

MINUTES OF THE HOUSE COMMITTEE ON AGRICULTURE.

The meeting was called to order by Chairman Dan Johnson at 3:30 p.m. on February 19, 2001, in Room 423-S of the Capitol.

All members were present.

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

Conferees appearing before the committee:

Dennis Morrice, Executive Director, Kansas Soybean Association
Bill Wiley, Kansas Soybean Association
Leslie Kaufman, Associate Director, Public Policy Division, Kansas Farm Bureau
Jamie Clover Adams, Secretary, Kansas Department of Agriculture
Brendan Donnelly, Head of Grain Science and Industry Department, Kansas State University

Others attending: See attached list

Dennis Morrice, Executive Director, Kansas Soybean Association, provided background information on bio-diesel and discussed how the State of Kansas can further enhance both the production and demand for bio-diesel. (Attachment 1)

Bill Wiley, Kansas Soybean Association, discussed ideas and incentives to help foster development of the bio-diesel industry in Kansas. In addition to already proposed legislation to require state vehicles to use bio-diesel fuel and to provide a tax abatement on construction of new refining plants, he suggested: 1) providing small distributors access to economic development funds for marketing expenses; 2) tax credits for distributors and consumers who need to add storage, pumps, and/or injection systems to handle a new product; and 3) using tobacco settlement funds to buy down the cost of B-20 bio-diesel fuel for use in school buses to reduce exposure to exhaust fumes by school children. (Attachment 2)

Discussion and action on HB 2011 - Incentives for production of ethanol from agricultural products; amounts; removal of cap; expiration date.

Jamie Clover Adams, Secretary, Kansas Department of Agriculture, submitted written comments concerning **HB 2011**. (Attachment 3)

Leslie Kaufman, Associate Director, Public Policy Division, Kansas Farm Bureau, explained a conceptual amendment to **HB 2011**, including caps on the existing and expanded production; incentive for new or expanded production; and the placement of moneys left in each incentive provision. She reported that these provisions were agreed to on February 15, 2001, by representatives of the Kansas Corn Growers Association, Kansas Grain Sorghum Producers, Kansas Farm Bureau, and the Kansas Ethanol Association. She noted that a representative of the Kansas Department of Agriculture was also in attendance and that the Kansas Department of Transportation had signed off on this concept. (Attachment 4)

Representative Hayzlett moved to amend **HB 2011** as outlined by Ms. Kaufman. Seconded by Representative Light, the motion carried.

Representative Feuerborn moved to pass **HB 2011** as amended. Seconded by Representative Hutchins, the motion carried.

Hearing and action on HB 2455 - Providing for value-added facility at Kansas State University.

Chairman Johnson opened the hearing on **HB 2455**.

CONTINUATION SHEET

Brendan Donnelly, Head of Grain Science and Industry Department, Kansas State University, appeared in support of **HB 2455** to establish a Bioprocessing and Industrial Value-Added Center at Kansas State University. He discussed plans for the new Grain Science and Industry Complex at Kansas State University to consist of five buildings to be built over a number of years using a combination of private, State, and Federal funds. He provided copies of the prospectus given to potential contributors; copies can be obtained from the University. In the Governor's State of the State and budget message, Governor Graves recommended \$3 million to help build the BIVAC facility. (Attachment 5)

Leslie Kaufman, Associate Director, Public Policy Division, Kansas Farm Bureau, testified in support of the concepts contained in **HB 2455** to establish a biological and industrial value-added facility including food and feed processing plants, a value-added pilot plant and applied research, processing, and testing laboratories at Kansas State University. She emphasized that Kansas Farm Bureau is a strong advocate for K-State and its agricultural related programs. (Attachment 6)

As there were no other conferees, the Chairman closed the hearing on **HB 2455** and opened discussion on the bill.

Representative Feuerborn moved to recommend **HB 2455** favorable for passage. The motion was seconded by Representative Dahl.

Representative Larkin offered a substitute motion to amend **HB 2455** to require identification of value-added projects for their long-term ability to increase profits for producers. Seconded by Representative Thimesch, the motion carried.

Representative Larkin moved to pass **HB 2455** as amended. Seconded by Representative Feuerborn, the motion carried.

Discussion and action on HB 2102 - Unlawful acts and annual testing requirements involving weighting and measuring devices.

Representative Dahl submitted the Subcommittee Report in the form of a balloon amendment to **HB 2102**. (Attachment 7) The subcommittee recommended a tolerance standard of plus or minus 100 pounds for vehicle scales used solely for the purpose of weighing aggregate products and that dispensing devices used for commercial purposes be tested and inspected for accuracy at least once every 18 months. The Revisor noted that some technical corrections would be necessary. Representative Dahl moved to amend **HB 2101** as outlined in the balloon. Seconded by Representative Feuerborn, the motion carried.

Representative Dahl moved to pass **HB 2102** as amended. Seconded by Representative Compton, the motion passed.

The meeting adjourned at 4:50 p.m. The next meeting is scheduled for February 28, 2001.

HOUSE AGRICULTURE COMMITTEE GUEST LIST

DATE: FEBRUARY 19, 2001

NAME	REPRESENTING
Jim Allen	Seaboard
Leslie Kaufman	Ks Farm Bureau
John C. Bottenby	Ks Ethanol Prod.
Joe Lieber	Ag. Co-op Council
Bill Wiles	Ks Soybean Assoc.
Tom Bruce	Farm Credit Council
Don Rye	Kansas Cattlemen Assn.
Joe BIRMINGHAM	KS Board of Regents
Shirley Allen	Bottenberg Assoc.
Rebecca Reed	KDA
David Miller	OOR
Paul Johnson	PACK
Robert Hale	KDOT
Nancy Bogina	KDOT
Jamie Clover Adams	KS Department of Agriculture
Dreg A. Wiley	KDA
Connie Fischer	KDOCH - Ag. Division
Woody Moss	Ks. Agg. Prod. Assn.
Brenda Samuel	Kansas State University

HOUSE AGRICULTURE COMMITTEE GUEST LIST

DATE: FEBRUARY 19, 2001

NAME	REPRESENTING
Steven Graham	K-State Research + Extension
Bee Suller	Kansas Farm Bureau
Susan Holshin	KS Co-op Council
Deanna J. Spruce	KS Soybean Assoc.

Testimony offered by
Dennis Morrice
Kansas Soybean Association

Ladies and Gentlemen of the House Agricultural Committee, good afternoon. I'm Dennis Morrice and serve as the Executive Director for the Kansas Soybean Association.

It is a privilege to be standing before you today to talk about biodiesel, and how the state of Kansas can further enhance both the production and demand for biodiesel.

Joining me this afternoon is Bill Wiley of Lyndon. Bill is a director with the Kansas Soybean Association as well as the American Soybean Association. Bill will explain some of the specific proposals that the state can enhance the biodiesel product. But first, some background information may be in order.

Biodiesel is a cleaner burning fuel for diesel engines that is produced from renewable resources such as soybean oil. It can be used as a pure product or blended at any percentage with petroleum diesel fuel. Biodiesel is simple to use, renewable, domestically produced and readily available.

Currently, Kansas has seven different soybean processing facilities with three others just across the border in Missouri at St. Joseph and Kansas City. Since each of these facilities process soybeans into soymeal and soybean oil, they could easily be adapted to manufacture the methylated soybean oil that is used to make biodiesel.

One bushel of soybeans can make one and one-half gallons of methylated soybean oil. Methylated soybean oil has many uses other than just biodiesel. It can be used to make cleaners, adhesives, release agents, paint removers, and whole host of industrial uses. In addition, methylated soybean oil can help clean up after a petroleum oil spill.

Kansas currently has five companies that are marketing biodiesel. They include Ag. Environmental Products from Lenexa, Koch Petroleum from Wichita, Farmland Industries-Cenex out of Kansas City, Shaffer Petroleum Products of St. Louis, and Archer Petroleum and Lubricants of Omaha, Nebraska.

There are also more than 30 different distributors of biodiesel in Kansas with more coming on line each month.

Thank you for the invitation to discuss new opportunities for Kansas produced commodities, specifically bio-diesel. The research has been conducted; we know that bio-diesel will work in any diesel engine application, in blends from .5% to 100%. The environmental benefits of clean burning and lower emissions are documented. Health benefits of less toxic exhaust are in the news. Benefits of an energy efficient, renewable fuel are needed. Research shows an energy return of 3.2 to 1 from seed to exhaust. Bio-diesel is now on the horizon as an economically feasible fuel.

Like any new product entering an established market, bio-diesel does need a little help. SB4, which requires state vehicles to use bio-diesel, will help to spread the distribution of bio-diesel, making it more available to consumers statewide. Please support this bill. Thank you for HB2009, which allows tax abatements on construction of new refining plants. This will help with the supply of bio-diesel as the demand grows.

Now to address your request for specific ideas and incentives to help foster development of the bio-diesel industry in Kansas. First, allow ways for small distributors to access economic development funds (lottery proceeds), for marketing expenses. Next, use tax credits for distributors and consumers who need to add storage, pumps, and/or injection systems to handle a new product. Our last idea involves school children and the use of tobacco settlement funds. Could we buy down the cost of B-20 (a blend of 20% soy-oil and 80% diesel)? This higher blend will help to significantly reduce exposure to exhaust fumes by our most captive members of society, school-bus riders. According to news reports, studies released by The Coalition for Clean Air and Natural Resources Council recommend that school districts switch to clean burning, alternative, and renewable fuels.

Our proposals today may not be as detailed as you would like, but hopefully will create some positive discussions on the use and need for alternative fuels such as bio-diesel. Thank you.

Submitted by Bill Wiley
Kansas Soybean Association

House Agriculture Committee
February 19, 2001
Attachment 2

STATE OF KANSAS

BILL GRAVES, GOVERNOR

Jamie Clover Adams, Secretary of Agriculture
109 SW 9th Street
Topeka, Kansas 66612-1280
(785) 296-3556
FAX: (785) 296-8389



KANSAS DEPARTMENT OF AGRICULTURE

House Agriculture Committee

February 19, 2001

Testimony Regarding House Bill 2011

Jamie Clover Adams, Secretary of Agriculture

Mr. Chairman and members of the committee, I am Jamie Clover Adams, Secretary of Agriculture. As you know, Governor Graves supports renewal of the ethanol production tax credit, and he funded it in his FY 2002 budget. However, the administration did not take a position on increased funding until we had a clearer idea of how state revenues would come out compared to budget projections. As you are well aware, we face a very difficult situation.

We all agree that ethanol is an important, value-added product for Kansas grain producers, and that HB 2011, as introduced and as amended, addresses this issue. However, we have some concern that current Kansas ethanol producers were left out of the funding mix. While some did not intend for the incentive to be a long-term income boost for the ethanol industry, over the years the Kansas legislature believed the benefits ethanol brought to the Kansas economy justified continuing incentive.

We agree that HB 2011 should be brought back before the committee, which may want to reconsider its action. We recommend the following: cap the fund at \$3.5 million annually; cap the number of years ethanol producers can qualify for the incentive; phase out existing ethanol producers and roll the money that becomes available to new producers; and, sunset the incentive in 2011. We feel that given these guidelines, the ethanol industry should be able to come out with a workable solution for all involved.

The committee also should remember that HB 2011 is not the only bill affecting ethanol that is being considered. For example, the Senate passed legislation to ban the use of MTBE in Kansas, so ethanol will become the oxygenate of choice.

I appreciate the opportunity to share our thoughts and ideas on this issue. I will stand for your questions at the appropriate time.

House Agriculture Committee
February 19, 2001
Attachment 3

Revised Concepts for HB-2011

Current producers incentive based on calendar year 2000 unless expanded production results in an increase of 5,000,000 gallons per year or more. Incentive shall be \$.05, capped at a total of \$2,000,000 per year for three years, when the current producers incentive will sunset. If claims exceed cap, per gallon amount shall be prorated. Any amount unclaimed shall transfer for use by new producers.

New production incentive is based on production of at least 5,000,000 gallons and not more than 15,000,000 per producer. Incentive is \$.075 per gallon for 7 years. Also, new production will phase in over the first few years and the earliest in the program should sunset before the end of the program. However, this act expires in 2011, therefore the incentive may not be available for a full seven years for all producers unless program is extended.

All unencumbered funds will flow from current producer incentives to new producer incentives as well as from year to year until 2011, when any remaining dollars will return to the Highway Fund.

These concepts were agreed to on 2/15/01 by representatives of the Kansas Corn Growers Association, Kansas Grain Sorghum Producers, Kansas Farm Bureau, and Kansas Ethanol Association. A representative of the Kansas Department of Agriculture was also in attendance.

Fiscal Year	Current Producers \$.05/\$2,000,000 cap	New Producers \$.075/15,000,000 gallons cap 5,000,000 min.	Totals	Projected New Usage	# New Plants
2002	\$2,000,000	\$1,500,000	\$3,500,000	\$562,500	1
2003	\$2,000,000	\$1,500,000	\$3,500,000	\$1,125,000	1
2004	\$2,000,000	\$1,500,000	\$3,500,000	\$2,812,500	3
2005		\$3,500,000	\$3,500,000	\$3,375,000	3
2006		\$3,500,000	\$3,500,000	\$3,375,000	3
2007		\$3,500,000	\$3,500,000	\$3,375,000	3
2008		\$3,500,000	\$3,500,000	\$3,375,000	3
2009		\$3,500,000	\$3,500,000	\$2,812,500	3
2010		\$3,500,000	\$3,500,000	\$3,375,000	4
2011		\$3,500,000	\$3,500,000	\$3,375,000	4
	\$6,000,000	\$29,000,000	\$35,000,000	\$27,562,500	

**TESTIMONY BEFORE THE
HOUSE AGRICULTURE COMMITTEE
FEBRUARY 19, 2001**

Chairman Johnson, members of the committee, ladies and gentlemen. I am Brendan Donnelly, Head of the Kansas State University Department of Grain Science and Industry. I have been at K-State nearly five years, coming from a background of industry and academic positions. I welcome the chance to testify today on House Bill No. 2455, which would create a biological and industrial value-added facility at Kansas State University.

BACKGROUND

After my arrival at Kansas State University , we started planning for a new Grain Science Complex. The final plans call for a complex of five buildings: a Bioprocessing and Industrial Value-Added Center (BIVAC); a Feed Mill; a Flour Mill; an International Grains Program executive conference center; and a large main building which will be the Teaching, Research, and Baking Laboratories headquarters building. Our plans are to build the Grain Science Complex over a number of years, using a combination of private, State, and Federal funds (See attachments A and B).

This past year, Dean and Director Marc Johnson was asked to speak to the Agriculture Subcommittee of the Governor's Vision 21st Century Task Force about efforts underway at K-State that relate to value-added agriculture. He told the group about present value-added activities in various K-State departments and then related the plans for our Bioprocessing and Industrial Value-Added Center (BIVAC) which we hoped to start construction on in the year 2004.

The group became quite excited about the project, to the extent they made construction of the BIVAC building their number one recommendation in the final task force report. The group recommended \$5 million for construction of the building and \$1 million for an annual operating budget. Architectural estimates for 2004 had the building cost at approximately \$5.9 million.

WHAT WILL THE BIVAC FACILITY DO FOR KANSAS?

The Bioprocessing and Industrial Value-Added Center (BIVAC) will include research and pilot plants with extrusion and other thermal and mechanical processing equipment for food and nonfood products. Pilot-scale fermentation facilities also will be included to assist the industry in any future moves to replace chemical with biological means for producing or modifying natural agricultural commodities into commercial food and chemical, biological, and fiber products. The pilot facilities will continue our tradition of providing service to producers, to industry, as well as to research organizations, utilizing equipment and processes not available elsewhere on this scale. The center will have its own classroom. Thus, the processing and classroom combination will be structured to provide opportunities for hands-on learning and for broadening student experiences.

We also envision this center creating novel new products made from Kansas grains and oilseeds which, hopefully, would lead to the creation of new startup businesses in Kansas. Our department has a long track record of developing new products which are patented and then licensed to business. Also, we have had a few faculty start up businesses based on new discoveries. Thus, I believe our Grain Science and Industry Department has a track record which insures the new Bioprocessing and Industrial Value-Added Center would help find new markets for Kansas grains and oilseeds.

FY2002 BUDGET AND HOUSE BILL 2455

As I mentioned earlier, the Agriculture Subcommittee of the Governor's Vision 21st Century Task Force recommended \$5 million for construction of the building and \$1 million for an annual operating budget. In the Governor's State of the State and budget message, which we heard on January 8, 2001, Governor Graves recommended \$3 million to help build the BIVAC facility.

A) BUILDING COST:

The total cost of the building is estimated by architectural formulas to be at least \$5.2 million, plus we would incur site preparation costs, which could be another \$1 million or more. We do not have final bid estimates, which in the case of some other Grain Science Complex buildings, are turning out to be higher than the original architectural estimates. If the Legislature does appropriate \$3 million or more this session for use this next fiscal year to construct the facility, we also would be requesting a \$4 million Pooled Money Investment Board (PMIB) loan at the start of fiscal year 2002.

The \$4 million authorization for a PMIB loan would allow us time to raise the \$3- 4.0 million in private funds needed to complete the project. The loan would be repaid from the private funds and we would hope to pay off the loan for the BIVAC building quickly, hopefully, within four years.

As we discussed with the Governor and Lt. Governor Sherrer, if we receive a strong signal the \$3 million (or more) will be appropriated by the Legislature, plus if we receive the \$4 million authorization for the PMIB loan, we would start this winter and spring on final design of the building and, hopefully, be in a position to start infrastructure and construction work at the site this summer.

If we only receive one amount of money or the other, we will have to wait and raise the rest of the money privately, before construction work can begin.

B) ANNUAL OPERATING BUDGET

An annual operating budget for staffing, grain, chemicals, etc. to conduct the value-added research each year is estimated, using current costs in the KSU Grain Science and Industry departmental feed mill and pilot extrusion center, to be \$1 million per year.

Neither currently approved staffing nor operating expenditure levels would be sufficient for the new facility. Staffing would need to be enhanced by adding: a Pilot Plant Manager, a fermentation specialist, and additional two technicians. Operating expenditures would also need to be enhanced to meet the needs of the larger facility and the new, more inclusive equipment situation.

Since building construction, if adequately funded, would take place in FY2002, we would not need an enhanced Annual Operating Budget until FY2003, at the earliest. I just want to be on record today saying we will need to discuss an adequate Annual Operating Budget for the BIVAC center fairly soon, to insure the new facility can function properly and meet the goals set for it.

SUMMARY

I hope my testimony conveys that a citizen group recommended to the Governor and Lt. Governor our Bioprocessing and Industrial Value-Added Center facility (and programs) as their top priority.

We appreciate very much House Bill 2455, urging the State to create a biological and industrial

value-added facility at Kansas State University, and we certainly appreciate Governor Graves recommending the State fund \$3 million towards the cost of such a facility.

We hope the Legislature will be able to fund the facility, at a level of \$3 million or more, because that would allow us to get construction underway much sooner than originally envisioned. This facility will pay big dividends for Kansas grain and oilseed producers plus the State of Kansas.

Thank you for the opportunity to testify today. I will be glad to answer any questions you may have.



PROPOSED SITE DEVELOPMENT PLAN
 GRAIN SCIENCE & INDUSTRY COMPLEX - KANSAS STATE UNIVERSITY



HORST, TERRILL & KARST ARCHITECTS, P.A.



Kansas Farm Bureau

2627 KFB Plaza, P.O. Box 3500, Manhattan, Kansas 66505-8508 / (913) 587-6000

February 20, 2001

Rep. Dan Johnson, Chair
House Committee on Agriculture
Statehouse, Room 426-S
Topeka, Kansas 66612-1504

Dear Rep. Johnson,

Thank you for allowing Kansas Farm Bureau to submit testimony in support of the concepts contained in HB 2455. The bill would establish a biological and industrial valued-added facility including food and feed processing plants, a value-added pilot plant and applied research, processing and testing laboratories. KSU has also provided information relative to their plans for developing the Grain Science and Industry Complex.

Kansas Farm Bureau has been a strong advocate for K-State and its agriculture related programs. Our farmer and rancher members reaffirmed their support for KSU at our annual meeting this past November. Our policy positions relative to HB 2455 and Kansas State's proposed Grain Science complex include the following statements:

- **As the major industry in Kansas, agriculture must have the highest priority at Kansas State University.**
- **We urge a strong commitment by the Kansas Legislature, Regents and University Administration to the land grant tradition of teaching, research and extension.**
- **We ask the legislature to make an appropriation to provide the public support, and we encourage the milling and baking industry to assist with private financing, for building renovation and flour milling equipment replacement at the KSU Department of Grain Science.**
- **We urge high priority and funding for facilities to adequately support animal and plant science research and teaching at Kansas State University.**

KSU's commitment to developing the Grain Science and Industry Complex falls squarely within the concepts of the above policy statements. Additionally, we commend the University for the private funds they have secured to develop the center. Much can be achieved for agriculture through the combination of public and private resources. As such, we appreciate the opportunity to appear before the committee in support of the concepts contained in HB 2455 and appreciate the committee's favorable action on the bill.

Sincerely,

Leslie J. Kaufman, Associate Dir
Public Policy Division

House Agriculture Committee
February 19, 2001
Attachment 6



HOUSE BILL No. 2102

By Committee on Agriculture

1-22

AN ACT concerning weights and measures; relating to unlawful acts; annual testing requirements; amending K.S.A. 83-145, 83-219 and 83-404 and K.S.A. 2000 Supp. 83-304 and repealing the existing sections.

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

Section 1. K.S.A. 83-145 is hereby amended to read as follows: 83-145. (a) The secretary of agriculture, or the secretary's authorized representative, is authorized to test all weighing and measuring devices used in the retail sale of liquefied petroleum gas, and shall reject all such devices which are found (a) to be inaccurate and (b) to not clearly indicate the quantity of liquefied petroleum gas in kilograms or pounds, liters or gallons, cubic feet or cubic meters or other unit approved by the secretary of agriculture, or the secretary's authorized representative. It shall be unlawful to use a weighing or measuring device for determining quantities of liquefied petroleum gas which has been rejected by the secretary of agriculture, or the secretary's authorized representative. The secretary of agriculture, or the secretary's authorized representative, shall conspicuously mark all rejected devices, which. Such mark shall not be removed or defaced except upon authorization of the secretary of agriculture or the secretary's authorized representatives. It shall be unlawful to use a vapor meter dial which is not equipped with a cubic foot indicator for testing the accuracy of the meter.

(b) It shall be unlawful to use a liquid meter for measuring the volume, in gallons, of liquefied petroleum gas for retail sale from delivery vehicles unless such meter is equipped with a ticket printer for use in issuance of printed tickets showing the volume, in gallons, of the liquefied petroleum gas delivered.

Sec. 2. K.S.A. 83-219 is hereby amended to read as follows: 83-219.

(a) It shall be unlawful for any owner of a commercial weighing or measuring device person:

(1) To offer or expose for sale, or to sell or otherwise dispose of any weight, measure or weighing or measuring device that does not meet the tolerances and specifications required by chapter 83 of the Kansas Statutes Annotated, and amendments thereto, or which has been rejected without first obtaining the written authorization of the secretary;

Sec. 2. K.S.A. 83-202 is hereby amended to read as follows: 83-202. Recognized system of weights and measures. (a) Except as provided further:

(1) The system of weights and measures in customary use in the United States and the metric system of weights and measures are jointly recognized, and either one or both of these systems shall be used for all commercial purposes in the state.

(2) The following standards and requirements shall apply to commercial weighing and measuring devices:

(A) "The standards of the national conference on weights and measures" published in the national institute of standards and technology handbook 44 entitled specifications, tolerances, and other technical requirements for weighing and measuring devices as published on October, 1994 issued November 2000 or later versions as established in rules and regulations adopted by the secretary except those vehicle scales installed prior to the effective date of this act and used solely for the purpose of weighing aggregate products shall be exempt from the provisions contained in Section 2.20 Scales, Table 6, page 2-25. Such aggregate product scales shall have a minimum tolerance of +/- 100 pounds. The exception shall be in effect for a period of three (3) years from the effective date of this act;

(B) "the uniform laws and regulations of the national conference on weights and measures" published in the national institute of standards and technology handbook 130 regarding packaging and labeling, the method of sale of commodities, national type evaluation regulation, motor fuel inspection and motor fuel regulation, as published on December, 1994 or later versions as established in rules and regulations adopted by the secretary;

(C) "checking the net contents of packaged goods" published in the national institute of standards and technology handbook 133, third edition, as published on September, 1988 or later versions as established in rules and regulations adopted by the secretary;

(D) "checking the net contents of packaged goods" published in the national institute of standards and technology handbook 133, third edition, in

supplement 4, as published on October, 1994 or later versions as established published (E) any other handbooks or sections thereof rules and regulations adopted by the secretary; and as adopted by the secretary by rules and regulations.

(b) Whenever there exists an inconsistency between the provisions of chapter 83 of the Kansas Statutes Annotated, and amendments thereto, and any of the handbooks adopted by reference, the requirements of chapter 83 of the Kansas Statutes Annotated, and amendments thereto, shall control.

Sec. 3

7-2

1 (2) to use or possess a weight, measure or weighing or measuring
2 device that is used for or intended to be used for commercial purposes
3 which does not meet the tolerance and specifications required by chapter
4 83 of the Kansas Statutes Annotated, and amendments thereto, or that
5 does not conform to the standard authorized by the secretary for deter-
6 mining the quantity of any commodity or article of merchandise, for the
7 purpose of:

8 (A) Buying or selling any commodity or article of merchandise;

9 (B) computation of any charge for services rendered on the basis of
10 weight or measure;

11 (C) determining weight or measure, either when a charge is made
12 for such determination or where no charge is made for use of such weight,
measure, weighing or measuring device;

14 (3) except as allowed in K.S.A. 83-225, and amendments thereto, to
15 break or remove any tag, mark or seal placed on any weighing or meas-
16 uring device by the secretary or a county or city inspector of weights and
17 measures, without specific written authorization from the proper author-
18 ity or to use a weighing or measuring device after the lapse of the au-
19 thorized period following the placing of a rejection tag thereon by the
20 secretary, unless further extension of time for any repair purposes is first
21 obtained from the secretary;

22 (4) to sell, offer or expose for sale, less than the represented quantity
23 of any commodity, thing or service;

24 (5) to take or attempt to take more of the represented quantity of any
25 commodity, thing or service when the buyer furnishes the weight, mea-
26 sure or weighing or measuring device by which the amount of any com-
27 modity, thing or service is determined;

28 (6) to keep for the purpose of sale, or to offer or expose for sale, or
29 to sell any commodity in a manner contrary to the law or contrary to any
rule and regulation;

31 (7) to use in retail trade, except in preparation of packages of mer-
32 chandise put up in advance of sale, a weighing or measuring device that
33 is not so positioned that its indications may be accurately read and the
34 weighing or measuring operation observed from a reasonable customer
35 position;

36 (8) to violate any of the provisions of chapter 83 of the Kansas Statutes
37 Annotated, and amendments thereto, or rules and regulations adopted
38 thereunder, for which a specific penalty is not provided;

39 (9) to sell or offer for sale, or use or possess for the purpose of selling
40 or using any device or instrument to be used or calculated to falsify any
41 weight or measure;

42 (10) to dispose of any rejected weight or measure in a manner con-
43 trary to law or rules and regulations;

1 (11) to expose for sale, offer for sale or sell any commodity in package
2 form, without it being so wrapped, or the container so made, formed or
3 filled, that it will not mislead the purchaser as to the quantity of the
4 contents of the package;

5 (12) to expose for sale, offer for sale or sell any commodity in any
6 container where the contents of the container fall below such reasonable
7 standard of fill as may have been prescribed for the commodity in ques-
8 tion by the secretary;

9 (13) to misrepresent the price of any commodity or service sold, of-
10 fered, exposed or advertised for sale by weight, measure or count, nor
11 represent the price in any manner calculated or tending to mislead or in
12 any way deceive any person;

13 (14) to misrepresent, or represent in a manner calculated or tending
14 to mislead or deceive an actual or prospective purchaser, the price of an
15 item offered, exposed or advertised for sale at retail;

16 (15) to compute or attempt to compute at the time of sale of an item,
17 a value which is not a true extension of a price per unit which is then
18 advertised, posted or quoted;

19 (16) to charge or attempt to charge, at the time of the sale of an item
20 or commodity, a value which is more than the price which is advertised,
21 posted or quoted;

22 (17) to alter a weight certificate, use or attempt to use any such cer-
23 tificate for any load or part of a load or for articles or things other than
24 for which the certificate is given, or, after weighing and before the deliv-
25 ery of any articles or things so weighted, alter or diminish the quantity
26 thereof;

27 (18) to hinder or obstruct in any way the secretary or any of the
28 secretary's authorized agents in the performance of the secretary's official
29 duties under chapter 83 of the Kansas Statutes Annotated, and amend-
30 ments thereto or any rules and regulations adopted thereunder;

31 (19) to fail to follow the standards and requirements established in
32 K.S.A. 83-202, and amendments thereto, or any rules and regulations
33 adopted thereunder;

34 (20) to fail to pay all fees and penalties as prescribed by chapter 83
35 of the Kansas Statutes Annotated, and amendments thereto, and the rules
36 and regulations adopted thereunder;

37 (21) to fail to keep or make available for examination or provide to
38 the secretary all inspection reports, test reports and any other service
39 reports or other information on any device owned or operated by the
40 owner or any agent or employee of the owner and other information
41 necessary for the enforcement of chapter 83 of the Kansas Statutes An-
42 notated, and amendments thereto or any rules and regulations adopted
43 thereunder, and as required by the secretary;

1 (22) to fail to have any commercial weight, measure or weighing and
2 measuring device tested as required by chapter 83 of the Kansas Statutes
3 Annotated, and amendments thereto or any rules and regulations adopted
4 thereunder;

5 (23) to sell or offer or expose for sale liquefied petroleum gas in
6 packages or containers which do not bear a statement as to tare and net
7 weight as required by chapter 83 of the Kansas Statutes Annotated, and
8 amendments thereto or any rules and regulations adopted thereunder, or
9 packages or containers which bear a false statement as to weights;

10 (24) to sell, use, remove, or otherwise dispose of, or fail to remove
11 from the premises specified, any weighing or measuring device or package
12 or commodity contrary to the terms of any order issued by the secretary;
and

14 (25) to violate any order issued by the secretary pursuant to chapter
15 83 of the Kansas Statutes Annotated, and amendments thereto.

16 (b) It shall be unlawful for any service company or technical repre-
17 sentative to:

18 (1) Act as or represent such person's self to be a technical represen-
19 tative without having a valid license issued by the department of
20 agriculture;

21 (2) certify a device as correct unless the device meets the tolerances
22 and specifications as required by chapter 83 of the Kansas Statutes An-
23 notated, and amendments thereto, or any rules and regulations adopted
24 thereunder;

25 (3) hinder or obstruct in any way the secretary in the performance of
26 the secretary's official duties under chapter 83 of the Kansas Statutes
27 Annotated, and amendments thereto or any rules and regulations adopted
28 thereunder;

29 (4) fail to follow the standards and requirements set forth in K.S.A.
? 83-202, and amendments thereto, or any rules and regulations adopted
3 thereunder;

32 (5) fail to complete the testing or placing-in-service report in its en-
33 tirety and to report the accurate description of the parts replaced, ad-
34 justed, reconditioned or work performed;

35 (6) file a false or fraudulent service company or technical represen-
36 tative application or reports to the secretary;

37 (7) fail to pay all fees and penalties as prescribed by chapter 83 of
38 the Kansas Statutes Annotated, and amendments thereto, and the rules
39 and regulations adopted thereunder;

40 (8) fail to keep or make available for examination in an accessible and
41 legible manner or provide to the secretary in a legible manner all inspec-
42 tion reports, test reports, and any other service or report work information
43 on any device which the service company or an agent or employee per-

1 formed work on and other information necessary for the enforcement of
2 chapter 83 of the Kansas Statutes Annotated, and amendments thereto
3 or any rules and regulations adopted thereunder; or

4 (9) *sell, offer or expose for sale a weighing or measuring device in-*
5 *tended to be used commercially, which is not traceable to a national type*
6 *evaluation program certificate of conformance.*

7 (c) For the purpose of paragraph (a)(4), the selling and delivery of a
8 stated quantity of any commodity shall be prima facie evidence of rep-
9 resentations on the part of the seller that the quantity sold and delivered
10 was the quantity bought by the purchaser.

11 (d) Violation of this section shall be deemed a deceptive act and prac-
12 tice as defined by K.S.A. 50-626, and amendments thereto. Violations of
13 the provisions of K.S.A. 83-219, and amendments thereto, may be en-
14 forced by the secretary under the administrative provisions of chapter 83
15 of the Kansas Statutes Annotated, and amendments thereto, or by the
16 attorney general or a county or district attorney under the Kansas con-
17 sumer protection act.

Sec. 4

18 ~~Sec. 12.~~ K.S.A. 2000 Supp. 83-304 is hereby amended to read as fol-
19 lows: 83-304. (a) Except as provided by subsection (e), the owner or op-
20 erator of a weighing and measuring device which is used commercially
21 shall have such weighing and measuring device tested and inspected at
22 least annually for accuracy. The test shall be conducted by either a li-
23 censed technical representative employed by a licensed service company
24 or by an authorized representative of any city or county which has estab-
25 lished a department of public inspection of weights and measures pur-
26 suant to K.S.A. 83-210, and amendments thereto, or by the secretary,
27 which inspects such weighing and measuring device in accordance with
28 rules and regulations adopted by the secretary. If upon inspection by the
29 secretary or an authorized representative of the secretary, it is found that
30 the weighing and measuring device has not been tested and inspected for
31 accuracy and approved within the preceding 365 days, the secretary or
32 the authorized representative of the secretary shall take the weighing and
33 measuring device out of service pursuant to the provisions of K.S.A. 83-
34 215, and amendments thereto. Except as provided further, the test
35 weights or equipment used by the service company shall have been ap-
36 proved and sealed by the secretary pursuant to K.S.A. 83-214, and amend-
37 ments thereto, within 365 days preceding the date of the tests. Test
38 weights or equipment which has the nominal capacity of 250 pounds or
39 greater, are housed in a grain elevator or similar structure and are used
40 to test scales in grain elevators or similar facilities shall have been ap-
41 proved and sealed by the secretary pursuant to K.S.A. 83-214, and amend-
42 ments thereto, within three calendar years preceding the date of the test.
43 Except at the option of the city or county which has an established de-

1 department of public inspection of weights and measures, tests and inspec-
2 tions shall be at the expense of the owner or operator of the weighing
3 and measuring device. In any city or county which has a department of
4 public inspection which inspects such weighing and measuring device,
5 the test may be conducted by an authorized representative of the city or
6 county weights and measures department. Farmers or ranchers who own
7 and operate a weighing and measuring device used in private treaty trans-
8 actions are exempt from the annual testing requirements. *Volumetric*
9 *provers which are stationary or which exceed the testing capacity of the*
10 *state metrology lab due to engineering design or the capacity of the prover*
11 *are exempt from the annual testing requirement.*

12 (b) A service company or the city or county department of public
13 inspection of weights and measures or an authorized representative of
14 the secretary which conducts tests pursuant to this section shall, at the
15 time of testing and inspection, promptly furnish to the owner or operator
16 of the weighing and measuring device a report showing the results of the
17 tests and inspection. The city or county department of public inspection
18 of weights and measures *and service company* reports shall also be sent
19 to the secretary, as required by rules and regulations adopted by the
20 secretary, ~~however~~. No report shall be furnished later than 10 days after
21 the test or inspection of the device has occurred.

22 (c) Subject to the provisions of K.S.A. 83-215, and amendments
23 thereto, the owner or operator of a weighing and measuring device which
24 is found to be out of the tolerances or specifications required by chapter
25 83 of the Kansas Statutes Annotated, and amendments thereto or any
26 rules and regulations adopted thereunder, at the time of testing shall
27 withdraw immediately the weighing and measuring device from further
28 use until the necessary corrections, adjustments or repairs are made and
29 the weighing and measuring device is determined to be accurate by a
30 service company or the city or county department of public inspection of
31 weights and measures or an authorized representative of the secretary.
32 Weighing and measuring devices which have been repaired or serviced
33 shall meet the tolerances and specifications established in chapter 83 of
34 the Kansas Statutes Annotated, and amendments thereto, and those rules
35 and regulations adopted by the secretary prior to being placed or returned
36 to service. The service company or the city or county department of public
37 inspection of weights and measures shall notify the secretary of any weigh-
38 ing and measuring devices which are found not to comply with such tol-
39 erances and specifications and are thus inaccurate and cannot be adjusted,
40 repaired or serviced so as to comply with the standards and tolerances
41 established in chapter 83 of the Kansas Statutes Annotated, and amend-
42 ments thereto. Such notification shall be as required by the secretary,
43 pursuant to rules and regulations, ~~however~~. Such notification shall be

1 furnished to the department no later than 10 days after the service com-
 2 pany or city or county department of public inspection of weights and
 3 measures has found the weighing and measuring device to be in noncom-
 4 pliance with the tolerance and specifications required for such weighing
 5 and measuring device. A copy of the report prepared by the service com-
 6 pany or city or county department of public inspection of weights and
 7 measures or the secretary showing the results of the weighing and meas-
 8 uring device test and the work done to correct any deficiencies shall be
 9 filed with the secretary by the service company.

10 (d) Each service company shall be required to keep at such company's
 11 corporate headquarters or at such company's resident agent's office a copy
 12 of all reports regarding the installation, repair, calibration and other work
 13 the service company or the technical representatives employed by the
 14 service company performed on the commercial weighing and measuring
 15 devices. Such reports shall be legible and maintained in an accessible
 16 manner and for a period of time as established by the secretary pursuant
 17 to rules and regulations. The owner or operator of a weighing and meas-
 18 uring device shall also be required to retain copies of all reports regarding
 19 the installation, repair or adjustment or any of the aforementioned done
 20 to the weighing and measuring device at the site where the measuring
 21 and weighing device is used. Such reports shall be legible and maintained
 22 in an accessible manner and for a period of time as established by the
 23 secretary pursuant to rules and regulations.

24 (e) The secretary may adopt rules and regulations providing for in-
 25 spection of vapor meters at intervals less frequently than annually if the
 26 secretary determines that annual inspections are not necessary to protect
 27 the public interest. In adopting any such rules and regulations, the sec-
 28 retary shall take into consideration the standard for inspections of vapor
 29 meters adopted by the national institute of standards and technology of
 30 the United State department of commerce.

Sec. 5

31 ~~Sec. 4.~~ K.S.A. 83-404 is hereby amended to read as follows: 83-404.

32 (a) The owner or operator of a dispensing device which is used for com-
 33 mercial purposes shall have such device tested and inspected at least
 34 annually for accuracy. The test shall be conducted by either an authorized
 35 representative of any city or county which has established a department
 36 of public inspection of weights and measures pursuant to K.S.A. 83-210,
 37 and amendments thereto, or by the secretary, which inspects such dis-
 38 pensing devices in accordance with rules and regulations adopted by the
 39 secretary. ~~If upon inspection by the secretary, it is found that the dis-~~
 40 ~~persing device has not been tested and inspected for accuracy and ap-~~
 41 ~~proved within the preceding 12 calendar months, the secretary shall take~~
 42 ~~the dispensing device out of service pursuant to the provisions of K.S.A.~~
 43 ~~83-215, and amendments thereto. The test weights and measures used~~

at least once within every 18 month period.

If upon inspection by the secretary, it is found that the dispensing device has not been tested and inspected for accuracy and approved within the preceding 18 months, the secretary shall take the dispensing device out of service pursuant to the provisions of K.S.A. 83-215, and amendments thereto.

1 by the service company shall have been approved and sealed by the sec-
2 retary pursuant to K.S.A. 83-214, and amendments thereto, every 365
3 days. Except at the option of the city or county which has an established
4 department of public inspection of weights and measures, annual tests
5 and inspections shall be at the expense of the owner or operator. In any
6 city or county which has a department of public inspection of weights and
7 measures which annually inspects such dispensing devices, the tests may
8 be conducted by an authorized representative of such city or county
9 weights and measures department. Farmers or ranchers who own and
10 operate a dispensing device used in private treaty transactions are exempt
11 from the annual testing requirements.

12 (b) The city or county department of public inspection of weights and
measures or the secretary which conducts tests pursuant to this section,
14 at the time of testing and inspection, shall promptly furnish to the owner
15 or operator a report showing the results of the tests and inspection. Such
16 reports shall also be sent to the secretary, as required by rules and reg-
17 ulations adopted by the secretary, however, no report shall be furnished
18 later than 10 days after the test or inspection of such device has occurred.

19 (c) Subject to the provisions of K.S.A. 83-215, and amendments
20 thereto, the owner and operator of a dispensing device which is found to
21 be inaccurate at the time of testing shall withdraw immediately the device
22 from further use until the necessary corrections, adjustments or repairs
23 are made and the device is determined to be accurate by a service com-
24 pany or the city or county weights and measures department or an au-
25 thorized representative of the secretary. The devices which have been
26 repaired or serviced shall meet the tolerances and specifications adopted
27 by the secretary by rules and regulations. The service company or the city
28 or county shall notify the secretary of any devices which are found not to
29 comply with such tolerances and specifications and those which are not
? able to be serviced or repaired so as to comply with such tolerances and
30 specifications. The service company shall report to the secretary within
31 the time frames and in a manner established in rules and regulations
32 adopted by the secretary of any dispensing device which has been in-
33 stalled, repaired, calibrated or fails to comply with the required tolerances
34 and specifications.
35

36 (d) Each service company shall be required to keep at such company's
37 corporate headquarters or at such company's resident agent's office a copy
38 of all reports regarding the installation, repair, calibration and other work
39 the service company or the technical representatives employed by the
40 service company performed on the commercial dispensing devices. Such
41 reports shall be legible and maintained in an accessible manner and for
42 a period of time as established by the secretary pursuant to rules and
43 regulations. The owner or operator of a dispensing device shall also be

1 required to retain copies of all reports regarding installation, repair or
 2 adjustment or any of the aforementioned done to the dispensing device
 3 at the site where the dispensing device is used. Such reports shall be
 4 legible and maintained in an accessible manner and for a period of time
 5 as established by the secretary pursuant to rules and regulations.

6 ~~Sec. 5. K.S.A. 83-145, 83-219 and 83-404 and K.S.A. 2000 Supp. 83-~~
 7 304 are hereby repealed.

Sec. 4

83-202

8 ~~Sec. 6. This act shall take effect and be in force from and after its~~
 9 publication in the statute book.

Sec. 7

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