

Approved Jan 31, 1989  
Date

MINUTES OF THE HOUSE COMMITTEE ON AGRICULTURE AND SMALL BUSINESS

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

9:10 a.m./~~p.m.~~ on January 18, 1989 in room 423-S of the Capitol.

All members were present except: Representative David Heinemann who was excused.  
Representative John Solbach who was absent.

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

Conferees appearing before the committee: Alan Alderson, Western Retail Implement &  
Hardware Association  
Chris Wilson, Director of Governmental Relations  
of the Kansas Fertilizer and Chemical Assn.  
Jack Beauchamp, former Representative  
Warren Parker, Asst. Director of the Public  
Affairs Division, Kansas Farm Bureau  
Howard Tice, Executive Director of the Kansas  
Association of Wheat Growers  
Joe Rickabaugh, Kansas Livestock Association  
Ivan Wyatt, Kansas Farmers Union  
Steve Montgomery, Kansas Legal Services  
Jerry Jost, Kansas Rural Center  
Don Jacka, Assistant Secretary of Agriculture,  
Kansas Board of Agriculture

The meeting of the House Agriculture and Small Business Committee was called to order at 9:10 a.m., January 18, 1989, by Chairman Susan Roenbaugh.

The minutes of the meeting on January 11, 1989, were presented to the Committee Members. Representative Larkin moved that the minutes be approved as presented. The motion was seconded by Representative Freeman. The motion carried.

As stated by the Chairman, the order of business for the day was to hear proposals for bills to be introduced and considered by the Committee.

The first conferee on the agenda was Alan Alderson, Western Retail Implement and Hardware Association. Their interest is in introduction of a bill which would regulate franchise agreements for outdoor power equipment. (Attachment 1)

Representative Hamm moved that the Committee accept the proposed bill. Representative Jenkins seconded the motion. On vote of the Committee the motion passed.

Chris Wilson, Director of Governmental Relations of the Kansas Fertilizer and Chemical Association, appeared next before the Committee. She asked the Committee to consider legislation which would authorize the Secretary of the Board of Agriculture to make and promulgate regulations for the safe handling and storage of commercial fertilizers and fertilizer materials in bulk; for establishment of minimum general standards for storage and handling; for establishment of minimum general standards for the purpose of confining any spills; and for prompt recovery of fertilizer or fertilizer materials spilled within a specified area. (Attachment 2)

Representative Freeman moved that the Committee accept the bill for consideration. The motion was seconded by Representative Ensminger. The motion carried.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON AGRICULTURE AND SMALL BUSINESS,

room 423-S, Statehouse, at 9:10 a.m./~~p.m.~~ on January 18, 19 89

Former Representative Jack Beauchamp addressed the Committee with a suggestion for legislation which would declare marijuana to be a noxious weed and that it thereby be handled according to the laws governing noxious weeds. He discussed the impact on elimination of this plant. At the request of members of the Committee, the Chairman asked Research to provide the Committee with further information on the present laws governing and/or controlling noxious weeds and marijuana. The Committee elected to consider this bill at a later date when a more informed decision could be made.

Also suggested by former Representative Jack Beauchamp was the introduction of a bill with regard to organic farming. It was his intention to provide in the bill a definition of organic farming, set up some type of structure whereby there could be a guarantee of quality and/or authenticity as a result of an inspection system (possibly through the Board of Agriculture) and that it could thereafter have a "Land of Kansas" seal of approval.

Representative Hamm moved that an organic farming bill be formulated and considered by the Committee. Representative Larkin seconded the motion. The motion passed.

The next conferee to appear was Warren Parker, Assistant Director of the Public Affairs Division, Kansas Farm Bureau. He suggested to the Committee the need for amending the present Kansas Seed Law and provided suggested amendments and/or changes to that existing law. (Attachment 3)

After due consideration, Representative Mollenkamp moved that the Committee accept the amendments proffered for the Kansas Seed Law. Representative Wells seconded the motion. The motion carried.

Howard Tice, Executive Director of the Kansas Association of Wheat Growers, was recognized by the Chairman. It was their proposal that interest monies earned on the operating balances of the four state grain commissions be used as the base for funding the Agriculture Value Added Processing Center, with the balance of the support to come from the general fund, EDIF funds, or other appropriate sources. (Attachment 4)

The motion to accept the recommendation for a bill introducing sources of funding was made by Representative Samuelson. Representative Bryant seconded the motion. The motion passed.

The next conferee to appear was Joe Rickabaugh, Kansas Livestock Association. The members of the Kansas Livestock Association wished to request the Committee to introduce legislation which would exempt non-surgical embryo transfer from the Kansas Veterinary Practice Act. The Practice Act does not specifically address embryo transfer.

Representative Bryant moved that the Committee accept the concept for proposed legislation. The motion was seconded by Representative Jenkins. The motion carried.

The Chairman acknowledged Ivan Wyatt who represented the Kansas Farmers Union. The Kansas Farmers Union asked the committee to initiate legislation which would lift the sunset policy with regard to the FACTS program. At this time the FACTS program would run out by 1990.

Steve Montgomery, Kansas Legal Services, also appeared briefly to endorse the desire for extension of the FACTS program beyond its sunset date.

Jerry Jost, Kansas Rural Center, also expressed the same request for extension and included written testimony in this regard. (Attachment 5)

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON AGRICULTURE AND SMALL BUSINESS,  
room 423-S, Statehouse, at 9:10 a.m. ~~p.m.~~ on January 18, 1989.

Representative Hamm moved to propose legislation to extend the FACTS program beyond its sunset date of 1990. The motion was seconded by Representative Reinhardt. The motion passed.

Assistant Secretary of Agriculture Don Jacka was introduced by the Chairman. Mr. Jacka proposed legislation to amend the retail gasoline meter inspection law. (Attachment 6)

A motion was made by Representative Reinhardt to accept the proposed legislative changes and/or amendments to the retail gasoline meter inspection law as indicated by the Board of Agriculture. Representative Eckert seconded the motion. The motion carried.

Assistant Secretary Jacka also recommended some basic changes and amendments to the chemigation and pesticide law as suggested by the Board of Agriculture and the Special Interim Committee. (See Attachment 6)

A motion was made by Representative Jenkins to accept and consider the legislative action with regard to the chemigation and pesticide law. The motion was seconded by Representative Amos. The motion passed.

Additionally, the Assistant Secretary recommended the privatization of chemigation enforcement as reviewed and discussed by the Special Agriculture Interim Committee. (Attachment 7)

Representative Jenkins moved to accept the legislation as proposed. Representative Amos seconded the motion. The motion carried.

Assistant Secretary Jacka further recommended that the antiquated Dairy Law needs an update and codification as well as legislation to include the ability to assess fines for violations rather than a complete shut-down. (See Attachment 6)

Representative Jenkins moved to accept the proposed concept for legislation with regard to the Dairy Law. The motion was seconded by Representative Amos. The motion carried.

Assistant Secretary Jacka presented a proposal for amendment to the Kansas Seed Law Bill with regard to fees. (Attachment 8)

Representative Hamm moved to accept the proposal for consideration by the Committee. Representative Reinhardt seconded the motion. The motion passed.

There being no further business to come before the Committee, the meeting was adjourned at 9:50 a.m.

The next meeting of the Committee on Agriculture and Small Business will be on January 24, 1989, at 9:00 a.m. in Room 423-S.

GUEST LIST

COMMITTEE: HOUSE AGRICULTURE AND SMALL BUSINESS

DATE: 01-18-89

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
MIKE BEAM	2044 FILLMORE	Ks. LVSTK Assn.
Wilbur Leonard	Topoka	Comb. Ks Farm Org.
Paul E. Fleener	Manhattan	Kansas Farm Bureau
Bill Fuller	Manhattan	Kansas Farm Bureau
Jerry Jost	Whiting	Ks. Rural Center
Ivan W. Wyatt	McPherson	Ks Farmers Union
Steve Montgomery	Topoka	Ks. Legal Services, Inc.
Chris Wilson	Topoka	Ks Fertilizer Chemical Ass'n
Kel Liba	Topoka	KLTA
JOE Rickabaugh	Topoka	Ks. LUSTK. Assoc.
Alan Steppat	Topoka	Pete McGill & Associates
Rebbie McCaskill	Topoka	KDOC
Roger McCollister	Topoka	Ks Legal Services
Tom Jacha	Topoka	STATE BOARD OF AGRICULTURE
Joe Lieber	Topoka	Hs. Co-op Council
Maureen Hall	Topoka	Ks Co-op Council
Wayne A. White	Topoka	Ks Legal Services
Howard M. Teed	HUTCHINSON	KAWG
Alisa Rubin	Topoka	Wichita Eagle Beacon
Paul Banker	Topoka	
Chuck Stones	Topoka	Kansas Bankers Assn

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MEMORANDUM

TO: MEMBERS, HOUSE AGRICULTURE AND SMALL BUSINESS COMMITTEE

FROM: ALAN F. ALDERSON, ATTORNEY FOR WESTERN RETAIL IMPLEMENT & HARDWARE ASSOCIATION

RE: KANSAS OUTDOOR POWER EQUIPMENT ACT

DATE: JANUARY 18, 1989

The Western Retail Implement & Hardware Association is requesting the introduction of a bill which would regulate franchise agreements for outdoor power equipment. This equipment is that which is used for lawn, garden, golf course, landscaping and grounds maintenance and would protect the retailer of such equipment in much the same fashion as the current legislation regulating franchise agreements for farm implement dealers and automobile dealers. A number of other states have similar legislation.

A similar bill was introduced last year in the Senate, but the Senate Agriculture Committee did not believe the subject matter was strictly germane to agricultural issues and the bill was referred to the Senate Judiciary Committee, where it died. This year we have made a number of modifications to the bill which we believe will make it more palatable to manufacturers.

Time does not permit me to provide you with the full explanation of each provision of the bill, and we are simply requesting that you agree to sponsor the bill. In general terms, the bill would prohibit the cancellation of the contracts under which a retailer agrees to stock and sell outdoor power equipment unless "good cause" has been demonstrated. The bill also regulates the re-purchase of equipment and parts therefor in the event of a termination.

I would be happy to try to answer any other questions you have at this time.

*Ae SB*  
*1-18-89*

*Attachment 1*

HOUSE BILL NO. \_\_\_\_\_

BY COMMITTEE ON AGRICULTURE AND SMALL BUSINESS

AN ACT concerning contracts to maintain stocks of outdoor power equipment by retailers.

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

Section 1. As used in this act:

(a) "Outdoor power equipment" means and includes equipment used for lawn, garden, golf course, landscaping or grounds maintenance.

(b) "Retailer" means any person, firm or corporation engaged in the business of (1) selling outdoor power equipment to the ultimate consumer thereof, and (2) repairing or servicing outdoor power equipment.

(c) "Contract" means either a written or parol agreement between a retailer and a wholesaler, manufacturer or distributor.

(d) "Net cost" means the amount of money actually paid by a retailer.

(e) "Current net price" means the price listed in a manufacturer's, wholesaler's or distributor's price list or catalogue in effect on the date of termination of a contract, less any applicable trade-in or discount.

(f) "Good cause" means failure by the retailer to substantially comply with essential and reasonable requirements imposed upon the retailer by the contract. Any such requirement shall be deemed unreasonable if it differs from those requirements imposed on other similarly-situated retailers, either by its terms or in the manner of its enforcement.

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Sec. 2. Whenever any retailer enters into a contract whereby such retailer agrees to maintain a stock of parts or machines or equipment or attachments with any wholesaler, manufacturer or distributor of outdoor power equipment, and either such wholesaler, manufacturer or distributor or the retailer desires to cancel or discontinue the contract, such wholesaler, manufacturer or distributor shall pay to such retailer, unless the retailer should desire to keep such merchandise, a sum equal to ninety percent of the net cost of all new, unused, undamaged and complete outdoor power equipment, including transportation charges which have been paid by such retailer, and ninety percent of the current net price on new, unused and undamaged repair parts, including superceded parts, which parts had previously been purchased from such wholesaler, manufacturer or distributor, and held by such retailer on the date of the cancellation or discontinuance of such contract. The wholesaler, manufacturer or distributor shall also pay such retailer a sum equal to five percent of the current net price of all parts returned for the handling, packaging and loading of such parts back to the wholesaler, manufacturer or distributor. The wholesaler, manufacturer or distributor shall have the option of performing the handling, packaging and coding in lieu of paying the five percent charge for said services. Upon the payment of the sum due hereunder, the title to such machinery and repair parts shall pass to the manufacturer, wholesaler or distributor making such payment, and such manufacturer, wholesaler or distributor shall be entitled to the possession of such equipment and repair parts. To secure payment of amounts due the retailer, the manufacturer, wholesaler or distributor shall execute a

security agreement and financing statement granting to the retailer a purchase money security interest in the equipment and repair parts returned. All payments required to be made under this section must be made within sixty days after the return of the machinery or repair parts. After sixty days, all payments or allowances shall include interest at the rate prescribed by K.S.A. 1988 Supp. 16-204, and amendments thereto.

The provisions of this section shall not require the repurchase from a retailer of:

- (1) Any repair part which has a limited storage life or is otherwise subject to deterioration, such as rubber items, gaskets or batteries;
- (2) Any repair part which is in a broken or damaged package;
- (3) Any single repair part which is priced as a set of two or more items;
- (4) Any repair part which because of its condition is not resalable as a new part without repackaging or reconditioning;
- (5) Any inventory for which the retailer is unable to furnish evidence, satisfactory to the wholesaler, manufacturer or distributor, of title, free and clear of all claims, liens and encumbrances;
- (6) Any inventory which the retailer desires to keep, provided the retailer has a contractual right to do so;
- (7) Any implements, machinery and attachments which are not in new, unused, undamaged or complete condition;
- (8) Any repair parts which are not in new, unused or undamaged condition;



(9) Any implements, machinery or attachments which were purchased twenty-four months or more prior to notice of termination of the contract;

(10) Any inventory which was ordered by the retailer on or after the date of notification of termination of the contract;

(11) Any inventory which was acquired by the retailer from any source other than the wholesaler, manufacturer or distributor or transferee of such wholesaler, manufacturer or distributor.

Sec. 3. The provisions of section 2 shall be supplemental to any agreement between the retailer and the manufacturer, wholesaler or distributor governing the return of equipment and repair parts. The retailer may elect to pursue either his contract remedy or the remedy provided herein, and an election by the retailer to pursue his contract remedy shall not bar his right to any remedy provided herein as to those equipment and repair parts not affected by the contract remedy.

Sec. 4. In the event that any manufacturer, wholesaler or distributor of machinery and repair parts for outdoor power equipment, upon cancellation of a contract by either a retailer or a manufacturer, wholesaler or distributor, fails or refuses to make payment to such dealer as is required by section 2, such manufacturer, wholesaler or distributor shall be liable in a civil action to the retailer for costs of litigation and attorneys' fees and for one hundred percent of the net cost of such machinery, plus transportation charges which have been paid by the retailer and one hundred percent of the current net price of the repair parts.

Sec. 5. (a) Any manufacturer, wholesaler or distributor of outdoor power equipment and repair parts therefor, who enters into a contract with

any retailer, whereby such retailer agrees to maintain a stock of parts or complete or whole machines or attachments, shall not terminate, cancel or fail to renew any such contract or substantially change the competitive circumstances of such a retailer without good cause. The determination by the manufacturer, wholesaler or distributor of good cause for such termination, cancellation, failure to renew or the change of competitive circumstances must be made in good faith.

(b) In addition to the meaning of the term "good cause" as it is defined in section 1 of this act, good cause shall be deemed to exist whenever:

(1) The retailer has transferred an interest in the retailer's business without the manufacturer's, wholesaler's or distributor's written consent, or there has been a withdrawal from the retailer's business of an individual proprietor, partner, major shareholder or the manager of the retailer's business, or there has been a substantial reduction in interest of a partner or major stockholder without the written consent of the manufacturer, wholesaler or distributor;

(2) The retailer has filed a voluntary petition in bankruptcy or has had an involuntary petition in bankruptcy filed against it which has not been discharged within thirty days after the filing, or there has been a closeout or sale of a substantial part of the retailer's assets related to the retailer's business or there has been a commencement or dissolution or liquidation of the retailer's business;

(3) There has been a change, without the prior written approval of the manufacturer, wholesaler or distributor, in the location of the

retailer's principal place of business under the retailer's agreement with the manufacturer, wholesaler or distributor;

(4) The retailer has defaulted under any chattal mortgage or other security agreement between the retailer and the manufacturer, wholesaler or distributor, or there has been a revocation or discontinuance of any guarantee of the retailer's present or future obligations to the manufacturer, wholesaler or distributor;

(5) The retailer has failed to operate in the normal course of business for seven consecutive days or has otherwise abandoned his business, except for reasonable and customary closures of business;

(6) The retailer has pleaded guilty to or has been convicted of a felony affecting the relationship between the retailer and the manufacturer, wholesaler or distributor;

(7) The retailer has engaged in conduct which is injurious or detrimental to the retailer's customers or the public welfare;

(8) The retailer has consistently failed to meet the manufacturer's, wholesaler's or distributor's requirements for reasonable market penetration based on the manufacturer's, wholesaler's or distributor's experience in other comparable marketing areas.

Sec. 6. The obligations of any wholesaler, manufacturer or distributor created by sections 2 through 5 of this act, inclusive, shall apply to any successor in interest or assignee of that wholesaler, manufacturer or distributor. A successor in interest includes any purchaser of substantially all of the assets or over fifty percent of the stock, any surviving corporation resulting from a merger or liquidation,

any receiver, or any trustee of the original wholesaler, manufacturer or distributor.

Sec. 7. If a manufacturer, wholesaler or distributor violates any provisions of sections 4 through 6, a retailer may bring an action against such manufacturer, wholesaler or distributor in any court of competent jurisdiction for damages sustained by the retailer as a consequence of the violation, together with the actual costs of the action, including reasonable attorneys' fees, and the retailer also may be granted injunctive relief against unlawful termination, cancellation, nonrenewal or substantial change of competitive circumstances. In any such action, the manufacturer, wholesaler or distributor must establish that a termination, cancellation, failure to renew or substantial change of the competitive circumstances of the retailer are not different from requirements imposed upon similarly-situated dealers either by their terms or in the manner of their enforcement. The remedies set forth in this section shall not be deemed exclusive and shall be in addition to any other remedies permitted by law.

Sec. 8. The provisions of this act shall not apply to either a manufacturer that employs less than fifty employees or to a non-manufacturing wholesaler or distributor that employs less than five employees, provided that such suppliers do not exceed such size during the entire two-year period prior to the date such supplier terminates, cancels or fails to renew the contract or substantially changes the competitive circumstances of a retailer, and provided further that such suppliers are

neither owned in substantial part nor succeeded in ownership by any entity which exceeds such sizes, and shall apply to all contracts now in effect which have no expiration date and are continuing contracts and all other contracts entered into, amended or renewed after August 31, 1989. Any contract in force and effect on September 1, 1989, which by its terms will terminate on a date subsequent thereto is governed by the law as it existed before September 1, 1989.

Sec. 9. This act shall be known and may be cited as the Kansas outdoor power equipment franchise act.

Sec. 10. This act shall take effect and be in force from and after its publication in the statute book.

DEFINITIONS

- (a) The term "commercial fertilizer" shall have the same meaning as ascribed to it in K.S.A. 2-1201 and amendments thereto.
- (b) The term "fertilizer materials" shall have the same meaning as ascribed to that term in K.S.A. 2-1201 and amendments thereto.
- (c) The term "bulk fertilizer" means any liquid, blended or dry fertilizer or fertilizer material stored in a fluid or dry non package form.
- (d) The term "facility" means a place where commercial fertilizer materials are stored, mixed, blended, manufactured, weighted or handled.

The secretary is authorized to make and promulgate regulations (a) For the safe handling, storage of commercial fertilizers and fertilizer materials in bulk.

(b) For the establishment of minimum general standards covering the design, construction, location, installation and operation for the storage and handling of commercial fertilizer and fertilizer in bulk and either commercial fertilizer and fertilizer materials being introduced into the ground or surface waters of the state; (c) For the establishment of minimum general standards covering the design, construction, location, and installation of a structure constructed for the purpose of confining any spills or discharged fertilizer or fertilizer material within a specified area; (d) For the prompt recovery of fertilizer or fertilizer materials spilled within a specified area.

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*01-18-89*

*Attachment 2*

#### APPROVAL OF FACILITY AND EQUIPMENT

Approval: A person beginning construction of or substantially altering an existing facility or equipment used for the manufacture, blending, handling, or bulk storage of commercial fertilizers or fertilizer materials shall obtain the approval of the secretary on forms provided by the secretary

Transfer: The approval shall be transferable from the ownership to whom issued to another ownership provided the new owner notify the Kansas State Board of Agriculture within 30 days after the facility has changed ownership. Approval shall not be transferable from one location to another.

Existing Facilities: The person who operates or owns a facility or equipment used for the manufacture, blending or bulk storage of commercial fertilizer or fertilizer materials established prior to the effective date of this amendment must obtain the secretary's approval of the facility according to the schedule provided in rules and regulations.



# PUBLIC POLICY STATEMENT

House Agriculture and Small Business

**RE: Agricultural Legislation ... Seed Law and  
State Meat and Poultry Inspection Program**

January 18, 1989  
Topeka, Kansas

Presented by:  
Warren Parker, Assistant Director  
Public Affairs Division  
Kansas Farm Bureau

Chairman Roenbaugh and Members of the Committee.

I'm Warren Parker with Kansas Farm Bureau and I appreciate the opportunity to address you today. We have a couple of issues for your committee to consider as you look at introduction of bills.

One is the problem of enforceability of the Kansas Seed Law. This law was reworked extensively in 1985 and many problems that existed were corrected in that action. However, through a cooperative dialogue with the State Board of Agriculture some problems have been identified and we feel some revisions are necessary. Most of the protection in the present law is aimed at sellers of seed. We believe there can be a balance of protection achieved for both sellers and buyers of seed.

As an example, one issue that brings the problem to light is the increase in CRP land. There is a high demand for grass seed

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01-18-89

*Attachment 3*



to be used on CRP acres resulting in more out-of-state seed entering Kansas. The "grower premises" language in the present <sup>law</sup> ~~bill~~ doesn't limit sales to Kansas. The State Board of Agriculture cited a case where CRP grass seed was purchased from an out-of-state firm. It was not properly labeled, and was found to contain Johnson grass. We feel problems like this need to be addressed. On page nine of the Kansas Farm Bureau Resolutions book we outline our concerns more in detail, and we'd be happy to discuss them with you at anytime.

Another issue is the Meat and Poultry Inspection Program. We are not asking for specific legislation, but certainly want to reaffirm our strong support for State Inspection. We feel we have a good, safe program. We will also be in the Appropriations Committee seeking more funding for the program.

The federal regulations do nothing to enhance safety or quality, and there is not a great deal of money on the Federal level for enforcement. The federal regulations that deal with heights of rails, sizes of doors, etc. we believe would only accomplish putting the small operator out of business through expensive attempts to comply with unneeded changes. Obviously the State doesn't need the loss of more small businesses. We ask that this situation be monitored through the legislative process and we will, of course, be glad to provide any information or help you may request. Thank you for your time. Any questions?

## Seed Law

The Kansas Seed Law should protect both the buyer and seller of seed.

We will oppose any effort to prohibit any Kansas farmer from selling agricultural seed that is grown in Kansas on land operated by that farmer.

To provide more protection to the buyer of seed, we will support these changes in the law:

1. Require sellers of agricultural seed who advertise in the public media to register with the State Board of Agriculture. Farmers who make occasional private treaty sales, or who advertise by erecting signs on their own property shall not be required to register with the State Board of Agriculture.
2. Require registered sellers of agricultural seed who advertise in the public media to offer for sale only tested and labeled seed.
3. Establish a prohibition on the sale of agricultural seed containing "restricted" weed seed which is above the tolerance level allowed in current law, such prohibition to be similar to the current prohibition on the sale of agricultural seed containing any noxious weed seed.

We continue to support compliance with the Plant Variety Protection Act (PL 91-577).



# Kansas Association Of Wheat Growers

**"ONE STRONG VOICE FOR WHEAT"**

## REQUESTS FOR BILLS

1989 Legislative Session

January 18, 1988

### FUNDING FOR THE AGRICULTURE VALUE ADDED PROCESSING CENTER:

The proposed annual budget for the Agriculture Value Added Processing Center is approximately \$500,000. The Kansas Association of Wheat Growers proposes that the interest monies earned on the operating balances of the four state grain commissions, be dedicated as the base for funding the Center, with the balance of the support to come from the general fund, EDIF funds, or other appropriate sources. This would allow money generated from agriculture, to be used to support an agricultural project. Since there would be genuine benefits to the state as a whole, through increased job opportunities for citizens, and increased sales tax income for state government, funding the program in such a joint manner is quite appropriate.

### MATCHING FUNDS FOR THE INTERNATIONAL GRAINS PROGRAM:

The 1985 Food Security Act provides potential matching funds for centers in the U.S. which work in international marketing of U.S. agricultural products, and provide training in the use of U.S. agricultural products for our foreign customers. The Kansas Association of Wheat Growers recommends that the Kansas Legislature appropriate funds for the International Grains Program and the International Meat and Livestock Program, according to the needs of the programs, and that state officials make application for corresponding federal matching funds, to continue the successful growth of these unique U.S. marketing centers.

At this time, the above request is general in nature, and is offered to convey the desire of the KAWG membership, to adequately fund these programs. The KAWG will work with the Legislature and the IGP and IMLP to determine the amount of funding support needed for the upcoming fiscal year.

### OTHER FUNDING CONCERNS FOR AGRICULTURE AT KSU:

The Kansas Association of Wheat Growers supports renovation of the flour milling facility at KSU, which is 30 years old. A joint project, funded by the milling industry and the state of Kansas has been proposed. The KAWG plans to work with the Kansas Wheat Commission, KSU Grain Science Department and the milling industry to determine the projected cost of the project, and the proposed cost-share. We will then return to the committees with a formal proposal.

The Kansas Association of Wheat Growers also supports a strongly enhanced program of wheat biotechnology at KSU. A funding mix from the Kansas Wheat Commission, private companies and the state general fund has been suggested. Again, a full proposal is not yet ready, but will be made as soon as possible. It might be helpful in working with private industry, if the Agriculture Committees can conceptually agree that the project is worth pursuing.

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*01-18-89*

*Attachment 4*

# THE KANSAS RURAL CENTER, INC.

304 Pratt Street

WHITING, KANSAS 66552

Phone: (913) 873-3431

January 17, 1989

The Kansas Rural Center is a private, non-profit organization which has provided research and public education on agricultural and natural policy issues for the past nine years. As an advocate for the family farm system of agriculture, we are vitally interested in the future of our Kansas farm families and the rural communities they live in.

The Farmers Assistance Counseling & Training Service has provided a vital and useful function during the last several turbulent years of the farm economy. It is important that farm families facing financial stress be enabled with the necessary coping skills to understand their legal and financial options so that they may restructure their farming operation to make it a viable economic unit. While the Rural Center maintains that increasing the number of farm families is the best economic development strategy for rural communities, under current policies and circumstances not all farmers will be able to make their operations cash flow under current debt loads. For these unfortunate families it is imperative that adequate financial and legal advice be available for them in order to make as smooth and orderly transition as possible so that they may once again be a contributing member of our economy and society.

Currently higher livestock and grain prices have provided very positive financial conditions for some Kansas farmers. However, information from the Kansas Farm Management Association reveal that 37% of their 2,000 members in 1987 failed to generate sufficient net farm income to cover long-term family living needs. One quarter of these mostly medium-sized farmers had a negative

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*Attachment 5*

income of \$2,866. Likewise the Kansas Agricultural Statistics figured that 29% of all Kansas farm operators had negative incomes during that same year.

The future for farmers remains uncertain at best. First, forty-two percent of the increase in net farm income for Kansas farmers in 1987 came from increases in government payments. Second, the Farmers Home Administration recently sent out notices to 1,000 Kansas borrowers with 1,443 delinquent loans initiating a process which will lead to the development of workable restructuring plans or foreclosure. Thirdly, a continuing drought in Kansas could wreck every farmer's best laid plans for the future.

These circumstances indicate that farmers will face continued financial stress. For these reasons we recommend that the FACTS program be extended beyond its sunset date.

Thank you for your kind attention.

M E M O R A N D U M

TO: House and Senate Committee on Agriculture  
FROM: Don Jacka, Assistant Secretary of Agriculture  
DATE: 5 January 1989  
RE: Proposed 1989 Legislation

The following are areas of needed legislation by the State Board of Agriculture. This legislation needs to be proposed to the 1989 Legislature.

1) Retail Gasoline Meter Inspection (fiscal transfer contained in both the Department of Revenue and Board of Agriculture FY 1990 Budgets).

- \* Legislation to amend K.S.A. 55-515 to transfer the powers and duties of retail gasoline meter inspection from the Director of Taxation to the Secretary of Agriculture.
- \* Legislation to amend K.S.A. 83-125 to remove the Director of Taxation from the statute establishing that position as "Deputy State Sealer."
- \* Establish a transfer of funds for financing the program.
- \* Privatization of the program -- must be independent checkers (Amoco, Vickers, etc. have their own personnel inspect their pumps).

2) Chemigation and Pesticide Law.

- \* Special Committee on Agriculture studied these laws during the 1988 Interim Session -- draft legislation S.B. 2 and S.B. 3 appended.
- \* Chemigation -- basic changes proposed by the Special Committee:
  - recommended additional staffing;
  - increase current fee system from \$50/permit to \$50 permit plus \$10/well chemigating;
  - include animal waste as a chemical under the chemigation safety law;
  - include agency recommendations clarifying statutory language regarding anti-polluting devices to be required and deleting certain other items of equipment;
  - establish a civil penalty of up to \$5,000 for any violations of the act and a fine of up to \$5,000 for knowingly violating any provision of the Kansas Chemigation Safety Law.

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\* Pesticide Use Law -- basic changes proposed by the Special Committee:

- establish chemical-use or chemical management districts -- established on the basis of rainfall, topography, soil type and depth to water tables;
- require termite businesses, using general use pesticides to be licensed;
- added three new violations to this Act: (1) To store or dispose of pesticides without regard to public health or environmental damage; (2) To advertise for or engage in pest control services without proper license, certification or registration; and (3) To fail to provide pesticide product label to consumers upon request.
- allowed the use of pesticides at less than the recommended rate with Secretary's approval.

3) Privatization -- Plant Health, Chemigation Program.

\* Legislation to privatize chemigation enforcement in a similar manner as accomplished in the Weights and Measures arena.

- certify pump installers and irrigation equipment sellers in the proper method of chemigation.
- require all chemigators to have their chemigation equipment checked by a certified individual yearly.
- spot check chemigation equipment on random frequency basis.

\* This type of program would:

- closely regulate chemigators;
- educate and regulate chemigation equipment/irrigation pump handlers and installers;
- insure that installers know what they are doing;
- allow a more comprehensive program of chemigation regulation and groundwater preservation.

\* Legislation to allow State Board of Agriculture to privatize this program by contracting with Groundwater Management Districts for inspection/regulation of chemigation.

\* Even with the above provisions, additional staffing would be required.

4) Update/Codification of Dairy Laws (Manufacturing Milk and Grade A Milk).

\* Antiquated statutes need updated and clean-up.

\* Legislation to include the ability to assess a fine for violations of the law.

- present enforcement allows only the closure of facility -- no intermediate enforcement tools exist.
- closure of a large milk processing plant is too stringent a penalty for most infractions.

5) Seed Laboratory, Fee Increase

- \* Present statutes establish a maximum rate of \$20 per test.
- \* Proposed legislation would establish such maximum rate at \$40.
- \* Native grass seed inspection takes much longer than other inspections.
- \* Other laboratories -- State, federal and private -- charge much more for native grass samples.
- \* FY 1990 Budget level of expenditures for the Division of Laboratories is based upon increased fees.



## CHEMIGATION PRIVITIZATION BILL

New Section 1. as used in this act:

(a) "Chemigation testing and service company" means any person who tests, repairs calibrates or adjusts and chemigation equipment or irrigation distribution systems which are used for chemigation but such term does not include a technical representative.

(b) "Secretary" means the secretary of the state board of agriculture.

(c) "Person" means any individual, partnership, association, corporation or governmental agency.

(d) "Place of business" means any location from which a chemigation testing and service company, or one or more representatives or employees thereof, sell and perform services for the purpose of testing, inspecting, repairing or adjusting chemigation equipment irrigation distribution systems which are used for chemigation.

(e) "Technical representative" means an individual who is employed by a chemigation testing and service company and who is responsible for the proper testing, repairing, inspection or adjustment of chemigation equipment or any irrigation distribution systems which are used for chemigation

New Section 2. (a) From and after January 1, 1990, each person desiring to inspect, operate and perform testing and other services as a chemigation testing and service company in Kansas shall apply to the secretary for a chemigation testing and service company license, on a form to be supplied by the secretary, and shall obtain such license from the secretary before inspecting, operating and performing testing or other services as a chemigation testing service company. Each chemigation testing and service company shall obtain a license for each place of business maintained in Kansas and shall pay a license application fee of \$50 and thereafter an annual license renewal application fee of \$50 for each place of business. Each chemigation testing and service company license shall expire on December 31 following issuance and shall not be transferable.

(b) If any chemigation testing and service company maintains any out-of-state places of business which the company operates in serving Kansas patrons, the applicant seeking to obtain or renew a license under this section shall list

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in the application such places of business and the firm names under which the company operates at each such place of business. If any out-of-state place of business is established by a chemigation testing and service company after being licensed under this section, the licensee shall supply such information to the secretary before any work is performed in Kansas from such out-of-state location. Each nonresident chemigation testing and service company shall designate a resident agent upon whom service of notice or process may be made to enforce the provisions of this act or any liabilities arising from operations thereunder. Each nonresident chemigation testing and service company which maintains no established place of business in Kansas shall obtain a license under this section for each out-of-state place of business and shall list on the application the firm name or names for each place of business from which the chemigation testing and service company intends to operate.

(c) On and after January 1, 1990, each chemigation testing and service company shall have each of their technical representatives registered annually by the state board of agriculture. The technical representative shall be required to pass a reasonable examination prescribed by the secretary before being registered. Each chemigation testing and service company shall have at least one registered technical representative in its employ at each licensed place of business. Technical representative registrations shall expire on December 31 following issuance.

(d) No chemigation testing and service company license may be issued or renewed under this section unless the chemigation testing and service company has in its employ a currently registered technical representative as required in paragraph (c) of this section

New Section 3. (a) The secretary may adopt, amend and revoke rules and regulations concerning:

(1) Standards of workmanship for chemigation testing and service companies;

(2) requirements for contractual responsibilities and fulfillment of agreements by chemigation testing and service companies;

(3) furnishing of reports and information necessary to carry out the provisions of this act and

(4) any other matters necessary for the administration of the provisions of this act.

(b) For the purposes of inspecting, testing or rejecting any

chemigation equipment, or irrigation distribution systems which is used for chemigation, the secretary or any authorized representative of the secretary may enter upon any lands or premises in or on which chemigation equipment may be stored or used.

(c) For the purposes of inspecting any records kept by a chemigation testing and service company, the secretary or any authorized representative of the secretary may enter the chemigation testing and service company during reasonable business hours.

(d) Whoever hinders, obstructs or otherwise interferes with the secretary or any authorized representative of the secretary while in the performance any inspection, test or other duty authorized by this act shall be deemed guilty of a class A misdemeanor.

New Section 4. (a) The owner or operator of any chemigation equipment or any irrigation distribution system which is used for chemigation shall have such chemigation equipment and system tested and inspected at least annually for compliance with Kansas chemigation safety law. The test and inspection shall be conducted by a registered technical representative employed by a licensed chemigation testing and service company in accordance with rules and regulations adopted by the secretary. The annual tests and inspections of chemigation equipment and each irrigation distribution system which is used for chemigation shall be at the expense of the owner or operator of such system.

(b) A chemigation testing and service company which conducts tests pursuant to this section shall, at the time of testing and inspection, promptly furnish to the owner or operator of the chemigation equipment or irrigation distribution system a report showing the results of the test and inspection. Within five calendar days thereafter, the owner or operator of any chemigation equipment or irrigation distribution system which has been inspected or tested shall furnish a copy of such report to the secretary.

(c) Subject to the provisions of section 14, the owner and operator of any chemigation equipment or irrigation distribution system which is used for chemigation and which is found to be not meeting the standards set in the Kansas chemigation safety law at the time of testing shall shut down immediately the chemigation equipment and remove it from irrigation distribution system and cease further use until the necessary corrections, adjustments or repairs are made to the chemigation equipment or the irrigation distribution system the system and the chemigation equipment or irrigation distribution

system is determined to be in full compliance with the Kansas chemigation safety law. The chemigation testing and service company shall notify the state board of agriculture of any chemigation equipment or any irrigation distribution systems which is used for chemigation and which are found not to comply with the Kansas chemigation safety law. A copy of the report prepared by the chemigation testing and service company showing the results of the chemigation test and the work done to correct any deficiencies in the chemigation equipment or irrigation distribution system which is used for chemigation shall be filed with the state board of agriculture by the chemigation testing and service company within 15 days after the test and inspection has been completed.

New Section 5. When the secretary has been notified by a licensed chemigation testing and service company that any chemigation equipment or any irrigation distribution system which is used for chemigation does not comply with the Kansas chemigation safety law, then the secretary, state board of agriculture or the board's designee shall test and inspect the chemigation equipment and any irrigation distribution system which is used for chemigation for compliance with the Kansas chemigation safety law after repairs have been made.

New Section 6. No person may falsify a test or determination of that any chemigation equipment or any irrigation distribution system which is used for chemigation which has been inspected or tested under the provisions of this act complies with the Kansas chemigation safety law or shall file with the secretary a false report of any test or inspection of any chemigation equipment or any irrigation distribution system which is used for chemigation which has been inspected or tested under the provisions of this act.

New Section 7. (a) At any time after a hearing held under section 8, the secretary may revoke, suspend, refuse to renew or refuse to issue a chemigation testing and service company:

(1) Has refused to provide the secretary with reasonably complete and accurate information regarding methods used, materials used or work performed;

(2) has failed to comply with any provision or requirement of this act or any rule and regulation adopted thereunder;

(3) has failed to comply with any provision or requirement of the Kansas chemigation safety law and amendments thereto or any rule and regulation adopted thereunder.

(b) The secretary shall suspend the license of any chemigation

testing and service company which does not have a registered technical representative at each licensed place of business as required under subsection (c) of section 2. Suspension pursuant to this subsection shall not require a hearing.

New Section 8. (a) Before any chemigation testing and service company license shall be revoked, refused issuance, denied renewal or before it shall be suspended for any cause, other than for failure to have a currently registered technical representative at each place of business, the secretary shall inform the licensee of the date and place of hearing upon the proposed revocation, refusal to issue, denial or suspension. The notice of hearing shall be sent to the registrant licensee or applicant for a chemigation testing and service company license at least 15 days prior to the hearing date and shall be served upon the licensee or applicant for such license by letter sent to such person's address as shown by the records of the secretary, setting out the time and place of the hearing and alleged grounds for revocation, refusal to issue, denial of renewal suspension. The licensee or applicant for such license shall have the right to appear in person and by counsel and to testify and introduce evidence. If such person fails to appear, the matter may be heard in such person's absence. Any such hearing may be conducted by the secretary or by a hearing officer duly appointed by the secretary.

(b) The secretary is authorized to appoint a hearing officer to make investigations and conduct hearings. Such hearing officer shall have the power to administer oaths in making of investigations or conducting of hearings and the secretary may provide for a record to be made of any hearing or investigation. The hearing officer shall report such officer's findings and recommendations to the secretary. The secretary may consider the records made by the hearing officer, or if the secretary desires, the secretary may hear additional evidence and hold further hearings or make further investigations. The decision and order of the secretary shall have the same force and effect as though the entire hearing and investigation had been held before the secretary. The decision and order shall become effective on the date set by the secretary. Service of a copy of the decision and order shall be in the same manner as provided for notice of hearing.

New Section 9. The licensee or applicant for such chemigation testing and service company license may obtain review of an order of the secretary revoking or suspending a chemigation testing and service company license or denying or

declining to issue or to renew such license in accordance with the act for judicial review and civil enforcement of agency actions.

New Section 10. The secretary may issue subpoenas to compel the attendance of witnesses or production of books, documents and records anywhere in the state in any hearing affecting the authority or privilege granted by a license issued under the provisions of this act.

New Section 12. It is unlawful for any person, other than the secretary or the secretary's authorized representative, to: (a) Operate or perform services as a chemigation testing and service company without having a valid chemigation testing and service company license; or

(b) adjust, calibrate, test or repair any chemigation equipment or irrigation distribution system other than at the person's residence or at the person's established place of business without having a valid chemigation testing and service company license.

New Section 13. Any person violating or failing to comply with any of the provisions of section 1 through 12 or violating or failing to comply with any authorized rule and regulation of the secretary adopted hereunder, shall be deemed guilty of a class A misdemeanor. Each separate violation shall be a separate offense.

New Section 14. (a) Whenever the secretary or any authorized representative of the secretary finds that any chemigation equipment or irrigation distribution system does not comply with the provisions of the Kansas chemigation safety law or any rule or regulation promulgated thereunder, the secretary may issue a stop use order with respect to such chemigation equipment or seal such chemigation equipment out of service.

(b) No person may remove any such seal or use any chemigation equipment or use irrigation distribution for chemigation contrary to the terms of any stop use order or seal authorized by this section.

(c) This section does not limit the right of the secretary to proceed as authorized by other sections of this act.

New Section 15. The secretary is hereby authorized to contract with the governing body of any groundwater management district, county, city or other political subdivision or agency of the state of Kansas, in those instances which the secretary deems feasible, in order to provide inspection testing and regulatory services for chemigation equipment written a particular geographic area.

New Section 16. K.S.A. 2-3315. Chemigation fee fund; expenditures. The secretary shall remit all moneys received under this act 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 chemigation fee fund. All expenditures from the chemigation fee 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.

New Section 17. K.S.A. 2-3314. Injunctive relief for violations of act. The district courts of Kansas shall have jurisdiction to restrain violations of this act by injunction without the institution of criminal proceedings. The injunction shall be issued without bond.

New Section 18. This act shall take effect and be in force from and after its publication in the Kansas Register statute book.

## CIVIL PENALTIES DAIRY LAWS

New Section 1. (a) Any person who violates the any provision of article 7 of chapter 65 of Kansas Statutes Annotated and amendments thereto or any rule and regulation promulgated thereunder, in addition to any other penalty provided by law, may incur a civil penalty imposed under subsection (b) in the amount fixed by rules and regulations of the state board of agriculture in an amount not less than \$100 nor more than \$1,000 for each violation and in the case of a continuing violation, every day such violation continues shall be deemed a separate violation.

(b) A duly authorized agent of the secretary of the state board of agriculture, upon a finding that any person has violated any provision of article 7 of chapter 65 of Kansas Statutes Annotated and amendments thereto or any rule and regulation promulgated thereunder, may impose a civil penalty as provided in this section upon such person.

(c) No civil penalty shall be imposed pursuant to this section except upon the written order of the duly authorized agent of the secretary of the state board of agriculture to the person who committed the violation. Such order shall state the violation, the penalty to be imposed and the right of the person to appeal to the secretary. Any such person, within 20 days after notification, may make written request to the secretary for a hearing in accordance with the provisions of the Kansas administrative procedure act. The secretary shall affirm, reverse or modify the order and shall specify the reasons therefor.

(d) Any person aggrieved by a final order of the secretary made under this section may appeal such order to the district court in the manner provided by the act for judicial review and civil enforcement of agency actions.

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(e) Any civil penalty recovered pursuant to the provisions of this section shall be remitted to the state treasurer, deposited in the state treasury and credited to the state general fund.

New Section 2. This act shall take effect and be in force from and after its publication in the statute book.

## SEED LAW - LAB FEES

Sec. 1. K.S.A. 2-1425 is hereby amended to read as follows: 2-1245. Any person may submit to the state seed laboratory samples of agricultural seed for germination or purity tests, or both, or other examination and receive the test upon paying to the secretary a fee per sample, test or examination as the state board of agriculture may decide. The state board of agriculture is hereby authorized and directed to establish by regulation, a schedule of fees for seed testing and examination, to be used as the basis of charges: "Provided", that such fees shall not be less than five dollars (\$5) or more than forty dollar (\$40) per test or examination. The secretary may extend credit for work done, and the sender of the sample may be invoiced for such charges from time to time. Testing shall be discounted for any person who fails to pay such charges within thirty (30) days after invoice is issued. The limitation on free tests shall not apply to the state boards, commissions, or educational, penal or eleemosynary institutions. The state seed laboratory shall not be obligated to analyze any uncleaned, unprocessed, and other time-consuming sample or any sample which obviously does not meet state seed law requirements. The secretary shall remit all moneys received by or for the secretary under article 14 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 seed examination 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. This act shall be in force and effect from and after its publication in the Kansas Register.