

MINUTES OF THE SENATE AGRICULTURE COMMITTEE

The meeting was called to order by Chairman Mark Taddiken at 8:30 A.M. on March 8, 2005 in Room 423-S of the Capitol.

All members were present except:

Derek Schmidt- excused

Committee staff present:

Raney Gilliland, Kansas Legislative Research
Lisa Montgomery, Office of Revisor of Statues
Jacqui Jones, Committee Secretary

Hearing on:

SB-265 - Requires a licensed professional engineer to prepare plans and specifications for construction or expansion of confined feeding facilities

Conferees appearing before the Committee:

Proponents:

Scott Heidner, Executive Director, American Council of Engineering Companies of Kansas (ACEC)
Ron Gaches, Executive Director, Kansas Society of Professional Engineers (KSPE)
George Barbee - for Kansas State Board of Technical Professionals
John Harsch - Kansas Department of Health & Environment, Livestock Waste Management Section

Opponents:

Neutral:

Chris Wilson, Executive Director, Kansas Dairy Association (written)

HB-2103 - Standards and requirements of commercial weighing and measuring devices

Conferees appearing before the Committee:

Proponents:

Ramon Gonzalez, General Manager, N. R. Hamm Quarry
Woody Moses, Managing Director, Kansas Aggregate Producers Association
Dane Barclay, Alsop Sand Co.

Opponents:

Constantine Cotsoradis, Kansas Department of Agriculture
Donn Teske, Kansas Farmers Union (written)

Others attending:

See attached list

Chairman Taddiken opened the meeting by advising the Committee that the minutes of March 2 would be available for approval before the close of the meeting.

The Chairman then invited Scott Heidner, who was representing ACEC as a proponent, to speak to **SB-265**. He explained that the proposed legislation addresses waste systems for confined feeding facilities. The legislation is a cooperative effort between ACEC and the Kansas Society of Professional Engineers (KSPE) after discussions with representatives from the Kansas Board of Technical Professions, the Natural Resources Conservation Service and the Kansas Department of Health and Environment.

ACEC believes that requiring a licensed professional engineer to do the design work for confined feeding facilities waste systems will have two immediate benefits. First, it will improve the likelihood that the work will be done correctly, insuring public safety. Second, if substandard work is performed, they will have liability insurance to cover specific instances, and there will be recourse available to insure that the engineer is performing by standards required by the Board of Technical Professions for licensed engineers in Kansas (Attachment 1).

Communications with the Kansas Livestock Association, the Kansas Farm Bureau, the Kansas Dairy Association and the Kansas Pork Association have indicated that they do not oppose this initiative and they represent the stakeholders that will be impacted.

Mr. Heidner offered to stand for questions from the Committee at the appropriate time.

Chairman Taddiken then invited Ron Gaches, representing KSPE, to speak to the Committee in support of **SB-265**.

Mr. Gaches stated that when the law was drafted, a decision was made to allow the design for construction or expansion of feeding facilities, to be made by a professional engineer or a "consultant who had adequate general commercial liability insurance coverage" addressing errors or omissions in the design plans and specifications (Attachment 2).

Since then, a number of instances have arisen where the quality of work performed by non-engineer consultants has been called into question. In some instances, the facility's owner has had to contract with a licensed professional engineer to correct design problems.

KSPE believes that the law allowing non-engineer consultants to perform design of confined feeding facilities has created an inconsistency with the requirements of the Natural Resources Conservation Service (NRCS) as they apply to the NRCS technical and financial assistance for conservation projects.

Because non-engineer consultants provide services to confined feeding facilities, they argue that the PE requirement of the NRCS is not applicable to them. KSPE believes that this has created a conflict within the law. Non-engineers can obtain commercial liability insurance coverage as contractors, but they cannot obtain coverage for the practice of engineering.

KSPE believes that the passage of **SB-265** would serve to ensure that facility operators receive the highest quality professional engineering design service at the most reasonable price and thereby public waters will be protected from unnecessary contamination.

Mr. Gaches offered to stand for questions at the appropriate time.

Chairman Taddiken asked George Barbee, a public member of the Kansas State Board of Technical Professions, to testify on their behalf.

Mr. Barbee stated that KSBTP supports **SB-265** and would encourage the Committee to act favorably on the bill, as amended. The Board is of the opinion that deletion of Section (m) in K.S.A. 2004 Supp. 65-171(d) would close a loophole in the law that allows unlicensed consultants to provide design services that should, by law, be provided by professional engineers (Attachment 3)

Mr. Barbee offered to stand for questions at the appropriate time.

Chairman Taddiken invited John Harsch, to testify on behalf of KDHE Livestock Waste Management Section Director Karl Mueldener.

Mr. Harsch stated that KDHE is in support of **SB-265**. KDHE feels that deleting the present language in section (m) of the bill and requiring designs to be done by a professional engineer, is good public policy and assures that systems are well designed. (Attachment 4).

Mr. Harsch offered to stand for questions.

Chairman Taddiken informed the Committee that Chris Wilson, Kansas Dairy Association had presented written testimony to express its members' opinion in regard to **SB-265**.

They would like assurance that the passage of this bill will not impair KSU watershed specialists in providing assistance, generally with smaller dairies.

One large dairy comments:

“If the dairy operator hires a poor consultant, then he will have to pay the price by having his submission denied, and paying a second consultant to complete the project” (Attachment #5).

The Committee asked questions of all the conferees.

Hearings on **SB-265** were closed.

Hearings on **HB-2103 - Standards and requirements of commercial weighing and measuring devices**, were opened.

Ramon Gonzales, General Manager, N. R. Hamm Quarry spoke in support of **HB-2103**.

Mr. Gonzalez then described the operation of his company. He told the Committee that Hamm operates 25 quarries supported by six portable crushing units. The units are moved upon demand. They have found this to be the most efficient way to serve small, remote markets. The controlling economic factor is the cost of transportation. Rising fuel costs and local opposition to new quarries have lead to a situation where the ability to keep the older quarries open is at a premium.

N. R. Hamm feels that approval of **HB-2103** would provide a positive tool in keeping the quarries open, because it would permit greater tolerance for the older type scales generally located there, through lowering the cost of compliance. At some point, it becomes more economical to close a quarry than mine out the remaining reserves (Attachment 6).

HB-2103 would allow Hamm to extend the service life of older quarries by extending the service life of the scales associated with them.

Mr. Gonzalez stood for questions at the appropriate time.

Woody Moses, Managing Director of KAPA, testified in support of **HB-2103**. He began his testimony by describing the trade association to the Committee (Attachment 7).

Two charts were included, showing:

- Crushed Stone Quarries in Kansas
- Sand and Gravel Operations in Kansas

KAPA feels it impractical to conform with Kansas Department of Weights and Measures (KDWM) and its desire to maintain uniformity according to the National Institute of Standards and Technology Handbook 44, in smaller transactions. In larger transactions, they are in full compliance.

Adoption of HB-2103 will allow Kansas aggregate producers to continue serving small markets at a fair and reasonable price by extending the life of quarries and pits equipped with older scales. It will prevent undue price or cost increases to local units of government and will allow KDWM to allocate their resources to higher priority areas. Aggregate scales will continue to be regulated in all other aspects and be fully regulated above 50,000 lbs.

It is the opinion of KAPA members that adoption of this bill will not create a great disparity in uniformity with NIST standards.

Mr. Moses offered to stand for questions.

Written testimony in support of **HB-2103** was provided by Dane Barclay, President of Alsop Sand Co., Inc. (Attachment 8).

Constantine Cotsoradis, Assistant Secretary(KDA) testified before the Committee in opposition to **HB-2103**.

He stated that KDA's weights and measures program has become a model program for the nation.

The Department feels that the aggregate industry is seeking special tolerance because it will suffer financially if they use accurate scales. The Department believes the industry is seeking special treatment - an exemption from the cost of doing business. It is the same cost to all businesses when they use accurate scales to weigh wheat, livestock, fertilizer or other agricultural products.

KDA had several questions which were addressed in the testimony (Attachment 9).

KDA feels that when special exemptions are provided to weights and measures programs, the programs will erode because the special measures become the norm, and there is no uniformity left.

Mr. Cotsoradis stated that accurate weights and measures are important. Consumers depend on them. Weakening the program weakens KDA's ability to protect consumers.

KDA is not willing to provide a blanket exemption for the aggregate industry, but is willing to work with the industry to give them time to achieve compliance, when immediate compliance would create an undue hardship.

Mr. Cotsoradis stood for questions.

Donn Teske, President, Kansas Farmers Union provided written testimony in opposition to **HB-2103** (Attachment 10).

Hearings on **HB-2103** were closed.

Senator Francisco moved the minutes of March 1 be approved. Senator Ostmeyer seconded the motion. The motion carried.

The Committee meeting adjourned at 9:30 p.m. The next meeting was scheduled for March 9, 2005.



AMERICAN COUNCIL OF ENGINEERING COMPANIES
of Kansas

Affiliated with:
American Council of Engineering Companies
Kansas Society of Professional Engineers
National Society of Professional Engineers
Professional Engineers in Private Practice

TESTIMONY

TO: SENATE AGRICULTURE COMMITTEE
FROM: SCOTT HEIDNER
EXECUTIVE DIRECTOR
AMERICAN COUNCIL OF ENGINEERING COMPANIES OF KS
RE: SB 265
DATE: 5/8/05

Chairman Taddiken and members of the Senate Agriculture Committee, thank you for the opportunity to appear before you today. My name is Scott Heidner, I am the Executive Director for the American Council of Engineering Companies of Kansas (ACEC Kansas). Our association represents approximately seventy private consulting engineering firms in the state, employing several thousand Kansans.

I am here today as a proponent of SB 265. This proposed legislation addresses waste systems for confined feedlots. ACEC Kansas, along with the Kansas Society of Professional Engineers (KSPE), has worked together to create this legislation after discussions with representatives of the Kansas Board of Technical Professions, the Natural Resources Conservation Service, and the Kansas Department of Health and Environment.

As environmental requirements and regulations have grown more complex and demanding, so has the expertise required to perform this work. There has been growing concern by some of the regulatory agencies about the quality of this work. This legislation is a step towards addressing that concern. It would require a licensed professional engineer to do the design work for confined feedlot waste systems.

Requiring a licensed professional engineer for this work has two immediate benefits. First, it significantly improves the likelihood that design work for these systems will be done correctly, insuring public safety. Second, in those cases where substandard work is performed, if it is a licensed professional engineer, not only will he have professional liability insurance to cover specific instances, there will be recourse available through the state Board of Technical Professions to insure that engineer is performing by the standards required by the Board for licensed engineers in Kansas.

There are a minimal number of businesses involved in this work without a licensed professional engineer doing the design. Of those businesses, most would not be greatly

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Date 03-08-05

damaged, as they are involved in the construction as well as the design of these facilities. A licensed professional engineer will be doing the design work only, and the construction work will still be the purview of the people currently performing that service.

Finally, I think it is important to note that throughout our efforts to craft this bill, we have communicated with the Kansas Livestock Association, the Kansas Farm Bureau, the Kansas Dairy Association, and the Kansas Pork Association. These groups have indicated that they do not oppose this initiative, and they represent the stakeholders that will be impacted.

Thank you for your time, and I urge you to support passage of this carefully crafted piece of legislation.



Kansas Society of Professional Engineers

A state society of the National Society of Professional Engineers

**Senate Agriculture Committee
Testimony of Kansas Society of Professional Engineers
Supporting SB 265 Re: Design of Confined Feeding Facilities
Submitted by Ron Gaches, Executive Director
Tuesday, March 8, 2005**

Thank you Chairman Taddiken for the opportunity to speak on behalf of the Kansas Society of Professional Engineers (KSPE) in support of Senate Bill 265 regarding confined feeding facilities.

SB 265 is intended to address an issue concerning the analysis, construction or expansion of confined feeding facilities governed by KSA 2004 Supp. 65-171d. The opening section of this law clearly explains our purpose for being here:

“For the purpose of preventing surface and subsurface water pollution and soil pollution detrimental to public health or to the plant, animal and aquatic life of the state, and to protect designated uses of the waters of the state and to require the treatment of sewage predicated upon technologically based effluent limitations, the secretary of health and environment shall make such rules and regulations, including registration of potential sources of pollution, as may in the secretary’s judgment be necessary to: ... (2) control the disposal, discharge or escape of sewage as defined in KSA 65-164 and amendments thereto, by or from municipalities, corporations, companies, institutions, state agencies, federal agencies or individuals and any plants, works or facilities owned or operated, or both, by them ...”

As part of the debate in formulating the confined feeding facility law in the late 1990’s, the decision was made to allow the design for construction or expansion of such facilities to be prepared by a Professional Engineer or a consultant who has “adequate general commercial liability insurance coverage” addressing errors and omissions in the design plans and specifications has been obtained and is in effect. The provision allowing non-engineer consultants to perform design work was included in the law to allow contractors who were providing these services to continue to do so.

Since that time, a number of instances have arisen where the quality of the work performed by non-engineer consultants has been called into question. When design work is conducted in a substandard manner the potential for pollution of our surface and underground water resources increases and those landowners and other water users located downstream may suffer risk to their health. In some instances, the facilities owner has had to contract with a licensed Professional Engineer to correct design problems with their facilities. Obviously, this is the most expensive option for a facilities

owner, to pay first for the design work by a non-engineer and later to pay a second time for design worked by a licensed PE.

In addition, our law allowing non-engineer consultants to perform design of confined feeding facilities has created an inconsistency with requirements of the Natural Resources Conservation Service (NRCS) as they apply to the NRCS technical assistance and financial assistance for conservation projects.

The NRCS has defined (or listed) those conservation practices that are engineering, in nature, as “engineering” practices. The NRCS technical service provider (TSP) registry states that technical services for those practices need to be provided by a Professional Engineer, as required by state law. This TSP registry serves as a listing from which NRCS clients may pick from to get technical services provided instead of waiting for NRCS personnel. This is especially significant in these times when there are more USDA program funds (and projects) than NRCS has technical engineering staff to complete.

However, non-engineer consultants providing services to confined feeding facilities have argued that because they are authorized to conduct such design services the PE requirement of the NRCS is not applicable. In short, allowing non-engineer consultants to conduct design work for confined feeding facilities has created a conflict within the law.

The State Board of Technical Professions has offered an opinion that “engineering” design, no matter how small, is practicing engineering and is therefore subject to our technical professions licensure act. The NRCS has attempted to apply that standard in administering the TSP option for funding technical services. The non-engineer consultant language in our confined feeding facility law flies in the face of this standard.

Why is this important? Why not continue to allow an exception to our engineering practice standard for confined feeding facilities?

The reasons are three fold: first, the use of non-engineer consultants increases the risk of water pollution from a confined feeding facility due to a design deficiency; second, the use of non-engineer consultants can result in the facility operator having to pay twice for the design work (first by the non-engineer consultant and second by the professional engineer); and third, use of a non-engineer consultant may result in the facility owner having no recourse for inadequate design work. (We also have a situation where the non-engineer design was built and now the client has employed a PE to evaluate the constructed facility. If the ‘as-built’ evaluation shows that the facility does not meet standards (or criteria), the USDA financial assistance will be denied.)

Non-engineers can obtain commercial liability insurance coverage as contractors but they cannot obtain coverage for the practice of engineering. A landowner who has reason to believe the design work prepared by a non-engineer consultant is deficient is stuck with

having to pay a second time to have a professional engineer redo work that doesn't meet engineering standards. In this context, professional engineering services are cheap compared to the cost of actually reconstructing a deficient facility.

A word about licensed professional engineers. To become a licensed professional engineer, the individual must first graduate from a four-year, accredited engineering college. We have three in Kansas, located at KSU, KU and WSU. To perform engineering services, the individual must take and pass the Fundamentals of Engineering exam to become an Engineer in Training (EIT). After four years of practice as an EIT under the supervision of a Professional Engineer, the EIT may sit for the PE exam. Upon completion of the PE exam, the licensed professional engineer may practice in areas in which they are qualified. For example, it is a violation of the Rules of Practice for an electrical engineer to suddenly start designing bridges unless they have formal education, training or experience that makes them qualified for that work.

We would not think for a moment about creating an exception to our public health standards for licensure of physicians for minor surgery, nor would we think about creating an exception to our standards for licensure of pharmacists for dispensing powerful painkillers to some segment of our population. Similarly, we should resist the urge to maintain the exception to our engineering practice standards for confined feeding facilities. Water is a precious commodity in Kansas. Maintaining its quality is a matter of both costs and public health.

Passage of SB 265 will serve to ensure that facility operators receive the highest quality professional engineering design services at the most reasonable prices and that our public waters are protected from unnecessary contamination. Please note that the Natural Resources Conservation Service provides professional engineering services at no cost to those clients who request their services and will prioritize these services to assist those with the greatest conservation needs.. Further, the State Conservation Commission administers programs that provide complete or partial reimbursement for engineering services related to pollution control projects that address confined feeding facilities.

KSPE is the professional society of licensed Professional Engineers in Kansas. With 800 members statewide, KSPE members serve in local and state government, private consulting firms, industry, utilities and higher education. Our members are committed to protecting the health, safety and welfare of Kansas' citizens through the professional and ethical practice of engineering. Professional Engineers and Engineers in Training are licensed and regulated by the Kansas State Board of Technical Professions.



KANSAS STATE BOARD OF TECHNICAL PROFESSIONS

(785) 296-3053

<http://www.accesskansas.org/ksbtp/>

Suite 507, Landon State Office Building 900 S.W. Jackson Street Topeka, Kansas 66612-1257

TESTIMONY BEFORE THE SENATE COMMITTEE ON AGRICULTURE MARCH 8, 2005

Mr. Chairperson, and members of the Committee, my name is George Barbee, and I am a public member on the Kansas State Board of Technical Professions. Also with me today is Betty Rose, Executive Director. I appear today on behalf of the Board in support of Senate Bill 265.

As you know, the Board of Technical Professions licenses and regulates architects, professional engineers, land surveyors, landscape architects, and geologists. K.S.A. 74-7001 states "(a) Except as otherwise provided in this act, it shall be unlawful for any person to practice or to offer to practice in the state of Kansas, any profession included within the term technical professions, as such term is defined in the provisions of this act, unless such person has been duly licensed to practice such profession under this act or holds a certificate of authorization issued under K.S.A. 74-7036. (b) Any person practicing any technical profession in this state, or calling or representing such person as a licensed practitioner of such technical profession, or using the title of a licensed practitioner of such technical profession shall be required to submit evidence that such person is qualified to practice such technical profession and is duly licensed under this act or holds a certificate of authorization issued under K.S.A. 74-7036." Furthermore, K.S.A. 74-7004 states, "For the purpose of administering the provisions of this act and in order to establish and maintain a high standard of integrity, skills and practice in the technical professions and to safeguard the life, health, property and welfare of the public, the governor shall appoint a state board of technical professions consisting of thirteen board members."

Our dilemma is that, a few years ago, statutes regarding permits for operation of confined feeding facilities, K.S.A. 2004 Supp. 65-171(d), were amended with provision (m) which exempted the requirement that plans and specifications be prepared by a licensed professional engineer by allowing unlicensed consultants to perform the design services. So, on one hand, the Board is charged with protecting the safety, health and welfare of the public and is directed to administer the law to prevent non-licensed persons from offering engineering services to the public. On the other hand, the amended statutes created a loophole which prevents the Board from carrying out its statutory charge in this specific area. Consequently, the Board is unable to respond to complaints of substandard design practices by non-licensed persons in the specific area of confined feeding waste treatment facilities. Deletion of section (m) as proposed in Senate Bill 265 would solve this dilemma.

On behalf of the Board of Technical Professions, we urge the committee to act favorably on Senate Bill 265 as amended. The Kansas State Board of Technical Professions hopes this information is helpful to the committee, and I would be happy to answer any questions the committee may have. Thank you for this opportunity.

Senate Agriculture Committee
Date **3-08-05**



K A N S A S

RODERICK L. BREMBY, SECRETARY

KATHLEEN SEBELIUS, GOVERNOR

DEPARTMENT OF HEALTH AND ENVIRONMENT

Testimony to
Senate Agriculture Committee
on Senate Bill 265
Presented by John Harsch
March 8, 2005

Chairman Taddiken and members of the Committee, my name is John Harsch. I manage KDHE's Livestock Waste Management Section. I am here today to represent my director Karl Mueldener, P.E. and to indicate KDHE's support for SB 265. Senate Bill 265 would require livestock waste systems to be designed by professional engineers.

Livestock waste systems are an important infrastructure helping to protect Kansans' health and the environment. Livestock waste systems are a significant investment by the producer. Within this industry we are certainly seeing the shift to larger facilities. Kansas now has 28 dairies larger than 1,000 animal units, with the largest having the capacity to milk 18,000 cows. Swine facilities permitted at 60,000 animal units are common. The wastes generated by any one of these livestock operations is greater than that produced by all but the largest cities in Kansas. For example, based on solids produced, a 10,000 head beef lot generates the equivalent amount of waste as a city of 150,000. Livestock waste systems do more than contain or collect waste. The designs must provide a manageable system to store, treat, and ultimately reuse or dispose of the material. Management of this waste now goes well beyond hauling solids, but must account for nutrients at the application site, salt build-up, irrigation rates, water rights, odor concerns, and protection of the groundwater. These examples are noted to demonstrate that the design of a livestock waste system is a significant undertaking and must be done properly.

Senate Bill 265 would remove the PE exemption now in statute and would require designs be done by a professional engineer. We believe SB 265 is good public policy by providing assurance these systems are well designed.

Division of Environment
Bureau of Water
CURTIS STATE OFFICE BUILDING, 1000 SW JACKSON ST., STE. 420, TO Senate Agriculture Committee
Voice 785-296-5500 Fax 785-296-0086 <http://www.kdhe.st> Date **3-08-05**

Attachment # **4**



Kansas Dairy Association

Providing a unified voice for Kansas dairy farmers

STATEMENT OF THE KANSAS DAIRY ASSOCIATION

TO THE SENATE AGRICULTURE COMMITTEE

SENATOR MARK TADDIKEN, CHAIR

REGARDING S.B. 265

MARCH 8, 2005

Mr. Chairman and Members of the Committee, I am Chris Wilson, Executive Director of the Kansas Dairy Association. Our membership includes the 470 dairies in Kansas. Thank you for the opportunity to address S.B. 265. Our Board of Directors meets tomorrow and has not taken a position on this bill. We appreciate Mr. Heidner's consultation with us on this legislation and his willingness to work with us on language we can support. While KDA doesn't have a firm position on this bill, we wanted to be here today to express to you the concerns we are hearing from our members.

Frankly, the current law was passed to provide that a consultant, who has worked and continues to work with a number of dairies as well as other CAFOs in Western Kansas, but who is not a licensed professional engineer, would be able to draw plans for facilities. Since the passage of the law, he has become affiliated with an engineering firm. Kansas Dairy Association has associate members who are engineers who support this bill. We also have dairies that have expressed concerns about the bill. In addition, we have worked closely with the KSU watershed specialists, who are assisting dairies in developing plans for EQIP and KDHE. We want to be sure that this bill does not impair the watershed specialists in providing that assistance, which is generally with smaller dairies.

The comments of one large dairy are as follows:

The laws should address the requirements that must be submitted and upheld, not the degree of the consultant. KDHE and EPA are in place to determine if the submission meets their guidelines and if compliance is being met. The line of thought that would require engineering requirements for plan development could also lead to a future requirements that monthly compliance be monitored by engineers, accountants, or attorneys. Let the dairy operator determine what level of expertise is required to develop a workable plan that will be approved by the KDHE. If we hire a poor consultant, we will pay the price by having submission denied and paying a second consultant to complete the project.

We submit these comments for your consideration on S.B. 265.

Senate Agriculture Committee

Date *03-08-05*

Attachment # *5*

HAMM

Quarry Division
Box 17
Perry, KS 66703
785-597-5111

TESTIMONY

Date: March 8, 2005

Before: The Senate Committee on Agriculture

By: Ramon Gonzalez, General Manager
N. R. Hamm Quarries

Regarding: HB 2103 – An act concerning standards and requirements of commercial weighing and measuring devices.

Good Morning Mr. Chairman and Members of the Committee:

My name is Ramon Gonzalez, General Manager of N. R. Hamm Quarries a division of Hamm, Inc. headquartered in Perry, Kansas. The N.R. Hamm Quarries have been in business over 50 years providing quality aggregate products to many customers throughout Northeast and North Central Kansas. I appreciate the opportunity to appear before you today in support of HB 2103.

In order to serve our customers, typically local units of government; we operate 25 quarries supported by 6 portable crushing units. The portables are moved to the remote quarries on an itinerant basis depending upon demand. Over the years this has proven to be the most cost efficient method of serving the small remote markets commonly found in Kansas; the controlling economic factor being the cost of transportation, which generally runs the area of \$.20-\$.25 per ton mile. For example a 16 mile haul ($16 \times \$0.25 = \4.00) would double the cost of a \$4.00 per ton product.

Rising fuel costs, declining population and local opposition to new quarries has lead to a situation where the ability to keep these older, permitted quarries, open is at a premium. Approval of HB 2103 would provide a positive tool in doing so by permitting a greater tolerance for the older weigh beam type scales generally located in these quarries, through lowering the cost of compliance. This is particularly important in quarries where it is difficult to spread the annual cost of compliance over ever diminishing reserves. For example, compliance costs of \$10,000 per year for a 100,000 ton reserve would be \$.10 per ton while for a 10,000 ton reserve would be \$1.00 per ton. At some point it simply becomes more economical to close a quarry rather than mine out the remaining reserves. HB 2103 would significantly reduce compliance costs by allowing the industry to maintain our scales to a tolerance of +/- 100 lbs. at 10,000 lbs. rather than trying to maintain them at a tolerance of +/- 10 lbs. As mandated by the National Institute of Standards and Technology Handbook 44 (NIST 44). This is the equivalent of

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requiring a 1949 Buick RoadMaster to perform at NASCAR standards for the last 10,000 miles of its useful life.

HB 2103 is an important bill as it allows us to extend the service life of older quarries by extending the service life of the older scales associated with them. Thank you for your time and attention. I will be happy to respond to any questions at the appropriate time.

KAPA

Kansas Aggregate
Producers' Association

Edward R. Moses
Managing Director

TESTIMONY

- Date:** March 8, 2005
- Before:** The Senate Committee on Agriculture
- By:** Woody Moses, Managing Director
Kansas Aggregate Producers Association
- Regarding:** HB 2103 – An act concerning standards and requirements of commercial weighing and measuring devices.

Good Moring Mr. Chairman and Members of the Committee:

My name is Woody Moses, Managing Director of the Kansas Aggregate Producers Association. The Kansas Aggregate Producers Association (KAPA) is an industry wide trade association comprised of over 170 members located or conducting operations in all 165 legislative districts in this state, providing basic building materials to all Kansans. I appreciate the opportunity to appear before you today in support of HB 2103.

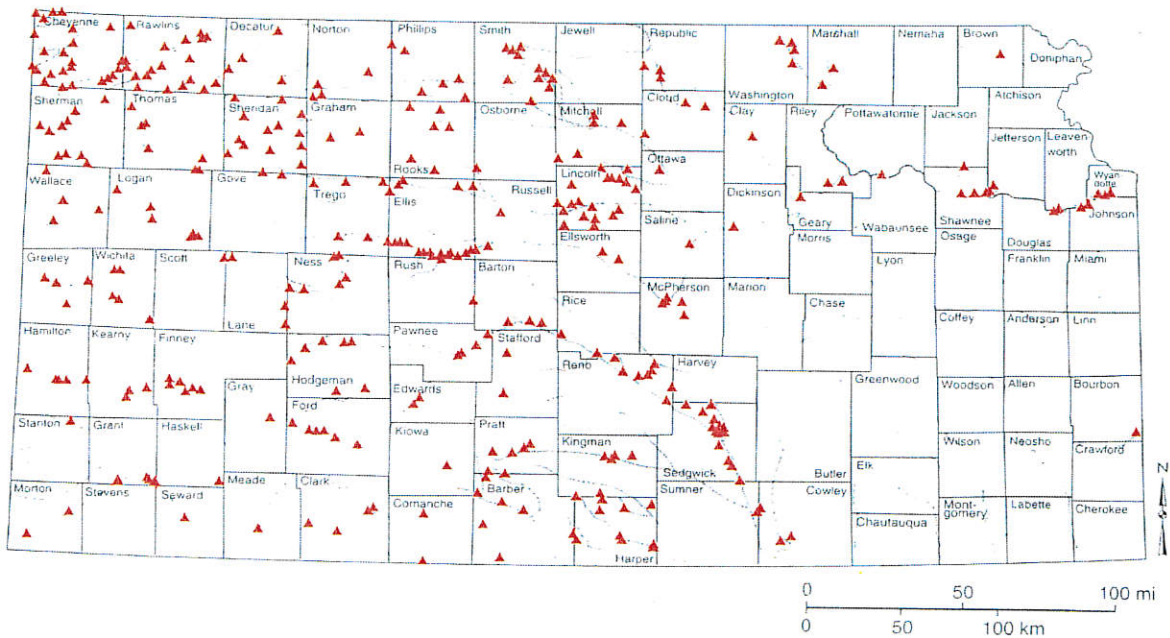
Unlike Missouri and many eastern states blessed with abundant sources of limestone in formations with thick ledges, the Kansas mining industry is forced to mine from several small widely scattered quarries and pits in order to service our clients (primarily local units of government).



CRUSHED STONE QUARRIES IN KANSAS

Senate Agriculture Committee

Date: 3-8-05



SAND AND GRAVEL OPERATIONS IN KANSAS

In order to serve this market the common practice is to locate a portable crusher at the site and then produce and stockpile 2-3 years worth of material in 2-3 months. Over the course 2-3 years our clients then purchase this inventory and it is weighed by a set of scales permanently left at the site.

Most of the scales sited at these locations, while adequate to the task of weighing rock in 100 lbs. increments, are usually unable to meet modern testing and tolerances (implemented in the late 90's) which require accuracy to within ± 20 lbs for annual certification or ± 10 lbs for acceptance. The costs of sustained maintenance or complete replacement (from \$25,000 to \$50,000) to achieve a ± 10 lbs. tolerance when only ± 50 lbs. is needed, is prohibitive. In a small quarry, this could add up to \$2.50 per ton (\$25,000/10,000 tons) to a product commonly priced in a range of \$3-4 per ton. Such a scenario could increase a township road rock budget by 50%. Simply put, the high fixed operating costs and low sales and unit values associated with these operations make it uneconomical to continue operations. This is especially true in the case of older pits or quarries where a producer must balance the cost of extracting a remaining 10,000 to 20,000 tons of reserves against the diminishing return provided. At some point the operation must be closed forcing local units to transport road materials from consolidated high volume operations usually located much further away. Any measure that will lower the costs allows the operator and the public served to reap the benefits of full development of the natural resource.

To address this situation, we requested and received during the 2001 session an amendment to K.S.A. 82-202 granting a limited tolerance variance for aggregate scales from the tolerance requirements mandated by the National Institute



of Standards and Technology (NIST) Handbook 44 which the state of Kansas adopts by reference. Please note this variance only concerns the national standard up to 50,000 lbs., after 50,000 lbs., where most transactions occur, we are in full compliance with NIST Handbook 44. For example, transactions weighed in standard double axle dump are still meeting the standard. The current variance was authorized with a sunset by the 2001 Legislature on the condition the KAPA would pursue the issue with the National Conference of Weights and Measure (NCWM) at the urging of the Kansas Division of Weights and Measure (KDWM). During the almost four years this variance has been in place, KAPA has pursued the issue making presentations at two different conferences of this organization. Unfortunately, the NCWM, a technically oriented organization, will not consider the economic merit of our argument and has refused to put it on their agenda for consideration by the whole body. Faced with this outcome, we are now asking the Kansas Legislature to make this variance permanent in the form of HB 2103 the bill before you today.

While we empathize with KDWM desire to maintain uniformity with NIST Handbook 44, we also believe it is impractical in this case. Conversely, adoption of HB 2103 will provide many benefits to all Kansans, among them:

1. Adoption of HB 2103 will allow Kansas aggregate producers to continue serving small markets at a fair and reasonable price by extending the life of quarries and pits equipped with older scales.
2. Adoption of HB 2103 will prevent undue and unnecessary price or cost increases to local units of government.
3. Adoption of HB 2103 will allow the Kansas Division of Weights & Measure to allocate their limited resources to higher priority areas. For example, the division itself enjoys a variance in the testing fuel pumps.
4. Adoption of HB 2103 will not allow a total exemption for aggregate scales. Aggregate scales will continue to be regulated in all other aspects and to be fully regulated above 50,000 lbs.
5. Adoption of HB 2103 will not create a great disparity in uniformity with NIST standards, which, as evidenced by the attached table, is not all that uniform to begin with.

In 2001 the Kansas Legislature acted wisely by adopting a policy to address local needs as opposed to national conformance. The result has beneficial to Kansas consumers and has not resulted in any unintended consequences during the last four years it has been in effect. We urge this committee to continue this policy by recommending HB 2103, as amended, favorable for passage. Thank you for the opportunity to come before you with our comments on HB 2103. I will be happy to respond to any questions you may have.

AGGREGATE @ \$4.00 per ton

Sale Quantity in Pounds	Price per pound	Potential Over/Under Charge	
		Tolerance at +/- 10 lbs	Tolerance By HB 2103
10,000	0.002	20	0.10
20,000	0.002	40	0.10
30,000	0.002	60	0.10
40,000	0.002	80	0.10
50,000	0.002	100	0.10

WHEAT @ 3.93 per bushel

10,000	0.058	580	0.58
20,000	0.058	1160	1.16
30,000	0.058	1740	1.74
40,000	0.058	2320	2.32
50,000	0.058	2900	2.90

II. Uniformity of Laws and Regulations

1. National Conference Goal

The goal of the National Conference on Weights and Measures with respect to these Uniform Laws and Regulations is to achieve their acceptance in all States and local jurisdictions that have authority over such matters. The Conference stands ready to assist any jurisdiction in any way possible in securing adoption.

2. Status of Promulgation

The following pages list, by State, information regarding the adoption of the Uniform Laws and Regulations. The tabulated data indicates if the State has adopted the Uniform Law or Regulation by reference, including subsequent amendments (thereby operating under the most recent version of the recommended regulation in this handbook), or if the State has used some version of the NCWM-recommended law or regulation as guidance in developing a similar law or regulation.

The information is verified with each State annually; the entries represent the status of the State adoption at the time of the survey.

Unless a State adopts the recommended regulations and subsequent amendments and revisions, there may be variation in the actual degree of adoption. Adoption, implementation, and clarification may be determined by comparing a State law with the Uniform Law, section-by-section or by contacting the State.
(Amended 1997 and 1998)

**3. Summary of State Laws and Regulations in Weights and Measures
(as of September 2003)**

This is an overview of the status of adoption of NCWM standards by the States. In earlier editions of Handbook 130, State laws and regulations were compared to the NCWM standard from the prior year. This did not indicate whether the standard as printed in the current edition had been adopted by any given State. The table lists those States that adopt NCWM-recommended updates automatically ("YES"); see Sections 4 through 10 and paragraph 12(m) of the Uniform Weights and Measures Law. This means the State's regulations are current with those printed in this edition of the Handbook. If a State has adopted an NCWM recommendation in whole or in part from a particular year, but updates are not incorporated automatically, a lower case "yes" is shown. For additional information on the status of adoption, please contact the appropriate State officials.

State	Laws			Regulations									
	Weights and Measures Law	Weighmaster Law or Regulation	Uniform Engine Fuel Law	Packaging and Labeling	Method of Sale	Price Verification	Unit Pricing	Registration of Service Agencies	Open Dating	Type Evaluation	Uniform Engine Fuel Regulation	Handbook 44	Handbook 133
Alabama	yes	yes	yes	yes	yes	X	NO	yes	NO	yes	yes*	YES	YES
Alaska	yes	NO	NO	yes	yes	no	NO	yes	NO	yes	NO	YES	yes
Arizona	yes	yes	yes*	yes	yes	X	yes	yes	no	yes	yes*	YES	YES
Arkansas	YES	NO	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES
California	yes	yes*	yes*	YES	yes*	Y	yes*	yes*	NO	yes	yes*	YES	YES
Colorado	yes	yes	yes*	yes	yes	X	NO	yes	NO	YES	yes*	YES	YES
Connecticut	yes	yes	yes*	YES	YES	Y	yes*	yes*	yes*	yes	yes	YES	YES
Delaware	yes	yes	yes*	yes	yes	yes	no	yes*	no	yes	yes*	YES	YES
District of Columbia	yes	yes	NO	yes	yes	X	NO	NO	yes*	no	NO	yes	no
Key:	YES	Adopted and updated on an annual basis.											
	yes	Law or regulation in force, NCWM standard used as basis of adoption, but from an earlier year.											
	yes*	Law or regulations in force, but not based on NCWM standard.											
	NO	No law or regulation.											
	no	No law or regulation, but NCWM standard is used as a guideline.											
	X	Price verification program in place. Inspection based on NCWM Price Verification Procedure.											
	Y	Price verification program in place. Inspection not based on NCWM Price Verification Procedure.											

Uniformity of Laws and Regulations

State	Laws			Regulations									
	Weights and Measures Law	Weighmaster Law or Regulation	Uniform Engine Fuel Law	Packaging and Labeling	Method of Sale	Price Verification	Unit Pricing	Registration of Service Agencies	Open Dating	Type Evaluation	Uniform Engine Fuel Regulation	Handbook 44	Handbook 133
Florida	yes	NO	yes*	yes	yes	yes	yes*	yes	yes*	NO	yes*	yes	yes
Georgia	yes	yes	yes*	yes	yes	X	NO	yes	yes*	yes	yes*	YES	YES
Hawaii	yes	yes	yes*	yes	yes	X	yes	yes	NO	yes	yes*	yes	yes
Idaho	yes	yes	yes*	yes	yes	X	no	yes	NO	yes	yes*	YES	YES
Illinois	yes	NO	yes*	YES	YES	Y	NO	yes	NO	yes	yes	YES	YES
Indiana	yes	yes*	yes*	yes	yes	NO	NO	NO	NO	yes	yes*	yes	yes
Iowa	yes	yes*	yes*	yes	yes	X	NO	yes*	NO	yes	yes*	yes	yes
Kansas	yes	NO	yes	yes	yes	yes	NO	yes	NO	yes	yes	yes	yes
Kentucky	yes	NO	yes*	yes	yes	yes	NO	yes	NO	yes	yes*	YES	yes
Louisiana	yes*	yes*	yes*	yes*	NO	YES	NO	yes*	NO	yes*	yes*	YES	no
Maine	yes	yes	yes*	YES	YES	X	NO	yes	NO	yes	yes*	YES	no
Maryland	yes	NO	yes*	YES	yes	X	yes*	NO	yes*	yes	yes*	YES	YES
Massachusetts	yes*	yes*	yes*	yes	yes*	YES	yes*	NO	NO	yes	yes*	yes	no
Michigan	yes	yes	yes	yes	yes	NO	NO	yes	yes	yes	yes	yes	yes
Minnesota	yes	NO	yes*	yes*	yes*	NO	NO	yes*	yes*	yes	yes*	yes	yes
Mississippi	yes	yes	yes*	yes	yes	X	yes	yes	NO	yes	yes*	YES	YES
Key:	YES	Adopted and updated on an annual basis.											
	yes	Law or regulation in force, NCWM standard used as basis of adoption, but from an earlier year.											
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Uniformity of Laws and Regulations

State	Laws			Regulations									
	Weights and Measures Law	Weighmaster Law or Regulation	Uniform Engine Fuel Law	Packaging and Labeling	Method of Sale	Price Verification	Unit Pricing	Registration of Service Agencies	Open Dating	Type Evaluation	Uniform Engine Fuel Regulation	Handbook 44	Handbook 133
Missouri	yes	NO	yes	YES	YES	YES	NO	yes	NO	YES	yes	YES	YES
Montana	yes	NO	yes	yes	yes	yes	yes	yes	NO	yes	yes	yes	yes
Nebraska	yes	NO	NO	yes	yes	yes*	NO	yes	NO	yes*	NO	yes	yes
Nevada	yes	yes	yes*	YES	YES	X	YES	YES	YES	YES	yes*	YES	YES
New Hampshire	yes	yes*	NO	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES
New Jersey	yes	yes	yes*	yes	yes	yes*	yes*	yes*	NO	yes*	NO	YES	NO
New Mexico	yes	yes	yes*	NO	yes	X	NO	yes	yes*	NO	yes*	YES	YES
New York	yes	yes	yes*	yes	yes	NO	yes*	NO	NO	yes	yes*	YES	YES
North Carolina	yes	yes*	yes*	YES	YES	X	NO	yes	NO	yes	yes*	YES	YES
North Dakota	YES	NO	NO	NO	yes*	NO	NO	yes*	NO	NO	yes*	yes*	NO
Ohio	yes	NO	NO	yes	yes	X	NO	yes	NO	yes	NO	YES	YES
Oklahoma	yes	NO	yes*	YES	YES	YES	NO	yes*	YES	yes	yes*	YES	YES
Oregon	yes	NO	yes*	yes	yes	yes	yes*	NO	yes*	yes	yes*	yes	yes
Pennsylvania	yes	yes	NO	yes	yes	yes	NO	yes	NO	YES	NO	YES	YES
Puerto Rico	yes	yes	yes*	yes	yes*	Y	yes*	yes	yes*	yes	yes*	YES	YES
Rhode Island	no	no	yes*	yes*	YES	no	yes*	NO	yes*	no	no	YES	no

Key: YES Adopted and updated on an annual basis.
 yes Law or regulation in force, NCWM standard used as basis of adoption, but from an earlier year.
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South Carolina	yes	yes*	yes*	YES	YES	X	NO	YES	NO	YES	yes*	YES	YES	
South Dakota	yes	NO	yes*	yes	yes	X	NO	yes	NO	yes	yes	yes	yes	
Tennessee	yes	yes	yes	YES	YES	X	NO	yes	NO	YES	yes	YES	YES	
Texas	yes	yes*	NO	YES	YES	yes*	NO	yes	NO	NO	yes*	YES	YES	
Utah	yes	NO	yes*	YES	YES	X	NO	yes	NO	YES	yes	YES	YES	
Vermont	yes*	yes	yes*	YES	YES	yes*	yes*	yes	NO	no	NO	YES	no	
Virginia	yes*	yes*	yes*	YES	YES	Y	NO	yes*	NO	yes*	yes*	YES	YES	
Virgin Islands	yes	NO	yes*	yes	NO	NO	yes	NO	yes	NO	yes	YES	no	
Washington	yes	yes	yes	YES	YES	YES	NO	yes	NO	yes	NO	YES	YES	
West Virginia	YES	NO	YES	YES	YES	yes*	YES	yes*	YES	YES	YES	YES	YES	
Wisconsin	yes*	NO	yes*	yes	yes	X	NO	yes*	NO	YES	yes*	YES	YES	
Wyoming	yes	NO	yes*	yes*	no	no	no	yes	no	YES	yes*	YES	YES	
Totals:	YES yes yes* NO no X Y	3 44 5 0 1	0 21 10 36 8 2 0	2 7 28 4 5 2 0	19 7 27 4 5 2 1	18 27 27 5 5 6 3 20 5	7 7 7 5 11 12 6 30 3	4 5 5 11 12 8 30 8 3	4 29 12 10 4 8 33 5 0	5 2 10 4 3 5 3 3 3	12 29 4 31 8 1	3 10 4 31 8 1	39 13 1 0 0 0	31 13 0 2 7
Key:	YES	Adopted and updated on an annual basis.												
yes	Law or regulation in force, NCWM standard used as basis of adoption, but from an earlier year.													
yes*	Law or regulations in force, but not based on NCWM standard.													
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X	Price verification program in place. Inspection based on NCWM Price Verification Procedure.													
Y	Price verification program in place. Inspection not based on NCWM Price Verification Procedure.													

ALSOP SAND CO., INC.
P.O. BOX 331
CONCORDIA, KANSAS 66901

TESTIMONY

Date: March 8, 2005

By: Dane Barclay, Alsop Sand Co.
Member of the Kansas Aggregate Producers' Association

Regarding: HB 2103 as amended – An act concerning standards and requirements of commercial weighing and measuring devices.

Before: The Senate Committee on Agriculture

Mr. Chairman and members of the committee, my name is Dane Barclay, President of Alsop Sand Company and a long time member and supporter of the Kansas Aggregate Producers' Association. Thank you for the opportunity to provide my supporting written remarks regarding HB 2103. Approval of HB 2103 as amended will provide an important tool for small aggregate producers such as our company in providing a limited natural resource to the public in a cost effective manner.

I would like to take a moment to explain how this bill affects our business and industry. We have sand plants with older truck scales in three rural North Central Kansas counties. From these three sites we supply asphalt sand, concrete sand and road gravel to six County Highway Departments, numerous Townships and dozen of small cities. Annual tonnage sold at each of these three sites is under the accepted industry minimum required to remain in business.

We are able to keep these sites open by keeping costs down, striving for efficiency and by moving personnel and equipment between several sites. If we are forced to meet the 20 lb± we would have to buy three sets of truck scales at a cost of roughly \$47,000.00 each.

I cannot keep costs down by spending \$141,000.00 on truck scales for low volume sites.

Most of these older scales, while adequate to the task of weighing sand in 100 lbs. increments, are usually unable to meet modern testing and tolerances (implemented in the late 90's) which require accuracy to within ±20 lbs. The costs of sustained maintenance or complete replacement (up to \$50,000) to achieve a ±20 lbs. tolerance when only ±50 lbs. is needed, is prohibitive.

This is not just the ±20 lbs. that is a question, but the methods that are used to conduct these tests.

The Division of Weights & Measure requires that the tester place 15,000 lbs. in various positions across the scale. One of which is in the very center of the scale deck. No truck

Senate Agriculture
Committee

3-8-05

Attachment #8

can place its entire load on a single point in the center of the truck scale and consequently these scales were not designed to weigh trucks that way. A standard dump truck is spread out over approximately 30 feet. A semi is nearly 65 feet long.

Why are we using testing procedures that assumes you can place the entire truck on a single point in the center of the scale? I understand that W.H. Scale will have a representative present. Please ask him to verify the technical details of testing scales.

As you can see, for such low volume of materials, it is not cost effective to invest the time, effort and money associated with these high fixed operating costs.

If HB 2103 is not passed, I will have a difficult choice to make. I cannot justify \$47,000.00 expense in each of these locations that are marginal at best. I will have to decide whether to close these locations or go back to selling sand by the truckload, without the benefit of truck scales.

I am confident that a 50 lb.± tolerance is much more accurate than estimating what constitutes a truckload.

By keeping these sites open our customers see a significant savings. If these products had to come from the next closest source, the additional freight would nearly double the cost of these sand and gravel products. Doubling aggregate costs at a time when counties, townships and cities are struggling to maintain services with limited funding does not make sense.

To address this situation, our industry requested and received during the 2001 session an amendment to K.S.A. 82-202 granting a limited tolerance variance for aggregate scales from the tolerance requirement mandated by the National Institute of Standards and Technology (NIST) Handbook 44 which the state of Kansas adopts by reference. The current variance was authorized with a sunset by the 2001 Legislature on the condition the association would pursue the issue with the National Conference of Weights and Measure (NCWM) at the urging of the Kansas Division of Weights and Measure (KDWM). The association diligently pursued the issue at two conferences of this organization. Unfortunately, the NCSM would not consider the economic merit of our argument. Faced with this outcome, our members and association are kindly asking the Kansas Legislature to make this variance permanent in the form of HB 2103 as amended the bill before you today.

In closing, the Kansas Legislature acted wisely by adopting a policy to address local needs. As a result, it has benefited small producers such as myself and the Kansans we serve. During the four years this policy has been in effect, there have been no complaints received by the Kansas Department of Weights and Measures regarding aggregate scales, nor has it generated a "conga line" of exemption seekers. It has provided temporary relief which we hope to see permanent. I urge this committee to continue this policy by recommending HB 2103 as amended, favorably for passage.



KANSAS

DEPARTMENT OF AGRICULTURE
ADRIAN J. POLANSKY, SECRETARY

KATHLEEN SEBELIUS, GOVERNOR

**Testimony on House Bill 2103
to
The Senate Committee on Agriculture**

**by Constantine V. Cotsoradis
Assistant Secretary
Kansas Department of Agriculture**

March 8, 2005

Good morning Chairman Taddiken and members of the committee. I am Constantine Cotsoradis, assistant secretary of agriculture, and I am here to testify in opposition of HB 2103.

Our weights and measures program has, through the hard work and dedication of its staff, become a model program for the nation.

The issue before us is not whether one buyer of stone will be harmed by the special tolerance applied to aggregate scales. Instead, the issue is whether regulatory standards should be developed by a collective group of experts from the public and private sector, or if they should be developed by one segment of industry.

I do not believe that the aggregate industry is seeking this special tolerance because it will suffer financially if they use accurate scales. The cost for using an accurate scale ranges from about 2 cents to 7 cents per ton for scales covered by this bill. I believe this is a case of special treatment – an exemption from the cost of doing business, which is paid by all businesses that use accurate scales to weigh wheat, livestock, fertilizer or other agricultural products.

I am also concerned that the House amendment needs clarification. Specifically:

- Why the 1994 date? Does it have some significance?
- The bill specifies a minimum tolerance, but is it the only tolerance to be applied? Table 6 of NIST Handbook 44, which contains tolerances for scales, is removed. Therefore, there are no tolerances to apply for test loads above 50,000 pounds.
- Does the minimum tolerance take precedence over other tolerances specified in NIST Handbook 44 that are not contained in Table 6?
- Does the average volume of aggregate weighed on “such scales” apply to the collective group as written, or does it apply to a single scale?

Senate Agriculture Committee

Date: **03-08-05**

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<http://www.ac>

Attachment # **9**

- How do we determine the average amount of aggregate weighed on a scale?
- What time period do we use for the average?
- What documentation is sufficient for certifying the average amount weighed on the scale? We will have to conduct audits at quarries to verify the volume of product weighed each year.
- Finally, is the intent to allow these inaccurate scales to stay in service indefinitely?

I have worked at the national level of weights and measures, and I have seen weights and measures programs erode when forced, through internal or external pressures, to provide special exemptions. Over time, the special exemptions become the norm and there is no uniformity left in the program. Eventually, all that is left is a shell of a program.

Accurate weights and measures are important to you and your constituents. Consumers depend on us to ensure they receive the correct amount of gas when they fill their tanks. They depend on us to ensure that scales used to determine grain dockage are accurate. They depend on us to ensure that when they spend their hard-earned money on a gallon of milk that it actually contains a gallon. Weakening this state's weights and measures program weakens our ability to protect consumers.

Our weights and measures program has a history of working with the entities we regulate. We never adopted a black-and-white attitude toward regulation. We worked with individual scale owners and industry groups to help them comply with the weights and measures law. We gave individuals, the petroleum industry, the fertilizer industry and the feed industry time to achieve compliance when immediate compliance would create an undue hardship on them.

We have offered to do the same with the aggregate industry, but we are not willing to provide a blanket exemption and a special tolerance that lasts indefinitely. Granting a reasonable period of time to comply with the law is reasonable. Granting a special exemption is not.

Thank you. I will gladly stand for questions at the appropriate time.

Senate Ag Committee Hearing on HB 2103

3-8-2005

Donn Teske

Kansas Farmers Union

901 W. 1st St.

Box 1064

McPherson, Ks. 67460

To the Senate Ag Committee, on behalf of the Kansas Farmers Union I would like to speak in opposition to HB 2103.

We would state our support of the Kansas Department of Agriculture in their opposition to this bill, and commend them in their oversight in looking after the interests of Kansas consumers in this regard.

When I first read this bill it didn't really raise any warning flags in my mind. However, after hearing the testimony of the Ks. Dept of Ag during the house Ag committee hearings and then by some further research KFU definitely wants to state a position in regards to HB 2103.

Kansas Farmers Union members use much aggregates from quarries who are backing the implementation of the bill. They will be placed at greater risk of increased financial expenses in small increments if HB 2103 passes. If the scale systems in these quarries are too outdated to accurately measure the loads passing over them while the rest of the nation maintains the standards where Kansas currently is, then scales need to be updated.

It makes no sense for Kansas to relax their standards beyond what national standards are. I feel that when the Kansas Aggregate Producers Association was unable to convince the national organization to relax their standards that this was a significant statement. Why is it the rest of the country feels that they can meet these tolerances and we in Kansas cannot?

Again, Kansas Farmers Union is in opposition to HB 2103, we can see no benefit to our members in your passing of this bill.

I want to apologize for submitting written testimony only. Due to a death in the family I am unable to participate in person.

Thank you very much for your time.

Donn Teske
President, Kansas Farmers Union

Senate Agriculture Committee

Date: **03-08-05**

Attachment # **10**