

Approved April 5, 1991
Date

MINUTES OF THE Senate COMMITTEE ON Agriculture

The meeting was called to order by Senator Jim Allen at
Chairperson

10:10 a.m./~~p.m.~~ on April 2, 1991 in room 423-S of the Capitol.

All members were present ~~xxxxxx~~

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

Conferees appearing before the committee: Gary Hall, Secretary, State Board of Agriculture

Senator Allen called the Committee to order and attention to HB 2077 for Committee action. The Chairman called on Gary Hall to present amendments for HB 2077.

Mr. Hall gave copies of the amendments to the Committee (attachment 1) and explained that the amendments would provide for expansion of the FACTS Program to help the agricultural segment of Kansas. The amendments would allow information to be given to farmers that do not fall into the "distressed" definition in order to help them start up a business in relationship with their farming operation.

Mr. Hall answered that no new funds would be needed to expand the FACTS Program. Mr. Hall answered that he did not see that this expansion to join the Rural Assistance Center with the FACTS would hinder the receiving of matching fund dollars which now help support the FACTS Program. It was questioned if the name of the fund and the title for the FACTS Program should be changed to include rural assistance; no need was seen for those changes.

Senator Montgomery made a motion that the Committee adopt the amendments suggested for the FACTS Program. Seconded by Senator McClure. Motion carried.

Senator Lee made a motion to amend HB 2077 with the provisions of SB 308, which would allow County Commissioners, if they chose to, to set the price of chemicals from 50% to 100% of the cost to the county no matter what the mill levy assessment was and SB 322 which would provide, on a county option basis, that County Commissioners could arrange a plan so that, with a certificate from the Noxious Weed Director, chemicals could be purchased from a dealer rather than from the Noxious Weed Department. Senator Montgomery seconded the motion. Staff asked if the amendment of SB 322 should include the amendment the House Agriculture Committee amended to the bill. Senator Lee answered that it should be included. The motion carried.

Senator Lee made a motion that the Committee recommend HB 2077 favorable for passage as amended. Seconded by Senator Frahm. Motion carried.

The Chairman called for action on HB 2360 by calling on Senator Montgomery the Chairman of the subcommittee on HB 2360.

Senator Montgomery gave the Committee copies of amendments suggested by the subcommittee (attachment 2). Senator Montgomery explained the amendments included definitions for retailer, wholesaler, horticultural seeds, agricultural seeds and states the registration fee for a wholesaler shall be \$175.00 and for a retailer \$10.00, and that, also, the change needs to be made, regarding the fee fund, from Seed Dealers Registration Fee Fund to Agricultural Seed Registration Fee Fund. Senator Montgomery made a motion the Committee accept these amendments for HB 2360. Senator Doyen seconded the motion. Motion carried.

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

CONTINUATION SHEET

MINUTES OF THE Senate COMMITTEE ON Agriculture,
room 423-S, Statehouse, at 10:10 a.m. ~~p.m.~~ on April 2, 1991

Senator Lee made a motion the Committee recommend HB 2360 favorable for passage as amended. Senator Harder seconded the motion. Motion carried.

The Chairman called for Committee action on Committee minutes.

Senator McClure made a motion that the Committee minutes for April 1 be approved. Seconded by Senator Daniels. Motion carried.

Senator Allen adjourned the Committee at 10:45 a.m.

HOUSE BILL No. 2077

By Committee on Agriculture and Small Business

1-30

8 AN ACT concerning the farm assistance, counseling and training
9 referral program; relating to the expiration thereof; amending
10 K.S.A. 1990 Supp. 74-545 and repealing the existing section.
11

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

13 Section 1. K.S.A. 1990 Supp. 74-545 is hereby amended to read
14 as follows: 74-545. (a) The secretary of the state board of agriculture
15 with the cooperation of the director of extension of Kansas state
16 university shall coordinate ~~a farm assistance, counseling and training~~
17 ~~referral program.~~ For the purposes of providing such assistance and
18 program, the secretary shall utilize the services of the director and
19 division of extension of Kansas state university, other state agencies,
20 county extension personnel, municipal and community services or-
21 ganizations and personnel and private business and professional agen-
22 cies or services available for such purpose. The secretary shall
23 compile a directory of programs and services which may be utilized
24 in providing the assistance contemplated by this act. Staff required
25 by the secretary for the purposes of implementing this act shall be
26 employed by the secretary with the approval of the director of ex-
27 tension and shall serve in the offices of the division of extension at
28 Kansas state university. Personnel employed by the secretary for the
29 purpose of implementing this act shall be employed as special project
30 employees and shall be in the unclassified service under the Kansas
31 civil service act. The personnel employed by the secretary for this
32 purpose and county extension personnel shall be utilized in: (1)
33 Receiving requests for assistance; (2) determining the eligibility of
34 persons requesting assistance; and (3) determining if such assistance
35 can best be provided by staff or by referral to an appropriate public
36 or private agency or party for direct assistance. Personnel receiving
37 requests for assistance will provide where possible such assistance
38 or refer the person requesting such assistance to ~~an agency or~~ person
39 qualified to provide such assistance in the home community or county
40 of the person requesting such assistance.

41 (b) Persons shall be eligible to receive assistance pursuant to this
42 act if they: (1) Are primarily engaged in the business of farming,
43 ranching, agribusiness or other agriculture-related activities; and (2)

rural assistance information network, which shall include a farm assistance, counseling and training referral program and a rural opportunity program. The rural opportunity program will gather information and will inform rural communities, businesses, and potential entrepreneurs of available programs, resources, and strategies which they can use to develop themselves economically and create alternative or improved employment for farmers and rural residents.

, private foundations, institutes,

a public or private agency or, when appropriate, to a

requesting farm assistance, counseling and training referral services

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attachment 1*

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1 will be unable to continue in such business or activity or be seriously
2 handicapped in such continued operation without the assistance pro-
3 vided pursuant to this act.

4 (c) The assistance to be made available to eligible persons by
5 staff, by contract or by referral to appropriate persons or agencies
6 shall include farm management, legal assistance, legal advice and
7 referrals, financial planning, employment services, business planning,
8 voluntary mediation and personal and family support counseling. The
9 secretary may provide legal assistance through a contract for legal
10 services with any private or corporate law firm.

requesting farm assistance, counseling and training
referral services

11 (d) Meetings in which mediation assistance is provided through
12 the voluntary mediation service authorized under subsection (c) shall
13 be closed and shall not be subject to the provisions of K.S.A. 75-
14 4317 to 75-4320, inclusive, and amendments thereto. The record of
15 information relating to the finances of individual borrowers and cred-
16 itors created, collected and maintained by the mediation service shall
17 not constitute a public record and shall not be open for inspection
18 under the open records act. Mediation sessions shall be confidential
19 and the secretary shall ensure that all lenders and borrowers of
20 agricultural loans receive adequate notification of the mediation
21 service.

22 (e) The secretary is hereby authorized to negotiate and enter into
23 contracts for the performance of the powers, duties and functions of
24 the program established under this section and under K.S.A. 74-
25 544, and amendments thereto. All such contracts shall be exempt
26 from the competitive bid requirements of K.S.A. 75-3739, and
27 amendments thereto.

28 (f) The secretary is hereby authorized to receive grants, gifts or
29 donations from the United States government, or its agencies, or
30 any other source whatsoever for the purposes of the program es-
31 tablished under this section and under K.S.A. 74-544, and amend-
32 ments thereto, and any moneys so received shall be deposited in
33 the state treasury and credited to the FACTS gifts and contributions
34 fund which is hereby created. All expenditures from such fund shall
35 be made in accordance with appropriation acts upon warrants of the
36 director of accounts and reports issued pursuant to vouchers ap-
37 proved by the secretary of the state board of agriculture or a person
38 designated by the secretary.

39 (g) A creditor of a farm borrower, when notifying a farm borrower
40 of intent to accelerate or call such note or, in the event none of the
41 above notices has occurred, before filing suit to foreclose on a deed
42 of trust or mortgage on agricultural land, shall notify the borrower
43 of the availability of the mediation service as contracted by the

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1 secretary, and shall prominently include on or with the notice the
2 address and telephone number of such mediation service unless the
3 borrower and creditor have previously been involved with each other
4 in mediation through such mediation service. A copy of the notice,
5 including names, addresses and phone numbers of creditor and bor-
6 rower, shall be sent to the mediation service at the same time it is
7 mailed to the borrower, if the borrower consents thereto in writing.

8 (h) The provisions of this act shall expire on September 30, ~~1991~~
9 1996.

10 Sec. 2. K.S.A. 1990 Supp. 74-545 is hereby repealed.

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

1-3

HOUSE BILL No. 2360

By Committee on Agriculture

2-14

Proposed Amendments for HB 2360
as amended by House Committee
4-2-91

9 AN ACT concerning agriculture; relating to the registration of seed
10 dealers; amending K.S.A. 1990 Supp. 2-1415 and 2-1421a and
11 repealing the existing sections.
12

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

14 Section 1. K.S.A. 1990 Supp. 2-1415 is hereby amended to read
15 as follows: 2-1415. As used in this act:

16 (a) "Agricultural seed" means the seed of grass, legume, forage,
17 cereal and fiber crops, or mixtures thereof, but shall not include
18 horticultural seeds.

19 (b) "Person" means any individual, member of a partnership,
20 corporation, agents, brokers, company, association or society.

21 (c) "Conditioned" means cleaned, or cleaned and blended, to
22 meet the requirements of agricultural seed for the purpose of being
23 planted or seeded.

24 (d) "Kind" means one or more related species or subspecies
25 which singly or collectively is known by one common name, and
26 includes, among others, wheat, oat, vetch, sweet clover and alfalfa.

27 (e) "Variety" means a subdivision of a kind, which is characterized
28 by growth, yield, plant, fruit, seed or other characteristics by which
29 it can be differentiated from other plants of the same kind.

30 (f) "Hard seed" means the seeds which because of hardness or
31 impermeability do not absorb moisture or germinate under seed
32 testing procedure.

33 (g) "Label" means the statements written, printed, stenciled or
34 otherwise displayed upon, or attached to, the container of agricultural
35 seed, and includes other written, printed, stenciled or graphic rep-
36 resentations, in any form whatsoever, pertaining to any agricultural
37 seed, whether in bulk or in containers, and includes declarations
38 and affidavits.

39 (h) "Secretary" means the secretary of the state board of
40 agriculture.

41 (i) "Weed seed" means the seeds of plants considered weeds in
42 this state and includes noxious weed seed and restricted weed seed,
43 determined by methods established by rule and regulation under

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attachment 2

1 this act.

2 (j) "Noxious weed seed" means the seed of Kudzu (*Pueraria*
3 *lobata*), field bindweed (*Convolvulus arvensis*), Russian knapweed
4 (*Centaurea repens*), hoary cress (*Cardaria draba*), Canada thistle
5 (*Cirsium arvense*), leafy spurge (*Euphorbia esula*), quackgrass (*Agro-*
6 *pyron repens*), bur ragweed (*Ambrosia grayii*), pignut (*Indian rush-*
7 *pea*) (*Hoffmannseggia densiflora*), Texas blueweed (*Helianthus*
8 *ciliaris*), Johnson grass (*Sorghum halepense*), sorghum almum, and
9 any plant the seed of which cannot be distinguished from Johnson
10 grass, and musk (nodding) thistle (*Carduus nutans L.*).

11 (k) "Restricted weed seed" means weed seeds or bulblets which
12 shall not be present in agricultural seed at a rate per pound in excess
13 of the number shown following the name of each weed seed: Sil-
14 verleaf nightshade (*Solanum elaeagnifolium*) 45, horsenettle, bull-
15 nettle (*Solanum carolinense*) 45, dock (*Rumex spp.*) 45, oxeye daisy
16 (*Chrysanthemum leucanthemum*) 45, perennial sowthistle (*Sonchum*
17 *arvensis*) 45, giant foxtail (*Setaria faberi*) 45, cheat (*Bromus secal-*
18 *inus*) 45, hairy chess (*Bromus commutatus*) 45, buckthorn plantain
19 (*Plantago lanceolata*) 45, wild onion or garlic (*Allium spp.*) 18, char-
20 lock (*Smopsis arvensis*) 18, wild mustards (*Brassica spp.*) 18, treacle
21 (*Erysimum spp.*) 18, wild carrot (*Daucus carota*) 18, morning glory
22 and purple moonflower (*Ipomoea spp.*) 18, hedge bindweed (*Cal-*
23 *ystegia spp.*, syn. *Convolvulus sepium*) 18, dodder (*Cuscuta spp.*)
24 18, except lespedeza seed which may contain 45 dodder per pound,
25 pennycress, fanweed (*Thlaspi arvense*) 18, wild oats (*Avena fatua*)
26 9, climbing milkweed, sandvine (*Cynanchum laeve*, syn. *Gonolobus*
27 *laevis*) 9, jointed goatgrass (*Aegilops cylindrica*) 9, black nightshade
28 complex (*Solanum ptycanthum*, *S. americanum*, *S. sarrachoides*, *S.*
29 *nigrum*, and *S. interius*) 9, wild buckwheat, black bindweed (*Po-*
30 *lygonum convolvulus*) 9, velvetleaf, butterprint (*Abutilon theo-*
31 *phrasti*) 9, and cocklebur (*Xanthium spp.*) 9. The total number of
32 the restricted weed seed shall not exceed 90 per pound except native
33 grass, smooth bromegrass, tall fescue, wheatgrasses and lespedeza
34 shall not exceed 150 per pound. In smooth bromegrass, fescues,
35 orchard grass, wheatgrasses, and chaffy range grasses, hairy chess or
36 cheat shall not exceed 2,500 per pound. For the purposes of this
37 section the following weedy *Bromus spp.* shall be considered as
38 common weeds and collectively referred to as "chess": Japanese chess
39 (*Bromus japonicus*), soft chess (*Bromus mollis*) and field chess (*Bro-*
40 *mus arvensis*).

41 (l) "Advertisement" means all representations, other than those
42 on the label, disseminated in any manner, or by any means, relating
43 to agricultural seed.

- 1 (m) "Record" means all information relating to any shipment of
2 agricultural seed and includes a file sample of each lot of such seed.
- 3 (n) "Stop sale order" means an administrative order, authorized
4 by law, restraining the sale, use, disposition and movement of a
5 definite amount of agricultural seed.
- 6 (o) "Seizure" means a legal process, issued by court order, against
7 a definite amount of agricultural seed.
- 8 (p) "Lot" means a definite quantity of agricultural seed, identified
9 by a lot number or other mark, every portion or bag of which is
10 uniform, within recognized tolerances for the factors which appear
11 in the labeling.
- 12 (q) "Germination" means the percentage of seeds capable of pro-
13 ducing normal seedlings under ordinarily favorable conditions, in
14 accordance with the methods established by rule and regulation
15 under this act.
- 16 (r) "Pure seed" means the kind of seed declared on the label,
17 exclusive of inert matter, other agricultural or other crop seeds and
18 weed seeds.
- 19 (s) "Inert matter" means all matter not seeds, and as otherwise
20 determined by rules and regulations under this act.
- 21 (t) "Other agricultural seeds or other crop seeds" means seeds
22 of agricultural seeds other than those included in the percentage or
23 percentages of kind or variety and includes collectively all kinds and
24 varieties not named on the label.
- 25 (u) "Hybrid" means the first generation seed of a cross produced
26 by controlling the pollination and by combining (1) two or more
27 inbred lines, (2) one inbred or a single cross with an open pollinated
28 variety, or (3) two varieties or species, other than open pollinated
29 varieties of corn (*Zea mays*). Hybrid shall not include the second
30 generation or subsequent generations from such crosses. Hybrid des-
31 ignations shall be treated as variety names. Controlling the polli-
32 nation means to use a method of hybridization which will produce
33 pure seed which is 75% or more hybrid.
- 34 (v) "Type" means a group of varieties so nearly similar that the
35 individual varieties cannot be clearly differentiated except under
36 special conditions.
- 37 (w) "Treated" means that the seed has received an application
38 of a substance or process which is designed to reduce, control or
39 repel certain disease organisms, insects or other pests attacking such
40 seeds or seedlings growing therefrom and includes an application of
41 a substance or process designed to increase seedling vigor.
- 42 (x) "Tested seed" means that a representative sample of the lot
43 of agricultural seed in question has been subjected to examination

1 and its character as to purity and germination has been determined.

2 (y) "Native grass seed" means the seeds of aboriginal or native
3 prairie grasses.

4 (z) "Chaffy range grasses" shall include Bluestems, Gramas, Yel-
5 low Indian grass, wild rye grasses, buffalo grass and prairie cord
6 grass.

7 (aa) "Certified seed" means any class of pedigreed seed or plant
8 parts for which a certificate of inspection has been issued by an
9 official seed certifying agency.

10 (bb) "Certifying agency" means: (1) an agency which is authorized
11 under the laws of a state, territory or possession to officially certify
12 seed and which has standards and procedures approved by the sec-
13 retary of agriculture of the United States department of agriculture
14 to assure the genetic purity and identity of the seed certified; or (2)
15 an agency of a foreign country which is determined by the secretary
16 of agriculture of the United States department of agriculture to be
17 an agency which adheres to procedures and standards for seed cer-
18 tification comparable to those adhered to generally by seed certifying
19 agencies under clause (1) of this subsection.

20 (cc) "Blend" means two or more varieties of the same kind each
21 in excess of 5% of the whole.

22 (dd) "Mixture" means a combination of seed consisting of more
23 than one kind each in excess of 5% of the whole.

24 (ee) "Brand" means a term or mark that is proprietary in nature
25 whether or not it is a registered or copyrighted term or mark.

26 (ff) "Commercial means" shall include all forms of advertising for
27 which a person must pay another for the dissemination or distribution
28 of the advertisement.

29 (gg) ~~"Seed dealer" shall include any person who offers or exposes~~
30 ~~for sale or sells agricultural seed in Kansas for seeding or planting~~
31 ~~purposes but shall not include either a farmer dealer, retail business~~
32 ~~selling only grass seed or any individual who qualifies for the ex-~~
33 ~~emption provided for in subsection (c) of K.S.A. 2-1421, and amend-~~
34 ~~ments thereto.~~

35 (hh) "Farmer dealer" means an individual: (1) Whose primary
36 occupation is farming; (2) who, as an agent for a seed dealer, sells
37 seed which has been tested and labeled as required by this act by
38 a seed dealer; and (3) who sells seed only on such farmer dealer's
39 farm.]

40 Sec. 2. K.S.A. 1990 Supp. 2-1421a is hereby amended to read
41 as follows: 2-1421a. (a) On and after September 1, 1990, ~~Each (1)~~
42 Seed dealer who sells agricultural seed for seeding or planting pur-
43 poses shall register with the secretary and shall file with the secretary

"Horticultural seeds" means those seeds generally classified as vegetable, fruit, flowers, tree and shrub and grown in gardens or on truck farms.

(hh) "Grower of agricultural seed" means an individual whose primary occupation is farming and offers, exposes or sells agricultural seed of such individual's own growing without the use of a common carrier or a third party as an agent or broker. Seed shall be in compliance with noxious and restricted weed seed requirements and may advertise if the advertisement specifically states variety, bin run and if tested.

(ii) "Wholesaler" means any person who is in the business selling agricultural seed at wholesale to any person other than the end user.

(jj) "Retailer" means any person who sells agricultural seed to the end user.

1 ~~a list of farmer dealers who sell seed for such seed dealer. Regis-~~
2 ~~tration shall be required for each place of business at which agri-~~
3 ~~cultural seed is sold, offered or exposed for sale for planting or~~
4 ~~seeding purposes by a seed dealer, and~~

5 ~~(2) retail business who sells prepackaged, prelabeled grass seed~~
6 ~~only and not any other agricultural seed, as defined by K.S.A. 2-~~
7 ~~1415, and amendments thereto, either in prepackaged, prelabeled~~
8 ~~form or by breaking bulk prepackaged, prelabeled grass seed into~~
9 ~~smaller quantities, shall register with the secretary.~~

10 (b) Application for registration shall be made on a form provided
11 by the secretary. Each registration shall expire on August 31 fol-
12 lowing the date of issuance unless such registration is renewed an-
13 nually. ~~The registration fee for a seed dealer shall be \$50 for each~~
14 ~~place of business. Each seed dealer shall pay a fee of \$10 for each~~
15 ~~farmer dealer who sells agricultural seed for the seed dealer. Each~~
16 ~~seed dealer shall pay a fee of \$20 for each retail business who sells~~
17 ~~prepackaged, prelabeled prepackaged, prelabeled grass seed only~~
18 ~~and not any other agricultural seed, as defined by K.S.A. 2-1415,~~
19 ~~and amendments thereto, either in prepackaged, prelabeled form~~
20 ~~or by breaking bulk prepackaged, prelabeled grass seed into~~
21 ~~smaller quantities, for the seed dealer. Each retailer who sells~~
22 ~~grass seed only, and who sells such grass seed by breaking bulk~~
23 ~~prepackaged, prelabeled grass seed into smaller quantities, shall~~
24 ~~pay a fee of \$20, which fee shall be in addition to any fees payable~~
25 ~~by a seed dealer on behalf of the retail business.~~

26 (c) As used in this section, "agricultural seed" shall include grain
27 when sold as such, or when sold according to grain standards and
28 the seller knows, or has reason to know, that the grain is to be used
29 for seeding or planting purposes.

30 (d) The state board of agriculture shall remit all moneys received
31 under this section to the state treasurer at least monthly. Upon
32 receipt of any such remittance, the state treasurer shall deposit the
33 entire amount thereof in the seed dealers registration fee fund which
34 is hereby created. All expenditures from such fund shall be made
35 in accordance with appropriation acts upon warrants of the director
36 of accounts and reports issued pursuant to vouchers approved by
37 the secretary of the state board of agriculture or a person or persons
38 designated by the secretary.

39 (e) All moneys credited to the seed dealer registration fee fund
40 shall be expended for any purpose consistent with the Kansas seed
41 law.

42 (f) The state board of agriculture may adopt rules and regulations
43 necessary to administer the provisions of this act.

(1) Each wholesaler shall register with the secretary and shall pay a registration fee not to exceed \$300. The current wholesale registration fee is hereby set at \$175 and shall remain at that amount until changed by rules and regulations of the state board of agriculture.

(2) Each retailer shall register with the secretary and shall pay a registration fee not to exceed \$30. The current retailer registration fee is hereby set at \$10 and shall remain at that amount until changed by rules and regulations of the state board of agriculture.

(3) Registration shall be required for each place of business at which agriculture seed is sold, offered or exposed for sale by the wholesaler or retailer.

(4) A individual who conducts a wholesaler and retailer business at the same location shall be required to register as both a wholesaler and retailer.

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1 (g) This section shall be part of and supplemental to the Kansas
2 seed law, K.S.A. 2-1415 *et seq.*, and amendments thereto.
3 Sec. 3. K.S.A. 1990 Supp. 2-1415 and 2-1421a are hereby
4 repealed.
5 Sec. 4. This act shall take effect and be in force from and after
6 its publication in the statute book.

2-6