

MINUTES OF THE HOUSE COMMITTEE ON AGRICULTURE.

The meeting was called to order by Chairman Dan Johnson at 3:30 p.m. on February 12, 2001, in Room 423-S of the Capitol.

All members were present.

Committee staff present: Raney Gilliland, Legislative Research Department
 Gordon Self, Revisor of Statutes
 Kay Scarlett, Committee Secretary

Conferees appearing before the committee:

James Clover Adams, Secretary, Kansas Department of Agriculture
Woody Moses, Managing Director, Kansas Aggregate Producers' Association
Mary Feighny, Assistant Attorney General
Representative Doug Gatewood
Warren Scott, Southeast Kansas poultry producer
Donn Teske, President, Kansas Farmer's Union
Rev. Dr. Joe Hendrixson, Executive Director, Kansas Ecumenical Ministries
Leslie Kaufman, Associate Director, Public Policy Division, Kansas Farm Bureau
Michael Farmer, Executive Director, Kansas Catholic Conference (written only)
Mike Schultz, Chairman, Kansas Cattlemen's Association
Representative Bruce Larkin
Representative John Faber (written only)
Harold Walker, Kansas Chairman, National Farmers Organization (written only)
Jere White, Business Administrator, Kansas Corn Commission and Kansas Soybean Commission

Others attending: See attached list

Minutes of the February 5 meeting were distributed. Chairman Johnson asked members to notify the committee secretary of any corrections or additions prior to February 19, or they will be considered approved as presented.

The Division of Property Valuation, Kansas Department of Revenue, provided copies of the report prepared by the International Association of Assessing Officers Technical Assistance Project concerning use values in the State of Kansas. Copies can be obtained from the Kansas Department of Revenue.

Dr. Marc Johnson, Dean and Director, College of Agriculture, K-State Research and Extension, Kansas State University, submitted a listing of advisory committees and on- and off-campus boards which directly or indirectly provide input on research priorities. Copies can be obtained from the Committee Secretary or the Legislative Research Department.

Hearing on HB 2123 - Disposition of moneys to certain agricultural related fee funds.

Chairman Johnson opened the hearing on **HB 2123**.

Jamie Clover Adams, Secretary, Kansas Department of Revenue, appeared in support of **HB 2123** which was requested by the Department to establish a permanent equipment fee fund to purchase, rebuild, and repair equipment for the Kansas Department of Agriculture laboratory. She said the Department estimates generating approximately \$69,000 per year by increasing and redistributing a portion of the fees in the following areas: feeding stuffs, dairy, livestock remedies, pesticides, and chemigation. Explaining that **HB 2123** was not written the way the Department had intended, the Secretary included an amendment with her testimony to make the necessary corrections. (Attachment 1)

As there were no other conferees, the Chairman closed the hearing on **HB 2123**.

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Discussion and action on HB 2102 - Unlawful acts and annual testing requirements involving weighing and measuring devices.

The Chairman opened **HB 2102** for discussion.

Woody Moses, Managing Director, Kansas Aggregate Producers' Association, proposed an amendment to **HB 2102** that would allow for a tolerance standard of plus or minus 100 pounds on a product or commodity have a commercial value of less than \$30 per ton. (Attachment 2)

Representative Feuerborn, seconded by Representative Light moved to amend HB 2102 as recommended by the aggregate producers. Committee discussion ensued.

Greg Foley, Assistant Secretary of Agriculture, was concerned that deviation from "the uniform laws and regulations of the national conference on weights and measures" used by all 50 states could create a potential conflict.

Representative Feuerborn, with Representative Light's consent, withdrew his amendment and suggested the appointment of a subcommittee to study this issue. The Chairman appointed Representative Dahl, chairman; Representative Feuerborn; and Representative Light to the subcommittee on HB 2102.

Hearings on HB 2278 - Unfair and unlawful actions involving agricultural contracts. **HB 2280 - Agricultural production contracts, good faith.** **HB 2281 - Agricultural production contracts, confidentiality provisions.**

Chairman Johnson opened the hearings on **HB 2278**, **HB 2280** and **HB 2281** for proponents only. Raney Gilliland explained that **HB 2278** establishes legal rights for agricultural producers. The bill would identify and declare a variety of acts unlawful if conducted by a contractor or processor engaged in an agricultural contract. Contractors and processors would be subject to civil penalties, guilty of a misdemeanor offense, and subject to lawsuits. He explained that **HB 2280** would impose an obligation of good faith on all parties in the performance and enforcement of an agricultural contract, and that **HB 2281** would make any confidentiality provisions included in an agricultural contract void and unenforceable.

Mary Feighny, Assistant Attorney General, provided expert testimony concerning Article 1, Section 10, of the United States Constitution (the Contract Clause) which prohibits a state from enacting legislation that impairs existing contracts. She explained the purpose of the Contract Clause and discussed tests to determine whether legislation violates the clause. (Attachment 3)

Representative Doug Gatewood appeared in support of **HB 2278**, **HB 2280** and **HB 2281** designed to protect producers from discriminatory practices. He introduced Warren Scott from his district. (Attachment 4)

Warren Scott, a Southeast Kansas poultry producer from Scammon, testified in support of **HB 2278**, **HB 2280** and **HB 2281**. He discussed his experiences as a contract poultry producer for the Butterball Turkey Company since 1994. (Attachment 5)

Donn Teske, President, Kansas Farmer's Union, appeared in support of **HB 2278**, **HB 2280** and **HB 2281**. He noted that contract production has taken over the poultry industry and is well on the way to taking over the hog industry. He believes these contracts are heavily tilted in favor of the contractor and the producer assumes all the financial risks as well as environmental responsibility. (Attachment 6)

Rev. Dr. Joe Hendrixson, Executive Director, Kansas Ecumenical Ministries, presented testimony in support of **HB 2278**, **HB 2280** and **HB 2281**. The Kansas Ecumenical Ministries believe this legislation would establish a fair playing field for all farmers who enter into production contracts; that a Producer Protection Act would give farmers

some bargaining power when signing contracts and would clarify the farmer's rights when changes are made to these contracts. (Attachment 7)

CONTINUATION SHEET

Leslie Kaufman, Associate Director, Public Policy Division, Kansas Farm Bureau, shared KFB's perspective on **HB 2278**, **HB 2280** and **HB 2281**. She explained that there are certain concepts contained in these bills that are compatible with KFB policy, however, there are also provisions, definitions, and choices of wording they question, or even oppose. Suggesting a possible substitute bill, she outlined significant points Farm Bureau members advocate regarding agricultural contracting.

Ms. Kaufman emphasized that in addition to any legislative approach, educational initiatives should also prove helpful in addressing agricultural contracting concerns. A draft of KFB's *Producer's Checklist for Agricultural Contracting* is included with her testimony. She noted that Farm Bureau is working with Senator Harkin and the U.S. Senate Agriculture Committee in addressing agricultural contracting issues such as producer rights and unfair trade practices. (Attachment 8)

Michael Farmer, Executive Director, Kansas Catholic Conference, provided written testimony in support of **HB 2278**, **HB 2280**, and **HB 2281**. (Attachment 9)

Mike Schultz, Chairman, Kansas Cattlemen's Association, appeared in support of **HB 2278** and **HB 2281** to give producers another process in the legal system to prevent unfair or unlawful actions by those promoting contract production agriculture and to make any confidentiality provision included in an agricultural contract void and unenforceable. (Attachment 10)

Representative Bruce Larkin, co-sponsor of the bills, testified in support of **HB 2278**, **HB 2280** and **HB 2281** to establish a set of unfair practices for agricultural contracts and to provide for civil and criminal penalties for violations. He noted that the good faith provision in **HB 2280** is in Minnesota law and is intended to clarify that producers have the same rights as consumers when commitments are broken and that the confidentiality provision in **HB 2281** is based on an Iowa statute. With his testimony he provided a copy of a letter from Roger McEowen, Associate Professor of Agriculture Economics at Kansas State University, concerning contract production legislation. (Attachment 11)

Representative John Faber, co-sponsor of the bills, provided a copy of a press release dated September 13, 2000, from Iowa Attorney General Tom Miller concerning proposed legislation to protect producers who enter into contracts to provide grain or livestock. He also provided a copy of a statement of the State Attorneys General from Iowa, North Dakota, Colorado, Indiana, Kentucky, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, Oklahoma, Vermont, West Virginia, Wisconsin, and Wyoming concerning concentration in agriculture dated September 13, 2000. (Attachment 12)

Harold Walker, Kansas Chairman, National Farmers Organization, submitted written testimony in support of **HB 2278**, **HB 2280** and **HB 2281**. (Attachment 13)

Jamie Clover Adams, Secretary, Kansas Department of Agriculture, submitted written comments concerning **HB 2278**, **HB 2280** and **HB 2281**. She stated that the Uniform Commercial Code covers the use of contracts in the sales of agricultural products, including seed, growing crops, grain, livestock, and some other farm products. She recommended that the authority to promulgate rules and regulations to implement provisions of these bills be given to the Kansas Attorney General, rather than Secretary of Agriculture. She stated that KDA does not have the in-house expertise, nor the manpower, to effectively address the provisions of these bills. In addition, the bills do not give KDA any enforcement power, which makes any rules and regulations virtually ineffective. She noted that each of these bills impacts both existing and future contracts in violation of Article 1, Section 10, of the U.S. Constitution. (Attachment 14)

There being no other proponents, Chairman Johnson closed the hearing for proponents on **HB 2278**, **HB 2280** and **HB 2281** and reminded the committee that opponents would be heard on Wednesday, February 14.

Discussion and possible action on HB 2011 - Incentives for production of ethanol from agricultural products; amounts; removal of cap; expiration date.

Representative Schwartz moved to recommend **HB 2011** favorable for passage. The motion was seconded by Representative Compton. Committee discussion ensued.

CONTINUATION SHEET

Jere White, Business Administrator, Kansas Corn Commission and Kansas Soybean Commission, provided a summary of options or alternatives to the incentives provided by **HB 2011**. (Attachment 15) Representative Schwartz offered a substitute motion to amend **HB 2011** as outlined in Option B and the balloon attachment provided by Mr. White. Seconded by Representative Hutchins, the amendment passed.

Representative Hutchins moved to pass **HB 2011** as amended. Seconded by Representative Compton, the motion carried.

The meeting adjourned at 5:55 p.m. The next meeting is scheduled for February 14, 2001, in Room 519-S.