

MINUTES OF THE SENATE AGRICULTURE

The meeting was called to order by Chairman Mark Taddiken at 8:30 a.m. on March 15, 2006 in Room 423-S of the Capitol.

All members were present.

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. Barry Flinchbaugh, Kansas State University

Others attending:

See attached list.

Chairman Taddiken said that Dr. Flinchbaugh will be arriving around 9:00 a.m. and the Committee will begin discussion of bills previously heard.

A motion was made, seconded and passed in yesterday's Committee meeting to change the effective date from "publication in the statute book" to "publication in the *Kansas Register*", Sec. 3, lines 28 & 29 in **HB 2432--Liability of property owners of land adjacent to recreational trails**. Copies of the proposed amendments were being made for the Committee. Senator Huelskamp mentioned the proposed amendments.

Mike Beam, Kansas Livestock Association, spoke to "willful or wanton misconduct" on line 20 of the bill.

Discussion was held on **HB 2798--Immunity from liability for owners of anhydrous ammonia; sunset extended from July 1, 2006, to July 1, 2009**. Senator Pine made a motion to delete on line 40, "The provisions of this subsection shall expire on July 1, 2009." Motion seconded by Senator Huelskamp. There was discussion on the motion. Motion passed with two "no" votes. Senator Francisco requested her "no" vote be recorded.

Senator Huelskamp moved to pass **HB 2798** favorably as amended; seconded by Senator Ostmeyer. Motion passed.

Copies of the proposed amendments to **HB 2432** were handed out to Committee members (Attachment 1). Senator Huelskamp reviewed the proposed amendment which included a new Sec. 2 dealing with responsible party, personal liability and penalties. Discussion was held. Further discussion on **HB 2432** will be continued to Tuesday, March 21.

Chairman Taddiken introduced Dr. Barry Flinchbaugh to the Committee. Dr. Flinchbaugh said the time is right for an enhanced renewable energy policy (Attachment 2). He was a founding member of the 25X '25 organization and distributed a brochure on 25X'25 (on file in Senator Taddiken's office). The goal is that 25% of our energy consumption in 2025 will be from renewable sources. He further stated that it takes five factors to make renewable energy from agriculture feasible:

- (1) expensive oil
- (2) relatively cheap grain and other biomass products
- (3) permanent tax abatements
- (4) enforcement of the clean air and clean water acts
- (5) significant improvement in the conversion ratios

He said that a few years ago all five were negative in terms of producing competitive biofuels; however, today all are positive.

Dr. Flinchbaugh stood for questions.

The meeting adjourned at 9:30 a.m. The next scheduled committee meeting is Tuesday, March 21.

HOUSE BILL No. 2432

By Committee on Agriculture

2-10

10 AN ACT concerning real property; relating to recreational trails; liability
11 of adjacent property owners; amending K.S.A. ~~2004 Supp.~~ 58-3214 and
12 repealing the existing ~~section~~.

and 58-3215

sections

13
14 *Be it enacted by the Legislature of the State of Kansas:*

15 Section 1. K.S.A. ~~2004 Supp.~~ 58-3214 is hereby amended to read as
16 follows: 58-3214. An adjacent property owner has no duty of care to: (a)
17 Any person using a recreational trail, except that this ~~section~~ subsection
18 shall not relieve an adjacent property owner from liability for injury to
19 another that is a direct result of such property owner's gross negligence
20 or willful or wanton misconduct; or (b) *any person entering such adjacent*
21 *property owner's land by way of the recreational trail without implied or*
22 *expressed permission or consent of the adjacent property owner, except*
23 *that this subsection shall not relieve an adjacent property owner from*
24 *liability for injury to another that is a direct result of an intentional or*
25 *unlawful act of the adjacent property owner or willful or wanton*
26 *misconduct.*

See attached

27 Sec. 2. K.S.A. ~~2004 Supp.~~ 58-3214 is hereby repealed.

28 Sec. 3. This act shall take effect and be in force from and after its
29 publication in the statute book.

and 58-3215 are

Senator Huelstump
Senate Agriculture Committee
3-15-06
Attachment 1

Attachment

Sec. 2. K.S.A. 58-3215. A city or county may institute procedures for recourse against the responsible party pursuant to 16 U.S.C. 1247 (1983) and 49 C.F.R. 1152.29 (1986) upon the failure of the responsible party to comply with the provisions of this act. If the responsible party fails to comply with the provisions of this act, any adjacent property owner, city or county aggrieved by the noncompliance may bring an action in the district court to enforce the provisions of this act. Upon a finding that the responsible party has failed to comply with the provisions of this act, the court may enter any one or more of the following orders:

- (a) An order requiring the responsible party to comply with the provisions of this act;
- (b) an order requiring the responsible party to pay a civil penalty to the aggrieved party in an amount not exceeding \$100 for each day of noncompliance;
- (c) an order imposing personal liability for the noncompliance on the members, stockholders and directors and officers of the responsible party;
- (d) an order requiring the responsible party to pay reasonable attorney fees and costs of the aggrieved party; or
- (e) an order vacating, annulling or suspending the responsible party's corporate charter, if a corporation created by or under the laws of this state, or revoking or suspending the certificate of authority to do business in this state, if a foreign corporation.

Senator Huelkamp
Senate Agriculture Committee
3-15-06

ENERGY AND AGRICULTURE

Public policy in a political economy requires a blend of economics and politics. Effective policy is economically sound and politically acceptable. The time is right for an enhanced renewable energy policy. Thus, I agreed to be a founding member of an organization known as 25 X 25. The goal is straight-forward - 25% of our energy consumption in 2025 will be from renewable sources such as field crops, animal by products, biomass, solar, wind, hydro and thermal. Not only biofuels from corn and beans, but from biomass - corn stalks and cobs, wood chips, switchgrass, etc. Agriculture will play a key role in reaching 25 X 25.

Growing up as a farm kid in Pennsylvania Duetsch country, we lived by the old adage when we butchered hogs - use everything but the squeal. That time has arrived for energy policy. Grandma Flinchbaugh, who was the best cook I ever knew, fueled her cook stove with corn cobs. She knew something we need to learn in today's political economy. Food, fiber, feed and fuel will be the new mantra of U. S. agriculture. An acre of corn can produce roasting ears, corn flakes, corn bread, distillers grain and fuel from the kernels, stalks and cobs benefitting crop and livestock producers and the consumer.

The theory of comparative advantage would argue that oil from the Middle East, Canada and Mexico can be produced more efficiently than fuels from renewable resources. That may be correct, but it isn't done in an open market. OPEC can extract "monopoly" prices and political volatility makes them an unreliable source. Energy independence from the Middle East certainly would enhance our ability to deal with that unstable part of the world. Thus, the merger of economics and politics.

Ten years ago, I argued distinctly different than I am arguing today. It takes five factors to make renewable energy from agriculture feasible:

*Senate Agriculture Committee
3-15-06*

Attachment 2

1. Expensive oil.
2. Relatively cheap grain and other biomass products.
3. Permanent tax abatements.
4. Enforcement of the clean air and clean water acts.
5. Significant improvement in the conversion ratios.

A few years ago, all five were negative in terms of producing competitive biofuels. Today, they are all positive.

1. \$70 oil.
2. \$2.25 corn e.g.
3. Tax abatements legislated.
4. Our former oilman President, how a cowboy ruled against MTBE in California.
5. Ten years ago, the best we could do was a BTU in and a BTU out. Today, the conversion rate is 1/1.7 corn to ethanol, 1/3.25 beans to biodiesel.

LBJ use to respond to a new policy proposal, "this dog won't hunt". Well, this dog will hunt. It's competitive commercially and acceptable politically.

B. L. Flinchbaugh, Ph.D.
Professor, Agricultural Economics
Kansas State University

Statement before the Senate Agriculture Committee
Kansas Legislature, Topeka, KS
March 15, 2006