

MINUTES OF THE HOUSE COMMITTEE ON AGRICULTURE.

The meeting was called to order by Chairperson Joann Flower at 3:30 p.m. on February 1, 1999, in Room 423-S of the Capitol.

All members were present except:

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

Conferees appearing before the committee:

      Senator Steve Morris  
      Bill Fuller, Associate Director, Public Affairs Division, Kansas Farm Bureau  
      Doug Wareham, Vice President of Government Affairs, Kansas Grain and Feed Association  
      Ron Smith, General Counsel, Kansas Bar Association

Others attending:     See attached list

Chairperson Flower asked committee members to review the minutes of January 27. If there were corrections or additions, members were asked to contact the committee secretary before 10:00 a.m., February 2, or they will stand approved as presented.

**Hearing on HCR 5005 - Concurrent Resolution by Special Committee on Ag Rail Transportation urging Congress to remove or restrict the use of trade sanctions**

Chairperson Flower opened the hearing on **HCR 5005**. Senator Steve Morris, Chairman of the Senate Agriculture Committee and Vice Chair of the legislative interim Special Committee on Ag Rail Transportation, explained that **HCR 5005** urges Congress to remove or restrict the use of trade sanctions as they apply to agricultural products. He said that this is the same resolution as **SCR 1605** which passed the full Senate as amended by the Senate Agriculture Committee. He explained that the Senate Agriculture Committee added an amendment urging Congress to, also, work for the reduction or elimination of trade barriers and sanctions imposed by other countries against agriculture products. Senator Morris reported that he had sent a letter to all State Legislatures' House and Senate Agriculture Committee chairmen urging them to also send resolutions to Congress.

Bill Fuller, Associate Director, Public Affairs Division, Kansas Farm Bureau, appeared before the committee in support of **HCR 5005**. He reported that Kansas Farm Bureau supports the "Freedom to Farm" act, but insists that export markets must be expanded. He said that sanctions destroy market opportunities and harm American farmers more than the country that is being punished. Mr. Fuller discussed Farm Bureau's public policy on exports and fair trade developed and approved at the 80<sup>th</sup> Annual Meeting of the American Farm Bureau Federation last month. (Attachment 1)

Doug Wareham, Vice President of Government Affairs, Kansas Grain and Feed Association, testified in support of **HCR 5005**. He said that Kansas grain producers and the Kansas grain receiving, storing, and processing industry compete on a worldwide scale for market opportunities for Kansas grown commodities, and that economic sanctions imposed by the US Congress directly impede the ability of Kansas commodities to reach numerous countries around the world. He believes that Congress should restrict the use of sanctions against agricultural products to situations where positive results are a certainty. (Attachment 2)

Chairperson Flower closed the hearing on **HCR 5005**.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON AGRICULTURE, Room 423-S Statehouse, at 3:30 p.m. on February 1, 1999.

**Hearing on HB 2042 - Adverse possession actions, land survey ordered by court**

Chairperson Flower opened the hearing on **HB 2042** and asked Gordon Self to brief the committee on the bill. He explained that lines 13 through 18 define adverse possession and that lines 18 through 20 specify the court action for resolving disputes over the ownership of real property which has been owned for less than 15 years. Under the provision of this bill the court would appoint a licensed land surveyor to determine ownership and assess each of the parties equally for the costs of the action.

Ron Smith, General Counsel, Kansas Bar Association, said that KBA neither opposes nor supports **HB 2042**. He included a review by one of KBA's district judges with his testimony. Mr. Smith said that the statute appears to indicate that only the results of the survey will determine title. He said that in quiet title action there may be other evidence of the ownership of the disputed title to the land which will have nothing to do with the survey of the land but which may be determinative of the issue. Mr. Smith said the bill should ensure that this statute makes the judge the final decision maker. He suggested a clarifying amendment to accomplish this: in line 18 change "shall" to "may" and in line 19 change "to determine ownership thereof" to "and to assist the court in its decision." (Attachment 3)

The Chairperson closed the hearing on **HB 2042**.

Chairperson Flower asked for requests for introduction of committee bills. Mary Jane Stattelmann, Assistant Secretary, Kansas Department of Agriculture, on behalf of the Secretary requested two committee bills similar to **SB 64** and **SB 65**. She explained that **SB 64** would change the classification of certain employees in the Kansas Department of Agriculture. Ms. Stattelmann said that **SB 65** concerns commercial fertilizer inspection fees and funding for a pesticide use survey.

Representative Schwartz moved to introduce a committee bill changing the classification of certain employees in the Kansas Department of Agriculture. Seconded by Representative Johnson, the motion carried.

Representative Johnson moved to introduce a committee bill concerning commercial fertilizer inspection fees and funding of a pesticide use survey. The motion was seconded by Representative Showalter. Motion carried.

The meeting adjourned at 4:33 p.m. The next meeting is scheduled for February 3.





# PUBLIC POLICY STATEMENT

## HOUSE COMMITTEE ON AGRICULTURE

### HCR 5005 – Urging Congress to remove or restrict the use of trade sanctions on agricultural products.

February 1, 1999

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

Chair Flower and members of the House Committee on Agriculture, I certainly appreciate this opportunity to appear before you today to comment on an issue very important to farmers and ranchers. I am Bill Fuller and serve as the Associate Director of the Public Affairs Division for Kansas Farm Bureau. Farm Bureau is a voluntary, general farm organization with members, an organization and offices in all 105 Kansas counties.

The U.S. Congress approved the Federal Agriculture Improvement and Reform (FAIR) Act of 1996. "Freedom to Farm" allows farmers to farm for the markets, rather than to farm for the government. There were other cornerstones to the success of this new approach of removing government from farming in America:

- ◆ Expanded export markets.
- ◆ Regulatory reform.
- ◆ Tax reform.

Farm Bureau supports "Freedom to Farm", but insists that export markets must be expanded. In addition, regulatory reform and tax reforms must also be implemented in order for our farmers and ranchers to compete and survive in the world economy.

*House Agriculture Committee  
February 1, 1999  
Attachment 1*

We commend and thank those Representatives who expressed the wisdom and provided the leadership in introducing HCR 5005. The resolution asks the U.S. Congress to remove or restrict the trade sanctions as they apply to agricultural products.

Expanding export markets is a key is that is vital to the prosperity, perhaps even the survival of the Kansas farmer, and the American farmer. The farmer's opportunity to export grains and livestock to consumers around the world is also important to maintaining a strong economy, not only in Kansas, but nationally. Sanctions destroy market opportunities and generally harm our farmers more than the country that is being punished. They just buy from another country.

Farmers and ranchers from all 50 states spoke with a strong and unified voice as they developed public policy on exports and fair trade at the 80<sup>th</sup> Annual Meeting of the American Farm Bureau Federation last month. In expressing strong opposition to sanctions, new policy was developed and approved stating:

- ◆ We support fair compensation for lost agricultural income as called for in the Trade Compensation and Assistance Act of 1978 and the Federal Agriculture Improvement and Reform Act of 1996 for all existing and future sanctions.
- ◆ We support opening negotiations to resume normal trading relations with Cuba.
- ◆ The U.S. government needs to revisit and enhance its procedures and responsibilities to protect U.S. interests toward NAFTA, WTO and other free trade agreements to increase oversight and reporting and enforcement of unfair practices of nations with respect to:
  1. Dumping commodities;
  2. Subsidizing transportation and commodities;
  3. Influence of exchange rates;
  4. Labeling country of origin and quality of inspection;
  5. Excessive market fluctuation and/or influence; and
  6. Sanctions and embargoes that affect U.S. agriculture.

Today, we are a part of a world economy. Agriculture is no exception. In fact, agriculture's access to world markets may be more vital than for any other industry

because of the ability of farmers and ranchers to produce an abundance of food and fiber at a very affordable price.

It is no secret many agricultural producers are dealing with economic pain. Livestock and grain prices are low. Weather has been a challenge for others. All this makes action today even more important. Therefore, we encourage passage of HCR 5005 and ask this committee to provide the leadership in sending a strong message to Washington, D.C. that we in Kansas oppose trade sanctions.

Thank you for this opportunity to express our comments on this important issue that is so important to both agricultural producers and the nations economy. I will be pleased to respond to any questions.

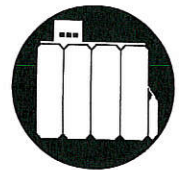


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*Association*

**Statement of the  
Kansas Grain and Feed Association  
Regarding  
H.C.R. 5005  
to the  
House Agriculture Committee  
Representative Joann Flower, Chair  
February 1, 1999**

**KGFA, promoting a viable business  
climate through sound public policy for more  
than a century.**



*House Agriculture Committee  
February 1, 1999  
Attachment 2*

The following statement is submitted on behalf of the Kansas Grain and Feed Association (KGFA). The KGFA is a voluntary state association with a membership encompassing the entire spectrum of grain receiving, storage, processing and shipping industry in the state of Kansas. Our membership includes over 1,250 Kansas business locations and represents 99% of the commercially licensed grain storage in the state.

KGFA supports House Concurrent Resolution No. 5005, which calls for Congress to remove or restrict the use of trade sanctions as they apply to agricultural products produced in Kansas and the United States. Today, Kansas grain producers and the Kansas grain receiving, storing and processing industry truly compete on a worldwide scale for market opportunities for Kansas grown commodities. With the advent of new technologies in agricultural production, the need to create new markets and capture world market share will become even more important to the Kansas grain trade and their farmer customers in the future.

Currently, economic sanctions imposed by the United States Congress directly impede the ability of Kansas commodities to reach numerous countries around the globe. Congress should restrict the use of sanctions against agricultural products to situations where positive results are a certainty. To do otherwise only jeopardizes the economic viability of the Kansas and U.S. grain production industry.

Thank you for the opportunity to present this written statement. If you have questions or require additional information please contact Doug Wareham, KGFA Vice President of Government Affairs at (785) 234-0461.





**KANSAS BAR  
ASSOCIATION**

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## Memorandum

TO: Members, House Agriculture Committee

FROM: Ron Smith, General Counsel  
Kansas Bar Association

SUBJ: HB 2042

DATE: February 1, 1999

The KBA neither opposes nor supports this legislation, with or without our proposed amendment. We appear here in an informational capacity. We provide this information because of the interesting legal problems presented by this bill. The bill states:

13 Section 1. In any action for the recovery of real property maintained  
14 against any person who has been in open, exclusive and continuous pos-  
15 session of such real property, either under a claim knowingly adverse or  
16 under a belief of ownership, for a period of less than 15 years, and not  
17 barred or prohibited pursuant to the provisions of K.S.A. 60-503 and  
18 amendments thereto, the court shall appoint a licensed land surveyor to  
19 survey such property to determine ownership thereof. The cost of such  
20 survey shall be assessed equally among the parties to such action.

The language appears to indicate that only the work product of licensed land surveyors can help judges make the right decisions in quiet title actions involving adverse possession. The phrase "determine ownership" of the land in quiet title actions is a function that, in a courtroom, is made by a judge since no jury is used.<sup>1</sup> While the legislature can mandate that land surveyors be used by courts to help determine the evidence of where the original or existing boundary line is established, in previous years, surveyor findings in adverse possession cases have constituted "evidence" but are not conclusive for the judge.<sup>2</sup>

One of KBA's district judges, upon reviewing HB 2042, gave us the following information that might prove to be a good amendment to the bill to clarify what is intended:

"There are many cases involving disputes of ownership that do not need a survey at all. All parties know where the property is. The issue is seldom the legal description. The issues almost always revolve around the nature of the occupation of the land. We [judges] already have the ability to appoint a special master in any complicated case and could well use one in an adverse possession matter. But, even with a special master the court has the final decision and the party can challenge the

<sup>1</sup> "Common law did not allow jury trials in quiet title actions." Hindman v. Shepard, 468 P.2d 103, 205 Kan. 207 (1970)

<sup>2</sup> Wagner v. Thompson, 163 Kan. 662, 186 P.2d 278, 280 (1947)

Over. please.

*House Agriculture Committee*  
*February 1, 1999*  
*Attachment 3*

decision of the special master. If they desire to assure quality, of which licensure is seldom determinative, it might be written that the "court may appoint a licensed land surveyor to assist the court in its decision." Otherwise a court can always ask the parties to hire surveyors along the line of the procedure used in partition actions or eminent domain. Or the parties can hire their own surveyors and litigate the issue in court along with all other fact questions.

In quiet title actions there may be other evidence of the ownership of the disputed title to the land which will have nothing to do with the survey of the land but which may be determinative of the issue. There may be tax records, or written letters to or from the parties. The statute appears to indicate that only the results of the survey will "determine" title. At the least in HB 2042 you will want to insure that this statute makes the judge the final decision maker.

We would suggest the following clarifying amendment,

18 amendments thereto, the court ~~shall~~ *may* appoint a licensed land surveyor to  
19 survey such property to ~~determine ownership thereof~~ *and to assist the court in its*  
*decision.* The cost of such  
20 survey shall be assessed equally among the parties to such action.

Thank you.