

Approved: 2-18-00  
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 17, 2000, in Room 423-S of the Capitol.

All members were present except:

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

Conferees appearing before the committee:

Others attending: (See Attached)

A handout was distributed from Kansas Livestock Association expressing their serious concerns with **SB 494** (Attachment 1).

Discussion on:

**SB 534 - establishing a center of excellence on sustainable agriculture and alternative crops at Kansas State University**

Senator Umbarger made a motion on page 1 to strike lines 37 thru 39 and insert language allowing officials at Kansas State University to appoint a coordinator for the Center of Excellence and fund operating expenses of such coordinator, subject to appropriations. Senator Downey seconded. The motion carried.

Senator Clark made a motion to pass favorably as amended SB 534. Senator Umbarger seconded. Motion carried.

Discussion on:

**SB 494 - concerning livestock, enacting the competitive livestock markets act; prohibiting certain acts and prescribing certain penalties**

Senator Clark made a motion to amend SB 494 as proposed in the balloon (Attachment 2). Senator Biggs seconded. The motion carried.

Senator Huelskamp made a motion to amend subsections 2 and 3 in the same manner as subsection 1. Senator Tyson seconded. The motion carried.

Senator Umbarger made a motion to pass favorably as amended SB 494.

Senator Stephens made a substitute motion to table SB 494. Senator Umbarger seconded. The motion failed.

Senator Clark made a substitute motion to table SB 494 until Monday, February 21, 2000. Senator Biggs seconded. The motion carried.

Discussion on:

**SB 565 - concerning agriculture; enacting the Kansas agricultural production contract fair practices act; prescribing penalties for violations thereof.**

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON AGRICULTURE, Room 423-S of the Capitol, 10:00 a.m., on February 17, 2000.

Senator Clark provided information on proposed amendments to **SB 565** (Attachment 3).  
Senator Umbarger made a motion to table **SB 565**. Senator Stephens seconded. The motion carried.

Discussion on:

**SB 532** - concerning livestock; relating to electronic auctions

Senator Biggs made a motion to pass favorably **SB 532**. Senator Stephens seconded. Senator Biggs withdrew his motion and Senator Stephens concurred.

Senator Huelskamp made a motion to amend **SB 532** to lower the per head fee from \$.15 to \$.10 and include a per head fee on livestock sold outside of public livestock markets or electronic livestock auctions per balloon (Attachment 4). Senator Biggs seconded.

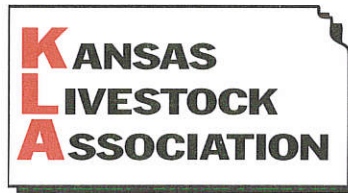
The meeting was adjourned.

The next meeting will be February 18, 2000.

# SENATE AGRICULTURE COMMITTEE GUEST LIST

DATE: 2-17-00

NAME	REPRESENTING
Bill Fuller	Kansas Farm Bureau
Joe Lieber	KS Co-op Council
MARY FUND	KS. RURAL CENTER
Paul Johnson	PACK
Dan Andrew	Self
Don Rezac	KCA
Donna Higgins	Extension
Denise Appel	Rush Co. Leadership
Shianne Morse	Rush Co. Leadership
Mike Jensen	Ks Pork Council
GEORGE TEAGARDEN	KAND
Rich McKee	KLA
John C. Botterby	KPA
SUE PETERSON	K-State
Chris Wilson	KAAA / KSHA
Charles Benjamin	KNRC / Sierra Club



*Since 1894*

February 8, 2000

Senator Steve Morris  
Chairman, Senate Agriculture Committee  
Room 143-N, State Capitol  
Topeka, Kansas 66612

Dear Senator Morris;

The Kansas Livestock Association would like to express our serious concerns with SB 494. We had hoped that the hearing Monday would clarify the language of the bill. In fact, the testimony gave us even more reason to question some of the provisions. Given the short time constraints, we elected not to raise drafting and constitutional issues during the hearing. We believe the language of the bill poses a significant threat to our members' businesses. If this bill is to receive serious consideration, we are asking that this bill be referred to the Judiciary Committee for further analysis of the legal issues involved. Below is an outline of some of our major concerns.

#### Definitions

There are numerous points in the bill where words are undefined or the definition of the word is so broad that it could encompass feedyards or various feeding operations and not just packers. It is critical that we clarify exactly who is covered by the act and who is eligible to bring a cause of action under the legislation.

For example, the definition of "packer" is outlined in Section 2 of the bill. On its face it appears to be the same definition as used in the federal Packers and Stockyards Act (PSA). However, the bill does not include any references to the regulations under the PSA, which define many of the terms of the PSA. Some may presume that the words would have the same meaning as those in the PSA, but without language to illustrate the intent of the legislature, this cannot be presumed. Here, we are also concerned that the words "person," "stockyard," and "custom feedlot" are not defined. Further, the definition of "packer" is so broad that it could include a custom feedlot that purchases cattle to feed and eventually slaughter. Clearly, custom feeding operations are not feeding the cattle for breeding or companionship. To avoid the unintended regulation of portions of the industry, the definitions need to be clarified to determine who is covered by the legislation. These matters should be resolved by the legislature and not be determined by a court

*Senate Agriculture*  
*2-17-00*  
*Attachment 1*

## Scope of the Legislation

The bill seeks to take the unlawful acts outlined in the PSA and make them state law. In doing so, the bill has not also provided the same procedural safeguards as the federal legislation. Further, the bill seeks to take the penalty provisions of antitrust law and apply them to violations of the unlawful acts. Again, the same threshold tests for making a claim under antitrust law are absent from this bill.

For example, section 3 (c) page 1 line 35 states, “apportionment has the tendency or effect of restraining commerce or of creating a monopoly”. Violations of this provision are subject to civil claims under section 4. This language is very broad and nowhere in antitrust law is “tendency” a threshold. Further, antitrust law requires economic injury greater than a “tendency” before subjecting violators to either criminal sanctions or civil claims. The PSA does contain this language. However, a violation of the federal law does not carry the risk of civil suits. The effect of merging PSA unlawful acts with antitrust penalties and unclear definitions has the effect of exposing numerous individual firms to civil litigation.

The provisions of Section 3 (f) and (g) also cause us great concern. Again, there is no definition of “person” in the legislation. Therefore, individuals contracting or conducting business with a packer could be accused of “conspiring....agreeing....arranging to apportion purchases or sales of articles”...Further, under section 3 (g) a party could be innocently contracting with a packer and find themselves in a situation that “aid(s) or abet(s) the doing of any act made unlawful...”. Again, the overbroad definitions or lack thereof, combined with the broad authority under the legislation could have the unintended affect of subjecting innocent cattle producers to criminal or civil litigation.

## Scope of Section 4

It is unclear to us who can bring an action against whom. A portion of the language of this section is included in the Packers and Stockyards Act. However, the procedural safeguards are not included. Also it is difficult to determine whether the bill is intended to include the perimeters of antitrust laws. Is the intent to allow class action lawsuits on behalf of direct and indirect purchasers? May a claim be brought outside of a finding of a violation by the Attorney General? Is it the intent of the bill to place these claims in the same category as antitrust laws? Are the parties jointly and severally liable? The scope of this section must be defined otherwise we will be continuously in court seeking to define the provisions. By clarifying this language business will be able to determine by law and by precedent exactly what the business environment in Kansas is. The current bill language will likely confuse the courts as to what the scope of this bill is.

## Procedural Safe Guards

Under the current federal law, the Secretary of Agriculture is given broad authorities and perimeters to investigate and bring a complaint. The federal law also outlines hearing and due process requirements to prosecute a claim. None of these protections are given under this bill. The bill gives the Attorney General the same broad sweeping powers as the federal act gives the Secretary of Agriculture but this bill does not place any of the checks on the Attorney General. What is the process? The federal law calls for an administrative hearing. Hearings are not even mentioned here. Does the district court have jurisdiction in this matter? When can a claim be brought by the Attorney General for a violation of the records keeping function? Clarifications are needed to assist the regulated community to know what is expected to comply with the law.

In short, the bill fails to define the procedural safeguards of a hearing and due process considerations currently in the Packers and Stockyards Act. The bill also fails to define the scope of the claims as is done in the antitrust laws.

## Other issues

Federal law may preempt this body of law. Given the pervasiveness of the language of the Packers and Stockyards Act, a simple reading of the law draws this conclusion. While there is no specific citation to preemption under the federal law, case law recognizes preemption when the federal government has pervasively entered an area.

This bill, if enacted, may violate the dormant provisions of the Commerce Clause. In other words, the federal government used the interstate commerce clause as a justification for regulating the area; the state should be precluded from regulating this area as a violation of the commerce clause.

Senator, we respectfully suggest referring this bill to the Judiciary Committee for further clarification and analysis. These issues are complex and critical to our members' businesses. Review of this legislation by the Judiciary Committee would only be prudent.

If you have questions or comments, please do not hesitate to contact me. Thank you for your time and consideration.

Sincerely,



Allie Devine

SENATE BILL No. 494

By Committee on Agriculture

1-27

Senator Clark  
Proposed Amendments  
2/17/00

*Senate Agriculture  
2-17-00  
Attachment 2*

9 AN ACT concerning livestock; enacting the competitive livestock mar-  
10 kets act; prohibiting certain acts and prescribing certain penalties.  
11

12 *Be it enacted by the Legislature of the State of Kansas:*

13 Section 1. The provisions of this act shall be known and may be cited  
14 as the competitive livestock markets act.

15 Sec. 2. As used in sections 1 through 6, and amendments thereto:

16 (a) "Packer" means any person engaged in the business of buying  
17 more than 5,000 animal units of livestock per year in commerce for pur-  
18 pose of slaughter;

19 (b) "Animal units" means the same as prescribed by K.S.A. 65-171d,  
20 and amendments thereto.

21 Sec. 3. It shall be unlawful for any packer with respect to livestock,  
22 meats, meat products, livestock products in unmanufactured form ~~for~~  
23 ~~any live poultry dealer with respect to live poultry~~ to:

24 (a) Engage in or use any unfair, unjustly discriminatory or deceptive  
25 practice or device;

26 (b) make or give any undue or unreasonable preference or advantage  
27 to any particular person or locality in any respect whatsoever, or subject  
28 any particular person or locality to any unreasonable prejudice or disad-  
29 vantage in any respect whatsoever;

30 (c) sell or otherwise transfer to or for any other packer ~~or any live~~  
31 ~~poultry dealer~~ or buy or otherwise receive from or for any other packer  
32 ~~or any live poultry dealer~~ any article for the purpose or with the effect  
33 of apportioning the supply between any such persons if such apportion-  
34 ment has the tendency or effect of restraining commerce or of creating  
35 a monopoly;

36 (d) sell or otherwise transfer to or for any other person, or buy or  
37 otherwise receive from or for any other person, any article for the purpose  
38 or with the effect of manipulating or controlling prices, or of creating a  
39 monopoly in the acquisition of buying, selling or dealing in any article, or  
40 of restraining commerce;

41 (e) engage in any course of business or do any act for the purpose or  
42 with the effect of manipulating or controlling prices, or of creating a  
43 monopoly in the acquisition of buying, selling, dealing in any article or of

(1)

;  
(2) Manufacturing or preparing meats or meat food products for sale or shipment in commerce; or  
(3) marketing meats, meat food products or livestock products in an unmanufactured form acting as a wholesale broker, dealer or distributor in commerce

1 restraining commerce;

2 (f) conspire, combine, agree or arrange with any other person to ap-  
3 portion territory for carrying on business, to apportion purchases or sales  
4 of any article or to manipulate or control prices; or

5 (g) conspire, combine, agree or arrange with any other person to do,  
6 or aid or abet the doing of any act made unlawful by subsections (a), (b),  
7 (c), (d) or (e).

8 Sec. 4. ~~If any person subject to this act violates any of the provisions  
9 of this act, relating to the purchase, sale or handling of livestock, the  
10 purchase or sale of poultry or relating to any poultry growing arrange-  
11 ment, in consequence shall be liable to the person or persons injured by  
12 such violation for full amount of damages sustained such person of such  
13 violation.~~

See Attached

14 Sec. 5. Every packer ~~any live poultry dealer, stockyard owner, mar-  
15 ket agency and dealer~~ shall keep such accounts, records and memoranda  
16 to fully and correctly disclose all transactions involved in such person's  
17 business, including the true ownership of such business by stockholding  
18 or otherwise. Whenever the attorney general finds that the accounts, re-  
19 cords and memoranda of such person do not fully and correctly disclose  
20 all transactions involved in such person's business, the attorney general  
21 may prescribe the manner and form in which such accounts, records and  
22 memoranda shall be kept. Any such person who fails to keep such ac-  
23 counts, records and memoranda in the manner and form prescribed or  
24 approved by the attorney general is guilty of a nonperson misdemeanor  
25 and shall be subject to a fine of not more than \$5,000 or imprisoned not  
26 more than three years, or both.

27 Sec. 6. The attorney general shall be responsible for enforcement of  
28 this act and shall promulgate such rules and regulations and make orders  
29 as may be necessary to carry out the provisions of this act. The attorney  
30 general, to carry out the provisions of this act, may cooperate with any  
31 state department, agency or any local municipality and any department  
32 or agency of the federal government and state, territory, district or pos-  
33 session or department or agency or political subdivision thereof or any  
34 person.

35 Sec. 7. This act shall take effect and be in force from and after its  
36 publication in the statute book.



Sec. 4. (a) The attorney general or any county or district attorney may bring an action:

- (1) To obtain a declaratory judgment that an act or practice violates this act;
- (2) to enjoin, or to obtain a restraining order against a packer who has violated, is violating or is otherwise likely to violate this act; or
- (3) to recover damages on behalf of a person by reason of violations of this act; and
- (4) to recover reasonable expenses and investigation fees.

(b) In lieu of instigating or continuing an action or proceeding, the attorney general may accept a consent judgment with respect to any act or practice declared to be a violation of this act. Such a consent judgment shall provide for the discontinuance by the packer of any act or practice declared to be a violation of this act, and it may include a stipulation for the payment by such packer of reasonable expenses and investigation fees incurred by the attorney general. Any consent judgment entered into pursuant to this section shall not be deemed to admit the violation, unless it does so by its terms. Before any consent judgment entered into pursuant to this section shall be effective, it must be approved by the district court and an entry made thereof in the manner required for making an entry of judgment. Once such approval is received, any breach of the conditions of such consent judgment shall be treated as a violation of a court order, and shall be subject to all the penalties provided by law therefor.

(c) In any action brought by the attorney general or the county or district attorney, the court may, without requiring bond of the attorney general or the county or district attorney;

- (1) Make such orders of judgments as may be necessary to prevent the use or employment by a packer of any practices declared to be a violation of this act;
- (2) make such orders or judgments as may be necessary to compensate any person for damages sustained;
- (3) revoke any license or certificate authorizing that packer to engage in business in this state;
- (4) issue a temporary restraining order or enjoin any packer from engaging in business in this state;
- (5) award reasonable expenses and investigation fees, civil penalties and costs; and
- (6) grant other appropriate relief.

Sec. 5. (a) Whether a person seeks or is entitled to damages or otherwise has an adequate remedy at law or in equity, a person aggrieved by an alleged violation of this act may bring an action to:

(1) Obtain a declaratory judgment that an act or practice violates this act;  
or

(2) enjoin or obtain a restraining order against a packer who has violated, is violating or is likely to violate this act.

(b) A person who suffers loss as a result of a violation of this act may bring an individual or a class action for the damages caused by any violation of this act together with reasonable attorney fees.

Renumber remaining sections accordingly.

# SENATE BILL No. 565

By Committee on Agriculture

2-3

Senator Clark  
Proposed Amendment  
2/17/00

*Senate Agriculture  
2-17-00  
Attachment 3*

9 AN ACT concerning agriculture; enacting the Kansas agricultural pro-  
10 duction contract fair practices act; prescribing penalties for violations  
11 thereof.  
12

13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. The provisions of this act shall be known and may be cited  
15 as the Kansas agricultural production contract fair practices act.

16 Sec. 2. As used in this act: (a) ~~“Agricultural commodities” means a~~  
17 ~~material produced for use in or as food, feed, seed or fiber and includes~~  
18 ~~crops for fiber, food, oilseeds, seeds, livestock, livestock products, poultry,~~  
19 ~~poultry products or by-products of the farm for the same or similar use;~~

20 (b) “integrator” means a ~~person who in the ordinary course of busi-~~  
21 ~~ness buys agricultural commodities grown or raised in this state or who~~  
22 ~~contracts with a producer to grow or raise agricultural commodities in~~  
23 ~~this state;~~

24 (c) “person” means any individual, partnership, association or cor-  
25 poration or any organized group of persons, whether incorporated or not,  
26 or family farm corporation, authorized farm corporation, limited liability  
27 agricultural company, limited agricultural partnership, family trust, au-  
28 thorized trust or testamentary trust, all as defined in K.S.A. 17-5903 and  
29 amendments thereto, or an agent or employee of such person;

30 (d) “producer” means a person who produces or causes to be pro-  
31 ~~duced agricultural commodities~~ by contracting with an integrator to pro-  
32 ~~vide management, labor, machinery, facilities or any other production~~  
33 ~~input for the production of agricultural commodities, and~~

34 (e) ~~“secretary” means the secretary of agriculture;~~

35 Sec. 3. (a) No integrator shall engage in any deceptive act or practice  
36 as defined in this act in connection with any agricultural production con-  
37 tract involving ~~agricultural commodities~~.

38 (b) Deceptive acts and practices, include, but are not limited to the  
39 following, each of which is declared to be a violation of this act:

40 (1) Using coercion, intimidation, the threat of retaliation or the threat  
41 of contract termination, cancellation or nonrenewal to impose, demand,  
42 compel or dictate the terms, payment or manner of payment or the sign-  
43 ing of a contract by a producer;

“Farm products” shall have the meaning ascribed to such term under  
K.S.A. 84-9-109, and amendments thereto;

processor

farm products

“processor” means a person, which alone or in conjunction with others,  
directly or indirectly, controls the manufacturing, processing or  
preparation for sale of farm products having a total annual wholesale value  
of \$20,000,000 or more. Any person with a 10% or greater interest in  
another person involved in the manufacturing, processing or preparation  
for sale of farm products having a total annual wholesale value of  
\$20,000,000 or more shall also be considered a processor. The term  
“processor” shall not include collective bargaining units or farmer-owned  
cooperatives.

farm products

1 (2) using coercion, intimidation, the threat of retaliation or the threat  
2 of contract termination, cancellation or nonrenewal in order to require  
3 the producer to make capital improvements such as ~~Buildings~~ or facilities  
4 equipment;

5 (3) for the integrator to interfere with, restrain or coerce producers  
6 in the exercise of their rights to join, form and assist associations of  
7 producers;

8 (4) subject to the provisions of section 4, and amendments thereto,  
9 for an integrator to terminate, cancel or fail to renew a contract with a  
10 producer as long as the producer is financially obligated for an investment  
11 in ~~Buildings~~ and equipment which was made to meet the minimum facilities  
12 requirements of the contract;

13 (5) for an integrator to refuse to provide to the producer upon request  
14 the statistical information and data used to determine compensation paid  
15 to the producer for settlement. This statistical information and data in-  
16 cludes, but is not limited to, feed conversion rates, feed analyses, averages  
17 of other growers, origination and breeder history;

18 (6) for the integrator to refuse to allow a producer or the producer's  
19 designated representative to observe, by actual observation at the time of  
20 weighing, the weights and measures used to determine the producer's  
21 compensation at settlement; and

22 (7) for an integrator to use the performance of any other producer  
23 to determine the settlement of a producer.

24 (c) Unfair trade practices also include those practices prohibited by  
25 the perishable agricultural commodities act, 7 U.S.C. §§ 499a-499s and  
26 the rules promulgated thereunder at 7 C.F.R. part 46, and those practices  
27 prohibited by the packers and stockyards act, 7 U.S.C. § 181 *et seq.*, and  
28 the rules promulgated thereunder at 7 C.F.R. part 201 *et seq.*, all as in  
29 effect on July 1, 2000.

30 (d) If federal and state regulation are identical, federal jurisdiction  
31 and enforcement control unless the federal authority decides not to en-  
32 force the regulation.

33 Sec. 4. (a) An integrator shall not terminate, cancel or fail to renew  
34 a contract that required a producer to make a capital investment secured  
35 by financing statement, promissory note, deed of trust or otherwise in facilities  
36 ~~Buildings~~ or equipment that cost \$25,000 or more and have a useful life  
37 of five or more years until: (1) The producer has been given written notice  
38 of the intention to terminate, cancel or not renew the contract at least 90  
39 ~~90~~ days before the effective date of the termination, cancellation or  
40 nonrenewal, or as provided in subsection (c); and facilities

41 (2) the producer has been reimbursed for damages incurred by an  
42 investment in ~~Buildings~~ or equipment that was made for the purpose of  
43 meeting minimum requirements of the contract. Damages shall be based upon the debt remaining on the facilities and  
equipment.

3-3

1 (b) Except as provided in subsection (c), if a producer fails to mate-  
 2 rially comply with the provisions of a contract that require a capital in-  
 3 vestment subject to subsection (a), an integrator may not terminate, can-  
 4 cel or fail to renew that contract until: (1) The integrator has given written  
 5 notice specifying the reasons for the termination, cancellation or nonre-  
 6 newal at least ~~60~~ days before termination, cancellation or nonrenewal, or  
 7 as provided in subsection (c); and 45

8 (2) the producer, as recipient of the notice, fails to correct the reasons  
 9 stated for termination, cancellation or nonrenewal in the notice within ~~60~~  
 10 days of receipt of the notice. 30

11 (c) The ~~180~~ day notice period under subsection (a)(1), the ~~90~~ day  
 12 notice period under subsection (b)(1) and the ~~90~~ day notice period under  
 13 subsection (b)(2), are waived and the contract may be canceled, termi-  
 14 nated or not renewed immediately if the alleged grounds for termination,  
 15 cancellation or nonrenewal are: (1) Voluntary abandonment of the con-  
 16 tract relationship by the producer; or 90  
 17 (2) conviction of the producer of an offense directly related to the 45  
 18 business conducted under the contract. 30

19 (d) An integrator may terminate a contract if the integrator secures  
 20 a bond or irrevocable letter of credit in a sufficient amount to cover the  
 21 probable claim if the damages the producer is entitled to under subsec-  
 22 tion (a) have not been received within ~~180~~ days after notice of the intent 90  
 23 to terminate, cancel or not renew has been received by the producer.

24 (e) If the ~~180~~ day or ~~90~~ day notice periods expire before the end of 90  
 25 a production cycle, the contract will not terminate until the end of that  
 26 production cycle, unless the producer agrees to such termination. 45

27 (f) If the integrator terminates, cancels or fails to renew a contract  
 28 other than as provided above, the integrator shall assume the outstanding  
 29 financial obligations and liabilities of the producer and shall pay the pro-  
 30 ducer fair market value for equity, if any, in the ~~buildings~~ and equipment facilities  
 31 which were acquired as minimum requirements under the contract. All  
 32 ~~buildings~~ and equipment which accrue to the integrator pursuant to this facilities  
 33 subsection must be removed from the producer's premises within 90 days  
 34 of the date of termination, cancellation or nonrenewal.

35 (g) Notice shall be effective upon receipt by the producer.

36 Sec. 5. (a) In all contracts between integrators and producers, there  
 37 is an implied promise of good faith as defined in subsection (19) of K.S.A.  
 38 84-1-201, and amendments thereto, by all parties.

39 (b) In all contracts between integrators and producers, there is an  
 40 implied producer's right to refuse any livestock when delivered if such  
 41 livestock are in less than normal condition.

42 Sec. 6. (a) The integrator shall agree to meet and confer with the  
 43 producer or the producer's authorized representative at a time and place

1 mutually agreeable to the parties to discuss concerns of the producer.

2 (b) The integrator shall provide a 60-day written notice of intent to  
3 modify terms or conditions of the contract to the producer. The written  
4 notice shall state the proposed changes to the contract. Notice shall be  
5 effective upon receipt by the producer.

6 Sec. 7. (a) If an integrator is required to obtain a license to purchase  
7 agricultural products, the licensing authority shall require the parent com-  
8 pany of a licensee subsidiary to guarantee payment or contract perform-  
9 ance as a condition of licensing.

10 (b) If an integrator is the subsidiary of another corporation, partner-  
11 ship or association, the parent corporation, partnership or association shall  
12 be liable to a producer for the amount of any unpaid claim or contract  
13 performance claim if the integrator fails to pay or perform according to  
14 the terms of the contract or the provisions of this act.

15 Sec. 8. The integrator shall reimburse the producer for the costs in-  
16 curred by the producer for disposal of dead livestock.

17 Sec. 9. The costs of compliance with any state or federal laws or  
18 regulations regarding environmental standards shall be shared equally by  
19 the integrator and the producer.

20 Sec. 10. (a) A contract for the production of agricultural products  
21 between an integrator and a producer shall contain language providing  
22 for resolution of contract disputes by either mediation or arbitration serv-  
23 ices as specified in the contract to facilitate resolution of disputes.

24 (b) Contracts executed prior to the effective date of this act shall  
25 contain an implied provision that all contract disputes shall be submitted  
26 to mediation or arbitration for dispute resolution.

27 (c) Where a contract for the production of agricultural products be-  
28 tween an integrator and a producer containing language providing for  
29 mediation of matters that are in dispute and mediation does not resolve  
30 the dispute, either the integrator or the producer may request that the  
31 matter be submitted to arbitration.

32 (d) All mediation proceedings held pursuant to this act shall follow  
33 the procedures set forth in K.S.A. 5-501 *et seq.*, and amendments thereto.  
34 All arbitration proceedings held pursuant to this act shall follow the pro-  
35 cedures set forth in K.S.A. 5-201 *et seq.*, and amendments thereto.

36 (e) Neither the mediator nor the arbitrator shall be an employee or  
37 agent of the producer, the integrator or the intergrator's subsidiaries or  
38 parent company.

39 (f) If the parties cannot agree upon a mediator or arbitrator, either  
40 party may make a written request to the secretary of agriculture for me-  
41 diation or arbitration services to facilitate resolution of the dispute.]

42 Sec. 11. (a) Notwithstanding the existence or pursuit of any other  
43 remedy at law, any integrator violating the provisions of this act ~~or any~~

[Renumber remaining sections accordingly]

3-#5

1 ~~rules and regulations promulgated pursuant to this act~~ shall be guilty of  
2 a nonperson misdemeanor and shall be fined not less than \$200 nor more  
3 than ~~\$1,000~~ or be imprisoned for not more than 60 days, or both, in the  
4 discretion of the court.

\$10,000

5 ~~(b) In addition to the authority in subsection (a), the court, in its~~  
6 ~~discretion, may suspend the integrator's license to operate in this state~~  
7 ~~for a period not to exceed 30 days or the court may revoke the integrator's~~  
8 ~~license.~~

9 (c) In an action to recover damages or for injunctive relief, if the court  
10 finds that there has been a violation of this act, the court may award up  
11 to three times the amount of such damages. Court costs and attorney fees  
12 may be recovered by the producer.

13 ~~Sec. 12. Notwithstanding the existence or pursuit of any other rem-~~  
14 ~~edy, a person, in the manner provided by law, may maintain an action for~~  
15 ~~injunctive relief or other process to prevent violations of this act.~~

See attached

16 Sec. 13. (a) A producer of agricultural products shall have a pro-  
17 ducer's lien for the unpaid contract or, if there is no contract, the fair  
18 market value of the agricultural product produced and delivered to an  
19 integrator.

Renumber remaining sections accordingly

20 (b) The lien attaches to the agricultural products and proceeds  
21 thereof as well as to all tangible or intangible assets of the integrator. If  
22 the agricultural product becomes commingled with other agricultural  
23 products, the lien continues in the proportionate share of the other ag-  
24 ricultural products. If the agricultural products become manufactured or  
25 processed to become a part of another product, the lien continues and  
26 attaches to the product manufactured or processed.

27 (c) The lien claimed by the producer is perfected without filing a  
28 statement of nonpayment from the time that the agricultural product is  
29 delivered to the integrator until 30 days after delivery.

30 (d) The producer shall file a statement of nonpayment in the office  
31 of the clerk of the district court for the county of the integrator's principal  
32 place of business. If the integrator is not a resident of the state, a filing  
33 must be made with the clerk of the district court for the county in which  
34 the integrator's registered office is located. The clerk shall enter the claim  
35 of lien in the same manner as in the case of other financing statements  
36 provided for under the uniform commercial code and index the same  
37 under the name of the integrator at the time the claim is filed.

38 (e) A statement of nonpayment must be in writing and notarized by  
39 the producer and must contain: (1) The name and address of the inte-  
40 grator to whom the agricultural products were delivered;

41 (2) a statement of the amount due to the producer after deducting  
42 applicable credits and offsets;

43 (3) a description sufficient to identify the agricultural product deliv

Sec. 8. (a) The attorney general or any county or district attorney may bring an action:

- (1) To obtain a declaratory judgment that an act or practice violates this act;
- (2) to enjoin, or to obtain a restraining order against an integrator who has violated, is violating or is otherwise likely to violate this act; or
- (3) to recover damages on behalf of a producer by reason of violations of this act; and
- (4) to recover reasonable expenses and investigation fees.

(b) In lieu of instigating or continuing an action or proceeding, the attorney general may accept a consent judgment with respect to any act or practice declared to be a violation of this act. Such a consent judgment shall provide for the discontinuance by the integrator of any act or practice declared to be a violation of this act, and it may include a stipulation for the payment by such integrator of reasonable expenses and investigation fees incurred by the attorney general. Any consent judgment entered into pursuant to this section shall not be deemed to admit the violation, unless it does so by its terms. Before any consent judgment entered into pursuant to this section shall be effective, it must be approved by the district court and an entry made thereof in the manner required for making an entry of judgment. Once such approval is received, any breach of the conditions of such consent judgment shall be treated as a violation of a court order, and shall be subject to all the penalties provided by law therefor.

(c) In any action brought by the attorney general or the county or district attorney, the court may, without requiring bond of the attorney general or the county or district attorney;

- (1) Make such orders of judgments as may be necessary to prevent the use or employment by an integrator of any practices declared to be a violation of this act;
- (2) make such orders or judgments as may be necessary to compensate any producer for damages sustained;
- (3) revoke any license or certificate authorizing that integrator to engage in business in this state;
- (4) issue a temporary restraining order or enjoin any integrator from engaging in business in this state;



- (5) award reasonable expenses and investigation fees, civil penalties and costs; and
- (6) grant other appropriate relief.

Sec. 9. (a) Whether a producer seeks or is entitled to damages or otherwise has an adequate remedy at law or in equity, a producer aggrieved by an alleged violation of this act may bring an action to:

- (1) Obtain a declaratory judgment that an act or practice violates this act;  
or
  - (2) enjoin or obtain a restraining order against an integrator who has violated, is violating or is likely to violate this act.
- (b) A producer who suffers loss as a result of a violation of this act may bring an individual or a class action for the damages caused by any violation of this act together with reasonable attorney fees.

Renumber remaining sections accordingly.

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LSE

1 ered and subject to the lien;

2 (4) the date and location to which the agricultural product was deliv-  
3 ered; and

4 (5) the date on which payment was due.

5 The producer shall furnish a copy of the statement of nonpayment as  
6 provided by this subsection to the integrator, which shall constitute a  
7 notice of claim of lien. The notice shall be served personally or by certified  
8 mail to the integrator at the place of business where the producer has  
9 conducted business with the integrator. The lien granted by this section  
10 shall be effective as of the time it is filed with the clerk of the district  
11 court. The integrator shall have the right to contest the validity of such  
12 lien by filing, with the clerk of the district court and serving on the pro-  
13 ducer within 10 days after the integrator receives notice that the producer  
14 has filed a claim of lien, a notice that the integrator contests the amount  
15 due. In the event the integrator fails to contest the lien or is unsuccessful  
16 in obtaining a discharge of the lien, the lien shall be perfected as of the  
17 date of filing with the clerk of the district court.

18 (f) A producer's lien has priority over all other liens and encum-  
19 brances in: (1) The agricultural products;

20 (2) the proceeds from the agricultural products;

21 (3) the proportionate share of the agricultural products with which  
22 the agricultural products have been commingled;

23 (4) the products manufactured or processed with the agricultural  
24 products; and

25 (5) the integrator's tangible and intangible assets.

26 A producer's lien that is continuously perfected from the time of de-  
27 livery has priority over other liens and encumbrances whether they are  
28 filed before or after the producer's lien. A producer's lien that is filed  
29 after 30 days after delivery of the agricultural products has priority in the  
30 order that it is filed. Priority among perfected producer's liens is accord-  
31 ing to the first lien filed. A producer's lien that is not filed has the priority  
32 of an unperfected security interest under the uniform commercial code.

33 (g) The lien created by this section may be discharged in any of the  
34 following manners: (1) By filing with the clerk of the district court a  
35 notarized statement by the producer that the lien has been satisfied; or

36 (2) by depositing with the clerk of the district court money equal to  
37 the amount of the claim, which money shall be held for the benefit of  
38 the producer; or

39 (3) by an entry in the lien docket that the action on the part of the  
40 lien claimant to enforce the lien has been dismissed.

41 A producer must remove a lien statement from the filing system after  
42 the lien is satisfied. If the producer does not remove the lien statement,  
43 the clerk of the district court shall remove the lien statement upon request

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1 of an affected party who has furnished proof that the lien has been  
2 terminated.

3 (h) An action to enforce the lien created by this section may be in-  
4 stituted within 120 days of the date that payment is due in any court of  
5 competent jurisdiction in the county where the lien was filed or where  
6 the property to which the lien attaches is located or the county where the  
7 agricultural products was originally delivered. The court, in its discretion,  
8 shall award costs including attorney fees to the prevailing party. Nothing  
9 in this section shall preclude the parties from mediating or arbitrating the  
10 claim of nonpayment at any time before or after a lien statement has been  
11 filed.

12 Sec. 14. (a) An association seeking accreditation to bargain for con-  
13 tract producers of agricultural products or services shall submit to the  
14 secretary of agriculture a petition for accreditation.

15 (b) The petition shall: (1) Specify the agricultural products or services  
16 for the contract producers of which the association seeks accreditation to  
17 bargain;

18 (2) designate the integrators, individually or by production or mar-  
19 keting area or by some other appropriate classification, with whom the  
20 association shall be accredited to bargain; and

21 (3) contain such other information and documents as may be re-  
22 quired by the secretary.

23 (c) (1) Upon receiving the petition and any supporting material, the  
24 secretary shall give notice of the petition to all designated integrators as  
25 follows: (A) Integrators who have been designated individually shall re-  
26 ceive personal notice, and

27 (B) intergrators who have been designated by production or market-  
28 ing area or by some other general classification shall be given notice  
29 through publication in a legal newspaper that has countywide distribution  
30 within that area.

31 (2) The secretary shall accredit such association if, based upon the  
32 evidence submitted, the secretary finds that: (A) Under the charter doc-  
33 uments or bylaws of the association, it is owned by contract producers  
34 and meets the requirement of the Capper-Volstead act, 7 U.S.C. § 291-  
35 2;

36 (B) the association has submitted a copy of its bylaws which provide:  
37 (i) That each member of the association shall have one vote in all votes  
38 of the membership of the association;

39 (ii) that officers and directors shall be elected by a majority of the  
40 members voting or by delegates representing a majority of the member-  
41 ship; and

42 (iii) that all elections shall be by secret ballot;

43 (C) the association has contracts that are binding under Kansas law

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[Signature]

1 with its members empowering the association to sell or negotiate terms  
2 of sale of the products or services of its members;

3 (D) the association represents a sufficient number of contract pro-  
4 ducers or that its members produce a sufficient quantity of agricultural  
5 products or services to enable it to function as an effective agent for  
6 contract producers in bargaining with the designated integrators. In mak-  
7 ing this finding, the secretary shall exclude any quantity of the products  
8 or services contracted by contract producers with contract producer  
9 owned and controlled processing cooperatives and any quantity of such  
10 products or services produced by integrators; and

11 (E) the association has as one of its functions acting as principal or  
12 agent for its members in negotiations with integrators for prices and other  
13 items of trade with respect to the production, sale and marketing of their  
14 products or services.

15 (d) (1) The secretary shall give notice within 60 days of the filing  
16 date of the petition for accreditation by an association whether the as-  
17 sociation shall be accredited. If the secretary determines that insufficient  
18 evidence was filed by the association, the secretary may permit the as-  
19 sociation to file an amended request. The secretary shall then determine,  
20 within 30 days of filing the amended petition, whether the association  
21 shall be accredited.

22 (2) An association which is denied accreditation after filing of an  
23 amended request may not file another request for accreditation for a  
24 period of one year.

25 (3) Within 30 days of a decision by the secretary denying accreditation  
26 to an association, the association may request a hearing before the sec-  
27 retary. The secretary shall then conduct a hearing to determine whether  
28 the association shall be accredited. This hearing and any appeal shall be  
29 governed by the provisions of the Kansas administrative procedures act.

30 (e) If the secretary believes that an accredited association has ceased  
31 to meet the standards for accreditation set forth in this section, the sec-  
32 retary shall notify the association of the respects in which the secretary  
33 believes it has ceased to maintain such standards and allow it a reasonable  
34 time to answer or to correct the deficiencies noted. Thereafter, if the  
35 secretary is not satisfied that the association is then in compliance with  
36 this section, the secretary shall notify the association and hold a hearing  
37 to consider the revocation of accreditation. If, based upon the evidence  
38 submitted at the hearing, the secretary finds that the association has  
39 ceased to maintain the standards for accreditation, the secretary shall  
40 revoke the accreditation of such association.

41 (f) The secretary may amend the order of accreditation only with  
42 respect to the products or services specified in such order. The secretary  
43 shall give notice of any proposed amendment and the reasons therefor to

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~~3-11~~

1 ~~[all accredited associations and integrators that would be directly affected~~  
2 ~~thereby and shall provide an opportunity for a public hearing. Thereafter,~~  
3 ~~the secretary may amend the order if the secretary finds such amendment~~  
4 ~~will be conducive to more effective bargaining and orderly marketing by~~  
5 ~~the accredited association of the products or services of its members.~~

6 Sec. 15. ~~The secretary of agriculture may promulgate rules and reg-~~  
7 ~~ulations to implement the provisions of this act.]~~

8 Sec. 16. This act shall take effect and be in force from and after its  
9 publication in the statute book.

[Renumber remaining section accordingly

## SENATE BILL No. 532

By Committee on Agriculture

2-1

Senator Huelskamp  
Proposed Amendment  
2/15/00

*Senate Agriculture*  
*2-17-00*  
*Attachment 4*

9 AN ACT concerning livestock; relating to electronic auctions; amending  
10 K.S.A. 47-1001e and 47-1011 and K.S.A. 1999 Supp. 47-1001 and 47-  
11 1008 and repealing the existing sections.  
12

13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. K.S.A. 1999 Supp. 47-1001 is hereby amended to read as  
15 follows: 47-1001. As used in this act, except where the context clearly  
16 indicates a different meaning:

17 (a) "Commissioner" means the livestock commissioner of the state of  
18 Kansas.

19 (b) "Livestock" means and includes cattle, swine, sheep, goats,  
20 horses, mules, domesticated deer, all creatures of the ratite family that  
21 are not indigenous to this state, including but not limited to ostriches,  
22 emus and rheas, and any other animal as deemed necessary by the com-  
23 missioner established through rules and regulations.

24 (c) "Person" means and includes any individual, partnership, corpo-  
25 ration or association.

26 (d) "Producer" means any person engaged in the business of breed-  
27 ing, grazing or feeding livestock.

28 (e) "Consignor" means any person who ships or delivers to any public  
29 livestock market livestock for handling, sale or resale at a public livestock  
30 market.

31 (f) "Public livestock market" means any place, establishment or fa-  
32 cility commonly known as a "livestock market," "livestock auction mar-  
33 ket," "sales ring," "stockyard," "community sale" as such term is used in  
34 article 10 of chapter 47 of the Kansas Statutes Annotated, which includes  
35 any business conducted or operated for compensation or profit as a public  
36 market for livestock, consisting of pens, or other enclosures, and their  
37 appurtenances, in which livestock are received, held, sold or kept for sale  
38 or shipment except that this term shall not apply to any livestock market  
39 where federal veterinary inspection is regularly maintained.

40 (g) "Public livestock market operator" means any person who, in this  
41 state, receives on consignment, or solicits from the producer or consignor  
42 thereof, or holds in trust or custody for another, any livestock for sale or  
43 exchange, on behalf of such producer or consignor at a public livestock

1 market, or sells, or offer for sale, at a public livestock market, for the  
2 account of the producer or consignor thereof, any livestock or directly or  
3 indirectly owns, conducts or operates a public livestock market. The term  
4 "public livestock market operator" shall not be construed to include any  
5 packer or agent of a packer who receives or purchases livestock for  
6 prompt slaughter.

7 (h) "Packer" means any person engaged in the business of buying  
8 livestock for purposes of slaughter, or of manufacturing or preparing  
9 meats or meat food products for sale or shipment, or of manufacturing  
10 or preparing livestock products for sale or shipment, or of marketing  
11 meats, meat food products, livestock products, dairy products, poultry or  
12 poultry products.

13 (i) "Board" means any three members of the Kansas animal health  
14 board designated by the chairperson of the Kansas animal health board  
15 for each particular hearing. The chairperson may be included in such  
16 designation.

17 (j) "Dealer" as used in article 10 of chapter 47 of the Kansas Statutes  
18 Annotated, to which this act is amendatory and supplemental, shall have  
19 the same meaning as the term "public livestock market operator."

20 (k) "Domesticated deer" means any member of the family cervidae  
21 which was legally obtained and is being sold or raised in a confined area  
22 for breeding stock; for any carcass, skin or part of such animal; for exhi-  
23 bition; or for companionship.

24 (l) "Occasional livestock sale" means livestock auctions or sales, that  
25 receive on consignment, or solicits from the producer or consignor  
26 thereof, or holds in trust or custody for another, any livestock for sale or  
27 exchange, on behalf of such producer or consignor at such auction or sale,  
28 or sells, or offers for sale, at such auction or sale, for the account of the  
29 producer or consignor thereof, any livestock or directly or indirectly owns,  
30 conducts or operates such auction or sale and such auctions or sales are  
31 held 12 or less times per year.

32 (m) *"Electronic auction" means a live audio-visual broadcast of an*  
33 *actual auction where livestock are offered for sale and shall include auc-*  
34 *tions conducted by satellite communications and over the internet.*

35 Sec. 2. K.S.A. 47-1001e is hereby amended to read as follows: 47-  
36 1001e. (a) Each livestock market operator shall pay annually, on or before  
37 June 30, a renewal market license fee in an amount set by the Kansas  
38 animal health board and adopted by rules and regulations of the com-  
39 missioner of not more than \$40 to the commissioner for each public  
40 livestock market operated by such operator, which payment shall consti-  
41 tute a renewal until June 30 of the following year. The renewal market  
42 license fee established by this section on the day preceding the effective  
43 date of this act shall continue in effect until a different renewal market

1 license fee is set as provided under this section.

2 (b) Any person who owns or operates an electronic auction which is  
3 simulcast into the state of Kansas and at which livestock located in the  
4 state of Kansas are offered for sale, shall apply to the livestock commis-  
5 sioner for an electronic auction license. A license shall be granted to such  
6 person upon a showing that such person meets the bond requirements, as  
7 established in K.S.A. 47-1002, and amendments thereto, and has paid an  
8 annual fee in an amount set by the Kansas animal health board and  
9 adopted by rules and regulations of the commissioner of not more than  
10 \$40. Any such license shall expire on June 30 of each year.

11 Sec. 3. K.S.A. 1999 Supp. 47-1008 is hereby amended to read as  
12 follows: 47-1008. (a) Livestock shall not be offered for sale or sold at any  
13 licensed public livestock market if such livestock:

14 (1) Is infected with a disease that permanently renders the livestock  
15 unfit for human consumption;

16 (2) has severe neoplasia;

17 (3) has severe actinomycosis;

18 (4) is unable to rise to its feet by itself; or

19 (5) has an obviously fractured long bone or other fractures or dislo-  
20 cation of a joint that renders the livestock unable to bear weight on the  
21 affected limb without that limb collapsing.

22 (b) If, in the judgment of an accredited veterinarian, the livestock  
23 consigned and delivered on the premises of any licensed public livestock  
24 market is in any of the conditions described in subsection (a), such vet-  
25 erinarian shall euthanize humanely the livestock or direct the consignor  
26 to immediately remove the livestock from the premises of the public  
27 livestock market. All expenses incurred for euthanasia and disposal of the  
28 livestock under the provisions of this subsection shall be the responsibility  
29 of the consignor. Collection of expenses shall not be the responsibility of  
30 the consignee.

31 (c) All livestock consigned and delivered on the premises of any  
32 licensed public livestock market, before being offered for sale, shall be  
33 inspected by a veterinarian authorized by the commissioner who shall  
34 visually examine or test, or both, each animal consigned to such market,  
35 for the purpose of determining its condition of health and freedom of  
36 clinical signs of infectious or contagious animal diseases that are deter-  
37 mined to be reportable by the livestock commissioner. Such regulatory  
38 veterinary services shall be contracted for by the livestock commissioner  
39 who shall select an accredited veterinarian for each public livestock mar-  
40 ket. The public livestock market operator, for each public livestock mar-  
41 ket, shall submit to the livestock commissioner a list of accredited vet-  
42 erinarians to be considered for the position or positions. Such veterinarian  
43 shall be authorized to make all required examinations and tests, and to



1 issue certificates of inspection at the public livestock market where such  
2 veterinarian serves. All livestock sold, resold, exchanged or transferred,  
3 or offered for sale or exchange at a livestock market shall be treated as  
4 may be necessary to prevent the spread of contagious or infectious dis-  
5 eases. A certificate of inspection, on a form to be approved by the com-  
6 missioner, shall be issued to the purchaser by the inspector. For the visual  
7 inspection of livestock offered for sale, there shall be collected by the  
8 market operator from the consignor a fee which shall be determined by  
9 negotiation between the market operator and the market veterinarian but  
10 shall not be less than \$.07 per head, except that no fee for inspection shall  
11 be collected unless the inspection actually has been made. If the charges  
12 per head collected on all livestock inspected at a livestock market on any  
13 sales day do not amount to a minimum per diem of \$40 or any amount  
14 greater than \$40 negotiated by the operator, the market operator shall  
15 be required to supply sufficient funds to provide such amount. Any  
16 amount lesser or greater than the \$40 amount specified, shall be deter-  
17 mined by negotiation between the market operator and the market vet-  
18 erinarian. A copy of any agreement or contract shall be on file with the  
19 commissioner. Payments for veterinary services rendered under a con-  
20 tract as provided in this section shall be paid from the veterinary inspec-  
21 tion fee fund, and for such services rendered prior to the end of a fiscal  
22 year, payment may be made within 90 days after the end of the fiscal  
23 year.

24 (d) Livestock market operators shall pay amounts received and  
25 amounts due under this section to the livestock commissioner. The com-  
26 missioner shall remit all such amounts received to the state treasurer at  
27 least monthly. Upon receipt of any such remittance the state treasurer  
28 shall deposit the entire amount thereof in the state treasury and the same  
29 shall be credited to the veterinary inspection fee fund. All expenditures  
30 from such fund shall be made in accordance with appropriation acts upon  
31 warrants of the director of accounts and reports issued pursuant to vouch-  
32 ers approved by the commissioner or by a person or persons designated  
33 by such commissioner.

34 (e) The livestock commissioner shall promulgate rules and regula-  
35 tions as may be necessary to carry out the purposes of this section, in-  
36 cluding, but not limited to, rules and regulations designating any disease  
37 as a disease that renders livestock or the carcasses thereof permanently  
38 unfit for human consumption. The livestock commissioner shall promul-  
39 gate all such rules and regulations in accordance with existing ante-  
40 mortem inspection regulations promulgated by the United States de-  
41 partment of agriculture food safety and inspection service, as in effect on  
42 July 1, 1997.

43 (f) *All livestock sold by a licensed electronic auction, before being*

1 delivered to the buyer, shall have a health certificate issued by an accredited veterinarian.

2  
3 Sec. 4. K.S.A. 47-1011 is hereby amended to read as follows: 47-  
4 1011. (a) The public livestock market operator shall collect from the con-  
5 signor of horses, mules, cattle, hogs, sheep and goats the fee per head on  
6 all such livestock sold at a public livestock market in the amount fixed by  
7 the commissioner under this section. The public livestock market oper-  
8 ator shall remit to the commissioner on or before the 15th day of each  
9 month the amounts collected during the preceding calendar month.

10 (b) The electronic auction operator shall collect from the consignor of  
11 horses, mules, cattle, hogs, sheep and goats the fee per head in an amount  
12 fixed by the commissioner under this section on all such livestock sold at  
13 an electronic auction if such livestock is located in the state of Kansas.  
14 The electronic auction operator shall remit to the commissioner on or  
15 before the 15th day of each month the amounts collected during the pre-  
16 ceding calendar month.

17 (b) ~~(c)~~ The fee per head provided for in this section shall be in ad-  
18 dition to the inspection fee stated in K.S.A. 47-1008, and amendments  
19 thereto, to the license fee payable to the commissioner for licenses men-  
20 tioned and described in K.S.A. 47-1002, and amendments thereto, and  
21 to the fee provided for in K.S.A. 74-534, and amendments thereto.

22 (e) ~~(d)~~ The commissioner shall determine annually the amount of  
23 funds which will be required, in addition to the funds received for fees  
24 imposed under K.S.A. 47-1001a and 47-1001e, and amendments thereto,  
25 to properly enforce and administer the laws contained in article 10 of  
26 chapter 47 of the Kansas Statutes Annotated, and amendments thereto,  
27 and shall fix and adjust from time to time the fee per head imposed under  
28 this section in such reasonable sum as may be necessary for such pur-  
29 poses, except that the fee per head fixed under this section shall not be  
30 more than ~~\$ .15~~. The fee per head in effect on the day preceding the  
31 effective date of this act shall continue in effect until the commissioner  
32 fixes a different fee per head under this section.

33 (d) ~~(e)~~ The commissioner shall remit all moneys received by or for  
34 the commissioner under K.S.A. 47-1001a, 47-1001e and this section, and  
35 amendments thereto, to the state treasurer at least monthly. Upon receipt  
36 of each such remittance, the state treasurer shall deposit the entire  
37 amount thereof in the state treasury and such amount shall be credited  
38 to the animal disease control fund.

39 Sec. 5. K.S.A. 47-1001e and 47-1011 and K.S.A. 1999 Supp. 47-1001  
40 and 47-1008 are hereby repealed.

41 Sec. 6. This act shall take effect and be in force from and after its  
42 publication in the statute book.

(c) A packer shall pay a fee per head in an amount fixed by the commissioner under this section on all livestock purchased by such packer if such livestock was not sold through a public livestock market or electronic auction. The packer shall remit to the commissioner on or before the 15<sup>th</sup> day of each month the amounts collected during the preceding calendar month.

(d)

(e)

\$.10

(f)