

Approved February 10, 1987
Date

MINUTES OF THE Senate COMMITTEE ON Agriculture

The meeting was called to order by Senator Allen at
Chairperson

10:06 a.m./~~p.m.~~ on February 9, 1987 in room 423-S of the Capitol.

All members were present ~~XXXXX~~

Committee staff present: Raney Gilliland, Legislative Research Department
Jill Wolters, Revisor of Statutes Department

Conferees appearing before the committee: Bill Graves, Secretary of State
Bill Bump, Chairman of the Board, Kansas
Public Records Search, Inc.

Senator Allen called the Committee to order and called attention to Committee minutes for February 5.

Senator Gordon made a motion the minutes be approved. Senator Norvell seconded the motion. Motion carried.

The Chairman called on Bill Graves to explain how the Secretary of State's Office would be affected if SB 92 is passed by the Legislature this session.

Mr. Graves gave copies of his testimony to the Committee (attachment 1).

During Committee questions, Mr. Graves stated the Central Filing System in Nebraska is not organized as the Kansas proposed Central Filing System is so it would be hard to compare the Kansas' plan against the Nebraska system. He stated that fees charged should support a Central Filing System in Kansas. Mr. Graves reported that the Uniform Commercial Code Division is open 6 days a week now so with a few additional employees it could be open 7 days a week. He said that additional office space rental fees were included in the proposed cost of a Central Filing System if extra office space would be needed. He explained that a banker near a state line would have to be registered with the Central Filing Systems in each state in order to keep current with loans made across a state line and/or to keep current with sales made across the state line. Mr. Graves stated central filing would probably cost a small elevator between \$100 and \$200 yearly. Also that central filing could rather quickly be set up and working in the Secretary of State's Office; it might be slowed somewhat if this Legislature decides the Secretary of State's Office should administer the taking of a state census.

The Chairman thanked Mr. Graves and called on Bill Bump to testify.

Mr. Bump gave copies of his testimony to the Committee (attachment 2).

Mr. Bump, during Committee discussion, stated there should be uniformity of central filing systems in all states for smoother dealings for lenders and buyers who cross state lines. He suggested for the best results a central filing system should be available 24 hours a day. Mr. Bump explained his business could handle a central filing system for several states if the states should decide to have private business manage a filing system rather than the Secretaries of States. He said he felt all co-ops would have computers that could access his files information; this would cost less than filing fees. Mr. Bump suggested an amendment, as printed on page 4 of his testimony, if SB 92 is approved. He answered that he felt prenotification is a burden on lenders and he is convinced that a Central Filing System with lists published at regular intervals is best.

The Chairman thanked Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections. Mr. Bump and then adjourned the Committee at 11:00 a.m.

Bill Graves
Secretary of State



2nd Floor, State Capitol
Topeka, KS 66612-1594
(913) 296-2236

STATE OF KANSAS

TESTIMONY OF SECRETARY OF STATE BILL GRAVES

BEFORE THE SENATE AGRICULTURE COMMITTEE

ON SENATE BILL 92 ON FEBRUARY 9, 1987

Mr. Chairman and members of the committee: I'm here at the request of Sen. Allen and the committee to comment briefly on Senate Bill 92, which would set up a system of central notification to buyers of farm products in the Secretary of State's office.

Let me say at the outset that I anticipate no difficulties in setting up a central notification system if the legislature directs my office to do so. As many of you know, our office implemented at your direction the centralized filing system of the Uniform Commercial Code, changes in the general corporation code and automation of our corporate records division, so I feel confident we have the experience and expertise to implement a system of central notification that complies with USDA requirements and the Food Security Act of 1985.

I also am confident that we could implement central notification with money from the Uniform Commercial Code fee fund and revenues from the central notification system itself, without a general fund appropriation. We have surveyed the states that have implemented central notification, and I have recently observed first-hand the system established in Nebraska, and my observation is that the policy decision you must make on this issue is much more difficult than the actual implementation of a system of central notification.

My assistant secretary of state, John Wine, has submitted a fiscal letter to the budget division indicating that if Senate Bill 92 is implemented the Secretary of State's office anticipates start-up costs of \$120,000 to \$140,000 and annual operating costs of \$200,000. He projects revenues of \$350,000 the first year and \$250,000 in subsequent years. These figures are based on estimated filings of effective financing statements of 50,000 the first year and 35,000 in subsequent years; the registration of about 750 buyers; and about 6,000 calls a year from non-registered buyers, who would receive written confirmation of their inquiry.

As always, the Secretary of State's office is ready to carry out any program the Legislature adopts. I'd be happy to respond if there are questions.

*attachment 1
Senate agriculture
2-9-87*

L015
COPY
2-9

STATEMENT OF WILBUR N. BUMP

Kansas Public Records Search, Inc.
718 Merchants National Building
Topeka, Kansas 66612

Kansas Public Records Search, Inc. commenced doing business in Topeka in 1985 with its primary purpose being the searching of public records and reporting the information therefrom to clients. The parent company, Iowa Public Records Search, Inc., has done business in Iowa since 1966 and was the first privately-owned company (or state) to have a fully computerized retrieval system for Uniform Commercial Code filings.

At the present time, all agricultural states have several options to consider in connection with an Act of Congress entitled the Food Security Act of 1985. This federal legislation deals with the "Farm Products Exception" or how the states treat security interests in farm products used as collateral for agricultural loans.

The federal legislation has preempted all state statutes dealing with farm products, effective December 24, 1986. The options available to states from this point forward are: (1) do nothing and continue on the "prenotification system" which has been in effect in Kansas since the effective date of the federal law on December 24, 1986; or (2) adopt a central filing system in conformity with the federal law.

Kansas has been a Uniform Commercial Code central filing state since January 1, 1984. Under that system as with the central filing system in Iowa, determining who was a secured party in connection with farm products was as simple as making a single telephone call. However, few other states adopted central filing; and as a result, Congress determined that there was no effective way that a buyer of farm products could determine who was secured and to whom payment was required to be made. This lack of uniformity among the states was particularly noticeable in bordering

attachment 2
Senate agriculture
2-9-87

states where markets sought the highest level of prices regardless of security interests. In those situations and in others, the spectre of "double jeopardy" arose because the buyers were either unable or unwilling to check the UCC filings.

This company proposes to work with the state of Kansas whether the Kansas legislature decides to follow the prenotification system or central filing system. Our working relationship with the Secretary of State has been excellent, and we propose to maintain that relationship.

We have met with Bill Graves, Kansas Secretary of State, and have discussed with him a proposal to work cooperatively in establishing a central filing system for farm products, should the Kansas legislature opt for that direction. I am informed that Mr. Graves will be present at today's hearing before the Senate Agricultural Committee to discuss further the details on how a central filing system for farm products can work.

Since the state of Kansas has a very effective and complete Uniform Commercial Code central filing system, the question would naturally arise, "Can we use the present system?" This is not practicable for a number of reasons. First, the state of Kansas has a computerized UCC central filing system that works extraordinarily well; and to impose the requirements of the federal legislation, it would be required that all filings be revised to meet the federal requirements. Since the federal act applies only to farm products, this approach would not be recommended. (Other states have conformed their entire UCC system to meet the federal format; but in two known instances, those states had no prior central filing system.) Consequently, it is recommended that Kansas adopt a separate and independent system for farm products. Other reasons supporting the recommendation that a separate system be adopted are that: (1) the federal legislation and central filing requirements may be amended; (2) there may be litigation involving aspects of the food products central filing system which does not affect other

*attachment 2
Senate agriculture*

2-9-87

aspects of the UCC central filing system; (3) the central filing system required by the federal act requires duplicate filings--1 for the UCC and 1 for the farm products central system; and (4) to revise the entire UCC central filing system would be prohibitively expensive.

What is being proposed to the state of Kansas is a cooperative effort to establish and operate a farm products central filing system. This company would propose to work closely with the Secretary of State to develop a system which would meet with requirements of the federal statute as a farm products central filing system and which would be certifiable by the U. S. Secretary of Agriculture. The system would be independent of the UCC central filing system which would be adaptable to the needs of the various agricultural states, including a "turn-key system" and the use of this company's computer hardware, if requested.

The service would include working with the states on gaining certification from the Secretary of Agriculture and developing rules and regulations for the system. We would also be in position to input the information for the lists and maintain a "dial-up access" to the data bank for each Secretary of State.

The Food Security Act of 1985 specifically contemplates that the farm products system may be handled by a "designee of the State." We propose that each Secretary of State would be the operator of the system, and this company would serve in an agency relationship.

In order for the state of Kansas to have an option to consider in implementing a central filing system, i.e., through its Secretary of State or through a cooperative effort as proposed here, a provision should be added to the enabling legislation. I would suggest that Senate Bill 92 have an added section as follows:

attachment 2
Senate Agriculture

2-9-87

Designee of Secretary of State. The Secretary of State may designate another entity to maintain the master list, maintain the list of registrants, distribute portions of the master list to said registrants, and respond to requests regarding filing of effective financing statements or do any or all of the foregoing. The Secretary of State shall be the office at which all statements required or permitted under this Act shall be filed. The Secretary of State shall provide notice of all such filings to any other entity designated.

Some of the advantages to weigh in early consideration of this proposal are:

- (1) A uniform system for farm products;
- (2) Substantially less cost in implementing a farm products system;
- (3) A system independent of the state's Uniform Commercial Code files (in the event the federal law is amended);
- (4) A farm products "networking" possibility with other Secretaries of State;
- (5) An independent system controlled by each state with access to the data base controlled by the Secretary of State;
- (6) All filings made in the Secretary of State's office and all computer input completed out of the office;
- (7) No necessity for additional computer hardware; and
- (8) A positive verification of input data to prevent errors in the computer data base.

We have a design for a computer program that will meet the legal requirements, and our data processing staff is now commencing to develop the required software. The software will be designed in such a way that any special requirements of the states can be made. It is hoped, however, that all states will strive for uniformity and few innovations.

This company proposes to implement this service for agricultural states with a minimum cash advance to be separately negotiated with each state for start-up costs. Once the service is operational, the service would be operated and maintained out of fees generated from registrants and users of the system--a percentage to the state and a percentage to this company. The fee structure for each state would remain the responsibility of the state legislature and the Secretary of State.

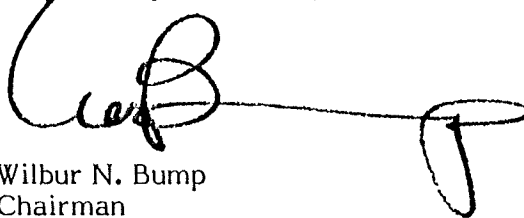
attachment 2
Senate agriculture

2-9-87

One of the major findings of Congress in enacting the Food Security Act of 1985 and the buttressing fact for Congress' use of the Interstate Commerce Clause was the lack of uniformity among the states in dealing with farm products being used as collateral for agricultural loans. If there is sufficient interest among the major agricultural states to work cooperatively on a system such as is being proposed, I am of the opinion that we will conclude with a very workable system with little or no cost to the states and a minimal cost to the users of the system. In addition, the ultimate farm products central filing system will be user-friendly with a minimum of problems for the states.

Thank you again for permitting me to appear before this hearing. I will be pleased to answer any questions or discuss any aspect of this proposal.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "W. N. Bump", with a long horizontal line extending to the right and a loop at the end.

Wilbur N. Bump
Chairman

2829 Westown Parkway, Suite 100
West Des Moines, Iowa 50265
(Telephone: 515/225/8811)

attachment 2
Senate agriculture

2-9-87