

Approved: March 21, 2005
Date

MINUTES OF THE SENATE AGRICULTURE COMMITTEE

The meeting was called to order by Chairman Mark Taddiken at 8:30 A.M. on March, 16, 2005 in Room 423-S of the Capitol.

All members were present except:
Steve Morris- excused

Committee staff present:
Raney Gilliland, Kansas Legislative Research
Lisa Montgomery, Office of Revisor of Statutes
Jacqui Jones, Committee Secretary

Conferees appearing before the committee:

Proponents:
Constantine Cotsoradis, Assistant Secretary, Kansas Department of Agriculture (KDA)
Duane Simpson, Dir. Govt. Relations, Kansas Agribusiness Retailers Association (KARA)
Brad Harrelson, State Policy Director, Governmental Relations, Kansas Farm Bureau (KFB)
Chris Wilson, Kansas Agricultural Aviation Association (KAAA)
Leslie Kaufman, Government Relations Director, Kansas Cooperative Counsel (KCC)

Others attending:
See attached list.

Chairman Taddiken advised the Committee that before hearing new bills today, they would be working bills previously heard.

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

Senator Taddiken moved, seconded by Senator Pine that the following language be adopted.:

A conceptual amendment was made to Section 1 (m) to make all plans and specifications submitted to the department after July 1, 2005, for construction or expansion of confined feeding facilities of more than 1,000 animal units to be prepared by a licensed professional engineer. For facilities of less than 1,000 animal units the continue current policy will continue.

A substitute motion was made by Senator Lee, seconded by Senator Huelskamp that the number of animal units be changed to 3,725. The motion passed.

The Chairman advised the Committee that the new language will be written by the Office of the Revisor of Statutes and it will be available when working the bill Monday, March 21.

SB-288 - Kansas pet animal act, rules and regulations, fees and limitation on expenditures.

Senator Francisco moved to strike Section 1 of the bill which would have expanded regulatory authority for the Animal Health Department. Senator Lee seconded the motion. Motion carried.

Senator Taddiken offered a motion amending language on page 2, line 17 to strike "\$100" and insert "\$50" and re-insert "more than 45 days". Senator Lee seconded the motion. Motion passed.

Senator Schmidt moved to strike Section 3 from the bill. Senator Bruce seconded. Motion carried.

Senator Lee moved that the bill be moved out of Committee favorably, as amended. Senator Pine seconded the motion. Motion carried.

CONTINUATION SHEET

MINUTES OF THE Senate Agriculture Committee at 8:30 A.M. on March, 16, 2005 in Room 423-S of the Capitol.

HB-2341 - Uniformity and jurisdiction of Kansas fertilizer law.

Chairman Taddiken then invited Constantine Cotsoradis, (KDA), to testify in support of **HB-2341**.

The Assistant Secretary remarked that this legislation would ensure that fertilizer laws, rules and regulations would remain uniform throughout Kansas (Attachment 1).

Duane Simpson, KARA, testified in favor of **HB-2341** stating that the bill would make Kansas fertilizer law uniform throughout the state. He said that state and federal agencies have the necessary resources to base regulations on science (Attachment 2).

Leslie Kaufman, KCC, testified in support of **HB-2341** stating that the bill places the regulation of fertilizer in the hands of the state, thus allowing uniformity across Kansas. Regulation should be based upon sound scientific principles and applied evenly to dealers, handlers and end-users (Attachment 3).

Chris Wilson, KAAA, testified in support of **HB-2341** stating that fertilizer, as well as pesticides, should only be regulated at the state level, as opposed to the local level, to provide for consistent, science-based regulations (Attachment 4).

Brad Harrelson, KFB, submitted written testimony in support of **HB-2341**. He stated that no governmental agency should have the authority to ban the manufacture or use of any agricultural product unless there is conclusive, scientific proof that it is detrimental to society. KFB believes that this legislation merely provides the same uniformity for fertilizer as currently exists in statute for agricultural chemicals (Attachment 5).

The hearings on **HB-2341** were closed.

HB-2280 - Sampling, civil penalties for violations of law and increased fees for grain warehouses.

Chairman Taddiken invited Constantine Cotsoradis (KDA) to testify in support of **HB-2280** (Attachment 6). He remarked that the bill contains new, clear statutory authority for the grain warehouse program to conduct quality inspections.

Chairman Taddiken continued the hearing and adjourned the meeting at 9:30 a.m.

The next meeting is scheduled for Monday, March 21, 2005.



KANSAS

DEPARTMENT OF AGRICULTURE
ADRIAN J. POLANSKY, SECRETARY

KATHLEEN SEBELIUS, GOVERNOR

**Testimony on House Bill 2341
to
The Senate Committee on Agriculture**

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

March 16, 2005

Good morning Chairman Taddiken and members of the committee. I am Constantine Cotsoradis, assistant secretary of agriculture. I am here to testify in support of HB 2341.

This legislation will ensure that fertilizer laws, rules and regulations are uniform throughout Kansas. Consistent, uniform laws and regulations are essential to effective regulation and compliance by industry. For this reason, we support HB 2341.

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

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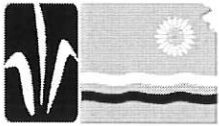
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Senate Agriculture Committee

Date: **3-16-05**

Attachment # **1**

KANSAS AGRIBUSINESS RETAILERS ASSOCIATION



**KARA is
"Committed to
Professional
Development
and Business
Viability for
the Retail Crop
Production
Industry"**

Statement of the
Kansas Agribusiness Retailers Association

Presented to the
Senate Agriculture Committee

In support of
House Bill 2341

Senator Mark Taddiken, Chairman

March 15, 2005

Presented by:

Duane Simpson
Director of Government Relations

Kansas Agribusiness Retailers Association
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Senate Agriculture Committee
Date: **3-16-05**

Attachment # **2**

Chairman Taddiken and Members of the Senate Agriculture Committee, I am Duane Simpson appearing on behalf of the Kansas Agribusiness Retailers Association (KARA). KARA's membership includes over 700 agribusiness firms that are primarily retail facilities that supply fertilizers, crop protection chemicals, seed, petroleum products and agronomic expertise to Kansas farmers. KARA's membership base also includes ag-chemical and equipment manufacturing firms, distribution firms and various other businesses associated with the retail crop production industry. I appear before you in support of HB 2341.

HB 2341 would make Kansas fertilizer law uniform throughout the state. Kansas currently has a uniform statewide pesticide law which this bill is modeled after. Currently, no city or county in Kansas has attempted to regulate or ban fertilizer. Unfortunately, cities and counties in other states are beginning to attempt to regulate fertilizer at the local level.

In Madison, Wisconsin the city council has outlawed anything that contains more than a trace amount of phosphorus. It is illegal to advertise or sell the product to any resident of the city. Violations carry a \$25 to \$300 fine. Meanwhile, Dane County, Wisconsin has a similar ordinance except there are a few exceptions, including agricultural uses. Ag retailers in the county are required to know the intended use of fertilizer sold to residents of the county. They also cannot advertise in any media outlet that might be seen or heard by residents of the city.

Why should Kansas care what about what communities in Wisconsin are doing? The answer is simple, it could happen here. All it takes is 2 out of 3 county commissioners to outlaw a product based on junk-science and emotion.

Fertilizer can and should be regulated at the state and federal level to avoid the possibility of having a confusing patchwork of regulations throughout the state. Such a patchwork can put retailers within the state at a competitive advantage or disadvantage depending on what side of the county line they are on. In addition, a county regulation that does not exempt agriculture could put farmers at a competitive disadvantage with other farmers within the state. Farmers whose property crosses county lines could face a regulatory nightmare without statewide uniformity of fertilizer regulation.

In addition, State and federal agencies have the necessary resources to base regulations on science. In other states, local communities have ignored sound scientific principles and chosen to rely upon activist generated and internet based junk-science. Kansas has already recognized the value of having statewide regulation of pesticide. Rules and regulations dealing with the environment should be handled the same whether you live in Johnson County or Johnson City. On behalf of the KARA, I urge this committee to pass HB 2341. I will be happy to stand for questions at the appropriate time.



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SENATE AGRICULTURE COMMITTEE

March 16, 2005
Topeka, Kansas

RE: HB 2341 – Statewide Fertilizer Uniformity.

Chairman Taddiken and members of the Senate Agriculture Committee, thank you for the opportunity to comment today on behalf of the Kansas Cooperative Council. I am Leslie Kaufman and I serve the Council as Governmental Relations Director. The Council includes more than 223 cooperative business members. Together, they have a combined membership of nearly 200,000 Kansans. Included in our membership are more than 110 grain elevator/farm supply cooperatives, many with multiple facilities, which will be directly impacted by the bill before you today.

As you know, the bill before you today places regulation of fertilizer in the hands of the state, thus allowing for uniformity across Kansas. Regulation of agricultural chemicals and fertilizers should be based on sound scientific principles and applied evenly to dealers, handlers, and end-users. The KCC supports efforts to ensure that current regulations for storing, handling, and applying bulk fertilizers and agricultural chemicals are uniformly enforced. As such, we support HB 2341.

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Attachment # 3

Kansas already has statewide uniformity for regulating pesticide use. HB 2341 will extend that same philosophy to regulating fertilizer products. Consistency from one area of the state to another is extremely important. It prevents the creation of patchwork "regulatory islands". Retailers and applicators frequently provide products and services across jurisdictional boundaries. The state needs to put safeguards in place now to ensure that Kansas' agribusinesses and producers are not faced with the logistic and practical nightmare of multiple regulatory systems for the same product/practice.

HB 2341 is a common sense approach to regulating fertilizer products. It provides a time-tested, workable, and appropriate mechanism to help ensure sound science controls fertilizer regulation in Kansas. As such, we encourage this committee to act favorably on HB 2341. Thank you for your consideration.

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STATEMENT OF THE



KANSAS AGRICULTURAL AVIATION ASSOCIATION



KANSAS DAIRY ASSOCIATION



KANSAS SEED INDUSTRY ASSOCIATION

TO THE SENATE AGRICULTURE COMMITTEE

SENATOR MARK TADDIKEN, CHAIR

REGARDING HB 2341

MARCH 16, 2005

Senate Agriculture Committee
Date: **3-16-05**

Attachment # **4**

Chairman Taddiken and Members of the Senate Agriculture Committee, I am Chris Wilson, providing this statement to you today in support of HB 2341, on behalf of the Kansas Agricultural Aviation Association (KAAA), Kansas Seed Industry Association (KSIA), and Kansas Dairy Association (KDA). All are statewide trade and professional associations, KAAA representing 250 member firms involved in the aerial application of crop protection chemicals; KSIA representing 125 member firms producing and processing seed; and all the 470 dairies in Kansas – as of 2004, the 18th highest dairy production state – and the fastest growing dairy state - in the country.

HB 2341 provides for uniform state regulation of fertilizer in Kansas. This is currently the case, but is not spelled out in the law. Kansas law gives the Kansas Department of Agriculture the authority for fertilizer regulation. HB 2341 establishes that fertilizer regulation is the state's role and not that of local governments.

The motivation for this bill is due to the attempts of local governments in Wisconsin to regulate fertilizer. In Madison, Wisconsin the city council has outlawed anything that contains more than a trace amount of phosphorus. It is illegal to advertise or sell the product to any resident of the city. Violations carry a \$25 to \$300 fine. Meanwhile, Dane County, Wisconsin has a similar ordinance except there are a few exceptions, including agricultural uses. Ag retailers in the county are required to know the intended use of fertilizer sold to residents of the county. They also cannot advertise in any media outlet that might be seen or heard by residents of the city.

No doubt the Wisconsin legislature intended for fertilizer regulation to be the domain of the state and didn't see the need to preempt regulation by local governments. A number of states, including Kansas, have passed statutes, known as FIFRA preemption, referring to the Federal Insecticide, Fungicide, and Rodenticide Act, providing that pesticide regulation is solely the domain of the state.

Fertilizer as well as pesticides should only be regulated at the state level, as opposed to the local level, to provide for consistent, science-based regulations and avoid a patchwork of regulations. Multiple jurisdiction regulations would be difficult or impossible to comply with if they were in conflict with one another.

The state has the expertise in this area, where it would not be possible for many local governments to have staff qualified in developing or enforcing fertilizer regulations.

Thank you for the opportunity to provide these comments in support of HB 2341. We would urge you to pass it out favorably, and I would be glad to respond to questions.

PUBLIC POLICY STATEMENT

SENATE COMMITTEE on AGRICULTURE

RE: HB 2341 – an act concerning agriculture; relating to
uniformity and jurisdiction of the Kansas fertilizer law.

March 16, 2005
Topeka, Kansas

Testimony provided by:
Brad Harrelson
State Policy Director
KFB Governmental Relations

Chairman Taddiken, and members of the Senate Committee on Agriculture, thank you for the opportunity to express our support of HB 2341. I am Brad Harrelson, State Policy Director—Governmental Relations for Kansas Farm Bureau. KFB is the state's largest general farm organization representing more than 40,000 farm and ranch families through our 105 county Farm Bureau Associations.

The membership of Kansas Farm Bureau supports a uniform, safe, effective and scientifically based system of regulating agricultural chemicals, fertilizers and pesticides, which is consistent with state and federal law and administered by appropriate state and federal authorities. Furthermore, we believe no governmental agency should have the authority to ban the manufacture or use of any agricultural product unless there is conclusive, scientific proof that it is detrimental to society.

While we generally support local issue control by local units of government, we believe it is unwise authority when cities or counties might arbitrarily prohibit the use of certain ag products based on conjecture, junk science, or political whimsy. This legislation merely provides the same uniformity for fertilizer as currently exists in statute for ag chemicals.

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Attachment # **5**

It is our understanding that an amendment may also be offered providing the same uniformity provisions for agricultural seed. We would be supportive of such an amendment for many of the aforementioned reasons.

In summary, Kansas Farm Bureau respectfully urges your support of HB 2341, and that you recommend it favorably for passage. Thank you, once again, for the opportunity to share the policy of our members. KFB stands ready to assist as you consider this measure.

Thank you.



KANSAS

DEPARTMENT OF AGRICULTURE
ADRIAN J. POLANSKY, SECRETARY

KATHLEEN SEBELIUS, GOVERNOR

**Testimony on House Bill 2280
to
The Senate Committee on Agriculture**

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

March 16, 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 support of HB 2280.

Legislative Post Audit completed a review of the Grain Warehouse Inspection program in August 2004. The mission of this program is to audit to ensure that the grain our farmers deposit in our licensed warehouses is maintained there for them. A grain warehouse is essentially a bank.

Briefly, last summer's audit showed that the program, though beset with funding difficulties, has kept our state's farmers relatively well-protected from loss. However, reviewers also said the program should do more to protect grain quality. This bill is a result of that review.

There were three components to the original bill, two of which addressed issues raised by Legislative Post Audit. The third component addressed funding issues we have known about since the program was transferred to the Department of Agriculture in 1997, but which have now reached the crisis point.

Two components were struck from the original bill by the House committee. They provided civil penalty authority and authorized raising the statutory fee limits. We believe that civil penalty authority is necessary to encourage elevators to correct in a timely manner any violations that could affect grain quantity and quality. Without civil penalty authority, our only enforcement tool is to revoke an elevator's license. This action is severe. We do it only in the most extreme cases. We believed civil penalties, judiciously used, could be a tool to encourage elevators to correct problems before they become irreversible.

The other component of the bill, raising the cap on program fees, did not mean that fees for elevators would be raised. It merely would have given us the ability to raise fees if it became necessary for the program to continue. Without the ability to raise fees, we will have to depend

Senate Agriculture Committee
Date: **3-16-05**

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Attachment # **6**

on current fee revenue and hope we receive enough state general funding to continue the program.

What remains in this amended bill is new, clear statutory authority for the grain warehouse program to conduct quality inspections. Currently, the program serves as the auditor to ensure that grain elevators storing farmers' grain have sufficient quantities on hand to secure these deposits. The actual volume of grain stored is only one element of ensuring that grain elevators are solvent.

Ensuring grain quality also is important to protect farmers. It does not matter if the elevator is full to its brim, if quality deteriorates to the point that the grain is worthless. Consequently, as recommended in the Legislative Post Audit report, we are asking for statutory authority to inspect grain quality and, if necessary, to require official grain sampling and grading.

The grain warehouse program serves grain elevators, the farmers who store their grain in those elevators, and the rural communities that depend on the jobs these elevators provide. The changes contained in HB 2280 will strengthen the grain warehouse program's ability to protect our farmers and their communities.

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