

MINUTES OF THE HOUSE AGRICULTURE COMMITTEE

The meeting was called to order by Chairman Dan Johnson at 3:30 p.m. on February 2, 2004, in Room 423-S of the Capitol.

All members were present.

Committee staff present:

Raney Gilliland, Legislative Research Department
Gordon Self, Revisor of Statutes Office
Kay Scarlett, Committee Secretary

Conferees appearing before the committee:

Dan Riley, Chief Legal Counsel, Kansas Department of Agriculture
Tom Tunnell, President and CEO, Kansas Grain and Feed Association
Brad Harrelson, Associate State Director, Governmental Relations, Kansas Farm Bureau

Others attending:

See attached list.

Minutes of the January 14, 21, 26 and 28 meetings were distributed. Members were asked to notify the committee secretary of any corrections or additions prior to 5:00 p.m., February 4, or the minutes will be considered approved as presented.

Representative Thimesch moved to introduce a committee bill concerning GMO wheat. Seconded by Representative Powell, the motion carried.

Hearing on HB 2576 - Application of bond proceeds of public warehouse

Chairman Johnson opened the hearing on **HB 2576**. Raney Gilliland provided a brief history of the grain inspection program in Kansas and the bond or letter of credit required by state licensed grain warehouses. **HB 2576** provides that the proceeds of the bond or letter of credit may be applied to any grain deficit as contemplated by statute, and also to the reasonable costs associated with the process of grain liquidation or claims review and settlement as determined by a court of competent jurisdiction.

Dan Riley, Chief Legal Counsel, Kansas Department of Agriculture, appeared in support of **HB 2576** requested by the department to clarify the intent of the legislature when it created the bond requirement for grain warehouses. Specifically, the bill establishes that the proceeds of a bond or letter of credit may be applied to the grain deficit and the costs of the process of grain liquidation and settlement of producers or depositors' claims when a warehouse fails. He testified that bond proceeds have consistently been used for the costs associated with the liquidation and claims process since the provision became law in the 1980's. In a recent case, a bonding company challenged this authority. There was much committee discussion concerning the word "may" or "shall" on page 1, line 36. Mr. Riley believes the word "may" is correct. (Attachment 1)

Tom Tunnell, President and CEO, Kansas Grain and Feed Association, appeared as neutral on **HB 2576** and does not oppose the bill. The Association had feared that the Department of Agriculture might be attempting to expand the scope of expense items that would be eligible to receive warehouse bond funds. After visiting with the Secretary of Agriculture, the Kansas Grain and Feed Association believes the bill simply clarifies which expenses and costs are chargeable to the warehouse bond. (Attachment 2)

Brad Harrelson, Associate State Director, Governmental Relations, Kansas Farm Bureau, testified in opposition to **HB 2576** questioning the intent behind the bill and its impact on commodity producers. KFB opposes any reallocation of bond proceeds that would diminish the pool of dollars designed to make grain depositors whole in the event of a warehouse failure. They question that if bond proceeds are allowed to be applied to process and legal costs, will bond requirements be increased, or will bond costs be higher. They are concerned that storage fees will, in turn, cost more and negatively impact producers' profitability. KFB requests that the legislature clarify in statute that grain depositors are first in priority in the application of bond proceeds. When informed by Staff that this requirement is in current statute, Mr. Harrelson thought Kansas Farm Bureau would have no objection to the bill. (Attachment 3)

CONTINUATION SHEET

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There being no other conferees, the Chairman closed the hearing on **HB 2576**.

Discussion and action on ERO 32 - Transferring powers, duties and functions of the Department of Health and Environment to the Department of Agriculture

Chairman Johnson opened discussion on **ERO 32**. Gordon Self explained the options in dealing with an ERO provided for in the Kansas Constitution, as well as rules of the House of Representatives. Staff responded to committee questions and concerns.

Representative Larkin moved to draft a resolution in support of ERO 32. Seconded by Representative Powell, the motion carried.

The meeting adjourned at 4:30 p.m. The next meeting is scheduled for February 4, 2004.