

Approved: 2-22-00
Date

MINUTES OF THE SENATE COMMITTEE ON AGRICULTURE.

The meeting was called to order by Chairperson Steve Morris at 10:00 a.m. on February 11, 2000, in Room 423-S of the Capitol.

All members were present except: Senator David Corbin (E)

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

Conferees appearing before the committee:

Tom Tunnell, Kansas Grain and Feed Association
Ted Schultz, Mid Kansas Coop
Joe Lieber, Executive Vice President, Kansas Cooperative Council
Jamie Clover Adams, Secretary, Kansas Department of Agriculture

Others attending: (See Attached)

Senator Umbarger made a motion to approve the minutes of the February 10, 2000 meeting as submitted. Senator Biggs seconded. The motion carried.

Hearing on: **SB 564 - concerning grain storage; relating to public warehouses**

Tom Tunnell, Kansas Grain and Feed Association, testified in support of **SB 564**, which would allow the use of an irrevocable letter of credit in lieu of a bond for a grain warehouse license. This language would mirror language in the United States Public Warehouse Act regarding the use of an irrevocable letter of credit (Attachment 1).

Ted Schultz, Mid Kansas Coop, testified in support of **SB 564**, stating that the change brought about by this bill would allow Team Marketing Alliance, LLC, which combines several coop grain divisions into one entity, to continue to support and do business with Kansas Warehouse Division (Attachment 2).

Joe Lieber, Executive Vice President, Kansas Cooperative Council, testified in support of **SB 564** inasmuch as it will allow cooperatives and other organizations an opportunity to expand their business by allowing an irrevocable letter of credit instead of the bond as is currently required (Attachment 3).

Jamie Clover Adams, Secretary, Kansas Department of Agriculture, testified in support of **SB 564** so that public grain warehouses may continue to license with the state of Kansas when they use an irrevocable letter of credit instead of a bond (Attachment 4). At the present time those warehouses using the irrevocable letter of credit would have to license with the U. S. Department of Agriculture.

Senator Huelskamp made a motion to postpone consideration of his motion to amend **HB 2527** until March 15, 2000 at which time his motion would be given first consideration. Senator Biggs seconded. The motion carried.

Senator Downey made a motion to pass favorably **SB 564** as amended by changing the effective date to the Kansas Register. Senator Umbarger seconded. The motion carried.

The next meeting will be February 14, 2000.

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**Statement of the
Kansas Grain and Feed Association**

regarding

Senate Bill 564

Presented to the

Senate Agriculture Committee

Senator Steve Morris, Chair

February 11, 2000

*Senate Agriculture
2-11-00
Attachment 1*

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



Chairman Morris and Members of the Senate Agriculture Committee, my name is Tom Tunnell, 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 Senate Bill 564 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 Senate Bill 564 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 Senate Bill 564:

- S.B. 564 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 S.B. 564 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 11, 2000

Respectably Chairman Steve Morrison and Members of Senate Ag Committee

Regards: S. B. 564 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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Attachment 2



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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 SB 564
Senate Agriculture Committee
February 11, 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 SB 564. 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 statues 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.

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Attachment 3

STATE OF KANSAS

BILL GRAVES, GOVERNOR
Jamie Clover Adams, Secretary of Agriculture
109 SW 9th Street
Topeka, Kansas 66612-1280
(785) 296-3558
FAX: (785) 296-8389



KANSAS DEPARTMENT OF AGRICULTURE

Senate Agriculture Committee

February 11, 2000

Testimony Regarding Senate Bill 564

Jamie Clover Adams, Secretary of Agriculture

Good morning Chairman Morris and members of the Senate Agriculture Committee. I am Jamie Clover Adams, Secretary of the Kansas Department of Agriculture. SB 564 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 4

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 SB 564 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.

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