

## MINUTES OF THE HOUSE AGRICULTURE COMMITTEE

The meeting was called to order by Chairman Dan Johnson at 3:30 p.m. on January 26, 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:

Doug Wareham, Kansas Grain & Feed Association and Kansas Agribusiness Retailers Association  
Brad Harrelson, Associate State Director, Governmental Relations, Kansas Farm Bureau  
Laurel Murdie, Legislative Division of Post Audit  
Ron Hein, Kansas Food Dealers Association and Kansas Restaurant and Hospitality Association  
Adrian Polansky, Secretary, Kansas Department of Agriculture  
Lesla Roberts, Director of the Bureau of Consumer Health, Department of Health and Environment  
Leslie Kaufman, Director, Governmental Relations, Kansas Cooperative Council  
Todd Johnson, President, Kansas Agricultural Alliance  
Position statement of the Kansas Meat Processors Association leadership (written only)  
Sally Finney, Executive Director, Kansas Public Health Association, Inc.  
Stephen Paige, Topeka, Kansas

Others attending:

See attached list.

Tracy Streeter, Executive Director, State Conservation Commission, requested introduction of a committee bill to modify the water rights purchasing program, converting it to the irrigation transition program. Representative Thimesch, seconded by Representative Faber, moved to introduce this request as a committee bill. The motion carried.

### **Hearing on HB 2460 - Appointment of secretary of agriculture by governor.**

Chairman Johnson opened the hearing on **HB 2460**. Raney Gilliland explained that this bill provides that the Secretary of Agriculture be directly appointed by the Governor, rather than having the Governor choose the Secretary from a list of three nominees put forward by the State Board of Agriculture.

Doug Wareham, on behalf of the Kansas Grain & Feed Association and Kansas Agribusiness Retailers Association, testified in support of **HB 2460**. He stated that while both organizations fully support the nine-member State Board of Agriculture's role in advising the Secretary and Governor on agricultural policy, they believe the role of the Board in nominating persons for the position of Secretary of Agriculture has been proven to be problematic. Specific concerns identified include the potential for significant delays in the current nomination/ appointment process and the costs associated with the additional meetings and advertising necessary to discover candidates for possible nomination by the Board. (Attachment 1)

Brad Harrelson, Associate State Director, Governmental Relations, Kansas Farm Bureau, appeared in opposition to **HB 2460**. He stated that Kansas Farm Bureau policy is supportive of the current statutory responsibilities given to the State Board of Agriculture. He reported that KFB members have thoroughly discussed the role of the Board and affirmed its value during their policy development process this past year. Specifically, KFB continues to support the existing statutory responsibilities, including the nomination of three individuals to the Governor for the appointment as Secretary of Agriculture. (Attachment 2)

Senator David Corbin, sponsor of **SB 145**, an identical bill heard in committee last session, provided background information on current law enacted by the legislature in the mid 1990's. He believes the current system has proven to be flawed and inefficient.

There being no other conferees, the Chairman closed the hearing on **HB 2460**.

### **Hearing on ERO 32 - Transferring powers, duties and functions of the Department of Health and**

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### Environment to the Department of Agriculture.

Chairman Johnson opened the hearing on **ERO 32**.

Laurel Murdie, Legislative Division of Post Audit, summarized the findings, conclusions, and recommendations from the performance audit report, *Food Safety Programs in Kansas: Evaluating Possible Costs and Efficiencies of Combining Them*, dated October, 2003. The Post Audit performance audit of this topic proposed to answer the question: Could food service inspection programs in Kansas be consolidated to streamline operations, save money, and improve food safety? The staff of Post Audit identified several factors that suggest Kansas' current food safety system needs to be improved. It was found that Kansas could realize significant savings and improve food safety if food safety inspections are combined and inspections are changed to a risk-based approach. It was recommended that food safety inspection functions be reorganized into three areas—dairy inspections; food processing inspections; and retail sales inspections. The report also recommended that Kansas continue taking steps to become better prepared for intentional threats to food safety.

Raney Gilliland, Legislative Research Department, reviewed the conclusions and recommendations of the interim Special Committee on Agriculture that met in November after completion of the performance audit report. The members of the Special Committee on Agriculture recommended that legislation be introduced, in the Senate first, with the following components:

- Transfer food safety programs from the Kansas Department of Health and Environment to a newly-named Department of Agriculture and Food Safety;
- Formally create a working group to review a variety of issues relating to food safety and report to the legislature by February 1, 2005;
- Make necessary statutory changes to bring all “food processing plants” back under state licensing and inspection. This action would correct 2002 legislative action; and
- Require communication between the newly-named Department of Agriculture and Food Safety and the Bureau of Epidemiology and Disease Prevention in KDHE with regard to food safety issues.

Ron Hein, representing the Kansas Food Dealers Association, appeared as a neutral conferee on **ERO 32** that would move the inspection of grocery stores from KDHE to the Department of Agriculture. He noted that, currently, it is confusing to some Association members which department has what responsibilities for inspecting their business. Association members want an inspection program that insures the consumer of the safest and most wholesome products regardless of which department conducts the inspections. (Attachment 3)

Ron Hein, representing the Kansas Restaurant and Hospitality Association, stated that members of the Association believed it was inappropriate to advise who should be the industry regulator, but strongly support the continuation of food service inspections and food safety education. He noted that **ERO 32** would help both state departments to be more specialized and focused on their respective inspection, bioterrorism, and food borne illness responsibilities and will give focus and ownership to these very important topics. The Association requested that there be no further fee increases. (Attachment 4)

Adrian Polansky, Secretary, Kansas Department of Agriculture, appeared in support of **ERO 32** transferring several program responsibilities from the Kansas Department of Health and Environment to the Kansas Department of Agriculture. The Department of Agriculture will be the key authority for safety as food is produced, processed, and transported to consumers, giving many businesses a single point of contact for food safety regulation. He believes this shift in duties will complement their existing authority for dairy, meat, and egg compliance. The specific types of establishments that will transfer to the Department of Agriculture include retail grocery stores, food service in retail grocery stores, mobile ice cream vendors, vending machines, convenience stores, retail meat stores and meat processors, specialty shops, variety stores, food wholesalers and warehouses, food manufacturers, bakeries, mills and elevators, bottling plants, wineries, breweries, food re-packers, bottled water businesses, pet food manufacturers, food salvagers, ice plants, cider mills, seed sprouting businesses, and fruit and vegetable markets. (Attachment 5)

Les Roberts, Director of the Bureau of Consumer Health, Kansas Department of Health and Environment, testified that the Department supports **ERO 32**, assigning duties related to food production, processing, and packaging for retail to the Kansas Department of Agriculture, while maintaining the public health priorities related to highest risk food safety establishments with the Kansas Department of Health and Environment.

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The Kansas Department of Health and Environment believes it is important that licensing of restaurants remain at KDHE for the overall protection of the public's health and to facilitate continuity in the Department's ability to respond quickly and effectively to critical health risks. ([Attachment 6](#))

Leslie Kaufman, Director, Governmental Relations, Kansas Cooperative Council, appeared in support of **ERO 32**, although the Council would have liked the ERO to cover a broader, more inclusive transfer of the food safety programs. They support the consolidation of restaurant and grocery store food safety programs in the Kansas Department of Agriculture. The Council appreciates provisions in the ERO that provide for the transfer of funding and staff when the programs move to the Department of Agriculture. ([Attachment 7](#))

Todd Johnson, President of the Kansas Agricultural Alliance, a group of nineteen organizations representing agricultural, agribusiness, and rural interests, testified in support of **ERO 32**. The Alliance feels the order accomplishes their goal of greater governmental coordination, efficiencies and capitalizes on existing synergies. ([Attachment 8](#))

Brad Harrelson, Associate State Director, Governmental Relations, Kansas Farm Bureau, appeared in support of **ERO 32** transferring food safety and inspection functions to the Kansas Department of Agriculture; however, they had hoped that the ERO would have been broader in scope and included all facets of food safety and not excluded businesses that prepare food for immediate consumption. It was noted that adequate funding for increased food safety responsibilities must be recognized and addressed. Kansas Farm Bureau recommends that the KDA retain its current statutory designation as the Kansas Department of Agriculture. ([Attachment 9](#))

Leadership of the Kansas Meat Processors Association submitted written testimony in support in principle of **ERO 32**. They wrote that if efforts to effectively and efficiently deliver safe food to Kansas citizens can better be accomplished by combining divisions of the KDHE and KDA so that regulatory inspections become more consistent, practical, and science-based, they support those efforts. Their Association would like to see stronger efforts by state agency personnel to develop a higher level of consistency in the implementation of regulations so that they are consistent with statutory authority, and in their case, with the "equal to" provisions of the Federal Meat & Poultry Inspection regulations. ([Attachment 10](#))

Sally Finney, Executive Director, Kansas Public Health Association, Inc., testified in opposition to **ERO 32** and the consolidation of food safety inspections under the Kansas Department of Agriculture because members of the association believe it would be a conflict of interest and food safety is a core public health function. The Association supports consolidation if it improves the system and if it is done under a state agency whose mission it is to protect the public's health. They believe that agency is the Kansas Department of Health and Environment. ([Attachment 11](#))

Stephen Paige, Topeka, Kansas, a retired director of the Kansas Department of Health and Environment's food protection program, appeared in opposition to **ERO 32**. He suggested a Memorandum of Understanding between the agencies as an alternative to **ERO 32**. He believes the responsibility for the state's food protection program is in the Kansas Department of Health and Environment. ([Attachment 12](#))

There being no other conferees, Chairman Johnson closed the hearing on **ERO 32**.

Representative Schwartz, on behalf of the Kansas Department of Commerce and Housing, moved introduction of a committee bill concerning intrastate shipment of wine. Seconded by Representative Gatewood, the motion carried.

The meeting adjourned at 5:40 p.m. The next meeting is scheduled for January 28, 2004.