

HOUSE BILL No. 2168

By Representatives Blew and K. Williams

1-25

1 AN ACT concerning agriculture; relating to industrial hemp; allowing the
2 fiber, grain and seeds thereof to be used as food for livestock, poultry
3 and pets; adding hemp grain to the definition of grain; authorizing the
4 secretary to utilize performance-based sampling when inspecting
5 industrial hemp; lowering license and registration fees; extending
6 license and registration periods to two years; exempting certain hemp
7 processors from fingerprinting and background check requirements;
8 amending K.S.A. 2-3901, 2-3906, 2-3907, 2-3908 and 34-223 and
9 repealing the existing sections.

10
11 *Be it enacted by the Legislature of the State of Kansas:*

12 New Section 1. (a) The secretary shall approve and allow the
13 manufacture, transportation, importation, sale or storage of any
14 commercial feeding stuffs that include hemp fiber, grain or seed as defined
15 in K.S.A. 2-3901, and amendments thereto, except when any such
16 commercial feeding stuffs is otherwise determined by the secretary to:

17 (1) Be misbranded or adulterated;

18 (2) contain or possibly contain any substance injurious to public
19 health or the health of livestock, poultry or pets; or

20 (3) be sold, offered or exposed for sale in violation of any of the
21 statutes contained in article 10 of chapter 2 of the Kansas Statutes
22 Annotated, and amendments thereto, or any rules and regulations adopted
23 thereunder.

24 (b) This section shall be a part of and supplemental to article 10 of
25 chapter 2 of the Kansas Statutes Annotated, and amendments thereto.

26 Sec. 2. K.S.A. 2-3901 is hereby amended to read as follows: 2-3901.

27 (a) K.S.A. 2-3901 et seq., and amendments thereto, shall be known and
28 may be cited as the commercial industrial hemp act.

29 (b) As used in the commercial industrial hemp act:

30 (1) "Commercial" means the cultivation or production of industrial
31 hemp for any purpose authorized under K.S.A 2-3906, and amendments
32 thereto.

33 (2) "Delta-9 tetrahydrocannabinol concentration" means the
34 combined percentage of delta-9 tetrahydrocannabinol and its optical
35 isomers, their salts and acids, and salts of their acids, reported as free
36 THC:

1 (A) On a dry weight basis, of any part of the plant cannabis sativa L.;
2 or

3 (B) on a percentage by weight basis in hemp products, waste or
4 substances resulting from the production or processing of industrial hemp.

5 (3) "Effective disposal" includes, but is not limited to:

6 (A) Destruction; or

7 (B) any other method of disposing of industrial hemp or hemp
8 products found to be in violation of this act that is permitted under the
9 provisions of 7 U.S.C. § 1621 et seq. and any rules and regulations
10 adopted thereunder.

11 (4) *"Hemp fiber, grain or seeds" means the mature stalks of industrial*
12 *hemp, fiber produced from the stalks, oil or cake made from the seeds of*
13 *the plant, any other compound, manufacture, salt, derivative, mixture or*
14 *preparation of the mature stalks, except the resin extracted therefrom,*
15 *fiber, oil or cake or the sterilized seed of the plant that is incapable of*
16 *germination.*

17 (5) "Hemp products" means all products made from industrial hemp,
18 including, but not limited to, cloth, cordage, fiber, food, fuel, paint, paper,
19 particleboard, plastics, seed, seed meal and seed oil for consumption and
20 any extract from industrial hemp intended for further processing. Final
21 "hemp products" may contain a tetrahydrocannabinol concentration of not
22 more than 0.3%. As used in this paragraph, "tetrahydrocannabinol
23 concentration" means the same as in K.S.A. 65-6235(b)(3), and
24 amendments thereto.

25 ~~(5)~~(6) "Hemp producer" means any individual, licensed or otherwise,
26 engaging in the cultivation or production of industrial hemp for
27 commercial purposes pursuant to K.S.A. 2-3906, and amendments thereto.

28 ~~(6)~~(7) "Hemp processor" means a person registered under K.S.A. 2-
29 3907, and amendments thereto, to process and manufacture industrial
30 hemp and hemp products.

31 ~~(7)~~(8) "Industrial hemp" means all parts and varieties of the plant
32 cannabis sativa L., whether growing or not, that contain a delta-9
33 tetrahydrocannabinol concentration of not more than 0.3% on a dry weight
34 basis.

35 ~~(8)~~(9) "Person" means an individual, corporation, partnership,
36 association, joint stock company, trust, unincorporated organization or any
37 similar entity or any combination of the foregoing acting in concert.

38 ~~(9)~~(10) "State educational institution" means the university of
39 Kansas, Kansas state university, Wichita state university, Emporia state
40 university, Pittsburg state university, Fort Hays state university, or any
41 other accredited college, university, technical college or community
42 college within Kansas.

43 ~~(10)~~(11) "Authorized seed or clone plants" means a source of

1 industrial hemp seeds or clone plants that:

2 (A) Has been certified by a certifying agency, as defined by K.S.A. 2-
3 1415, and amendments thereto;

4 (B) has been produced from plants that were tested during the active
5 growing season and were found to produce industrial hemp having a
6 tetrahydrocannabinol concentration that does not exceed 0.3% on a dry
7 weight basis and has been certified in writing by the grower or distributor
8 of such seeds or clone plants to possess such qualities; or

9 (C) meets any other authorized standards approved by the Kansas
10 department of agriculture through rules and regulations, except that no
11 seed or clone plants shall be considered authorized seed or clone plants if
12 they do not meet any standard adopted by the United States department of
13 agriculture pursuant to 7 U.S.C. § 1621 et seq., and amendments thereto.

14 Sec. 3. K.S.A. 2-3906 is hereby amended to read as follows: 2-3906.

15 (a) The Kansas department of agriculture, in consultation with the
16 governor and attorney general, shall submit a plan to the United States
17 department of agriculture under which the Kansas department of
18 agriculture will monitor and regulate the commercial production of
19 industrial hemp within the state in accordance with 7 U.S.C. § 1621 et seq.
20 and any rules and regulations adopted thereunder.

21 (b) Such plan shall include the following:

22 (1) A procedure to maintain relevant information regarding land on
23 which industrial hemp is produced, including a legal description of the
24 land, for a period of not less than three calendar years;

25 (2) a procedure for testing, using post-decarboxylation or other
26 similarly reliable methods, the delta-9 tetrahydrocannabinol concentration
27 levels of industrial hemp produced;

28 (3) a procedure for the effective disposal of industrial hemp and hemp
29 products that are found to be in violation of this act;

30 (4) any licensing requirements or other rules and regulations deemed
31 necessary by the Kansas department of agriculture for the proper
32 monitoring and regulation of industrial hemp cultivation and production
33 for commercial purposes, including, but not limited to:

34 (A) Fees for licenses, license renewals and other necessary expenses
35 to defray the cost of implementing and operating the plan on an ongoing
36 basis; and

37 (B) standards for authorized seed or clone plants;

38 (5) a procedure for the creation of documentation that any person in
39 possession of unprocessed industrial hemp may use to prove to any law
40 enforcement officer that such industrial hemp was lawfully grown under
41 this section;

42 (6) a procedure for conducting annual inspections of, at a minimum, a
43 random sample of hemp producers to verify, *including the use of*

1 *performance-based sampling*, that industrial hemp is not produced in
2 violation of this act; and

3 (7) any other procedures necessary to meet the requirements set forth
4 in 7 U.S.C. § 1621 et seq. and any rules and regulations adopted
5 thereunder.

6 (c) (1) A hemp producer who negligently violates this section or any
7 rules and regulations adopted hereunder shall not be subject to any state or
8 local criminal enforcement action, but shall comply with the following
9 corrective actions as applicable:

10 (A) A reasonable date by which the hemp producer shall correct the
11 negligent violation; and

12 (B) a requirement that the hemp producer shall periodically report to
13 the Kansas department of agriculture on the hemp producer's compliance
14 with this section and rules and regulations adopted hereunder, for a period
15 of not less than the next two calendar years.

16 (2) A hemp producer who negligently violates this section or any
17 rules and regulations adopted hereunder three times in a five-year period
18 shall be ineligible to produce industrial hemp for a period of five years
19 beginning on the date of the third violation.

20 (3) The Kansas department of agriculture shall immediately report
21 any violation by a hemp producer with a greater culpable mental state than
22 negligence to the attorney general and such hemp producer shall not be
23 subject to the exemption in subsection (c)(1).

24 (d) Any individual otherwise eligible to become a licensed hemp
25 producer shall not be eligible to produce industrial hemp if such individual
26 has submitted any materially false information in any application to
27 become a licensed hemp producer.

28 (e) (1) The department shall require, as a qualification for initial or
29 continuing licensure, all individuals seeking a license or license renewal as
30 a hemp producer under this section to be fingerprinted and to submit to a
31 state and national criminal history record check. The fingerprints shall be
32 used to identify the individual and to determine whether the individual has
33 a record of criminal history in this state or any other jurisdiction. The
34 department is authorized to submit the fingerprints to the Kansas bureau of
35 investigation and the federal bureau of investigation for a state and
36 national criminal history record check. The department may use the
37 information obtained from fingerprinting and the criminal history record
38 check for purposes of verifying the identification of the individual and for
39 making an official determination of the qualifications for initial or
40 continuing licensure as a hemp producer pursuant to this section and rules
41 and regulations promulgated hereunder. Disclosure or use of any
42 information received by the department for any purpose other than the
43 purposes provided for in the commercial industrial hemp act shall be a

1 class A misdemeanor and shall constitute grounds for removal from office
 2 or termination of employment.

3 (2) An individual who has been convicted of a felony violation of
 4 article 57 of chapter 21 of the Kansas Statutes Annotated, and amendments
 5 thereto, or a substantially similar offense in another jurisdiction, within the
 6 immediately preceding 10 years, shall be disqualified from initial or
 7 continuing licensure as a hemp producer under this section.

8 (3) The Kansas bureau of investigation may charge a reasonable fee
 9 for conducting a criminal history record check.

10 (4) The individual seeking a license or license renewal as a hemp
 11 producer under this section shall pay the costs of fingerprinting and the
 12 state and national criminal history record checks.

13 (f) The secretary of agriculture shall promulgate rules and regulations
 14 to implement the plan submitted to the United States department of
 15 agriculture and to otherwise effectuate the provisions of this section.

16 (g) Upon the repeal of 7 U.S.C. § 5940 or either the adoption of a
 17 federal plan by the United States department of agriculture that allows for
 18 the cultivation and production of industrial hemp for commercial purposes
 19 within the state or upon the adoption of rules and regulations by the
 20 Kansas secretary of agriculture that establish the cultivation and
 21 production of industrial hemp for commercial purposes within the state,
 22 the Kansas department of agriculture may discontinue the industrial hemp
 23 research program established pursuant to K.S.A. 2-3902, and amendments
 24 thereto.

25 (h) Any modification fee established by the department for any
 26 requested change to a license that was previously issued by the department
 27 under this section shall not exceed \$50.

28 (i) (1) *The licensing period for any license issued by the secretary*
 29 *pursuant to this act shall be at least two years.*

30 (2) *The fee for any license issued by the secretary pursuant to this act*
 31 *shall not exceed \$500 and shall be allowed to be paid in a single lump*
 32 *sum or in annual increments not larger than \$250.*

33 (j) Any licensing or other fees collected pursuant to this section and
 34 any rules and regulations adopted hereunder shall be deposited in the
 35 commercial industrial hemp act licensing fee fund established by K.S.A. 2-
 36 3903, and amendments thereto, for all costs of the administration of the
 37 commercial production of industrial hemp.

38 ~~(j)~~(k) This section shall be a part of and supplemental to the
 39 commercial industrial hemp act, K.S.A. 2-3901 et seq., and amendments
 40 thereto.

41 Sec. 4. K.S.A. 2-3907 is hereby amended to read as follows: 2-3907.

42 (a) The state fire marshal shall create and maintain a registry of all hemp
 43 processors operating within the state of Kansas.

1 (b) Any person engaging in the processing of industrial hemp shall
2 register ~~annually~~ *biennially* with the state fire marshal prior to processing
3 industrial hemp.

4 (c) Registration shall expire ~~annually~~ *biennially* on June 30.
5 Registration fees, ~~not to exceed \$1,000~~, shall be established pursuant to
6 rules and regulations adopted by the state fire marshal. *Such registration*
7 *fees shall not exceed \$500 and shall be allowed to be paid in a single lump*
8 *sum or in annual increments not larger than \$250.*

9 (d) Any person required to register as a hemp processor pursuant to
10 this section shall submit ~~an annual~~ *a biennial* registration application on a
11 form provided by the state fire marshal that shall include, at a minimum:

12 (1) The full legal name, date of birth, address and telephone number
13 of the applicant. If the applicant is not an individual, the same information
14 shall also be provided for all owners and the individual responsible for all
15 industrial hemp processing and related activities performed by the
16 applicant;

17 (2) the physical location of any premises that will serve as a part of
18 the applicant's industrial hemp processing operations;

19 (3) a brief description of the industrial hemp processing methods,
20 activities and products planned for production; and

21 (4) certification that such applicant has fully complied with the
22 fingerprinting and criminal history record check requirements contained in
23 this section, if applicable. Any such applicant who provides a false
24 statement of compliance with such requirements shall be guilty of a class
25 C nonperson misdemeanor.

26 (e) The state fire marshal shall provide an updated list of all hemp
27 processors to the Kansas bureau of investigation and to the county sheriff
28 in each county where a hemp processor is located as often as is reasonably
29 required or requested.

30 (f) Fees collected pursuant to this section shall be remitted to the state
31 treasurer in accordance with the provisions of K.S.A. 75-4215, and
32 amendments thereto. Upon receipt of each such remittance, the state
33 treasurer shall deposit the entire amount in the state treasury to the credit
34 of the fire marshal fee fund.

35 (g) It shall be unlawful for any person to operate as a hemp processor
36 without valid registration. Upon a first conviction for a violation of this
37 subsection, a person shall be guilty of a class A nonperson misdemeanor.
38 On a second or subsequent conviction for a violation of this subsection, a
39 person shall be guilty of a severity level 9, nonperson felony.

40 (h) (1) *Except as otherwise provided by subsection (k)*, the state fire
41 marshal shall require all individuals applying for a hemp processor
42 registration who seek to engage in the extraction of cannabinoids from
43 industrial hemp, including the disposal of such cannabinoids, pursuant to

1 the commercial industrial hemp act to be fingerprinted and submit to a
2 state and national criminal history record check. The state fire marshal
3 may require individuals who are current employees or applying to be
4 employees of a hemp processor to be fingerprinted and submit to a state
5 and national criminal history record check. The fingerprints shall be used
6 to identify the individual and to determine whether the individual has a
7 record of criminal history in Kansas or any other jurisdiction. The state fire
8 marshal is authorized to submit the fingerprints to the Kansas bureau of
9 investigation and the federal bureau of investigation for a state and
10 national criminal history record check. The state fire marshal may use the
11 information obtained from fingerprinting and the criminal history record
12 check for purposes of verifying the identification of the individual and for
13 making an official determination of the qualification and fitness of the
14 individual to process industrial hemp pursuant to this act and rules and
15 regulations promulgated hereunder. Disclosure or use of any criminal
16 history information for any purpose other than the purposes provided for in
17 the commercial industrial hemp act shall be a class A nonperson
18 misdemeanor and shall constitute grounds for removal from office or
19 termination of employment.

20 (2) An individual who has been convicted of a felony violation of
21 article 57 of chapter 21 of the Kansas Statutes Annotated, and amendments
22 thereto, or a substantially similar offense in another jurisdiction, within the
23 immediately preceding 10 years, shall be disqualified from processing
24 industrial hemp under this section.

25 (3) The state fire marshal may deny registration to any individual
26 who has violated subsection (g) or any other provision of the commercial
27 industrial hemp act.

28 (4) The Kansas bureau of investigation may charge a reasonable fee
29 for conducting a criminal history record check.

30 (5) The individual seeking authorization to extract or dispose of
31 cannabinoids from industrial hemp pursuant to this section shall pay the
32 costs of fingerprinting and the state and national criminal history record
33 check.

34 (6) Local and state law enforcement officers and agencies shall assist
35 in taking and processing an individual's fingerprints as authorized by this
36 section.

37 (i) (1) The state fire marshal shall promulgate rules and regulations to
38 carry out the provisions of this section, including, but not limited to, rules
39 and regulations on:

40 (A) The denial, conditioning, renewal or revocation of registration;

41 (B) the creation of multiple classes of registrations based upon the
42 scope of hemp processing activities of an applicant;

43 (C) construction and safety standards for processing facilities;

- 1 (D) security measures;
- 2 (E) inventory control;
- 3 (F) maintenance of records;
- 4 (G) access to and inspection of records and processing facilities by
- 5 the state fire marshal and law enforcement agencies;
- 6 (H) the collection and disposal of any cannabinoids extracted during
- 7 the processing of industrial hemp that cannot be lawfully sold in this state;
- 8 and
- 9 (I) the transportation of industrial hemp or hemp products.

10 (2) The state fire marshal may grant an exemption from the
 11 application of a specific requirement of rules and regulations promulgated
 12 under paragraph (1), unless the state fire marshal determines that the
 13 condition, structure or activity that is or would be in noncompliance with
 14 such requirement would constitute a distinct hazard to life or property. Any
 15 such exemption shall be granted only upon written request of a registrant
 16 or applicant for registration that clearly demonstrates that enforcement of a
 17 specific requirement of a rule and regulation will cause unnecessary
 18 hardship as determined by the state fire marshal.

19 (j) The Kansas department of agriculture and the state fire marshal
 20 shall coordinate with one another, including providing any requested
 21 information from the other, regarding industrial hemp licensees, hemp
 22 processors and hemp processor applicants necessary for the enforcement
 23 of any laws or rules and regulations relating to industrial hemp.

24 (k) *The state fire marshal shall grant an exemption from the*
 25 *fingerprinting and criminal history record check requirements of*
 26 *subsection (h) for processors who only manufacture hemp products that*
 27 *are derived from hemp fiber, grain or seeds.*

28 (l) This section shall be a part of and supplemental to the commercial
 29 industrial hemp act, K.S.A. 2-3901 et seq., and amendments thereto.

30 Sec. 5. K.S.A. 2-3908 is hereby amended to read as follows: 2-3908.

31 (a) (1) It shall be unlawful for any of the following hemp products to be
 32 manufactured, marketed, sold or distributed by any person in the state of
 33 Kansas:

- 34 (A) Cigarettes containing industrial hemp;
- 35 (B) cigars containing industrial hemp;
- 36 (C) chew, dip or other smokeless material containing industrial hemp;
- 37 (D) teas containing industrial hemp;
- 38 (E) liquids, solids or gases containing industrial hemp for use in
- 39 vaporizing devices; and

40 (F) any other hemp product intended for human ~~or animal~~
 41 consumption containing any ingredient derived from industrial hemp that
 42 is prohibited pursuant to the Kansas food, drug and cosmetic act, K.S.A.
 43 65-636 et seq., and amendments thereto, ~~and the commercial feeding stuffs~~

1 ~~act, K.S.A. 2-1001 et seq., and amendments thereto.~~ This subparagraph
2 shall not otherwise prohibit the use of any such ingredient, including
3 cannabidiol oil, in such hemp products.

4 (2) As used in this subsection:

5 (A) "Human ~~or animal~~ consumption" means:

6 (i) Ingested orally; or

7 (ii) applied by any means such that an ingredient derived from
8 industrial hemp enters the human ~~or animal~~ body.

9 (B) "Intended for human ~~or animal~~ consumption" means:

10 (i) Designed by the manufacturer for human ~~or animal~~ consumption;

11 (ii) marketed for human ~~or animal~~ consumption; or

12 (iii) distributed with the intent that it be used for human ~~or animal~~
13 consumption.

14 (b) (1) It shall be unlawful for any of the following hemp products to
15 be marketed, sold or distributed to any person in Kansas who is not
16 registered as a hemp processor pursuant to K.S.A. 2-3907, and
17 amendments thereto, or who does not possess a license by the Kansas
18 department of agriculture under any commercial plan established pursuant
19 to K.S.A. 2-3906, and amendments thereto, or the research program
20 established pursuant to K.S.A. 2-3902, and amendments thereto:

21 (A) Industrial hemp buds;

22 (B) ground industrial hemp floral material;

23 (C) ground industrial hemp leaf material; or

24 (D) any extract from industrial hemp with a delta-9
25 tetrahydrocannabinol concentration greater than 0.3% that will be further
26 processed.

27 (2) No license or registration shall be required for the transport of
28 hemp products described in paragraph (1) if such products are transported
29 between hemp producers and hemp processors or between more than one
30 hemp processor. Any such transportation of hemp products shall be subject
31 to rules and regulations promulgated by the state fire marshal pursuant to
32 this act.

33 (c) (1) Upon a first conviction for a violation of this section, a person
34 shall be guilty of a class A nonperson misdemeanor.

35 (2) On a second or subsequent conviction for a violation of this
36 section, a person shall be guilty of a severity level 9, nonperson felony.

37 (d) Nothing in this section shall prohibit:

38 (1) The use of any hemp product for research purposes by a state
39 educational institution or affiliated entity; or

40 (2) the production, use or sale of any hemp product that is otherwise
41 not prohibited by state or federal law.

42 (e) This section shall be a part of and supplemental to the commercial
43 industrial hemp act, K.S.A. 2-3901 et seq., and amendments thereto.

1 Sec. 6. K.S.A. 34-223 is hereby amended to read as follows: 34-223.
2 As used in chapter 34 of Kansas Statutes Annotated, and amendments
3 thereto:

4 (a) "Action" includes counterclaim, setoff and suit in equity.

5 (b) "Delivery" means voluntary transfer of possessions from one
6 person to another.

7 (c) "Fungible grain" means grain of which any unit is, from its nature
8 or by mercantile custom, treated as the equivalent of any other unit.

9 (d) "Grain" means wheat, corn, oats, barley, rye, soybeans, grain
10 sorghums, *hemp grain* and any grains upon which federal grain standards
11 are established. "Grain" includes seeds generally stored by warehouses, if
12 special permission is granted by the secretary.

13 (e) "Holder of a receipt" means a person who has both actual
14 possession of such receipt and a right of property therein.

15 (f) "Order" means an order by endorsement of the receipt.

16 (g) "Owner" does not include mortgagee or pledgee.

17 (h) "Person" includes individuals, corporations, partnerships and all
18 associations of two or more persons having a joint or common interest.

19 (i) "To purchase" includes to take as mortgagee or pledgee.

20 (j) "Receipt" means a warehouse receipt or receipts.

21 (k) "Value" means any consideration sufficient to support a simple
22 contract and includes an antecedent or preexisting obligation, whether for
23 money or not, where a receipt is taken either in satisfaction thereof or as
24 security therefor.

25 (l) "Public warehouseman" means a person lawfully engaged in the
26 business of storing grain for the public.

27 (m) "Public warehouse" or "public grain warehouse" means every
28 elevator or other building in which grain is received for storage or transfer
29 for the public.

30 (n) "Secretary" means the secretary of the Kansas department of
31 agriculture or the secretary's designee.

32 (o) "Department" means the Kansas department of agriculture.

33 (p) "Grain bank grain" means any grain that has been received into
34 any public warehouse to be held for the account of the depositor and
35 returned to the depositor at a later date either as whole or processed grain.

36 (q) "Storage grain" or "stored grain" means grain that has been
37 received in any public warehouse located in this state, and such grain is
38 not purchased by the lessee, owner or manager of such warehouse.

39 (r) "Functional unit" means a public warehouse that has the capacity
40 to store, weigh in and weigh out grain. The storage capacity of any
41 outlying storage facility of a public warehouse that is not a functional unit
42 itself shall be included as part of the combined capacity of the
43 warehouseman's nearest functional unit.

1 (s) "Open storage" means the storage of grain pursuant to the
2 issuance of a scale ticket, regardless of whether the grain is retained in the
3 warehouse that issued the scale ticket or elsewhere.

4 (t) "Owner" means the holder of any warehouse receipt or any ticket
5 for grain held in storage by a public warehouseman, regardless of whether
6 the grain for which the warehouse receipt or ticket was issued is stored at
7 the warehouse that issued the receipt or ticket or is stored elsewhere.

8 (u) "Deferred payment" means any payment to be made pursuant to
9 the terms of a grain purchase contract after the delivery of grain to a public
10 warehouseman.

11 (v) "Delayed pricing" means any method of pricing grain pursuant to
12 the terms of a grain purchase contract after the delivery of grain to a public
13 warehouseman.

14 (w) "Financial institution" means any institution whose deposits,
15 shares or accounts are insured by a federal agency or any bank for
16 cooperative created pursuant to title III of the farm credit act of 1971.

17 (x) "Standby letter of credit" means "letter of credit" as that term is
18 defined in K.S.A. 84-5-103, and amendments thereto, that by its terms:

19 (1) Is irrevocable;

20 (2) is nontransferrable;

21 (3) names the seller that produced the grain as beneficiary;

22 (4) shall not expire earlier than 60 calendar days after the final
23 payment is due pursuant to the terms of the underlying grain purchase
24 contract; and

25 (5) cannot be drawn upon by the beneficiary in the absence of a
26 default as defined by the terms of the underlying grain purchase contract.

27 (y) "Unpaid balance" means that portion of the purchase price under a
28 grain purchase contract, together with an interest thereon, if any, that
29 remains due and owing to the seller pursuant to the terms of the grain
30 purchase contract at the time the seller makes a demand for payment as
31 provided in the contract. If a grain purchase contract provides for delayed
32 pricing and the price has not been established at the time the seller makes
33 demand for payment, then for the purposes of this section only, the unpaid
34 balance shall be determined as though the price had been established at the
35 time of the closing of the relevant futures market on the last trading day
36 before the seller made a demand for payment.

37 (z) "*Hemp grain*" means the same as defined in K.S.A. 2-3901, and
38 amendments thereto.

39 Sec. 7. K.S.A. 2-3901, 2-3906, 2-3907, 2-3908 and 34-223 are hereby
40 repealed.

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