

MINUTES OF THE SENATE AGRICULTURE COMMITTEE.

The meeting was called to order by the Vice Chairperson, Tim Huelskamp, at 8:30 a.m. on February 13, 2001 in Room 423-S of the Capitol.

All members were present except:

Committee staff present: Raney Gilliland, Legislative Research Department
 Jill Wolters, Revisor of Statutes
 Betty Bomar, Secretary

Conferees appearing before the committee:

Gary Reser, Executive Director, Kansas Veterinary Medical Association
Dirk Hanson, Executive Director, Kansas Board of Veterinary Examiners
Elroy Heim, St. Francis, Kansas
Mike Schultz, Brewster, Kansas
Representative Dennis McKinney
Donn Teske, Kansas Farmers Union
Senator Tim Huelskamp

Others attending: See attached List

Upon motion by Senator Tyson, seconded by Senator Downey, the Minutes of the February 6th and February 7th meetings were unanimously approved.

SB 162 - Kansas veterinary practice act; license fee increase, application for exam, definition of veterinary prescription drugs

Gary Reser, Executive Director, Kansas Veterinary Medical Association (KVMA), testified in support of **SB 162**, stating the legislation was reviewed and approved by the Legislative Committee and Executive Board of the KVMA. (Attachment 1)

Dirk Hanson, Executive Director, Board of Veterinary Examiners, testified in support of **SB 162**, stating the legislation amends Kansas statute to comply with the USC by moving paragraph "c" to paragraph "f"; provides for one computerized test, the North American Veterinary Licensing Exam (NAVLE) rather than two exams as previously required; and enlarges the time to submit an application for the taking of the test from 45 days to 60. Dr. Hanson stated the computerized test could be taken in any state, and all states are reciprocal in licensure. The legislation also increases the maximum fee for each examination for licensure from \$250 to \$500. The fiscal impact is negligible on revenues to or expenditures from the agency's fee fund. (Attachment 2)

There being no additional conferees to be heard, the hearing was concluded.

A copy of the International Association of Assessing Officers (IAAO) Technical Assistance Project concerning agricultural use values in the State of Kansas, and distributed through the Kansas Department of Revenue, Division of Property Valuation, was distributed to the members of the Committee. (A copy of the *Technical Assistance Project Agriculture Use Value Study Kansas Department of Revenue*, is on filed in the Office of Legislative Research)

SB 223 - Enacting the competitive livestock market act

Elroy Heim, St. Francis, Kansas, testified in support of **SB 223**, stating that independent cattle feeders continue to be driven out of business due to the abusive market power of meat packers. The meat packers are supposed to be regulated and prevented from monopolizing and abusing markets. Mr. Heim stated he manages the Callicrate Feedyard at St. Francis, Kansas, and previously operated CY Feedyard at Gove, Kansas which was forced to close it's doors as it was denied market access and unable to market either their cattle or their

customer's cattle.

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The Callicrate feedyard was retaliated against and blackballed by major packers. Currently Callicrate is involved in a Packers and Stockyards (P&S) suit against Farmland for discriminatory practices. The litigation process is slow, time consuming and expensive, particularly when there is no provision under current P&S law for recovery of damages. Mr. Heim stated **SB 223** should allow for treble damages, fines and payment of attorneys fees.

Mr. Heim further stated there continues to be bogus arguments resulting from flawed studies on captive supplies. Price leader, IBP, continually bids a low price, not to buy, and the other cooperating packers continue to follow IBP's leadership. The percent of captive supplies and other non-negotiated sources of cattle continues to crush markets. USDA reports captive supplies at less than 40%, however, the manner in which the packers are using the non-cash, non-negotiated supplies, impacts the market as if they were 100% of available supplies. As long as packers find it easier to buy cattle cheaper than to sell meat higher due to anti-competitive practices and a lack of P&S law enforcement, packers will continue to record unfair profits and hand the retailer very high and unfair margins. (Attachment 3)

Upon questioning, Mr. Heim denied that the legislation should allow for treble damages.

Senator Tim Huelskamp, testified in support of **SB 223**, stating the bill places certain key provisions of the federal Packers & Stockyards Act and places them in state law. Such action allows the Kansas Attorney General and county attorneys to enforce the same legal principles passed by Congress in 1921. **SB 223** provides state-level actions to protect independent farmers and ranchers against market manipulations such as: 1) engaging in unjust discriminatory or deceptive practices; 2) giving unreasonable advantage/prejudice to any person; 3) preventing sale from any dealer for the purpose of restraining commerce; 4) preventing transfer/sales for the purpose of creating a monopoly or restraining commerce; and 5) engaging in business with the intention/effect of manipulating or controlling prices.

Senator Huelskamp acknowledged that the United States Department of Agriculture presently has enforcement responsibility of the Packers & Stockyards Act, however, enforcement of the act is questionable. The National Cattleman's Beef Association (NCBA) recently approved a national convention policy supporting legislation to establish a commission or make a request of the agriculture secretary to appoint a commission to review the Packers and Stockyards Administration's study of livestock marketing, price discovery and packer concentration. The NCBA has also asked the Federal Government to monitor more closely mergers and acquisitions in the packing and processing industries because of increased potential for anti-trust violations. The impending buyout of IBP by Tyson Chicken, gives impetus to this legislation. Passage of **SB 223** will provide much needed, state-level protection of a competitive, open marketplace. (Attachment 4)

Questions were raised regarding the definition section and the disparity between Section 4, giving the attorney general, county or district attorney discretion in bringing suit, while in Section 7, the language states the attorney general *shall* be responsible for enforcement.

Representative Dennis McKinney, testified in support of **SB 223**. He stated there has been a contention that the Packers and Stockyards Act is one of the most aggressive anti-trust laws on the books. However, both former USDA Secretary Glickman and Under Secretary Mike Dunn have made statements, recently confirmed by the General Accounting Office, that the Packers and Stockyards Administration lacks the funding or staff to vigorously enforce the Act. Former Senator Bob Kerrey of Nebraska recently reported that the head of the Packers and Stockyards Administration told a Senate Committee that he saw no problem with vertical integration in the cattle industry as it had been good for the chicken industry in Arkansas. Such a remark leads one to suspect that the Packers and Stockyards Administration may lack the will as well as the money to enforce the act.

SB 223 includes key portions of the Packers and Stockyards Act and places them in Kansas law, thereby allowing the attorney general to enforce the same legal principles designed to preserve competition and discourage abuse of market power. Representative McKinney stated the first evidence that a few packers have a large share of market power is the fact that some commercial feedlot manager have said they are afraid to speak out for fear of packer retaliation; and secondly, as a beef producer, I have heard stories from feed yard managers, cattle buyers, truck drivers, and others of anti-competitive practices by packers. These are the

people who feel there is no one to turn to for help - they never consider the federal government as a source of help.

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Representative McKinney recommends that Section 3(b) on Page 1, lines 30-33, be amended so as not to apply to any producer owned cooperative. This change prevents problems which would keep producers from working together to create competition and add value to their own products. (Attachment 5)

Members of the Committee who had other Committee obligations were excused. The hearing continued.

Mike Schultz, Chairman of the Kansas Cattlemen's Association, Brewster, Kansas, testified in support of **SB 223**, stating the legislation protects producers from the monopolistic powers of the packing industry. Legislation would not be necessary if the federal government enforced the Packers and Stockyards Act of 1921. **SB 223** eliminates the abusive power that the packers have on producers and the cattle market. Mr. Schultz presented examples of the selling of packer owned cattle (captive cattle) from one packer to another and the impact on cattle prices. Producers and legislators together need to put strict enforcement of the laws and profit back into rural Kansas. The passage of **SB 223** would do that. (Attachment 6)

Donn Teske, Kansas Farmers Union, submitted written testimony in support of **SB 223**. (Attachment 7)

Written testimony of John J. VanSickle, Professor and Director of International Trade and Development, University of Florida, Gainesville, Florida, supporting **SB 223** was distributed. (Attachment 8)

The hearing was concluded.

The meeting adjourned at 9:45 a.m.

The next meeting is scheduled for February 14, 2001.