., representing the Kansas Grain Advisory Commission, testified in support of **Sub. SB 317**. He said the grain inspection service has to be efficient, cost effective, and responsive to the changing grain industry; it has to be operated and managed as a business, a business that operates 24 hours a day, 7 days a week. He believes privatization will only improve upon this service. He said there are strong feelings in the industry that the state warehouse programs are superior to federal warehouse protection programs; therefore, it is important that the state maintain a strong warehouse division under the supervision of the Kansas Department of Agriculture. (Attachment 5)

Don Watson, former Director of the Kansas State Grain Inspection Department, spoke in support of **Sub. SB 317** and the need to privatize the grain inspection division. He said the Kansas State Grain Inspection Department as a state agency had an extremely difficult time dealing with needed change during his tenure from 1977 to 1982. He said private industry can respond more quickly to changes in the marketplace. He noted that although Legislative oversight is a necessary and important part of state government, it does, however, often stand in the way of needed change. (Attachment 6)

Allie Devine, Secretary, Kansas Department of Agriculture, appeared in support of **Sub. SB 317**. She addressed issues concerning the warehouse division providing background and budget information. If the warehouse division is transferred to her department, she proposes to reduce the number of field inspectors from 12 to 8 that will continue to conduct one inspection per year per facility as required by statute. It is her intent to blend the administration of the warehouse program into current department operations. She said that she had spoken to David Shipman, USDA, concerning the transfer of money in the grain inspection fee fund to the Kansas Department of Agriculture. She reported that she has his verbal assurance that the amount in the fund as of December 1, 1993, when federal law was changed, could be transferred to the department to assist in operating the warehouse program; however, the remainder of the money should be transferred to the new private inspection company. The bill as amended by the Senate transfers the entire fund to the Kansas Department of Agriculture. It is her opinion that the bill should be amended or be determined that the issue can be resolved through the appropriation process. (Attachment 7)

The hearing on **Sub. SB 317** will be continued tomorrow.

The meeting adjourned at 11:00 a.m. The next meeting is scheduled for March 19, 1997.

# HOUSE AGRICULTURE COMMITTEE GUEST LIST

DATE: 3-18-97

NAME	REPRESENTING
David J. Warrington	Collingwood Drain Inc
Casey M. Dennis	Kansas Grain + Feed Assoc.
Jim Junnell	" " " "
Allie Dewine	Ks. Dept. of Agriculture
Greg Tugman	" "
Bill Fuller	Kansas Farm Bureau
Doug Wareham	Ks. Grain & Feed Assn.
Marty Vanier	KS Ag Alliance
Joe Leber	Ks. Co-op Council
Dennis Hupe	Ks Farm Bureau
NOBLE MORRELL	DOA DPS
Tom Meyer	KANSAS <sup>STATE</sup> GRAIN INSPECTION
Becky Fleming	Kansas State Grain Insp.
Gary M. Bothwell	" " " "
Rod Scheibmeier	" " " "
James R. Well - <del>Wells</del> + <del>Associates</del>	Members
Alm Watson	KEFDA
Candy Denton	DOB
Tom Bruno	Allen & Assoc.

# HOUSE AGRICULTURE COMMITTEE GUEST LIST

DATE: 3/18/97

NAME	REPRESENTING
Jere White	KCGA - KESPA
Hank Ernst	Kansas Farmer Magazine
Maggie Dozier	
Pat Stubbell	KS Railroad Assn.

March 18, 1997

**From:** Raney Gilliland, Principal Analyst

**Re:** Kansas State Grain Inspection Department

## Background

The Kansas State Grain Inspection Department was established in 1897 at the request of the grain industry in Kansas. Kansas statutes (K.S.A. 34-101 *et seq.*), among other things, give the Department control of sampling, inspecting, weighing, and analyzing protein content in certifying the official grade of all grain. The issuance of grain grading certificates by the Department establishes the basis of all money settlements between the buyers and sellers of grain in the state. The grading of grain by the Department is done under the auspices of United States Grain Standards Act and is authorized by the United States Department of Agriculture (Federal Grain Inspection Service).

The Department also is responsible for administering the Kansas Public Grain Warehouse Law relating to the storage of grain. This portion of state law affords certain protection to the depositors of grain stored in state-licensed public grain warehouses. Officials from the Grain Inspection Department perform examinations of the facilities and records of state-licensed facilities which currently number about 520 warehouse facilities (260 licensed facilities and 260 functional units). These examinations are performed to account for the proper amount of grain being handled and stored by the warehouse. The state-licensed facilities have a combined capacity of approximately 358 million bushels. Total commercial storage in the state is approximately 817 million bushels. Estimates are that the federally licensed facilities have storage capacity of approximately 425 million bushels (there are approximately 120 licensed facilities).

The Department has three divisions: the administrative division, the inspections division, and the warehouse division. The Department currently provides inspection and laboratory services at inspection stations in Atchison, Colby, Dodge City, Hutchinson, Kansas City, Salina, Topeka, and Wichita. The Department is authorized to contract for official sampling of grain at points beyond official inspection stations. This service, called "contract sampling," allows the Department to provide services at points where grain is originally loaded. This allows shippers to know the grade and protein results before the shipment of grain.

The Director of the Department is appointed to serve at the pleasure of the Governor (see K.S.A. 75-1701). The Director is advised by the Grain Advisory Commission which was established by the 1953 Legislature. The Grain Advisory Commission (K.S.A. 34-121, *et seq.*) consists of five members also appointed by the Governor. The members of the Commission serve for a term of three years. The Commission is composed of one farmer, one banker, one person engaged in the business of operating a public terminal grain warehouse, one person engaged in the business of operating a local public grain warehouse, and one stockholder of a farmers cooperative enterprise. The Commission is required to meet on a quarterly basis and

*House Agriculture Committee  
March 18, 1997  
Attachment 1*

is granted the authority to formulate rules of procedure as it deems necessary to conduct its business. It also may make "recommendations" to the Director regarding adoption of "reasonable" rules and regulations necessary to carry out the provisions of the Kansas public grain warehouse laws. Statutes require the Commission to annually determine, prior to June 1, a schedule of maximum and minimum charges to be made by public grain warehouses for the storage of grain and for other services performed by warehouses. However, the Director of the Department may increase or decrease any or all of the charges as deemed necessary in the public interest. These charges may be restored to the original maximum and minimum, if the restoration is approved by a vote of at least four members of the Commission.

### **Funding of the Agency**

Historically, the Kansas State Grain Inspection Department has been a fully fee-funded agency. That is, Department expenses are financed from fees charged to the grain and warehouse industries for services rendered. During each fiscal year, all moneys received by the Department from fees are deposited with the State Treasurer. Twenty percent of each of the deposits is credited to the State General Fund and the balance is credited to the Grain Inspection Fee Fund. When \$200,000 has been credited to the State General Fund, the full amount of fees is credited to the fee fund. The agency has credited the \$200,000 figure to the State General Fund for at least the last 20 years.

Since FY 1988, expenditures of the Department have frequently exceeded revenue. Attachment A reflects revenues and expenditures of the Department between FY 1987 and FY 1998. The ending fee fund balances of the Department vary greatly according to the quantity of the annual harvest. The balance declined over \$1,000,000 from FY 1989 to FY 1990 due to a poor wheat harvest. For this reason, the agency has indicated in the past that a carryover balance of approximately \$1,500,000 is desirable to avoid the potentially disastrous consequences of a crop failure. The budget recommended by the Governor reflects an ending balance of \$1,410,367 for FY 1997. Actual FY 1996 expenditures from the fee fund for the Department were \$4,055,003. The Department estimates a reduction of approximately \$19,923 (1.4 percent) in receipts from FY 1996 to FY 1997. Attachment B reflects the status of the fee fund from FY 1987 to FY 1998.

**1987 Consideration of Funding.** Since funding for the Kansas State Grain Inspection Department had become an issue and because of a number of concerns with the agency, the 1987 interim Special Committee on Agriculture and Livestock was directed to review and study the functions of the Department. One area of concern addressed at that time was that of the agency's financial problems. The Committee noted that "even with the highest warehouse licensure rates in the nation, the Warehouse Division of the Department is unable to cover its own expenses and therefore must depend upon revenue from the Inspection Division to support its activities." During that interim study, several conferees suggested possible solutions to the financial problems being experienced by the agency. Possible solutions included the following:

1. switch the responsibilities of the Grain Inspection Department to the State Board of Agriculture;
2. waive the \$200,000 amount that the agency must credit to the State General Fund for administrative costs;
3. allow the agency to retain the interest from its idle balances; and

4. appropriate State General Fund moneys to assist in supporting the operations of the agency.

During the course of the Committee's study, the Department adopted new regulations increasing most of the inspection and warehouse fees, which became effective during the Committee's consideration of the issue. The Committee recommended no changes in the funding mechanism for the agency, noting: "Since the Department took action in the form of modifying its fee level to address the agency's financial problems during the course of the Committee's study, the Committee recommends no modification of program responsibility or an infusion of State General Fund moneys."

**Fiscal Year 1991 Budget Submission.** In its FY 1991 budget submission, the Department requested funding from the State General Fund to assist in supporting the warehouse program. The agency noted in its request that receipts for the warehouse program were deficient to support the operations of the program and that funding for the program was being supplemented from the inspections program of the agency. The FY 1991 request was for State General Fund financing in the amount of \$197,874. In the next three budget submissions, the agency also requested State General Fund support of \$200,774 in FY 1992, \$139,609 in FY 1993, and \$289,237 in FY 1994. The Legislature did not appropriate State General Fund financing for the program in those fiscal years.

**1992 Consideration of Funding.** During the summer of 1992, Proposal No. 19 directed the Legislative Budget Committee to "review financing of and funding options for the Kansas State Grain Inspection Department, focusing on the possible reasons for declining revenues and declining fee fund balances."

The Director of the Grain Inspection Department had requested an interim study to address the financial difficulties being experienced by the agency. During the 1992 Legislative Session, a Senate Ways and Means subcommittee noted its concern with the fee fund balances of the agency. The subcommittee stated that reductions in the agency's expenditure limitation would not be appropriate and did not recommend, in light of existing economic conditions, any State General Fund support for the agency.

The agency has stated over the past few years that several changes have taken place in the grain industry in the last few years which have impacted on the Department's operations and on its financial condition. The Acreage Reduction Program has taken thousands of acres out of production. The farm program and the lowering of the loan rate on grains has emptied storage bins to the point that virtually all Commodity Credit Corporation wheat is gone. Elevators had depended on the income from the storage of this wheat for years. In addition, many consolidations and buy-outs have taken place. In 1980, 669 elevators were licensed in the state, while presently 281 elevators are licensed with 253 functional units. The mergers that have taken place reduce the income of the agency's warehouse division. In addition, more in-house grading is done by the larger elevators and more grain is being shipped between company elevators without an official grade.

The Committee discussed possible solutions to the financial problems being faced by the agency. The Committee concluded that an appropriate solution extended beyond the Grain Inspection Department. The Committee recommended legislation which would continue the 20 percent credit to the State General Fund from special revenue funds. The Committee recommended, however, that the Department of Administration be required to make a

determination of the actual value of services provided to the state in accordance with provisions established by the United States Office of Management and Budget Circular A-87 for statewide indirect central service costs. At the end of each fiscal year, any special revenue fund which has actually used less in services than has been credited to the State General Fund would be reimbursed the difference between the actual amount of services provided and the amount credited. Conversely, any special revenue fund which has used more administrative services than the amount which has been credited to the State General Fund would be required to credit additional moneys to the State General Fund. S.B. 6 contained these recommendations. 1993 S.B. 6 died on May 5, 1994 in Senate Ways and Means Committee, where it had originally been assigned.

**Recent Funding Complications.** Effective July 1, 1994, a revision to section 7(f)(1)(A)(vi) of the U.S. Grain Standards Act eliminated the authority for designated states to use monies collected from official inspection and weighing services of grain for the maintenance of other agricultural programs. The net result of this action by the federal government was that it was no longer possible for the agency to divert some of the moneys received for inspections services to the warehouse division function of inspecting state-licensed grain warehouse facilities. For the first time, in response to this dilemma, the 1994 Legislature, for FY 1995, approved \$131,787 from the State General Fund to supplement the projected fee shortfall in the warehouse program. However, the 1994 Senate Ways and Means Subcommittee "strongly" recommended that the State General Fund support recommended for FY 1995 "be considered one-time assistance only . . ." and that the Subcommittee ". . . does not support perpetual State General Fund financing for the operation of the warehouse program."

The Department's request of \$131,099 for FY 1996 from the State General Fund was reduced by both subcommittees to a total of \$90,000 to reduce the agency's reliance on the State General Fund appropriation. The reduction was qualified by both committees as the final year of subsidization and that the Department return with a plan to both subcommittees in the 1996 Legislative Session on how to appropriately fund the program.

During legislative debate on FY 1996 funding, the Department indicated to the 1995 Senate Ways and Means and Appropriations subcommittees that it was exploring options to reduce its reliance on the State General Fund. One option presented to subcommittees was to allow warehouses to be licensed by the federal government, with the Department providing warehouse audits on a contractual basis. The Department indicated that they would be discussing the feasibility of this option with USDA in the near future.

**Agency and Legislative Responses to Funding Challenges.** Both inspection and warehouse fees have increased twice since 1987. Inspection fees were increased an average of 9.8 percent in 1987 and 8.0 percent in 1990. Warehouse fees were increased an average of 6.0 percent in 1987 and 7.9 percent in 1990.

Also in response to the subcommittees' concerns, 1995 S.B. 380 was introduced and passed. S.B. 380 increased the maximum license fees for public grain warehouses licensed by the Department. The statutory limits were a 40 percent increase across the entire fee schedule. However, the agency did not anticipate changing the regulations until FY 1997, and stated that it did not intend to raise fees by more than 15 percent. Below is a summary of 1995 S.B. 380.

S.B. 380 increased the maximum license fees for public grain warehouses licensed by the Kansas State Grain Inspection Department. The fees are based upon the capacity in bushels of the warehouse being licensed by the agency. The maximum fees were increased as follows:



<u>Capacity in Bushels</u>	<u>Annual Fee (Previous to New)</u>
1 to 100,000	from \$350 to \$500
100,000 to 150,000	from \$375 to \$525
150,001 to 250,000	from \$400 to \$550
250,001 to 300,000	from \$425 to \$600
301,000 to 350,000	from \$450 to \$625
350,001 to 400,000	from \$475 to \$650
400, 001 to 450,000	from \$500 to \$700
450,001 to 500,000	from \$525 to \$725
500,001 to 600,000	from \$550 to \$775
600,001 to 700,000	from \$575 to \$800
700,001 to 800,000	from \$600 to \$850
800,001 to 900,000	from \$625 to \$875
900,001 to 1,000,000	from \$650 to \$900
1,000,001 to 1,750,000	from \$875 to \$1,225
1,750,001 to 2,500,000	from \$1,000 to \$1,400
2,500,001 to 5,000,000	from \$1,250 to \$1,750
5,000,001 to 7,500,000	from \$1,500 to \$2,100
7,500,001 to 10,000,000	from \$1,700 to \$2,375
10,000,001 to 12,500,000	from \$1,850 to \$2,600
12,500,001 to 15,000,000	from \$2,000 to \$2,800
15,000,001 to 17,500,000	from \$2,150 to \$3,000
17,500,001 to 20,000,000	from \$2,300 to \$3,225
For each 2,500,000 bushels or fraction over 20,000,000 bushels	from \$250 to \$350

In addition, the bill increased the maximum amount charged for each additional functional unit of a grain warehouse licensee from \$300 to \$500.

#### **Options for Solving Fund Problems of the Kansas State Grain Inspection Department**

Several options exist for the resolutions of the funding problems of the Kansas State Grain Inspection Department. The following list is a partial list of options to impose as a policy which could be designed to address the issue. Obviously, this list is not inclusive of all options available to the Legislature nor is it presented in any preferential way. Some of these options may not be desirable or even necessary. These options were offered to the 1995 Special Committee on Agriculture and Livestock during its study of the financing of the functions of the Kansas State Grain Inspection Department.

- transfer the responsibilities of the Grain Inspection Department to the Kansas Department of Agriculture;
- waive or reduce the \$200,000 that the agency must credit to the State General Fund for administrative costs (this option is not without precedence);
- allow the agency to retain the interest from its idle balances;

- appropriate State General Fund moneys to assist in supporting the operations of the agency;
- reduce the number of required inspections of grain warehouses thereby realizing cost savings;
- direct the agency to charge fees in the warehouse inspection program which would cover the cost of the program; or
- evaluate the necessity of retaining the warehouse program and inspection program of the Kansas State Grain Inspection Department on an individual basis and, perhaps, consider the complete abolition of the agency.

Attachment A

GRAIN INSPECTION DEPARTMENT

Expenditures	Actual FY 1987	Actual FY 1988	Actual FY 1989	Actual FY 1990	Actual FY 1991	Actual FY 1992	Actual FY 1993	Actual FY 1994	Actual FY 1995	Actual FY 1996	Gov. Rec. FY 1997	Gov. Rec. FY 1998
State Operations												
Grain Inspection Fee Fund	\$ 4,596,529	\$ 4,934,587	\$ 5,008,891	\$ 5,049,864	\$ 5,126,040	\$ 5,113,914	\$ 5,330,026	\$ 4,794,488	\$ 4,516,504	\$ 4,055,003	\$ 5,097,874	\$ 4,979,101
State General Fund	--	--	--	--	--	--	--	--	129,994	90,000	--	--
TOTAL	<u>\$ 4,596,529</u>	<u>\$ 4,934,587</u>	<u>\$ 5,008,891</u>	<u>\$ 5,049,864</u>	<u>\$ 5,126,040</u>	<u>\$ 5,113,914</u>	<u>\$ 5,330,026</u>	<u>\$ 4,794,488</u>	<u>\$ 4,646,498</u>	<u>\$ 4,145,003</u>	<u>\$ 5,097,874</u>	<u>\$ 4,979,101</u>
Percentage Change	1.4%	7.4%	1.5%	0.8%	1.5%	(0.2)%	4.2%	(10.0)%	(5.8)%	(10.2)%	25.7%	(2.3)%
FTE Positions	175.0	169.0	169.0	169.0	155.0	155.0	150.0	137.0	135.0	135.0	118.0	118.0
Revenues												
Fee Fund Receipts	\$ 4,592,421	\$ 6,464,960	\$ 5,190,685	\$ 4,163,330	\$ 5,103,054	\$ 5,040,922	\$ 5,068,491	\$ 5,231,979	\$ 4,977,301	\$ 4,126,420	\$ 5,287,951	\$ 4,763,483
State General Fund	--	--	--	--	--	--	--	--	129,994	90,000	--	--
TOTAL	<u>\$ 4,592,421</u>	<u>\$ 6,464,960</u>	<u>\$ 5,190,685</u>	<u>\$ 4,163,330</u>	<u>\$ 5,103,054</u>	<u>\$ 5,040,922</u>	<u>\$ 5,068,491</u>	<u>\$ 5,231,979</u>	<u>\$ 5,107,295</u>	<u>\$ 4,216,420</u>	<u>\$ 5,287,951</u>	<u>\$ 4,763,483</u>
Percentage Change	(1.7)%	40.8%	(19.7)%	(19.8)%	22.6%	(1.2)%	0.5%	3.2%	(4.9)%	(17.1)%	28.1%	(9.9)%
Fee Fund Receipts	(1.7)%	40.8%	(19.7)%	(19.8)%	22.6%	(1.2)%	0.5%	3.2%	(2.4)%	(17.4)%	25.4%	(9.9)%
All Funds												

Attachment B

GRAIN INSPECTION FEE FUND

Expenditures	Actual FY 1987	Actual FY 1988	Actual FY 1989	Actual FY 1990	Actual FY 1991	Actual FY 1992	Actual FY 1993	Actual FY 1994	Actual FY 1995	Actual FY 1996	Gov. Rec. FY 1997	Gov. Rec. FY 1998
Beginning Balance	\$ 1,954,701	\$ 1,740,449	\$ 3,005,696	\$ 2,978,971	\$ 1,919,832	\$ 1,684,298	\$ 1,433,458	\$ 988,078	\$ 1,229,492	\$ 1,509,919	\$ 1,430,290	\$ 1,410,367
Add: Net Receipts	<u>4,592,421</u>	<u>6,484,960</u>	<u>5,190,685</u>	<u>4,163,330</u>	<u>5,103,054</u>	<u>5,040,922</u>	<u>5,068,491</u>	<u>5,231,979</u>	<u>4,977,301</u>	<u>4,126,420</u>	<u>5,287,951</u>	<u>4,763,483</u>
Total Available	\$ 6,547,122	\$ 8,205,409	\$ 8,196,381	\$ 7,142,301	\$ 7,022,886	\$ 6,725,220	\$ 6,501,949	\$ 6,220,057	\$ 6,206,793	\$ 5,636,339	\$ 6,718,241	\$ 6,173,850
Less: Expenditures	4,596,529	4,934,587	5,008,891	5,049,864	5,126,040	5,113,914	5,330,026	4,794,488	4,516,504	4,055,003	5,097,874	4,979,101
Federal Fees Remitted	<u>217,424</u>	<u>265,272</u>	<u>210,215</u>	<u>177,310</u>	<u>211,269</u>	<u>178,618</u>	<u>186,192</u>	<u>196,402</u>	<u>180,370</u>	<u>151,046</u>	<u>210,000</u>	<u>200,000</u>
Ending Balance	<u>\$ 1,733,169</u>	<u>\$ 3,005,550</u>	<u>\$ 2,977,275</u>	<u>\$ 1,915,127</u>	<u>\$ 1,685,577</u>	<u>\$ 1,432,688</u>	<u>\$ 985,731</u>	<u>\$ 1,229,167</u>	<u>\$ 1,509,919</u>	<u>\$ 1,430,290</u>	<u>\$ 1,410,367</u>	<u>\$ 994,749</u>
Ending Balance as a Percentage of Expenditures	37.7%	60.9%	59.4%	37.9%	32.9%	28.0%	18.5%	25.6%	33.4%	35.3%	27.7%	20.0%
Difference of Revenues from Expenditures	\$ (4,108)	\$ 1,530,373	\$ 181,794	\$ (886,534)	\$ (22,986)	\$ (72,992)	\$ (261,535)	\$ 437,491	\$ 460,797	\$ 71,417	\$ 190,077	\$ (215,618)
Change in Ending Balance	\$(221,258)	\$ 1,272,381	\$(28,275)	\$(1,062,148)	\$(229,550)	\$(252,889)	\$(446,957)	\$ 243,436	\$ 280,752	\$(79,629)	\$(19,923)	\$(415,618)
Percent Change	(11.3)%	73.4%	(0.9)%	(35.7)%	(12.0)%	(15.0)%	(31.2)%	24.7%	22.8%	(5.3)%	(1.4)%	(29.5)%

0020344.01(3/17/97(11:35AM))

# KANSAS LEGISLATIVE RESEARCH DEPARTMENT

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March 18, 1997

**To:** House Committee on Agriculture

**From:** Raney Gilliland, Principal Analyst

**Re:** Substitute for S.B. 317

Substitute for S.B. 317 would abolish the Kansas State Grain Inspection Department. The bill would transfer all powers, duties, responsibilities, functions, property, and records of the State Grain Inspection Department with regard to public warehouses to the Department of Agriculture or the Secretary of Agriculture. The Secretary of Agriculture would be given authority to promulgate and adopt rules and regulations necessary to carry out the provisions of the bill. Likewise, current regulations of the Kansas State Grain Inspection Department regarding public warehouses would be deemed to be regulations of the Secretary of Agriculture until revised, amended, revoked, or nullified. Under the bill, public grain warehouse license fees would be established by the Secretary of Agriculture.

The bill also would abolish the current Grain Advisory Commission, which under current law has authority to recommend minimum and maximum fees regarding license charges for public grain warehouses and to advise the current Director of the Kansas State Grain Inspection Department.

In addition, the bill would create the Warehouse Fee Fund into which the Secretary of Agriculture would deposit all money received from fees, charges, and penalties. The Fund would be primarily capitalized by the warehouse licensure fees. The bill also would require the Secretary of Agriculture to pay all outstanding liabilities of the Grain Inspection Fee Fund and would direct that the remaining amount of moneys be credited to the Warehouse Fee Fund.

The bill would allow the transfer of all positions which were engaged in the administration of the warehouse section of the Grain Inspection Department. Those positions transferred would become positions in the Department of Agriculture. However, the Secretary of Agriculture would be given authority to abolish the positions, if the Secretary is of the opinion that the positions are not necessary to carry out the warehouse functions and duties transferred by other provisions of the bill. The Secretary would be required to give a 30-day notice prior to July 1, 1997, to employees in those positions no longer determined to be necessary. The bill would provide that there would be no bumping rights attached to the positions deemed unnecessary by the Secretary of Agriculture. This provision of the bill relating to the notice of employees no longer needed by the Secretary of Agriculture to administer the warehouse program would go into effect on June 1, 1997.

In addition, the bill would vest all powers, duties, and functions of the Kansas State Grain Inspection Department regarding grain inspection and grading to the Grain Inspection, Packers, Stockyards Administration of the U.S. Department of Agriculture. The bill would transfer all property concerning grain inspection and grading to the Kansas Grain Inspection

*House Agriculture Committee  
March 18, 1997  
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Service, a private entity, on July 1, 1997. The property to be transferred would include all equipment and supplies (protein analyzers, computers, moisture meter measuring devices, scales, desks, file cabinets, and the like) from the protein laboratories and inspection laboratories which are located at Atchison, Colby, Dodge City, Hutchinson, Kansas City, Salina, Topeka, and Wichita.

Finally, the bill would repeal a number of sections of current law which relate to the responsibilities of the current State Grain Inspection Department or to the Director of the agency.

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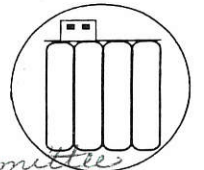
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**STATEMENT OF THE  
KANSAS GRAIN AND FEED ASSOCIATION  
BEFORE THE  
HOUSE AGRICULTURE COMMITTEE  
REPRESENTATIVE JOANN FLOWER, CHAIR  
REGARDING  
SUBSTITUTE FOR SENATE BILL 317  
MARCH 18, 1997**

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KGFA, promoting a viable business climate through  
sound public policy for a century.



*House Agriculture Committee  
March 18, 1997  
Attachment 3*

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The Kansas Grain and Feed Association .....  
..... a voluntary state organization founded in 1896 providing  
governmental representation, educational opportunities and a wide  
variety of professional services to the vast and indispensable grain  
and feed industry. The 1150 member firms of the KGFA include  
country elevators, terminal elevators, flour mills, feed manufacturers,  
grain merchandisers and allied industries.

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Chairperson Flower and members of the House Agriculture Committee, thank you for the opportunity to appear before you today to explain why the Kansas Grain and Feed Association supports Substitute for Senate Bill 317.

I am Tom R. Tunnell, and I am employed by the Kansas Grain and Feed Association in the capacity of President. The Kansas Grain and Feed Association is a 100-year old, voluntary, not-for-profit trade association that includes member firms who receive, store, process and ship grain. We are proud to say KGFA's over 900 member elevators represent 99% of all commercially licensed grain storage in Kansas. Here is a Kansas map that depicts where our member elevators are located.

Passing of Substitute for Senate Bill 317 will accomplish two objectives. First it would relocate the grain warehouse licensing branch of the Kansas Grain Inspection Department to the Kansas Department of Agriculture. Secondly, it would privatize the inspection division. My testimony today will focus on the privatization of grain inspection portion of the bill and Secretary of Agriculture Allie Devine will follow me and speak to the specifics of how the grain warehouse licensing division transfer would be handled.

The Kansas Grain Inspection Department was established in 1897, one year after the Kansas Grain and Feed Association. Its grain inspection division is a designated agency of the United States Department of Agriculture's Grain Inspection, Packers and Stockyards Administration, Federal Grain Inspection Service (USDA, GIPSA). What this means in simple terms is, all of the division's grain grading activities are directly supervised and conducted pursuant to the United States Grain Standards. Most of you were on the tour last Friday and now have a better understanding of the steps involved in grading grain.

Under changes proposed in Substitute for SB 317, the new entity -- Kansas Grain Inspection Service, Inc. -- would operate in exactly the same way as KGID because it would become the federally approved agency in Kansas.

Why are we asking the Legislature to allow grain inspection to be privatized? The answer is this: we want a more efficient, responsive, cost-effective service, that can better deal with changes in our marketplace. Now under state control the department must abide by state purchasing and work rules. This causes inefficiencies and cost overruns. Gary Bothwell, Director of the Department, will testify later today and will give you examples of why operating a permissive service, such as grain inspection, as a state agency is difficult.

Besides costing more and being less efficient, for the privilege of being a fully fee-funded state agency, a \$200,000 payment must be paid annually to the state's general fund . This in spite of the fact that since 1897, NOT ONE DOLLAR OF TAX PAYER MONEY HAS EVER GONE TO SUPPORT THE STATE GRAIN INSPECTION DIVISION. To date it has always been supported by fees from the GRAIN INDUSTRY. I have a letter dated January 18, 1995, from the Department of Administration, Division of Accounts and reports to then KGID Director Hamm that says the state spent \$32,708 on the department for the year ending June 30, 1995. Not too bad a deal for the state, but certainly not fair to the Kansas grain industry.

In order for the Kansas Grain Inspection Service, Inc.--the new privatized agency to receive the "official" designation from the USDA, it must be established in such a way as to demonstrate it is clearly independent and shielded from the direct influence of our association or its membership. To do this our attorney has reviewed organizational structures previously approved by USDA and has patterned ours after a structure used to set up the Lincoln Inspection Service in Lincoln, Nebraska. Please turn your attention to this flow chart. This chart describes the method by which the Kansas Grain and Feed Association will

establish a private agency to maintain the viability of official grain inspection in Kansas. Again, the reason the association cannot operate the agency is the need to avoid all conflicts which would compromise the integrity of the service in any way. We are confident this can be done to the satisfaction of the USDA and at a lower cost to the producers and grain companies who use the service.

First on the chart is the Kansas Grain and Feed Association which, as I said is the organization sponsoring the effort. The Kansas Grain and Feed Association's support supplies an interest by the industry in the continued operation of an "official" agency supplying services to all in Kansas needing those services.

Second is the new entity, a Kansas Corporation established for the purpose of assuming the role of the State agency now designated by the USDA to provide the official services in Kansas.

Third is the Voting Trust which is the tool used to ensure the Association's interest does not interfere with the operation of the agency. Trustees named in the voting trust agreement hold and control the shares of the new corporation in their names. They exercise the voting rights attendant to ownership of those shares. The three trustees in the organization of the Agency in Lincoln were parties free from conflicts under USDA standards and were designated because of their professional qualifications. These individuals included a banker, a university professor and an attorney.

Fourth is the Board of Directors elected by the designated trustees in the voting trust above. These individuals also must be free of any conflict and may or may not be the same as the trustees.

Fifth are the officers of the new corporation. The President and the Secretary are chosen by the Directors and the corporation may have other officers as prescribed by the by-laws of the corporation. The officers are charged with the responsibility of operating the agency in providing the inspection services pursuant to the agency designation by the USDA.

Sixth listed are the prospective employees of the new corporation who are presently employees of the state of Kansas. The new private corporation intends to employ the same employees and use the same facilities currently used by the state.

Last month Secretary Devine, Director Bothwell and I met with USDA officials in Washington DC, and the just described organizational structure was the outgrowth of that meeting. The USDA designation for the Kansas grain inspection is up for renewal this year as it expires effective August 31, 1997. However, when the Legislature passes Substitute for SB 317, the new service will begin on July 1, 1997. I have attached the March 5, 1997 *Federal Register* which contains this renewal announcement.

As I said earlier Substitute for SB 317 will move the warehouse division to the Department of Agriculture. It will also set up a new warehouse fee fund transferring the moneys from the Grain Inspection Department reserve fund. This will provide over \$1 million to supplement the warehouse division for many years to come.

I have discussed the proposal to transfer the grain inspection equipment to the new privatized entity with Attorney General Stovall. Her office conducted a preliminary overview of state law pertaining to asset transfer from state to private entity and have indicated to me such a transfer is legal.

In closing let me say, Substitute for SB 317 provides you, as legislators, with the unique and rare opportunity to improve the efficiency and effectiveness of a vitally important

service provided to the rapidly changing Kansas grain industry. Specifically, it will emancipate the burden of a totally fee-funded program having to forfeit \$200,000 to the state of Kansas, and will enable new, innovative services to be provided at the least possible cost to the Kansas grain industry. It will also assure the warehouse division can operate long into the future without general fund support.

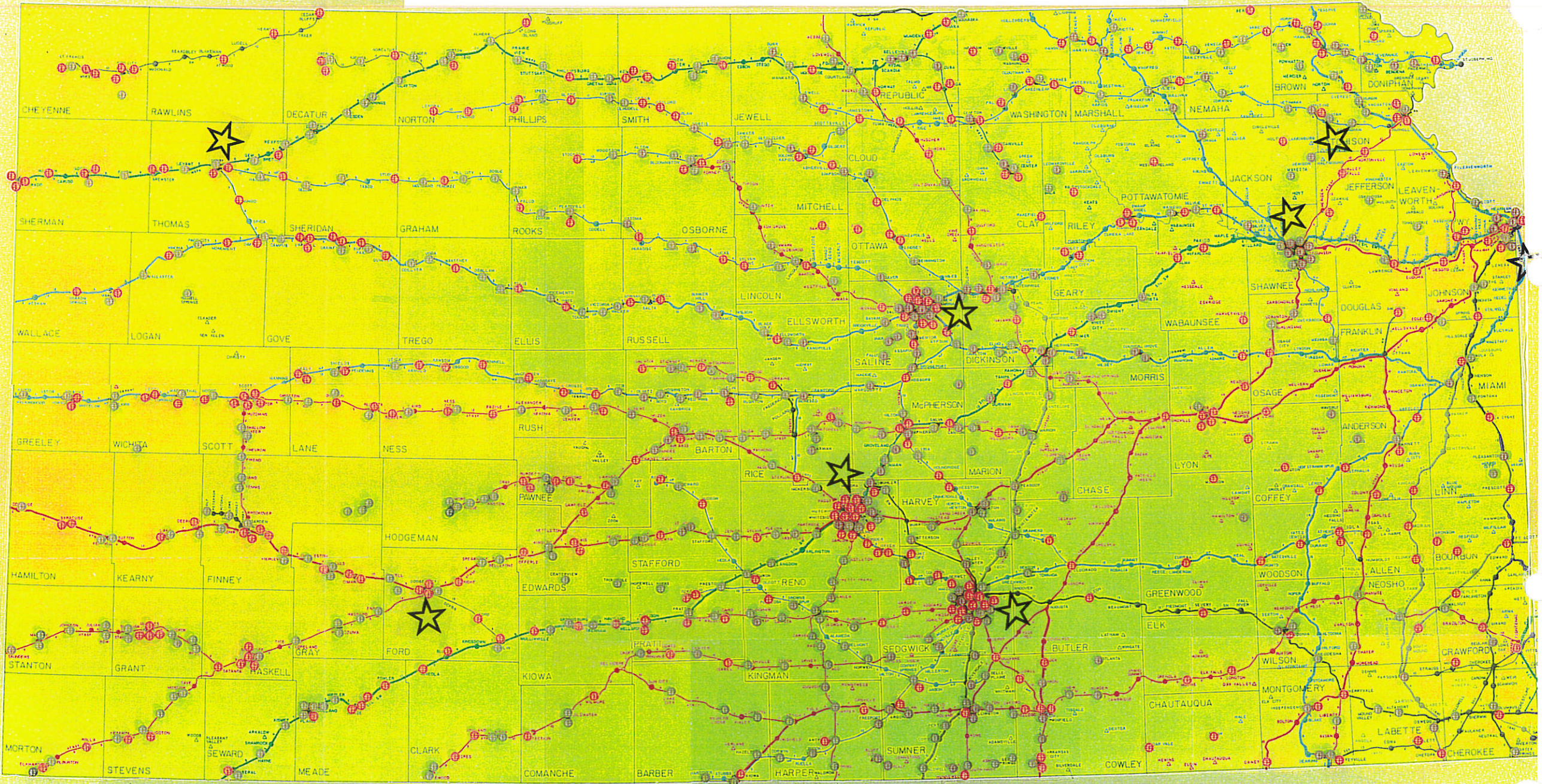
I encourage your favorable consideration of Substitute for Senate Bill 317.

Privatization: *"The transfer of public-sector assets to the private sector, the transfer of management of state activities through contracts and leases, and the contracting out of activities previously conducted by the state."*

Capitalism: *"All possible activities are performed by private business or persons rather than by the government."*

--Source: International Business: The Challenge of Global Competition.  
Donald A. Ball. Irwin, 1996. United States of America, page 320,738

# KANSAS GRAIN & FEED ASSN. MEMBERS



★ INSPECTION STATION

● ACTIVE HEADQUARTER

● BRANCH STATION

Delegated States--8

Alabama Department of Agriculture and Industries.....	Alabama
California Department of Food and Agriculture.....	California
Minnesota Department of Agriculture.....	Minnesota
Mississippi Department of Agriculture and Commerce.....	Mississippi
South Carolina Department of Agriculture.....	South Carolina
Virginia Department of Agriculture and Consumer Services.....	Virginia
Washington Department of Agriculture.....	Washington
Wisconsin Department of Agriculture, Trade and Consumer Protection.....	Wisconsin

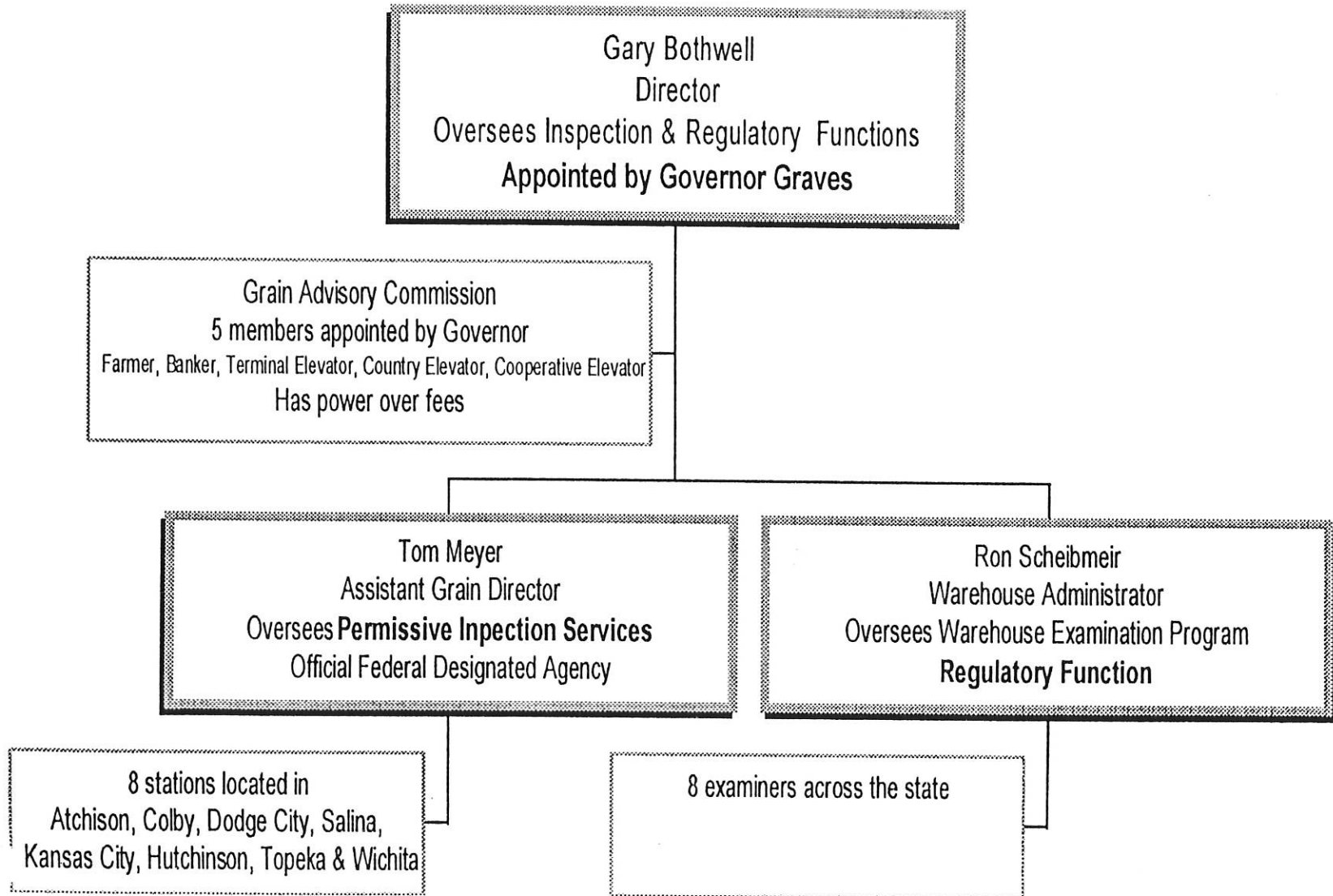
Designated States--9

Georgia Department of Agriculture.....	Georgia
Kansas State Grain Inspection Department.....	Kansas
Louisiana Department of Agriculture and Forestry.....	Louisiana
Missouri Department of Agriculture.....	Missouri
Montana Department of Agriculture.....	Montana
New York State Department of Agriculture and Markets.....	New York
North Carolina Department of Agriculture.....	North Carolina
Oregon Department of Agriculture.....	Oregon
Utah Department of Agriculture.....	Utah

Designated Private Agencies--48

Aberdeen Grain Inspection, Inc.....	Aberdeen
Alton Grain Inspection Department.....	Alton
Amarillo Grain Exchange, Inc.....	Amarillo
Arkansas Grain Inspection Service.....	Arkansas
J.W. Barton Grain Inspection Service, Inc.....	Barton
Cairo Grain Inspection Agency, Inc.....	Cairo
Central Illinois Grain Inspection, Inc.....	Central Illinois
Central Iowa Grain Inspection Service, Inc.....	Central Iowa
Champaign-Danville Grain Inspection Departments, Inc.....	Champaign
Columbus Grain Inspection, Inc.....	Columbus
Decatur Grain Inspection, Inc.....	Decatur
Denver Grain Inspection.....	Denver
Detroit Grain Inspection Service, Inc.....	Detroit
East Indiana Grain Inspection, Inc.....	East Indiana
Eastern Iowa Grain Inspection and Weighing Service, Inc.....	Eastern Iowa
Enid Grain Inspection Company, Inc.....	Enid
Farwell Grain Inspection, Inc.....	Farwell
Fostoria Grain Inspection, Inc.....	Fostoria
Frankfort Grain Inspection, Inc.....	Frankfort
Fremont Grain Inspection Department, Inc.....	Fremont
Grain Inspection, Inc.....	Jamestown
Grand Forks Grain Inspection Department, Inc.....	Grand Forks
Hastings Grain Inspection, Inc.....	Hastings
Idaho Grain Inspection service, Inc.....	Idaho
Indianapolis Grain Inspection & Weighing Service, Inc.....	Indianapolis
Kankakee Grain Inspection, Inc.....	Kankakee
Keokuk Grain Inspection Service.....	Keokuk
Lewiston Grain Inspection Service, Inc.....	Lewiston
Lima Grain Inspection Service, Inc.....	Lima
Lincoln Inspection Service, Inc.....	Lincoln
Los Angeles Grain Inspection Service, Inc.....	Los Angeles
John R. McCrea Agency, Inc.....	McCrea
Memphis Grain Inspection Service.....	Memphis
Michigan Grain Inspection Services, Inc.....	Michigan
Mid-Iowa Grain Inspection, Inc.....	Mid-Iowa
Minot Grain Inspection, Inc.....	Minot
North Dakota Grain Inspection Service, Inc.....	North Dakota
Ohio Valley Grain Inspection, Inc.....	Ohio Valley
Omaha Grain Inspection Service, Inc.....	Omaha
Plainview Grain Inspection and Weighing Service, Inc.....	Plainview
D.R. Schaal Agency, Inc.....	Schaal
Schneider Inspection Service, Inc.....	Schneider
Sioux City Inspection and Weighing Service Company.....	Sioux City
Southern Illinois Grain Inspection Service, Inc.....	Southern Illinois
Springfield Grain Inspection, Inc.....	Springfield
A.V. Tischer and son, Inc.....	Tischer
Titus Grain Inspection, Inc.....	Titus
Tri-State Grain Inspection Service, Inc.....	Tri-State

# KANSAS GRAIN INSPECTION DEPARTMENT







DEPARTMENT OF ADMINISTRATION  
DIVISION OF ACCOUNTS AND REPORTS

BILL GRAVES  
Governor

ROGER C. ROOKER  
Acting Director of Accounts and Reports

January 18, 1995

900 Jackson, Room 251  
Landon State Office Building  
Topeka, KS 66612-1220  
(913) 296-2311  
FAX (913) 296-6841

Mr. Lee Hamm, Director  
Grain Inspection Department  
700 S.W. Jackson, Suite 800  
Jayhawk Towers  
Topeka, Kansas 66603-1918

Dear Mr. Hamm:

A negotiation agreement was recently executed between the Director of the Division of Accounts and Reports for the State of Kansas and the Director of the division of Cost Allocation of the Department of Health and Human Services for the federal government. This agreement fixes the amount of statewide indirect central service costs allocated to each state agency for the fiscal year ending June 30, 1995. The amount allocated to your agency is as follows:

Allocated Share of Statewide Indirect Central Service Costs	\$32,708
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The above costs represent expenditures incurred for such central services as accounting, payroll, purchasing, personnel, budget, etc. These costs should be included in your agency's departmental indirect cost plan so that applicable overhead may be charged to federal grants.

State agencies administering federal grants are encouraged to prepare departmental indirect cost plans even if indirect costs cannot be directly recovered from a federal grant. In many cases, the indirect costs may be utilized to: (1) offset disallowed direct costs against indirect (overhead) costs to avoid further expenditure of state funds; or (2) provide matching funds for federal grants.

Questions concerning this matter should be directed to the Accounting Control and Services Section at (913) 296-3521.

Very truly yours,

Roger C. Rooker, Acting Director  
Division of Accounts and Reports

RCR:JV:wem

**KANSAS GRAIN & FEED ASSOCIATION  
A NOT FOR PROFIT KANSAS CORPORATION**

**KANSAS GRAIN INSPECTION SERVICE, INC.  
A KANSAS CORPORATION (KGIS)  
(Stock Authorized & Issued to Kansas Grain & Feed)**

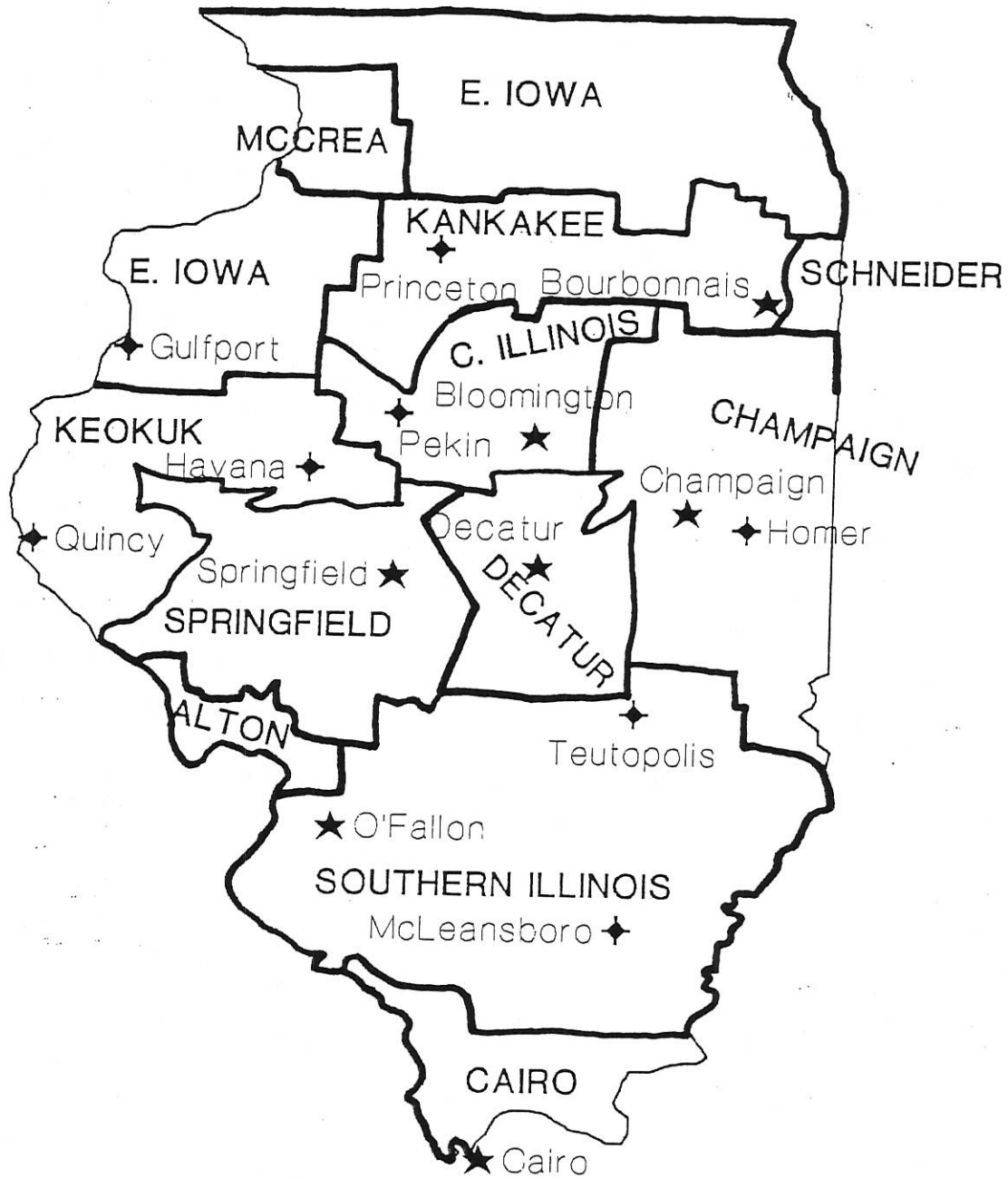
**VOTING TRUST  
HOLDING 100% OF KGIS STOCK ISSUED  
(Trustees Appointed Subject to USDA Review Re: Conflicts)**

**KGIS BOARD OF DIRECTORS  
ELECTED BY TRUSTEES OF TRUST HOLDING SHARES OF KGIS  
(Directors Elected Subject to USDA Review Re: Conflicts)**

**KGIS OFFICERS  
APPOINTED BY KGIS BOARD OF DIRECTORS  
(Officers Subject to USDA Review Re: Conflicts)**

**KGIS EMPLOYEES  
EMPLOYEES HIRED BY KGIS OFFICERS  
(Employees Subject to USDA Review Re: Conflicts)**

# ILLINOIS



## SB-317

Testimony of  
Jere White, Executive Director

The Kansas Corn Growers and Kansas Grain Sorghum Producers Associations support expanded public-private relationships as a replacement for government provided services whenever there can be an increase in customer support, service, and efficiency. Senate Bill #317 would set up such a relationship in the area of grain inspection. And we believe placing the Grain Warehouse Division under the proven administration of the Kansas Department of Agriculture makes good sense and provides good value.

The provisions of SB-317 were endorsed unanimously by the members of the Kansas Grain Advisory Commission. They have agreed with the industry that changes are due, not because of any fallacy in the staff or it's mission, but rather from the system itself. We have seen many changes in Kansas over the past century and so has our grain industry. Our farmers rely on a strong grain handling industry. That industry needs the support of an equally strong and efficient inspections service.

The State of Kansas provides a variety of services to it's citizens. Grain inspection has been provided by our state but paid for by the users of the service. It would seem appropriate for those users to seek out the best return on their grain inspection dollar investment. Clearly that doesn't seem to be the case under the current system. Cutting the size of government while responding to the needs of industry and producers at a lower cost is a win for all involved.

Current employees of the GID will be courted for employment by the new private sector entity. With more competitive service, a privatized grain inspection service might very well see the need for more

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P.O. BOX 446, GARNETT, KS 66032-0446 • PHONE (913) 448-6922 • FAX: (913) 448-6932



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House Agriculture Committee  
March 18, 1997  
Attachment 4

personnel. If not competitive in both price and service, employees of the current system would find themselves looking at a much less certain future.

Credibility of any grain inspection service is of extreme importance to our producers. Under the oversight of USDA's Grain Inspection, Packers, Stockyards Administration or GIPSA, growers will have the same confidence that currently exists. The flexibility of managing necessary seasonal employees and the elimination of funding \$ 200,000 into the state general fund are real world benefits. And while only a very small percentage of grain inspections currently being done by the grain inspections department are done directly for Kansas farmers, the savings to the grain handlers is of indirect benefit to the vast majority of producers who are their customers and in many instances their stockholders. We urge favorable consideration on SB-317.

**STATEMENT BEFORE THE  
HOUSE AGRICULTURE COMMITTEE  
REPRESENTATIVE JOANN FLOWER, CHAIR  
REGARDING SUBSTITUTE FOR SENATE BILL 317  
BY DAVID J. WARRINGTON  
MARCH 18, 1997**

My name is David J. Warrington and I am here today representing the Kansas Grain Advisory Commission. The Commission is made up of five members including Shirley Strnad, United Grain, Scandia, Kansas--Country Elevator Representative; Dean Shelor, Ingalls, Kansas--Farmer/Producer Representative; Roger Pine, Lawrence, Kansas--Cooperative Representative; Ben Zimmerman III, Fidelity State Bank of Dodge City--Bank Representative; and myself. I work for Collingwood Grain, Inc., in Hutchinson, Kansas and I serve as the Terminal Elevator Representative.

We have talked about this issue of privatization of the grain inspection division for the last five years. We have studied other grain inspection services in other states which are the designated "official" inspection service. These have been private entities set up as private companies working for profit. The one that we are proposing to pattern after, the Lincoln Grain Inspection Service, is an entity set up as a trust with 3 independent directors. This trust was created by an attorney, Clayton Yeutter, who later became the U.S. Secretary of Agriculture. The plan or format of this trust was accepted by the Federal Grain Inspection Service which is now governed by the Grain Inspection, Packers and Stockyards Administration, better known as GIPSA.

This trust would direct the workings of the grain inspection service under the watchful eye on procedures by the Federal Grain Inspection Service. Procedures,

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practices, methods, and monitoring of grain samples would continue just as it is today. There would be no compromising of the integrity of the system.

The Grain Inspection Service has to be efficient, cost effective and responsive to the changing grain industry. It has to be operated and managed as a business, a business that operates 24 hours a day, 7 days a week.

The grain industry now has to work the hours of the farmer/producer -- you work when the work has to be done. We unload and load grain requiring official inspections and certified weighing at all hours of the day and night. The railroads now require loading 100 car trains of 350,000 bushels in 12-18 hours--no matter what time the train comes in to your operation.

Our state of Kansas is blessed with abundant grain production and the need to move this grain to market everywhere. The ability to continue to give excellent service is a must to allow the best possible prices be paid to our Kansas producers.

Privatization will only improve upon this service and should also push to succeed in attracting the most business possible at a competitive price. Grain inspection is, and will remain a permissive service--grain growers, grain handlers and warehousemen are not required to use the grain inspection service. Other private inspection services or "in house" grading of grain quality can be used by the grain handling and processing industry in order to cut costs and be more efficient. A privatized grain inspection service will be able to compete because: 1) They have good, well trained, conscientious people; 2) Using procedures under the guidelines of GIPSA and the former Federal Grain Inspection Services; 3) Will still be the designated official inspection services which is very important when shipping grain for export; 4) Will be able to continue to offer a competitively priced service and have the flexibility to supply that service 24-hours per day; 5) Already have offices set up across the state equipped with modern testing approved equipment ready to

serve those customers who need their service; 6) Will still be fee-funded by the grain industry that uses the service.

No one likes change, but I, as everyone else, have and will continue to go through changes in business. The long term viability of a privatized grain inspection service has a better chance of survival and offering its employees a sustaining place of employment that provides an efficient, cost-effective and responsive grain inspection service.

The Commission discussed other associations that a grain inspection division could operate under, such as Farm Bureau, or the various commodity commissions, but there is no other organization like the Kansas Grain and Feed Association that represents 99% of the grain handling and storage space in Kansas. These people want this service available to them and know that being the designated official inspection service by USDA, GIPSA, supervision, direction, procedures and guidelines will be under the continued control of the Grain Inspection, Packers and Stockyards Administration. As has been the case in the past, not the industry, nor the Kansas Grain and Feed Association will have **any** authority or jurisdiction in determining grain grading, practice or procedure. This is strictly governed by GIPSA.

To touch briefly on the Warehouse Division, I will say only that Kansas law has made it obligatory or compulsory to have a warehouse division to protect the depositors of grain in our state public warehouses. The producer, the landlord, the lending institution, and the commercial buyer of grain are all protected by a strong warehouse law.

There are strong feelings that our state warehouse programs are superior to federal warehouse protection programs. This is especially true as the federal warehouse program goes through some drastic cost cutting measures which will



weaken their warehouse audit program. The state has and should continue to be a more efficient and fiscally responsible grain warehouse program to protect the interests of grain producers and depositors.

The warehouse division has been receiving federal monetary support because of the cooperative agreement with USDA to audit State of Kansas licensed facilities that are handling/warehousing grain that is the property of Commodity Credit Corporation due to grain forfeitures or is collateral under some federal loan program. Effective October 1, 1997, Commodity Credit Corporation will terminate all cooperative agreements with state licensing. This will be the end of approximately \$200,000 per year of funding coming into the warehouse division from the commodity Credit Corporation. Under current law, the State of Kansas needs to maintain a strong warehouse division under the supervision of the Kansas Department of Agriculture to protect the depositors of grain in our public warehouses.

Thank you.

**TESTIMONY BEFORE THE HOUSE AGRICULTURE  
COMMITTEE  
REPRESENTATIVE JOANN FLOWER, CHAIR  
REGARDING  
SUBSTITUTE FOR SENATE BILL 317  
BY DONALD WATSON**

Chairperson Flower and Members of the Agriculture Committee, my name is Don Watson and I reside in Topeka. My testimony today is in support of passing Substitute for Senate Bill 317. I believe I can speak with some knowledge of the need to privatize the grain inspection division of the Kansas Grain Inspection Department because I served as Director of the Department for five years, from 1977 to 1982. I was appointed by Governor Robert Bennett and continued to serve as Director for over two years following the election of Governor Carlin in 1980. Prior to my years as Director I owned and managed an 890,000 bushel capacity elevator in Paola, Kansas for 24 years.

Following my tenure as KGID Director, I managed the Western Grain Company elevator in White City, Kansas for 4 years. During this 30-year period I witnessed a dramatic change in the Kansas grain storage and

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handling industry. And the one thing I can say with certainty, the Kansas Grain Inspection Department as a state agency, had an extremely difficult time dealing with needed change. Private industry can respond quickly to changes in the marketplace. The Department does not have the capability for rapid and responsive change. We could not change our fees or level of service without first getting the changes approved by the Legislature. When new technology became available, such as protein analyzers, we could not buy the equipment we needed without first getting legislative budget approval. As you are aware, this can be a very time consuming process. When it became necessary to adjust our personnel at one of our inspection stations, we had to abide by state work rules which usually meant long delays in doing what needed to be done in terms of adding or deleting people. I know these same problems plague the department today. Legislative oversight is a necessary and important part of state government. It does, however, often stand in the way of needed change.

In closing, I want to say privatizing the department under the plan being put forth by the Kansas Grain and Feed Association is an excellent idea. The KGFA is a 100-year old, highly respected organization and is supported by virtually the entire grain industry. The time for change is now and I say please, get it done!

Thank you, and I would be happy to respond to any questions.

STATE OF KANSAS

BILL GRAVES, GOVERNOR  
Alice A. Devine, Secretary of Agriculture  
901 S. Kansas Avenue  
Topeka, Kansas 66612-1280  
(913) 296-3558  
FAX: (913) 296-8389



KANSAS DEPARTMENT OF AGRICULTURE

House Agriculture Committee

March 18, 1997

SB 317

Good morning, Chairperson Flower and members of the House Agriculture Committee. I am Allie Devine, Secretary of the Kansas Department of Agriculture and I appear before you in support of SB 317.

As a matter of background, a grain elevator can elect to either be licensed under state or federal law. The annual licensing fees under federal law are generally slightly lower than state fees. However, it is our understanding that the federal facilities only receive an audit once every three years. Under the state program, facilities must be audited every year and as a matter of operation, some facilities have received more than one audit a year. Many of you will recall that the federal government stored grain in the mid to late 1980's, which provided the regulators with much work and significant fee funding. When the government sold the stocks of grain, the regulatory work was reduced and also the fees generated. This in turn has led to a shortfall in funding for both state and federal regulatory bodies. Yesterday we confirmed with USDA that they will be proposing significant fee increases this year and into the future to become a self funded program.

SB 317 proposes that the warehouse program of the Kansas Grain Inspection Department be transferred to the Kansas Department of Agriculture. It is no secret that funding for the program has been a historical problem. The Governor's FY 1998 Budget totals \$492,126. This amount is comprised of \$312,136 of fees and \$180,000 of reserve funds. The Governor's budget includes 12 FTE positions one of which is currently vacant. It is our understanding that the Grain Inspection Department proposed eliminating 3 FTE. Further, the Kansas Grain Inspection Department had planned to increase warehouse fees by approximately 15 percent pursuant to their rule and regulation authority so as to adequately fund the program.

For FY 1998 the Senate Budget Committee recommended a 7.5 percent fee increase generating \$33,292 and an additional \$33,292 state general fund monies. Further, the Senate recommended 10 FTE. The House Budget Committee concurred with the Governor's Budget.

If the program is shifted to the Department of Agriculture we propose to operate the program with 8 field inspectors conducting one inspection per year per facility as required by statute. The Governor's Budget of \$492,126 should be adequate. It is our intent to blend the administration of the program into current operations. We will use the other FTE for administration only if necessary.

*House Agriculture Committee*  
*March 18, 1997*  
*Attachment 7*

The original wording of SB 317 allowed for the money in the grain inspection fee fund to be used by the private grain inspection company. The money would have remained under the control of the secretary of agriculture, who could have released up to \$250,000 a year to the private inspection company. This was of concern to some members since the fund has a balance of approximately \$1.4 million.

Upon further investigation as to what is the proper manner in which to handle these funds, I spoke to David Shipman of USDA. He explained that prior to 1993, the grain inspection fee funds could be used for the grain inspection program or any other agriculture program, however in late 1993, the law changed so that the money could only be used for the grain inspection program. When I asked whether the amount of money that was in the fund prior to the law changing could be transferred to KDA to assist in the running of the warehouse program, he concurred and said that USDA would not challenge this transfer. Therefore, whatever amount was in the grain inspection fund as of December 1, 1993, could be used to assist KDA in operating the warehouse program. However, the remainder of the fund should then be transferred to the private inspection company to ensure a smooth transition. The bill does not provide for a separate fund for the benefit of the private sector company.

If you were to authorize the transfer of funds to the department of agriculture, I believe KDA would only be legally entitled to \$1,006,560.70, which is the balance in the grain inspection fee fund as of December 1, 1993 when the federal law was amended and prohibited the funds from paying for warehouse expenses. The remainder should be accessible to the private inspection company as suggested by USDA. To accomplish this you will need to either amend the bill or determine that the issue can be resolved through the appropriation process.

Thank you for your time and consideration. I'd be glad to try and answer any questions you may have.