

Approved

Fred Kerr 3/16/84
Date

MINUTES OF THE SENATE COMMITTEE ON AGRICULTURE AND SMALL BUSINESS

The meeting was called to order by Senator Fred Kerr at
Chairperson

10:00 a.m./~~p.m.~~ on Thursday, March 15, 1984, 19 in room 423-S of the Capitol.

All members were present except: Senator Ed Reilly (E)

Committee staff present: Raney Gilliland, Research Department
Jim Wilson, Revisor's office

Conferees appearing before the committee:

Representative Richard Harper
Representative Bill Fuller
John Blythe, Kansas Farm Bureau
Gary Rowley, President, Wabaunsee County Farm Bureau
Nancy Kantola, Kansas Cooperative Council
Mike Beam, Kansas Livestock Association
Tom Tunnell, Kansas Grain and Feed Dealers Association
Harland Priddle, Secretary, Board of Agriculture

Senator Allen moved the minutes of March 14, 1984 be approved, seconded by Senator Warren. Motion carried.

HOUSE BILL 2299 - Senator Kerr called on Representative Harper, sponsor of this bill. Representative Harper stated the bill was introduced in 1983 and heldover. It does not require any fee from the commercial people. It would allow for the random sampling by the Weights and Measure Division of moisture measuring devices. He stated there are deviations from one elevator to another in moisture devices.

Senator Gannon inquired as to the practicality of the bill. Representative Harper stated three surrounding states and 18 other states have such a bill.

Answering Senator Kerr's inquiry as to the reasoning for the sunset provision which was defeated on the House floor, Representative Harper stated he felt after a period of time it could be determined if the bill was doing what was intended. He does not intend for the bill to cause a fee for the elevators.

Representative Bill Fuller stated the bill is not a new concept, that grain producers want accurate moisture testing devices, as in the case of scales, and feels there could be as much as \$50 to \$100 variance in a load of grain due to inaccurate moisture testing devices. He stated he would hate to see elevators charged another fee--it should be paid for by general funds as is done with scales and LP gas, etc. He stated there were now some 44 fees charged to the grain inspections. He feels the bill is a step in the right direction, even though it may not be perfect.

Senator Gannon pointed out it would be impossible for one inspector to cover the state during the busy season.

John Blythe distributed Attachment 1 which sets out the policy position of the Kansas Farm Bureau which has been supporting state inspection of grain moisture testing devices since 1967: "We recommend and will support legislation to require the Kansas State Department of Agriculture to establish rules, regulations, specifications and standards for inspection of moisture testing devices used in commerce in the State of Kansas. We believe the Weights and Measures Division of the State Department of Agriculture should be given this inspection responsibility."

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON AGRICULTURE AND SMALL BUSINESS,
room 423-S, Statehouse, at 10:00 a.m./~~a.m.~~ on Thursday, March 15, 1984, 19

Gary Rowley referred to Attachment 2 which sets out variances on moisture tests of corn samples. He supports the bill.

Nancy Kantola read her testimony as contained in Attachment 3 stating the Kansas Co-op Council opposes House Bill 2299 in its present form, and called attention to the balloon draft with amendments to the bill which would be more acceptable to them. (Note Attachment 4). She feels if the bill is not amended it would work hardships and delays in the use of the moisture testing devices since the state would be too short-handed to give the prompt needed service and the equipment would be down for too long periods.

Mike Beam presented his testimony as contained in Attachment 5, stating they oppose the present bill. He stated with due respect to the sponsor and proponents of the bill, each person should question whether he has been convinced that there is a significant problem regarding the accuracy of moisture testing devices, would the legislation help in this area and should the state with limited staff and resources have to spend funds which could be more beneficially used.

Tom Tunnell stated the Kansas Grain and Feed Dealers Association, representing some 1,000 grain handling facilities, and the board oppose this bill. They feel it is unnecessary, burdensome and negative to the industry. He stated there is no research documenting such a bill would be beneficial and feels it is an emotional issue. He stated they do maintain the confidence of the farmers and there is no need for state legislation to take care of a few instances across the state. He feels the commercial inspectors do a fine job.

Secretary Priddle stated the bill would give the department authority to go out and spotcheck for accuracy; and the service companies should be accredited by the state. The fiscal note he estimated to be \$61,000.

The meeting was adjourned.

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SENATE

AGRICULTURE AND SMALL BUSINESS COMMITTEE

10:00 a.m., Room 423-S

THURSDAY, MARCH 15, 1984

Date

NAME

ADDRESS

ORGANIZATION

NAME	ADDRESS	ORGANIZATION
Tom Tunnell	HUTCHINSON, KS	KS GRAIN & FEED ASSN
Nancy Kartola	TOPEKA	KS Co-op Council
Don Jacka, Jr	TOPEKA	KS STATE BOARD OF AG.
John Blythe	Manhattan	K. F. B.
HARLAND PRIDDLE	TOPEKA	KSBA
Ken Smith	TOPEKA	mid-America Testing
JAMES H. AKEY	TOPEKA	KSBA
JOHN L. O'NEAL	TOPEKA	KSBA
Rep Bill Fuller	Miltonvale	House Rep
Rep Richard Harger	St. Smith	House Rep.
Mike Beam	TOPEKA	KLA

STATEMENT OF KANSAS FARM BUREAU
TO THE
SENATE COMMITTEE ON AGRICULTURE AND SMALL BUSINESS

RE: HB 2299 "Grain Moisture Meters"
March 15, 1984
Topeka, Kansas

Presented By
John K. Blythe, Assistant Director
Public Affairs Division
Kansas Farm Bureau

Mr. Chairman and members of the Committee:

We appreciate very much the opportunity to make a statement to this Committee in support of HB 2299, a bill which will require registration, with the state sealer, of all grain moisture measuring devices used for commercial purposes, and authorize the state sealer to inspect for accuracy and compliance with rules and regulations of those devices.

Kansas is not "breaking new sod" in this effort to have grain moisture measuring devices inspected by the state sealer of the State Board of Agriculture.

The following states (18 in number) have a program of inspection and regulation of their state's grain moisture meters: Arkansas, California, Colorado, Delaware, Florida, Georgia, Illinois, Iowa, Kentucky, Louisiana, Maryland, Mississippi, Missouri, Nebraska, S. Carolina, Tennessee, Virginia, and Wisconsin. In addition, Indiana, New York and Texas have partial inspection of their moisture testing devices. This legislative year the states of Michigan, Minnesota, N. Carolina and Utah along with Kansas are looking at the problem.

The National Bureau of Standards does have guidelines for operation of a state inspection program. Those guidelines include the checking of the moisture meter scales, thermometers and charts for the meter. Rules and regulations, adopted by the state sealer as provided in section 4 of the bill,

Atch...

should include strict instructions for the daily care of the devices and operating instructions for the operator which should be in plain view of the grain producer. The rules and regulations would include other items such as acceptable tolerances in the moisture meter readings for different ranges of moisture.

Proposed rules and regulations would first be subject to scrutiny by the Rules and Regulations Committee and then, of course, the Agriculture Committees can have a "shot" at the rules and regulations.

I would want to emphasize that we are supporting an additional appropriation for this bill. I know that sometimes it is more difficult to get an appropriation of \$65,000 than it is for an appropriation of \$10 million. We believe that this issue is long past due, and action should be taken this session to implement the program of grain moisture meter testing. We do not want to implement this program at the expense of other weights and measures activities.

Remember there is no charge for checking large scales or the small grocery store scales.

For those who believe that testing and regulations are unnecessary, I can only ask, whose interests are they protecting? I would quote from the Extension News and Features release mailed June 24, 1983 in which Keith Behnke is quoted in saying that "The accuracy of moisture meters are important and the meter's reading are critical to farmers selling grain because as little as one percent point more or less moisture in the grain can mean a big difference in the price of the grain that is sold."

I will certainly agree that the grain moisture meter is an electronic device and we cannot assure 100% calibration with the oven test. Advancements have been made the last few years in these electronic devices to eliminate human error by automatic "read-out" with adjustments for temperature and weight of

the grain sample. A program of checking the meters for accuracy along with rules and regulations establishing guidelines for the care and operation of a moisture meter would be helpful to eliminate the poor and inaccurate meters in the state. We in Farm Bureau believe that a reasonable program of moisture meter testing, conducted by the State Board of Agriculture would be of benefit to the grain trade and producers alike.

The Kansas Farm Bureau has had a policy position of supporting state inspection of grain moisture testing devices since 1967. We believe that this legislation is long overdue and we encourage this Committee give serious consideration to affirmative action on HB 2299.

Following is the Farm Bureau current policy statement on this issue:

Grain Moisture Testers

We recommend and will support legislation to require the Kansas State Department of Agriculture to establish rules, regulations, specifications and standards for inspection of moisture testing devices used in commerce in the State of Kansas. We believe the Weights and Measures Division of the State Department of Agriculture should be given this inspection responsibility.

We appreciate your attention to our statement and we would be happy to yield to questions.

Senate Committee on Agriculture and Small Business
H.B. 2299 - Grain Moisture Testers

by
Gary Rowley - President, Wabaunsee Co. Farm Bureau

During the month of September, 1983, two Wabaunsee County farmers took samples of grain to different elevators to check its moisture content.

Corn Samples of Gary Rowley

sample number	Kansas weights measures	Farm Tester #1	Farm Tester #2	Alta Vista Coop	Alma Coop	Council Grove Western Grain		Tri-County Feedlot	Eskridge Coop
						#1	#2		
#1	16.3	16.75	16.61	17.8	17.6	16.5	16.48		
#2		17.0		19.4				17.0	
#3		16.8	16.5	18.4					
#4		17.8		18.9					17.7
#5		14.4		15.1				14.4	14.7

Milo Samples of Glen Auld

	Eskridge Coop	Pauline Coop
Sample #1	15.4	15.1
Sample #2	15.9	15.7

The Eskridge Coop and Pauline Coop are using Burrows Digital #700 moisture tester that is serviced and checked by Mid-States Testing Service, located at Wichita.

Western Grain at Council Grove have their moisture meter checked and serviced by Mid-States Testing Service in Wichita.

Ag and Small Business Committee
March 15, 1984
Nancy E. Kantola, Exec. Vice Pres.
Kansas Cooperative Council

Mr. Chairman, members of the committee, good morning.

The members of the Kansas Co-op Council have instructed me, on their behalf, to oppose HB 2299.

Last year they supported the moisture meter testing bill. Why the change?

Last year, they felt it was a good idea in concept. It was a "positive" bill, certifying accuracy - even though they expressed doubts about the ability of the state to do that. But each manager, just like the producers you've heard supporting the bill, is sure in his own mind that his meters are accurate; the competitor's are off.

The changes in the bill so far this year are repugnant to managers. Because of the nature of the testers - and I'll leave the details of that to people more expert than I - a "spot check" may arbitrarily take a meter out of commission during a busy season.

But worse, there is concern that this will only give producers a false sense of security.

However, I'm realist enough to see that there is an urgency on the part of some producers to have state testing. Since we would hate to see legislation passed which would be as hard to comply with and unenforcible as this is, I would offer some amendments for your consideration.

Att. 3

Sometimes a compromise just makes everyone unhappy, and I can promise neither the support of opponents of the bill nor agreement by the proponents. My own members may feel I've sold them out. However, I think this would be a change making the bill one that elevators could live with, and give producers the assurance that meters have been checked annually.

Here are the proposed changes.

HOUSE BILL No. 2299

By Representative Harper

2-9

0021 AN ACT concerning weights and measures; providing for regis-
0022 tration ~~and certification~~ of moisture measuring devices and
0023 prescribing fees therefor; prescribing certain duties for the
0024 state sealer; and prescribing unlawful acts and providing
0025 penalties therefor.

0026 *Be it enacted by the Legislature of the State of Kansas:*

0027 Section 1. As used in this act, the following words and
0028 phrases shall have the meanings respectively ascribed to them
0029 herein:

0030 (a) Moisture measuring device means any instrument which
0031 is used by any person for the purpose of ascertaining the mois-
0032 ture content in grains offered for sale, processing or storage;

0033 (b) person means any individual, partnership, corporation,
0034 cooperative association or association of individuals;

0035 (c) grain means wheat, corn, oats, barley, rye, soybeans and
0036 grain sorghums;

0037 (d) state sealer means the state sealer of weights and mea-
0038 sures of the division of weights and measures of the state board
0039 of agriculture.

0040 Sec. 2. No person, **except the Kansas state grain inspection**
0041 **department,** shall operate any moisture measuring device for
0042 any commercial purpose without first registering the same ~~for~~
0043 ~~inspection by~~ with the state sealer ~~and obtaining annually from~~
0044 ~~the state sealer a certificate attesting to the accuracy of such~~
0045 ~~device. Upon receipt thereof the certificate shall be affixed to the~~
0046 ~~moisture measuring device.~~

0047 Sec. 3. (a) Within ¹⁸⁰~~60~~ days of the effective date of this act,
0048 each and every person owning or operating a moisture measur-

and annually thereafter

Atch. 4

0049 ing device for commercial purposes shall register that device
 0050 with the state sealer upon forms provided therefor by the sealer.
 0051 [The person shall submit to the state sealer a receipt that the
 0052 moisture measuring device has been tested by a company en-
 0053 gaged in the business of testing such devices and is certified by
 0054 such company to be accurate.] Such registration shall be accom-
 0055 panied by an inspection fee of \$25 for each moisture measuring
 0056 device to be inspected. Upon receipt of the registration form and
 0057 the inspection fee, the state sealer shall may periodically inspect
 0058 or cause to be inspected every moisture measuring devices so
 0059 registered for the purpose of ascertaining its accuracy.

0060 (b) Whenever the results of the inspection or reinspection
 0061 demonstrate the accuracy of any such device, the state sealer
 0062 shall issue a certificate attesting to the accuracy of that device.
 0063 The certificate shall be valid for one year.

0064 (c) (b) Whenever the results of the inspection demonstrate
 0065 the inaccuracy of such device, the state sealer shall tag that
 0066 device to show clearly that such device is not in compliance with
 0067 the specifications or tolerances established by rules and regula-
 0068 tions adopted by the state sealer pursuant to section 4. The
 0069 owner or operator thereof shall have 30 days within which to
 0070 have repairs made to the device and to notify the state sealer of
 0071 such repairs. Upon such notification the state sealer shall rein-
 0072 spect authorize the removal of the noncompliance tag from such
 0073 device upon payment of a reinspection fee of \$25.

0074 Sec. 4. The state sealer shall adopt rules and regulations for
 0075 the purpose of administering and insuring compliance with the
 0076 provisions of this act. Such rules and regulations shall include
 0077 specifications and tolerances for the operation of moisture mea-
 0078 suring devices.

0079 Sec. 5. The state sealer shall remit all moneys received pur-
 0080 suant to this act to the state treasurer at least monthly. Upon
 0081 receipt of any such remittance, the state treasurer shall deposit
 0082 the entire amount thereof in the state treasury and shall credit
 0083 that amount to the moisture measuring device fee fund which is
 0084 hereby created. All expenditures from such fund shall be made
 0085 in accordance with appropriation acts upon warrants of the

to accompany the registration form

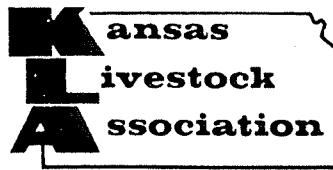
and accreditation and registration procedures for
 service companies.

0086 ~~director of accounts and reports issued pursuant to vouchers~~
0087 ~~approved by the state sealer.~~

0088 Sec. 6 5. Any person who violates any of the provisions of
0089 this act or fails to comply with its requirements or any rule and
0090 regulation adopted thereunder, shall be guilty of a misdemeanor
0091 and upon conviction shall be fined in an amount not to exceed
0092 \$500. Each day that any such violation or failure to comply takes
0093 place shall constitute a separate offense.

0094 *Sec. 6. The provisions of sections 1 to 5, inclusive, and*
0095 *amendments thereto shall expire on January 1, 1987.*

0096 Sec. 7 [6]. This act shall take effect and be in force from and
0097 after January 1, 1985, and its publication in the statute book.



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Owns and Publishes The Kansas STOCKMAN magazine and KLA News & Market Report newsletter.

Statement of the
KANSAS LIVESTOCK ASSOCIATION
to the
Senate Agriculture & Small Business Committee
Senator Fred Kerr, Chairman
relative to
HB 2299
Registering & testing grain moisture measuring devices

Presented by

Mike Beam
Executive Secretary
Cow-Calf/Stocker Division

March 15, 1984

Mr. Chairman and members of the Committee, I am Mike Beam representing the 9,000 members of the Kansas Livestock Association. KLA represents a broad spectrum of livestock producers involved in many segments of the industry from producers to feeders. Obviously a large percentage of our membership includes sellers and buyers of grain.

Proposals to regulate and require the calibration of moisture testers have been considered by the Agriculture Committees of the legislature for a number of years. The membership of our association has consistently - year after year - established policy in opposition to state regulations and testing requirements for grain moisture testers. The basis for this position includes the following:

- 1) We have not been convinced that the "state-of-the-art" in calibration of these devices is sophisticated or accurate enough to insure that such a procedure will give any greater reliability to moisture tester accuracy.

Last year the House Ag Committee heard testimony from Keith Behnke, an as-

Atch. 5

sociate professor of grain science at Kansas State University. Professor Behnke indicated to the committee that there were problems with the "state-of-the-art" and that random errors would probably never be eliminated. Last month we spoke with Profssor Behnke by telephone and he indicated no change in his attitude about the ability to accurately calibrate moisture measuring devices. In fact, his specific quote was, "There's nothing precise about it."

There are many factors which may cause variable moisture readings. The method of operation is at least as important - or more so - than the calibration. Examples of errors include inaccurate weighing; contamination of the sample by sweat; trash in the sample; mistaken readings; temperature variability; and different samples from the same load give different results. In addition, it was pointed out in the Ag Committee hearings last month that testing corn for moisture content has problems with variable readings. Since the kernels are odd-shaped each test can result in a different reading. It was suggested that to be more accurate one should take three samples and use an average moisture test.

2) It's been estimated that this legislation has a fiscal note of approximately \$80,000. The reallocation of resources by the Kansas State Board of Agriculture and its Division of Weights and Measures could slow down the far more useful and accurate activity of monitoring the accuracy of large scales, small scales and other weighing devices. In the past KLA and several other agricultural associations worked long and hard to convince the legislature and the Governor to adequately fund this program. To date we have received no indication that the Board of Ag will receive additional funding for this proposed project. Consequently, the bill may cause a realignment of already tight fiscal resources of the Division of Weights and Measures.

3) Competition will be a more efficient regulator than a state agency. In other words, many producers take the time to check several grain elevators to determine what moisture readings their grain will receive. Any grain buyer who has a moisture measuring device that significantly discriminates against

grain sellers will quickly hear from his customers and/or find his truck scales empty.

4) In other debate it's been pointed out that grain buyers have just as big a stake, perhaps even a larger stake, with an accurate moisture test because they have to make sure that other grain is protected from going out of condition. During the KLA policy making process our members have said that if a grain dealer is going to be dishonest, having the state check his moisture tester certainly won't be much of a deterrent...in fact, grain producers would probably be less suspicious and less careful if they thought the state is guaranteeing the accuracy.

I've already referred to Professor Behnke and the problems he pointed out with the calibration process. In 1982 he conducted a survey of 50 grain elevators across Kansas and collected 500 grain samples. That survey indicated that any problem in Kansas was relative and minor. He compared the moisture readings given by the elevators' moisture meters with the oven method test conducted at the university. Those tests indicated that the overall average error for all samples was less than -.66% in moisture content. "That means," explained Professor Behnke, "that on the whole, the moisture meters tested were 'off' by only a little more than 1/2 of 1%." "And," he noted, "all of the moisture meters checked appeared to be slightly biased towards the negative values. That means they read a bit less than the actual moisture level. In other words, the farmers who sold grain could have received more than they would have had the meters read closer to the oven moisture values because of the discount policies of the various elevators." (Attached is a copy of the Kansas State University Extension news release dated June 24, 1983, which verifies these statements.)

Dr. Behnke also conducted a survey during the 1983 harvest. Last month by telephone he indicated that they recently surveyed 43 elevators, collecting ten

samples from each and had therefore sampled an additional 430 grain samples for moisture tester accuracy. In that survey Professor Behnke found even less variability - less error - and it was still in the farmers' favor. On the average, those 430 grain samples were low by approximately .40%.

We believe that our grain elevator and feedlot industry in Kansas is comprised of honest business people who only desire to give good service at a fair price. They want their moisture testers to be as accurate as possible but they don't believe that state regulation will benefit anyone. Until the membership of the Kansas Livestock Association can be convinced that reliable and practical methods can be developed to check these moisture measuring devices to insure that they are in fact completely accurate at the time of calibration and will stay in calibration...we fail to see the need for this type of legislation.

Thank you.



EXTENSION NEWS & FEATURES

Department of Extension Information
Umberger Hall 129
Manhattan, Kan. 66506
913-532-5804

MAILED: June 24, 1983

Find Kansas Grain Moisture Meters
A Smidgen in Farmer's Favor

MANHATTAN--The accuracy of moisture meters, those electronic devices used to determine moisture content in grain at harvest and during storage, has been under fire. The meter's readings are critical to farmers selling grain because as little as 1 percent point more or less moisture in the grain can mean a big difference in the price for which the grain is sold.

But, despite this concern over the meters' accuracy, Agricultural Experiment Station scientists at Kansas State University say their research has shown the problem in Kansas is relatively minor, at least in the normal moisture ranges for wheat.

Last year, KSU researchers collected a total of 500 grain samples from 50 grain elevators across the state. They compared the moisture readings given by the elevator's moisture meters with the air oven moisture determinations made at KSU. Those tests indicated that the overall average error for all samples was less than minus 66 hundredths of a percent moisture.

"That means," explained Keith Behnke, KSU associate professor of grain science and industry, "that on the whole, the moisture meters tested were 'off' by only a little more than one half of one percent." And, he noted, "all of the moisture meters checked appeared to be slightly biased toward negative values. That means that they read a bit less than the actual moisture level. In other words, the farmers who sold grain could have received more than they would have had the meters read closer to the oven moisture values because of the discount policies at the various elevators.

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Moisture Meters--2

Kansas, unlike other big grain states, doesn't have a law requiring compulsory calibration of moisture meters each year. Based on his study, Behnke wonders if it would be wise for Kansas to implement such a law and how such a law or regulation would be implemented.

"Our survey shows that the meters weren't off all that much and they were biased in the farmers' favor. Right now there are a lot of questions about how accurate the technology for testing the meters is," Behnke said.

Behnke plans to conduct an additional study on the meters this year. He and his students plan to survey 100 elevators across Kansas during wheat harvest and obtain at least 10 samples from each elevator. "This will give us as many as 1,000 samples from across the state," Behnke said. "This in addition to the research we did last year should give us a good idea of exactly what is happening and if there is a problem."

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Marcia Longberg
Research Assistant, Grain Science
Kansas State University

Grain Science
A, C, E, F, M, N