

Approved March 3, 1988
Date

MINUTES OF THE HOUSE COMMITTEE ON AGRICULTURE AND SMALL BUSINESS

The meeting was called to order by Representative Susan Roenbaugh at
Assistant Chairperson

9:07 a.m./~~p.m.~~ on February 29, 1988 in room 423-S of the Capitol.

All members were present except: Representatives Clifford Campbell, Apt, Crumbaker, Dean, Gross, and Solbach who were excused.

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

Conferees appearing before the committee: ON HB 2964
DeVern H. Phillips, State Sealer for the
Weights and Measures Program, State of
Kansas
Frances Kastner, Director of Governmental
Affairs, Kansas Food Dealers' Associa-
tions, Inc.

ON HB 2965
DeVern H. Phillips, State Sealer for the
Weights and Measures Program, State of
Kansas
Lee Eisenhauer, Executive Vice-President of
the Kansas LP-Gas Association.

ON HB 2966
Sam Brownback, Secretary, State Board of
Agriculture
Stan Ward, Director, FACTS
Rev. C. Donald Close, Interfaith Rural Life
Committee, Kansas Ecumenical Ministries
Penny Geis, Director, Kansas Farmer/Creditor
Mediation Service
Ronald Schneider, Kansas Rural Center

Hearings were pronounced open on HB 2964.

DeVern H. Phillips, State Sealer for the Weights and Measures Program of the State of Kansas was the first conferee to appear in behalf of this bill. In discussing this bill he proffered an amendment to the Committee. (Attachments I and II)

The next conferee with regard to HB 2964 was Frances Kastner, Director of Governmental Affairs, Kansas Food Dealers' Associations. She purported to be for the bill. (Attachment III)

Hearings on HB 2964 were closed when there were no further appearances.

Assistant Chairperson Roenbaugh declared the hearings open for HB 2965.

DeVern H. Phillips, State Sealer for Weights and Measures gave his testimony in behalf of the bill and, further, included a suggestion for amendment thereto. (Attachments IV and V)

Lee Eisenhauer, Executive Vice-President of the Kansas LP-Gas Association commented briefly supporting this bill with the reservation that licensing and monitoring of the companies and their technical representatives who would hereafter service these dispensing devices be an important issue relative to the bill. (Attachment VI)

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON AGRICULTURE AND SMALL BUSINESS,

room 423-S Statehouse, at 9:00 a.m./~~p.m.~~ on February 29, 1988

With no other conferees wishing to address HB 2965, hearings were closed by the Assistant Chairperson.

Hearings were officially opened on HB 2966.

Sam Brownback, Secretary of the Board of Agriculture appeared to briefly discuss the "basic thrust" of this proposal. (Attachment VII)

Secretary Brownback then turned over the question and answer period to Director Stanley Ward of the FACTS Program. He directly answered several questions of members of the Committee. In the course of his informational dissertation, he disclosed that they probably handle 20% to 25% of "commercial" farmers with problems and desiring farm counseling and/or legal services.

Reverend C. Donald Close represented the Interfaith Rural Life Committee in directing his testimony on HB 2966 to the Committee. He was in support of the bill. (Attachment VIII)

Representing the Kansas Farmer/Creditor Mediation Service was Director Penny Geis. She registered support of this bill but feels mediation needs further consideration and would be interested in additional legislation. She feels there should be mandatory mediation. (Attachments IX and X)

Ron Schneider, Kansas Rural Center, spoke briefly on this bill, supporting it and feeling "it is a step in the right direction." He, too, is an advocate of mandatory mediation and feels as does the previous conferee that present proposals do not adequately address confidentiality and notification in this regard.

Assistant Chairperson Roenbaugh declared the hearings for today closed on HB 2966 and adjourned the meeting at 9:59 a.m.

The next meeting of the House Agriculture and Small Business Committee will be on March 1, 1988, at 9:00 a.m. in Room 423-S.

PRESENTATION TO THE HOUSE COMMITTEE ON AGRICULTURE AND SMALL BUSINESS

February 29, 1988

By

DeVern H. Phillips, State Sealer

Good morning Mr. Chairman, and Members of the House Agriculture and Small Business Committee. My name is DeVern H. Phillips. I am the State Sealer and responsible for the Weights and Measures Program for the State of Kansas. The Agency is here to address our position on House Bill 2964.

House Bill 2964 changes the existing act that deals only with commercial large capacity scales. The existing law requires the testing by licensed service companies of all commercial large capacity scales (those whose capacities exceed 5,000 pounds) annually. Since 1985, when the existing law became effective, the accuracy of these devices has, as monitored by Kansas Weights and Measures, risen from 70% to 87%. This is directly attributable to the requirement of annual testing by licensed service companies. Kansas Weights and Measures at this time was also able to reduce equipment requirements and manpower.

Service companies who test and repair large capacity scales are required to be licensed by Kansas Weights and Measures. Their work is monitored by this agency and they must maintain standards of performance set by Kansas Weights and Measures. This is done to assure the industries serviced by the scale testing and repair companies that only competent service technicians are permitted to work on their equipment. These service companies pay an annual fee of \$50.00 to operate in the State of Kansas and must meet other criteria to maintain their licenses in Kansas.

ATTACHMENT I

Commercially used small capacity scales (less than 5,000 pound capacity) used to weigh and buy or sell commodities in grocery stores, jewelry stores, salvage yards, etc., are not required by Kansas law to be tested, yet commodities of equal or greater value bought and sold over large capacity scales are bought and sold daily across these small scales.

Service companies that work on small capacity scales are not required to be licensed by Kansas Weights and Measures. Their work is not monitored and no method exists of licensing or assurance of quality workmanship to industries serviced by these companies.

The proposed modification of the existing scale law would bring about an equality of enforcement to both device owners (large and small capacity scales) and equality of treatment of service companies. There are presently more than twice as many companies testing only small scales (38) as are testing large scales (16).

The majority of the grocery stores in Kansas (the entity utilizing the majority of the known small scales in Kansas) have service contracts with scale testing/service companies, therefore minimal financial impact will be felt by these device owners.

40% of Weights and Measures inspectors' time is spent testing devices which are found to be correct 97% of the time. However, these same inspectors when testing packages in stores, find only 66% of packages weighed in the stores to be correct.

By shifting responsibility for the accuracy of the device from Kansas Weights and Measures to the device owner, more time can be spent by Kansas Weights and Measures on package checking and education of the store operators to correct the weighing/labeling problems. One package in three picked up in stores in Kansas is overpriced or shortweight.

We ask for assistance in realigning our limited resources to allow us to correct this problem. Let us "hoe where the weeds are".

PROPOSED AMENDMENT TO HB 2964

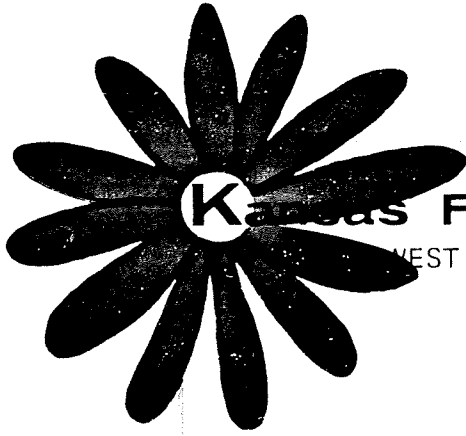
Amend K.S.A. 1987 Supp. 83-225 to read as follows:

83-225. (a) A licensed ~~large~~ scale testing and service company shall be authorized to remove an official rejection tag or other mark placed on a ~~large-capacity~~ scale by authority of the state sealer for the purpose of testing or repairing any ~~large-capacity~~ scale.

(b) When a ~~large-capacity~~ scale cannot be repaired properly, the ~~large~~ scale testing and service company shall replace the rejection tag or other mark with a substitute rejection tag or other mark supplied by the state sealer.

(c) This section shall apply to new and used ~~large-capacity~~ scales.

(d) This section shall be supplemental to and part of the act appearing in article 2 of chapter 83 of Kansas Statutes Annotated. Penalties specified in K.S.A. ~~1985~~ 1988 Supp. 83-220 shall apply to violations of this section.



Kansas Food Dealers' Association, Inc.

WEST 47th STREET SHAWNEE MISSION, KANSAS 66205

PHONE: (913) 384-3838

February 29, 1988

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JOE WHITE
Kingman

DIRECTOR OF
GOVERNMENTAL AFFAIRS

FRANCES KASTNER

HOUSE AG & SMALL BUSINESS COMM.

EXECUTIVE DIRECTOR
JIM SHEEHAN
Shawnee Mission

SUPPORTING HB 2964

Jim Sheehan, the Executive Director of the Kansas Food Dealers, and I recently visited with the State Sealer about the slight inaccuracies found when their inspectors checked weights listed on pre-packaged items and scales in some grocery stores. We agreed that it was equally important to our members and to the consumer to assure that the scale testing, or repair, is done by qualified personnel.

Our associations commends the inspectors and the State Sealer for their fairness and impartiality. We see their function as vital in assuring that the retailer and the consumer receive proper weights, whether that item is weighed by the retailer or by the processor.

We support HB 2964 and ask for your favorable consideration of this bill. If you have any questions I will be happy to answer them.

ATTACHMENT III

PRESENTATION TO THE HOUSE COMMITTEE ON AGRICULTURE AND SMALL BUSINESS

February 29, 1988

By

DeVern H. Phillips, State Sealer

Good morning Mr. Chairman, and Members of the House Agriculture and Small Business Committee. My name is DeVern H. Phillips, State Sealer. I am responsible for the enforcement of Kansas Weights and Measures laws which includes vehicle tank meter testing and liquefied petroleum meter testing.

The Agency is here to address our position on House Bill 2965 regarding modification of existing law which will provide for annual testing of liquefied petroleum dispensing devices.

This proposed modification of the existing Vehicle Tank Meter (VTM) Law would include those meters dispensing liquefied petroleum gas (LPG). This would require the owner/operators of LPG meters (of which there are 634 devices), to have annual testing by a licensed service company of their meters as is now required of VTM owner/operators (of which there are more than 1,000).

LPG metering devices are presently being tested on an annual basis by Kansas Weights and Measures at no charge to the device owner/operator. All repairs or calibrations of the equipment must be done by commercial service companies. Device owner/operators have found that 99% of the mechanical errors in these devices favor the customer and not the device owner/operator. The majority of these device owners are presently using commercial service companies to maintain accuracy of these devices since Kansas Weights and Measures no longer adjusts meters.

ATTACHMENT IV

Since the change to commercial companies working on these devices in 1986, accuracy has risen from 70% when Kansas Weights and Measures adjusted these devices, to its present 93% when tested and calibrated by licensed service companies.

The fiscal impact to owner/operators of LPG meters will be minimal since the adjustment and repairs required on these devices must now be performed by commercial service companies. There will be no additional costs to the Kansas Weights and Measures Program.

Service companies that test and service vehicle tank meters are required to be licensed by Kansas Weights and Measures. They must maintain standards of performance set by Kansas Weights and Measures. This is done to assure the industries serviced by the vehicle tank meter repair companies that only competent service technicians are permitted to work on their equipment. These service companies pay an annual licensing fee of \$50.00 to operate in the State of Kansas and must meet other criteria to operate in Kansas.

Service companies operating in Kansas that work only on LPG meters must meet none of the requirements under existing law, but enactment of House Bill 2965 would correct this deficiency.

Kansas Weights and Measures has had exceptional success with variable frequency testing of large capacity scales. Variable frequency testing permits us to monitor the service companies working on devices.

By proper utilization of our testing equipment and using one existing inspector, we will be able to utilize variable frequency testing with the vehicle tank meter testing program and the liquefied petroleum testing program. A proven monitoring program of the service companies will be established, and a more efficient and equitable program will exist.

PROPOSED AMENDMENT TO HB 2965

New Section K.S.A. 1987 Supp. 83-221 is hereby amended to read as follows: 83-221. The secretary shall authorize the director of taxation to act as an inspector of weights and measures to inspect, test and seal or certify or reject the capacity of ~~motor-vehicle-fuel-and-liquid-fuel-dispensing pumps; -meters-or-other~~ dispensing devices and vehicle tanks used in the transportation thereof. All inspections and tests made pursuant to this section shall be made in strict compliance with the rules and regulations of the state board of agriculture. As used in this section, dispensing device shall have the meaning provided in K.S.A. 1987 Supp. 83-401 as amended and supplemented.

STATEMENT

By The

KANSAS LP-GAS ASSOCIATION

- - - - -
Concerning House Bill 2965
regulating testing services for
dispensing devices and
providing for the testing of
liquefied petroleum dispensing
devices.

- - - - -
Presented to the House Agriculture
and Small Business Committee
Representative Clifford Campbell, Chairman
Monday, February 29, 1988

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MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

I am Lee Eisenhauer, Executive Vice-President of the Kansas LP-Gas Association. I am here this morning to comment briefly on House Bill 2965, representing our member LP-gas dealers and dispensing device service companies who are associate members of KLPGA.

Until recently, liquefied petroleum gas dispensing devices were tested and kept in proper adjustment and repair through the services of the state sealer or deputy state sealer of the Kansas Department of Agriculture's Weights and Measures Division. With the discontinuance of this service necessitating reliance on private dispensing device companies, the licensing and monitoring of such

(more)

ATTACHMENT VI

companies and their registered technical representatives is extremely important. We appreciate the Weights & Measures Division's concerns in setting forth the licensing and testing requirements.

The dispensing device service companies who are associate members of KLPGA have no objection to the requirements of House Bill 2965.

Section 3(a) of the bill, lines 114 thru 131, sets forth the requirements of yearly testing of dispensing devices. Although not all of our member dealers are pleased with this requirement, we would not oppose the regulation, with the accuracy of the testing services certified by the state sealer.

I want to thank you, Mr. Chairman and members of this committee, for allowing me this time for comment.

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STATEMENT OF SAM BROWNBACK
SECRETARY OF THE
KANSAS STATE BOARD OF AGRICULTURE
BEFORE THE
HOUSE AGRICULTURE COMMITTEE
ON
HOUSE BILL 2966

February 29, 1988

Mr. Chairman and members of the Committee it is my pleasure to appear in front of you in support of House Bill 2966.

The basic thrust of this proposal is to allow the FACTS program to enter into contracts, accept gifts, grants and federal funds. The bill further specifies that FACTS can perform mediation, personal and family support services and other related services.

The primary thrust of this bill is to allow the FACTS program to provide mediation services as required by the Farm Credit Bailout bill. That piece of federal legislation requires the Farmers Home Administration to participate in state recognized mediation programs. The Farm Credit Bailout bill furthermore has matching funding available to states that have mediation programs. This mediation service will also have some impact on the Farm Credit System although the language in the bill is different concerning Farm Credit System than the Farmers Home Administration. But let me be very clear here, our thrust is to be able to provide mediation services as mandated by the federal farm credit bailout bill to the Farmers Home Administration and its borrowers who are in financial distress and unable to meet their obligations to FmHA. This bill does not establish mandatory mediation for all farm financial distress situations.

Mr. Chairman, Stan Ward, the Director of the FACTS program is here to be address you as well and answer more specific questions as they may come forward. I would be happy to respond to questions as well. Thank you.

KANSAS ECUMENICAL MINISTRIES
INTERFAITH RURAL LIFE COMMITTEE

The Interfaith Rural Life Committee of Kansas Ecumenical Ministries recommends consideration of Mandatory Farmer/Creditor Mediation in Kansas. Farmer/Creditor Mediation has demonstrated throughout the midwest that it is one of the creative ways to solve problems and settle disputes between farmers and their creditors by using an impartial third party to facilitate discussion and arrive at an agreement without costly, time-consuming litigation.

MANDATORY VS. VOLUNTARY:

Kansas has had an excellent, respected voluntary Farmer/Creditor Mediation Service for over a year. The debtor/creditor relationship, however is not conducive to voluntary mediation, and therefore less than two dozen cases were mediated in the first year of Kansas' voluntary program. In contrast, Iowa handled over 4,800 mediation cases in its first year as a legislatively mandated program, and approximately 60% of those cases resulted in agreements.

Historically, farmers and their lenders have had amiable, trusting relationships built upon years of shared community life. The economic problems of agriculture in the 1980's have driven a wedge into that relationship. Mediation is one way to bring framers and their lenders together to open the lines of communication. Improved communication is a worthwhile goal, in and of itself.

WHAT IS MEDIATION?

Mediation brings a farmer and his/her creditors together with a neutral third party to reach a mutual agreement on the future of the farm operation. The mediator's only role is to set the ground rules for the meeting and assist communication. Agreements may include reamortizing loans, liquidation, lowering interest, and writing down debt. If a mutual agreement is not reached, the lender can continue debt collection, which may result in court actions, foreclosure, or bankruptcy.

The benefits of Mediation include:

- 1) Mediation saves time. In Iowa, the average case takes 21 days to come to the table and is usually resolved in one three-hour session. The Chapter 12 bankruptcy code gives a farmer 90 days to submit a plan; it gives the court 45 days to approve the plan; and the plan can literally last for years.

2) Mediation saves money. The average mediation session costs no more than a few hundred dollars. In a Chapter 12 bankruptcy, a private attorney may charge \$2,000 - \$3,000, and the trustee's fees may be 10% of the first \$450,000 of debt, and 3% thereafter. Realistically, both farmer and lender bear these costs in a bankruptcy.

3) Mediation won the support of federal matching grants in the recently passed Farm Credit System refinancing legislation. Funds up to \$500,000 per year/per state for state mediation programs will be made available. These funds could assist Kansas to set up an effective, low-cost mediation program.

4) Mediation will help our rural banks. Mediation would help reduce the losses incurred by banks through both foreclosure and bankruptcy, and as a result keep valuable lines of credit open to our farmers.

5) Mediation will help our rural communities. Five to seven farm liquidations means the loss of a business on a rural main street. Each successful mediation agreement can make a difference.

The debt crisis created by deflating land values and falling commodity prices continues to cause foreclosures and land loss in record numbers. For the sake of those families still losing land and home, Kansas should seriously consider the benefits of a state mandated mediation program.

The Interfaith Rural Life Committee is a program of nineteen religious bodies in Kansas addressing the difficulties in agriculture during the 1980's. Its statement of purpose is:

The purpose of the Interfaith Rural Life Committee is to empower the people of Kansas to work toward wholeness of community and personhood that values vital rural communities. Within this purpose, the Committee will work to assure:

- a) a stewardship of creation that embodies God's intention for air, land, and water;
- b) a system of justice that will assure sustainable agriculture; and
- c) a continuation of the Biblical and American traditions of individual family land ownership and operation.



February 29, 1988

Comments to the House Agricultural Committee
on HB 2966 (FACTS Bill) by
Penny Geis, Director, Kansas Farmer/Creditor Mediation Service

A. FACTS is providing important services:

1. FACTS provides vital services to individual farmers:
 - a. telephone counseling
 - b. legal information, evaluation, and referral
 - c. financial counseling and referral

which are needed regardless of the status of a mediation service, and which are important to the success of mediation.

2. FACTS provides leadership in addressing farm problems
 - a. facilitates cooperation among those working on farm problems
 - b. identifies gaps in services available to farmers
 - d. promotes the filling of those gaps
 - i. mental health services
 - ii. response team for bank closings
 - iii. mediation service.

B. MEDIATION NEEDS FURTHER CONSIDERATION, which we would prefer addressing during hearings on a mediation bill.

1. Notification

Adequate notification of the mediation service to farmers and creditors is a minimum requirement for the success of either a mandatory or voluntary program and one of five requirements to become certified.

2. Neutrality

A mediator must be neutral, by definition. To be effective in helping people communicate and negotiate an agreement, a mediator depends on trust. That trust is seriously damaged if anyone involved perceives that the mediator favors one side.

Protecting both the image and fact of neutrality for the mediation service is critical to its success and should be considered in the administration of the mediation service.

Resolving farm credit problems through mediation...

What is Farmer/Creditor Mediation?

Mediation is a negotiation between a farmer and his creditors assisted by an impartial person trained to keep the discussion productive.

What does mediation offer?

- An opportunity to resolve problem credit situations outside the courtroom.
- A private setting to discuss confidential financial matters.
- A forum for taking into account both financial and emotional aspects of the situation.
- A process that focuses on finding solutions for the future, not on placing blame for the past.
- The power to make your own decisions about what you can do based on an understanding of your own and others' needs.

Farmer/Creditor Mediation: An opportunity for farmers and creditors to make joint decisions about how they will respond to problem loan situations—loans which both once thought were sound.

Who are the mediators?

Mediators for this program have been selected for their background in issues related to the Kansas ag-economy, their ability to understand the issues and viewpoints represented in these disputes, and for their ability to remain impartial.

They bring a wide variety of experience including banking, farming, pastoral work, administration, counseling, law, business, mediation and conflict resolution. In addition, they have 40 hours of training in farm credit mediation from the Center for Dispute Resolution in Denver.

Where does mediation take place?

Joint meetings with all parties present take place in a neutral location acceptable to all. You may also meet individually with the mediator in a convenient location, such as your farm or office. Meetings can be scheduled at any mutually convenient time.



How can I prepare for mediation?

Workable solutions depend on preparation. Your mediator can help you understand the negotiation process. You can find help with financial, legal and psychological aspects of your situation from local accountants, lawyers and counselors, or contact the Farmers Assistance Counseling and Training Service (FACTS) office at 1-800-321-FARM for referral to these and to farm finance consultants.

How can I initiate mediation?

Any farmer or creditor can begin the process by calling Prairie View (316) 283-2400, ext. 462, or 1-800-362-0344.

What are the next steps?

A mediator will be assigned to the case when one party's administrative fee is received. The mediator will then contact all parties to explore the possibility for mediation. If there is no mediation, none of that fee is refundable. If the mediation proceeds, the initiator's fee will be handled the same as all others.

How long does it take?

You can expect a mediator to contact you within 12 days after your retainer fee is received at Prairie View. The length of the mediation is dependent on the complexity of the situation, the preparation of the parties, and the decisions by the parties about appropriate time limits. Each person decides whether continued involvement is productive.

“The open communication that is taking place here today is what I thought mediation is all about. Regardless of what may happen, what’s gone on today has made it all worthwhile!”

*—Participant in
Farmer/Creditor Mediation*

How much does mediation cost?

A \$100 administrative fee is paid by each party when they decide to participate in the mediation. Hourly fees begin at \$100 per hour for a mediation involving one farmer and one creditor. As additional creditors are involved, each creditor’s share decreases according to the following scale:

	Farmer Pays	Creditor Pays
1 cred.	\$20 per/hr	\$80 per/hr
2 cred.	20 per/hr	65 per/hr
3 cred.	20 per/hr	60 per/hr
4 cred.	20 per/hr	56 per/hr

A five-hour advance on hourly fees is required. Unused fees will be refunded. Checks or money orders, payable to KS Farmer/Creditor Mediation, should be mailed to Prairie View Inc. only after calling to receive an identifying number.

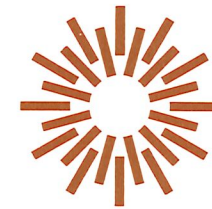


For more information contact:

Prairie View inc.

1901 East First Street
Newton, KS 67114

1-316-283-2400
1-800-362-0344



**Kansas
Farmer/Creditor
Mediation
Service**

A Program of Prairie View Inc.

