

MINUTES OF THE HOUSE COMMITTEE ON AGRICULTURE.

The meeting was called to order by Chairperson Joann Flower at 9:00 a.m. on March 12, 1996, in Room 423-S of the Capitol.

All members were present except: Representative Bryant - Excused
Representative Crabb - Excused
Representative Sloan - Excused

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

Conferees appearing before the committee:

Allie Devine, Secretary, Kansas Department of Agriculture
Tom Palace, Executive Director, Kansas Oil Marketers Association
Joe Lieber, Executive Vice President, Kansas Cooperative Council
Mark Mackey, Executive Secretary, Kansas Livestock Marketing Association
Darrell A. Guensler, Director, California Department of Food and Agriculture
Bill Fuller, Associate Director, Public Affairs Division, Kansas Farm Bureau
Ken Peterson, Executive Director, Kansas Petroleum Council
Mary E. Turkington, Executive Director, Kansas Motor Carriers Association

Others attending: See attached list

Minutes of the March 5, 6, 7, and 8 meetings were distributed. Members were asked to notify the secretary of any corrections or additions before 5:00 p.m. today or the minutes will stand approved as presented.

Chairperson Flower called the committee's attention to written testimony submitted in support of **Sub SB 705** which was heard in committee on March 7 and 8. Testimony was received from Joe Lieber, Executive Vice President, Kansas Cooperative Council (Attachment 1); Mark Mackey, Executive Secretary, Kansas Livestock Marketing Association (Attachment 2); and Darrell A. Guensler, Director, California Department of Food and Agriculture (Attachment 3).

Allie Devine, Secretary, Kansas Department of Agriculture, reported that USDA notified them last Friday that they had found the presence of Karnal bunt in Arizona. She explained that Karnal bunt is a fungus disease that attaches to wheat which also contaminates the soil. Once the fungus is in the soil, it is almost impossible to remove. She said approximately 15,000 acres of wheat has been destroyed and the area quarantined in Arizona. No wheat can be planted in this area for 5 years. She thought planting of other crops was possible; however, this fungus can attack plants other than wheat. USDA thinks the disease was carried in the air into Arizona from Mexico. She said Karnal bunt has never been found in the United States prior to this occurrence. It is found in only six nations in the world. She explained that many of our trading partners will not allow the importation of wheat with Karnal bunt. The department is working with USDA to assure everyone that this is a very isolated occurrence. She commented that this is a good example of why the pest control bills passed by the committee earlier this session are very important.

Hearing on Sub SB 704 - Amendments to the petroleum inspections law and the fuel dispensing device statutes.

Raney Gilliland, Legislative Research Department, briefed the committee on **Sub SB 704** dealing with the measuring and dispensing of motor vehicle fuel in the weights and measures program. He stated that this is the sister bill to **Sub SB 705**. Several provisions in this bill are similar to provisions in **Sub SB 705**. Civil penalty provisions in **Sub SB 705** are repeated in **Sub SB 704**. The current \$.01 per barrel

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON AGRICULTURE, Room 423-S Statehouse, at 9:00 a.m. on March 12, 1996.

fee imposed on the sale, use, or deliverance of gasoline, kerosene, or other motor vehicle fuels will be increased to \$.015 per barrel on gasoline and diesel fuel. Exports and government sales would be included in the fee collection. Two-thirds of the money raised by the fee on petroleum products will be credited to the State General Fund, with the other one-third going into the Petroleum Inspection Fee Fund. After \$250,000 has been credited to the State General Fund for any fiscal year, the entire amount deposited thereafter for such fiscal year shall be credited to the Petroleum Inspection Fee Fund.

Allie Devine, Secretary, Kansas Department of Agriculture, addressed the committee in support of **Sub SB 704**. She referred to page 7 of the department's testimony on **Sub SB 705** presented March 7. (Attachment 1, 3-7-96) She said that under this proposal, state contracted inspectors will randomly test all motor fuel and diesel meters in the state annually. They will be checking both fuel quality and quantity. She said that this program will be funded by increasing the current one cent per barrel inspection fee to one and one half cents. The fee will be collected on all motor fuels, not just gasoline. This fee is expected to generate approximately \$885,000, annually. She said the industry is very supportive of this bill, in fact, they approached the department requesting this legislation. The Secretary reported that the department requested the severability clause. She explained that should there be challenges to this legislation, sections of the statutes can be removed, keeping the remainder of the law in force.

Tom Palace, Executive Director, Kansas Oil Marketers Association, testified in support of **Sub SB 704**. He said KOMA has been actively involved with the Department of Agriculture in addressing the problems in the weights and measures program. Their organization wants to be proactive in resolving the inaccuracies in the testing of fuel pumps and restoring consumer confidence in the program. KOMA supports this bill that provides the checks and balances needed to run a good program and provides funding to enable the Secretary to do her job. He said his organization also supports the enforcement provisions in the bill. (Attachment 4)

Bill Fuller, Associate Director, Public Affairs Division, Kansas Farm Bureau, submitted written testimony in support of both **Sub SB 704** and **Sub SB 705**. He states that Kansas Farm Bureau's support for a strong weights and measures program dates back to 1985 when voting delegates attending the KFB Annual Meeting adopted policy concerning weights and measures. A copy of that policy is attached to his testimony. (Attachment 5)

Joe Lieber, Executive Vice President of the Kansas Cooperative Council, provided written testimony in support of **Sub SB 704**. He states that although the Council is opposed to any increase in fees, they feel that the half cent increase on a barrel of fuel is acceptable to ensure that the dispensers are correct. (Attachment 6)

Ken Peterson, Executive Director, Kansas Petroleum Council, submitted written testimony on behalf of Amoco, Conoco, Texaco, and Phillips in support of **Sub SB 704**. He states that these four companies endorse the Department of Agriculture's efforts to develop a regulatory framework designed to restore credibility to the state's oversight of fuel pump accuracy and octane testing. (Attachment 7)

Mary E. Turkington, Kansas Motor Carriers Association, submitted written testimony expressing their support for **Sub SB 704**. She states that her organization fully supports the efforts by the Secretary of Agriculture to correct the weights and measures problems. They support the funding provisions in the bill as these additional funds are needed for the Petroleum Inspection Fee Fund. (Attachment 8)

Chairperson Flower closed the hearing on **Sub SB 704**.

The meeting adjourned at 9:45 a.m. The next meeting is scheduled for March 13, 1996.

HOUSE AGRICULTURE COMMITTEE GUEST LIST

DATE: 3/12/96

NAME	REPRESENTING
Terry Prestig	123 rd Dist.
Emily Devine	self
Carole Jordan	Dept of Agriculture
TOM PALALE	KOMA
STEVE KEARNEY	KOMA
Ken Peterson	KS Petroleum Council
Dedra Platt	KS DOR
DONALD SMODBRASS	KANSAS FOOD DEALERS ASSN.
LEE EISENHAUER	PMAK
Marty Vanier	KS Ag Alliance
Mary Jane Statterman	KS Dept of Ag
Joel Lubin	KS Co-op Council
Charles Nicolay	Self
Leslie Kaufman	Kansas Farm Bureau
Pinky Lewis	Concerned Breeders
Johnne Kieffer	Concerned Breeders

Testimony of SB 705
House Agriculture Committee
March 12, 1996
By Joe Lieber
Kansas Cooperative Council

Madam Chair and members of the committee, I'm Joe Lieber, Executive Vice President of the Kansas Cooperative Council. The Council has a membership of over 200 cooperative businesses; with nearly 150 of them being local farm supply cooperatives. Most of these farm supply members have large scales.

It is to the cooperative's advantage to have correct scales, because they buy and sell products over these scales, so it is important that they are in compliance.

The Council sees no problem with service companies checking the scales as long as the state does a good job checking the checkers.

The Council does not want to see any additional cost to our members and hopes the State can maintain their program by licensing fees for the service companies and certification fees and education programs for the technical representatives of the service companies.

The fees will not automatically be passed on to our members because the service companies will have to be competitive.

The Council is opposed to any fee including any type of scale registration fee.

We feel that SB 705 supports our position, so we therefore support it. Thank you.

*House Agriculture
Attachment 1
3-12-96*



KANSAS LIVESTOCK MARKETING ASSOCIATION

7509 TIFFANY SPRINGS PKWY., KANSAS CITY, MO 64153-2315 • (816) 891-0502

March 4, 1996

Honorable David Corbin
Chairman
Senate Ag Committee
120-S State House
Topeka, KS 66612

Dear Mr. Chairman:

I am writing this letter to you in support of Senate Bill 705.

I serve as Executive Secretary of the Kansas Livestock Marketing Association. This organization represents the livestock auction markets here in Kansas.

The KLMA is appreciative of the Kansas Secretary of Agriculture's effort to put credibility and integrity back into the Kansas Department of Agriculture's Weights and Measures Division. The livestock auctions have also found that Secretary of Agriculture Mrs. Alice Devine has made a concerted effort to make certain that all affected industries have had an input on this issue.

The KLMA urges your support on Senate Bill 705.

Sincerely,

Mark Mackey
Executive Secretary

MM/jc

cc: Representative JoAnn Flower ✓

*House Agriculture
Attachment 2
3-12-96*

DEPARTMENT OF FOOD AND AGRICULTURE

Division of Measurement Standards
8500 Fruitridge Road
Sacramento, California 95826



March 5, 1996

The Honorable Joann Flower
Chairperson
House Agriculture Committee
426-S Statehouse
Topeka, KS 66612

Dear Representative Flower:

The Kansas Department of Agriculture has recently introduced legislation proposing to substantially revise statutes concerning the State of Kansas Weights and Measures Program. I believe this is good legislation.

I have been involved in the administration of weights and measures programs for more than 30 years. I have served as chairman of the National Conference on Weights and Measures and I am currently serving as chairman of the conference's Program Evaluation Working Group. In these capacities, I have had the opportunity to observe many weights and measures programs in the United States and in several other countries.

After reviewing the proposals put forward by the Kansas Department of Agriculture, it is my opinion that, given the limited resources available, this is the best possible program design. The commitment demonstrated by the leadership of your Department of Agriculture, along with the proposed statutory changes, should result in a successful program and may become a model for the rest of the nation.

Sincerely,

A handwritten signature in cursive script that reads "Darrell A. Guensler".

Darrell A. Guensler
Director
(916) 229-3000

*House Agriculture
Attachment 3
3-12-96*



KANSAS OIL MARKETERS ASSOCIATION

Convenience Store Association of Kansas

Testimony on Senate Bill 704
Submitted by the Kansas Oil Marketers Association/
Convenience Store Association of Kansas
To The House Agriculture Committee

Chairperson Flower, House Agriculture Committee: My name is Tom Palace. I am Executive Director of the Kansas Oil Marketers Association, a statewide trade association representing over 350 independent Kansas petroleum companies which distribute petroleum products at the wholesale and/or retail level. KOMA is also the flagship organization for the Convenience Store Association of Kansas, and as such, represents the interests of the owners and operators of convenience stores across the state.

We appreciate the opportunity to appear before you today in support of S.B. 704.

The Kansas Oil Marketers Association has been actively involved with the Department of Agriculture in addressing the problems in the Weights and Measures program. We applaud the efforts of Secretary Devine and her staff for meeting the scales issue head-on and allowing KOMA to take part in the solution process. KOMA wants to be proactively involved in resolving the inaccuracies in the testing of fuel pumps and restoring consumer confidence in the program. The members of KOMA want a strong regulatory program to ensure our customers that the product they are paying for is the product they get.

Our discussions with the Secretary of Agriculture have focused on quality as well as quantity testing. Consumers have a right to be protected as well as the retailers. KOMA members compete every day for your business. If someone is acting in an unethical manner, it gives a black eye to the entire industry. It also provides for a competitive disadvantage to the honest retailer. That's why KOMA is supporting S.B.704. S.B.704 sets in place the checks and balances needed to run a good program and provides funding to enable the Secretary of Agriculture to do her job.

The funding will come from an increase in the petroleum inspection fee that is now being charged at one-cent per barrel on all motor vehicle fuels excluding diesel fuel, exports and government sales. However, S.B. 704 would increase the fee to one and one-half cent per barrel on all motor vehicle fuels including diesel fuel, government sales and exports. By increasing the inspection fee one-half cent and including these other types of fuels, the department will generate enough money to

have all pumps in the state inspected and tested at least once per year and provide for the statistical samplings necessary to run an efficient program.

Also included in the bill are enforcement provisions that will impose civil money penalties for any person violating the law. KOMA supports these provisions

Again, we appreciate the opportunity to appear before you today and urge your support of S.B. 704. I would be happy to answer any questions you may have.



PUBLIC POLICY STATEMENT

HOUSE COMMITTEE ON AGRICULTURE

**RE: SB 704 & SB 705 - Improving the Weights and Measures Program at
the Department of Agriculture.**

**March 12, 1996
Topeka, Kansas**

**Presented by:
Bill R. Fuller, Associate Director
Public Affairs Division
Kansas Farm Bureau**

Chairman Flower and members of The Committee:

The accuracy of scales, meters and pumps is essential in commerce and for the protection of all consumers. While all devices impact our members, the farm and ranch members of the 105 county Farm Bureaus in Kansas have a direct economic stake in the large scale program used at livestock auctions, grain elevators, feed mills and fertilizer plants.

My name is Bill Fuller. I am the Associate Director of the Public Affairs Division for Kansas Farm Bureau. We express our support for both SB 704 & 705 concerning scales and petroleum devices.

Kansas Farm Bureau support for a strong weights and measures program goes back a number of years. The Voting Delegates attending the KFB Annual Meeting in 1985 adopted policy concerning "Weights and Measures" (see attachment 1). While

*House Agriculture
Attachment 5
3-12-96*

the involvement of private service companies for large capacity scales was approved by the legislature in 1985, no requirement for registration or the establishment of fees on devices was included. As a result, the agency had no inventory of devices or adequate resources to operate a quality program.

Farm Bureau is impressed with the administrative initiatives and the legislative proposals by Secretary Allie Devine and the staff at the Kansas Department of Agriculture. Private service company involvement is preserved, the training of all technicians is required, civil penalties are established, conflict of interest is removed and supervision and monitoring is increased.

One reason for bringing private service companies into the weights and measures program in 1985 was the lack of funds to replace the two aging large-scale trucks. The KDA still have the same 1960's and 1970's trucks today. The only thing that has changed is that both trucks now qualify for Kansas "antique" license plates. An ongoing problem for the agency has been the availability of adequate funds, especially for equipment (see attachment 2).

One important reason for the universal support for the remedies recommended to correct the deficiencies in the weights and measures program is the opportunity Secretary Devine provided all interests in understanding the problems and providing input for the corrective measures through a series of working meetings beginning last fall.

We encourage your approval of SB 704 and SB 705 and support of the administrative changes outlined for improving the weights and measures program at the KDA. We believe this action is good for all Kansas industries and all Kansas citizens. Thank You!

1985
Resolutions

Kansas Farm Bureau

Weights and Measures

Scales used for agricultural commerce have increased in number in Kansas to the extent that the Weights and Measures Division of the State Board of Agriculture is able to check the accuracy of these scales only once every 36 months.

We recommend that all large-capacity scales (5,000 pounds and over) used in commercial trade be registered with the Weights and Measures Division for a nominal fee, and annually be certified for accuracy by a licensed scale service agency or repairman. The scale service agency or repairman must be licensed and certified by the Weights and Measures Division and the accuracy of their work checked by the Weights and Measures Division. There should be a provision in the law to remove certification of the agency or repairman for failure to perform satisfactory service in accordance with the rules and regulations promulgated by the State Board of Agriculture.

We will support adequate appropriation for the Weights and Measures Division to ensure performance checks on certified large scale service agencies.

LETTERS

Scale inspections under-funded

Thank you for the opportunity to comment on the Weights and Measures program at the Kansas Department of Agriculture. As secretaries of agriculture who administered this program, we have a special perspective to offer on this question.

The assurance of accurate scales and meters with limited state resources has been a problem for a long time. The development of a public-private partnership in Weights and Measures began with a recommendation from an interim legislative committee in 1984. The committee found that state manpower was capable of inspecting only one-third of large capacity scales annually; there were too many devices and too few inspectors. In order to leverage limited state funds, a public-private partnership was necessary to guarantee accuracy of the bulk of these devices. The first phase began with legislation passed in 1985 under the leadership of Harland Priddle, then secretary of agriculture. The program was subsequently expanded over the next 10 years.

The public-private partnership developed through several additional steps starting with large capacity scales in 1985. Small scale inspections were partially privatized in 1988 and gas pumps in 1989. In 1994, the inspection of electronic scanners was partially privatized followed by head house scales.

In all cases, the legislation authorizing these partnerships passed by nearly unanimous bipartisan votes in the Kansas Legislature.

Under the partnership model established by the Legislature, substantial progress was made. The Legislative Post-Audit committee found that, based on actual rejection rates for 1994, accuracy rates for large scales were 82 percent. This is a marked improvement from the 70 percent accuracy rates reported in a 1985 legislative study when private partnerships were recommended.

A similar problem came to the Board

of Agriculture in 1989 regarding the state's 12,000 gasoline pumps. Inaccuracy was high; too many gas pumps were not dispensing a gallon of gas when a consumer had paid for a gallon of gas. Some pumps were dispensing too much and others too little.

The program was moved to a public-private enterprise. In 1994, according to the Legislative Post Audit Report, 87 percent of the pumps were dispensing a gallon of gas when a gallon was purchased leaving 13 percent inaccurate. This was better than it had been, but not good enough.

The quality of gasoline is also a critical issue. The program, before its transfer from the Department of Revenue, did not test for octane levels. This type of testing is necessary to guarantee consumers they are getting the level of octane for which they are paying. Some octane testing has been done, but not enough. The Board of Agriculture requested the funding necessary to assure consumers they are getting what they pay for, but the requests were not funded.

We agree with Secretary Allie Devine that the programs need modernization and greater oversight. It is difficult to attempt to maintain sufficient oversight on 41,000 devices. As secretaries of agriculture, we continually requested additional resources from the Legislature for these purposes, but they were never provided. Perhaps now the Legislature will make the commitment to further improve these programs by providing the necessary funding or shifting necessary resources to Secretary Devine that will enable the Department to fulfill its mission.

We strongly endorse the proposals of Secretary Devine to improve the program and better serve Kansas consumers.

— Former Agriculture Secretaries
HARLAN PRIDDLE (1982-86), SAM
BROWBACK (1986-90, 1991-93), GARY
HALL (1990-91) and PHIL FISHBURN
(1993-94).

Testimony of SB 704
House Agriculture Committee
March 12, 1996
By Joe Lieber
Kansas Cooperative Council

Madam Chair and members of the committee, I'm Joe Lieber, Executive Vice President of the Kansas Cooperative Council. The Council has a membership of over 200 cooperative businesses; with nearly 150 of them being local farm supply cooperatives. Most of these farm supply members sell petroleum products.

The cooperatives understand the importance of having correct dispensing devices when selling petroleum products. The majority of these sales are to their member/owners. If the devices are not functioning properly, it could be cheating the member/owners one of two ways.

First, if the device is charging the buyer more than it should, then the member/owners are paying additional money out of their pockets. Second, if the device is cheating the co-op, then the member/owners are losing money in the form of a patronage refund at the end of the year.

Even though the Council is opposed to any increase in fees, we feel that the half cent increase on a barrel of fuel is acceptable.

So, to insure that the dispensers are correct, we support the provision of SB 704.

*House Agriculture
Attachment 6
3-12-96*

March 12, 1996

Representative Joann Flower, Chairperson
House Agriculture Committee
Statehouse
Topeka, Kansas 66612

Dear Madam Chairman and Members of the Committee:

On behalf of Amoco, Conoco, Texaco and Phillips, I submit this letter in support of Senate bill 704, the Petroleum Products Inspection Law.

These member companies of the Kansas Petroleum Council take great pride in their products and their service to customers. Consumer confidence that is weakened by a few cheats, no matter how isolated or rare, harms an entire industry that is striving in a competitive market to meet the public's demand for excellence and quality.

The four companies endorse the Agriculture Department's efforts to develop a regulatory framework designed to restore credibility to the state's oversight of fuel pump accuracy and octane testing.

We commend Agriculture Secretary Allie Devine for her dedication to making S.B. 704 a reality, and for bringing the Council into the deliberations at the beginning stage. The Kansas Oil Marketers Association also deserves recognition for its strong backing of S.B. 704.

Senate Bill 704 is designed to ensure that the motoring public gets the quantity and quality of the product they purchase. The Council urges the state to closely monitor compliance rates to guarantee that the goals of S.B. 704 are being achieved. Strong results will be a great step forward in restoring customer confidence.

The Council encourages the Committee's favorable action on Senate Bill 704. Thank you for your consideration of this important issue.

Sincerely,



Ken Peterson
Executive Director

*House Agriculture
Attachment 7
3-12-96*

KANSAS MOTOR



CARRIERS ASSOCIATION

March 12, 1996

Rep. Joann Flower, Chairman
House Agriculture Committee
Statehouse
Topeka, Kansas 66612

Dear Rep. Flower:

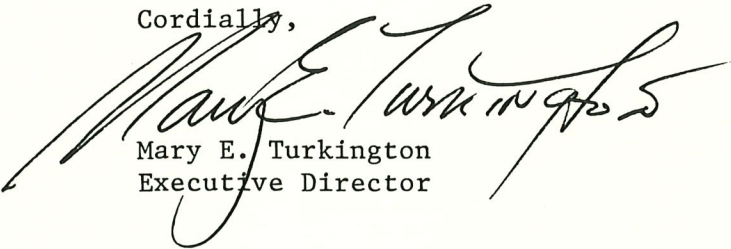
On behalf of the Kansas Motor Carriers Association and the highway transportation industry, I submit this letter to you and to the members of the House Agriculture Committee, to express our support for the provisions of Senate Bill 704.

We fully support the efforts of Allie Devine, Secretary of Agriculture, to correct the weights and measures problems. We subscribe to the funding provisions of Section 5 of S.B. 704 which authorize the director of taxation to receive from the manufacturer, importer, or distributor first selling, offering for sale, using or delivering gasoline or diesel, the sum of .015 per barrel to fund the petroleum products inspection law.

We agree that these additional funds are needed for the petroleum inspection fee fund and believe the provisions of Senate Bill 704 properly address this issue.

We will appreciate your Committee's favorable consideration of this proposal, and will be pleased to assist in every appropriate way with adoption of this legislation. Thank you for your consideration of this important matter.

Cordially,



Mary E. Turkington
Executive Director

MET/sc

*House Agriculture
Attachment 8
3-12-96*