

Approved: 3-5-96  
Date

## MINUTES OF THE SENATE COMMITTEE ON AGRICULTURE

The meeting was called to order by Chairperson David Corbin at 10:00 a.m. on February 21, 1996 in Room 423-S of the Capitol.

All members were present .

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

Conferees appearing before the committee:  
Allie Devine, Secretary, Department of Agriculture  
Mary Jane Stattleman, Chief Counsel, Kansas Department of Agriculture  
Thomas Palace, Kansas Oil Marketers Association

Others attending: See attached list

A motion was made by Senator Sallee to approve the minutes of February 16. Motion was seconded by Senator Clark. Question arose with the wording in the paragraph concerning the Committee's intent. The motion was tabled.

### **SB 704 - concerning quality and quantity of petroleum products.**

Tom Palace testified their association supports the fee increase, and the enforcement provisions that will impose civil money penalties for any person violating the law, and urged committee support of SB 704 (Attachment 1).

Written testimony was distributed supporting SB 704 from Mary Turkington, Executive Director, Kansas Motor Carriers Association (Attachment 2), Bill Fuller, Associate Director, Public Affairs Division, Kansas Farm Bureau (Attachment 3), Ken Peterson, Executive Director, Kansas Petroleum Council (Attachment 4).

Mary Jane Stattleman said the bill need a technical amendment on page 4 and some cleanup language was necessary. Secretary Devine responded to questions on how the fee funds were set up. Concern was expressed with the procedure for distributing the fee funds.

Chairperson ask that the amendments be drafted into a balloon. The meeting adjourned at 10:45.

The next meeting is scheduled for February 22, 1996.

# SENATE AGRICULTURE COMMITTEE GUEST LIST

DATE: 2-21-96

NAME	REPRESENTING
STEVE RARRICK	ATTORNEY GENERAL
Carole Jordan	Agriculture
elli. Swine	Agriculture
Mary Jane Stattelman	KDA
TOM PALACE	KOMA
STEVE KEARNEY	KS OIL MARKETS ASSN
Ken PETERSON	KS Petroleum Council
Chava McKell	Sen. Downey
Greg Tugman	RDA
DAVID B SCHLOSSER	PETE McGill Assoc.
SWAN Adlington	
TOM WHITAKER	KS MOTOR CARRIERS ASSN
T. J. Byram	KDA
Gary M. Bothwell	Grain Inspection
Matt Goddard	HCBA
Leslie Kaufman	Kansas Farm Bureau
Marty Vanier	KS Ag Alliance
Lee Eisenhauer	PMAK
Dorene Struener	KS Coop Council

Over





## 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 Senate Agriculture Committee

Chairman Corbin, members of the Senate 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.

KANSAS MOTOR  CARRIERS ASSOCIATION

February 19, 1996

Senator David R. Corbin, Chairman  
Senate Agriculture Committee  
Statehouse  
Topeka, Kansas 66612

Dear Senator:

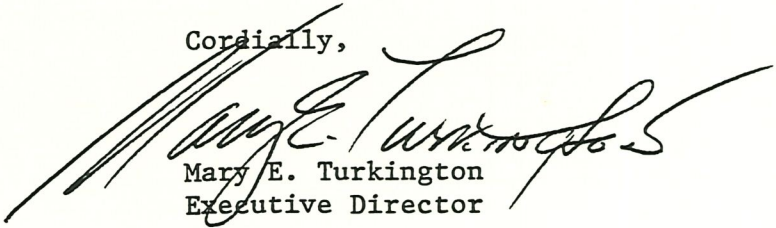
On behalf of the Kansas Motor Carriers Association and the highway transportation industry, I submit this letter to you and to the members of the Senate Agriculture Committee, to express our support for the provisions of Senate Bill 704.

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

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2-21-96  
attachment 2*



# PUBLIC POLICY STATEMENT

## SENATE COMMITTEE ON AGRICULTURE

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

**February 21, 1996  
Topeka, Kansas**

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

Chairman Corbin 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

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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

**T**hank 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).

February 21, 1996

Senator David R. Corbin, Chairman  
Senate Agriculture Committee  
Statehouse  
Topeka, Kansas 66612

Dear Senator 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

*Senate Ag Co.  
2-21-96  
Attachment 4*