

Approved March 14, 1988  
Date

MINUTES OF THE Senate COMMITTEE ON Agriculture

The meeting was called to order by Senator Allen at  
Chairperson

10:10 a.m./~~p.m.~~ on March 1, 1988 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 Department

Conferees appearing before the committee: Tom Wilson, State Grain Inspection Department  
Tom Tunnell, Kansas Grain and Feed Dealers Association  
Rich McKee, Kansas Livestock Association  
Paul Fleener, Kansas Farm Bureau  
Wilbur Leonard, Committee of Kansas Farm Organizations  
Pete McGill, Kansas Independent Bankers Association  
Joe Lieber, Kansas Cooperative Council  
Jim Maag, Kansas Bankers Association

Senator Allen called the committee to order and turned the committees' attention to SB 666. He then called on Tom Wilson to comment.

Mr. Wilson explained that SB 666 amends the statute that establishes the types and maximum fee charges for inspections conducted by employees of the Kansas State Grain Inspection Department. The bill would eliminate the following services: factor only analysis - class only, factor only determination, moisture, hopper car, boxcar, or direct transfer, per weight, checktesting large weights, and fee per hour, checktesting large weights. The bill would create the following new inspections and the maximum fees: factor only determination, one factor - \$5.00; factor only determination, two or more factors, per factor (not to exceed full grade fee) - \$5.00; hopper car, boxcar, or direct transfer, per class 1 weight, 100 percent supervision - \$8.00; hopper car, boxcar, or direct transfer per class II weight, 25 percent supervision - \$5.00.

The Chairman next called on Tom Tunnell.

Tom Tunnell expressed support for SB 666. Mr. Tunnell stated that SB 666 is a positive improvement in the law, and he requested passage.

The Chairman declared the hearing closed for SB 666 and turned the attention of the committee to SB 667. The following testified as proponents.

Rich McGee gave copies of his testimony to the committee (attachment 1). In answer to committee questions Mr. McGee answered that both the Kansas Independent Bankers and the Kansas Bankers Association had met for the planning of or discussion of the proposed bill.

Paul Fleener gave to the committee copies of his testimony (attachment 2).

Wilbur Leonard provided copies of his testimony for the committee (attachment 3). Mr. Leonard stated that the \$50 in the bill could be changed to read \$150 and that support for the bill would not be changed.

Tom Tunnell gave copies of his testimony to the committee (attachment 4).

Pete McGill expressed the support of SB 667 for the Kansas Independent Bankers Association. He explained the organization had met and helped form the bill; that they support strengthening the law for those who sell out of trust

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

CONTINUATION SHEET

MINUTES OF THE Senate COMMITTEE ON Agriculture

room 423-S, Statehouse, at 10:10 a.m. ~~p.m.~~ on March 1, 1988.

Joe Lieber expressed support for more penalty for those who sell out-of-trust. He stated that it was hoped with a stiffer penalty that it would discourage persons from selling out-of-trust.

The Chairman called attention to written testimony by Jim Maag who could not be present for the committee meeting (attachment 5).

The Chairman called for committee action on SB 666.

Senator Montgomery made a motion the committee amend in line 80 the second listing of the word 'factors' so that it reads 'factor' and that the bill be recommended favorable for passage as amended. Senator Thiessen seconded the motion. Motion carried.

The Chairman adjourned the committee at 10:39 a.m.





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Owns and Publishes The Kansas STOCKMAN magazine and KLA News & Market Report newsletter.

STATEMENT  
OF THE  
KANSAS LIVESTOCK ASSOCIATION  
IN REFERENCE TO  
SENATE BILL 667  
BEFORE THE COMMITTEE ON AGRICULTURE  
SENATOR DON MONTGOMERY, VICE CHAIRMAN  
PRESENTED BY  
RICH MCKEE  
EXECUTIVE SECRETARY, FEEDLOT DIVISION  
February 29, 1988

Mr. Chairman and members of the committee, I am Rich McKee. I am here representing the Kansas Livestock Association. KLA represents a broad range of over 9,000 livestock producers who reside in virtually every geographic corner of the state.

Following the 1987 Legislative Session, several ag groups and lenders representing the Kansas Independent Bankers Association met to discuss the clear title issue. The meetings were held in hopes of finding some compromise on the issue. You will be pleased to know, after several meetings and conferences, we were successful in reaching a compromise. Senate Bill 667 is part of that agreement. KLA asks for your support in passing 667.

*Attachment 1*  
*3-1-88*

If there is one common area of agreement on the clear title issue among lenders, debtors, and buyers of ag products, it concerns the penalty provision. Specifically, the penalty, or lack thereof, levied against the small percentage of individuals who sell ag products out of trust. SB 667 addresses this mutual interest.

SSB 667 amends current laws in two basic ways. First, any individual who is convicted of selling an ag product out of trust will face a mandatory jail sentence, unless restitution is made to the lender. Secondly, it increases the crime of selling an ag product out of trust from a class E to a class C felony.

KLA urges you to give favorable consideration to SB 667. Thank you!



# PUBLIC POLICY STATEMENT

SENATE AGRICULTURE COMMITTEE

**RE: S.B. 667 - Impairing Security Interests That Cover  
Farm Products**

March 1, 1988  
Topeka, Kansas

Presented by:  
Paul E. Fleener, Director  
Public Affairs Division  
Kansas Farm Bureau

**Mr. Chairman, and Members of the Committee:**

My name is Paul E. Fleener. I am the Director of the Public Affairs Division for Kansas Farm Bureau. We want to thank you for the opportunity make very brief comments **in support of S.B. 667.**

We have come before this Committee on prior occasions to discuss with you "Clear Title" for agricultural commodities. Over the course of the years, we have sought amendments to the Uniform Commercial Code in Kansas to allow clear title to come to pass. Failing that, we moved into the Congressional arena during consideration of the 1985 farm bill ... legislation which has come to be known as the Food Security Act of 1985.

Last year there was discussion of "prenotification" and "central notice."

Our members have studied this question for years. They have continued to study it since the federal legislation, flawed though it is ... we admitted that readily last year before this Committee. Our farmers believe the preferable thing, given the options available under the clear title section of the Food Security Act of 1985, is to proceed ahead in Kansas with prenotification. Our members reaffirmed that position at the most

*attachment 2*  
3-1-88

recent Annual Meeting of Kansas Farm Bureau. Delegates from the 105 counties in Kansas, meeting in Wichita on November 30, December 1 - 2, 1987, adopted this policy position:

### **Commodity Commissions**

The corn, grain sorghum and soybean commissions and the Kansas Wheat Commission promote utilization and market development for our grains. We urge our members to continue financial support for the commissions through the check-off procedure, thereby assisting in the important research, utilization and market development efforts of the commissions.

Mr. Chairman, and the Members of the Committee, we have continued to meet with our friends in the banking community, with our friends in livestock and grain and feed associations. We have met with bankers large and small. We arrived at some points of agreement. We agreed to initiate and carryout an educational program on prenotification. We agreed to support legislation which would increase the penalty for **anyone** who would sell agricultural commodities "out of trust."

S.B. 667 proposes new language relating to farm products and specifying that impairing a security interest is a Class C felony. We support that. We believe it should apply to anyone who would impair security interest or sell a farm product out of trust.

We thank you for the opportunity to make these brief comments and would be pleased to attempt to respond to any questions.

Committee of . . .

# Kansas Farm Organizations

Wilbur G. Leonard  
Legislative Agent  
109 West 9th Street  
Suite 304  
Topeka, Kansas 66612  
(913) 234-9016

TESTIMONY IN SUPPORT OF SENATE BILL NO. 667

BEFORE THE SENATE COMMITTEE ON AGRICULTURE

March 1, 1988

Mr. Chairman and Members of the Committee:

I am Wilbur Leonard, appearing for the Committee of Kansas Farm Organizations. We're grateful to the Committee for this opportunity to state our views in support of Senate Bill No. 667.

This bill is designed to increase the penalty for selling personal property consisting of farm products subject to a security interest without accounting to the secured party for the proceeds of the sale. This offense is referred to as impairing a security interest.

The increased penalty would be applicable when personal property which includes farm products of a value of \$50 or more and is subject to a security interest of at least \$50 is sold or disposed of without making payment to the person who holds the security interest in such property. The offense would be upgraded to a class C felony.

The second major change would be the addition of a provision relating to probation of a person determined to be guilty of the offense of impairing the security interest in personal property which includes farm products having a value of \$50 or more. In such cases, as a condition to granting probation, the sentencing judge must require the convicted person to make restitution to the secured party.

These suggested changes are in response to the claim of some lenders that, under existing laws, bringing criminal charges against an offending borrower accomplishes nothing and results only in the convicted violator receiving a mild tap on the wrist.

*attachment 3*

*3-1-88*

We don't seek this legislation as the tool to fill the penal institutions with unfortunate borrowers, but rather to establish penalties which will make people think a second time before violating the terms of their security agreement. Then, for those who have been convicted, instead of a prison sentence or a monetary fine, the offenders would be required to make restitution to the secured party. In substance, they would be paying the debt which they voluntarily incurred and which they actually owed.



KANSAS GRAIN & FEED

Association

816 S.W. TYLER ST., P.O. BOX 2429 A/C 913-234-0461 TOPEKA, KANSAS 66601-2429

STATEMENT OF THE  
KANSAS GRAIN AND FEED ASSOCIATION  
TO THE SENATE AGRICULTURE COMMITTEE  
SENATOR JIM ALLEN, CHAIRMAN  
REGARDING S.B. 667

MARCH 1, 1988

Mr. Chairman and Members of the Committee, I am Tom R. Tunnell, Executive Vice President of the Kansas Grain and Feed Association (KGFA). KGFA's over 1200 members constitute the State's grain handling, storage, processing and merchandising industry. We appreciate the opportunity to comment on S.B. 667, concerning security interests in farm products.

As you know, the 1985 Food Security Act requires parties holding security interests in agricultural products to notify potential buyers of such products in order to protect their liens. As buyers of farm products, our members are very pleased with the way the direct notice system is working in Kansas. Of those responding to a survey conducted by our Association last fall, none of our members expressed dissatisfaction with direct notice. Rather, they all indicated it is working well for them, their customers and the lenders involved. Buyers are still in the position of policing lenders' loans, but they know exactly when they are to do so.

(continued)



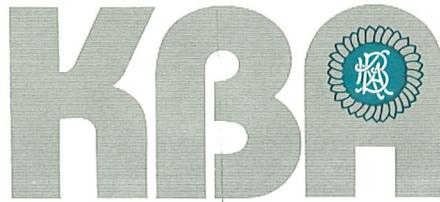
attachment 4  
3-1-88



In order to insure that direct notice continues to operate smoothly and efficiently, producer, buyer and lender groups have agreed that it is important for producers to be knowledgeable about direct notice; for there to be a uniform notice form; and for there to be sufficient disincentive for producers to sell products out of trust. To that end, KGFA will work for a uniform notice and assist in educating those involved. We also support S.B. 667 which would stiffen penalties for anyone selling out of trust.

I would be happy to respond to any questions you may have.

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The KANSAS BANKERS ASSOCIATION  
A Full Service Banking Association

March 1, 1988

TO: Senate Committee on Agriculture  
FROM: James S. Maag, Director of Research  
Kansas Bankers Association *JSM*  
RE: SB 667 - Impairment of a security interest relating to farm products

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to discuss the provisions of SB 667 with the committee. The KBA State Affairs Committee has requested that the following comments be made to the committee concerning this measure.

First, the banking industry does not view this legislation as a solution to the problems created by the passage of Section 1324 of the 1985 Food Security Act. It does not give the creditor any additional protection against "off-list" sales. The elimination of that problem is addressed in SB 92 which is still before this committee.

Second, it is presently very difficult, due to time and budget constraints, to get county and district attorneys to prosecute out-of-trust sales of farm products under the current law and people in our industry do not believe the creation of a stiffer penalty will solve this problem and, in fact, may make the possibility of prosecution even more remote.

Third, the bill creates a special penalty for impairment of a security interest if it involves farm products. There is reason to believe this will raise constitutional problems by providing different treatment for impairment of a security agreement involving a certain type of collateral.

Our industry appreciates the efforts of the Kansas Livestock Association and others to reduce the possibility of out-of-trust sales of

farm products. We have met many times over the past few years and discussed the idea of stiffer criminal penalties. Whether threats of greater penalties will diminish such sales is still a matter of debate. We continue to believe that a far more practical solution to the prevention of out-of-trust sales would be the passage of a central notification system as provided for in SB 92.

We appreciate very much the opportunity to express our viewpoint to the committee.