

MINUTES OF THE SENATE AGRICULTURE

The meeting was called to order by Chairman Mark Taddiken at 8:30 a.m. on March 7, 2006 in Room 423-S of the Capitol.

All members were present except:
Stephen Morris- excused

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

Conferees appearing before the Committee:
Dr. Dirk Hanson, Kansas Board of Veterinary Examiners
Gary Reser, Kansas Veterinary Medical Association
Duane Simpson, Kansas Association of Ethanol Producers

Others attending:
See attached list.

Hearings on **HB 2835--Disciplinary action, assessment of penalties and confidentiality under the Kansas veterinary practice act** were opened.

Dr. Dirk Hanson testified in support of **HB 2835** (Attachment 1). He stated that in Section 1, KSA 47-830 "violation of a board order" would be added as grounds for disciplinary action under the category of unprofessional conduct. He also said that revisions to Section 2, KSA 47-839 would add waivers to the confidentiality privilege.

Gary Reser spoke in favor of **HB 2835** (Attachment 2). He said the Kansas Veterinary Medical Association has reviewed the changes in this bill and has endorsed the proposed legislation. The KVMA believes that the changes in this bill would allow them to operate more efficiently and better serve veterinarians and the citizens of Kansas.

Staff had a question for Dr. Hanson regarding the increase of the potential penalty applicable to violations from \$2,000 to \$5,000.

Dr. Hanson stood for questions from staff and Committee members. It was noted that the penalty to violations in this bill have been increased from \$2,000 to \$5,000.

Hearings on **HB 2835** were closed.

Hearings were opened on **HB 2833--licenses, definitions and registration under the Kansas veterinary practice act**.

Dr. Hanson offered testimony in favor of **HB 2833** (See Attachment 1). He said the bill would remove the definition of "veterinary medical specialist" and "education commission for foreign veterinary graduates (ECFVG)." In Section 3 it is revised so the Board would have re-examination authority. Changes in Section 4 concerning the auditing of veterinary premises were suggested.

Gary Reser offered written testimony in favor of **HB 2833**. (See Attachment 2)

Dr. Hanson further explained the amendment to **HB 2833**. This amendment concerns the unlawful practice of veterinary medicine by a person without a license in certain cases and a definition of "companion animal." He provided an amendment to the bill for the Committee to consider (Attachment 3).

Dr. Hanson stood for other questions from the Committee.

CONTINUATION SHEET

MINUTES OF THE Senate Agriculture at 8:30 a.m. on March 7, 2006 in Room 423-S of the Capitol.

Hearings were closed on **HB 2833**. Final action will be taken on this bill tomorrow.

SB 543--Creation of Kansas ethanol council was discussed. Duane Simpson reviewed suggested amendments and explanations (Attachment 4). One amendment would expand the membership of the Kansas Biofuels Council to include biodiesel as well as ethanol. Another suggested amendment was a technical cleanup to change the word "board" to "council" in the remaining sections of the bill. Another amendment would reduce the state funding to 1/8 of a cent per gallon of biofuels produced to approximately \$250,000. Another amendment offered was to allow the council to exist after July 1, 2009, but sunset the state support.

Mr. Simpson stood for questions.

Jere White, Kansas Corn Growers Association, had e-mailed comments on **SB 543** (Attachment 5) to Committee members and had no further comments.

Further discussion was held on **SB 543**.

Senator Schmidt made a motion to table SB 543; seconded by Senator Lee. The Committee discussed the motion.

Senator Bruce made a substitute motion to pass the bill with the amendments, but remove the funding. Senator Pine seconded the motion. No action was taken on the motion.

Senator Huelskamp moved the approval of the minutes of the February 21 and March 1 Committee meetings. Seconded by Senator Bruce. Motion carried.

As the meeting proceeded past the time of adjournment, Chairman Taddiken adjourned the meeting at 9:40 a.m.

The next Committee meeting is March 8, 2006 in Room 423-S.

The State of Kansas Board of Veterinary Examiners

Proponent Testimony to the Senate Agriculture Committee, Tuesday, March 7, 2006

My name is Dr. Dirk Hanson. I serve as the Kansas Board of Veterinary Examiners' Executive Director. I testify today on behalf of the seven member Board in support of House Bills 2835, and 2833. These bills would revise statutes found in what is commonly referred to as "the Veterinary Practice Act." These revisions would better enable the Board to promote public health safety and welfare relative to the practice of veterinary medicine.

In House Bill 2835, Section 1, KSA 47-830 "violation of a board order" would be added as grounds for disciplinary action under the category of unprofessional conduct.

In Section 2, KSA 47-839 is revised to add the following waivers to the confidentiality privilege: (1) reporting cruel or inhumane treatment of any animal (2) where information is necessary to provide care in an emergency where the absence of immediate medical attention could reasonably be expected to place the animal's health in serious jeopardy or impair bodily function; (3) where the failure to disclose vaccination information may endanger the public's health, safety, or welfare.

In House Bill 2833, Section 1, KSA 47-816 is revised to remove the definition of "Veterinary medical specialist." Such definition is unnecessary language, as the alternative provisions for licensure of such specialists were removed in an earlier revision of the practice act.

Additionally, the definition of "ECFVG certificate" is removed.

In Section 2, KSA 47-824 the reference to "ECFVG" is also removed. The specific requirement for the licensing of an applicant who is not a graduate of a school of veterinary medicine which is recognized and approved by the board is that they "possess a certificate issued by the educational commission for foreign veterinary graduates". This specific requirement already currently exists in both statute 47-824, and regulation 70-4-8(d). The statute is being changed to simply say that any such applicant must meet the "education requirements prescribed by the board in rules and regulations". Since the specific "educational requirements currently prescribed by the board" are already established in regulation 70-4-8(d), the regulation will remain unchanged.

In Section 3 of this bill, 47-825 is revised to establish re-examination is governed by rules and regulations of the Board. Additionally, language is removed that would contradict that the Board may limit the re-examinations of the national exam.

In Section 4, KSA 47-840 is modified to clarify that a veterinary premises is audited and registered when there is a change of the licensed veterinarian who is responsible for the operation and management of the premises.

Senate Agriculture Committee
3-7-06
Attachment 1

The Kansas Board of Veterinary Examiners requests an amendment to **House Bill 2833**. Our agency receives multiple complaints per year from Kansans who have been defrauded or have had their companion animals harmed by non-veterinarians who have unlawfully practiced veterinary medicine on the complainant's animal. Such non-veterinarians have included human chiropractors, and acupuncturists.

A bill that was introduced in the House, **House Bill 2834**, would have revised KSA 47-834 to authorize the Board in cases of a non-veterinarian practicing veterinary medicine unlawfully to: 1) issue cease and desist order, 2) issue a citation and fine, 3) issue subpoenas to, and 4) bring an injunction action against such person. The Board has already had these same authorities for several years in cases involving veterinarians. Procedures for appeal of such actions by the Board are also already in the Veterinary Practice Act as well.

The House Ag Committee tabled H.B. 2834 until language could be developed to specify in the text of the bill that these authorities in cases involving non-veterinarians would only apply in cases where a non-veterinarian unlawfully practicing veterinary medicine on companion animals. Such language has since been developed, including a definition for "companion animal". We request this new language, along with the language found in HB 2834 be introduced as an amendment to House Bill 2833.

We respectfully request you amend H.B. 2833 with the newly developed language which has been provided to you and then vote "yes" on amended H.B. 2833, and H.B. 2835.

Thank you.



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**Testimony
Senate Agriculture Committee
8:30 a.m. Tuesday, March 7
Gary Reser**

Good morning.

My name is Gary Reser. I am executive vice president of the Kansas Veterinary Medical Association (KVMA). The KVMA is the association for the Kansas veterinary profession and is composed of over 700 members in Kansas and almost 400 members in all other states.

I am here today to represent the KVMA and to respectfully request that you vote "yes" on H.B. 2833 and H.B. 2835.

The KVMA's strong support for the changes in the Kansas Veterinary Practice Act found in these bills is the result of careful study and deliberation that began over eight months ago.

In June of 2005, the KVMA Legislative Committee met for the first time with members of the Kansas Board of Veterinary Examiners and reviewed the initial proposals for changes in the Kansas Veterinary Practice Act.

Members of the KVMA Legislative Committee met with members of the Kansas Board of Veterinary Examiners again on Nov. 4, 2005 when the Board gave final approval to the proposals.

The KVMA Legislative Committee gave final approval to the changes found in H.B. 2833 and H.B. 2835 on Dec. 11, 2005 and this was followed with an endorsement of the proposed legislation by the KVMA Board of Directors on Jan. 20 in Topeka.

It is also important to mention that these proposed statutory changes were shared with the entire KVMA membership on at least three occasions.

As you can see, the KVMA carefully scrutinized this legislation at each level of membership over a nearly eight month period.

The KVMA feels that the statutory changes found in these bills will allow the Kansas Board of Veterinary Examiners to operate more efficiently, better serve veterinarians and the citizens of Kansas, and most importantly, protect the public health, safety, and welfare.

Once again, please vote "yes" on H.B. 2833 and H.B. 2835.

Thank you.

Gary Reser, Executive Vice President
Kansas Veterinary Medical Association

*Senate Agriculture Committee
3-7-06
Attachment 2*

HOUSE BILL NO. 2833

By Committee on Agriculture

AN ACT concerning the Kansas veterinary practice act; amending K.S.A. 47-824, **47-834**, and 47-840 and K.S.A. 2005 Supp. 47-816 and 47-825 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 2005 Supp. 47-816 is hereby amended to read as follows: 47-816. As used in the Kansas veterinary practice act:

(a) 'Animal' means any mammalian animal other than human and any fowl, bird, amphibian, fish or reptile, wild or domestic, living or dead.

(b) 'Board' means the state board of veterinary examiners.

[(c) 'Companion animal' means any dog, cat, or other domesticated animal possessed by a person for purposes of companionship, security, hunting, herding, or providing assistance in relation to a physical disability but shall exclude any animal raised on a farm or ranch and used or intended for use as food.]

~~(e)~~ (d) 'Clock hour of continuing education' means 60 minutes of participation in a continuing education program or activity which meets the minimum standards for continuing education according to rules and regulations adopted by the board.

~~(d)~~ (e) 'Direct supervision' means the supervising licensed veterinarian:

(1) Is on the veterinary premises or in the same general area in a field setting;

(2) is quickly and easily available;

(3) examines the animal prior to delegating any veterinary practice activity to the supervisee and performs any additional examination of the animal required by good veterinary practice; and

Senate Agriculture Committee
3-7-06
Attachment 3

(4) delegates only those veterinary practice activities which are consistent with rules and regulations of the board regarding employee supervision.

(e) (f) 'Licensed veterinarian' means a veterinarian who is validly and currently licensed to practice veterinary medicine in this state.

(f) (g) 'Indirect supervision' means that the supervising licensed veterinarian:

(1) Is not on the veterinary premises or in the same general area in a field setting, but has examined the animal and provided either written or documented oral instructions or a written protocol for treatment of the animal patient, except that in an emergency, the supervising licensed veterinarian may provide oral instructions prior to examining the animal and subsequently examine the animal and document the instruction in writing;

(2) delegates only those veterinary practice tasks which are consistent with the rules and regulations of the board regarding employee supervision; and

(3) the animal being treated is not anesthetized as defined in rules and regulations.

(g) (h) 'Practice of veterinary medicine' means any of the following:

(1) To diagnose, treat, correct, change, relieve, or prevent animal disease, deformity, defect, injury or other physical or mental condition; including the prescription or administration of any drug, medicine, biologic, apparatus, application, anesthesia or other therapeutic or diagnostic substance or technique on any animal including but not limited to acupuncture, surgical or dental operations, animal psychology, animal chiropractic, theriogenology, surgery, including cosmetic surgery, any manual, mechanical, biological or chemical procedure for testing for pregnancy or for correcting sterility or infertility or to render service or recommendations with regard to any of the above and all other branches of veterinary medicine.

(2) To represent, directly or indirectly, publicly or privately, an ability and willingness to do any act described in paragraph (1).

(3) To use any title, words, abbreviation or letters in a manner or under circumstances

which induce the belief that the person using them is qualified to do any act described in paragraph (1). Such use shall be prima facie evidence of the intention to represent oneself as engaged in the practice of veterinary medicine.

(4) To collect blood or other samples for the purpose of diagnosing disease or conditions. This shall not apply to unlicensed personnel employed by the United States department of agriculture, the Kansas animal health department or the Kansas department of agriculture who are engaged in such personnel's official duties.

(5) To apply principles of environmental sanitation, food inspection, environmental pollution control, animal nutrition, zoonotic disease control and disaster medicine in the promotion and protection of public health in the performance of any veterinary service or procedure.

~~(h)~~ (i) 'School of veterinary medicine' means any veterinary college or division of a university or college that offers the degree of doctor of veterinary medicine or its equivalent, which conforms to the standards required for accreditation by the American veterinary medical association and which is recognized and approved by the board.

~~(i)~~ (j) 'Veterinarian' means a person who has received a doctor of veterinary medicine degree or the equivalent from a school of veterinary medicine.

~~(j)~~ 'Veterinary medical specialist' means a person who has completed advanced training in such person's specialty area and is a diplomat of such specialty.

(k) 'Veterinary premises' means any premises or facility where the practice of veterinary medicine occurs, including but not limited to, a mobile clinic, outpatient clinic, satellite clinic or veterinary hospital or clinic, but shall not include the premises of a veterinary client, research facility, a federal military base, Kansas state university college of veterinary medicine or any premises wherein the practice of veterinary medicine occurs no more than three times per year as a public service outreach of a registered veterinary premises.

(l) 'Graduate veterinary technician' means a person who has graduated from an American veterinary medical association accredited school approved by the board.

(m) 'Registered veterinary technician' means a person who is a graduate veterinary technician, has passed the examinations required by the board for registration and is registered by the board.

(n) 'Veterinary-client-patient relationship' means:

(1) The veterinarian has assumed the responsibility for making medical judgments regarding the health of the animal or animals and the need for medical treatment, and the client, owner or other caretaker has agreed to follow the instruction of the veterinarian;

(2) there is sufficient knowledge of the animal or animals by the veterinarian to initiate at least a general or preliminary diagnosis of the medical condition of the animal or animals. This means that the veterinarian has recently seen or is personally acquainted with the keeping and care of the animal or animals by virtue of an examination of the animal or animals, or by medically appropriate and timely visits to the premises where the animal or animals are kept, or both; and

(3) the practicing veterinarian is readily available for followup in case of adverse reactions or failure of the regimen of therapy.

~~(o) 'ECPVG certificate' means a certificate issued by the American veterinary medical association education commission for foreign veterinary graduates, indicating that the holder has demonstrated knowledge and skill equivalent to that possessed by a graduate of an accredited or approved college of veterinary medicine.~~

~~(p)~~ (o) 'Veterinary prescription drugs' means such prescription items as defined by subsection ~~(f)~~ of 21 U.S.C. Sec. 353, as in effect on July 1, 2001.

~~(q)~~ (p) 'Veterinary corporation' means a professional corporation of licensed veterinarians incorporated under the professional corporation act of Kansas, cited at K.S.A. 17-2706 et seq.,

and amendments thereto.

(†) (q) 'Veterinary partnership' means a partnership pursuant to the Kansas uniform partnership act, cited at K.S.A. 2002-Supp. 56a-101 et seq. , and amendments thereto, formed by licensed veterinarians engaged in the practice of veterinary medicine.

(s) (r) 'Person' means any individual, corporation, partnership, association or other entity.

Sec. 2. K.S.A. 47-824 is hereby amended to read as follows: 47-824. (a) Any person desiring a license to practice veterinary medicine in this state shall make written application to the board on forms provided for that purpose. The board shall issue a license to practice veterinary medicine to an applicant who:

(1) Is a graduate of a school of veterinary medicine as defined in K.S.A. 47-816 and amendments thereto or ~~possesses a certificate issued by the educational commission for foreign veterinary graduates (ECFVG)~~ *meets all education requirements prescribed by the board pursuant to rules and regulations of the board;*

(2) has passed the examination or examinations prescribed by the board *within time limits prescribed by the board pursuant to rules and regulations of the board;*

(3) has passed the Kansas veterinary legal practice examination;

(4) is a person of good moral character;

(5) has paid the license application fee and when applicable, the examination fee as established pursuant to this section; and

(6) provides other information and proof as the board may establish by rules and regulations.

(b) If the applicant graduated from a school of veterinary medicine more than five years prior to the year in which the application is submitted, the application shall show proof that:

(1) The applicant has actively practiced veterinary medicine for at least 3,000 hours during the three years immediately preceding such application; or

(2) the applicant has passed the examination or examinations prescribed by the board within the five years preceding such application.

(c) If an applicant is found not qualified for a license pursuant to subsection (a)(1) or (a)(4), the executive director of the board shall notify the applicant in writing of such findings and the grounds therefor. An applicant found unqualified pursuant to subsection (a)(1) or (a)(4) may request a hearing on the question of the applicant's qualification under the procedure set forth in the Kansas administrative procedure act. Any applicant who is found not qualified shall forfeit any application fee which the applicant has paid.

Sec. 3. K.S.A. 2005 Supp. 47-825 is hereby amended to read as follows: 47-825. (a) The board shall provide for at least one examination during each year and may provide for such additional examinations as are necessary. A person desiring to take an examination shall make application at least 60 days before taking the examination.

(b) The preparation, administration, *reexamination* and grading of the examination shall be governed by the rules and regulations prescribed by the board. Examinations shall be designed to test the examinee's knowledge of and proficiency in the subjects and techniques commonly taught in schools of veterinary medicine and the laws and rules and regulations dealing with the practice of veterinary medicine in Kansas. The board may adopt and use the examinations prepared by any national testing service for veterinary medicine. The examination of applicants for license to practice veterinary medicine shall be conducted according to methods deemed by the board to be the most practical and expeditious to test the applicant's abilities and qualifications. The minimum passing scores shall be established by rules and regulations.

(c) After each examination, the executive director shall notify each examinee in writing

of the result of the examinee's examination within 60 days, and the board shall issue a license to each applicant for a license who has successfully completed the examination. The executive director shall record each new license and issue a license to each new licensee. ~~Any person failing an examination shall be admitted to any subsequent examination on payment of the examination fees.~~ Any applicant for examination who does not attend the examination shall forfeit the examination fee.

[Sec. 4. K.S.A. 47-834 is hereby amended to read as follows: 47-834. (a) ~~No person who shall practice veterinary medicine without a currently valid license may receive any compensation for services so rendered, except for persons exempted under~~ *Unlawful practice of veterinary medicine is the practice of veterinary medicine by a person without a license unless that person is exempt from such requirement pursuant to the provisions of K.S.A. 47-817 and amendments thereto.*

(b) ~~Any person who shall practice veterinary medicine without a license or operate a veterinary premises without registering with the board shall be guilty of a misdemeanor and upon conviction shall be fined not less than \$250 nor more than \$2,000 or imprisoned for not more than 90 days, or both.~~ *Unlawful operation or management of veterinary premises is the operation or management by a person of a veterinary premises that is not registered pursuant to the provisions of K.S.A. 47-840, and amendments thereto.*

(c) (1) *Unlawful practice of veterinary medicine is a class B nonperson misdemeanor.*

(2) *Unlawful operation or management of veterinary premises is a class B nonperson misdemeanor.*

(3) ~~Each act of such unlawful practice shall constitute~~ *that violates the provisions of*

subsection (a) or (b) constitutes a distinct and separate offense.

~~(e) (d) The board may order the remedying of any violations of any provision of this act or any rules and regulations of the board. The board may issue a cease and desist order upon board determination that a licensee, registrant or any veterinarian has violated any provision of this act, an order of the board or any rules and regulations of the board. The board may bring an action to enjoin any veterinarian from practicing veterinary medicine without a currently valid license or from operating a veterinary premises without registering such premises with the board. If the court finds that the person is violating this act, it shall enter an injunction restraining such person from such unlawful acts.~~

~~(d) The board may order the remedying of any violations of any provision of this act or any rules and regulations adopted thereunder and the board may issue a cease and desist order upon board determination that a licensed veterinarian or the holder of a premises registration has violated any order of the board, any provision of this act and any rules and regulations adopted thereunder.~~

(e) If the board determines that a person is practicing veterinary medicine without a license on a companion animal or is operating or managing a veterinary premises that is not registered pursuant to K.S.A. 47-840, and amendments thereto, in addition to any other penalties imposed by law, the board may take any or all of the following actions:

- (1) Issue a cease and desist order;*
- (2) issue a citation and fine in accordance with the procedures in K.S.A. 47-843 and 47-844, and amendments thereto; and*
- (3) bring an injunction action in its own name in a court of competent jurisdiction.*

(f) For purposes of investigations and proceedings conducted by the board, the board may issue subpoenas compelling the attendance and testimony of any person or the production for examination or copying of documents or any other physical evidence according to the procedures in subsection (a)(19) of K.S.A. 47-821, and amendments thereto, if such evidence relates to practicing veterinary medicine without a license on a companion animal or operating or managing a veterinary premises that is not registered pursuant to K.S.A. 47-840, and amendments thereto.

(g) The successful maintenance of an action based on any one of the remedies set forth in this section shall in no way prejudice the prosecution of an action based on any other of the remedies.]

Sec. 5. K.S.A. 47-840 is hereby amended to read as follows: 47-840. (a) ~~Any person who owns or operates any~~ *Each* veterinary premises as defined by subsection ~~(k)~~ of K.S.A. 47-816 and amendments thereto, shall be registered by the board.

(b) ~~Any~~ *Each* premises shall be inspected and registered by the board prior to the opening of such premises. Any existing premises ~~changing ownership on or after the effective date of this act~~ shall be inspected and registered by the board within 60 days of such ~~change of ownership~~ *any change of the licensed veterinarian who is responsible for the operation and management of the veterinary premises*. Upon receipt of the application for registration and payment of the application fee and inspection fee, as established in K.S.A. 47-822, and amendments thereto, the board shall cause such premises to be inspected by an authorized agent of the board. ~~The registration of the premises shall be issued if the premises meet minimum standards established by board rules and regulations as to sanitary conditions and physical plant.~~

In lieu of the ~~above procedure~~ *an inspection*, the board may register a premises which is accredited by a recognized organization whose standards are found by the board to meet or to exceed the minimum standards as established by board rules and regulations.

(c) ~~Each application for a registration of the veterinary premises shall set forth the name of~~ The licensed veterinarian who will be responsible for the operation and management of the premises ~~shall apply for registration and shall be accompanied by~~ *submit* the fee established pursuant to ~~subsection (g) of~~ K.S.A. 47-822 and amendments thereto. ~~The registration shall not be issued unless a licensed veterinarian is so named in the application. The application may be denied if disciplinary action has been taken by the board against the veterinarian's license. The registrant shall notify the board within 30 days of any change in the licensed veterinarian who is responsible for the operation and management of the veterinary premises.~~

(d) The board shall deny any application for a registration of the premises when the inspection reveals that the premises does not meet the minimum standards established by board rules and regulations or other provisions of this act; in which event the applicant shall pay the inspection fee for each additional reinspection required to determine whether or not the premises has been brought into compliance with the minimum standards and other provisions of this act.

(e) The board, ~~after notice and hearing as provided for and conducted~~ in accordance with the Kansas administrative procedure act, may *refuse to register a veterinary premises, or revoke, suspend, place on probation, or take other disciplinary actions as authorized under this act,* ~~against the registrant~~ *limit or condition a registration,* if an inspection reveals that the premises does not meet the minimum standards established by board rules and regulations or that the premises is being operated or managed by any person other than a licensed veterinarian whose

license is in good standing with the board.

(f) The board may ~~cause inspect or reinspect~~ a premises ~~to be inspected or reinspected~~ upon receipt of a written, signed complaint that *a licensee has violated the provisions of this act or rules and regulations of the board or that* such premises ~~is not being operated, managed or maintained in accordance with the provisions of this section and upon a finding by the board that~~ there is reason to believe the premises is not in compliance with the provisions of this act *or rules and regulations of the board*. Nothing contained ~~herein in this section~~ shall be construed as preventing the board from conducting unannounced inspections of any premises without a finding of reasonable cause for the purpose of ascertaining whether or not such premises is in compliance with the provisions of this act.

(g) Application for and acceptance of a registration of the premises by an applicant shall be deemed as express consent for allowing the board or the board's authorized agent to conduct inspections to ensure compliance with this act or to investigate alleged complaints. All such inspections may be conducted with or without notice to the registrant. Inspections shall occur during normal business hours for the premises. Such consent and authority is to be clearly set forth in the application for registration and subscribed thereto by the applicant.

(h) All registrations shall expire annually and must be renewed by making application to the board and payment of the registration fee. Any renewal application which is submitted ~~more than 30 days beyond~~ *after* the annual renewal date shall be assessed a penalty fee as established by board rules and regulations. In the event that application for renewal of registration has not been submitted within ~~30~~ 60 days of its expiration date, and after notice by certified mail, return receipt requested, has been given to the registrant that the renewal application, *the registration*

fee and the late renewal penalty fee is are due, such registration of the premises shall automatically expire without a hearing and shall not be renewed unless a new registration application is submitted and the applicant pays the registration *fee, the later renewal penalty fee* and inspection fees. Any such premises which has its registration automatically expired under this subsection must be reinspected prior to the issuance of a new registration.

(i) Each registrant shall have a policy which addresses emergency and after-hour veterinary services and shall inform each client of the policy. If the policy changes, the registrant shall notify clients of the new policy.

(j) Each registrant shall keep such registration conspicuously displayed in the premises for which it is issued.

~~(k) Inspections or reinspections required under this section shall not be conducted by members of the board.~~

Sec. 6. K.S.A 47-824, 47-834 and 47-840 and K.S.A. 2005 Supp. 47-816 and 47-825 are hereby repealed.

Sec. 7. This act shall take effect and be in force from and after its publication in the statute book.

SENATE BILL No. 543

By Committee on Agriculture

2-9

9 AN ACT creating the Kansas ~~ethanol~~ council. biofuels
10
11 *Be it enacted by the Legislature of the State of Kansas:* biofuels
12 Section 1. The purpose of the Kansas ~~ethanol~~ council is to provide a biofuels
13 forum for representatives of the various segments of the ~~ethanol~~ industry biofuels
14 to assist in the growth and progress of the ~~ethanol~~ industry in Kansas. biofuels
15 Sec. 2. (a) For the purposes of this act, "council" shall mean the biofuels
16 Kansas ~~ethanol~~ council.
17 (b) On the effective date of this act, there is hereby created a Kansas biofuels
18 ~~ethanol~~ council.
19 (d) ~~(e)~~ The council shall be composed of ~~seven~~ members who shall be nine
20 appointed by the governor. One member shall represent the ~~agricultural~~ soybean
21 producer industry, one member shall represent the corn/sorghum pro- biofuels
22 ducer industry, one member shall represent the petroleum marketing biofuels
23 industry, one member shall represent the ethanol processor industry, one biofuels
24 member shall represent the ~~ethanol~~ marketers industry, one member biofuels
25 shall represent the co-product marketing industry and one member shall biofuels
26 represent the affiliated ~~ethanol~~ manufacturers industry. There shall also
27 be a representative from the Kansas state university college of agriculture,
28 a representative from the Kansas department of agriculture and a rep-
29 resentative from the Kansas department of commerce that shall serve as
30 nonvoting ex-officio members of the council.
31 (e) ~~(e)~~ The regular term of office of members of the council shall be four council
32 years except the initial appointments to the ~~board~~ shall be as follows:
33 Three members shall be appointed for terms of two years, three members
34 shall be appointed for terms of three years and one member shall be
35 appointed for a term of four years. The governor shall designate the term
36 of office for each member appointed to the first council. Each member
37 shall serve until a successor is appointed. Whenever a vacancy occurs in
38 the membership of the council prior to the expiration of a term of office,
39 the governor shall appoint a qualified successor to fill the unexpired term.
40 (f) ~~(f)~~ The council shall elect the chairperson and vice-chairperson of council
41 the ~~board~~ at the first meeting of the ~~board~~.
42 (e) The council shall meet at least once annually. council
43 (f) Members of the council attending meetings of the council shall

(b) For the purposes of this act, biofuels shall be defined as biodiesel as defined in KSA 55-443 or agricultural ethyl alcohol as defined in KSA 79-3401.
(c)

one member shall represent a Kansas oil refinery, one member shall represent the biodiesel processor industry,

Duane Simpson, Ks Assoc.
of Ethanol Producers
Senate Agriculture Committee
3-7-06

Attachment 4

1 be paid compensation, subsistence allowances, mileage and other ex-
2 penses as provided by K.S.A. 75-3223 and amendments thereto.

3 Sec. 3. The council shall have the following powers, duties and
4 functions:

5 (a) Establishment of procedures for entering blended fuel into the
6 marketplace by private enterprise;

7 (b) analysis of the marketing process and testing of marketing pro-
8 cedures to assure acceptance in the private marketplace of blended fuel
9 and byproducts resulting from the manufacturing process;

biofuels

10 (c) cooperation with ~~the~~ private industry to establish privately owned
11 agricultural ethyl alcohol manufacturing plants in Kansas to supply de-
12 mand for blended fuel;

biofuels

13 (d) sponsor research and development of industrial and commercial
14 uses for ~~agricultural ethyl alcohol~~ and for byproducts resulting from the
15 manufacturing process;

biofuels

16 (e) promotion of the use of renewable ~~agricultural ethyl alcohol~~ as a
17 partial replacement for imported oil and for the energy and economic
18 security of the nation;

19 (f) promotion of state and national air quality improvement programs
20 ~~and influencing federal legislation that requires or encourages the use of~~
21 ~~fuels oxygenated by the inclusion of agricultural ethyl alcohol or its~~
22 ~~derivatives;~~

biofuels

23 ~~(g) participation in the development and passage of national legisla-~~
24 ~~tion dealing with research, development and promotion of the United~~
25 ~~States production of fuels oxygenated by the inclusion of agricultural ethyl~~
26 ~~alcohol or its derivatives, access to potential markets, tax incentives, im-~~
27 ~~ports of foreign-produced fuel and related concerns that may develop in~~
28 ~~the future;~~

(i) membership in a national
biodiesel promotion
organization;
(j)

29 (g) ~~(i)~~ establishment of procedures and processes necessary to the man-
30 ufacture and marketing of fuel containing ~~agricultural ethyl alcohol~~;

biofuels

31 (h) ~~(j)~~ membership in a national ethanol promotion ~~group~~;

organization

32 ~~(k)~~ solicitation and receipt of federal or private funds to assist in the
33 development of ~~ethanol~~;

biofuels

development of biofuels

34 (k) acceptance of any gifts, donations, money or services that further
35 the ~~ethanol development act~~;

36 (l) enter into contracts that may be necessary to perform the duties
37 pursuant to this act;

38 (m) contract for the services of an administrator and other personnel
39 as may be necessary for the performance of the duties;

40 (n) annually provide an independent audit of the fund; and

February 1

41 (o) on or before ~~April 15~~ of each year, the council shall submit to the
42 governor, the senate and house standing committees on ~~commerce~~ an
43 annual report of the activities for which money from the fund has been

agriculture

1 expended during the previous fiscal year, including a copy of the inde-
2 pendent audit.

3 Sec. 4. (a) There is hereby created in the state treasury the Kansas
4 ~~ethanol~~ council fund. biofuels

5 (b) All expenditures from the Kansas ~~ethanol~~ council fund shall be biofuels
6 made in accordance with appropriation acts upon warrants of the director
7 of accounts and reports issued pursuant to vouchers approved by the
8 chairperson of the ~~board~~ or by a person designated by the chairperson.

9 Sec. 5. On July 1, ~~2007~~ and quarterly thereafter, until July 1, 2009
the state treasurer

10 shall credit ~~\$.0025~~ per gallon of ethanol produced in Kansas from the
11 ~~economic development incentive fund~~ in the state treasury to the credit biofuels
12 of the Kansas ~~ethanol~~ council fund, which fund is hereby created.

state general fund

13 All expenditures from such fund shall be made in accordance with
14 appropriation acts upon warrants of the director of accounts and reports
15 issued pursuant to vouchers approved by the secretary.

16 Sec. 6. If any provision of this act or its applicability to any person
17 or circumstance is held invalid, the remainder of the act or the application
18 of the provision to other persons or circumstances is not affected. To this
19 end the provisions of this act are severable.

20 ~~Sec. 7. On July 1, 2009, the Kansas ethanol council and the fund are~~
21 ~~hereby abolished.~~

22 Sec. 8. This act shall take effect and be in force from and after its
23 publication in the statute book.

Sec. 7

SB 543 Balloon Explainer

- Expands the council to the Kansas Biofuels Council to include biodiesel as well as ethanol.
- Creates 2 new categories on the council to include a biodiesel processor and a Kansas oil refinery, bringing the council to 9 members.
- Redefines the qualifications for the remaining council positions to include biodiesel. As amended the following biofuels industry members will be represented:
 - Soybean producer (biodiesel feedstock)
 - Corn/sorghum producer (ethanol feedstock)
 - Petroleum Marketing
 - Kansas Oil Refinery
 - Ethanol Processor
 - Biodiesel Processor
 - Biofuels Marketers
 - Co-Product Marketers (DDGs, glycerin, etc.)
 - Affiliated Biofuel Manufacturer (Plant or part manufacturers, engineers, etc.)
- Defines biofuels as biodiesel or ethanol as currently defined in statute.
- Amends the powers and duties of the council to include both biodiesel and ethanol.
- Removes the federal lobbying powers from the bill.
- Allows for membership in a national biodiesel promotion organization.
- Changes the annual legislative and gubernatorial reporting date to February 1.
- Changes the reports to go to Senate and House standing committees on Agriculture.
- Makes technical cleanup change of the word 'board' to 'council'.
- Changes the funding source from EDIF to SGF.
- Reduces state funding to 1/8 of a cent per gallon of biofuels produced ~ \$250,000.
- Makes technical amendment to allow the funding to start July 1, 2006.
- Amends sunset to allow the council to exist after July 1, 2009, the state support will sunset.

From: "Jere White" <jwhite@ksgrains.com>
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Date: Mon, Mar 6, 2006 12:09 PM
Subject: SB-543

Dear Committee Members:

I would like to take a few moments and share our concerns on SB-543. We were under the belief that the bill wasn't going to be worked and wishing to minimize rifts between ethanol supporters, we chose not to stand in opposition at the hearing. As the bill has been blessed, we can only assume that the bill might be worked and that we might not have the opportunity to otherwise comment.

It is not that we don't support ethanol in Kansas. We have been there for over 25 years doing so. We are concerned however, that adding the function of providing a new government funded "forum for representatives of the various segments of the ethanol industry to assist in the growth and progress of the ethanol industry in Kansas" is an unneeded expansion of state government and expense.

State government has indeed provided for such forums from time to time with their existing resources. Recently, Secretary Polansky hosted a meeting to discuss the ascension of Governor Sebelius to the chair position of the Governors' Ethanol Coalition. All parties were given the opportunity to suggest potential initiatives with the administration. As a follow up to that meeting, based on one of our suggestions, the Secretary facilitated a meeting to discuss the E85 motor fuels tax proposal contained in S. B. 544 with representatives from the ethanol community, Department of Revenue, KDOT, and the administration. We have had similar experience with the KCC alternative energy program over the years. We find state government to be generally supportive of and responsive to ethanol issues and needs.

Some of our concerns with this bill come from the establishment of a funding mechanism that might make needed state funding sources relative to ethanol in the future harder to access. For example, the Ethanol Producers Incentive Fund will likely be under funded within a few years due to rapid expansion of ethanol production in the state. If we want to see production in Kansas continue to expand, this fund helps provide a competitive scenario for future Kansas plants. While the funding sources for that program are different today, compared to the funding in S.B. 543, it is still a state funded program. Under the tight fiscal situation that the state experiences today, we hardly believe that there won't need to be a prioritization of

Senate Agriculture Committee
3-7-06
Attachment 5

funding for ethanol related programs. S.B. 543 simply is not a priority for us.

For the first time ever, we are seeing massive private sector dollars spent promoting ethanol usage. GM has been running ads that started with the Super Bowl and continue today. Millions of dollars are being used for ethanol promotion where we used to struggle to put together thousands. Last month, the National Ethanol Vehicle Coalition, which corn and sorghum farmers in Kansas support financially, had 2.1 million hits at their website in one day. This interest is being generated by public and private partnerships that are working.

We believe the powers, duties and functions of the Ethanol Council envisioned in the bill can be and in most cases are being performed by the various segments of the private and public sectors at this time. The ethanol industry is enjoying much better economic times than the State of Kansas. And while corn and sorghum farmers will be struggling with lower farm income from stagnated commodity prices and high energy costs, we will continue to support the expansion of this industry and the use of its production in the state and the rest of the world, as we have for the past quarter of a century. If state money wasn't an issue, we would have no problem supporting that the state should participate at a higher level financially. From the reports we read, that just doesn't seem to be the case.

Should there be significant changes proposed for SB-543, we will re-evaluate and possibly support. We have not been contacted on any proposed changes at this time. Thank you.

Jere White, Executive Director

Kansas Corn Growers Association

Kansas Grain Sorghum Producers Association