

MINUTES OF THE SENATE COMMITTEE ON AGRICULTURE

The meeting was called to order by Senator Allen at
Chairperson

10:00 ~~xxx~~/p.m. on March 1, 1985 in room 423-S of the Capitol.

All members were present except: Senator Doyen who was excused.

Committee staff present:

Raney Gilliland, Legislative Research Department
Jim Wilson, Revisor of Statute's Office

Conferees appearing before the committee:

Bill R. Fuller, Kansas Farm Bureau
Bill Edwardson, EDCO Grain, Everest, Kansas
Mike Beam, Kansas Livestock Association
Ray Rather, Commissioner of Insurance Office
Dwayne Liby, Manager, Pauline Coop Elevator
Ronald Bruder, Farmland Industries
Marvin R. Webb, The Kansas Grain Inspection Department

Senator Allen called the committee to order to hear the remaining testimony on SB 300.

Bill R. Fuller, spoke as a proponent for the Kansas Farm Bureau. Mr. Fuller stressed a need for two qualified examinations per year for each grain warehouse and ask caution be exercised when considering increased bonding requirements for state licensed facilities. (See Attachment A).

Bill Edwardson spoke as an opponent to SB 300. Mr. Edwardson reported he was a member of the Kansas Grain and Feed Dealers Association and that he operated two elevators in northeast Kansas. Mr. Edwardson said he did not have assets enough to be able to purchase higher bonding as SB 300 stipulates. This bonding requirement would cause him to go out of business, close down part of his operation or become a business using federal inspections. Mr. Edwardson prefers to remain with state inspections. He also requested to be able to continue using open storage of grains, and requested grain crimes receive penalty to fit the crime committed.

The question asked was whether grain is more apt to be lost through state inspections or federal inspections. Mr. Edwardson stated he felt the state did a better and more strict inspection as compared to the federal. When asked why he did not go to federal inspection service, Mr. Edwardson stated the state had treated him fairly, and always in a business like way and he felt he had a better liaison with the state which is closer than the federal office which is miles away.

Mike Bean, an opponent, stated the KLA opposes the imposition of expensive insurance, bonding and auditing requirement for public grain warehouses. (See Attachment B).

Ray Rather, spoke as neither a proponent or opponent. He stated after studying the bill the Insurance Department believes a requirement to increase the amount of bond may have a detrimental effect on some smaller to medium sized warehouses. (See Attachment C).

Dwayne Liby spoke as neither a proponent or opponent. He expressed concerns about the receipts bookwork and bond requirements suggested in this bill. Mr. Liby stated many small grain businesses would be unable to stay in business under some of the provisions of this bill.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON AGRICULTURE,
room 423-S, Statehouse, at 10:00 a.m./~~p.m.~~ on March 1, 19 85

Ronald Bruder, bonding expert, spoke as neither proponent or opponent. Mr. Bruder stated the bonding part of this bill, if passed, would drive many small businesses out of business and might create a mass exodus of elevators from state inspections to federal inspection program. Mr. Bruder stated that bonding was a service provided by his company. He also said Kansas has had an excellent Grain Inspection Department with many years being trouble free so he felt the department was doing something right. (See Attachment D).

Mr. Bruder was asked if other states around Kansas have increased bonding requirement. No was the answer.

Marvin R. Webb, spoke as neither a proponent or opponent. He stated he realized the intent of the bill was to help his department and he appreciated the efforts put into the bill. He stated he had reservations on how to get the budget to fund any additional responsibilities. (See Attachment E).

Senator Allen announced the hearing concluded on SB 23 and that the committee was adjourned at 11:00 a.m.



Kansas Farm Bureau, Inc.

2321 Anderson Avenue, Manhattan, Kansas 66502 / (913) 537-2261

from
Bill
Fuller
3/1/85

STATEMENT
of
KANSAS FARM BUREAU
to

SENATE AGRICULTURE COMMITTEE
Senator Jim Allen, Chairman

RE: S.B. 300--Regulation of public warehouseman storing grain--
examinations, bonds, notices, records, procedures,
security interests, and penalties for crime

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

February 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.

Over the years, Kansas has experienced few grain warehouse failures when compared to other states. However, one recent elevator failure in northeast Kansas alone with likely result in total losses greater than the combined losses of all failures since 1967. ~~Some~~ ^{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 this committee for your attempt to prevent grain warehouse failures and reduce the suffering by grain producers when such events occur.

S.B. 300 is a comprehensive proposal with many recommendations. However, I will limit my remarks to only a few of the provisions.

3/1/85 attachment A

The voting delegates at the most recent annual meeting of Kansas Farm Bureau adopted the following policy position:

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.

For a number of years, our members have asked that farmers be informed as to the payment risk involved in contracting for future sales. Therefore, our policy supports the section of S.B. 300 which requires purchase contracts, involving deferred payments or delayed ^{pricing} ~~insurance~~ provisions, to include the statement, "THIS CONTRACT CONSTITUTES A VOLUNTARY EXTENSION OF CREDIT BY THE SELLER TO THE PUBLIC WAREHOUSEMAN AND IS NOT PROTECTED BY THE SURETY BOND OF THE PUBLIC WAREHOUSEMAN," and ^{signed} ~~made~~ by the seller.

In addition, Kansas Farm Bureau policy recommends that the Warehouse Division of the Kansas Grain Inspection Department examine each grain warehouse a minimum of twice per year. As 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. 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 ~~the~~ ^{from} general fund revenues.

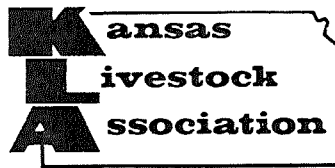
In addition, we suggest that the recommendation in the last paragraph of the Kansas Farm Bureau resolution be added to S.B. 300 (see previous page).

In addition to the official policy position of the Kansas Farm Bureau, we make two other observations:

Line 0058 to 0064 of S.B. 300 states: the public warehouseman shall grant the seller ~~the~~ ^a security interest in that grain under a grain purchase contract which includes provisions for deferred payment or delayed pricing. As an alternative which might be more workable and provide more protection to the farmer, we suggest a provision that would provide for the seller to receive an "irrevocable letter of credit" on the warehouseman's bank.

We suggest that caution be exercised when considering increased bonding requirements for state licensed facilities, especially in respect to smaller grain elevators. If bonding requirements are increased, we are told a substantial number of warehouseman will not be able to purchase a bond because of the net worth requirements. As a result, elevators will not be able to acquire a license and will be driven out of business. Another important consideration is the fact that current bond requirement for state licensed facilities are generally higher than federally licensed facilities in Kansas. Increased expenses and regulations will likely drive some state licensed facilities to acquire a federal license--then Kansas has no oversight over these~~s~~ businesses.

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



*Ken
Mike
Beam
3/1/85*

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

Statement of the

KANSAS LIVESTOCK ASSOCIATION

with regard to

SB 300

before the

Senate Agriculture Committee

Sen. Jim Allen, Chairman

presented by

Mike Beam
Executive Secretary
Cow-Calf/Stocker Division

February 28-March 1, 1985

*attachment B
3/1/85*

Mr. Chairman and members of the committee, I'm Mike Beam with the Kansas Livestock Association. KLA represents nearly 9,500 producers whose operations consist of livestock production and grain farming. In 1982, the Association adopted a policy which opposes the imposition of unreasonably expensive insurance, bonding and auditing requirements for public grain warehouses. For this reason, we oppose the passage of SB 300.

The existence and strength of the "country elevator" in Kansas is important to Kansas livestock producers. It's important that farmers and ranchers have the flexibility and option to store or sell grain at a local grain warehouse. In addition to storing grain, elevators provide numerous services to local farmers. Many grain elevator businesses handle chemicals and fertilizers which are necessary inputs for farming. Most elevators are also feed dealers and handle minerals, supplements and animal care products that our industry utilizes. It's important that these small town businesses survive.

I indicated earlier that our primary concern with SB 300 is the proposal to increase the bonding requirements for licensed grain warehouses. You recall that a 1982 interim committee studied the problem of grain warehouse failings. Seven bills were introduced and were approved by the 1983 legislature. I recall that this interim committee and the standing agricultural committees discussed the ramifications of increasing the bond requirements for state licensed grain warehouses. After reviewing the bonding requirements, there were no serious considerations for increasing the bond requirements.

According to information presented at the grain elevator taskforce meetings earlier this year, for warehouses under a million bushel capacity, Kansas has the highest bond per bushel compared to eight major grain producing states. The state requirement also exceeds those of the federal warehouse law. The taskforce also heard from a representative from a bonding company who estimated a 50% increase in bond requirements could cause problems for 30% of the state inspected grain elevators in this state. The grain warehouses would be forced to lock the door or obtain a federal warehouse license. If the latter occurred, many warehouses would have a bond for less than half the coverage of those under the current Kansas warehouse law.

The Kansas legislature and agricultural organizations should seriously consider the following questions. Should the Kansas law be changed to increase the bonding requirements causing hardship on many elevators as a result of a few grain embezzlement situations? Would SB 300 cause a negative financial impact to the state's farmers and ranchers as a whole? We believe that it could.

Mr. Chairman, we also have some concerns about the provisions outlined in subsections A and B of new section 1. As I understand it, farmers would only be able to sell grain by a written grain contract. In addition, it would require farmers and ranchers to obtain a warehouse receipt. I feel confident that many producers feel that these two alternatives are too restrictive.

In closing, I would like to stress that KLA is indeed sensitive to the hardships that farmers and ranchers face in the event of a grain warehouse failing. It's unfortunate that producers have had little opportunity to fully protect themselves from grain warehouse failings. Please realize there are now at least two insurance policies available which producers may obtain and provide 100% protection.

Let's also remember that Kansas has the third largest amount of warehouse facilities (700) and averages less than one failure per year. Of the 17 failures since 1966, five have resulted in producer losses.

Our members have felt for several years that rather than adopting more laws which add to production costs, it's more appropriate to prosecute those convicted of grain embezzlement and fraud. Perhaps this would help inhibit future crimes which cost producers dearly.

Thank you.

3/1/85

M E M O R A N D U M

TO: The Senate Agriculture Committee

FROM: Kansas Insurance Department

SUBJECT: Senate Bill No. 300

DATE: March 1, 1985

We have reviewed Senate Bill No. 300 and find two provisions of the bill which would directly effect the Insurance Industry.

One provision requires the public warehouses to obtain a certificate, from the bond company providing the required surety bond which sets forth the amount and terms of the bond. This certificate is to be posted for public display in the warehouse office. While this is an additional requirement which will ultimately effect surety bond companies in Kansas, we do not foresee any problems for companies in complying with any requests to make these certificates available.

The second provision increases the amount of surety bond required of public warehouses. Bond companies evaluate a public warehouse based upon its working capital and net worth. Many bond companies will require working capital of two or three times the amount of the bond and/or net worth of three to five times the amount of the bond. For example, a warehouse with a required bond of \$300,000 would need working capital of \$600,000 and/or net worth of \$900,000 to meet the minimum underwriting requirements of most bond companies. In view of this, our department believes a requirement to increase the amount of bond may have a detrimental effect on some smaller to medium sized warehouses because, these warehouses may be unable to meet the underwriting standards of the bonding company.

attachment C
3/1/85

Grain Warehouse Bonds

Rate Charged By Most Bond Companies:

	<u>Per Year Rate</u>
First \$10,000	\$5.00 per thousand
Next \$15,000	\$2.50 per thousand
Over \$25,000	\$1.25 per thousand



1963 Bell Avenue
Des Moines, Iowa 50315

our 75th year

February 28, 1985

NANCY KANTOLA, EXECUTIVE VICE PRESIDENT
KANSAS COOPERATIVE COUNCIL
700 KANSAS AVENUE
TOPEKA KS 66603

Re: Kansas Grain Warehouse Bonding
Proposed Legislative Changes

Dear Ms. Kantola:

This letter follows and summarizes our phone conversations this week. Thank you for notifying us and giving us the opportunity to participate in this meeting.

Farmland Mutual Insurance Company presently writes more than one third of the approximately 376 state warehouse bonds presently filed with the State of Kansas. We have no problem with most aspects of the 1984 Supplement 34-29 Kansas legislation proposed on or about February 21, 1985. However, we do have some comments on the proposed increased bond requirements.

Applying the formula currently in effect, and comparing it to the increased bonding proposal, we understand an elevator with 319,000 bushels licensed storage capacity would have to increase its bond from \$200,000 to \$300,000; and an elevator with 1,000,000 bushels licensed storage capacity would be required to increase its bond from \$226,000 to \$388,000. We feel it would become difficult or impossible for many licensees to qualify for the additional bonding requirements, especially in these days of the troubled agricultural economy. As we examine financial statements we are seeing more and more deterioration than before. This increased bonding requirement could effectively close down numerous smaller elevators which have been of service to their community for many years. The increased bond requirements, together with the cumulative liability position which is peculiar to the State of Kansas could lead to a mass exodus of licensees from a state license to a federal license.

A recommendation which might be considered is that the surety's obligation in the State of Kansas be made a continuous non-cumulative obligation. At the present time it is necessary for the surety to execute a new bond each year and face the possibility of a doubling of exposures should the loss occur during two

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Nancy Kantola
February 28, 1985
Page Two

different licensing periods. We feel that many companies are reluctant to actively enter the warehouse bond market in the State of Kansas because of this cumulative liability feature in Kansas law.

Another recommendation is that the protection of the bond should be made for the producers who store their grain at the warehouse and not for the financial institutions providing operating loans. The financial institutions have better means of securing protection through the use of mortgages, cosigners, etc. Many cases in which depositors of grain in elevators are not fully covered are cases in which the biggest creditor turns out to be a bank who has taken warehouse receipts issued by the operator of the warehouse on company owned grain and secured loans to the operator using these receipts. Uninsured producer losses could be substantially reduced simply by giving a priority of claim to the proceeds of the bond to the farmer producer storing grain in the warehouse.

We hope that these comments may provide some additional information for the legislative committee's consideration. If you have any questions regarding any of this material, please do not hesitate to contact us at any time. Thank you again for the opportunity to present our views.

Sincerely,

FARMLAND MUTUAL INSURANCE COMPANY

Ronald L. Bruder
Commercial Underwriter

RB1571

cc Don Sherrick, Kansas Farmers Service Association

THE STATE OF KANSAS



JOHN CARLIN
GOVERNOR
MARVIN R. WEBB
DIRECTOR

GRAIN INSPECTION DEPARTMENT
GENERAL OFFICE

235 S. Topeka, P.O. Box 1918, Topeka, Kansas 66601

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REMARKS BY MARVIN R. WEBB BEFORE THE
SENATE AGRICULTURE COMMITTEE

Thursday, February 27, 1985, 10:00 a.m.

Room 423-S, State Capitol

MR. CHAIRMAN ALLEN AND MEMBERS OF THIS COMMITTEE - - -

I APPRECIATE THE OPPORTUNITY TO SPEAK ON SENATE BILL 300. FIRST, LET ME SAY THIS IS A RATHER LONG BILL, IN WHICH A NUMBER OF ISSUES ARE ADDRESSED.

THE FIRST SECTION IS REQUIRING THE PURCHASE OR RECEIPTING OF ALL GRAIN WITHIN 30 DAYS. THIS IS SOMETHING WE FIND COMMENDABLE, BUT IN OUR EXPERIENCE NEARLY IMPOSSIBLE TO ENFORCE TO ANY DEGREE. IN MY OWN EXPERIENCE, THE FEDERAL WAREHOUSE ACT IN THE PAST REQUIRED GRAIN TO BE RECEIPTED WITHIN A SHORT PERIOD, THEN THEY EXTENDED THE TIME AND STILL FAILED TO GET COMPLIANCE.

WE WANT TO DO EVERYTHING WE CAN TO INCREASE THE SECURITY OF THE ELEVATOR OPERATION, BUT I SERIOUSLY DOUBT THIS IS ONE OF OUR BETTER OPTIONS. PROBABLY, ONE OF THE MOST IMPORTANT POINTS WHICH NEEDS TO BE MENTIONED IS THAT THIS WOULD RESTRICT THE MOVEMENT OF GRAIN TO THE TERMINAL POINTS.

THE SECTION REQUIRING THREE EXAMINATIONS IN 24 MONTHS IS SOMETHING WHICH WE CERTAINLY ENDORSE. HOWEVER, WE INTEND TO MEET THIS GOAL WHETHER IT IS A LEGAL REQUIREMENT. HOWEVER, WE ARE CERTAIN THAT THERE WILL BE INCREASED COSTS INVOLVED IN HIRING AN ADDITIONAL EXAMINER, AS WE ESTIMATE EACH ONE COSTS AN

3/1/85. attachment E

AVERAGE OF \$35,000. SO, WE'LL NEED TO EXAMINE THIS CAREFULLY.

ONE OF THE MORE IMPORTANT ITEMS THIS BILL ADDRESSES IS THE MATTER OF RAISING OUR BONDING REQUIREMENTS. WE NOW HAVE ONE OF THE HIGHEST BOND REQUIREMENTS IN THE NATION. NOW, IF WE WERE TO INCREASE THEM AS SUGGESTED BY THIS AMENDMENT, IT WOULD MEAN AN INCREASE OF APPROXIMATELY 40 or 50%, WHICH AS FAR AS DESIRABILITY IS GOOD, BUT THE BONDING COMPANIES HAVE INDICATED THEY ARE INCREASING THEIR NET WORTH REQUIREMENTS TO A MINIMUM OF 2 to 1. THIS OF COURSE WOULD MAKE IT AN IMPOSSIBILITY FOR SOME WAREHOUSEMEN TO MEET.

IT IS MY CONTENTION THAT WE ARE CHARGED WITH THE RESPONSIBILITY OF PROTECTING THE PRODUCER AND WE ARE NOT FULFILLING THIS OBLIGATION IF WE FORCE A NUMBER OF ELEVATORS TO CEASE OPERATIONS.

SECTION 7 OF THIS BILL IS ADDRESSING THE DEFFERRED PURCHASE CONTRACTS AND THE REQUIREMENTS THEREOF. THIS IS GETTING INTO THE AREA OF (UCC) UNIFORM COMMERCIAL CODE AND IT IS MY BELIEF THAT WE WOULD NEED EXPERT ADVICE IN THIS AREA. I HAVE VISITED WITH MR. ROBERT STEPHAN, THE ATTORNEY GENERAL, ON THIS AND HE INDICATED HIS WILLINGNESS TO VISIT WITH YOU ABOUT THIS. ALSO, I WOULD RECOMMEND GETTING THE OPINION OF MR. KEITH MYERS FROM KANSAS UNIVERSITY ON THIS MATTER. EITHER ONE OF THESE MEN WOULD BE ABLE TO GIVE SOME LEGAL CONCERNS.

AS FAR AS OUR DEPARTMENT IS CONCERNED, I KNOW WITHOUT A DOUBT THAT IT WOULD INCREASE THE COST OF AN EXAMINATION TO CHECK THESE PURCHASE CONTRACTS, AS WELL AS THE OTHER ITEMS IN THIS BILL.

I WOULD LIKE TO CONCLUDE MY REMARKS BY SAYING I REALIZE THAT THE INTENTION OF THIS BILL IS TO HELP OUR DEPARTMENT AND WE APPRECIATE THE EFFORTS THAT HAVE GONE INTO THIS. WE SUPPORT THESE EFFORTS BUT WE ALWAYS HAVE RESERVATIONS ON HOW TO GET THE BUDGET TO FUND ANY ADDITIONAL RESPONSIBILITIES.

THANK YOU FOR YOUR COURTESEY.