

MINUTES OF THE HOUSE COMMITTEE ON AGRICULTURE.

The meeting was called to order by Chairman Dan Johnson at 3:30 p.m. on February 16, 2000, in Room 423-S of the Capitol.

All members were present except:

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

Conferees appearing before the committee:

David Pope, Chief Engineer, Division of Water Resources, Kansas Department of Agriculture
Gordon Schmidt, Newton (no written testimony)
Jim Kaup, City of Hays
Clark Wiebe, Hillsboro
Doug Wareham, Vice President, Government Affairs, Kansas Grain and Feed Association
Ted Schultz, Grain Division Manager, Mid Kansas Coop, Moundridge
Joe Lieber, Executive Vice President, Kansas Cooperative Council
Jamie Clover Adams, Secretary, Kansas Department of Agriculture

Others attending: See attached list

Hearing on HB 2748 - Allowing owners of water rights to change the place of use or the point of diversion if water is used for irrigation on land owned or leased by the owner of the right.

Chairman Johnson opened the hearing on **HB 2748** and asked Raney Gilliland to explain the bill. He explained that under current law any owner of a water right may change the place of use, the point of diversion or the use made of the water, without losing priority of right, provided such owner: (1) applies in writing to the chief engineer for approval of any proposed change; (2) demonstrates to the chief engineer that any proposed change is reasonable and will not impair existing rights; (3) demonstrates to the chief engineer that any proposed change relates to the same local source of supply as that to which the water right relates; and (4) receives the approval of the chief engineer with respect to any proposed change. He explained that **HB 2748** would allow any owner of a water right to change the place of use or the point of diversion of the water, without losing priority of right, provided such owner uses the water only for irrigation upon land owned or leased by the owner of such water right.

David Pope, Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, appeared as an opponent to **HB 2748**. He said that this seemingly minor change to the law could have tremendous negative implications on the department's ability to protect and administer water rights in the State of Kansas. He discussed the possible consequences of allowing changes in the point of diversion, changes in the place of use, or changes in the use of the water. He said there are provisions in current law to allow an owner of a water right to change the place of use or the point of diversion under certain circumstances. He said that existing law and the associated processing of applications for change in water rights in accordance with existing law and regulations are necessary to protect existing water rights and the waters of the state. He reported that changes in point of diversion involving relocation of the authorized well short distances and changes in place of use for which little or no additional net land is being added are processed at the field office level on a very timely basis. He said that more complex changes may require two to six months, or longer. He reported that during 1999 the average time for these more complex changes was about 90 days. (Attachment 1)

Gordon Schmidt, Newton, testified in support of the concept of **HB 2748**. He feels that an owner of a water right should be able to irrigate as many acres as he would like as long as he doesn't use any additional water. He believes this would encourage development of more efficient uses of irrigation water.

CONTINUATION SHEET

Jim Kaup, representing the City of Hays, testified as a proponent of **HB 2748**, but requested an amendment to allow municipal water right holders the same benefits of the bill as irrigation water holders. He said that while cities use only a small fraction of the volume of water compared to irrigation water users, they have the same interests. He believes the policy of Kansas should be to provide the benefits outlined in the bill across the board and treat all water right holders the same unless a compelling state interest justified discrimination among categories of water right holders. (Attachment 2)

Clark Wiebe, Hillsboro, testified in support of **HB 2748**. He would like to be able to increase acreage under irrigation using the same volume of water. He feels it would be an incentive for producers to invest in new technology to use water more efficiently and reduce run-off and wasted water. (Attachment 3)

Jerry Nelson, who serves on the Kansas Livestock Association water committee, suggested amending **HB 2748** to allow any owner of a water right to change the place of use, but not the point of diversion or use made of the water, without losing priority of right.

Richard Wenstrom, Kinsley, also a Kansas Livestock Association water committee member, commented that the bill was a non-issue as far as he was concerned. He said that with the cost of pumping the water, seed, fertilizer, chemicals, etc., spreading irrigation water over more acreage was not economically advantageous.

Chairman Johnson closed the hearing on **HB 2748**.

Hearing on HB 2973 - In lieu of a warehouse bond, may be an irrevocable letter of credit.

Chairman Johnson opened the hearing on **HB 2973**. The Chairman noted that this bill was identical to **SB 564** which passed out of the Senate Agriculture Committee with an amendment that it become effective upon publication in the Kansas Register. He said the House Agriculture Committee was hearing the bill at this time to facilitate passage in a timely manner.

Doug Wareham, Vice President, Government Affairs, Kansas Grain and Feed Association, appeared in support of **HB 2973** which had been requested by the association. He discussed the importance of expediting passage of this bill and highlighted its major points. He explained that this bill would allow substitution of an irrevocable bank letter of credit in lieu of a warehouse bond as means of satisfying the financial obligation requirement of the Kansas Public Warehouse Act. He noted that this is the same language as currently found in the United States Public Warehouse Act. He said that it would cost the state's warehouse program over \$18,000 in license fees if the five cooperatives requesting this change were to acquire a federal warehouse license. (Attachment 4)

Ted Schultz, Grain Division Manager, Mid Kansas Coop, Moundridge, testified in support of **HB 2973**. He explained how the coops at Moundridge, Hillsboro, Nickerson, Halstead, and Walton had formed Team Marketing Alliance, LLC, to provide their producer owners a fair market for their grain products and protect the value of their assets. Team Marketing Alliance represents 25 million bushels of storage capacity in 38 elevators. As state warehouse licensing laws only allow a bond or physical asset to meet financial obligations, he said passage of **HB 2973** is necessary. Team Marketing Alliance does not physically own the elevators and a bond the size they would require is not available. (Attachment 5)

Joe Lieber, Executive Vice President, Kansas Cooperative Council, appeared in support of **HB 2973** stating that this bill would allow cooperatives and other organizations an opportunity to expand their businesses. He said that with passage of this bill, the Kansas warehouse statute will conform to federal law and will allow many cooperatives to remain state licensed. (Attachment 6)

Jamie Clover Adams, Secretary, Kansas Department of Agriculture, appeared in support of **HB 2973**. She said that with a variety of new partnerships and legal structures being implemented by grain warehouse licensees as they pursue new market opportunities for grain delivery, she anticipates more requests from Kansas licensees to use the irrevocable letter of credit as an additional form of financial guarantee. Because an irrevocable letter of credit is more costly than a bond, she felt facilities would use it only when absolutely necessary. She said that the state grain warehouse licensing program competes with the federal government in attracting licensees and this bill would give the state additional flexibility to bring in, and keep, grain warehouses in the state system. (Attachment 7)

CONTINUATION SHEET

Chairman Johnson closed the hearing on **HB 2973**.

Discussion and action on HB 2702 - Sales and property tax exemption for greenhouse machinery and equipment.

Chairman Johnson called for the subcommittee report on **HB 2702**. Gordon Self, Revisor of Statutes, explained the subcommittee's recommendations to better define a greenhouse as agriculture in the statutes for property tax purposes. As the sales tax portion of the bill was not problematic, that portion of the bill was deleted. The revisor recommended a substitute bill. (Attachment 8)

Representative Dahl, chairman of the subcommittee, moved to adopt the committee's report and rename the bill **Substitute HB 2702**. Seconded by Representative Freeborn, the motion carried.

Representative Weiland moved to recommend passage of **Sub. HB 2702**. Seconded by Representative Compton, the motion carried.

Discussion and action on HB 2762 - Inspections of controlled shooting areas.

As there was no opposition to the bill, Representative Schwartz moved to recommend passage of **HB 2762**. Seconded by Representative Showalter, the motion carried.

Discussion and action on HB 2817 - Disposition of animals from shelters and pounds; spaying or neutering animals.

Representative Larkin moved to amend **HB 2817** as proposed by the Kansas Animal Health Department:

- 1) On page 3, line 10, after the word premise, insert "located in the state of Kansas"
- 2) On page 3, line 14, strike the word "policy" and insert in lieu thereof "program"
- 3) On page 3, line 15, strike "(b)" and insert in lieu thereof "(a)(2)"

Seconded by Representative Faber, the motion carried.

Representative Dahl, seconded by Representative Flower, moved to table the bill. The motion failed.

Representative Larkin moved to recommend passage of **HB 2817** as amended. Seconded by Representative O'Brien, the motion carried.

The meeting adjourned at 5:12 p.m. The next meeting is scheduled for February 21, 2000.

HOUSE AGRICULTURE COMMITTEE GUEST LIST

DATE: February 16, 2000

NAME	REPRESENTING
Samuel Kessinger	HNS
Alan Stone	KFCA
Alma Ungehauer	KFB-
Lavelle Mader	KFCA
Lobin Stone	KFCA
Ted Schultz	Mid Kansas Coop
Tom Bruno	Allen Assoc.
Clark Wiebe	CLARK WIEBE
Norm Gutterman	DeBruce Grain Inc.
Paul R. Clark	ALLIED ENV. CONSULTANTS
Pharhi Swagze	Farmer Coop Eq Co M.L.
Quel Kemmer	Conex Hawaii States
Byron Ulsay	Farmers Coop
Frank Shitt	" "
RICHARD WENSTROM	WATER PACK
Kent Weatherby	Kansas River Water Assur. Dist.
GARY LONTSCHER	KGFA
Troy Schroeder	Rush County Leadership
Gene Abjinn	Expansion

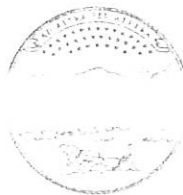
HOUSE AGRICULTURE COMMITTEE GUEST LIST

DATE: February 16, 2000

NAME	REPRESENTING
Denise Appel	Rush Co. Leadership
Shirley Morse	Rush Co. Leadership
Joe Lieber	Ks Co-op Council
Gordon Schmidt	Self -
Margaret Fast	Ks Water Office
Christine Downey	
Wendy Harms	KAPA
Wendy Moses	KAPA - KRMCA
Matt Wolter	Rep Dahl + Schwartz
Jay Carswell	KFB
Gene Nickelson	KFB
Brenda Wrist	KFB
Ron Applebitt	Water Dist. No 1 of Jo. Co.
Terry Nelson	Rt 2 Long Island Ko.

STATE OF KANSAS

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Janice Clover Adams, Secretary of Agriculture
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Division of Water Resources
David L. Pope, Chief Engineer
109 SW 9th Street, 2nd Floor
Topeka, KS 66612-1283
(785) 296-3717 FAX (785) 296-1176

KANSAS DEPARTMENT OF AGRICULTURE

TESTIMONY BEFORE THE HOUSE COMMITTEE ON AGRICULTURE
REGARDING HOUSE BILL NO. 2748

by

David L. Pope
Chief Engineer
Division of Water Resources
Kansas Department of Agriculture

Mr. Chairman and members of the Committee. Thank you for the opportunity to provide testimony regarding House Bill No. 2748. On behalf of the Secretary of Agriculture and myself as Chief Engineer of the Division of Water Resources, I appear as an opponent to House Bill No. 2748.

House Bill No. 2748 would amend a provision of the Kansas Water Appropriation Act, K.S.A. 82a-708b by, in essence, removing the requirement for the owner of a water right to receive approval for a change in the place of use or the point of diversion of a water right, provided such owner shall use the water only for irrigation upon land owned or leased by the owner of the water right. This seemingly minor change to the law has tremendous negative implications to our ability to protect and administer water rights in the State of Kansas.

This provision would allow the owner of a water right to establish a new well and irrigate land at an unspecified location, possibly many miles away, even though the water right pertained to a completely different source of supply, the proposed use might be in an area closed to new permits, or could directly interfere with or impair the use of water under another water right. In fact, once a water right had been granted, the owner could essentially use it for irrigation on any land in the State (or potentially out of state) so long as it was on land owned or leased by the owner of the water right. While this might not be the true intent of the bill, the language appears to allow this result.

Current law allows any owner of a water right to change the place of use or the point of diversion under certain circumstances. In addition to making an application and receiving approval from the Chief Engineer, the owner must "demonstrate to the chief engineer that any proposed change is reasonable and will not impair existing rights" and "demonstrate to the chief engineer that any proposed change relates to the same local source of supply as that to which the water right relates." Both of these extremely important provisions would be eliminated with the proposed

legislation. It would be possible for someone to withdraw water at a location that would directly interfere with the use of water by another individual. It may or may not be possible for another water right owner to prevent impairment of their water right, under other provisions of the law if they hold a senior water right, but even this would not be possible if the change allowed under this bill was under a more senior right. In addition, such an impairment concern would undoubtedly be much more expensive and difficult to resolve through our agency, or the courts, than trying to prevent such problems through the orderly processing of applications for such a change to existing water rights, as we now do.

In addition, the provisions of the bill that allow a change in point of diversion could also allow the withdrawal or diversion of water from a completely different source of supply. In other words, the current water right may relate to a specific reservoir, river or aquifer system whereas the bill would allow water use to arguably occur from any source where the individual owned or leased land. Existing regulations adopted pursuant to the Kansas Water Appropriation Act provide standards and criteria related to proposed changes in point of diversion to protect other water rights. These rules include well spacing and criteria as to where a proposed well or other point of diversion may be located.

With regard to the provisions of the bill related to a change in the place of use, there are also serious implications. According to K.S.A. 82a-701(g), a water right is "...a real property right appurtenant to and severable from the land on or in connection with which the water is used and such water right passes as an appurtenance with a conveyance of the land..." Consequently, if the law provides for an automatic change in the place of use of a water right, how would we ever know which property to which the water right was appurtenant? Land values and ownership issues related to water rights would likely be hopelessly entangled. In addition, issues related to whether or not additional amounts of water would be used as a result of the change in place of use could not be evaluated through the application process as they currently are under existing law and rules and regulations. As a result, it is likely that this provision will result in more water being consumed compared to the current law and regulations. Finally, enforcement of the terms, conditions and limitations of the water right would be much more difficult because we would never know where the water could actually be lawfully used. Someone using water from what would now be an illegal well or on land not now authorized could simply say they were using it under some other water right they own, no matter where it was located.

In summary, the proposed legislation does not appear to be necessary, and may create significant problems. Because of the significant problems that would occur, it is recommended that the proposed legislation not be passed. We believe the existing law and the associated processing of applications for change to water rights in accordance with existing law and regulations are necessary to protect existing water rights and the waters of the State for the use of our citizens.

The Chairman has requested that I explain how long it takes to process applications for change. The time to process an application for change varies considerably depending on the type of

change, complexity of the application and whether all of the information needed is submitted with the application.

Changes in point of diversion involving relocation of the authorized well short distances are processed in a matter of a few days at the field office level unless there are complaints or well spacing concerns. Likewise, changes in place of use for which little or no additional net land is being added are processed on a very timely basis. Other types of more complex changes may require two to six months, or longer, depending on workload and complexity of the proposal. During 1999, the average time for these more complex changes was about 90 days.

Thank you very much. I would be happy to answer any questions the Committee may have.

LEGISLATIVE TESTIMONY
CITY OF HAYS, KANSAS

TO: Chairman Johnson, and Members, House Agriculture Committee
FROM: City of Hays, Presented by Jim Kaup
RE: HB 2748; Water Rights, Change in Place of Use or Point of Diversion
DATE: February 16, 2000

The City of Hays respectfully requests this Committee's consideration of an amendment to HB 2748 by which municipal water right holders would enjoy the same benefits which this bill, as drafted, would provide irrigators.

While cities use only a small fraction of the volume of water used by irrigators, they have the same interests, as water right holders, as do those irrigators. Consequently, we believe that the policy of Kansas should be to provide the benefits outlined in HB 2748 across the board and treat all water right holders the same unless a compelling state interest justifies discrimination among categories of water right holders.

Presently the City of Hays is in the process of changing points of diversions on the Smoky Hill River to yield the maximum amount of water under an existing vested water right. Like irrigators, Hays must go through a protracted (and perhaps unsuccessful) process to change the point of diversion, if the change goes beyond current Division of Water Resources established limits. Smoky Hill River water is critical to the City's public water supply needs. Amending HB 2748 to include municipal water right holders would assist Hays in making these changes in points of diversion.

We are not aware of any policy consideration that would justify limiting this ability to change the place of use or point of diversion only to irrigators and not to extend the same opportunity to municipal water right holders.

Our objective can be accomplished by an amendment along the lines of the following:

Notwithstanding the provisions of subsection (a), any owner of a water right may change the place of use or point of diversion of the water, without losing priority of right, provided such owner shall use the water only for irrigation upon land owned or leased by the owner of such water right, or in the case of a municipal water right holder, only upon land served with water by the municipality.

This City respectfully requests your consideration of this amendment to House Bill 2748.

House Agriculture Committee
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Attachment 2

02-15-00

House of Representatives Ag Committee
State of Kansas

I would like to take this opportunity to address the committee on HB _____ in favor of adoption of this legislation for the following reasons. In the mid 70's I applied for and recieved and irrigation permit to appropriate surface water. In the those years, without much experience in irrigation and trying to learn without a lot of investment, I used a big gun (traveling) and a side roll to apply the water. Not being able to percieve all the changes in efficiency that would later be developed, I worked with what I had and the acres that I thought I would be realistically able to cover with these methods. So under that basis I worked at perfecting my water right with a small amount of acres. Since, that time another field was purchased adjacent to the existing fields. Also I have installed center pivots to increase the water use efficiency and also have low pressure with drops to further increase the efficiency and decrease run-off.

With these changes, I am using less and less water of my total appropriated acre-feet . I requested to increase my acreage covered to be able to use beneficially the water that was allowed. The requests were denied, even though I went through a Soil Conservation Service assessment that showed and confirmed the efficiency. I explained to the Board of Water Resources that I was not requesting and increase in the rate of withdrawal or the total acre-feet appropriated, just the ability to reward my efficiency by covering more acres. The best the Chief Engineer would do was to allow a rotation of acres but not increase the acres in a given calendar year. I have exhausted other means; i.e. have drilled test wells for ground water in the area which I would have been able to increase acres through a new permit, but those efforts to find adequate water have failed.

I live in a part of the state where I bascially use irrigation as a supplemental source of water and have discussed this situation with my Representative , Don Dahl on several occassions. I realize that any changes in the law affects the entire state; however I feel if the irrigation producers invest in new technology to use the water more efficiently and reduce run-off and wasted water they should have the ability to stretch that water over more acres as they see fit. I currently have been using only about 55-60% of the acre-feet

House Agriculture Committee
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Attachment 3

appropriated under my water right.

We need some incentive for producers for doing the right thing . For me, this would allow me to apply water to more acres but apply less to each acre which is a good thing in my opinion and would allow me a better opportunity to stay in business, make a profit, and protect the enviroment.

Thank you for your time and consideration of these comments and the bill.

Clark Wiebe
1131 190th
Hillsboro, Ks 67063

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Association

**Statement of the
Kansas Grain and Feed Association
regarding
House Bill 2973
Presented to the
House Agriculture Committee
Representative Dan Johnson, Chair
February 16, 2000**

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



House Agriculture Committee
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Attachment 4

Chairman Johnson and Members of the House Agriculture Committee, my name is Doug Wareham, and I appear today on behalf of the Kansas Grain and Feed Association (KGFA). KGFA is a voluntary state association with a membership encompassing the entire spectrum of the grain receiving, storage, processing and shipping industry in the state of Kansas. Our membership includes over 1,150 Kansas business locations and represents 99% of the commercially licensed grain storage in the state

KGFA asked for the introduction of House Bill 2973 at the request of several of our cooperative member companies. Today, I have with me Ted Schultz from the Mid-Kansas Co-op in Moundridge who will explain in more detail why it is important to his company that House Bill 2973 pass the Kansas legislature in an expedited fashion.

But, before I introduce Mr. Schultz, let me give you a few general industry related comments about the importance of changing state law pursuant to House Bill 2973:

- H.B. 2973 would allow the substitution of an irrevocable bank letter of credit in lieu of a warehouse bond as a means of satisfying the financial obligation requirement of the Kansas Public Warehouse Act.
- The language contained in the changes embodied in H.B. 2973 mirrors the language currently found in the United States Public Warehouse Act, as well as most other state laws, including our neighbor to the north Nebraska which allows the letter of credit option.
- The five cooperatives requesting the change could acquire a Federal warehouse license instead of a state warehouse license costing the state's program over \$18,000 in license fees.
- A bank letter of credit provides more financial security for liability grain held in a public warehouse. It's a bit like having cash instead of a check for security.

Thank you for your attention and I would be happy to respond to questions at the appropriate time. Now, Mr. Chairman, with your permission I'd like to introduce Mr. Ted Schultz, head grain merchandiser for Mid Kansas Co-op in Moundridge, Kansas.



P.O. BOX D ★ MOUNDRIDGE, KS 67107 ★ TELEPHONE 316-345-6328

February 16, 2000

Respectably Chairman Dan Johnson and Members of House Ag Committee

Regards: H. B. 2973 Allows for an Irrevocable Letter of Credit in lieu of a Bond for State Warehouse Licensed Elevators.

I, Ted Schultz, represent Mid Kansas Coop, Moundridge, Kansas, a farm supply coop in Central Kansas. Over the past three years I, as Grain Division Manager have worked hard to form a new company structure to survive in our ever changing environment. The new structure is a Limited Liability Company, which combines several coop grain divisions into one entity to gain efficiencies such as logistics, merchandising and arbitrage opportunities.

Some of these efficiencies have already been gained over the last few years as joint merchandising efforts between Mid Kansas Coop- Moundridge, Kansas, Farmers Coop Elevator- Nickerson, Kansas, and Farmers Grain Coop- Walton have already been accomplished through a brokerage agreement. The benefits of our brokerage agreement have reinforced the need to go forward and gain the benefits of logistics and arbitrage through joint licensing by formation of a Limited Liability Company.

Team Marketing Alliance, LLC., is owned by Mid Kansas Coop- Moundridge, Kansas, Coop Grain and Supply- Hillsboro, Kansas, Farmers Coop Elevator- Nickerson, Kansas, Farmers Coop Elevator- Halstead, Kansas and Farmers Grain Coop- Walton, Kansas for the **common mission of providing our producer owners a fair market for their grain products and protecting the value of their assets.** Team Marketing Alliance will operate all the elevators of these locals under an operating agreement to accomplish this mission. Having a combined warehouse license is the last step in bringing all these efficiencies together.

Four of the five companies owning Team Marketing Alliance are presently state-licensed facilities. It was a unanimous vote by all members to have Team Marketing Alliance become a state-licensed facility if at all possible. Team Marketing Alliance represents 25 million bushels of storage capacity in 38 elevators.

Today it is our understanding that due to state licensing laws only allowing a bond or physical asset to meet financial obligations, it will not be possible for Team Marketing Alliance to become state licensed. The problem comes in that Team Marketing Alliance operates the elevators through a lease arrangement and does not physically own the



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elevators. Under current state law our only choice to meet the financial obligation would be through a bond. In checking with the insurance industry a bond the size we need to meet these requirements is not available. Financial obligations are based on .25 cents per bushel, equaling \$6,348,000.

We at Team Marketing Alliance would appreciate a change in current state statutes to be consistent with federal warehouse laws. Federal warehouse laws currently allow the use of an irrevocable letter of credit in lieu of a bond. By making this change it will allow our company to continue to support and do business with Kansas Warehouse Division. Team Marketing Alliance has already secured a letter of credit in preparation for our April 1st starting date.

I will be happy to answer any questions.

Respectfully,

Ted Schultz

Grain Division Manager, Mid Kansas Coop

Testimony on HB 2973
House Agriculture Committee
February 16, 2000
Prepared by Joe Lieber
Kansas Cooperative Council

Mr. Chairman and members of the Committee, I'm Joe Lieber, Executive Vice President of the Kansas Cooperative Council. The Council has a membership of over 200 cooperative businesses who have a combined membership of nearly 200,000 Kansans. Approximately 130 of our members are farm supply cooperatives that handle grain.

The Council supports HB 2973. We feel the language on page 5, lines 31-40 will allow cooperatives and other organizations an opportunity to expand their business by allowing an irrevocable letter of credit instead of the bond requirements.

It is our understanding that if a warehouse is licensed under federal statutes they are allowed to do this. The passage of this language will allow many of our cooperatives to remain state licensed.

Thank you for your time and I will be happy to answer questions.

STATE OF KANSAS

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KANSAS DEPARTMENT OF AGRICULTURE

House Agriculture Committee

February 16, 2000

Testimony Regarding House Bill 2973

Jamie Clover Adams, Secretary of Agriculture

Good afternoon Chairman Johnson and members of the House Agriculture Committee. I am Jamie Clover Adams, Secretary of the Kansas Department of Agriculture. HB 2973 amends the current public grain warehouse statutes to allow licensed facilities to meet the requirements of financial responsibility with bonds or irrevocable letters of credit when necessary.

The current statutes allow only the use of a bond to meet these financial requirements. We are observing a variety of new partnerships and legal structures implemented by the grain warehouse licensees as they pursue new market opportunities for grain delivery infrastructure.

I believe you are aware that public grain warehouses may choose to license either with the federal government through the U.S. Department of Agriculture or with the Grain Warehouse Program of KDA. There are 281 locations in Kansas with federally licensed warehouses to store 485 million bushels, while the state program currently licenses 503 locations with 409 million bushels of storage capacity. Frequently, although not always, facilities will license with the federal government when they have locations in multiple states. Licensing fees may also determine which type of license is acquired.

Current federal provisions for financial protection of the depositors allow bonding and the use of irrevocable letters of credit for net worth differences. With new partnerships forming on a regular basis, we anticipate more requests from Kansas licensees to use the irrevocable letter of credit as an additional form of financial guarantee. Kansas statute, however, has never addressed

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Attachment 7

the use of an irrevocable letter of credit for state licensees, although the letter of credit brings more liquidity to the financial guarantee and that will protect the grain depositors of the warehouse. Because it is more costly than a bond, facilities will likely use it only when absolutely necessary.

State grain warehouse licensing programs compete with the federal government in attracting licensees to their system. To date, we have been somewhat successful with facilities in new partnerships electing to license with KDA rather than USDA. The flexibility added by HB 2973 provides another option to bring in, and keep, grain warehouses in the state system. If KDA is unable to license the current opportunity in central Kansas, the state program may lose four existing licenses to federal licenses. It is essential that we maintain, and increase, our pool of grain warehouse licensees if we are to maintain a viable — both economically and regulatory — state program in the future.

I would ask for one amendment to the current language in the bill. Other conferees have indicated the timeline the current applicant seeks for state licensing is by April 1, 2000. I would ask you to amend this bill to be effective upon publication in the Kansas Register, rather than the statute book as it now provides.

Thank you for your interest in this issue. I will be happy to answer any questions asked by the committee.

Sec. 1. K.S.A. 1999 Supp. 79-201j is hereby amended to read as follows: 79-201j. The following described property, to the extent specified by this section, shall be exempt from all property or ad valorem taxes levied under the laws of the state of Kansas:

(a) All farm machinery and equipment. The term "farm machinery and equipment" means that personal property actually and regularly used in any farming or ranching operation. The term "farm machinery and equipment" shall include machinery and equipment comprising a natural gas distribution system which is owned and operated by a nonprofit public utility described by K.S.A. 66-104c, and amendments thereto, and which is operated predominantly for the purpose of providing fuel for the irrigation of land devoted to agricultural use. The term "farming or ranching operation" shall include the operation of a feedlot and the performing of farm or ranch work for hire. The term "farm machinery and equipment" shall not include any passenger vehicle, truck, tractor, trailer, semitrailer or pole trailer, other than a farm trailer, as the terms are defined by K.S.A. 8-126 and amendments thereto.

The provisions of this subsection shall apply to all taxable years commencing after December 31, 1998.

(b) (1) All aquaculture machinery and equipment. The term "aquaculture machinery and equipment" means that personal property actually and regularly used in any aquaculture operation. The term "aquaculture operation" shall include the feeding out of aquatic plants and animals; breeding, growing or rearing aquatic plants and animals; and selling or transporting aquatic plants and animals. The term "aquaculture machinery and equipment" shall not include any passenger vehicle, truck, tractor, trailer, semitrailer or pole trailer.

(2) All Christmas tree machinery and equipment. The term "Christmas tree machinery and equipment" means that personal property

: (1)

; and (2) any greenhouse which is not permanently affixed to real estate and which is used for a farming or ranching operation

and the planting, cultivating and harvesting of nursery or greenhouse products, or both, for sale or resale

actually and regularly used in any Christmas tree operation. The term "Christmas tree operation" shall include the planting, cultivating and harvesting of Christmas trees; and selling or transporting Christmas trees. The term "Christmas tree machinery and equipment" shall not include any passenger vehicle, truck, truck tractor, trailer, semitrailer or pole trailer.

The provisions of this subsection shall apply to all taxable years commencing after December 31, 1992.