

Approved: 3-13-97  
Date

MINUTES OF THE SENATE COMMITTEE ON AGRICULTURE.

The meeting was called to order by Chairperson Steve Morris at 10:00 a.m. on March 11, 1997 in Room 423-S of the Capitol.

All members were present except: All present

Committee staff present: Raney Gilliland, Legislative Research Department  
Jill Wolters, Revisor of Statutes  
Nancy Kippes, Committee Secretary

Conferees appearing before the committee:  
Allie Devine, Secretary of the Department of Agriculture  
Chris Wilson, Director of Member Services, Kansas Seed Industry Association  
Maurice Miller, partner in Drussel Seed and Supply, Garden City

Others attending: See attached list

**SB 317**                      **an act abolishing the Kansas State Grain Inspection Department**

Allie Devine, Secretary of the Department of Agriculture, advised the Committee she had spoken with appropriate people at the Grain Inspection, Packers and Stockyards Administration (Federal Grain Inspection Service) in Washington, D C concerning the transfer of funds at the time of privatization of the Grain Inspection Division and transfer of supervision of the Warehouse Division to the Department of Agriculture. She was advised there was no precedent in this area but there could be a transfer between agriculture programs. Secretary Devine stated upon research she was provided information that in December of 1993 when there was an amendment to federal law, there was approximately \$1.5 million and at the present time there is approximately \$1.4 million. She noted that there could be a clean transfer of funds from the Grain Inspection Division to the Warehouse Division at the time of privatization.

A printout of the Kansas Grain Inspection Department Fee Fund Balances was distributed (Attachment 1), as well as a Kansas Grain Inspection Department Privatization/Transfer Timeline (Attachment 2).

Jill Wolters, Revisor of Statutes, explained the balloon amendment (Attachment 3), which again clarifies the June 1 and July 1 effective dates, and continues to give the Secretary of Agriculture the authority to give thirty days notice to terminate unnecessary positions being transferred to the Department of Agriculture before July 1, and sets up the Warehouse Fee Fund.

Following discussion by the Committee, Senator Corbin made a motion that a substitute bill based on the balloon amendments submitted, and changing on lines 34 and 35 of page 4 of attachment 3 the words general fund to warehouse fund for transfer of monies, be passed favorably. Senator Biggs seconded the motion and the motion carried.

**HB 2245**                      **concerning agricultural seeds**

Chris Wilson, Kansas Seed Industry Association, testified in support of **HB 2245**, stating this bill would bring Kansas law into conformity with federal law in regard to the Plant Variety Protection Act (Attachment 4). In addition, this bill would require seed cleaning businesses to register with the Kansas Department of Agriculture and make a technical change replacing "state board of agriculture" with "secretary".

Maurice Miller, Drussel Seed and Supply, provided testimony as to the philosophy and need for the bill (Attachment 5).

The hearing on **HB 2245** was continued to Thursday, March 13.

The meeting was adjourned at 11:00 a.m.

The next meeting is scheduled for March 13, 1997.

# SENATE AGRICULTURE COMMITTEE GUEST LIST

DATE: 3-11-97

NAME	REPRESENTING
Mary Jane Stattelman	KS Dept of Agriculture
Allie Devine	KS Dept. of Agriculture
Tom Tunnell	KS Grain and Feed Assn.
Dog Wareham	KS Grain & Feed Assn.
Bill Jullow	Kansas Farm Bureau
John J. Falk	KS DEPT OF AGRICULTURE
Curto Stahl	" " " "
Chris Wilson	KS Seed Industry Association
Maurice Miller	- - - -
NOBLE MORRELL	DoA - DPS
Marty Vanier	KS Ag Alliance
Becky Fleming	Kansas Grain Inspection
Gary M. Bothwell	KSGID
Thomas E. Meyer	KANSAS GRAIN INSPECTION
Ron Scheibmeier	" " "
Jim Allen	KGFA
Cody Denton	DOB
Greg Tugman	KS Dept. of Ag

## Kansas Grain Inspection Department - Grain Inspection Fee Fund Balances

Warehouse Funds	Actual FY 95	Actual FY 96	Gov. Rec. FY 97	Gov. Rec. FY 98
<b>Balance Forward</b>	\$0	\$132,862	\$193,841	\$179,126
Add: Receipts	547,543	507,421	574,844	398,594
Interest on Fee Fund	0	0	4,800	0
<b>Total Funds Available</b>	<u>\$547,543</u>	<u>\$640,283</u>	<u>\$773,485</u>	<u>\$577,720</u>
Less: Expenditures	414,681	446,442	594,359	492,126
<b>Ending Balance</b>	<u>\$132,862</u>	<u>\$193,841</u>	<u>\$179,126</u>	<u>\$85,594</u>

Ending Balance as a Percentage of Expenditures	32.0	43.4	30.1	17.4
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Grain Inspection Funds	Actual FY 96	Gov. Rec. FY 97	Gov. Rec. FY 98
<b>Balance Forward</b>	\$1,377,057	\$1,236,449	\$1,231,241
Add: Receipts	3,618,999	4,643,983	4,282,587
Interest on Fee Fund	0	64,324	82,302
<b>Total Funds Available</b>	<u>\$4,996,056</u>	<u>\$5,944,756</u>	<u>\$5,596,130</u>
Less: Expenditures	3,608,561	4,503,515	4,486,975
Federal Fees Remitted	151,046	210,000	200,000
<b>Ending Balance</b>	<u>\$1,236,449</u>	<u>\$1,231,241</u>	<u>\$909,155</u>

Ending Balance as a Percentage of Expenditures	34.3	27.3	20.3
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Total Funds	Actual FY 96	Gov. Rec. FY 97	Gov. Rec. FY 98
<b>Balance Forward</b>	\$1,509,919	\$1,430,290	\$1,410,367
Add: Receipts	4,126,420	5,218,827	4,681,181
Interest on Fee Fund	0	69,124	82,302
<b>Total Funds Available</b>	<u>\$5,636,339</u>	<u>\$6,718,241</u>	<u>\$6,173,850</u>
Less: Expenditures	4,055,003	5,097,874	4,979,101
Federal Fees Remitted	151,046	210,000	200,000
<b>Ending Balance</b>	<u>\$1,430,290</u>	<u>\$1,410,367</u>	<u>\$994,749</u>

Ending Balance as a Percentage of Expenditures	35.3	27.7	20.0
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*Senate Agriculture  
Attachment 1  
March 11, 1997*

# KGID PRIVATIZATION / TRANSFER TIMELINE

*Secretary of Agriculture  
Attachment 2  
March 11, 1997*

## **JUNE, 1997** -----

1. KGID continues to provide grain inspection services/and the state of Kansas will continue receive payment for all services provided by KGID on or before June 30, 1997.
2. Secretary of Agriculture is authorized to give notice to warehouse division personnel whose positions are deemed unnecessary, June 1, 1997.

## **JULY 1, 1997** -----

1. USDA / GIPSA will designate an official agency for Kansas effective July 1, 1997.
2. Grain Inspection Function Transfers to Private Entity.
3. New Private Entity inspects and receives payment for all inspection services provided on or after July 1, 1997.
4. On July 1, 1997, Kansas Grain Inspection Service, Inc., shall succeed whatever right, title or interest the Kansas state inspection department has acquired in any property in this state concerning inspection, including equipment and supplies from the protein laboratories and inspection laboratories.
5. KDA assumes responsibility of Grain Warehouse Division functions on July 1, 1997.
6. KDA is responsible for any remaining liabilities of the KGID incurred on or before June 30, 1997.
- . Balance of grain inspection fee fund transfers to State General Fund after liabilities are paid.

SENATE BILL No. 317

By Committee on Agriculture

2-13

9 AN ACT abolishing the Kansas state grain inspection department; relating
10 to the transfer of duties and powers thereof; amending K.S.A. 34-101,
11 34-101c, 34-102, 34-111, ~~34-121, 34-122, 34-123~~ 34-223, 34-227b, 34-
12 229, 34-230, 34-230a, 34-230b, 34-231, 34-233, 34-235, 34-236, 34-
13 238, 34-241a, 34-246, 34-249a, 34-251, 34-257a, 34-273, 34-295a,
14 34-295b, 34-298, 34-299, 34-2,104 and 34-2,110 and K.S.A. 1996 Supp.
15 34-101b, 34-125, 34-228, 74-4911f, 75-3170a and 77-415 and repealing
16 the existing sections; also repealing K.S.A. 34-101a, 34-101d, 34-102a,
17 34-104, 34-105, 34-106, 34-107, 34-110, 34-112a, 34-113, ~~34-124, 34-~~
18 ~~127, 34-224, 34-227 34-227a, 34-2,100, 75-1701, 75-1702, 75-1703, 75-~~
19 ~~1704, 75-1706, 75-1709 and 75-1711 and K.S.A. 1996 Supp. 34-102b,~~
20 34-103a and 34-2,108.

34-121, 34-122, 34-123,

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

23 New Section 1. On and after July 1, 1997:

24 (a) The Kansas state grain inspection department established by
25 K.S.A. 34-101 is hereby abolished.

26 (b) Except as otherwise provided by this act, all of the powers, duties
27 and functions of the Kansas state grain inspection department and the
28 director of the Kansas state grain inspection department concerning pub-
29 lic warehouses are hereby transferred to and conferred and imposed upon
30 the department of agriculture and the secretary of agriculture.

31 (c) Except as otherwise provided by this act, all of the powers, duties
32 and functions of the Kansas state grain inspection department and the
33 director of the Kansas state grain inspection department concerning grain
34 inspection are hereby governed by the grain inspection, packers, stock-
35 yards administration of the United States department of agriculture.

36 New Sec. 2. On and after July 1, 1997:

37 (a) Except as otherwise provided by this act, the department of ag-
38 riculture and the secretary of agriculture shall be the successor in every
39 way to the powers, duties and functions of the Kansas state grain inspec-
40 tion department and the director of the Kansas state grain inspection
41 department concerning public warehouses in which the same were vested
42 prior to the effective date of this section. Every act performed in the
43 exercise of such powers, duties and functions by or under the authority

Senate Agriculture
Attachment 3
March 11, 1997

1 of the department of agriculture and the secretary of agriculture shall be  
2 deemed to have the same force and effect as if performed by the Kansas  
3 state grain inspection department and the director of the Kansas state  
4 grain inspection department, respectively, in which such powers, duties  
5 and functions were vested prior to the effective date of this section.

6 (b) Except as otherwise provided by this act, whenever the Kansas  
7 state grain inspection department, or words of like effect concerning pub-  
8 lic warehouses, is referred to or designated by a statute, contract or other  
9 document, such reference or designation shall be deemed to apply to the  
10 department of agriculture.

11 (c) Except as otherwise provided by this act, whenever the director  
12 of the Kansas state grain inspection department, or words of like effect  
13 concerning public warehouses, is referred to or designated by a statute,  
14 contract or other document, such reference or designation shall be  
15 deemed to apply to the secretary of agriculture.

16 (d) All rules and regulations of the Kansas state grain inspection de-  
17 partment and the director of the Kansas state grain inspection department  
18 concerning public warehouses in existence on the effective date of this  
19 section shall continue to be effective and shall be deemed to be duly  
20 adopted rules and regulations of the secretary of agriculture until revised,  
21 amended, revoked or nullified pursuant to law.

22 (e) All orders and directives of the Kansas state grain inspection de-  
23 partment and the director of the Kansas state grain inspection department  
24 concerning public warehouses in existence on the effective date of this  
25 section shall continue to be effective and shall be deemed to be orders  
26 and directives of the department of agriculture until revised, amended or  
27 nullified pursuant to law.

28 (f) On the effective date of this act, the department of agriculture  
29 shall succeed to whatever right, title or interest the Kansas state grain  
30 inspection department has acquired in any real property in this state con-  
31 cerning public warehouses, and the department shall hold the same for  
32 and in the name of the state of Kansas. On and after the effective date  
33 of this act, whenever any statute, contract, deed or other document con-  
34 cerns the power or authority of the Kansas state grain inspection depart-  
35 ment and the director of the Kansas state grain inspection department  
36 concerning public warehouses to acquire, hold or dispose of real property  
37 or any interest therein, the department of agriculture shall succeed to  
38 such power or authority.

39 (g) The department of agriculture and the secretary of agriculture  
40 shall be continuations of the Kansas state grain inspection department  
41 and the director of the Kansas state grain inspection department con-  
42 cerning public warehouses.

43 New Sec. 3. Except as otherwise provided in this act, on July 1, 1997,

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officers and employees who, immediately prior to such date, were engaged in the performance of powers, duties or functions of the Kansas state grain inspection department concerning public warehouses which are transferred by this act, or who become a part of the department of agriculture, or the powers, duties and functions of which are transferred to the department of agriculture, and ~~who~~ in the opinion of the secretary of agriculture, ~~are necessary to perform the powers, duties and functions~~ of the department of agriculture concerning public warehouses, shall be transferred to, and shall become officers and employees of the department of agriculture. Any such officer or employee shall retain all retirement benefits and all rights of civil service which had accrued to or vested in such officer or employee prior to the effective date of this section. The service of each such officer and employee so transferred shall be deemed to have been continuous. All transfers ~~and any abolition~~ of personnel positions in the classified service under the Kansas civil service act shall be in accordance with civil service laws and any rules and regulations adopted thereunder.

in positions

if

those positions

New Sec. 4. On and after July 1, 1997:

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

(b) The department of agriculture shall succeed to all property and records concerning public warehouses which were used for or pertain to the performance of the powers, duties and functions transferred to the department of agriculture. Any conflict as to the proper disposition of property or records arising under this section, and resulting from the transfer or attachment of any state agency, or all or part of the powers, duties and functions thereof, shall be determined by the governor, whose decision shall be final.

New Sec. 5. On and after July 1, 1997:

(a) The department of agriculture shall have the legal custody of all records, memoranda, writings, entries, prints, representations or combinations thereof of any act, transaction, occurrence or event of the Kansas state grain inspection department concerning public warehouses and any agency or office transferred thereto under this act.

(b) No suit, action or other proceeding, judicial or administrative, lawfully commenced, or which could have been commenced, by or against any state agency mentioned in this act, or by or against any officer of the state in such officer's official capacity or in relation to the discharge of such officer's official duties, shall abate by reason of the governmental reorganization effected under the provisions of this act. The court may

New Sec. 4. (a) Those positions in the grain inspection department which, in the opinion of the secretary of agriculture, are not necessary to perform the powers, duties and functions of the department of agriculture concerning public warehouses shall be abolished upon July 1, 1997. Thirty day notice prior to July 1, 1997, shall be given by the secretary to employees in those positions determined to be unnecessary by the secretary. No bumping rights shall attach to the positions deemed unnecessary by the secretary of agriculture. No further action shall be required in order to abolish these positions.

(b) The provisions of this section shall take effect on and after June 1, 1997.

Renumber remaining sections accordingly.

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1 allow any such suit, action or other proceeding to be maintained by or  
2 against the successor of any such state agency or any officer affected.

3 (c) No criminal action commenced or which could have been com-  
4 menced by the state shall abate by the taking effect of this act.

5 New Sec. 6. On and after July 1, 1997:

6 (a) The balance of all funds appropriated and reappropriated to the  
7 Kansas state grain inspection department concerning public warehouses  
8 is hereby transferred to the department of agriculture and shall be used  
9 only for the purpose for which the appropriation was originally made.

10 (b) The liability for all accrued compensation or salaries of officers  
11 and employees who, immediately prior to such date, were engaged in the  
12 performance of powers, duties or functions of the Kansas state grain in-  
13 spection department concerning public warehouses, or who become a  
14 part of the department of agriculture, or the powers, duties and functions  
15 of which are transferred to the department of agriculture, shall be as-  
16 sumed and paid by the department of agriculture.

17 New Sec. 7. (a) On and after July 1, 1997, the Kansas grain inspection  
18 service shall succeed to whatever right, title or interest the Kansas state  
19 grain inspection department has acquired in any property in this state  
20 concerning grain inspection, including equipment and supplies from the  
21 protein laboratories and inspection laboratories.

22 (b) On July 1, 1997, the grain inspection fee fund and all records of  
23 the grain inspection fee fund are hereby transferred to the secretary of  
24 agriculture for the purposes of this section.

25 (c) On and after July 1, 1997, all expenditures from the grain inspec-  
26 tion fee fund shall be made in accordance with appropriation acts upon  
27 warrants of the director of accounts and reports issued pursuant to vouch-  
28 ers approved by the secretary of agriculture or the secretary's designee.  
29 On and after July 1, 1997, the secretary of agriculture shall pay all out-  
30 standing liabilities of the grain inspection fee fund as evidenced by en-  
31 cumbrances of moneys credited to the grain inspection fee fund. After  
32 such payment of all outstanding liabilities of the grain inspection fee fund,  
33 the secretary of agriculture shall pay all remaining moneys credited to the  
34 grain inspection fee fund to the ~~Kansas grain inspection service~~. After  
35 such payment to the ~~Kansas grain inspection service~~, the grain inspection  
36 fee fund is hereby abolished.

state general fund

37 New Sec. 8. ~~The secretary of agriculture may adopt and enforce rea-~~  
38 ~~sonable~~ rules and regulations in conformity with the provisions of this  
39 act, governing the duties of public warehousemen, the manner of con-  
40 ducting public grain warehouses and of keeping and preserving the papers  
41 and records of such warehousemen, including the regulating of all trans-  
42 actions in which grain is sold to the elevators and warehouses and payment  
43 therefor is deferred.

On and after July 1, 1997,

necessary for the administration and enforcement of the provisions of this act, and amendments thereto



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Sec. 9. 1 K.S.A. 34-101 is hereby amended to read as follows: 34-101.

On and after July 1, 1997,

2 (a) A state department of record to be designated as the Kansas state  
3 grain inspection department is hereby established. Such department shall  
4 have exclusive control of the official sampling, inspection, grading, weigh-  
5 ing and protein analysis and the certification of grades, weights, and pro-  
6 tein content of all grain at all places where inspection stations are now or  
7 may hereafter be established. The certificates issued by the department  
8 shall be conclusive evidence to all parties interested and shall form the  
9 basis of all settlements between the buyer and seller, unless an appeal is  
10 taken therefrom, in the manner provided by law, and all freight charges  
11 shall be based on the official state weights. ~~There is hereby established in~~  
12 ~~the department of agriculture a warehouse division. The secretary of ag-~~  
13 ~~riculture shall appoint a chief administrative officer of the warehouse~~  
14 ~~division, who shall be in the classified service under the Kansas civil serv-~~  
15 ~~ice act.~~

16 ~~(b)~~ The department of agriculture shall have supervision and regu-  
17 lation of all warehouses operated under the Kansas public warehouse laws  
18 relating to storage of grain. Such department is authorized and empow-  
19 ered by and with the consent of the governor to establish, maintain and  
20 operate inspection stations covering all or any part of its service at great  
21 railway terminals and points where organized grain markets are regularly  
22 maintained, and at other points where operating costs are guaranteed by  
23 special arrangements with the industries served, or the managing officers  
24 in charge. Where great railroad terminals lie partly within the state of  
25 Kansas and partly in an adjoining state and a larger part of the depart-  
26 ment's service at such terminal is for the account of firms having offices  
27 in such adjoining state, it shall be lawful for the department to maintain  
28 and operate an inspection station covering part or all of its services in  
29 such adjoining state. No sampling or weighing of grain shall be done by  
30 the department outside of the state of Kansas, except as provided in  
31 K.S.A. 34-101d, and amendments thereto. Such stations shall be located  
32 as conveniently to the interest served as practicable. The owner may di-  
33 rect that such owner's grain may not be inspected by writing or stamping  
34 upon the bill of lading thereof, "no inspection desired" or words to that  
35 effect.

(b)

36 ~~(c)~~ The department of agriculture shall have the authority to coop-  
37 erate with any local, state or national organization or agency, whether  
38 voluntary or created by the law of any state, or by national law, engaged  
39 in work or activities similar to the work and activities of the department  
40 ~~warehouse division], and to enter into contracts and agreements with such~~  
organizations or agencies for carrying on a joint campaign of development,  
education and publicity.

private entity or organization or  
department  
entities,

(c)

43 ~~(d)~~ No provision of this section shall be construed to prohibit or pre-

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1 vent either the secretary of the state board of agriculture or the state  
2 sealer or any of their respective or any authorized representatives from  
3 inspecting any weighing or measuring device or otherwise performing any  
4 of their the secretary's duties pursuant to any provision of chapter 83 of  
5 Kansas Statutes Annotated, and amendments thereto.

6 Sec. 10. Δ K.S.A. 1996 Supp. 34-101b is hereby amended to read as  
7 follows: 34-101b. (a) The director of the Kansas state grain inspection  
8 department, with the approval of the state grain advisory commission and  
9 the governor, secretary of agriculture is authorized and empowered to  
10 enter into contracts and agreements necessary to cooperate with the com-  
11 modity credit corporation, a public corporation organized under the laws  
12 of the United States or other federal agencies to make uniform the pro-  
13 cedures followed in examining state licensed public grain warehouses and  
14 to make available to the commodity credit corporation or other federal  
15 agencies the information acquired under such examining procedures by  
16 state warehouse examiners.

17 (b) The director of the Kansas state grain inspection department sec-  
18 retary of agriculture is authorized and empowered to enter into contracts  
19 and agreements necessary to cooperate with governmental agencies of  
20 this state, other states, agencies of the federal government and private  
21 associations in order to carry out the purpose and provisions of this chap-  
22 ter and the United States warehouse act, 7 U.S.C.A., section 241, et seq.  
23 Notwithstanding any other provisions of this chapter, such agreements  
24 may relate to a joint program for licensing, and bonding and inspecting  
25 stations. Such a program may be designed to avoid duplication of effort  
26 on the part of the licensing authority and requirements for operation, and  
27 promote more efficient enforcement of the provisions of this chapter and  
28 comparable provisions of the laws of the states of Nebraska, Colorado,  
29 Missouri and Oklahoma.

30 Sec. 11. Δ K.S.A. 34-101c is hereby amended to read as follows: 34-  
31 101c. ~~Such~~ Any contracts entered into pursuant to K.S.A. 34-101b, and  
32 amendments thereto, may provide for reimbursement to the state grain  
33 inspection department of agriculture by the commodity credit corpora-  
34 tion for such services so performed and furnished, and any money re-  
35 ceived pursuant to the terms of such contracts shall be deposited in the  
36 grain inspection fee state general fund.

37 Sec. 12. Δ K.S.A. 34-102 is hereby amended to read as follows: 34-102.  
38 (a) The director secretary shall:

- 39 (1) Generally supervise the inspection, sampling, sampling for in-  
40 spection and weighing of grain, as required by law;
- 41 (2) supervise the handling, inspection, sampling, sampling for in-  
42 spection, weighing, protein analysis and storage of grain;
- 43 (3) Adopt any rules and regulations necessary to enforce the laws of

(d) (1) There is hereby created the warehouse fee fund in the state treasury. The secretary shall remit all moneys received by or for the secretary from fees, charges or penalties to the state treasurer at least monthly. Upon receipt of any such remittance the state treasurer shall deposit the entire amount thereof in the state treasury and credited to the warehouse fee fund. All expenditures from such fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary or by a person or persons designated by the secretary.

(2) On or before the 10th of each month, the director of accounts and reports shall transfer from the state general fund to the warehouse fee fund interest earnings based on:

- (A) The average daily balance of moneys in the warehouse fee fund for the preceding month; and
- (B) the net earnings rate of the pooled money investment portfolio for the preceding month.

On and after July 1, 1997,

2 this state relating to inspection, sampling, sampling for inspection, weigh-  
3 ing, protein analysis and storage of grain and management of public ware-  
4 houses;

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

10 (5) (2) investigate all complaints of, and to the extent possible correct  
11 occurrences of, fraud or oppression in the grain trade; and

12 (6) (3) investigate and, at the director's secretary's discretion, monitor  
13 a grain handling facility when the director secretary believes it is operating  
14 as a public grain warehouse without a valid federal or state warehouse  
15 license.

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

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

20 (2) officials or employees of the Kansas state grain inspection de-  
21 partment; on the regular form of weight certificates adopted and ap-  
22 proved by the director.

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

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

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

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

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

41 (h) (c) No provision of this section shall be construed to prohibit or  
42 prevent either the secretary of the state board of agriculture or the state  
43 sealer or any of their respective the secretary's authorized representatives  
44 from inspecting any weighing or measuring device or otherwise perform-

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1 ing any of ~~their~~ *the secretary's* duties pursuant to any provision of chapter  
2 83 of Kansas Statutes Annotated, and amendments thereto.

3 Sec. 13. ~~^~~ K.S.A. 34-111 is hereby amended to read as follows: 34-111.

4 (a) ~~The attorney general of the state of Kansas shall be attorney ex officio~~  
5 ~~for the director and shall give the director such counsel and advice as the~~  
6 ~~director requires. The attorney general shall institute and prosecute all~~  
7 ~~suits which the director deems expedient and proper to institute and shall~~  
8 ~~render to the director all counsel, advice and assistance necessary to carry~~  
9 ~~out the provisions of this act.~~

10 (b) ~~The director secretary~~ shall have the duty to report in writing to  
11 the attorney general and to the county or district attorney of the county  
12 where the grain warehouse is located:

13 (1) Any finding by an examiner of the department that there is a  
14 substantial shortage in the amount of grain in a grain warehouse and that  
15 the shortage is not adequately accounted for; and

16 (2) any complaint which is referred to the ~~director secretary~~ pursuant  
17 to K.S.A. ~~34-124~~ 34-121 and amendments thereto and which the ~~director~~  
18 ~~secretary~~ reasonably believes is a basis for prosecution.

19 (c) (b) In any criminal prosecution against a warehouseman for a vi-  
20 olation of any provision of this act, it shall be the duty of the attorney  
21 general to prosecute the suit to a final determination. Upon request by  
22 the attorney general, the county or district attorney of the county or dis-  
23 trict where the suit is being prosecuted shall assist the attorney general  
24 in the prosecution.

25 ~~[Sec. 14. K.S.A. 34-121 is hereby amended to read as follows: 34-121.~~

26 There is hereby created the state grain advisory commission, hereinafter  
27 referred to as the commission, which *shall be advisory to the secretary of*  
28 *agriculture. The commission shall refer to the secretary such complaints*  
29 *as the commission may receive relating to fraud or oppression in the grain*  
30 *trade or violations of any of the provisions of the statutes contained in*  
31 *chapter 34 of the Kansas Statutes Annotated, and amendments thereto.*  
32 *The commission shall be composed of five members appointed by the*  
33 *governor. Each member shall serve for a term of three years and until a*  
34 *successor is appointed and qualified. The membership of the commission*  
35 *shall at all times include one farmer, one banker, one person engaged in*  
36 *the business of operating a public terminal grain warehouse, one person*  
37 *engaged in the business of operating a local public grain warehouse and*  
38 *one stockholder in a farmers cooperative enterprise. In case of a vacancy*  
39 *in the commission, the governor shall appoint a successor to fill the va-*  
40 *cancy for the unexpired term. The governor may remove any member of*  
41 *the commission for cause.*

42 Sec. 15. K.S.A. 34-122 is hereby amended to read as follows: 34-122.

43 ~~The commission shall select as chairperson one of its members. The com-~~

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~~mission may formulate such rules of procedure as it deems necessary to  
the conduct of its business and may make recommendations to the di-  
rector of the state grain inspection department for adoption of reasonable  
rules and regulations as are necessary to carry out and make effective the  
provisions of this act secretary concerning public grain warehouses.~~

~~The director of the state grain inspection department shall act as ex-  
ecutive secretary for the commission and shall keep or cause to be kept  
a permanent record of all meetings and proceedings of the commission.  
The chairperson secretary shall approve all vouchers for compensation  
and expenses under this section. Members of the state grain advisory  
commission attending meetings of such commission, or attending a sub-  
committee meeting thereof authorized by such commission, shall be paid  
amounts provided in subsection (e) of K.S.A. 75-3223 and amendments  
thereto.~~

~~Sec. 16. K.S.A. 34-123 is hereby amended to read as follows: 34-123.  
The commission shall meet quarterly each year on such date as agreed  
and at such other times as the chairperson may designate, except that no  
meeting shall be called by the chairperson without three days' written  
notice being given to all members of the commission. Three members of  
the commission shall constitute a quorum and a majority of the whole  
commission shall be necessary to carry any question. The members of the  
commission shall have access during regular business hours to any records  
of the Kansas state grain inspection department or the director thereof  
department of agriculture concerning public grain warehouses.]~~

~~Sec. 17. K.S.A. 1996 Supp. 34-125 is hereby amended to read as  
follows: 34-125. (a) The ~~commission secretary~~, prior to June 1 each year,  
shall determine a schedule of maximum and minimum charges to be  
made by public grain warehouses, licensed under the laws of the state of  
Kansas, for the storage of grain and for such other and extraordinary  
services performed or to be performed by such licensed public grain  
warehousemen during the ensuing license year. Such charges made by  
such warehouse shall be filed with the ~~Kansas grain inspection depart-  
ment of agriculture~~ and such warehouse shall not be required to refile  
such charges unless such warehouse is changing such charges that are  
posted or until such time that the charges are changed by the ~~commission  
and the director~~. Upon determining such schedule of maximum and min-  
imum charges, the commission shall recommend to the director the adop-  
tion of such maximum and minimum charges; but the director may in-  
crease or decrease any or all of such charges as the director shall deem  
necessary in the public interest. Any or all of such maximum or minimum  
charges, as may be increased or decreased by the director, may be re-  
stored to the original maximum and minimum charges as recommended  
by the commission; if such restoration is approved by a vote of at least~~

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1 four members of such commission at a regular meeting or a special meet-  
 2 ing called as provided in K.S.A. 34-123, and amendments thereto *secr-*  
 3 *tary.*

4 (b) If any of such charges be changed from those previously in effect  
 5 the ~~director secretary~~ shall notify all currently licensed public warehouse-  
 6 men of such schedule of maximum and minimum charges; ~~except that in~~  
 7 ~~case the commission overrides increases or decreases in such schedule by~~  
 8 ~~the director and restores the original maximum and minimum charges as~~  
 9 ~~determined by the commission; then the director shall notify all currently~~  
 10 ~~licensed public warehousemen of such restored schedule of maximum~~  
 11 ~~and minimum charges within five days after the action of the commission~~  
 12 ~~restoring the original schedule.~~

13 Sec. 18. ~~Δ K.S.A. 34-223 is hereby amended to read as follows: 34-223.~~  
 14 ~~In this act, unless the context or subject matter otherwise requires, the~~  
 15 ~~following words and phrases have the meanings ascribed thereto in this~~  
 16 ~~section. As used in chapter 34 of Kansas Statutes Annotated, and amend-~~  
 17 ~~ments thereto:~~

18 (a) "Action" includes counterclaim, setoff and suit in equity.

19 (b) "Delivery" means voluntary transfer of possessions from one per-  
 20 son to another.

21 (c) "Fungible grain" means grain of which any unit is, from its nature  
 22 or by mercantile custom, treated as the equivalent of any other unit.

23 (d) "Grain" means wheat, corn, oats, barley, rye, soybeans, grain sor-  
 24 ghums and any grains upon which federal grain standards are established,  
 25 also seeds generally stored by warehouses, if special permission is granted  
 26 by the ~~director secretary.~~

27 (e) "Holder of a receipt" means a person who has both actual pos-  
 28 session of such receipt and a right of property therein.

29 (f) "Order" means an order by endorsement of the receipt.

30 (g) "Owner" does not include mortgagee or pledgee.

31 (h) "Person" includes individuals, corporations, partnerships and all  
 32 associations of two or more persons having a joint or common interest.

33 (i) "To purchase" includes to take as mortgagee or pledgee.

34 (j) "Receipt" means a warehouse receipt or receipts.

35 (k) "Value" means any consideration sufficient to support a simple  
 36 contract and includes an antecedent or preexisting obligation, whether  
 37 for money or not, where a receipt is taken either in satisfaction thereof  
 38 or as security therefor.

39 (l) "Public warehouseman" means a person lawfully engaged in the  
 40 business of storing grain for the public.

41 (m) "Public warehouse" or "public grain warehouse" means every  
 42 elevator or other building in which grain is received for storage or transfer  
 43 for the public.

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(n) "Secretary" means the secretary of agriculture.

(o) "Department" means the department of agriculture.

(p) "Grain bank grain" means any grain that has been received into any public warehouse to be held for the account of the depositor and returned to the depositor at a later date either as whole or processed grain.

(q) "Storage grain" or "stored grain" means grain that has been received in any public warehouse located in this state, and such grain is not purchased by the lessee, owner or manager of such warehouse.

Sec. 19. ~~K.S.A. 34-227b~~ is hereby amended to read as follows: 34-

227b. Grain bank grain shall be considered as storage grain as defined in ~~K.S.A. 34-227~~ and shall be subject to the laws and rules and regulations pertaining thereto until such time as ~~said~~ such grain is either processed or removed from the warehouse. The ~~director~~ secretary is authorized to adopt and enforce reasonable rules and regulations necessary in the conduct of grain bank operations in public warehouses.

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Sec. 20. ~~K.S.A. 1996 Supp. 34-228~~ is hereby amended to read as

follows: 34-228. (a) Any person desiring to engage in business as a public warehouseman in this state shall, before the transaction of any such business, make written application to the ~~director~~ of the Kansas state grain ~~inspection department~~ secretary for a license for each separate warehouse (or, if the applicant owns more than one warehouse at one point, all of such warehouses may be incorporated in one application) at which the person desires to engage in such business. The application for a license shall be on a form designated by the ~~director~~ secretary and shall contain the individual name and address of each person interested as principal in the business (and, if the business is operated or to be operated by a corporation, setting forth the names of the president and secretary) and such further information as the ~~director~~ secretary may require.

(b) (1) Every application for a public warehouse license shall be accompanied by a current financial statement. The statement shall include such information as required by the ~~director~~ secretary to administer and enforce the public warehouse laws of this state, including but not limited to a current balance sheet, statement of income (profit and loss), statement of retained earnings and statement of changes in financial position. The applicant shall certify under oath that the statement as prepared accurately reflects the financial condition of the applicant as of the date specified and presents fairly the results of operations of the applicant's public warehouse business for the period specified. The financial statement shall be prepared in accordance with generally accepted accounting principles and shall be accompanied by: (A) A report of audit or review conducted by an independent certified public accountant or an independent public accountant in accordance with standards established by the American institute of certified public accountants and the accoun-

1 tant's certifications, assurances, opinions, comments and notes with re-  
2 spect to the statement; or (B) a compilation report of the financial state-  
3 ment, prepared by a grain commission firm or management firm which  
4 is authorized pursuant to rules and regulations of the federal commodity  
5 credit corporation to provide compilation reports of financial statements  
6 of warehousemen.

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

11 (c) (1) Every applicant for a license to operate one or more public  
12 warehouses and every person licensed to operate one or more warehouses  
13 shall at all times maintain total net worth liable for the payment of any  
14 indebtedness arising from the conduct of the warehouse or warehouses  
15 equal to at least \$.25 per bushel of the storage capacity of the warehouse  
16 or warehouses except: (A) No person shall be granted a license or shall  
17 continue to be licensed unless the person has a net worth of at least  
18 \$25,000 and (B) any deficiency in net worth required above the \$25,000  
19 minimum may be supplied by an increase in the amount of the applicant's  
20 or licensee's bond as provided by K.S.A. 34-229 and amendments thereto.

21 (2) In determining total net worth: (A) Credit may be given for in-  
22 surable property such as buildings, machinery, equipment and merchan-  
23 dise inventory only to the extent that the property is protected by insur-  
24 ance against loss or damage by fire and (B) capital stock, as such, shall  
25 not be considered a liability.

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

- 32 (1) Embezzlement;  
33 (2) any felony defined in any statute contained in article 37 of chapter  
34 21 of the Kansas Statutes Annotated and amendments thereto;  
35 (3) unauthorized delivery of stored goods;  
36 (4) any felony defined in any statute contained in chapter 34 of the  
37 Kansas Statutes Annotated and amendments thereto; or  
38 (5) a violation of the United States warehouse act (7 U.S.C. 241 *et*  
39 *seq.*).

40 (e) The ~~director~~ *secretary* may investigate any applicant making ap-  
41 plication for an original license for the purpose of determining if such  
42 person would be qualified to receive such license under the provisions of  
43 this section.

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(f) (1) Every application for a public warehouse license shall be accompanied by a license fee which shall be determined and fixed by the ~~director secretary~~ by rules and regulations. ~~Prior to determining and fixing the license fees, the director shall consider recommendations thereon by the state grain advisory commission.~~ The license fee shall not be more than the applicable amount shown in the following fee schedule plus not more than \$500 for each functional unit:

Capacity in Bushels	ANNUAL FEE
	Not more than
1 to 100,000	\$500
100,001 to 150,000	525
150,001 to 250,000	550
250,001 to 300,000	600
300,001 to 350,000	625
350,001 to 400,000	650
400,001 to 450,000	700
450,001 to 500,000	725
500,001 to 600,000	775
600,001 to 700,000	800
700,001 to 800,000	850
800,001 to 900,000	875
900,001 to 1,000,000	900
1,000,001 to 1,750,000	1,225
1,750,001 to 2,500,000	1,400
2,500,001 to 5,000,000	1,750
5,000,001 to 7,500,000	2,100
7,500,001 to 10,000,000	2,375
10,000,001 to 12,500,000	2,600
12,500,001 to 15,000,000	2,800
15,000,001 to 17,500,000	3,000
17,500,001 to 20,000,000	3,225
For each 2,500,000 bushels or fraction over 20,000,000 bushels	350

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

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1 (3) In addition to any other applicable fee, the ~~director~~ *secretary* shall  
2 charge and collect a fee each time a public warehouse license is amended  
3 in an amount of not more than \$300 which shall be determined and fixed  
4 by the ~~director~~ *secretary* by rules and regulations.

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

7 (g) The ~~director~~ *secretary* shall examine each warehouse operated by  
8 a licensed public warehouseman at least once in each 12-month period.  
9 The licensed public warehouseman may request additional examinations  
10 of any warehouse operated by the warehouseman. The cost of additional  
11 examinations when requested by the warehouseman shall be charged to  
12 the warehouseman requesting the examination. The cost of each addi-  
13 tional examination requested by a warehouseman shall be an amount  
14 determined therefor in accordance with an hourly rate fixed by the ~~di-~~  
15 ~~rector~~ *secretary* of not more than \$50 per hour, subject to a minimum  
16 charge of four hours for the examination, plus amounts for subsistence  
17 expense at the rate fixed under K.S.A. 75-3207a and amendments thereto  
18 and for mileage expense in accordance with the schedule of charges es-  
19 tablished under K.S.A. 75-4607 and amendments thereto. The ~~director~~  
20 *secretary*, at the ~~director's~~ *secretary's* discretion, may make additional  
21 examinations of a warehouse and if a discrepancy is found on that ex-  
22 amination, or if one was found on the last previous examination, the cost  
23 of the examination shall be paid by the warehouseman.

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

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

34 Sec. 21. K.S.A. 34-229 is hereby amended to read as follows: 34-229.

35 (a) Every applicant for a public warehouse license shall promptly, upon  
36 notification by the ~~director~~ *secretary* of the amount of bond required, file  
37 with the ~~director~~ *secretary* a bond with good corporate surety qualified  
38 under the laws of the state of Kansas. The amount of the bond to be  
39 furnished for each warehouse shall be \$.20 per bushel for the first  
40 1,000,000 bushels of licensed capacity; \$.15 per bushel for the next  
41 1,000,000 of licensed capacity; and \$.10 per bushel for all licensed ca-  
42 pacity over 2,000,000 bushels. Except as provided further, in no event  
43 shall the bond be for an amount less than \$10,000 nor more than

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1 \$500,000.

2 (b) If an applicant for a license or a licensee at any time does not  
3 have the total net worth required by K.S.A. 34-228 and amendments  
4 thereto, an amount equal to the deficiency shall be added to the amount  
5 of the bond required by subsection (a).

6 (c) The bond shall be in favor of the state of Kansas for the benefit  
7 of all persons interested, their legal representatives, attorneys or assigns  
8 and shall be conditioned on the faithful performance of all the licensee's  
9 duties as a public warehouseman and such additional obligations as as-  
10 sumed by the warehouseman under contracts with a federal agency re-  
11 lating to storage of grain in each warehouse. Any person injured by the  
12 breach of any obligation of the warehouseman may commence suit on  
13 the bond in any court of competent jurisdiction to recover damages that  
14 the person has sustained, but any suit commenced shall either be a class  
15 action or shall join as parties plaintiff or parties defendant or other persons  
16 who may be affected by such suit on the bond. No bond shall be canceled  
17 by the surety on less than 60 days' notice by mail to the ~~director~~ *secretary*  
18 and the principal except that no such notice shall be required for can-  
19 cellation of any bond by reason of nonpayment of the premium thereon.  
20 The liability of the surety on the bond may continue for each successive  
21 license period the bond covers. The total liability of the surety shall be  
22 limited to the amount stated on the current bond or on an appropriate  
23 rider or endorsement to the current bond. It is the intent of this statute  
24 that the bonds be nonaccumulative, that stacking of bonds not occur in  
25 excess of the face value of the current bond.

26 (d) If a person applies for licenses for two or more separate public  
27 warehouses in this state, the person may give a single bond covering all  
28 the applications, and the amount of the bond shall be the total amounts  
29 which would be required for the applications if separate bonds were  
30 given. In computing the amount of the single bond the warehouseman  
31 may add together the capacity of all warehouses to be covered by the  
32 bond and use the aggregate capacity for the purpose of computing the  
33 bond. If a warehouseman elects to provide a single bond for a number  
34 of warehouses, the total assets of all the warehouses shall be subject to  
35 liabilities of each individual warehouse.

36 (e) Whenever the director determines that any bond given by any  
37 warehouseman is inadequate and insufficient security against any loss that  
38 might arise under the terms of the bond, the ~~director~~ *secretary* shall  
39 require any additional bond that the ~~director~~ *secretary* considers neces-  
40 sary to provide adequate security. If the ~~director~~ *secretary* considers the  
41 financial condition of the surety upon any warehouseman and the ware-  
42 houseman's bond to be impaired, the ~~director~~ *secretary* shall require any  
43 substituted or additional bond that the ~~director~~ *secretary* considers nec-

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1 essary.

2 (f) In all actions hereafter commenced in which judgment is rendered  
3 against any surety company on any surety bond furnished under the pro-  
4 visions of this section, if it appears from the evidence that the surety  
5 company has refused without just cause to pay the loss upon demand,  
6 the court shall allow the plaintiff a reasonable sum as attorney fees to be  
7 recovered and collected as a part of the costs. When a tender is made by  
8 the surety company before the commencement of the action in which  
9 judgment is rendered and the amount recovered is not in excess of the  
10 tender, no such costs shall be allowed.

11 (g) Each licensed public warehouseman shall obtain a certificate set-  
12 ting forth the amount and terms of the bond filed with the ~~director~~ *sec-*  
13 *retary* pursuant to this section, the name of the corporate surety therefor  
14 and such other information as the ~~director~~ *secretary* may prescribe by  
15 rules and regulations. The certificate of bond information shall be posted  
16 in a conspicuous place in the office room of the licensed warehouse,  
17 adjacent to the license posted as required by K.S.A. 34-230 and amend-  
18 ments thereto, at all times during the operation of the warehouse.

19 (h) Transaction of any public warehouse business at any public ware-  
20 house without having the certificate of bond information displayed in the  
21 office room of the public warehouse as required by this section is a class  
22 C *nonperson* misdemeanor.

23 Sec. 22. K.S.A. 34-230 is hereby amended to read as follows: 34-230.

24 (a) Upon receiving the application and financial statement required by  
25 this act, the ~~director~~ of the state ~~grain inspection department~~ *secretary*  
26 shall make an investigation and inspection of the warehouse or ware-  
27 houses covered by the application. The ~~director~~ *secretary* may issue a  
28 license to the applicant if:

- 29 (1) The applicant furnishes the bond required by this act;
- 30 (2) the warehouse or warehouses are found suitable for the proper  
31 storage of grain for which a license is applied for; and
- 32 (3) the applicant complies with all requirements for licensure pre-  
33 scribed by this act and rules and regulations adopted under this act.

34 (b) Every license shall be dated and shall designate the name of the  
35 licensee and the location of the licensed warehouse or warehouses.

36 (c) Each license shall expire one year from the date of its issuance  
37 except that, for the purpose of equitably distributing application dates of  
38 warehouse licenses throughout each calendar year, the ~~director~~ *secretary*  
39 may issue licenses for periods longer than one year but not longer than  
40 two years. Licenses for periods longer than one year shall be charged the  
41 annual license fee, plus a monthly fee in proportion to the annual license  
42 fee for the number of months the license is issued beyond one year.

43 (d) Any licensee making application for renewal of a license shall

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1 submit the application, together with the licensee's financial statement  
2 and any additional information required, at least 30 days prior to the date  
3 of expiration of the licensee's current license. For each day that the li-  
4 censee is late in submitting the application and required information, the  
5 licensee shall be penalized an additional fee of \$5.

6 (e) The license shall be posted in a conspicuous place in the office  
7 room of the licensed warehouse at all times during the operation of the  
8 warehouse.

9 (f) If a licensee is convicted of any violation of the provisions of this  
10 act or if the ~~director~~ secretary determines that a licensee does not comply  
11 with any requirement for licensure or has violated any provision of this  
12 act or of the rules and regulations adopted under this act, the ~~director~~  
13 secretary may at the ~~director's~~ secretary's discretion suspend or revoke  
14 the license of the licensee. All proceedings for the suspension or revo-  
15 cation of licenses shall be conducted in accordance with the provisions of  
16 the Kansas administrative procedure act.

17 (g) The licensee, if dissatisfied with the order of the ~~director~~ secre-  
18 tary, may appeal in the manner provided by law.

19 Sec. 23. K.S.A. 34-230a is hereby amended to read as follows: 34-

20 230a. The ~~director~~ secretary shall have power in the conduct of any hear-  
21 ing authorized to be held by ~~him or her~~ the secretary to examine, or cause  
22 to be examined, under oath, any person, and to examine or cause to be  
23 examined, books and records of any licensee; to hear testimony and take  
24 proof material for ~~his or her~~ the secretary's information in the discharge  
25 of such duties under this act; to administer or cause to be administered  
26 oaths; and for any such purposes to issue subpoenas, to require the at-  
27 tendance of witnesses and the production of books which shall be effec-  
28 tive in any part of this state; ~~and~~ Any district court, or any judge thereof,  
29 either in term time or in vacation, may by order duly entered, require  
30 the attendance of witnesses and the production of relevant books and  
31 records subpoenaed by the ~~director~~, ~~and~~ secretary. The court or judge  
32 may compel obedience to ~~its or his or her~~ the court's or judge's order by  
33 proceedings for contempt.

34 Sec. 24. K.S.A. 34-230b is hereby amended to read as follows: 34-

35 230b. The ~~director~~ secretary may enjoin a warehouseman from violating  
36 or continuing to violate the provisions of chapter 34 of the Kansas Statutes  
37 Annotated, and ~~acts amendatory thereof or supplemental amendments~~  
38 thereto, and the rules and regulations adopted by the ~~director~~ secretary.  
39 pursuant to ~~said~~ such laws by filing injunction proceedings in the district  
40 court ~~and~~ In any such proceedings the district court, if it deems it proper,

41 order such warehouseman to not receive any more grain into such  
42 warehouse or to deliver any grain therefrom except as the court by its  
43 order shall direct. Such injunction proceeding shall be prosecuted by the

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1 attorney general or the county attorney of the proper county upon request  
2 of the ~~director~~ secretary.

3 Sec. 25. K.S.A. 34-231 is hereby amended to read as follows: 34-231.

4 (a) Transaction of any public warehouse business at any public warehouse  
5 without a currently valid public warehouse license for that warehouse or  
6 without having the license displayed in the office room of the warehouse  
7 is a class C misdemeanor.

8 (b) The ~~director~~ secretary may refuse to renew any license or grant  
9 a new one to any person whose license has been revoked within one year  
10 from the time of the revocation.

11 Sec. 26. K.S.A. 34-233 is hereby amended to read as follows: 34-233.

12 (a) Every public warehouseman shall receive for storage or shipment, so  
13 far as the available capacity of the warehouse shall permit, all grain in a  
14 suitable condition for storage tendered to the warehouseman in the usual  
15 course of business, without discrimination of any kind. A representative  
16 sample of grain offered for storage shall be taken and agreed upon both  
17 by the owner and the warehouseman as being a true and representative  
18 sample of the lot of grain offered for storage.

19 (b) If the owner of the grain and the warehouseman agree as to the  
20 grade, the grain may be stored and warehouse receipt issued on the  
21 agreed grade, but either party shall have an official inspection if such  
22 party so elects at the time of storing the grain by submitting an agreed  
23 sample to an inspector designated by the ~~director~~ secretary. The fees for  
24 the inspection of such sample shall be paid by the warehouseman and  
25 added to the storage charges of the grain.

26 (c) All grain taken into a public warehouse shall be carefully weighed  
27 by the warehouseman or one of the warehouseman's employees and a  
28 certificate of weight in the form approved by the ~~director~~ secretary shall  
29 be issued and the weight so shown by the certificate shall be stated on  
30 the warehouse receipt. When grain is delivered out of storage at a public  
31 warehouse and if either of the parties to the transaction requests or if any  
32 dispute or disagreement arises between the party receiving and the party  
33 delivering the grain, the same method of determining the grade shall be  
34 used as prescribed for taking grain into storage. Any warehouseman des-  
35 siring to issue warehouse receipts against the warehouseman's own grain  
36 in store may do so by complying with the regulations governing the meth-  
37 ods of taking samples of grain tendered for storage and the ~~director~~ sec-  
38 retary may designate the manner in which a sample shall be taken if grain  
39 is delivered on warehouse receipts at the public warehouses.

40 Sec. 27. K.S.A. 34-235 is hereby amended to read as follows: 34-235.

41 The owner, operator or manager of any public warehouse before being  
42 licensed under the laws of this state to conduct a grain warehouse shall  
43 file with the ~~director~~ secretary a schedule of charges to be made by such

1 owner, operator or manager for storage of grain if licensed. The ~~director~~  
 2 *secretary* shall have authority to determine whether such schedule of  
 3 charges is reasonable and proper, but in no case shall such schedule of  
 4 charges filed by a local public warehouse be less than the schedule of  
 5 minimum charges or exceed the schedule of maximum charges as estab-  
 6 lished by the ~~commission and the director~~ *secretary* pursuant to the pro-  
 7 visions of K.S.A. 34-125, and amendments thereto.

8 The amount to be charged for storage of grain as listed on the ware-  
 9 houseman's schedule of charges filed with the ~~director~~ *secretary* as her-  
 10 einabove provided shall include the cost of receiving, unloading, loading,  
 11 insuring, handling (except extraordinary handling), storage and delivery  
 12 of grain and no additional or special charge shall be made for any such  
 13 services. Any licensee may change such licensee's schedule of charges by  
 14 sending the proposed new schedule to the ~~director~~ *secretary* in writing  
 15 and shall state the reasons therefor. It shall be unlawful for any public  
 16 warehouseman to assess any charge other than those charges listed in  
 17 such warehouseman's schedule of charges as filed with the ~~director~~ *sec-*  
 18 *retary*. Every public warehouseman shall keep posted and exposed at a  
 19 conspicuous place on the premises of such public warehouse, which place  
 20 shall be accessible to the public, a copy of such warehouseman's current  
 21 approved schedule of charges.

22 Sec. 28. K.S.A. 34-236 is hereby amended to read as follows: 34-236.

23 (a) Every public warehouseman shall at all times keep the grain stored in  
 24 such warehouseman's warehouse insured in some reliable insurance com-  
 25 pany authorized to do business in the state of Kansas. Such grain is to be  
 26 insured for its full market value, less the deductible amount provided  
 27 herein, against loss by fire, internal explosion, lightning, and tornado and  
 28 failure to do so shall make the public warehouseman liable for the same  
 29 on such warehouseman's bond for the benefit of the owner or owners  
 30 and the owners of warehouse receipts and storage receipts issued by any  
 31 public warehouse shall have a first lien, to the extent of the value of the  
 32 grain at the time of destruction at the place where stored, on all such  
 33 insurance for any loss or injury sustained by them on account of the  
 34 destruction or injury of such grain by fire, internal explosion, lightning or  
 35 tornado or any other cause covered by such insurance policy.

36 (b) Fraud or criminal act of the warehouseman to which the holder  
 37 of a warehouse receipt or other interested person is not a party shall not  
 38 deprive the holder of a warehouse receipt or storage receipt or other  
 39 interested person of such person's right of recovery under such policy of  
 40 insurance. Nothing in this act shall be construed to require the insurer  
 41 to pay any loss or damage in excess of the amount of insurance effective  
 42 under its policy or to pay for any loss or damage not insured against by  
 43 its policy. In case of a fire, lightning or tornado, which shall destroy all or

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1 part of the grain stored in any public warehouse, the public warehouse-  
 2 man shall, upon demand by the owner of the grain, or holder of any  
 3 warehouse receipt, or receipts, for such grain, and upon being presented  
 4 with the warehouse receipt, or receipts, make settlement for the value of  
 5 the grain covered by the warehouse receipt, or receipts, after deducting  
 6 the warehouse charges, at the market value of same, basing said value at  
 7 the average price paid for grain of the same grade at the station where  
 8 the public warehouse is located on the date of the destruction. Without  
 9 in any way limiting the warehouseman's liability under this section, the  
 10 warehouseman may carry a standard form of insurance policy approved  
 11 for grain warehousemen with a total deductible provision on the contents  
 12 not to exceed \$10,000, except that the ~~director~~ secretary upon a finding  
 13 that it is necessary to protect the public may order that a warehouseman's  
 14 total deductible provision be an amount less than \$10,000 as specified by  
 15 the ~~director~~ secretary.

16 Sec. 29. ~~▲ K.S.A. 34-238 is hereby amended to read as follows: 34-238.~~

17 (a) Warehouse receipts may be issued by any licensed public warehouse-  
 18 man and must be issued in the manner and form prescribed by this act.

19 (b) The form of all receipts shall be approved by the ~~director of the~~  
 20 ~~state grain inspection department~~ secretary. All of the expense incurred  
 21 shall be paid by the ~~state grain inspection department~~. The ~~director sec-~~  
 22 ~~retary~~ shall distribute the warehouse receipts to licensed public ware-  
 23 houses at cost.

24 (c) All warehouse receipts shall be written upon warehouse receipt  
 25 forms furnished by the ~~state grain inspection department~~.

26 Sec. 30. ~~▲ K.S.A. 34-241a is hereby amended to read as follows: 34-~~

27 241a. (a) "Identity preserved grain" means grain which is segregated from  
 28 all other grain by mutual consent of the warehouseman and the depositor.  
 29 The form of receipt to cover identity preserved grain taken for storage  
 30 by public warehouses and to be transported to, and stored in, another  
 31 licensed public warehouse shall be on a form approved by the ~~director~~  
 32 ~~secretary~~ and shall embody within its written or printed terms: ~~(a)~~ (1)  
 33 The date of the issuance of the receipts; ~~(b)~~ (2) the name of the elevator  
 34 issuing the same and its location; ~~(c)~~ (3) the rate of storage or the basis  
 35 for such charges; ~~(d)~~ (4) the net weight and percentage of dockage, to-  
 36 gether with the grade; ~~(e)~~ (5) the words "trust receipt" and "not negotia-  
 37 ble" clearly and conspicuously printed or stamped thereon; ~~(f)~~ (6) the  
 38 signature of the warehouseman which may be made by his authorized  
 39 agent; ~~(g)~~ (7) a statement of the amount of the advances made, or the  
 40 liabilities incurred, for which the warehouse claims a lien. If the precise  
 41 amount of advances made or liabilities incurred is, at the time of the  
 42 issuance of the receipt, unknown to the warehouseman or to ~~his~~ the ware-  
 43 houseman's agent who issues it, a statement of the fact that the advances

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1 have been made, or liabilities incurred, and the purpose thereof, is suf-  
2 ficient.

3 (b) The warehouseman, at ~~his~~ *the warehouseman's* option, may ship  
4 carlots or trucklots of identity preserved grain to another licensed public  
5 warehouse. The owner of the grain may designate the receiving licensed  
6 public warehouse if a written contract to that effect has been entered  
7 into and agreed upon between the owner of the grain and the warehouse-  
8 man prior to the deposit of the grain. The charges for handling and stor-  
9 age shall not exceed the current posted public warehouse charges. In  
10 addition to the public warehouse charges, the warehouseman may make  
11 an additional charge of one and one-half cents (1½¢) per bushel for risk  
12 and shrinkage in transit and shall also assess the transportation and all  
legal charges against the owner of the grain.

13 Sec. 31. K.S.A. 34-246 is hereby amended to read as follows: 34-246.

15 (a) No warehouse receipt shall be issued except upon actual delivery of  
16 grain into store in the warehouse from which it purports to be issued. No  
17 receipt or receipts may be issued for a greater quantity of grain than was  
18 contained in the lot or parcel so received for storage and not more than  
19 one receipt may be issued for the same lot of grain, except in cases where  
20 a receipt for a part of a lot is desired and then the aggregate receipts for  
21 a particular lot shall cover that lot and no more.

22 (b) In cases where a part of the grain represented by a receipt or  
23 receipts is delivered out of store and a remainder is left, a new receipt or  
24 receipts shall be issued in the form and manner as prescribed by the  
25 ~~director~~ *secretary*. It shall be stated on the face of the new receipt or  
26 receipts that such new receipt or receipts represent the balance of the  
27 original receipt or receipts. The new receipt or receipts shall bear thereon  
28 the number or numbers of the original receipt or receipts and the original  
29 receipt or receipts, upon which a part of the grain has been delivered,  
30 shall be canceled in the manner as if all of the grain has been delivered.  
31 In case it is desirable to divide one receipt into two or more, or in case  
32 it is desirable to consolidate two or more receipts into one and the ware-  
33 houseman consents thereto, the original receipt or receipts shall be can-  
34 celed in the same manner as if the grain had been delivered from store.  
35 The new receipt or receipts shall express on the face thereof that such  
36 new receipt or receipts represent a part of another receipt or the con-  
37 solidation of other receipts, as the case may be, and the number and date  
38 of the original receipt or receipts shall also appear on the new receipt or  
39 receipts issued in lieu thereof. No consolidation of receipts differing more  
40 than 30 days in date shall be permitted.

41 (c) All new receipts issued for old ones canceled as provided in this  
42 section shall bear the notation of the date of the receipt or receipts as  
43 originally issued. All receipts issued on grain in special bins shall bear the

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1 number of the bin and the notation "special bin." All divisions or con-  
2 solidations shall bear the bin number of the original receipt and the no-  
3 tation "special bin." Upon delivery of grain from store upon any receipt  
4 issued by a public warehouse, such receipt shall be plainly marked across  
5 its face "canceled" with the date and the name of the person canceling  
6 the same and thereafter shall be void and shall not again be put in cir-  
7 culation. No grain shall be delivered twice upon the same receipt.

8 Sec. 32. K.S.A. 34-249a is hereby amended to read as follows: 34-

9 249a. (a) Every public warehouseman conducting a public warehouse,  
10 upon demand of the ~~director of the Kansas state grain inspection de-~~  
11 ~~partment~~ *secretary*, shall furnish such ~~director~~ *secretary*, in such form as  
12 may be required, information regarding receipts issued or canceled,  
13 amounts of grain liabilities, amounts of unencumbered grain and total  
14 amounts of grain in the public warehouse.

15 (b) The ~~director~~ *secretary* shall require from each public warehouse-  
16 man a monthly statement of stocks of grain as of the last day of the  
17 preceding month for each licensed warehouse location. The statement  
18 shall contain such information and be in such form as may be prescribed  
19 by the ~~director~~ *secretary* and shall include a statement setting forth the  
20 penalty for making false public warehouse reports as provided in K.S.A.  
21 21-3754 and amendments thereto. Each such statement shall be signed  
22 by the licensed public warehouseman.

23 Sec. 33. K.S.A. 34-251 is hereby amended to read as follows: 34-251.

24 (a) All persons owning property, or who may be interested in the same,  
25 in any public warehouse and all duly authorized examiners of such prop-  
26 erty shall be at full liberty to inspect and to examine any and all property  
27 stored in any public warehouse in the state at all times during regular  
28 business hours. All proper facilities shall be extended to such persons by  
29 the public warehouseman and the warehouseman's agents and employees  
30 for such examinations and inspection. The ~~director~~ *secretary* shall inspect,  
31 or cause to be inspected by a duly authorized examiner, every warehouse,  
32 the business thereof and the mode of conducting the same at such times  
33 as the ~~director~~ *secretary* deems necessary. The property, books, records,  
34 accounts, papers and proceedings kept at such warehouses, so far as they  
35 relate to the operation or management of public storage, which have  
36 reference only to the quantity, quality and insurance on grain in storage,  
37 shall be subject to examination and inspection of the ~~director~~ *secretary*  
38 or the ~~director's~~ *secretary's* duly authorized examiner at all times during  
39 regular business hours. All scales or weighing or measuring devices used  
40 for weighing or measuring of property in public warehouses shall be sub-  
41 ject to tests by any duly authorized inspector or weighmaster or by the  
42 secretary of the ~~state board of agriculture~~ or the secretary's authorized  
43 representative at any time when required by any such officer, or by any

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1 person or agent whose property has been or is to be weighed on such  
2 scales.

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

7 (c) No inspector or employee of the ~~state grain inspection~~ depart-  
8 ment shall disclose any information obtained by such inspector or em-  
9 ployee in the course of employment which is relative to the affairs or  
10 transactions of any warehouseman, other than as permitted by this act,  
11 without first having obtained the express permission in writing of such  
12 warehouseman or of the ~~director secretary~~, except when ordered to do  
13 so by a court of competent jurisdiction. Upon application of any person,  
14 the ~~director secretary~~ may disclose or direct any inspector or employee  
15 of the ~~Kansas state grain inspection~~ department to disclose any infor-  
16 mation which, in the opinion of the ~~director secretary~~, the person making  
17 the application is entitled to receive. If any inspector or employee dis-  
18 closes any such information except as permitted by this act, the inspector  
19 or employee shall be guilty of a misdemeanor.

20 Sec. 34. ~~K.S.A. 34-257a~~ is hereby amended to read as follows: 34-  
21 257a. Where a negotiable warehouse receipt has been lost or destroyed,  
22 the warehouseman shall issue a new receipt upon the same terms, subject  
23 to the same conditions, and bearing on its face the number and the date  
24 of the receipt in lieu of which it is issued, and a plain and conspicuous  
25 statement that it is a duplicate receipt issued in lieu of a lost or destroyed  
26 receipt, upon compliance by the claimant with the following conditions:  
27 (a) Before issuing a duplicate receipt, the warehouseman shall require  
28 the claimant therefor to make and file with ~~him~~ *the warehouseman* (1)  
29 an affidavit stating that the applicant is lawfully entitled to the possession  
30 of the original receipt; that ~~he~~ *the applicant* has not negotiated or assigned  
31 it; how the original receipt was lost or destroyed; and if lost, that diligent  
32 effort has been made to find the receipt without success, and (2) a bond  
33 in the amount double the value, at the time the bond is given, of the  
34 grain represented by the lost or destroyed receipt. Such bond shall be in  
35 the form approved by the ~~director secretary~~ and shall be conditioned to  
36 indemnify the warehouseman or any holder or other person entitled to  
37 the grain against all loss, liability or expense which he may sustain by  
38 reason of the issuance of such duplicate receipt. Such bond shall have as  
39 surety thereon a corporate surety company which is authorized to do  
40 business under the laws of the state of Kansas and is subject to service of  
41 process in this state in a suit on the bond.

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42 Sec. 35. ~~K.S.A. 34-273~~ is hereby amended to read as follows: 34-273.  
43 (a) In case any public warehouseman discovers that any grain stored in

1 such warehouseman's warehouse, other than in special bins, is out of  
 2 condition or is becoming so and that it is not in such warehouseman's  
 3 power to preserve the grain, such warehouseman shall immediately give  
 4 such notice of that fact as is reasonable and possible under the circum-  
 5 stances to the owner of such grain or to the person in whose name the  
 6 grain is stored and shall also give notice of that fact to the ~~director~~ *sec-*  
 7 *retary*.

8 (b) The ~~director~~ *secretary*, unless otherwise requested by the owner  
 9 of such grain or the person in whose name the grain is stored, shall cause  
 10 an inspection to be made of the grain. If it is found on such inspection  
 11 that the grain is out of condition, or is becoming so, and the owner of the  
 12 grain fails to promptly remove it, the warehouseman may sell the grain  
 13 upon giving the same public notice of sale as is required by this act for  
 14 the sale of grain to satisfy the lien of a warehouseman, except that the  
 15 grain may be sold at either public or private sale without advertising if,  
 16 in the opinion of the ~~director~~ *secretary*, such grain should be sold without  
 17 delay and written authority to make sale without advertisement is given  
 18 by the ~~director~~ *secretary* to the warehouseman. For the purpose of this  
 19 section, the owner of such grain shall be deemed to be the holder of  
 20 warehouse receipts of the oldest dates then in circulation or uncanceled  
 21 and the grain represented by which has not previously been declared out  
 22 of condition.

23 (c) Nothing herein contained shall be held to relieve any warehouse-  
 24 man from exercising due care and vigilance in preserving any such grain  
 25 after discovery that the same is out of condition, or is becoming so, but  
 26 such grain shall be kept separate and apart from all direct contact with  
 27 other grain and shall not be mixed with other grain while in store in such  
 28 warehouse. Any public warehouseman guilty of any act of neglect which  
 29 has the effect of depreciating property stored in a public warehouse under  
 30 the warehouseman's control, shall be liable on the warehouseman's bond  
 31 therefor to the person damaged thereby. After grain has been sold as  
 32 authorized by this section, the warehouseman shall not be liable there-  
 33 after for the delivery of such grain even though the receipt therefor is  
 34 negotiable, but shall be liable as a trustee for the amount of the proceeds  
 35 of such sale in excess of the amount of any lawful charges for which the  
 36 warehouseman had a lien at the time of such sale.

37 Sec. 36. K.S.A. 34-295a is hereby amended to read as follows:  
 38 295a. (a) Every public warehouseman conducting a warehouse under the  
 39 statutes contained in article 2 of chapter 34 of the Kansas Statutes An-  
 40 notated and amendments thereto shall keep in a place of safety complete  
 41 and correct records and accounts pertaining to the licensed warehouse  
 42 including, but not limited to:

43 (1) Records and accounts of all commodities received therein and

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withdrawn therefrom;

2 (2) all unissued receipts and tickets in the public warehouseman's  
3 possession;

4 (3) all receipts and tickets issued by the public warehouseman; and

5 (4) the receipts and tickets returned and cancelled by the public  
6 warehouseman.

7 (b) Such accounts and records shall be sufficient to provide all infor-  
8 mation required to prepare a current financial statement and other re-  
9 ports required under subsection (b) of K.S.A. 34-228 and amendments  
10 thereto and to determine the total net worth of the public warehouseman  
11 under subsection (c) of ~~that statute~~ K.S.A. 34-228, and amendments  
12 thereto. Such accounts and records may be kept and maintained on paper  
13 or on computer disks, tapes or other electronically accessed media, or  
14 any combination thereof, and shall be available for inspection and review  
15 by the ~~director, assistant director or any other officer of the Kansas state~~  
16 ~~grain inspection department secretary or an authorized representative of~~  
17 ~~the secretary~~ at all times during business hours. The capability to provide  
18 a computer printout or other printed version of any such accounts and  
19 records that are kept and maintained on computer disks, tapes or other  
20 electronically accessed media shall be maintained to make copies of such  
21 accounts and records for examination by the ~~director, assistant director~~  
22 ~~or any other officer of the Kansas state grain inspection department sec-~~  
23 ~~retary or an authorized representative of the secretary.~~

24 (c) Such records and accounts shall be retained by the public ware-  
25 houseman for such period as may be prescribed by the ~~director~~ secretary.  
26 Copies of receipts or other documents evidencing ownership of any com-  
27 modity or liability as a warehouseman shall be retained so long as such  
28 documents are outstanding and any such document which has been can-  
29 celled shall be retained for a period of not less than six years from the  
30 date of cancellation.

31 Sec. 37. K.S.A. 34-295b is hereby amended to read as follows: 34-  
32 295b. All such records and accounts shall be kept separate and distinct  
33 from the records and accounts of any other business, and shall be subject  
34 to the inspection by the ~~director or his duly authorized representative~~  
35 ~~secretary or an authorized representative of the secretary~~ at all reasonable  
36 times.

37 Sec. 38. K.S.A. 34-298 is hereby amended to read as follows: 34-298.

38 (a) Unless otherwise provided in this act, any person or entity that violates  
39 any provision of this act is guilty of a class A *nonperson* misdemeanor.

40 (b) If, after a hearing conducted in accordance with the provisions of  
41 the Kansas administrative procedure act, the ~~director of the state grain~~  
42 ~~inspection department secretary~~ finds that the provisions of this act have  
43 been violated by any person holding a license to conduct a public ware-

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1 house in this state, the ~~director~~ *secretary* shall revoke the person's license.  
2 No new license shall be granted to the person whose license is revoked  
3 or to anyone engaged, either directly or indirectly, in the public ware-  
4 house business with that person for a period of one year.

5 Sec. 39. K.S.A. 34-299 is hereby amended to read as follows: 34-299.

6 (a) It shall be the duty of any person operating a public warehouse in  
7 Kansas under this act, who desires to discontinue the operation of a public  
8 warehouse at *least 30 days prior to the expiration of his such warehouse*  
9 license, to notify: (1) all holders of warehouse receipts and all parties  
10 storing grain in ~~said such~~ warehouse, if known; (2) if not known, by public  
11 notice, by advertising in a newspaper of general circulation in the city in  
12 which such warehouse is situated; ~~also the director of the state grain~~  
13 ~~inspection department, at least thirty (30) days prior to the date of the~~  
14 ~~expiration of his license, his; and (3) the secretary, of such person's in-~~  
15 ~~intention to discontinue the public warehouse business. And~~

16 (b) It shall be the duty of the owners of such grain to remove, or  
17 cause to be removed, their grain from ~~said the~~ warehouse, before the  
18 expiration of the license. If for any cause ~~said the~~ grain is not removed  
19 from the warehouse, it shall be the duty of the warehouseman to sell for  
20 the account of the depositor ~~said the~~ grain at the best market price ob-  
21 tainable and remit ~~said the~~ funds to the ~~director of the state grain in-~~  
22 ~~spection department secretary.~~ The ~~director secretary~~ shall deposit ~~said~~  
23 ~~the~~ funds with the state treasurer to be held for the account of the de-  
24 positor. If and when ~~said the~~ depositor, or holder of claim, shall appear  
25 and present a valid claim to the ~~director secretary~~ for the funds so de-  
26 posited, the ~~director secretary~~ shall issue a voucher to the state treasurer  
27 withdrawing said funds to the order of the claimant.

28 Sec. 40. K.S.A. 34-2,104 is hereby amended to read as follows: 34-

29 2,104. (a) Whenever it appears to the satisfaction of the ~~director of the~~  
30 ~~state grain inspection department secretary~~ that a licensed warehouseman  
31 does not have possession of sufficient commodities to cover the outstand-  
32 ing receipts and scale tickets issued or assumed by the warehouseman or  
33 when a licensed warehouseman refuses to submit records or property to  
34 a lawful examination, the ~~director secretary~~ may give notice to the ware-  
35 houseman to comply with all or any of the following requirements:

- 36 (1) Cover any existing shortage;
- 37 (2) give additional bond as requested by the ~~director secretary~~;
- 38 (3) submit to any examination that the ~~director secretary~~ considers  
39 necessary.

40 If the warehouseman fails to comply with the terms of the notice within  
24 hours from the date of its issuance or within such further time as the  
42 ~~director secretary~~ allows, the ~~director secretary~~ may petition the district  
43 court of any county in which is located one of the principal places of

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business of the licensed warehouseman for an order authorizing the ~~state~~  
2 ~~grain inspection~~ department to take possession of and maintain all or a  
3 portion of any and all commodities located in the licensed warehouse or  
4 warehouses of the warehouseman and all pertinent records and property.

5 Upon receipt of the ~~director's~~ *secretary's* verified petition setting forth  
6 the circumstances of the warehouseman's failure to comply and further  
7 stating reasons why immediate possession and maintenance by the ~~grain~~  
8 ~~inspection~~ department is necessary for the protection of depositors, ware-  
9 house receipt holders or sureties, the court shall forthwith issue an order  
10 authorizing the department to take immediate possession of and maintain  
11 the commodities, records and property for the purposes stated in this  
12 section. A copy of the petition and order shall be sent to the warehouse-  
13 man.

14 (b) At any time within 10 days after the ~~grain inspection~~ department  
15 takes possession, the warehouseman may file with the court a response  
16 to the petition of the ~~director~~ *secretary* stating reasons why the depart-  
17 ment should not be allowed to retain possession. The court shall set the  
18 matter for hearing on a date not less than five nor more than 15 days  
19 from the date of the filing of the warehouseman's response. The order  
20 placing the department in possession shall not be stayed nor set aside  
21 until the court after hearing determines that possession should be re-  
22 stored to the warehouseman.

23 (c) Upon taking possession, the ~~director~~ *secretary* shall give written  
24 notice of its action to the surety on the bond of the warehouseman and  
25 may notify the holders of record, as shown by the warehouseman's rec-  
26 ords, of all receipts and scale tickets issued for commodities, to present  
27 their receipts or scale tickets for inspection or to account for them. The  
28 ~~director~~ *secretary* then may cause an audit and other investigation to be  
29 made of the affairs of the warehouse, especially with respect to the com-  
30 modities in which there is an apparent shortage, to determine the amount  
31 of the shortage and compute the shortage as to each depositor as shown  
32 in the warehouseman's records, if practicable. The ~~director~~ *secretary* shall  
33 notify the warehouseman and the surety on the warehouseman's bond of  
34 the approximate amount of the shortage and notify each depositor af-  
35 fected by the shortage by sending notice to the depositor's last known  
36 address as shown by the records of the warehouse.

37 The ~~grain inspection~~ department shall retain possession and continue  
38 maintenance of commodities, records and property under this section  
39 until the warehouseman or the surety on the warehouseman's bond has  
40 satisfied the claims of all depositors or until the ~~grain inspection~~ depart-  
ment is ordered by the court to surrender possession.

41 (d) If during or after the audit or other investigation provided for in  
42 this section, or at any other time, the ~~director~~ *secretary* has evidence that  
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1 the warehouseman is insolvent or is unable to satisfy the claims of all  
2 depositors, or the grain handling facility is operating without a valid fed-  
3 eral or state license, the ~~director~~ secretary shall forthwith petition the  
4 district court for an order appointing a receiver, under article 13 of chap-  
5 ter 60 of the Kansas Statutes Annotated, and amendments thereto, to  
6 operate or liquidate the business of the warehouseman or unlicensed  
7 facility in accordance with the law. The petition may be accompanied by  
8 a verified application requesting that the court appoint the ~~director sec-~~  
9 ~~retary~~ to act as temporary receiver until a receiver is appointed. The court  
10 may appoint the ~~director secretary~~ as temporary receiver in an *ex parte*  
11 proceeding.

12 (e) While acting as temporary receiver, the ~~director secretary~~ shall  
13 have all the powers of a receiver and may appoint a special deputy director  
14 to take charge of the affairs of the warehouse until a receiver is appointed.  
15 The special deputy shall qualify, give bond and receive reasonable com-  
16 pensation as determined by the ~~director secretary~~, subject to the approval  
17 of the district court. The compensation shall be paid by the insolvent  
18 warehouse or unlicensed facility or, upon appointment of a receiver, may  
19 be allowed by the court as costs in the case.

20 (f) All necessary expenses incurred by the ~~grain inspection~~ depart-  
21 ment or any receiver appointed under this section in carrying out the  
22 provisions of this section may be recovered from the warehouseman,  
23 owner or operator of the unlicensed grain handling facility in a separate  
24 civil action brought by the ~~director secretary~~ in the district court or may  
25 be recovered at the same time and as a part of the seizure or receivership  
26 action filed under this section. As a part of the expenses so incurred, there  
27 is authorized to be included the cost of adequate liability insurance nec-  
28 essary to protect the ~~grain inspection~~ department, the receiver, and others  
9 engaged in carrying out the provisions of this section.

30 (g) A receiver shall have five months from the date of the receiver's  
31 appointment for the settlement and completion of the receivership. For  
32 cause shown, this period may be extended by the court, not exceeding  
33 three months at a time.

34 Sec. 41. K.S.A. 34-2,110 is hereby amended to read as follows: 34-  
35 2,110. Every public warehouseman shall make available to the ~~director~~  
36 ~~secretary~~ a verified composite statement of depositors of open storage  
37 grain or grain bank grain. The composite statement shall contain the same  
38 information as in K.S.A. 34-2,109, *and amendments thereto*.

39 Sec. 42. K.S.A. 1996 Supp. 74-4911f is hereby amended to read as  
follows: 74-4911f. (a) Subject to procedures or limitations prescribed by  
the governor, any state officer may elect to not become a member of the  
42 system.

43 (b) (1) Any such state officer described in subsection (a) who is a

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1 member of the Kansas public employees retirement system, on or after  
2 the effective date of this act, may elect to not be a member by filing an  
3 election with the office of the retirement system. Each state officer filing  
4 such election may withdraw the state officer's accumulated contributions  
5 then on deposit with the system in the same manner as prescribed in  
6 K.S.A. 74-4917 and amendments thereto for employees upon termina-  
7 tion.

8 (2) Any state officer who has filed an election and received a refund  
9 of contributions shall be entitled to again become a member of the system  
10 upon the filing of proper notice in such form as prescribed by the system  
11 and upon the making of a single lump-sum payment in an amount equal  
12 to all withdrawn contributions, plus interest at a rate specified by the  
system.

14 (c) Subject to limitations prescribed by the secretary of administra-  
15 tion, the state agency employing any employee who has filed an election  
16 as provided under subsection (a) or (b) and who has entered into an  
17 employee participation agreement, as provided in K.S.A. 75-5524 and  
18 amendments thereto for deferred compensation pursuant to the Kansas  
19 public employees deferred compensation plan shall contribute to such  
20 plan on such employee's behalf an amount equal to 8% of the employee's  
21 salary, as such salary has been approved pursuant to K.S.A. 75-2935b and  
22 amendments thereto or as otherwise prescribed by law.

23 (d) As used in this section and K.S.A. 74-4927k and amendments  
24 thereto, "state officer" means the secretary of administration, secretary  
25 on aging, secretary of commerce and housing, secretary of corrections,  
26 secretary of health and environment, secretary of human resources, sec-  
27 retary of revenue, secretary of social and rehabilitation services, secretary  
28 of transportation, secretary of wildlife and parks, superintendent of the  
29 Kansas highway patrol, secretary of agriculture, ~~state grain inspector~~, ex-  
30 ecutive director of the Kansas lottery, executive director of the Kansas  
31 racing commission, president of the Kansas development finance author-  
32 ity, state fire marshal, state librarian, securities commissioner, adjutant  
33 general, members of the state board of tax appeals, members of the Kan-  
34 sas parole board, members of the state corporation commission, any un-  
35 classified employee on the staff of officers of both houses of the legisla-  
36 ture, any unclassified employee appointed to the governor's or lieutenant  
37 governor's staff and any person employed by the legislative branch of the  
38 state of Kansas, other than any such person receiving service credited  
39 under the Kansas public employees retirement system or any other re-  
40 ment system of the state of Kansas therefor, who elected to be covered  
41 the provisions of this section as provided in subsection (e) of K.S.A.  
42 46-1302 and amendments thereto or who is first employed on or after  
43 July 1, 1996, by the legislative branch of the state of Kansas.

1 (e) The provisions of this section shall not apply to any state officer  
2 who has elected to remain eligible for assistance by the state board of  
3 regents as provided in subsection (a) of K.S.A. 74-4925 and amendments  
4 thereto.

5 Sec. 43. K.S.A. 1996 Supp. 75-3170a is hereby amended to read as  
6 follows: 75-3170a. (a) The 20% credit to the state general fund required  
7 by K.S.A. 1-204, 2-2609, 2-3008, 2-3013, 9-1703, 16-609, 16a-2-302, 17-  
8 1271, 17-2236, 17-5609, 17-5610, 17-5612, 17-5701, 20-1a02, 20-1a03,  
9 31-133a, ~~33-134~~, ~~34-102b~~, 44-324, 44-926, 47-820, 49-420, 55-155, 55-  
10 176, 55-609, 55-711, 55-901, 58-2011, 58-3074, 58-4107, 65-6b10,  
11 65-1718, 65-1817a, 65-2011, 65-2855, 65-2911, 65-4610, 65-5413, 65-  
12 5513, 66-1,155, 66-1503, 74-715, 74-1108, 74-1405, 74-1503, 74-1609,  
13 74-2704, 74-3903, 74-5805, 74-7009, 74-7506, 75-1119b, 75-1308 and 75-

14 1514 and K.S.A. 1996 Supp. 2-3506, 84-9-411 and 84-9-413, and  
15 amendments thereto, is to reimburse the state general fund for account-  
16 ing, auditing, budgeting, legal, payroll, personnel and purchasing services,  
17 and any and all other state governmental services, which are performed  
18 on behalf of the state agency involved by other state agencies which re-  
19 ceive appropriations from the state general fund to provide such services.

20 (b) Nothing in this act or in the sections amended by this act or  
21 referred to in subsection (a), shall be deemed to authorize remittances to  
22 be made less frequently than is authorized under K.S.A. 75-4215 and  
23 amendments thereto.

24 (c) Notwithstanding any provision of any statute referred to in or  
25 amended by this act or referred to in subsection (a), whenever in any  
26 fiscal year such 20% credit to the state general fund in relation to any  
27 particular fee fund is \$200,000, in that fiscal year the 20% credit no longer  
28 shall apply to moneys received from sources applicable to such fee fund  
29 and for the remainder of such year the full 100% so received shall be  
30 credited to such fee fund, except as otherwise provided in subsection (d)  
31 and except that during the fiscal year ending June 30, 1993, with respect  
32 to the fire marshal fee fund, when the 20% credit to the state general  
33 fund prescribed by K.S.A. 31-133a, 31-134 and 75-1514 and amendments  
34 thereto, in the aggregate, is \$400,000, then in that fiscal year such 20%  
35 credit no longer shall apply to moneys received from sources applicable  
36 to the fire marshal fee fund and for the remainder of such fiscal year the  
37 full 100% so received shall be credited to the fire marshal fee fund.

38 (d) Notwithstanding any provision of K.S.A. 2-2609 and 2-3008 and  
39 amendments thereto or any provision of any statute referred to in sub-  
40 section (a), the 20% credit to the state general fund no longer shall apply  
41 to moneys received from sources applicable to the grain research and  
42 market development agencies funds, as specified for each such fund by  
43 this subsection, and for the remainder of a fiscal year the full 100% of

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31-134,

3-31  
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1 The moneys so received shall be credited to the appropriate fund of such  
2 funds, whenever in any fiscal year:

3 (1) With respect to the Kansas wheat commission fund, such 20%  
4 credit to the state general fund in relation to such fund in that fiscal year  
5 is equal to that portion of \$100,000 that bears the same proportion to  
6 \$100,000 as the amount credited to the Kansas wheat commission fund  
7 during the preceding fiscal year bears to the total of the amounts credited  
8 to the Kansas wheat commission fund, the Kansas corn commission fund,  
9 the Kansas grain sorghum commission fund and the Kansas soybean com-  
10 mission fund during the preceding fiscal year;

11 (2) with respect to the Kansas corn commission fund, such 20% credit  
12 to the state general fund in relation to such fund in that fiscal year is  
13 equal to that portion of \$100,000 that bears the same proportion to  
14 \$100,000 as the amount credited to the Kansas corn commission fund  
15 during the preceding fiscal year bears to the total of the amounts credited  
16 to the Kansas wheat commission fund, the Kansas corn commission fund,  
17 the Kansas grain sorghum commission fund and the Kansas soybean com-  
18 mission fund during the preceding year;

19 (3) with respect to the Kansas grain sorghum commission fund, such  
20 20% credit to the state general fund in relation to such fund in that fiscal  
21 year is equal to that portion of \$100,000 that bears the same proportion  
22 to \$100,000 as the amount credited to the Kansas grain sorghum com-  
23 mission fund during the preceding fiscal year bears to the total of the  
24 amounts credited to the Kansas wheat commission fund, the Kansas corn  
25 commission fund, the Kansas grain sorghum commission fund and the  
26 Kansas soybean commission fund during the preceding fiscal year; and

27 (4) with respect to the Kansas soybean commission fund, such 20%  
28 credit to the state general fund in relation to such fund in that fiscal year  
29 is equal to that portion of \$100,000 that bears the same proportion to  
30 \$100,000 as the amount credited to the Kansas soybean commission fund  
31 during the preceding fiscal year bears to the total of the amounts credited  
32 to the Kansas wheat commission fund, the Kansas corn commission fund,  
33 the Kansas grain sorghum commission fund and the Kansas soybean com-  
34 mission fund during the preceding fiscal year.

35 (e) As used in this section, "grain research and market development  
36 agencies" means the Kansas wheat commission, the Kansas corn com-  
37 mission, the Kansas grain sorghum commission and the Kansas soybean  
38 commission. Such agencies have been created to fund appropriate re-  
39 search projects; to conduct campaigns of development, education and  
40 publicity; and to find new markets or maintain existing markets for com-  
41 modities and products made from those commodities, among their other  
42 duties. Such grain research and market development agencies shall be  
43 funded by an assessment collected from the grower at the time of the

1 sale of such commodity by the first purchaser. The assessment shall be  
2 sent to the proper grain research and market development agency.

3 Sec. 44. K.S.A. 1996 Supp. 77-415 is hereby amended to read as  
4 follows: 77-415. As used in K.S.A. 77-415 through 77-437, and amend-  
5 ments thereto, unless the context clearly requires otherwise:

6 (1) "State agency" means any officer, department, bureau, division,  
7 board, authority, agency, commission or institution of this state, except  
8 the judicial and legislative branches, which is authorized by law to prom-  
9 ulgate rules and regulations concerning the administration, enforcement  
10 or interpretation of any law of this state.

11 (2) "Person" means firm, association, organization, partnership, busi-  
12 ness trust, corporation or company.

13 (3) "Board" means the state rules and regulations board established  
14 under the provisions of K.S.A. 77-423 and amendments thereto.

15 (4) "Rule and regulation," "rule," "regulation" and words of like ef-  
16 fect mean a standard, statement of policy or general order, including  
17 amendments or revocations thereof, of general application and having the  
18 effect of law, issued or adopted by a state agency to implement or inter-  
19 pret legislation enforced or administered by such state agency or to gov-  
20 ern the organization or procedure of such state agency. Every rule and  
21 regulation adopted by a state agency to govern its enforcement or ad-  
22 ministration of legislation shall be adopted by the state agency and filed  
23 as a rule and regulation as provided in this act. The fact that a statement  
24 of policy or an interpretation of a statute is made in the decision of a case  
25 or in a state agency decision upon or disposition of a particular matter as  
26 applied to a specific set of facts does not render the same a rule and  
27 regulation within the meaning of the foregoing definition, nor shall it  
28 constitute specific adoption thereof by the state agency so as to be re-  
29 quired to be filed. A rule and regulation as herein defined shall not in-  
30 clude any rule and regulation which: (a) Relates to the internal manage-  
31 ment or organization of the agency and does not affect private rights or  
32 interest; (b) is an order directed to specifically named persons or to a  
33 group which does not constitute a general class and the order is served  
34 on the person or persons to whom it is directed by appropriate means.  
35 The fact that the named person serves a group of unnamed persons who  
36 will be affected does not make such an order a rule and regulation; (c)  
37 relates to the use of highways and is made known to the public by means  
38 of signs or signals; (d) relates to the construction and maintenance of  
39 highways or bridges or the laying out or relocation of a highway other  
40 than bidding procedures or the management and regulation of rest areas;  
41 (e) relates to the curriculum of public educational institutions or to the  
42 administration, conduct, discipline, or graduation of students from such  
43 institutions or relates to parking and traffic regulations of state educa-

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onal institutions under the control and supervision of the state board of regents; (f) relates to the emergency or security procedures of a correctional institution, as defined in subsection (d) of K.S.A. 75-5202 and amendments thereto; (g) relates to the use of facilities by public libraries; (h) relates to military or naval affairs other than the use of armories; (i) relates to the form and content of reports, records or accounts of state, county or municipal officers, institutions, or agencies; (j) relates to expenditures by state agencies for the purchase of materials, equipment, or supplies by or for state agencies, or for the printing or duplicating of materials for state agencies; (k) establishes personnel standards, job classifications, or job ranges for state employees who are in the classified civil service; (l) fixes or approves rates, prices, or charges, or rates, joint rates, fares, tolls, charges, rules, regulations, classifications or schedules of common carriers or public utilities subject to the jurisdiction of the state corporation commission, except when a statute specifically requires the same to be fixed by rule and regulation; (m) determines the valuation of securities held by insurance companies; (n) is a statistical plan relating to the administration of rate regulation laws applicable to casualty insurance or to fire and allied lines insurance; (o) is a form, the content or substantive requirements of which are prescribed by rule and regulation or statute; (p) is a pamphlet or other explanatory material not intended or designed as interpretation of legislation enforced or adopted by a state agency but is merely informational in nature; (q) establishes seasons and fixes bag, creel, possession, size or length limits for the taking or possession of wildlife, if such seasons and limits are made known to the public by other means; or (r) establishes records retention and disposition schedules for any or all state agencies; or (s) fixes or approves fees for services rendered by the Kansas state grain inspection department pursuant to K.S.A. 34-103a, and amendments thereto.

(5) "Environmental rule and regulation" means:

(A) A rule and regulation adopted by ~~the state board of agriculture,~~ the secretary of ~~the state board of~~ agriculture, the secretary of health and environment or the state corporation commission, which has as a primary purpose the protection of the environment; or

(B) a rule and regulation adopted by the secretary of wildlife and parks concerning threatened or endangered species of wildlife as defined in K.S.A. 32-958 and amendments thereto.

Sec. 45. K.S.A. 34-101, 34-101a, 34-101c, 34-101d, 34-102, 34-102a, 34-104, 34-105, 34-106, 34-107, 34-110, 34-111, 34-112a, 34-113, 34-121, 34-122, 34-123, 34-124, 34-127, 34-223, 34-224, 34-227, 34-227a, 34-27b, 34-229, 34-230, 34-230a, 34-230b, 34-231, 34-233, 34-235, 34-236, 34-238, 34-241a, 34-246, 34-249a, 34-251, 34-257a, 34-273, 34-295a, 34-295b, 34-298, 34-299, 34-2,100, 34-2,104, 34-2,110, 75-1701, 75-1702,

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75-1703, 75-1704, 75-1706, 75-1709 and 75-1711 and K.S.A. 1996 Supp.  
34-101b, 34-102b, 34-103a, 34-125, 34-228, 34-2,108, 74-4911f, 75-3170a  
and 77-415 are hereby repealed.

3  
4 Sec. 46. This act shall take effect and be in force from and after its  
5 publication in the statute book. June 1, 1997 and

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~~3-35~~

**STATEMENT OF THE  
KANSAS SEED INDUSTRY ASSOCIATION  
TO THE SENATE AGRICULTURE COMMITTEE  
SENATOR STEVE MORRIS, CHAIR  
REGARDING H.B. 2245, AMENDING THE KANSAS SEED LAW  
MARCH 11, 1997**

Mr. Chairman and Members of the Committee, I am Chris Wilson, Director of Member Services of the Kansas Seed Industry Association (KSIA). KSIA is the professional association of seedsmen in our state. We thank you for holding this hearing H.B. 2245, and providing us with the opportunity to testify in support of it.

This bill amends the Kansas Seed Law in three ways. First, it requires those who are in the business of cleaning seed to register with the Kansas Department of Agriculture (KDA). Secondly, it reflects that the federal seed law, the Plant Variety Protection Act, was amended by adding the words "as amended" where that law is referenced in the Kansas law. Thirdly, it makes other technical changes replacing the "state board of agriculture" with "secretary."

In 1994, Congress amended the Plant Variety Protection Act (PVPA), and we realized that would eventually require amending the Kansas Seed Law to show that the PVPA had been amended. KSIA decided if the Kansas law was to be amended, we should do so very carefully and contact all interested to determine if there were other changes which should be made. That is why we did not come to the Legislature with this request in 1995 or 1996. We have gone through an exhaustive review of the law, met extensively with KDA staff, communicated with a wide range of other organizations, and looked at numerous possible amendments.

We whittled those down to what everyone could agree upon and come to you today with two pretty simple changes. On page 5, lines 14-15 of the bill, the words "public law 91-577" are stricken and replaced with "as amended and as in effect on July 1, 1997." This replaces the reference to the 1972 version of PVPA with the amended version.

The second key piece of the bill is to require registration of seed conditioners, as defined on p. 4, lines 33-34 of the bill. The need for this was pointed out in 1996, when KDA was

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addressing the Karnal bunt situation. There is no source of a listing of seed conditioners in the state. We know which of our members clean seed, but our membership would not include the many seed conditioners who do not sell seed. The Kansas Crop Improvement Association (KCIA) has an approved seed conditioner program which probably includes 1/3 of seed conditioners in the state. And Kansas Grain and Feed Association (KGFA) could identify grain warehousemen which offer seed conditioning services. But there are numerous other seed conditioners which would not be KCIA or KGFA members, because they do not produce seed or store grain. We think there may be around 300 total statewide.

Many seed conditioners have portable units and may have been in the Karnal bunt infected areas and subsequently cleaned seed in Kansas. The KDA needed a way to communicate with and inform seed conditioners about Karnal bunt. KDA also needs the capability to communicate with seed conditioners about other aspects of the seed law and other issues which may arise in the future.

The purpose for which this amendment on p. 6, lines 32-36 of the bill is offered is to develop a data base of seed cleaners/conditioners. It requires them to register with KDA on an every-other-year basis, at no fee. They must also notify KDA if they cease cleaning seed.

This should allow KDA to maintain a database with the least amount of time and effort. KCIA, KSIA, and KGFA are willing to provide lists of their members which condition seed to begin development of that database.

We believe that having no fee will encourage more compliance and therefore a more complete database. We also believe having the database will make KDA's job easier in dealing with Karnal bunt and other such situations, allowing the agency to most efficiently inform seed conditioners, and to identify and contact them as needed in its regulatory activities. If there is a need to go to facilities in activities such as testing for Karnal bunt, they will have the information readily available, rather than spending precious time trying to identify these facilities.

Thank you for your consideration of this legislation. KSIA respectfully requests that you report H.B. 2245 favorably with suggested amendments. I would be glad to respond to any questions.

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# AMS NEWS RELEASE

Release No. AMS-005-97

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## USDA PROTECTS 17 NEW PLANT VARIETIES

WASHINGTON, Feb. 14, 1997 -- The U.S. Department of Agriculture has issued certificates of protection to developers of 17 new varieties of seed-reproduced plants, include corn, lobelia, marigold, rape and soybean.

Marsha A. Stanton, an official with USDA's Agricultural Marketing Service, said the certificates are being issued under 1994 amendments to the Plant Variety Protection Act. amendments extend protection to F1 hybrids and tuber-propagated varieties and require the protected varieties be sold by variety name. They prohibit sale for reproduction purpose the owner's permission and grant protection for 20 years. They require not only that the be new, uniform and stable, as in the original act, but also that they be distinct. The have the exclusive right to reproduce, sell, import and export their products in the Unit for 20 years.

The 17 certificates are for:

--the PHJJ3 and PHVB2 varieties of corn, developed by Pioneer Hi-Bred Internationa Johnston, Iowa;

--the Riviera Lilac and Riviera Blue Splash varieties of lobelia, developed by the Flowerseed Co., Guadalupe, Calif.;

--the Safari Tangerine, Little Hero Flame, Little Hero Orange and Little Hero Yell varieties of marigold, developed by the John Bodger and Sons Co., South El Monte, Calif.;

--the Falcon variety of rape, developed by Calgene Inc., Davis, Calif.;

--the IMC 02 variety of rape, developed by Cargill Inc., Minneapolis, Minn.;

--the KS 3494 variety of soybean, developed by the Kansas Agricultural Experimer Station, Manhattan, Kan.;

-more-

-2-

--the CX351 variety of soybean, developed by DEKALB Genetics Corp., DeKalb, Il

--the S59-95 variety of soybean, developed by the Northrup King Co., Washingtc

--the A5545 and A5843 varieties of soybean, developed by the Asgrow Seed Co., Kalamazoo, Mich.; and

--the Freeborn and Glacier varieties of soybean, developed by the Minnesota Ac Experiment Station, St. Paul, Minn.

Certificates of protection for the KS 3494, the Freeborn and Glacier varieties require that they be sold by variety name only and as a class of certified seed. The number of generations are specified by the owner.

USDA's Agricultural Marketing Service administers the plant variety protection program which provides marketing protection to developers of new and distinct seed-reproduced and tuber-propagated plants ranging from farm crops to flowers.

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**Statement of Maurice Miller**  
**RE: H.B. 2245**  
**March 11, 1997**

Good morning, I'm Maurice Miller, partner in Drussel Seed & Supply, Garden City, and a past president and legislative committee member of Kansas Seed Industry Association.

As Chris has explained the changes proposed in H.B. 2245, I will focus my comments on the philosophy or logic inherent in these changes.

The seed trade is a highly regulated industry. There are the Federal Seed Act, the Plant Variety Protection Act, the Kansas Seed Law, seed laws of other states, OSHA and EPA rules and regulations, all of which have jurisdiction over our business. And this is as it should be, after all, what is a seed law if not a form of consumer protection? These laws and regulations are in place to insure that seed sold conforms to lawful labeling requirements. These laws and regulations insure that seed is conditioned in a professional manner, in a workplace that is as safe and hazard free as possible for workers within our industry. These laws and regulations insure that chemicals and waste materials utilized and generated by our industry are handled properly in an environmentally sound manner. These laws and regulations also provide a measure of incentive for the continued development of new, improved cultivars.

The Plant Variety Protection Act protects the owner of a new cultivar in much the same way that copyright laws protect the author of a novel, or the author of computer software. This protection does not guarantee a profit, it only provides the opportunity to profit. This incentive, the opportunity to profit, insures that farmers will continue to receive higher yielding crop cultivars and remain competitive in what has become a global market place. It also provides the mechanism whereby the American consumer will continue to enjoy the most plentiful, economical, and safest food supply in the

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world.

It has been estimated that it takes one million dollars to bring a single wheat variety from the initial cross to the point of general release to Kansas farmers utilizing traditional breeding methods. When talking about genetically modified crop seeds the research investment may be twenty to thirty times as great as traditional breeding. "Bio Tech" products that offer resistance to insects and disease or herbicide tolerance will have to be registered as pesticides, further increasing the cost of research and development. PVPA gives companies risking this type of investment the opportunity to profit through protection of the varieties.

There are, and always have been, individuals and companies who operate on the fringe of our industry, who ignore the law, acknowledge no regulation, and follow no rule. It wasn't that long ago that representatives of the Kansas seed industry stood before this committee and offered strong testimony in support of fee registration of all Kansas seed dealers. Not only does registration generate revenue to fund control activities of the Department of Agriculture, it also helps identify and locate those people on the fringe. It allows us to inform them of these laws and regulations and to educate them as to the intent and purpose. Likewise, seed conditioner registration will not only provide the Department with a valuable database from which they can inform seed conditioners of potentially devastating problems such as Karnal bunt, but also may serve to bring more of those individuals and companies operating outside the rules into the legitimate seed trade here in Kansas.

The Kansas seed industry is not a closed society. Anyone who wishes to sell seed in Kansas is welcome. We only ask that they employ ethical business practices and obey the rules and laws of the land.

Thank you for your attention and courtesy.