

Approved

Date 4-11-85

MINUTES OF THE HOUSE COMMITTEE ON AGRICULTURE AND SMALL BUSINESS

The meeting was called to order by Lloyd D. Polson at
Chairperson

9:00 a.m./~~p.m.~~ on March 28, 1985 in room 423-S of the Capitol.

All members were present except: Representative Freeman, who was excused.

Committee staff present:

Raney Gilliland, Legislative Research Department
Norman Furse, Revisor of Statutes Office
Mary Jane Holt, Committee Secretary

Conferees appearing before the committee:

Senator Francis Gordon
Marvin Webb, Director, State Grain Inspection Department
Bill Fuller, Kansas Farm Bureau
Tom Tunnell, Kansas Grain and Feed Dealers Association

Hearing on S.B. 300 - Regulation of public warehousemen storing grain, examinations, contracts, records, procedures, letter of credit and penalties for crime.

Senator Francis Gordon testified the bill is the result of elevator bankruptcies and the immense losses to farmers. He stated the farmers do not have any protection when depositing grain in local elevators.

Marvin Webb testified the State Grain Inspection Department could support this bill as it has been amended. However, they request that they be empowered to request additional financial statements, as needed. (Attachment A)

Bill Fuller recommended amending S.B. 300 to require a minimum of two grain warehouse examinations per year, and a check issued for payment of grain 14 days prior to declared insolvency, and the party to whom the check was issued should be considered eligible for a share of the bond. He stated Kansas Farm Bureau supports S.B. 300, however, they ask that adequate funding be provided to assure that increased inspections are quality inspections and suggests the legislature consider funding additional responsibilities from general fund revenues. (Attachment B)

Tom Tunnell said the Kansas Grain and Feed Dealers support this bill. He explained the irrevocable letter of credit would have to be requested by the seller who produced the grain.

Howard Tice distributed copies of his testimony. (Attachment C)

The Committee meeting was adjourned at 10:00 a.m.

The next meeting will be at 9:00 a.m., Friday, March 29, 1985, in Room 423-S.

THE STATE OF KANSAS



GRAIN INSPECTION DEPARTMENT

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HUTCHINSON	WICHITA

REMARKS FOR THE SENATE AGRICULTURE COMMITTEE

HEARING ON SENATE BILL 300

Thursday, March 28, 1985, 10:00 a.m.

Room 423-S, State House

I WOULD LIKE TO SPEAK ON BEHALF OF SENATE BILL 300. AS AMENDED, WE BELIEVE IT COULD BE A VIABLE BILL.

WE SUPPORT THE DEFERRED CONTRACT PROVISION (LINES 47 THROUGH 51) WHICH SIMPLY EMPHASIZES THE FACT THAT TITLE HAS PASSED AND THE PRODUCER IS NO LONGER PROTECTED BY THE SURETY BOND. LINES 59 TO 73 IS PROVIDING FOR A SECURITY INTEREST IN THE GRAIN BY ISSUANCE OF A LETTER OF CREDIT, WHICH IS ADDED PROTECTION FOR THE PRODUCER. HOWEVER, WE BELIEVE THAT THE COST OF THE LETTER OF CREDIT WOULD CREATE A PROBLEM, AS THE BANKS CHARGE BETWEEN TWO AND THREE PERCENT FOR A LETTER OF CREDIT; THAT IS, IF A MAJORITY OF THE PRODUCERS WANTED A LETTER OF CREDIT, IT WOULD BE EXTREMELY COSTLY TO WAREHOUSEMEN.

ON LINES 262 TO 282 IS THE REQUIREMENT FOR (3) THREE EXAMINATIONS IN (24) TWENTY-FOUR MONTHS. THIS IS A GOOD SUGGESTION AND WE CERTAINLY WOULD IMPLEMENT IT. WE FEEL IT WOULD BE DIFFICULT HOWEVER, WE BELIEVE WE CAN ACCOMPLISH THIS ADDITIONAL AMOUNT OF EXAMS. HOWEVER, IF WE HAD ADDITIONAL ELEVATOR FAILURES IT COULD ~~BE~~ ^{MEAN} WE COULD NOT ACCOMPLISH THE THREE IN TWENTY-FOUR MONTHS.

ON LINES 346 TO 358 IS THE REQUIREMENT THAT A CERTIFICATE BE POSTED SHOWING THE BOND COVERAGE AND THE DATE OF EXPIRATION. WE BELIEVE THIS IS A WORTHWHILE IMPROVEMENT AND SHOULD BE INCLUDED IN THE STATUTE.

3/28/85
Attachment A

ON LINES 369 TO 408 WE ARE SOMEWHAT CONFUSED AS TO INTERPRETATION. IF REFERENCE IS MADE TO THE CURRENT FINANCIAL STATEMENT WHICH IS SUBMITTED TO OUR OFFICE ON A YEARLY BASIS, THEN WE FIND THIS ACCEPTABLE BUT WE FEEL THE INTENT HERE MAY BE THE ABILITY TO PREPARE A FINANCIAL STATEMENT AT THE TIME OF OUR EXAMINATION WHICH WOULD BE NEARLY IMPOSSIBLE. WE WOULD LIKE TO CHANGE THE LANGUAGE TO READ THAT OUR OFFICE WOULD BE EMPOWERED TO REQUEST ADDITIONAL FINANCIAL STATEMENTS, AS NEEDED.

ADDITIONALLY, I WOULD LIKE TO COMMENT THAT IT IS OUR INTENTION TO SCRUTINIZE THE "ACCOUNTS RECEIVABLE" ROUTINELY IN EACH OF OUR EXAMINATIONS, AS WELL AS DISCUSS WITH THE LOCAL BANK WHETHER OR NOT THE GRAIN FIRM HAS ANY FINANCIAL PROBLEMS THAT THEY ARE AWARE OF.



Kansas Farm Bureau, Inc.

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STATEMENT
of
KANSAS FARM BUREAU
to

HOUSE AGRICULTURE AND SMALL BUSINESS COMMITTEE
Representative Lloyd Polson, Chairman

RE: S.B. 300--Regulation of public warehousemen storing grain--
examinations, contracts, records, procedures, letter of credit,
and penalties for crime

by
Bill R. Fuller, Assistant Director
Public Affairs Division
Kansas Farm Bureau

March 28, 1985

Mr. Chairman and members of the Committee:

We are pleased to have this opportunity to speak on behalf of the farmers and ranchers who are members of Kansas Farm Bureau as you consider S.B. 300, concerning public grain warehouses.

Over the years, Kansas has experienced few grain warehouse failures when compared to other states. However, one recent elevator failure in northeast Kansas alone will likely result in total losses greater than the combined losses of all failures since 1967. Such failures often result in tragedies which are devastating not only to grain producers, but affect entire rural communities. With the current crisis in the farm economy worsening, we fear such failures may increase as farm bankruptcies increase and elevator accounts receivable expand. We commend the sponsors of this bill for the attempt to prevent grain warehouses failures and reduce the suffering by grain producers when such events occur.

3/28/85
Attachment B

S.B. 300 is a comprehensive proposal which includes several recommendations proposed by the TASK FORCE . . . TO REDUCE GRAIN WAREHOUSE & GRAIN DEALER FAILURES. We support S.B. 300 as amended by the Senate Agriculture Committee and approved by the Senate on a vote of 39-0.

We base our statement on the following policy position adopted by the voting delegates at the most recent annual meeting of Kansas Farm Bureau:

Kansas Farm Bureau

Resolutions 1985

Adopted by the Voting Delegates Representing 105 County Farm Bureaus at the 66th Annual Meeting of Kansas Farm Bureau in Wichita, December 4, 1984.

Agricultural Commodity Storage

We urge farmers to be informed as to the payment risk involved in contracting for future sales of agricultural commodities already delivered to an elevator or feedyard.

We believe all commercial elevators and grain warehousing facilities in Kansas should be licensed and bonded by the state, and or federal government, and inspected by the Warehouse Division of the State Grain Inspection Department a minimum of twice each year. Grain brokerage firms should be bonded and have proof of financial responsibility.

We believe that if a check has been issued for payment of grain within 14 days of the declared insolvency, and if the check has not cleared the bank, the party to whom the check was issued should be considered eligible for a share of the bond.

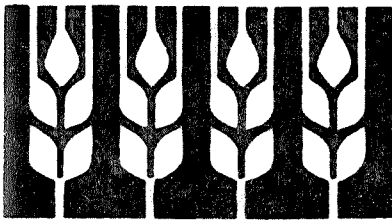
In addition, we recommend the following amendments to S.B. 300 based upon our KFB Resolution:

1. Require the Warehouse Division of the Kansas Grain Inspection Department to examine each grain warehouse a minimum of twice per year.
2. When a check has been issued for payment of grain within 14 days of a declared insolvency, and if the check has not cleared the bank, the party to whom the check was issued should be considered eligible for a share of the bond.

Concerning the examinations, you recall current law requires only one examination. S.B. 300 suggests three examinations each 24 month period and at least once in each 12 month period. The KGID has reported it averages approximately 1.5 inspections per year currently. We ask that adequate funding be provided to assure that these increased inspections are quality examinations. Since Kansas is the only state which funds the Kansas Grain Inspection Department entirely by fees, we suggest the Legislature consider funding additional responsibilities of the Department from general fund revenues.

Thank you Mr. Chairman for this opportunity to testify on S.B. 300 as you attempt to further protect Kansas grain producers.

KANSAS ASSOCIATION
OF WHEAT GROWERS



TESTIMONY

House Committee on Agriculture and Small Business
Thursday, March 28, 1985
SENATE BILL 300

My name is Howard Tice. I am Executive Director of the Kansas Association of Wheat Growers. I appreciate this opportunity to appear today in favor of Senate Bill 300.

It has been pointed out many times recently, that Kansas has a remarkably good record concerning the number of grain elevator failures, when compared to other states. This is especially true when you consider the large number of storage facilities in our state. However, the dollar losses of recent failures are large, and potentially devastating to the communities they serve. In addition to the Twombly elevator failure that generated so much publicity, elevators in Atchison and Esbon have gone under this year.

Senate Bill 300 attacks the problem of large financial loss from elevator failures in several ways. The proposal institutes a warning for farmers by requiring that they be informed, when selling on a deferred payment or delayed pricing plan, that the transaction is not covered by surety bond. That warning is also to be boldly printed on the sales contract.

Further protection for the seller in deferred payment or delayed pricing programs is provided with the provision for an irrevocable letter of credit which may be demanded by the seller. The bill also provides the stipulation that it would be a class D felony to make false public warehouse financial records and false public warehouse reports.

Other administrative improvements include increased elevator inspections, the requirement for a monthly statement of stocks of grain to be filed with the Kansas State Grain Inspection Department, and authority for Grain Inspection officers to inspect or review records or accounts of elevators at any time during business hours.

Finally, the requirement that bond information be posted at each elevator would allow every farmer to be aware of the extent of bonding that each elevator has in effect. This should remedy the problem of farmers not knowing how much bonding is in force, and should correct the misconception that an elevator bond should cover all losses in the event of financial failure.

I had the opportunity to serve on the recent elevator task force which suggested some of the provisions for this bill. I think I speak for most of us on that task force in saying that we have no reservations about supporting this bill. We believe that it is a needed step in bringing the regulation of this vital, yet vulnerable industry back in step with the needs of the industry today.

3/28/85
Attachment C