

Approved: 2-7-95  
Date

MINUTES OF THE SENATE COMMITTEE ON AGRICULTURE.

The meeting was called to order by Chairperson David Corbin at 10:00 a.m. on February 2, 1995 in Room 423-S of the Capitol.

All members were present.

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

Conferees appearing before the committee:

Jamie Clover Adams, Kansas Grain and Feed Association  
Bill Craven, Kansas National Resource Council, Common Cause, and Sierra Club  
Marc A. Johnson, Dean of Agriculture and Director of Kansas Cooperative Extension Service  
Richard D. Wooten, Associate Director of Extension  
Carolyn S. Wilken, Extension Specialist, Aging and Health Care  
Ronald C. Young, Extension Specialist, Local Government & Rural Health Policy  
Susan Krumm, Extension Agent, Home Economics, Douglas County

Others attending: See attached list

Senator Salle moved to approve the minutes of January 26, 30 and 31. Senator Clark seconded the motion. The motion carried.

The hearing continued on **SB 62 - Appointment of state board of agriculture by governor; board appoints secretary of agriculture.**

Jamie Clover Adams supported **SB 62**. Their associations ask only that the committee consider the long-term implications of a board with rule and regulation authority and compare that with a secretary appointed by the Governor (Attachment 1).

Bill Craven opposed **SB 62**, because it does not reflect the structure that they think will best serve Kansas Agriculture. However he thought the provisions appear to satisfy the one person, one vote requirement of the U.S. Constitution litigated through the federal court system, but it did not fulfilled the needs of the citizens of Kansas (Attachment 2). He responded to questions.

The hearing closed on **SB 62**.

Chairperson Corbin called on Dean Johnson to introduce the extension faculty, and to give an overview of Kansas State University on Health Education Developments in Kansas, featuring Cooperative Extension Service Programs.

Dean Johnson stated the progress of health education in Kansas is a very important program and it will be tracked through the Extension Accomplishment Reporting System. The extension faculty would review the health care programs and the achievement of short and long-term goals. A booklet containing their reports Health Education Developments in Kansas was distributed to committee members. The booklet is on file in Legislative Research Department and in Senator Corbin's Office.

Richard Wootton reviewed the areas of extension programs specializing in the needs of the aging population regarding financial and legal issues related to health.

Carolyn S. Wilken reviewed the educational programs in the area on aging and health care. She said extension professionals in aging and health care are working effectively to meet the priority needs for targeted audiences, and the critical needs of older Kansans.

Ronald C. Young reviewed the rural health policy . He gave an overview of how the extension programs are networking with other educational and industry associations to expand the capability to provide educational

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON AGRICULTURE, Room 423-S Statehouse, at 10:00 a.m. on February 2, 1995.

information to all sectors of the health care industry.

Susan Krumm gave an overview of how Douglas county extension offices are working with Kansas State University to promote health programs and disease prevention programs. She stated one of the most important health programs is safe food handling.

The meeting adjourned at 11:03 a.m.

The next meeting is scheduled for February 6, 1995.



Mr. Chairman and Members of the Committee, I am Jamie Clover Adams here today representing both the Kansas Grain and Feed Association (KGFA) and the Kansas Fertilizer and Chemical Association (KFCA). While the two associations share staff, they have distinct memberships, separate boards of directors and association programs. KGFA's 1200 members include country elevators -- both independent and cooperative -- subterminal and terminal elevators, feed manufacturers, grain merchandisers and others who serve the industry. KFCA's nearly 500 members are primarily plant nutrient and crop protection retail dealers, but also include manufacturer's representatives, distribution firms, and equipment manufacturers. We appreciate this opportunity to appear in support of S.B. 62.

The Kansas Department of Agriculture, through the over 70 laws it enforces is the primary regulatory agency overseeing the operation of our businesses. As Secretary Devine so succinctly stated in her presentation to this committee, the Department is a regulatory agency charged with implementing both state and federal law. A good share of those laws regulate the firms we represent. For example, they check the accuracy of our large truck scales, certify the fertilizer, feed and seed we sell meets guaranteed analysis, assure our anhydrous ammonia equipment is safe, verify our containment dikes and loadout pads meet regulatory requirements and audit our records to ensure the plant protection products we sell and/or custom apply are handled in accordance to the law. Consequently, both KGFA and KFCA have a keen interest in the organization of the Department of Agriculture.

Four issues are central to the debate over the organization of the Department. These are (1) where the rule and regulation authority is vested; (2) the participation of the Secretary in the cabinet; (3) the ability of the Secretary to bring his/her management team to the Agency; and (4) does the scheme pass constitutional muster.

*Senate Ag Co  
2-2-95  
Attachment 1*

KGFA and KFCA advocate a Secretary of Agriculture appointed by the Governor and confirmed by the Senate. While the concept of a 9-member board appointed by the Governor and confirmed by the Senate is sound, in weighing the pros and cons of both, we believe an appointed Secretary best serves the long-term interests of the food and fiber system and therefore all Kansans. First, a gubernatorial appointee is directly accountable to the Governor while a disparate board of 9 individuals can easily deflect accountability. How will the Governor hold board members accountable, remove them from the board? Second, as Kansas and the nation urbanize it is more important than ever for Agriculture to speak with one voice and find common ground with competing interests. An appointed Secretary can do this more easily than 9 individuals. While consensus is necessary and could be achieved, would all 9 individuals advocate the consensus policy? Third, a board also leaves room for appointment of an individual(s) with an agenda contrary to the best interests of the food and fiber system and its ability to provide the safest, most abundant food supply in the world. Finally, some would argue we cannot be sure that some Governor in the future will chose an individual who understands and appreciates modern agriculture. We would counter that when agriculture accounts for 18% of the Gross National Product and 22 million jobs in this county, no Governor will leave the agency in the hands of an individual who does not appreciate and want a strong and productive agricultural sector.

S.B. 62 recognizes the importance of the Secretary's equal participation in the Governor's cabinet. The Secretary's presence day in and day out assures that the interests of food production are advocated in other areas of policymaking. Without our "advocate" our interest could well be overlooked in other areas such as tax policy and trade.

S.B. 62 also addresses the ability of the Secretary to bring his or her own management team to the Department by permitting the appointment of an assistant secretary or secretaries. However, KGFA and KFCA would not advocate the appointment of division heads. Our desire for the Secretary to bring a management team

to the Department does not in anyway reflect our opinion of current staff. However, the scheme established now must serve us in the future. We all learned in high school civics that agency personnel are goal-seekers like all other parties in regulatory decisionmaking. They seek to maximize what they perceive as the policy goals of the agency. This may be in direct conflict with the goals of the Secretary. When the Secretary is the only unclassified employee, who will assure that the Secretary vision is begin implemented?

In closing, KGFA and KFCA support S.B. 62. We only ask that the Committee consider the long-term implications of a board with rule and regulation authority and compare that with a Secretary appointed by the Governor. Whatever scheme is agreed upon must not only be in the interests of today's agriculture but also look to the future and what agriculture may look like 50 years from now. I thank you for this opportunity to express our views and would be glad to answer any questions you may have.



# SIERRA CLUB

## Kansas Chapter

Board of Ag Election Structure  
Testimony of Bill Craven  
Kansas Natural Resource Council, Kansas Sierra Club, and Common Cause

This testimony is presented on behalf the two groups which brought the lawsuit which prompts this legislative consideration of this issue. Additionally, this testimony reflects the views of the Kansas Sierra Club.

We oppose this bill because it does not reflect the structure we think will best serve Kansas agriculture. S.B. 62 provides for the appointment of a new Board of Ag appointed by the governor. It further provides that the Board shall appoint the secretary. These provisions appear to satisfy the one person, one vote requirement of the U.S. Constitution litigated through the federal court system.

However, it is less clear--and hasn't been litigated or determined in the courts--whether the bill meets the "separation of powers" requirements of the Kansas constitution. In a nutshell, what that doctrine requires is that executive and legislative responsibilities remain clear and distinct. The question posed by this bill is whether the board appointing the secretary constitutes a legislative limitation on the executive branch relative to the appointment of what is clearly an executive branch official. Indeed, this proposal requires that the secretary serve in the cabinet. Is it constitutional for the legislature to limit who the governor appoints to the cabinet? That's one question posed by this bill. Another is why such limitations should attach to this appointment, when doing so is not uniform with other cabinet appointments?

The groups I represent believe in what is called the "unitary executive." This is how political scientists describe the important constitutional principle that the governor is the top elected official accountable to all the voters. Officials appointed by the governor can be removed by the governor. Under this proposal, who has the power to remove the secretary of agriculture?

The option we prefer is for the governor to appoint the secretary, subject to senate confirmation. There are four points I'd like to make. First, we believe agriculture is important enough that it should be in the cabinet with no strings attached. As stated, the governor is the top elected official and should make cabinet appointments. Electing the governor is how we hold the governor and his (or her) appointees accountable. Second, we now have a bi-partisan track record which proves that there is no reason to fear or distrust the governor's appointees to head the ag agency. Both Governor Finney and Governor Graves have shown that this appointment will be very carefully considered to reflect the diverse interests of agriculture. Third, a board with appointment authority is very likely to reflect the same special interests who were challenged in the lawsuit which forced the lawsuit in the first place. Fourth--as for the proposals for public elections for the board--an election means that rural interests might not be able to assert their concerns if the elections become polarized because of an urban-rural split.

I'm not going to say that anything short of the plaintiffs preferred option will result in future litigation. My opinion is that the separation of powers concerns present a closer case than the federal litigation. If another case is brought, it will depend in large part on the precise language chosen by the legislature, the details of the extensive research necessary to launch such a lawsuit, and other considerations. However, I wanted to outline the general reasons I believe we should all unite and support what we think is the best policy option given the court case: the most accountable and democratic method is to permit the governor to name the secretary.

*Senate Agr Co*  
*2-2-95*  
*attachment 2*