

Approved March 17, 1987
Date

MINUTES OF THE HOUSE COMMITTEE ON AGRICULTURE AND SMALL BUSINESS

The meeting was called to order by Representative Clifford V. Campbell at
Chairperson

9:09 a.m./~~p.m.~~ on March 6, 1987 in room 423-S of the Capitol.

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

Committee staff present: Norman Furse, Revisor of Statutes Office
Raney Gilliland, Legislative Research Department
Pat Brunton, Committee Secretary

Conferees appearing before the committee:

Discussion was held on House Bill 2246 with Representative Sallee explaining the amendments to the bill. This bill concerns the personnel of the Kansas State Grain Inspection Department. The amendments recommended by Representative Sallee would abolish two positions and change the name of another from supervising weighmaster to grain inspection coordinator, and retain the grain inspection coordinator in the classified service.

Representative Sallee made a motion to approve the amendments. Representative Apt seconded and the motion passed.

Representative Apt made a motion to table HB 2246. Representative Teagarden seconded and the motion passed with a vote of 11-8.

Discussion was held on House Bill 2253 with Representative Hamm making a motion to amend into the bill a voluntary negotiation for parcels through FACTs, Attachment I. Representative Gross seconded and the motion passed.

Representative Hamm made a motion to report favorably HB 2253 with amendments out of committee. Representative Dean seconded and the motion passed.

Discussion was held on House Bill 2520 with Representative Neufeld making a motion to introduce substitute bill for HB 2520 which deletes reactor language, provides penalties for violations and concerns anhydrous ammonia and fees. Representative Roenbaugh seconded and the motion passed. See Attachment II.

Representative Neufeld made a motion for the committee to report Substitute for HB 2520 favorably for passage. Representative Roenbaugh seconded and the motion passed.

Discussion was held on House Bill 2518 with Representative Crumbaker making a motion to amend this bill, Attachment III. Representative Solbach seconded and the motion to amend passed.

Representative Roenbaugh made a motion to table HB 2518. Representative Eckert seconded and the motion passed.

The meeting adjourned at 9:49 a.m.

GUEST LIST

COMMITTEE: HOUSE AGRICULTURE AND SMALL BUSINESS

DATE: March 6, 1987

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
Chip Wheelon	Topeka	McGill & Associates
Steve Hirsch	Topeka	State Treasurer
Marvin Harper	Nealy	farmer
Edgar Snyder	Topeka	KSBA
Delbert Miller	Topeka	KSBA
Kenneth M. Wilke	Topeka	"
Glen Searcy	Topeka	"
Archie Hurst	"	"
Maxine R. Wohl	"	SELF
Howard M. Fenn	Hutchinson	KAWG
Jack Koehnberg	Lewin	KSEA
Wilbur Leonard	Topeka	Comm. Ks Farm Org
John K. Blythe	Manhattan	Ks Farm Bureau
BILL R. FULLER	Manhattan	Kansas Farm Bureau
Bob + Vangiel Wendelburg	Stafford	SELF
MIKE BEAM	TOPEKA	Ks. LV STK. ASSN.
DON JACKA	TOPEKA	Ks. STATE BOARD OF AGRICULTURE
Joe Lither	Topeka	Ks Co-op Council
Gary M. Botwell	Topeka	KSGIO
Chris Wilson	Hutchinson	Ks Grain & Feed Ass'n
RON SCHWEDER	TOPEKA	Ks. FEED CENTER

HOUSE BILL No. 2253

By Committee on Agriculture and Small Business

2-10

0017 AN ACT relating to execution sale of certain agricultural land;
0018 amending K.S.A. 1986 Supp. 60-2410 and repealing the exist-
0019 ing section.

0020 *Be it enacted by the Legislature of the State of Kansas:*

0021 Section 1. K.S.A. 1986 Supp. 60-2410 is hereby amended to
0022 read as follows: 60-2410. (a) *Notice.* Lands and tenements taken
0023 on execution shall not be sold until the officer cause public
0024 notice of the time and place of sale to be given once each week
0025 for three consecutive weeks prior to the day of sale, by adver-
0026 tisement in some newspaper regularly printed in this state and
0027 published and having a general circulation in the county, to be
0028 designated by the party ordering the sale or, if no newspaper is
0029 printed in the county, in a newspaper in general circulation
0030 therein, with the last such publication to be not less than seven
0031 days nor more than 14 days prior to the day of sale.

0032 (b) *Where sale of land held.* All sales of lands or tenements
0033 under execution shall be held at the courthouse located in the
0034 county seat of the county in which the judgment was rendered.
0035 Upon application, a district judge whose district includes the
0036 county where the judgment was rendered may, for good cause
0037 shown, order such sale to be held on the premises or at such
0038 other location as the order may designate.

0039 (c) *Agricultural land; sale by individual parcel.* Agricultural
0040 land taken on execution issued following an action for mortgage
0041 foreclosure shall be offered for sale by individual parcel ^{if such}
0042 land was divided into separate, identifiable parcels at the time
0043 of purchase next preceding the last time such land was pur-
0044 chased prior to such execution. If no such time of purchase
0045 exists with respect to such land, the land shall be offered for sale

upon agreement of the parties to such
action

0046 ~~by individual parcel if it previously had been divided into~~
 0047 ~~separate, identifiable parcels.~~ "Agricultural land" means land
 0048 used in farming, tillage of the soil, dairy farming, ranching,
 0049 production or raising of crops, poultry or livestock, or produc-
 0050 tion of poultry or livestock products in an unmanufactured
 0051 state. The provisions of this subsection (c) shall expire on July 1,
 0052 1992.

0053 (e) (d) Reversal of judgment after sale of land; title of pur-
 0054 chaser. If any judgment or judgments in satisfaction of which any
 0055 lands or tenements are sold shall at any time thereafter be
 0056 reversed, such reversal shall not defeat or affect the title of the
 0057 purchaser, or purchasers. In such cases restitution shall be made
 0058 by the judgment creditors of the money for which such lands or
 0059 tenements were sold, with lawful interest from the day of sale.
 0060 This subsection shall not apply in cases of sales under judgments
 0061 rendered without personal appearance by the party against
 0062 whom the judgment was rendered, and without service on such
 0063 party other than by publication, when such sale was made within
 0064 six months from the date of such judgment.

0065 (d) (e) Deed or certificate to purchaser of estate. After sale by
 0066 the sheriff of any real estate on execution, special execution or
 0067 order of sale, the sheriff shall, if the real estate sold by the sheriff
 0068 is not subject to redemption, at once execute a deed therefor to
 0069 the purchaser; but if the real estate is subject to redemption, the
 0070 sheriff shall execute to the purchaser a certificate containing a
 0071 description of the property and the amount of money paid by
 0072 such purchaser, together with the amount of the costs up to that
 0073 date, stating that, unless redemption is made thereafter accord-
 0074 ing to law, the purchaser or the purchaser's heirs or assigns will
 0075 be entitled to a deed to the property. Any contract in any
 0076 mortgage or deed of trust waiving the right of redemption shall
 0077 be null and void except as provided by subsection (a) of K.S.A.
 0078 60-2414 and amendments thereto.

0079 Sec. 2. K.S.A. 1986 Supp. 60-2410 is hereby repealed.

0080 Sec. 3. This act shall take effect and be in force from and
 0081 after its publication in the statute book.

of land including the farm residence
 and 160 acres or less of the land as
 one parcel. The farm assistance
~~and~~, counseling and training referral
 program may assist in such
 negotiations upon request of the
 parties thereto.

Unproofed

Substitute for HOUSE BILL NO. 2520

AN ACT concerning fertilizers; relating to certain fees and penalties; declaring certain acts unlawful and providing penalties for violations; amending K.S.A. 2-1205, 2-1208, 2-1218 and 2-1219 and repealing the existing sections.

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

Section 1. K.S.A. 2-1205 is hereby amended to read as follows: 2-1205. An inspection fee shall be collected upon all commercial fertilizers sold, offered or exposed for sale, or distributed in Kansas, which shall be at a rate per ton of 2,000 pounds fixed by rules and regulations adopted by the state board of agriculture, except that such rate shall not exceed \$.30 per ton of 2,000 pounds. The inspection fee rate per ton of 2,000 pounds in effect on the day preceding the effective date of this act shall continue in effect until the state board of agriculture adopts rules and regulations fixing a different inspection fee rate under this section. Each person registering any commercial fertilizer shall pay the inspection fee on such commercial fertilizer sold, offered or exposed for sale, or distributed in Kansas, and shall keep adequate records showing the tonnage of each commercial fertilizer shipped to or sold, offered or exposed for sale, or distributed in Kansas, and the secretary, and duly authorized representatives of the secretary, shall have authority to examine such records and other pertinent records necessary to verify the statement of tonnage.

Each person registering any commercial fertilizer shall file an affidavit semiannually, with the secretary, within 30 days after each January 1 and each July 1, showing the tonnage of commercial fertilizer sold or distributed in Kansas for the preceding six-month period, and shall pay to the secretary the inspection fee due thereon for such six-month period, except that

the registrant shall not be required to pay the inspection fee or report the tonnage of commercial fertilizers or fertilizer materials sold and shipped directly to fertilizer manufacturers or mixers, but the fertilizer manufacturers or mixers shall keep adequate records of the commercial fertilizers sold or distributed in this state, and report to the secretary the tonnage thereof and pay the inspection fee due thereon. If the affidavit is not filed and the inspection fee is not paid within the thirty-day period, or if the report of tonnage is false, the secretary may revoke the registrations filed by such person; and if the affidavit is not filed and the inspection fee is not paid within the thirty-day period, or any extension thereof granted by the secretary, a penalty of -\$5-per-day equal to the amount of the inspection fee which has not been paid shall be assessed against the registrant and the inspection fee and penalty shall constitute a debt and become the basis for a judgment against such person. The secretary may grant a reasonable extension of time.

The Kansas state board of agriculture is hereby authorized and empowered to reduce the inspection fee by adopting rules and regulations under this section whenever it shall determine that the inspection fee is yielding more than is necessary for the purpose of administering the provisions of this act, and the board is hereby authorized and empowered to increase the inspection fee by adopting rules and regulations under this section when it finds that such is necessary to produce sufficient revenues for the purposes of administering the provisions of this act, but not in excess of the maximum fee prescribed by this section. The secretary shall remit all moneys received by or for the secretary under article 12 of chapter 2 of Kansas Statutes Annotated and amendments thereto to the state treasurer at least monthly. Upon receipt of any such remittance the state treasurer shall deposit the entire amount thereof in the state treasury and the same shall be credited to the fertilizer fee fund. All expenditures from such fund shall be made in accordance with appropriation acts upon warrants of the

director of accounts and reports issued pursuant to vouchers approved by the secretary of the state board of agriculture or by a person or persons designated by the secretary.

Sec. 2. K.S.A. 2-1208 is hereby amended to read as follows:
 2-1208. ~~(1)~~ (a) It ~~shall-be-deemed~~ is a violation of this act for any person to sell, offer or expose for sale, or distribute in this state any commercial fertilizer or to take or receive from any person in this state any order for any commercial fertilizer, or to directly or indirectly contract with any person for the sale of any commercial fertilizer which commercial fertilizer: ~~(a)~~ (1) Is not registered; ~~(b)~~ (2) is not labeled as required by the provisions of this act and the authorized rules and regulations; or ~~(c)~~ (3) bears a false or misleading statement on the application for registration, the label or the advertising accompanying the commercial fertilizer.

~~(2)~~ (b) It ~~shall-be-deemed~~ is a violation of this act for any person to: ~~(a)~~ (1) Mutilate, destroy, obliterate or remove the label or any part thereof; or do any act which may result in the misbranding or false labeling of any commercial fertilizer; ~~(b)~~ (2) fail or neglect to file the tonnage reports or affidavit or pay the inspection fee as required by this act; or ~~(c)~~ (3) impede, obstruct, hinder or otherwise prevent or attempt to prevent the secretary or authorized agents of the secretary in the performance of their duty in connection with the administration of the provisions of this act.

~~(3)~~ (c) Any person who ~~shall-violate~~ violates any of the provisions of this act or the rules and regulations issued ~~thereunder adopted pursuant thereto~~, shall be deemed guilty of a class B misdemeanor ~~and-upon-conviction-thereof-shall-be-fined net-more-than-one-hundred-dollars-for-the-first-violation-and-not less-than-one-or-more-than-five-hundred-dollars-for-each subsequent-violation.~~

~~(4)~~ (d) Any commercial fertilizer not in compliance with the provisions of this act shall be deemed a nuisance and shall be subject to seizure in a proceeding before a court of competent jurisdiction. In the event the said court finds the commercial

fertilizer to be in violation of law, the court may release the commercial fertilizer, after the filing of a bond by a proper claimant to insure compliance with the order of the court and to insure that the product will be sold or disposed of in compliance with law. The district courts of the state of Kansas shall have jurisdiction to restrain violations of this act by injunction without any criminal proceeding being first initiated.

~~(5)~~ (e) It shall not be deemed a violation of this act for the secretary or authorized representatives of the secretary to remove a label or any part thereof from a package or container of commercial fertilizer as evidence in connection with the administration of the provisions of this act.

Sec. 3. K.S.A. 2-1218 is hereby amended to read as follows: 2-1218. It ~~shall be~~ is unlawful, and a violation of this act, for any person, (a) To operate any anhydrous ammonia facility, any transportation equipment, or to sell or offer to sell any anhydrous ammonia, unless:

(1) The product container, piping, valves, hose, appurtenances and equipment are constructed and installed in accordance with the regulations adopted under the provisions of K.S.A. 2-1212, ~~as supplemented and amended~~ and amendments thereto; and

(2) the product container, piping, valves, hose, appurtenances and other equipment are adequately maintained; and

(3) the stationary product container is located as required in the rules and regulations adopted pursuant to K.S.A. 2-1212, ~~as supplemented and amended~~; Provided, and amendments thereto except that this subsection shall not apply (A) to a stationary product container located prior to the adoption of the regulations, or (B) to a stationary product container properly located at the time of its installation;

(b) To use any product container, piping, valve, hose, appurtenances or other equipment for handling anhydrous ammonia which is defective or which is otherwise unsafe;

(c) To fail to provide, or fail to have available, for use such safety material and such effective safety equipment, as

required by regulation;

(d) To ~~replace~~ anhydrous ammonia in a bulk tank which has not been inspected; or

~~(d)~~ (e) To impede, obstruct or hinder, or to otherwise prevent or to attempt to prevent, any authorized state administrative personnel or employee in the performance of his or her duties in connection with the administration of this act.

Sec. 4. K.S.A. 2-1219 is hereby amended to read as follows: 2-1219. Any person violating or failing to comply with, any of the provisions of this act, or any rule or regulation adopted thereunder, shall be deemed guilty of a class B misdemeanor, ~~and upon conviction thereof shall be punished by a fine of not more than five hundred dollars--(\$500).~~ If any person owning or operating an anhydrous ammonia facility, including transports, tank trailers and applicators, shall fail to make the changes, additions and alterations necessary (a) to correct the defects, and (b) to supply the deficiencies, within the specified time as directed, then the county attorney of the county in which the facility or equipment is located is authorized to file a petition in the district court setting forth the facts and praying for an injunction. The district courts of this state shall have jurisdiction to hear such matters, and may temporarily restrain and temporarily and permanently enjoin the operator or owner from operating such facility or equipment until such time as the defects are corrected and the deficiencies supplied. Before the secretary reports a violation for such prosecution, an opportunity shall be given the person to present his or her views. Nothing in this act shall be construed as requiring the secretary to report for prosecution minor violations of the act whenever the secretary believes that the public interest will be best served by other actions.

Sec. 5. K.S.A. 2-1205, 2-1208, 2-1218 and 2-1219 are hereby repealed.

Sec. 6. This act shall take effect and be in force from and after its publication in the statute book.

HOUSE BILL No. 2518

By Committee on Agriculture and Small Business

2-25

ATTACHMENT III
March 6, 1987

0017 AN ACT establishing the Kansas grain producer security act;
0018 creating the grain producers security fund for compensation of
0019 certain losses of grain producers; imposing an assessment on
0020 grain delivered to grain warehousemen; providing for admin-
0021 istration of the act.

[trust

0022 *Be it enacted by the Legislature of the State of Kansas:*

0023 Section 1. This act shall be known and may be cited as the
0024 grain producer security act.

0025 Sec. 2. As used in this act:

0026 (a) "Board" means the state board of agriculture;

["Director" means the director of the Kansas state grain
inspection department

0027 (b) "full-market value" means the value required by law to
0028 be used by insurance underwriters in paying for losses of com-
0029 modities insured for their actual cash value;

0030 (c) "grain" means corn, wheat, rye, oats, barley, sorghum,
0031 soybeans, sunflower seeds, rape or triticale;

0032 (d) "grain warehouseman" means any person, association,
0033 producer cooperative, dealer, partnership or corporation, or the
0034 agents or representatives thereof, which are licensed by the state
0035 or federal government and engaged in the business of buying,
0036 receiving, selling, exchanging, warehousing, negotiating or so-
0037 liciting the sale, resale, exchange or transfer of any grain pur-
0038 chased from a producer or a producer's agent or representative,
0039 or who has received grain on consignment from a producer or a
0040 producer's agent or representative or who has received grain to
0041 be handled on a net return basis from the producer or the
0042 producer's agent or representative;

0043 (e) "loss" means any monetary loss to a producer which is of
0044 an extraordinary nature and which shall include, but not be
0045 limited to, bankruptcy, embezzlement, theft or fraud;

0046 (f) "producer" means any producer of grain; and
 0047 (g) "storage" or "warehousing" means any method by which
 0048 grain owned by another is held for such party by one not the
 0049 direct owner thereof, except for transportation thereof.

0050 Sec. 3. (a) Commencing June 1, 1987, there is hereby levied
 0051 an assessment of three mills per bushel upon grain stored in, sold
 0052 to or marketed through a grain warehouseman in the state of
 0053 Kansas on and after such date. Two mills of such assessment
 0054 shall be levied and assessed to the producer at the time of sale,
 0055 and shall be shown as a deduction by the grain warehouseman
 0056 from the price paid in settlement to the producer. One mill of
 0057 such assessment shall be levied and assessed to the grain ware-
 0058 houseman at the time of receipt of the grain.

One and one-half

One mill

One-half

0059 (b) The assessment hereby imposed shall on or before the
 0060 20th day of the calendar month following the date of settlement
 0061 or the date of receipt of the grain, whichever is applicable, be
 0062 paid by the grain warehouseman to the board. The board shall
 0063 issue a receipt therefor to the grain warehouseman and shall
 0064 remit all moneys received in payment of such assessment to the
 0065 state treasurer at least monthly, and the state treasurer shall
 0066 credit the entire amount thereof to the grain producers security
 0067 fund which is hereby created. All expenditures from such fund
 0068 shall be made in accordance with the provisions of section 4
 0069 upon warrants of the director of accounts and reports issued
 0070 pursuant to vouchers approved by the secretary of the state board
 0071 of agriculture or a person designated by the secretary.

director

trust

Expenditures

only for the purposes for which payments are specifically authorized under

director

0072 (c) The pooled money investment board may invest and
 0073 reinvest moneys in the grain producers security fund established
 0074 under this section in obligations of the United States or obliga-
 0075 tions the principal and interest of which are guaranteed by the
 0076 United States or in interest-bearing time deposits in any com-
 0077 mercial bank or trust company located in Kansas, or, if the pooled
 0078 money investment board determines that it is impossible to
 0079 deposit such moneys in such time deposits, in repurchase
 0080 agreements of less than 30 days' duration with a Kansas bank for
 0081 direct obligations of, or obligations that are insured as to princi-
 0082 pal and interest by the United States government or any agency

trust

0083 thereof. Any income or interest earned by such investments shall
0084 be credited to the grain producers security fund.

0085 Sec. 4. (a) The board shall administer the grain producers

0086 security fund. The fund shall be established for the benefit of
0087 grain producers who have delivered grain to grain warehouse-

0088 men. The fund shall compensate grain producers for losses of
0089 their grain while it is in the control of a licensed grain ware-

0090 houseman, except losses covered by insurance or bond, or both.
0091 Nothing in this act shall affect any insurance or bond require-

0092 ments established by law on grain warehousemen.

0 (b) When the grain producers security fund reaches
0094 \$10,000,000, the three-mill assessment as provided in this act

0095 shall cease, unless the \$10,000,000 is attained prior to the end of
0096 a harvest season, at which time the assessment shall continue

0097 until the end of that harvest season. If the balance of the fund
0098 thereafter becomes less than \$10,000,000, the three-mill assess-

0099 ment shall be reinstated on an annual basis as necessary to
0100 attain a balance of \$10,000,000 in the fund. Expenditures by the

0101 board for administration of the act shall be paid from the grain
0102 producers security fund.

0103 (c) When a loss is incurred upon the grain of a grain producer,
0104 which has been delivered to a grain warehouseman, the grain

0105 producer shall present a claim to the board. To verify the claim,
0106 the grain producer shall present a receipt and any additional

0107 evidence of loss that the board might deem necessary. All claim
0108 payments shall be made by the board from the grain producers

0109 security fund within 120 days following the date of the claim.
0110 The price per bushel of grain shall be established on the day of

0111 the loss and shall be for the full-market value on that day. If there
0112 is an insufficient amount of money in the grain producers secur-

0113 ity fund to cover all claims for a particular year, payments shall
0114 be made on a pro rata basis up to 90% of the total loss of each

0115 grain producer. If payment is not received in the amount of 90%
0116 of total loss for a particular year, then such additional amounts

0117 shall be paid as funds become available in succeeding years until
0118 repayment of 90% of total loss is attained. If, at any time a

0119 producer receives payment totaling more than 90% of total loss,

trust
director

trust
protection and

and is hereby limited to and dedicated solely for this
purpose

\$6,000,000

one and one-half mill

\$6,000,000

one and one-half mill

\$6,000,000

director

trust

director

trust

75%

0120 such excess payment shall immediately be returned to the grain
 0121 producers [security] fund. Upon final payment of a claim to a grain
 0122 producer from the grain producers [security] fund, the grain pro-
 0123 ducer shall subrogate the producer's interest, if any, to the [board]
 0124 in a cause of action against any and all parties, to the amount of
 0125 the loss that the grain producer was reimbursed by the grain
 0126 producers [security] fund. [Payments from the grain producers
 0127 security fund shall commence upon the grain producers security
 0128 fund reaching the amount of \$2,000,000.] In no case shall the state
 0129 general fund be liable for any amount in excess of moneys
 0130 available in the grain producers [security] fund.

[trust]
 [trust]
 [director]
 [trust]
 [trust]
 [trust]

No payments shall be made from the grain producers trust fund until the total unencumbered balance in such fund first equals or exceeds \$2,000,000.

0131 Sec. 5. In case any grain warehouseman, subject to the as-
 0132 sessment under this act, fails to make a report and remittance
 0133 when and as herein required, the [board] shall determine the
 0134 amount of such assessment according to its best judgment and
 0135 information, which amount so fixed shall be prima facie correct,
 0136 and the person so having failed to make the report, within 10
 0137 days after notice of the amount of the assessment which is fixed
 0138 and computed by the [board] is mailed to such person, shall pay
 0139 the assessment, together with a penalty of 5% on the amount of
 0140 the assessment, or such person may dispute the assessment as
 0141 fixed by the [board] and request a hearing to determine the
 0142 amount of the assessment and penalty to be imposed. No pay-
 0143 ment shall be made until the [board] enters its order determining
 0144 the amount of the payment, but such shall be paid within 10
 0145 days' notice of such decision.

[director]

0146 Sec. 6. Any person violating the provisions of this act shall
 0147 be guilty of a class C misdemeanor.

0148 Sec. 7. This act shall take effect and be in force from and
 0149 after its publication in the Kansas register.