

MINUTES OF THE SENATE AGRICULTURE COMMITTEE

The meeting was called to order by Chairman Mark Taddiken at 8:30 A.M. on March 21, 2005 in Room 423-S of the Capitol.

All members were present.

Committee staff present:

Raney Gilliland, Kansas Legislative Research
Lisa Montgomery, Office of Revisor of Statues
Jacqui Jones, Committee Secretary

Conferees appearing before the committee:

Proponents:

Brad Harrelson, State Policy Director, Kansas Farm Bureau, Govt. Relations (KFB)
Duane Simpson, Director of Govt. Affairs, Kansas Grain & Feed Association (KGFA)
Leslie Kaufman, Governmental Relations Director, Kansas Cooperative Council (KCC)

Opponents:

Others attending:

See attached list.

Continued hearings on:

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

Brad Harrelson, KFB, testified in support of **HB-2280** as amended.

The conferee stated that 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 program (Attachment 1).

In his written testimony he listed reasons to support the state program (Attachment 1-1).

Funding challenges for the program are the main reason for introduction of this bill. KFB has cooperated with the Kansas Department of Agriculture (KDA) to find reasonable solutions to the funding dilemma. Although KFB supports the Governor's efforts to secure money from the State General Fund to offset costs of program administration, KFB cannot support another fee increase. KFB urges support for sufficient program funding through appropriation of money from the State General Fund.

KFB has strong reservations regarding growth in civil penalty authority outlined in New Section 2 of the original bill believing that it should be the court system's role to enforce laws and regulations and not have so much reliance on agency action. KFB believes that adequate enforcement mechanisms currently exist through the KDA's ability to revoke the license, receivership and the courts. KFB urged the Committee to consider its stated concerns and support the bill as amended.

As part of his testimony, Mr. Harrelson listed enforcement action available to the Kansas Department of Agriculture for the Grain Warehouse Program (Attachment 1-3).

Brad Harrelson offered to stand for questions at the appropriate time.

Duane Simpson, Director of Govt. Affairs, KGFA, testified in support of **HB-2280** stating that the Association firmly believes that KDA should have the authority to sample any commodity in a state-licensed warehouse in order to adequately protect producers. KGFA is confident that the language in the bill will create a system that allows for quality sampling when a problem is suspected without overburdening the Department or licensees with unnecessary sampling. KGFA believes that the bill will strengthen the program (Attachment 2-1).

KGFA believes that KDA has the authority to make additional examinations of a warehouse at the cost of the warehouseman (Attachment 2-2). KDA can seal a bin if there are outstanding receipts. KGFA feels that this provision could be amended to include quality problems, thereby allowing KDA to seal only those bins that have quality problems without revoking the warehouse license. KDA can place an injunction on a warehouse that refuses to come into compliance, that would not allow the warehouse to deliver or receive grain. KDA can revoke the license of a warehouse that does not come into compliance (Attachment 2-3).

Mr. Simpson offered to stand for questions at the appropriate time.

Leslie Kaufman, Director of Governmental Relations, KCC, testified in support of **HB-2280**. She stated that there are more than 110 grain warehouse cooperatives in the membership of the Council that have multiple facilities that will be directly impacted by **HB-2280**. The Council supports the sampling language in **HB-2280** stating that when a KDA inspector has reason to believe a quality problem exists, there should be a mechanism to further investigate the situation. KCC believes that there should be a basic framework for when and how such sampling will be conducted. (Attachment 3).

KCC stated that **HB-2280** originally contained a provision authorizing civil penalties and they were opposed to expanding such authority, wishing to delete the provision from the bill. Ms. Kaufman stated that four options currently exist to address grain warehousing concerns and they are listed in her written testimony (Attachment 3-2).

Ms. Kaufman offered to stand for questions at the appropriate time.

Senator Lee asked a question regarding the interpretation of the word “discrepancies.” Dan Riley, General Counsel for the Kansas Department of Agriculture replied. A question also was asked in regard to the word “injunction” and Mr. Riley’s reply stated that it would depend on the judge.

Chairman Taddiken closed the hearings on **HB-2280**.

Chairman Taddiken asked the Committee to work **SB-265 - Requiring a licensed professional engineer to prepare plans and specifications for construction or expansion of confined feeding facilities**

Senator Francisco moved and Senator Pine seconded that SB-265 be moved out of Committee. Motion failed.

Chairman Taddiken asked the Committee to work **HB-2341 - Uniformity and jurisdiction of Kansas fertilizer law.**

Senator Pine moved, and Senator Francisco seconded that the amendment adding agricultural seed to HB-2341 be accepted. Motion carried.

Senator Huelskamp moved, seconded by Senator Pine that the bill pass out favorably as amended. Motion carried.

Chairman Taddiken asked the Committee to work **HB-2280 - Sampling, civil penalties for violations of law and increased fees for grain warehouses.**

Senator Huelskamp moved and Senator Pine seconded that the bill be moved out of Committee favorably without amendments. Motion carried.

Chairman Taddiken asked the Committee to work **HB-2103 - Standards and requirements of commercial weighing and measuring devices**

Senator Pine moved, and Senator Ostmeyer seconded that the bill be moved out of Committee with the language in the amendment to be changed to match that of the bill on lines 24 and 25 regarding *the national institute of standards and technology handbook 44 ...* Motion passed.

Senator Taddiken asked the committee to work **HB-2053**.

Senator Taddiken moved and Senator Lee seconded that the language in the first amendment regarding costs or expenses be adopted with changes made throughout to match this language. Motion carried.

Senator Taddiken moved and Senator Schmidt seconded to approve the language in amendment #2 adopting new Section 2 and renumbering Sections accordingly. Motion carried.

Senator Francisco moved seconded by Senator Lee that Section 2. (I) regarding study groups be eliminated. Motion failed.

Chairman Taddiken advised Committee members that tomorrow's meeting will be held at 9:00 a.m. and he will inform the Livestock Commissioner.

Senator Lee requested the Chairman to write a letter to the Legislative Coordinating Council requesting an interim study of the issue in regard to reviewing the portion of **SB-288 - Kansas pet animal act, rules and regulations, fees and limitation on expenditures**, dealing with Animal Health's authority to promulgate rules and regulations in compliance with the provision of the federal Animal Welfare Act. The Chairman indicated that he would do so.

Senator Francisco moved, seconded by Senator Taddiken that the minutes of March 16 be approved with corrections to include the comment about regulations.

The Agriculture Committee meeting adjourned at 9:30 a.m.

The next meeting is scheduled for 9:00 a.m. on March 22, 2005.