

M I N U T E S

SPECIAL COMMITTEE ON GOVERNMENTAL ORGANIZATION

October 21, 1975

Members Present

Representative Robert H. Miller, Chairman
Senator Neil Arasmith
Senator Dan Bromley
Senator Paul Hess
Representative Geneva Anderson
Representative Ralph E. Bussman
Representative J. Santford Duncan
Representative Richard L. Harper
Representative Joe Hoagland
Representative Charles Laird

Staff Present

Donald L. Jacka, Jr., Legislative Research Department
William Wolff, Legislative Research Department
Avis Badke, Revisor of Statutes Office

Conferees

Harold Shoaf, K.E.C.
Sister M. Noel Walter, Kansas Catholic Conference
Pat Boyer, Kansas Department of Agriculture
Chris McKenzie, Division of State Planning and Research

Morning Session

Chairman Miller called the meeting to order. Upon motion by Representative Harper, seconded by Senator Arasmith, and action by the Committee, the minutes of the last meeting were adopted.

The staff was asked to present the bill draft which establishes the Department of Natural Resources -- a copy of this bill is maintained in the Legislative Research Department files. He proceeded to explain the bill, section by section, making explanations concerning certain questions from the Committee.

In connection with Section 2, it was noted that the Forestry, Fish and Game Commission has been renamed the Division of Fish and Wildlife. He added that there were amendments near the end of the bill to protect present federal funding. The Committee was reminded that they had made a decision establishing the division heads in the unclassified service. Section 3 abolishes the present Forestry, Fish and Game Commission and transfers its duties to the Department of Natural Resources. Section 4 creates the Fish and Wildlife Advisory Commission. This advisory commission would perpetuate the present Forestry, Fish, and Game Commission. In connection with Section 4, the staff stated that at the last meeting, the Committee had decided that the appointment of members to the advisory boards and commissions did not need the consent of the Senate, and that this wording should be deleted in subsection (a). This wording was also to be deleted in other sections of the bill in connection with appointments to advisory boards and commissions.

The staff member continued the discussion by stating that subsection (b) on page 5 of the bill "grandfathers" present commissioners into their jobs. He noted that sections (b) through (f) are standard wording for sections concerning advisory boards throughout the bill.

Section 5, according to the staff establishes the Division of Land and Water Resources. Section 6 abolishes boards and agencies which are concerned with this subject area, these being the State Water Resources Board, Office of Executive Director of Water Resources and State Conservation Commission. Section 7 and 8 create advisory boards under the Division of Land and Water Resources to replace those abolished by previous sections.

It was noted that Section 9 establishes a Division of Parks and Recreation. Section 10 abolishes present state offices and agencies now performing duties of the proposed division.

Section 11 creates an advisory council on parks and recreation. There was a question about the language "local public interests" on lines 7 and 8 on page 14. The staff noted that it appears in the present law.

In connection with Section 12, the staff noted that the Natural and Scientific Advisory Board was supposed to have been combined with the other two boards to create one advisory board, but it was assumed that the bill drafting department may have had problems with this consolidation because of federal funding, etc.

Section 13 establishes a Division of Energy Administration. Section 14 contains transfer language as it applies to this division. Section 15 attaches the Governor's Energy Advisory Council to the Division of Energy Administration. Section 16 transfers the employees from old agencies involved in this transfer to new agencies created. Section 17 refers to the organization

of the Department of Natural Resources by the Secretary and Division Heads, and Section 18 establishes the legal staff and Chief Attorney. Section 19 provides for conflicts caused by reorganization to be resolved by the Governor with the approval of the State Finance Council. Section 20 of the bill refers to the continuation of lawsuits. It was noted by the staff that one phrase was repeated and the repetition should be deleted -- namely, "or by or against any state agency mentioned in this act." Section 21 refers to acquisition or sale of land by the agencies involved.

In connection with Section 22, there was a discussion concerning the expense of a written report being submitted annually to each member of the legislature. Senator Hess offered a motion that the language be changed to read "Prior to the 1978 session of the legislature, the secretary of natural resources shall submit a written report to the governor and the legislative leadership." This motion was seconded by Representative Laird, and it carried.

It was noted that Section 23 deals with keeping the Division of Fish and Wildlife in Pratt. Section 24 provides for payment of moving expenses for certain employees who are transferred within the state. Section 25 transfers funds of state agencies abolished by the act to the new Department of Natural Resources. Section 26 relates to funding from the Federal Government, and provides that monies now being used to implement the various programs of fish and game management will not be touched by other agencies within the new department. Section 27 transfers Forestry, Fish and Game Commission funds to the fish and wildlife fee fund. Section 28, et seq., are clean-up sections of existing statutes concerning agencies in the reorganization bill.

A motion was offered by Senator Hess and seconded by Representative Laird to remove the word "governor's" from the language on page 18, Section 15, Subsection (a), if the wording is not mandated by federal legislation. The motion carried.

Questions were raised by members of the Committee concerning Section 44 of the bill. One was whether the wording in subsection (4) on page 38 was necessary. The staff explained that this language came from the language stricken on page 83. It was suggested that the staff wanted to make clear what authority is given. There was a question concerning the words in parenthesis in subsection (1) on page 38, "(and with warrants where not so found violating said laws and regulations)". The staff explained that this would give law enforcement officers the right to make arrests, with cause, that a misdemeanor has occurred. Otherwise, unless the officer witnessed the misdemeanor, no arrest could be made.

A Committee member questioned the stricken proviso on page 49, concerning a county with certain population and assessed valuation. Staff noted that this language was probably stricken because, under the new home rule law, any law which is not uniformly applicable across the state can be opted out by the city.

The staff called the Committee's attention to language in Section 83 concerning the Mined Land Conservation and Reclamation Board. It was agreed that the wording "one representative of the state conservation commission should be deleted, and that the wording "state board of agriculture" needs to be monitored, depending on the disposition of the bill being considered and the Department of Agriculture bill.

In connection with stricken language concerning bonds on page 102, a member of the staff said that the general bond law provides the same thing, and that duplicating the provision in the department of natural resources bill is redundant.

Representative Duncan offered a motion that Section 62(a) on page 55 be changed to read "eighteen (18)", instead of "twenty-one (21)". The motion was seconded by Senator Hess and it carried.

The question was raised concerning having misdemeanors listed in the bill according to classes rather than having them spelled out, as is done in the present draft. The argument against listing them as classes was that very few people know the fines involved in the various classes of misdemeanors. Other questions were raised concerning various aspects of the bill, and it was decided to discuss them more thoroughly after the noon recess. The Committee was recessed for noon break.

Afternoon Session

Upon reconvening of the Committee the staff was directed to report on various questions which had originated in the morning session. The staff reported first concerning the Governor's Commission on Energy and Natural Resources. It was noted that at one time there were 21 members, and that there are presently four members, with more to be appointed by the new administration. Senator Hess moved that the Governor's Energy Advisory Council in the Department of Natural Resources have seven members and that in relation to meetings, four members be considered a quorum. Senator Arasmith seconded the motion, and it passed by vote of the Committee.

There was a motion offered by Representative Duncan and seconded by Senator Hess that the wording regarding the advisory

council on parks and recreation on page 14 of the bill be changed to reflect that all eight members appointed by the governor should be appointed at large. The effect would be to delete the sentence, "Of the members so appointed, three shall represent local public interests." The motion carried, with Senator Arasmith and Representative Harper voting "no".

The Natural and Scientific Areas Advisory Board was then discussed, with reservations expressed by members of the Committee concerning the present wording of this portion of the bill. The staff assured the Committee that they would continue to check with Mr. Alderson to be sure of the reason for present wording of the bill.

Representative Duncan moved that the Committee authorize the pre-filing of the Department of Natural Resources bill and recommend to the Legislative Coordinating Council that it be filed as a House bill. Senator Hess seconded the motion and it carried, with Senator Bromley voting "no".

The Chairman then asked the staff to review the bill draft creating a Department of Agriculture and to point out the changes made as a result of Committee decisions at the last meeting. A copy of this bill is maintained in the Legislative Research Department's files. It was noted that on page 4, in subsections (4), (5) and (6) the membership has been changed from 200 to 100. On page 6, in Section 5(a), there is a statement that advisory board members shall be elected for terms of four years. It was noted that this is consistent with a decision made by the Committee that all board members should serve for that length of time.

Representative Duncan moved to change the wording of the section (K.S.A. 74-503) concerning the advisory board selection committee to continue to provide \$10,000 for expenses incurred at the meeting, but to strike any specific reference to delegate expenses being paid from that sum of money. Senator Hess seconded the motion. There was a lengthy discussion, during which the section was read to the Committee by the staff. On suggestion was that if the entire section is repealed, there will no longer be a limitation on expenditures. Some Committee members were of the opinion that the state should not pay any expenses of the delegates at all. It was revealed by Mr. Boyer, of the Department of Agriculture, that the delegates are now paid approximately three cents a mile and three to five dollars a day -- depending on the number of delegates in attendance. Other expenses of the meeting are paid first. Upon a vote by the Committee, the above motion carried, with Senator Bromley voting "no".

It was noted that, to be consistent, the terms of the Animal Health Advisory Board in Section 8(a) on page 9 should be changed from three to four years.

By motion of Representative Duncan and second by Senator Hess, it was decided that the stricken language on page 13 in lines five and six be reinserted to read as follows: "and one member who is a stockholder in a farmer grain cooperative enterprise." The motion carried.

The staff proceeded to explain changes in the bill draft. He referred to Section 15 on page 18, and noted that the Committee had decided that political affiliation of members of the Wheat Advisory Commission be stricken, and that any age limit also be stricken.

Referring to Section 17, on pages 20, 21, et seq., the staff explained that there is a good deal of stricken language because many of the positions heretofore included were deleted in the reorganization process. The language in subsections (h) and (i) was deleted as a result of Committee action, with reference to appointments made by the Speaker of the House and the President of the Senate.

Following the presentation by the staff, Chairman Miller explained that the balance of the bill will be technical changes, name changes, and will contain over 200 sections.

Representative Duncan offered a motion that, with the idea in mind that the rest of the bill will be technical changes, the Committee authorize the pre-filing of the bill establishing the new Department of Agriculture and recommend to the Legislative Coordinating Council that it be filed as a House Bill. Senator Hess seconded the motion.

At this point, Representative Harper stated his opposition to wording in Section 1 of the bill where it states that the Secretary of Agriculture should be appointed by the Governor with the consent of the Senate and serve at the pleasure of the Governor. He said that the present Secretary and Board of Agriculture have done a good job and he expressed his doubts that any state has operated better in the field of agriculture. He said that he does not believe it is in the best interests of agriculture to have the Secretary changed each time there is a change in administration, and he stressed his opposition to the bill. Other Committee members stated that they felt the entire Legislature should have a chance to look at the proposal, particularly in light of the reorganization bills which have been passed in recent years. The Chairman called for a vote and the motion carried, with Senator Arasmith and Representative Harper voting "no".

The staff then directed the Committee's attention to the rough draft of the Committee report on Proposal No. 21 -- Department of Agriculture and Natural Resources. This rough draft report is appended as Attachment I. There was a short discussion, during which the Committee decided that advisory boards should be included in the organizational charts of both departments included in the report.

Senator Hess offered the motion that, with the change suggested in the preceding paragraph, the Committee report be adopted, giving the staff permission to edit it. Senator Arasmith seconded the motion. The motion carried, with Senator Bromley not voting.

Chairman Miller thanked the Committee and the staff for their deligence during the summer, and the meeting adjourned.

Prepared by Donald L. Jacka, Jr.

Approved by Committee on:

10/21/75
(Date)

MEMORANDUM

TO: Special Committee on Governmental Organization
FROM: Legislative Research Department
SUBJECT: Rough Draft Committee Report on Proposal No. 21 --
Department of Agriculture and Natural Resources

Proposal No. 21 directs the Special Committee on Governmental Organization to determine the feasibility or desirability of establishing a cabinet level Department of Agriculture and Natural Resources. During the course of the study, the Committee received testimony from representatives of the State Historical Society, various farm organizations, and state agencies, boards, commissions and authorities affected by this reorganization proposal.

Background

The creation of a cabinet level Department of Agriculture and Natural Resources in Kansas was initially recommended by the 1971 Commission on Executive Reorganization. As a facet of their comprehensive design of reorganizing the executive branch of state government, the Department of Agriculture and Natural Resources was recommended as one of the eight cabinet level departments directly responsible to the Governor for the administration of the executive branch. It was felt that the establishment of a cabinet level department in the subject areas of agriculture and natural resources would result in a comprehensive agency capable of providing effective and efficient services to the state. Such a department as proposed by the 1971 Commission would be composed of four separate divisions -- the Division of Agriculture; the

Division of Forestry, Fish and Game; the Division of Land and Water Resources; and the Division of Parks and Recreation -- each concerned with broad subject areas.

As recommended by the 1971 Commission on Executive Reorganization, the Division of Agriculture would include the functions presently performed by the State Board of Agriculture, Board of State Fair Managers, Horticultural Society, the Grain Inspection Department, the Wheat Commission, and the Department of Animal Health. In addition to the transfer of these functions, the 1971 Commission recommended the transfer of various boards and commissions to the Division of Agriculture. Among the major boards and commissions to be transferred and to become advisory in nature to the Division of Agriculture were the State Board of Agriculture (in combination with the Board of State Fair Managers), the Animal Health Board, the Grain Advisory Commission, and the Wheat Commission. The Division of Forestry, Fish and Game, as proposed by the 1971 Commission would operate as the present Forestry, Fish and Game Commission functions. The 1971 Commission proposed that the state functions relating to land and water resources be consolidated within one division of the Department of Agriculture and Natural Resources. The consolidation of the present Geological Survey, Conservation Commission, Mined-Land Conservation Reclamation Board, Division of Water Resources of the State Board of Agriculture, and the Water Resources Board as proposed in 1971 would constitute the Division of Land and Water Resources. The fourth of the divisions comprising the recommended reorganization was the Division of Parks and Recreation -- organized by the 1971 Commission to consolidate the activities of the present

Joint Council on Recreation and the State Parks and Resources Authority. In total, there were nearly 20 different state agencies, boards, commissions and authorities to be affected by the 1971 Commission proposal to create a Department of Agriculture and Natural Resources.

Committee Activities

Relative to similar organizational structures in other states, the Committee was interested to note that of the five subject areas concerned in the proposed Department of Agriculture and Natural Resources -- agriculture, natural resources, fish and game, water resource management, and park activities -- no other state has combined the functions or activities of all areas into one department. It was found that fourteen states house four activity areas in one department; seven states combine three activities in one department; and twelve states have two of these five activities in one department. It was also noted that in only two states -- Alaska and Rhode Island -- have the functions and activities in the area of agriculture been combined, within one department, with any of the other areas of activity concerned.

Addressing their present charge under Proposal No. 21, the Committee agreed to initiate their study by drafting a bill, (as set forth by the 1971 Commission on Executive Reorganization), which would accomplish the reorganization of the agencies of state government concerned with the broad subject areas of agriculture and natural resources. This bill creating a Department of Agriculture and Natural Resources was then sent to the various agencies, boards, commissions, and authorities affected by the

proposed reorganization. Testimony was then requested and received from these agencies, boards, commissions and authorities concerning the proposed reorganization. Testimony received indicated that these state agencies, boards, commissions and authorities were somewhat doubtful as to the economy and efficiency to be achieved by such reorganization. It was also noted by these conferees that the subject areas addressed by this reorganizations were rather broad and too diverse to be housed within one state agency.

Committee Conclusions

Following the testimony received from conferees concerning the initial draft which was constructed concerning Proposal No. 21, the Committee felt that a redraft was necessary. It was within this reconsideration that the Committee decided to create two separate departments to accomplish the functions of the various areas included within the realm of Proposal No. 21. This decision lead to the drafting of two separate bills, one creating a Department of Agriculture and the other creating the Department of Natural Resources.

Various general policy questions were dealt with initially concerning such reorganizations. It was the Committee's decision that all division heads be within the unclassified service and that all existing boards, commissions and authorities be perpetuated as advisory boards to the divisions. As to the functions to be included within these two departments it was a decision of the Committee that the activities related to the Geological Survey should be deleted from the present reorganization. It was also the Committee's decision that the functions of

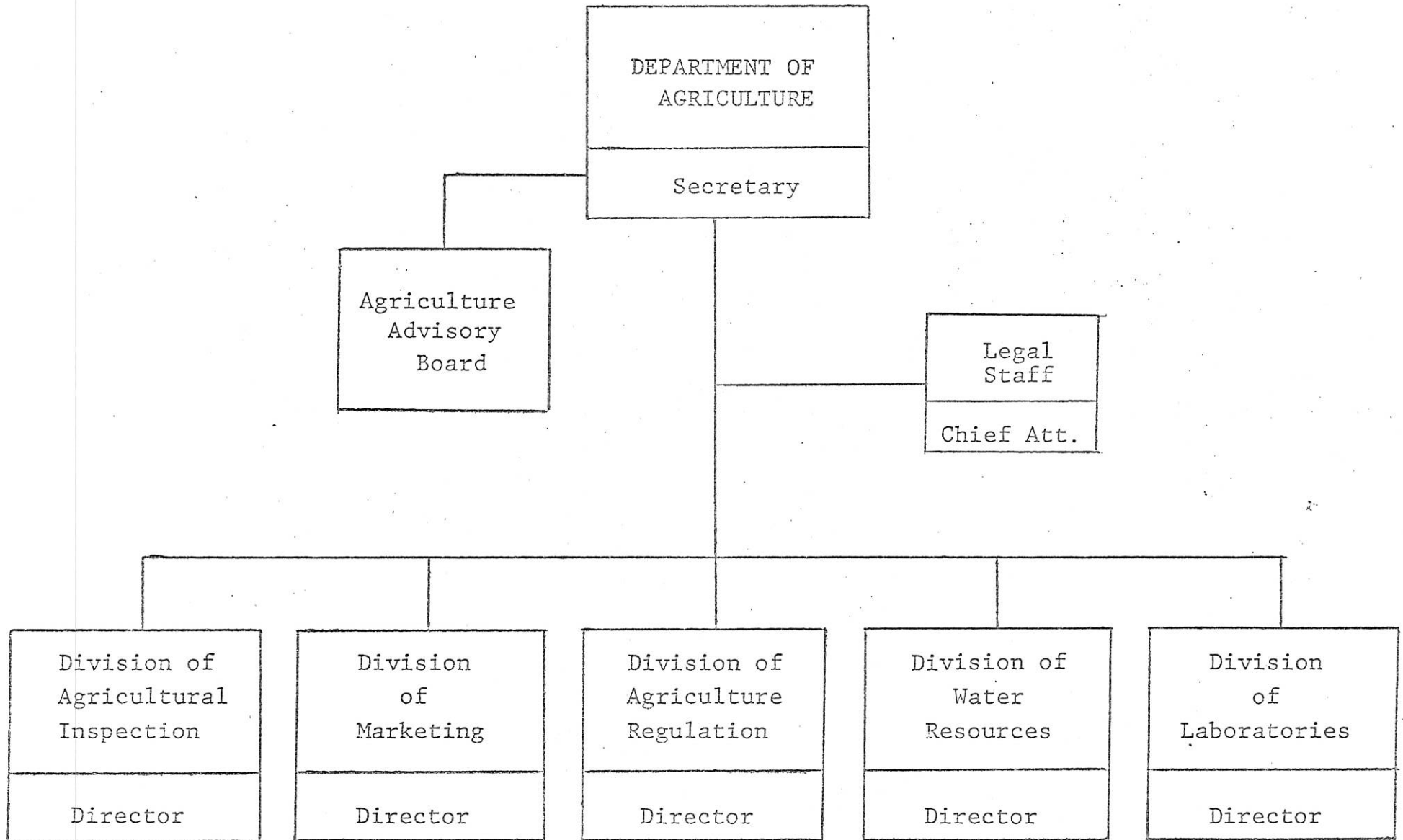
the Mined-Land Conservation and Reclamation Board be transferred from its present position in the Corporation Commission to the Division of Environment of the Department of Health and Environment.

Department of Agriculture

The Committee feels that a cabinet level Department of Agriculture should be created to accomplish the activities now being performed by various state agencies, boards, and commissions in the area of agriculture. This proposed department would be administered by a secretary appointed by the Governor. In an advisory capacity to the Department of Agriculture, the Committee recommends the creation of an Agriculture Advisory Board. This advisory board would replace and perform similar functions to those of the present State Board of Agriculture and the Board of State Fair Managers. As proposed by the Committee the Agriculture Advisory Board would perpetuate the present methods of selecting the State Board of Agriculture. The Department of Agriculture, as proposed, would be composed of five divisions -- a Division of Agricultural Inspection, a Division of Marketing, a Division of Agricultural Regulation, a Division of Water Resources, and a Division of Laboratories. (A graphic illustration of the organizational structure of the proposed Department of Agriculture is included at Figure 1).

The Division of Agriculture Inspection as proposed by the Committee would perform the functions presently administered by the Dairy Division and the Meat Inspection Division of the State Board of Agriculture, the Department of Animal Health and

Figure 1 -- Organizational Chart of the Proposed Department of Agriculture



the Grain Inspection Department. In the performance of these functions, the Committee feels that the director of this division could receive valuable advice from various advisory boards in these subject areas. Thus, the Animal Health Advisory Board, the State Grain Advisory Commission and the Milk Advisory Committee have been attached to the Division of Agricultural Inspection.

The Division of Marketing of the proposed Department of Agriculture would perform the present functions of the Division of Marketing of the State Board of Agriculture and the Kansas Wheat Commission. Assigned in an advisory capacity to the Director of Marketing, the Committee proposes the creation of a Wheat Advisory Commission -- a perpetuation, in an advisory role, of the Wheat Commission.

To accomplish the present functions and activities of the Entomological Division, the Weed and Pesticide Division, the Control Division and the Division of Weights and Measures of the State Board of Agriculture, the Committee recommends the creation of the Division of Agricultural Regulation within the Department of Agriculture. The Committee also feels that it would be beneficial to perpetuate the present Pesticide Advisory Board in an advisory role to the Director of Agricultural Regulation.

The Division of Water Resources, proposed by the Committee, would be a continuation of the present Division of Water Resources of the State Board of Agriculture. The functions of this proposed division would be the same custodial activities of the Division of Water Resources of the State Board of Agriculture. From the original department's conception, the Committee felt

that the custodial functions of the present Water Resources Division and the planning functions of the present Water Resources Board should not be consolidated.

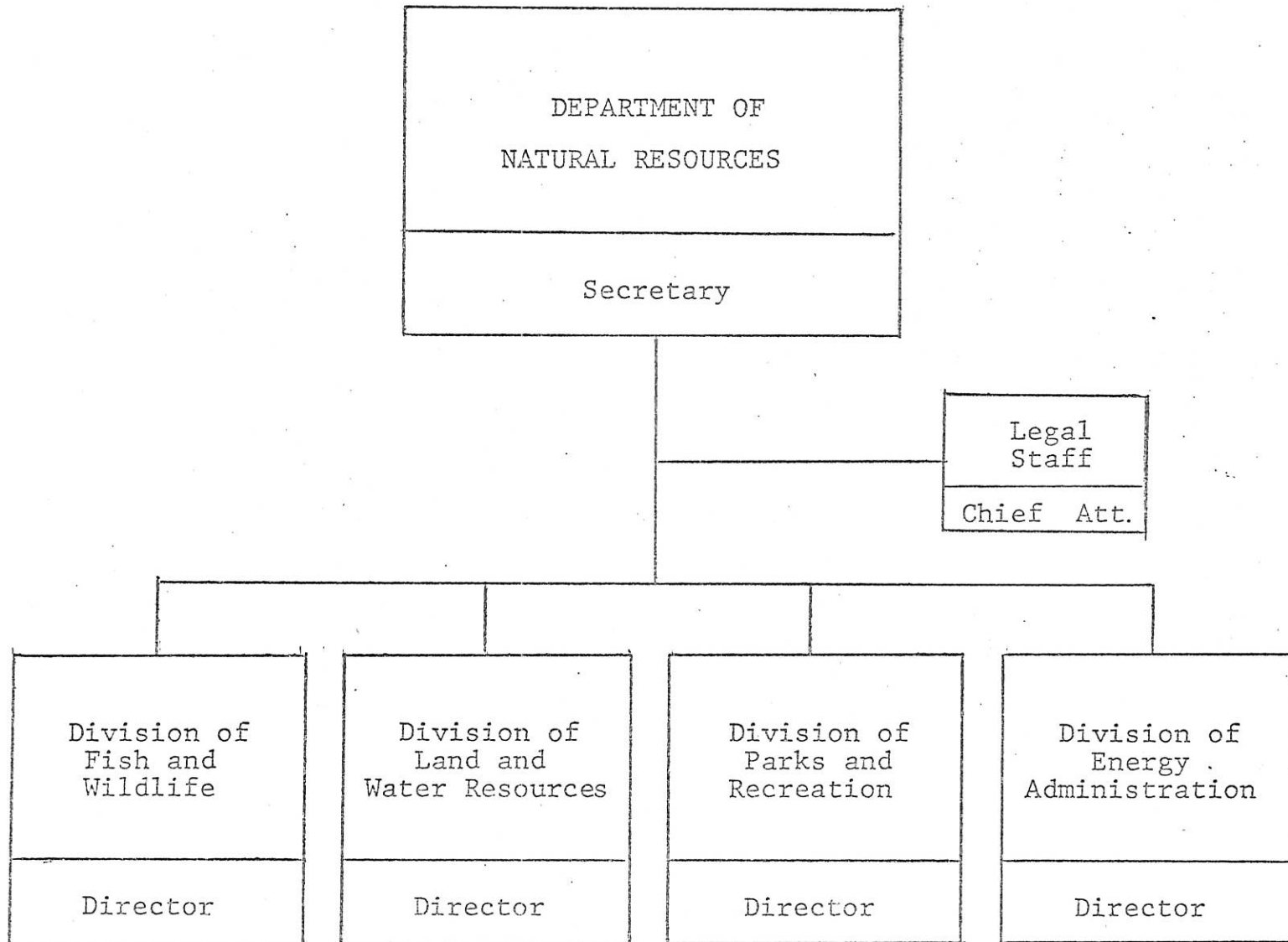
The final division of the Department of Agriculture, as recommended by the Committee is the Division of Laboratories. This division would be a consolidation of the present Chemical, Seed, and Weights Laboratories of the State Board of Agriculture. At the present, each of these various laboratories is organized as a separate entity, distinct from one another.

Department of Natural Resources

In the areas of state government related to natural resources, the Committee feels that benefits can be derived by a consolidation of the various agencies responsible for such functions. With this goal in mind, the Committee recommends the creation of a cabinet level Department of Natural Resources administered by a secretary appointed by the Governor. Such a department as proposed by the Committee would be composed of four divisions -- a Division of Fish and Wildlife, a Division of Land and Water Resources, a Division of Parks and Recreation, and a Division of Energy Administration. (Figure 2 visually depicts the proposed organization of the Department of Natural Resources).

The Committee feels that the present activities of the Forestry, Fish, and Game Commission should be logically transferred to a Department of Natural Resources. To accomplish this transfer, the Committee proposes the creation of a Division of Fish and Game -- the name change is the result of testimony given by the Forestry, Fish, and Game Commission relating to their present misnomer. In their transfer of the functions of the Forestry,

Figure 2 -- Organizational Chart of the Proposed Department of Natural Resources



Fish, and Game Commission, the Committee exhibited caution so that the present requirements on which the federal funding is based are not disturbed. In an advisory position to the Director of Fish and Wildlife the Committee feels that benefits could be realized by the creation of a Fish and Wildlife Advisory Commission. This Advisory Commission would perpetuate all aspects of the present Forestry, Fish and Game Commission except for its decision-making ability.

As another division within the Department of Natural Resources, the Committee feels that within a Division of Land and Water Resources the present activities related to land and water resources could successfully be consolidated. The Committee recommends that the present Water Resources Board and the Conservation Commission both be attached to the Division of Land and Water Resources in an advisory capacity.

The Division of Parks and Recreation, which is proposed by the Committee, would perform the activities of the existing State Park and Resource Authority, Joint Council on Recreation, and the Natural and Scientific Areas Advisory Board. In an advisory capacity to the Director of Parks and Recreation, the Committee has recommended that two advisory boards be created. One of these advisory boards -- the Advisory Council on Parks and Recreation -- would be a consolidation of the present State Parks and Resources Authority and the Joint Council on Recreation. The other recommended advisory board would be a perpetuation in an advisory capacity of the present Natural and Scientific Areas Advisory Board.

The final division proposed by the Committee is the Division of Energy Administration. The Committee recommends that the present functions of the Kansas Energy Office be transferred to and become the functions of the Division of Energy Administration. The Committee also feels that the Governor's Energy Advisory Council should be attached to this Division and made advisory to the Secretary of Natural Resources and the Director of Energy Administration.

Through the organization as outlined above, the Committee feels that the state activities in the area of natural resources can be much more efficiently and effectively accomplished. The Committee feels that necessary coordination among the various overlapping areas within natural resources subject areas can be amplified through such a reorganization.

Missing from the Department of Natural Resources, but recommended by the 1971 Commission on Executive Reorganization to be included within the reorganization of that subject area, were the present Mined-Land Conservation and Reclamation Board and the Geological Survey. Both of these agencies were recommended for reorganization into the Department of Agriculture and Natural Resources in 1971. In relation to the Geological Survey, the Committee feels that, because of its effective functioning at the present time, inclusion within such a reorganized department would not enhance its operations. In consideration of the inclusion of the Mined-Land Conservation and Reclamation Board within the Department of Natural Resources, the Committee received testimony from a representative of the Board, the Secretary of

Health and Environment and the Director of Environment. From the testimony received, the Committee feels that the activities performed by the Mined-Land Conservation and Reclamation Board could most effectively be accomplished by the Division of Environment of the Department of Health and Environment. This decision was based on the fact that many of the present activities performed by the Mined-Land Conservation and Reclamation Board overlap with many of the activities of the Division of Environment.

To implement the recommendations made by the Committee, three separate pieces of legislation are attached to this report. _____ Bill _____ creates a Department of Agriculture as proposed by the Committee. The creation of a Department of Natural Resources is to be accomplished through the passage of _____ Bill _____. In relation to the problems noted by the Committee concerning the activities of the Mined-Land Conservation and Reclamation Board, _____ Bill _____ is recommended to provide for the transfer of these activities to the Division of Environment of the Department of Health and Environment. Through these bills the Committee feels that the successful reorganization of the state activities in the subject areas of agriculture and natural resources can be accomplished. For this reason, the Special Committee on Governmental Organization recommends the favorable passage of _____ Bill _____, _____ Bill _____, and _____ Bill _____.