

MINUTES OF THE HOUSE AGRICULTURE COMMITTEE

The meeting was called to order by Chairman Dan Johnson at 3:30 p.m. on February 14, 2005, in Room 423-S of the Capitol.

All members were present except:

Representative Judy Showalter- excused

Committee staff present:

Raney Gilliland, Kansas Legislative Research Department

Gordon Self, Revisor of Statutes Office

Kay Scarlett, Committee Secretary

Conferees appearing before the committee:

Jill Shelley, Legislative Division of Post Audit

Constantine Cotsoradis, Assistant Secretary, Kansas Department of Agriculture

Duane Simpson, Director of Government Affairs, Kansas Grain and Feed Association

Brad Harrelson, State Policy Director, Governmental Relations, Kansas Farm Bureau

Mary Jane Stankiewicz, President, Kansas Agricultural Alliance

George Royer, Director, Kansas Soybean Association

Leslie Kaufman, Council of Governmental Relations Director, Kansas Cooperative Council

Others attending:

See attached list.

Chairman Johnson asked Raney Gilliland to provide some background information on the grain warehouse program. It was explained that the state's program for regulating public grain warehouses was transferred from the Grain Inspection Department to the Department of Agriculture in 1997. The grain inspection program was privatized. Prior to the split, dollars received in fees from the grain inspection program helped support the functions of the grain warehouse program. At the time of the split, \$900,000 was transferred with the grain warehouse program. **HB 2280** is the result of the depletion of those funds. New Section 1 would authorize sampling of any commodity contained in a licensed warehouse whenever indications of quality problems are observed. New Section 2 provides for civil penalties for violations of law, and Section 3 would increase the cap on public warehouse license fees by about 30 percent.

Jill Shelley, Legislative Division of Post Audit, reviewed the Performance Audit Report, *Department of Agriculture: Reviewing the Grain Warehouse Inspection Program*, dated August, 2004, a copy of which can be obtained from the Legislative Division of Post Audit. The audit answers the question, "Does Kansas Have an Adequate Program for Protecting Farmers Who Have Grain Stored in Public Warehouses?" The audit found that the Kansas grain warehouse program follows a number of good practices, but some major weaknesses impair its ability to protect farmers. She discussed problems found related to licensing, monitoring, enforcement, scope and funding.

Audit recommendations for the Legislature include amending the Kansas Grain Warehouse Act to: 1) increase Kansas' bond rates and minimum bond requirements; 2) require warehouses to provide audited financial statements as part of the annual licensing process; 3) authorize the Department to impose fines for violations; and 4) require the Department to consider grain quality in operating the program, specifically, authorize the use of sampling.

To consider issues surrounding the long-term future of the grain warehouse inspection program, the Legislative Post Audit Committee should request an interim study in 2005 to explore and make recommendations regarding: 1) sustainable funding for the program, and 2) statutory protection for farmers who sell grain on contract, through some type of grain dealer licensing.

Hearing on HB 2280 - Sampling, civil penalties for violations of law and increased fees for grain warehouses

Chairman Johnson opened the hearing on **HB 2280**.

CONTINUATION SHEET

MINUTES OF THE House Agriculture Committee at 3:30 p.m. on February 14, 2005, in Room 423-S of the Capitol.

Constantine Cotsoradis, Assistant Secretary, Kansas Department of Agriculture, appeared in support of **HB 2280** introduced at the request of the Department. He explained that the first two components of the bill, grain quality and civil penalty authority, address issues raised by the Legislative Post Audit Report. The third component addresses funding issues that have been known since the program was transferred to the Department in 1997, but did not reach the crisis point until now. The bill would raise the cap on fees by 30 percent. He noted that at the time of the audit, Kansas was one of only three states with grain warehouse programs funded entirely by fees. So, in addition to the fee increase, the Department has asked for \$100,000 in state general funds. ([Attachment 1](#))

Duane Simpson, Director of Government Affairs, Kansas Grain and Feed Association, appeared in support of **HB 2280**, provided the committee strike Sections 2 and 3 from the bill. KGFA strongly supports authorization for quality sampling of grain in Section 1. They oppose a civil penalty, preferring current law with the power to suspend or revoke a license if a warehouse is in violation of the law or an injunction preventing the warehouse from receiving grain. KGFA opposes raising the fee cap, would prefer additional state general fund money. He noted that the House Agriculture and Natural Resources Budget Subcommittee recommended to the full Appropriations Committee a \$50,000 enhancement to the Governor's budget request of \$100,000. ([Attachment 2](#))

Brad Harrelson, State Policy Director, Governmental Relations, Kansas Farm Bureau, testified in support of Section 1 of **HB 2280** authorizing quality sampling of grain. KFB members support the continuation of an effective and adequately funded state grain warehouse program, however, they support the Governor's efforts to secure state general funds to offset costs of program administration. They believe increased warehouse license fees would ultimately be passed on to the producer. They oppose the civil penalty authority provision, believing that adequate enforcement mechanisms currently exist through the Department's ability to revoke the license. ([Attachment 3](#))

Mary Jane Stankiewicz, President, Kansas Agricultural Alliance, appeared on behalf of the Kansas Agriculture Alliance, a group of eighteen organizations representing agricultural, agribusiness and rural interests. KAA takes positions on specific legislation only when its members are unanimous in the support of or opposition to a bill. KAA opposes civil penalties (Section 2) and a fee increase (Section 3) in **HB 2280**. ([Attachment 4](#))

George Royer, Director, Kansas Soybean Association, appeared in support of the sampling language in Section 1 of **HB 2280**, but opposed the civil penalty and fee provisions in the bill. They feel that adequate remedies currently exist within the state grain warehousing program to address enforcement needs. The Association supports the recent action taken by the House Appropriations Agriculture and Natural Resources Subcommittee recommending an infusion of \$150,000 of state general funds into the grain warehouse program budget. ([Attachment 5](#))

Leslie Kaufman, Council of Governmental Relations Director, Kansas Cooperative Council, testified in support of the sampling language in **HB 2280**, but in opposition to the civil penalty and fee provisions of the bill. They are supportive of the House Appropriations Agriculture and Natural Resources Subcommittee's recommendation to boost the state general fund infusion to \$150,000. The KCC supports a strong State Department of Agriculture and the continuation of the state grain warehouse program. Their members like the ability to choose between the state and federal programs to meet the needs of their individual facilities. She encouraged the committee to strike the civil penalty and fee increase provisions from this bill and advance only the portion dealing with quality sampling. ([Attachment 6](#))

There being no other conferees, the hearing on **HB 2280** was closed.

The meeting adjourned at 5:00 p.m. The next meeting is scheduled for February 16, 2005.

HOUSE AGRICULTURE COMMITTEE GUEST LIST

DATE: February 14, 2005

NAME	REPRESENTING
SEAN MILLER	KS Dairy Assn
Mary Ann Starkiewicz	KGFA
George Royer	KSA
Dennis Hupe	Ks Soybean Assn.
Leslie Kaufman	Ks Coop Council
BRAD HARRELSON	KFB
John Pledge	Larkin intern
DAN RILEY	KDA
Tim Tyson	KDA
Adrian Polansky	KDA
CV Cotsovadis	KDA
Carole Jordan	"
Jill Shollen	Pest Audit
Molly Copen	LPA
Duane Simpson	KGFA
Chris Peines	Rep P Johnson's Intern



KANSAS

DEPARTMENT OF AGRICULTURE
ADRIAN J. POLANSKY, SECRETARY

KATHLEEN SEBELIUS, GOVERNOR

Testimony on House Bill 2280
to
The House Committee on Agriculture

by Constantine V. Cotsoradis
Assistant Secretary
Kansas Department of Agriculture

February 14, 2005

Good afternoon Chairman Johnson and members of the committee. I am Constantine Cotsoradis, assistant secretary of agriculture. I am here to testify in support of HB 2280.

Legislative Post Audit completed a review of the Grain Warehouse Inspection program in August 2004. Essentially, the audit showed that the program, though beset with funding difficulties, has kept our state's farmers relatively well-protected. However, reviewers also said the program should do more to protect grain quality. This bill is a result of that review.

There are three components to this bill, two of which address issues raised by Legislative Post Audit. The third component addresses funding issues we have known about since the program was transferred to the Department of Agriculture in 1997 but did not reach the crisis point until now.

The first part of the bill provides statutory authority for the grain warehouse program to conduct quality inspections. The program serves as the auditor to ensure that grain elevators storing farmers' grain have sufficient quantities on hand to secure these deposits. The actual volume of grain stored is only one element of ensuring that grain elevators are solvent.

Grain quality is an important factor in protecting farmers. It does not matter if the elevator is full to its brim if grain quality deteriorates to the point that it is worthless. Consequently, as recommended in the Legislative Post Audit report, we are asking for statutory authority to inspect grain quality and, if necessary, to require official sampling and grading of the grain.

The Legislative Post Audit report also suggested that KDA seek civil penalty authority. The language in the bill is similar to the civil penalty authority for our other programs. We understand the industry's opposition to civil penalties, but we view them as a less harsh alternative to the enforcement power that we currently have, which is license revocation.

Revoking a license adversely affects many parties and it must be used only as a last resort. If civil penalties are authorized, they could be used as an enforcement tool to gain cooperation from an elevator operator that needs to act to protect grain quality and quantity.

The last, and perhaps most crucial, part of this legislation is language raising the cap on fees by 30 percent. It is absolutely necessary that the grain warehouse program receive additional funding or it will cease to operate in fiscal year 2006.

It was known from the day the program transferred to our department that fees were not going to be sufficient to sustain it. When it was transferred in 1997, it came with about \$900,000, which we have used to offset the annual shortfall between revenue from fees and program expenditures. That \$900,000 is nearly depleted and revenues continue to be less than expenses.

We took the serious step of laying off a grain examiner to reduce expenses, and we have asked the remaining examiners to do more examinations each year. We also reorganized the program to provide more uniformity in our inspections and to gain additional efficiencies.

As the time of the Legislative Post Audit review, Kansas was one of only three states with grain warehouse programs funded entirely by fees. So, in addition to the fee increase, we asked for \$100,000 in state general funds. With the \$100,000 in state general funds and a 15 percent fee increase (approximately \$50,000), we will be able to sustain the program through fiscal year 2010. We asked for a 30 percent increase in the fee cap because we are looking beyond fiscal year 2010. We plan, through rules and regulations, to increase the fees by 15 percent in fiscal year 2006 and by another 15 percent in fiscal year 2011.

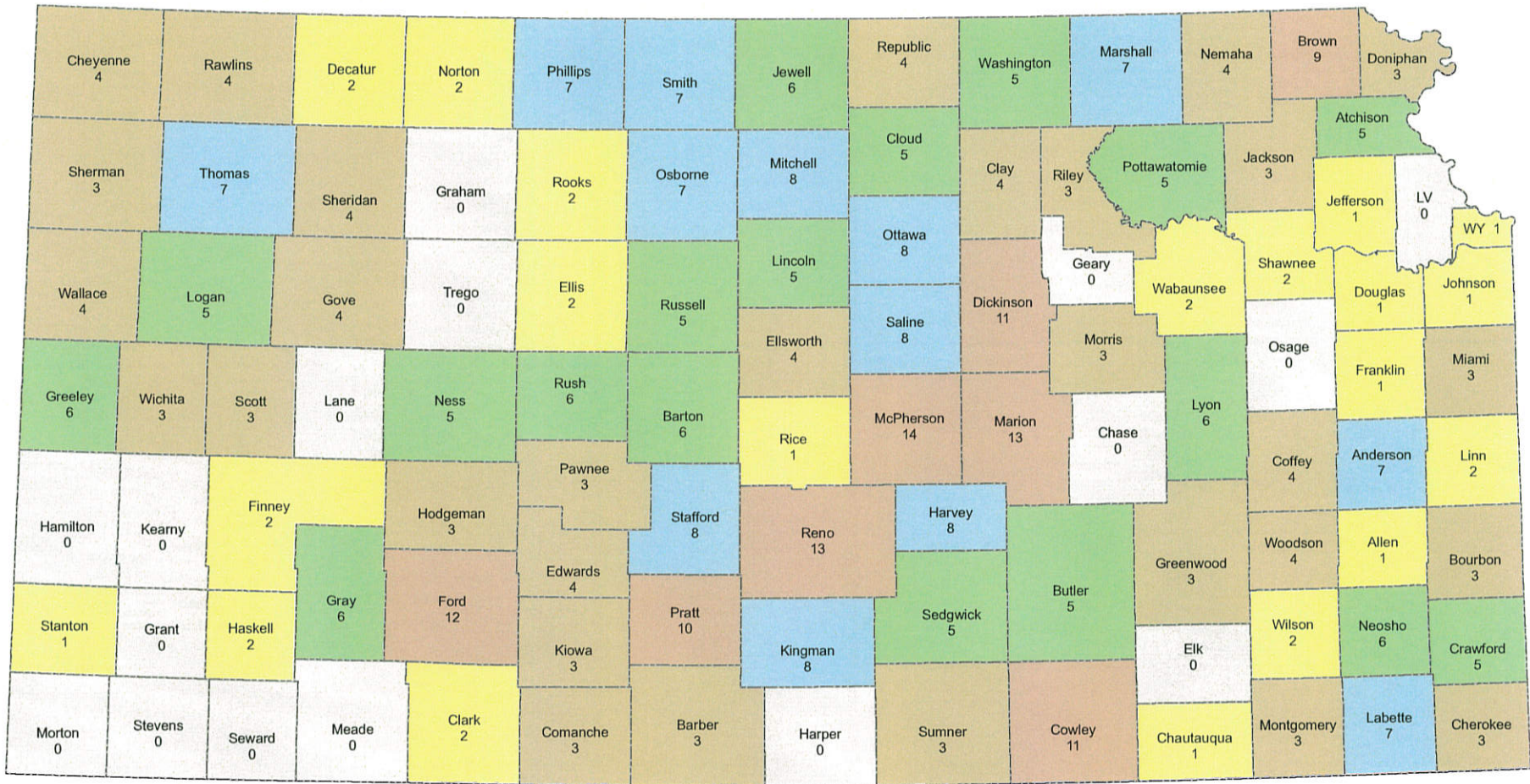
Kansas grain warehouses may choose to be licensed by the state program or federally. In January, the state program had 144 licenses with 271 functional units--this means it licenses about 415 different facilities with a storage capacity of more than 333 million bushels. These grain warehouses provide a service for farmers and employment for small communities in nearly every area of the state. The color copy attached to my testimony graphically shows where these small businesses are located.

The grain warehouse program serves grain elevators, the farmers who store their grain in those elevators and the rural communities that depend on the jobs these elevators provide. The changes contained in HB 2280 will strengthen and sustain the grain warehouse program and allow it to protect our farmers and their communities.

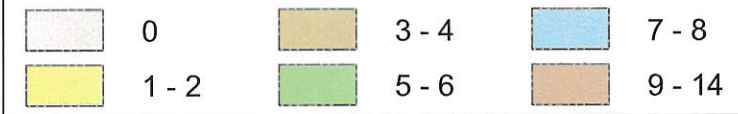
Thank you. I will gladly stand for questions at the appropriate time.

Kansas Licensed Grain Warehouses and Functional Units

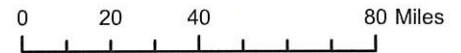
1-3



Number of Grain Warehouse Facilities per County



Kansas Department of Agriculture
Division of Water Resources
Technical Services Section
November 29, 2004



KANSAS GRAIN AND FEED ASSOCIATION

STATEMENT OF THE
KANSAS GRAIN & FEED ASSOCIATION
BEFORE THE
HOUSE AGRICULTURE COMMITTEE
REP. DAN JOHNSON, CHAIR
REGARDING
HOUSE BILL 2280
FEBRUARY 14, 2004

FOR MORE INFORMATION CONTACT

*DUANE SIMPSON, DIRECTOR OF GOVERNMENT AFFAIRS
(785) 234-0461 OR DUANE@KANSASAG.ORG*

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

House Agriculture Committee
February 14, 2005
Attachment 2

Chairman Johnson and members of the House Agriculture Committee, I am Duane Simpson testifying on behalf of the Kansas Grain and Feed Association (KGFA). The KGFA is a voluntary state association with membership encompassing the entire spectrum of the grain receiving, storage, processing and shipping industry in the state of Kansas. KGFA's membership includes over 950 Kansas business locations and represents 99% of the commercially licensed grain storage in the state. Our members include both state and federally licensed warehouses. On behalf of the members of KGFA I am testifying in support of House Bill 2280, provided this committee strikes Sections 2 and 3 from the bill.

Section 1 of this bill sets out in statute the authority of the Secretary of Agriculture to sample any commodity in a state licensed warehouse whenever there are indications that quality problems exist with the potential to cause a loss of value. KGFA firmly believes that this authority is necessary for the Secretary to have in order to adequately protect producers in the state. KGFA has worked with KDA to develop the language in Section 1 and we are confident that this will create a system that allows for quality sampling when a problem is suspected without overburdening the department or licensees with costly sampling that is unnecessary. This bill will strengthen the state program giving more confidence to producers in the state that their grain stored in a state licensed warehouse will be there in good condition when they are prepared to sell it. We believe so strongly that this legislation needs to pass that we rise as proponents of the bill despite our objections to the remainder of it.

Section 2 of the bill gives civil fining authority to the department. It would allow the department to issue fines ranging from \$100 to \$5000. All revenue collected from the fines will go directly into the grain warehouse program. Currently, the Secretary has the power to suspend or revoke a license if a warehouse is in violation of the law. In addition, the Secretary may take a warehouse to District Court for an injunction preventing the warehouse from receiving grain. Current law allows the Secretary to order the warehouse to 1) cover any existing shortage; 2) give additional bond or letter of credit as requested by the Secretary; and 3) submit to any examination that the Secretary considers necessary. If a warehouse fails to comply within 24 hours, the Secretary is allowed to take possession of and maintain all or a portion of any and all commodities located in the licensed warehouse or warehouses of the warehouseman and all pertinent records and property. This authority that the Secretary already has is clearly sufficient to maintain the integrity of the program. Adding civil fining authority does not increase enforcement ability; it merely changes the method of enforcement. KGFA strongly believes that the possibility of an examiner issuing fines rather than the stronger penalties the department currently has at its disposal puts producers who have grain in a struggling warehouse at more risk, rather than less. The process of civil penalties and the resulting appeals could have the unintended consequence of delaying the proper action of suspending or revoking a license, getting a court injunction, or taking possession of the warehouse's grain. In addition, KGFA is concerned that allowing KDA to keep all fines issued in the Grain Warehouse Program when the program has been chronically under funded is a recipe for abuse. While the current Administration and Legislature appear to

be willing to support the state program with State General Funds, it is not unreasonable to fear that some future Legislature or Administration might force the department to rely on increased revenue from fines to keep the program operational. KGFA respectfully requests that this committee amend HB 2280 to delete all of Section 2 from the bill.

Section 3 of the HB 2280 is the proposal to increase fees by 30%. The department has indicated that they intend to immediately raise fees 15% in order to raise \$50,000. The new \$50,000 in fees is intended to supplement the \$100,000 in SGF revenue the Governor has recommended in her budget. \$150,000 per year is enough to keep the program operational through FY 2010. Unfortunately, fees were raised over 20% in January of 2004. That fee increase was not opposed by KGFA. However, we cannot support continued increases in fees if we hope to have a viable state Grain Warehouse Program. Remember, the state program does not operate in a vacuum; there is a federal program that competes with the state program. If our fees force warehouses to flee to the federal program, the state program will not survive. Let's look at a couple of examples of how this fee would affect some state licensees.

Warehouse	Federal Fees	2003 Fees	Current Fees	15% Increase	Difference from Fed.	30% Increase	Difference from Fed.
Team Marketing Alliance	\$26,420	\$18,795	\$25,975	\$29,871	\$3,451	\$33,768	\$7,348
Beachner Grain, Inc.	\$6,700	\$6,625	\$9,100	\$10,465	\$3,765	\$11,830	\$5,130
Cairo Coop. Equity Exchange	\$3,965	\$4,240	\$5,750	\$6,613	\$2,648	\$7,475	\$3,510
AgMark LLC	\$11,110	\$8,075	\$11,000	\$12,650	\$1,540	\$14,300	\$3,190
Midway Coop Assn.	\$6,865	\$5,575	\$7,600	\$8,740	\$1,875	\$9,880	\$3,015
TOTALS	\$55,060	\$45,313	\$59,425	\$68,339	\$13,279	\$77,253	\$22,193

** All figures derived from data provided by the Kansas Department of Agriculture in September 2003.

As you can see, a fee increase of 15% which generates \$50,000 could potentially cost the state program \$68,339 from only these five licensees. These five companies are the ones most affected by the fee increase, but make no mistake - every state license holder would have to consider whether or not they could afford to continue being licensed at the state level if this fee increase passed. Obviously we cannot be certain that all or any of these licensees would leave the state program, but it is not unreasonable to assume that a fee increase of this nature could result in an actual loss of revenue to the program.

The House Agriculture and Natural Resources Budget Committee recommended to the full Appropriations Committee a \$50,000 enhancement to the Governor's budget request. The \$50,000 increase in SGF revenue is intended to replace this fee increase. KGFA strongly supports the Legislature funding the balance of the warehouse program with SGF revenue instead of new fees. Even if the additional \$50,000 should fail to pass the Legislature, the department estimates that the program can survive FY 2006 without a fee

increase. KGFA respectfully requests that this committee amend HB 2280 to delete all of Section 3 from the bill.

The underlying sampling provisions of HB 2280 are very important to the state Grain Warehouse Program. The program's integrity and viability depend on this Legislature passing those provisions. However, Sections 2 and 3 of HB 2280 undermine the viability of the state program. Passage of either section could jeopardize the very existence of a state program. While KGFA members would survive without a federal program, our customers would not be better served. Producers with concerns about a federally licensed warehouse cannot call the Kansas Secretary of Agriculture to get answers. Their State Representative cannot change the law to improve the program or ask for Legislative Post Audits when problems arise. It is in the interest of the producer and ultimately in your best interest to keep this program strong and viable. On behalf of KGFA, I urge you to amend HB 2280 to strike Sections 2 and 3 from the bill and then report the amended bill favorably for passage. Thank you Mr. Chairman, I will stand for questions.

PUBLIC POLICY STATEMENT

HOUSE COMMITTEE on AGRICULTURE

RE: HB 2280 – an act relating to grain warehouses: sampling;
violations of law, civil penalties; fees.

February 14, 2005
Topeka, Kansas

Testimony provided by:
Brad Harrelson
State Policy Director
KFB Governmental Relations

Chairman Johnson, and members of the House Committee on Agriculture, thank you for the opportunity to appear in partial support of HB 2280. I am Brad Harrelson, State Policy Director—Governmental Relations for Kansas Farm Bureau. KFB is the state's largest general farm organization representing more than 40,000 farm and ranch families through our 105 county Farm Bureau Associations.

The membership of Kansas Farm Bureau supports the continuation of an effective and adequately funded state grain warehouse program. Grain producing depositors at licensed warehouses, our members, are the main beneficiaries of this long-standing program. Since 1907, this program has served to protect the interests of depositors to make sure that the grain that is supposed to be there is there.

Currently, the state warehouse program oversees the operation of 415 facilities that represent 333 million bushels of capacity, however, due to trading and multiple crops, these elevators handle at least 700 million bushels a year. The grain warehouse program protects the integrity of the depositor's grain and thus it is in the best interest of the public to have a strong state program.

Reasons to support the state program:

1. The state program is more responsive to questions and issues concerning the grain warehouse.
2. Kansas Department of Ag estimates that not all of the state licensees would be able to obtain a federal license.
3. Most of the state licensed grain warehouses took a 22% increase in January of 2004 to support the state grain warehouse program.
4. By having the state and the federal program this provides competition in the warehousing system and does not allow either system to have a monopoly over the industry.
5. Provides a system for the state legislators and their constituents to have their questions answered in a timely and responsive manner.
6. The state grain warehouse program is required to conduct an annual examination of the grain elevators. There is no inspection requirement at the federal level, but most federal licensees are inspected each year.
7. The grain warehouses are beneficial to the local producer. If some of these warehouses are not available then the producer has fewer options for marketing the grain and must travel a greater distance to store the grain.
8. The grain warehouses employ a number of local workers and pay taxes, which support the rural economy.
9. The state grain warehouse program provides an annual notice of inventory to the depositors, which can assist landlords who have multiple tenants.
10. There are only 2 other states in the nation (WA and MN) that do not put state general funds into the state grain warehouse program. Kansas' neighboring states provide the following level of state general funding:
 - Missouri – approximately \$750,000
 - Iowa – approximately \$1,225,000
 - Nebraska – approximately \$653,600

As you may be aware, funding challenges for this program is the main reason for introduction of this legislation. We have worked diligently with the KDA to find reasonable solutions to this dilemma. To that end, we support the Governors efforts to secure State General Funds to offset costs of program administration. However, we

cannot support another fee increase as proposed in this bill. While it speaks to increased license fees for licensed applicants, in reality, it is grain depositors and our members that ultimately bear the expense. It is our expectation that fee increases will simply be passed on through increased storage costs for the producer. Therefore, we urge your support for sufficient program funding secured through appropriation of State General Funds.

Additionally, we have strong reservations about the growth in civil penalty authority outlined in New Section 2. It should be the court system's role to enforce laws and regulations, rather than relying so heavily on agency action. We believe that adequate enforcement mechanisms currently exist through the department's ability to revoke the license.

In conclusion, Kansas Farm Bureau respectfully urges your support of the Kansas Grain Warehouse Program. However, should you take action on HB 2280, we ask for your consideration regarding our stated concerns and amend the appropriate sections. Thank you, once again, for the opportunity to appear before you and share the policy of our members. KFB stands ready to assist as you consider this measure. Thank you.

KANSAS AGRICULTURAL ALLIANCE

HOUSE AGRICULTURE COMMITTEE

**RE: HB 2280 – Relating to grain warehouses; sampling;
violations of law, civil penalties; fees**

February 14, 2005

Presented by:

**Mary Jane Stankiewicz, President
Kansas Agricultural Alliance**

Good afternoon, Chairman Johnson and members of the House Agriculture Committee. I am Mary Jane Stankiewicz and I appear before your committee today as the President of the Kansas Agriculture Alliance (KAA). KAA is a group of eighteen organizations representing agricultural, agribusiness and rural interests. As a point of information, the KAA only takes positions on specific legislation when its members are unanimous in their support or opposition to a bill.

Today, I stand before you to inform you of the KAA's opposition to civil penalties (new section 2) and to the fee increase (new section 3).

Fees – KAA believes that any fee increase will ultimately be passed onto the producer and this is not good for the producers or to the rural economy. If the fees continue to increase this could cause a number of the elevators to change to the federal system and then there would be no state oversight or involvement in this program that impacts one of our key Kansas commodities. A number of the KAA members have supported the state general fund monies being put into the grain warehouse program and the KAA sees this as a preferred solution to the state grain warehouse revenue shortage.

Civil penalties – KAA does not support civil penalties in the grain warehouse program. The situations that are sited as problematic would not have been solved by a civil penalty and the state has not shown other problems that need to be solved by the issuance of civil penalties.

On behalf of KAA, thank you for your time and attention and we encourage you to amend the bill as recommended.

House Agriculture Committee
February 14, 2005
Attachment 4

*Kansas Agribusiness
Retailers Association*

*Kansas Agricultural
Aviation Association*

Kansas Agri-Women

*Kansas Association of
Conservation Districts*

*Kansas Association of
Wheat Growers*

*Kansas Corn Growers
Association*

Kansas Cooperative Council

Kansas Dairy Association

*Kansas Electric
Cooperatives*

*Kansas Association of
Ethanol Processors*

Kansas Farm Bureau

*Kansas Grain & Feed
Association*

*Kansas Grain Sorghum
Producers*

*Kansas Livestock
Association*

Kansas Pork Association

*Kansas Seed Industry
Association*

Kansas Soybean Association

*Kansas Veterinary
Medical Association*



Kansas Soybean Association
2930 S.W. Wanamaker Drive
Topeka, Kansas 66614
Phone (785) 271-1030 or (800) 328-7390
E-mail: ksbean@inlandnet.net

Kansas House of Representatives Agriculture Committee

Re: HB 2280- Regarding Funding for the State Warehouse Program

**February 14, 2005
Topeka, Kansas**

**Presented by:
George Royer, Director
Kansas Soybean Association**

My name is George Royer. I farm near Holton and serve as a director on the Kansas Soybean Association's board.

There are three main areas of HB 2280 that are important to Kansas soybean farmers.

- 1) Provides statutory guidance for the Secretary to request a grain quality sample under certain circumstance;
- 2) Extends the Department's civil penalty authority to include the grain warehousing program; and
- 3) Increases the statutory cap on public warehouse license fees.

The Kansas Soybean Association does not have a problem with the sampling language, but we are opposed to the civil penalty and fee provisions of the bill.

We feel that there are currently adequate remedies that exist within the state grain warehousing program to address enforcement needs. To extend civil penalty authority to the agency that imposes fines and benefits financially from those fines is not in the best interest of the Kansas soybean farmers.

House Agriculture Committee
February 14, 2005
Attachment 5

The Kansas Soybean Association also opposes further increase in the current fee caps that are in place. The Department of Agriculture recently raised fees, another increase could cause a number of these facilities to either exit the state program or pass the fee increase on to our farmers who would then receive lower prices for their soybeans.

We support the recent action taken by the House Appropriations Agriculture and Natural Resources Subcommittee recommending an infusion of \$150,000 of state general funds into the grain warehouse program budget.

As others have stated, the Kansas Department of Agriculture's grain warehouse program is approximately \$150,000 short in funding. This shortage has occurred even though the department raised the fees to the statutory maximum rate in January of 2004 and has implemented various efficiencies within the program. While we understand the past philosophy of generating enough money to support the program through fees, we believe it is time for the state to share in supporting the program. Since this program protects our soybean farmers in case of fraud or bankruptcies, we feel it is essential that it be fully funded.

Currently, there are no state general funds that go toward the grain warehouse program, even though the purpose of the program is to protect the public and depositors of grain stored in state licensed public warehouses. Missouri, Iowa and Nebraska all provide significant funding for these programs from general funds putting their grain purchasers at an advantage to ours in Kansas. State licensed grain warehouses are generally in smaller, rural communities and are key employers and contributors to the economy in that area. If a number of the grain warehouses were to close their doors, our Kansas soybean farmers would have fewer marketing options and may have to drive a substantial distances when hauling their grain at harvest time. Longer driving distances for producers not only slow down harvest and reduce competition; they also increase road wear and lower soybean farmer profitability.

We were pleased that Governor Sebelius has supported this program with a proposed appropriation of \$100,000 of state general funds, realizing this will not cover all of the shortfall. On behalf of the soybean farmers I represent, we support the \$150,000 appropriation passed last week by the House Agriculture and Natural Resources Budget Committee.

We respectfully ask the committee to strike the civil penalty and fee increase provisions from this bill and support the grain warehouse program with a \$150,000 general fund allocation. It is good for the rural economy, good for soybean producers, good for the general health of the grain industry and thus, good for all of Kansas. Thank you for your attention to this matter. If you would like to discuss this matter further, please do not hesitate to contact our staff, Dennis Hupe or Kenlon Johannes in Topeka at 271-1030, or me at any time.

Thank you for your consideration.

Mr. George Royer, Director
Kansas Soybean Association
2944 Barton Road
Holton, KS 66436
785-872-3458



816 SW Tyler St. Ste. 300
Topeka, Kansas 66612
Phone: 785-233-4085
Fax: 785-233-1038
www.kansasco-op.coop

HOUSE AGRICULTURE COMMITTEE

February 14, 2005
Topeka, Kansas

RE: HB 2280 – State Grain Warehousing Program

Chairman Johnson and members of the House Agriculture Committee, thank you for the opportunity to share comments today on HB 2280 for the Kansas Cooperative Council. I am Leslie Kaufman and I serve the Council as Governmental Relations Director. The Council includes more 223 cooperative business members. Together, they have a combined membership of nearly 200,000 Kansans. Included in our membership are more than 115 grain elevator cooperatives, many with multiple facilities, which will be directly impacted by the bill before you today.

HB 2280 has basically three components:

- 1) Statutory guidance for the Secretary to request a grain quality sample under certain circumstance;
- 2) Extension of the Department's civil penalty authority to include the grain warehousing program; and
- 3) Increasing the statutory cap on public warehouse license fees.

The Council supports the sampling language but we are opposed to the civil penalty and fee provisions of the bill.

It is important to the industry to maintain confidence in the agricultural market place. If a KDA inspector has good reason to believe a quality problem exists, then there should be a mechanism to further investigate the situation. We also believe it

appropriate to include a basic framework for when and how such sampling will be conducted. We believe the bill before you strives to reach an appropriate balance in regard to these procedures.

Although we support New Section 1 of HB 2280, we cannot support the civil penalty provisions. Adequate remedies currently exist within the state grain warehousing program to address enforcement needs. We understand the need to have enforcement tools to insure that the state can respond if a problem arises or goes unaddressed. But, government should be cautious in extending civil penalty authority. We think this is particularly important when the agency imposing the fines garners a financial benefit from the penalty assessed.

The Kansas Cooperative Council supports a strong State Department of Agriculture and the continuation of the state grain warehousing program. Our members like the ability to choose between the state and federal programs to meet the needs of their individual facilities.

KDA programs should be adequately staffed and funded. Many of the Department's current programs, including the warehouse program rely heavily on fee funding. The KCC realizes the current fee structure is needed for many programs to continue, but we are greatly concerned that continuing fee increases will ultimately be funded by producers, either directly or indirectly, through increased costs of doing business. As such, we oppose increasing the cap on the public warehouse license fee.

Kansas is one of only 3 states that are not supported, to some extent, by state general fund dollars. Agricultural production is a major contributor to the Kansas economy. As such, programs like the grain inspection program, which ensure confidence in the ag economy need to receive SGF dollars. Additional SGF funding for

the program should be new dollars to the KDA and not just simply reallocated from other programs.

The Council has joined with other industry partners to advocate for an infusion of state general fund dollars into the state grain warehousing program. We were somewhat encouraged that the Governor included \$100,000 SGF in her recommended budget for this program. Unfortunately, that falls short of what the program is going to need, thus we have the proposal to increase fees which is before you now. We are supportive of the House Appropriations Ag & Natural Resources Subcommittee recommendation to boost the SGF infusion to \$150,000.

The licensing fee was increased just over a year ago. Industry has stepped-up to do their part, as they have for the entire existence of the program. Now it is time for the state to do their part to ensure continuing confidence in the agricultural marketplace. Local elevators are economic engines for rural areas. They are the commercial gateway for much of the grain trade in this state. Maintaining the trade and employment base agribusiness provide in a community sustains the investments that have been made in rural economic development across the state.

We encourage this committee to strike the civil penalty and fee increase provisions from this bill and advance only the portion dealing with quality sampling.

Thank you for your consideration.

Leslie Kaufman
Government Relations Director
Kansas Cooperative Council
816 SW Tyler St., Ste. 300
Topeka, Kansas 66612
Phone: 785-233-4085
Fax: 785-233-1038
Cell: 785-220-4068
leslie@kansasco-op.coop