

Approved March 21, 1990  
Date

MINUTES OF THE Senate COMMITTEE ON Agriculture

The meeting was called to order by Senator Montgomery at  
Vice-Chairperson

10:06 a.m./~~p.m.~~ on March 12, 1990 in room 423-S of the Capitol.

All members were present ~~except~~:

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

Conferees appearing before the committee: Chris Wilson, Kansas Fertilizer and Chemical  
Association  
Don Jacka, Assistant Secretary, State Board  
of Agriculture

Vice-Chairman, Senator Montgomery called the Committee to order and attention to SB 767 and then called on Chris Wilson to testify.

Ms. Wilson gave copies of her testimony to the Committee (attachment 1) and requested the Committee give favorable consideration to SB 767.

During Committee discussion the statement was made that if the fertilizer fees were reduced that the General Fund would have to provide the fee loss for the Board of Agriculture as their budget has no excess. Ms. Wilson answered that monies from the fertilizer fee funds have been used to fund the seed inspection program and that some of those funds were used to help build the new laboratory for the Board of Agriculture.

The Vice-Chairman called on Don Jacka to testify.

Mr. Jacka provided copies of his testimony for the Committee (attachment 2) and expressed a concern for the budget of the State Board of Agriculture should SB 767 be passed. Mr. Jacka stated that should this suggested legislation be passed that the loss of revenue for the Board of Agriculture would have to be replaced with funds from the General Fund.

Ms. Wilson requested during Committee discussion that fees be charged according to the cost of administering each separate program and that the fees collected for one program not be used to finance another program. Mr. Jacka stated that some services would have to be eliminated if the fertilizer fee is reduced.

Senator Allen declared the hearing closed for SB 767 and announced that Committee action would take place at a later date. The Chairman adjourned the Committee at 10:41 a.m.



STATEMENT OF THE KANSAS FERTILIZER AND CHEMICAL ASSOCIATION  
TO THE SENATE AGRICULTURE AND LIVESTOCK COMMITTEE  
SENATOR JIM ALLEN, CHAIRMAN

REGARDING S.B. 767

MARCH 12, 1990

Mr. Chairman and Members of the Committee, I am Chris Wilson, Director of Governmental Relations of the Kansas Fertilizer and Chemical Association (KFCA). KFCA's over 500 members are firms involved in the agricultural chemical industry. We appreciate the opportunity to speak today in support of S.B. 767, which would decrease the fertilizer tonnage fee by 15 cents per ton.

Historically, the fertilizer tonnage fee for inspections has been 30 cents since 1982. Prior to that time, the fee was 20 cents per ton. For many years, the Board of Agriculture has recognized that the fee charged for fertilizer inspections was in excess of the amount needed to administer the fertilizer inspection program. Our members have been aware of this for several years as well. No one was sure, however, just how much excess funds were being generated by the fertilizer fees.

When Harland Priddle was Secretary of Agriculture, he decided to cut the fee in half, decreasing it by 15 cents. In the 1986 Session, he requested a resolution to do so. However, it was realized that the funding generated by the fertilizer fee was also going to support the seed inspection program, and the Secretary came to our Association and asked if we would accept his not going forward with the decrease. We, of course, agreed.



KFCA has always tried to support the Board of Agriculture in any way possible. We believe the Board is a fair regulator and the staff of the Board of Agriculture does a very professional job.

Last year, the Board commissioned a study by a consulting firm, David M. Griffith and Associates, Ltd., to analyze their revenue sources and the cost of administering the various regulatory programs of the Board. As a result of this study, for the first time, we have as accurate as possible data on the cost of administering the fertilizer inspection program. The study determined that the full cost of the program, including direct labor, program expense, central overhead, and laboratory expense, is 8 cents per ton, compared to the 30 cents per ton presently being paid. At this rate, the fertilizer tonnage fee has paid an excess of about \$322,000 per year since 1982, and about \$160,000 per year prior to that. So, since 1973, the fertilizer tonnage fee has provided an excess of about \$4 million.

However, the anhydrous ammonia inspection program has no fees to support it. So, taking into consideration that the fertilizer tonnage fees could be used to pay for this program also, the excess tonnage fee revenue is still about \$180,000 per year. This amounts to \$1.4 million since 1982.

A chief use of the excess fertilizer fees is to fund the seed inspection program. Since a fee has never been established for seed dealers, there are no user fees available to support the seed inspection program.

The Board of Agriculture, after receiving the DMG study,



determined to endeavor to make the fee structure as equitable as possible. They decided to propose a seed dealer registration fee and to administratively lower the fertilizer tonnage fee about any amount comparable to collections from the seed registration fee. A seed dealer registration fee has been proposed in the past and never passed. Again during this Session it was proposed in the form of a \$10 registration fee for commercial seed dealers. No action was taken by the House on that proposal. However, the Seed Industry Association and other farm organizations in addition to the Board of Agriculture support the proposal.

KFCA members have grown weary and angry over the years of paying the excess tonnage fee. Historically, it is a cost of doing business which has come out of our members pockets. Since the passage of the legislation last year raising the tonnage fee to \$1.70 and designating the additional \$1.40 for other purposes, however, the Association has strongly encouraged members to include the tonnage fee as an invoice item. Our surveys indicate that most retailers are now doing that. So, this is a cost now being borne directly by the producer.

The fact that a seed inspection fee does not exist should not mean that fertilizer users have to continue to pay the cost of the program. Consequently, we are requesting that the tonnage fee be lowered by 15 cents. Leaving the fee at 15 cents per ton will still provide about 7 cents per ton in excess fees to be used for other purposes.

We respectfully request your favorable consideration of S.B. 767. I will be glad to respond to any questions you may have.

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SENATE AGRICULTURE COMMITTEE

SENATE BILL 767

March 12, 1990

Mr. Chairperson, Members of the Senate Agricultural Committee, I am Don Jacka, Assistant Secretary, Kansas State Board of Agriculture, and I am here to testify on Senate Bill 767.

Senate Bill 767 will reduce the inspection fee from \$1.70 per ton to \$1.55 per ton. Since the State Water Plan Fund receives a majority of these funds, the State Board of Agriculture only receives \$.30 per ton of the present \$1.70 per ton; and since Senate Bill 767 only addresses those fees collected for use in fertilizer inspection, Senate Bill 767 would effectively reduce the inspection fee for fertilizer from \$.30 per ton to \$.15 per ton.

Monies collected from funds generated by the assessment of a \$.30 fee for each ton of fertilizer sold in Kansas and revenues generated from blenders licenses along with registration fees for each grade of fertilizers are anticipated to generate \$425,515 in FY 1990.

Inspection tonnage fees, as well as other fees collected, are used to defray the costs of operating the Fertilizer Inspection program and programs that relate to the fertilizer inspection program.

Those programs that are an integral related part of the Fertilizer Inspection program are:

- 1) Anhydrous Ammonia Safety: KSBA field and administrative staff inspect and monitor the activities of the 813 anhydrous ammonia facilities in the state as well as the nearly 14,000 nurse tanks used to transport and apply this product. Due to the activities of staff through enforcement and

*Senate Agriculture Committee*

*3-12-90*

*attachment 2*

education, only seven accidents occurred in calendar year 1989. Cost of this fertilizer enforcement program was \$148,152.

2) In 1989 the legislature passed the fertilizer containment law which deals with the protection of ground water from contamination of fertilizers through implementation of regulations dealing with diking (containment) around storage tanks as well as methods of protecting ground water from the discharges of equipment wash down waters. It is anticipated the cost of this program is \$56,165.

3) Fertilizer products are inspected by staff and samples are taken to assure that the finished products meet their guaranteed grades for quality and measured to insure quantity. During 1989, 366 inspections were performed directly relating to this activity. Multiple samples were sent to the Kansas State Board of Agriculture Division of Laboratories and regulatory action was initiated as necessary based upon those results. Monies collected through fertilizer fee funds in addition to paying for the fertilizer regulatory activity of the administrative and field staff are also used to pay, in part, for that staff and those costs of maintaining an analytical laboratory used to monitor quality of the fertilizer products sold in Kansas. The cost of this aspect of the program is \$44,102.

The total cost of fertilizer related inspections including the analysis of samples provided by the Agricultural Laboratory is \$467,637. Not including the cost of analysis at the laboratory, the fertilizer sampling safety and regulation program costs the state \$248,419.

The issue of fees whether they are equitable is not a new topic for the agency. It is not a new topic for fertilizer either.

In 1985, Secretary Harland Priddle proposed a regulation to reduce the fees. Due to concerns over funding the agency's budget and the desire to

maintain inspection programs, the legislature passed Senate Concurrent Resolution 1639 directing that no action be taken to reduce the rate.

Just this past year, the agency issued a contract to David M. Griffith and Associates to specifically study the cost of services provided by the agency. The study was to provide cost data that could be used to establish user fees or to modify existing fees.

Their study indicated that the cost per ton necessary to enforce the fertilizer law was \$.08/ton. It should be noted that this figure did not include the cost of the Anhydrous Ammonia Safety program. It also does not address the fertilizer containment enforcement program that has been passed since the study was conducted.

Internally, the Kansas State Board of Agriculture Budget Committee recommended a registration fee be established for seed dealers to raise funds for the enforcement of the Kansas Seed Law. The Kansas State Board of Agriculture Budget committee further recommended that fertilizer fees be reduced by a similar amount of revenue as was realized by fees collected from the seed dealers. This was put forth in testimony during this session on House Bill 2582. House Bill 2582 failed to pass out of the House Committee on Agriculture and Small Business.

Based on the FY 1990 budget with a projected income of \$331,302 from fertilizer fees with \$51,070 being generated from the seed industry, the tonnage fee on fertilizer could have been reduced from \$.30/ton to \$.26/ton.

If Senate Bill 767 is passed and if no other source of funds is provided, the FY 1991 budget would be reduced from \$363,102 (est.) to \$181,551. This reduction would impact upon the Division of Inspections, the Division of Laboratories and upon central administrative services.



Without replacement state general funding, such a fee reduction would almost certainly require a reduction in personnel.

The agency would first state that \$.15 is not a true figure for the services currently being provided. Given the cost of inspection/regulation, previously discussed, and the estimate of 1,359,890 tons being inspected in Kansas during FY 1990, a total of \$.33 per ton for inspection would be needed to offset the total cost of the program, including laboratory analysis. If the legislature only wishes to address the sampling, safety and regulation of fertilizer without laboratory analysis, the cost per ton would be \$.18 per ton. Secondly, if this bill should receive favorable consideration, the agency would request funds be offset by General Fund revenue.

Thank you, we stand for questions.