

Approved: January 24, 1996

MINUTES OF THE HOUSE COMMITTEE ON GOVERNMENTAL ORGANIZATION AND ELECTIONS.

The meeting was called to order by the Chair, Carol Dawson, at 9:00 a.m. on January 23, 1996 in Room 521-S of the Capitol.

All members were present except: All Present

Committee staff present: Carolyn Rampey, Legislative Research Department  
Donna Luttjohann, Committee Secretary

Conferees appearing before the committee: Sharon Patnode, Legislative Post-Audit Division  
Ali Devine, Secretary of Agriculture

Others attending:

Madam Chair Joann Flower called the joint meeting between the House Agriculture and House Governmental Organization and Elections Committee to order. She recognized Sharon Patnode to address the joint committee in regard to the Post-Audit K-GOAL review of the Department of Agriculture, Weights and Measures Division. A copy of the report may be obtained from the Division of Post-Audit.

Secretary of Agriculture, Ali Devine, was recognized by Madam Chair Flower. She reported to the joint committee regarding the agency proposal to correct deficiencies in the agency. See Attachment 1. Committee members directed questions to Ms. Devine and Ms. Patnode after the presentation. Dave Debenham from the Attorney General's office was also on hand to answer questions.

Madam Chairman Flower adjourned the meeting at 10:25 a.m. with the next meeting scheduled January 24, 1996 in Room 512-S of the Capitol.

**KANSAS DEPARTMENT OF AGRICULTURE  
PROPOSAL SUMMARY**

**Subject:**

Weights and Measures Inspection

**Summary:**

The proposal is intended to return integrity and credibility to Kansas' weights and measures inspection program by establishing a statistically valid sampling program and improving inspector training.

**Background:**

Concerns over the integrity of Kansas' weights and measures program began to surface from a number of sources shortly after Secretary Devine took office in January 1995. In February, weights and measures staff expressed much dissatisfaction with program procedures and administration during interviews conducted by a staff member with the office of the governor.

In May, officials from USDA's Packers and Stockyards Administration (PSA) office in Kansas City expressed concern about the veracity of the state's inspection program. Results of random livestock scale tests conducted by PSA showed eight of 14 scales tested were out of compliance despite recently having been tested and approved by private service companies.

The Secretary requested the State Division of Personnel to conduct an internal review of the program. The personnel study, presented June 12, confirmed many of the same concerns expressed earlier to the Secretary.

In June, a representative of the Petroleum Marketers Association conveyed to the Secretary his industry's concern about privatization of petroleum device inspections and its support for returning to a state program.

The Secretary contacted Attorney General Stovall about these program concerns. At the Attorney General's direction, a KBI investigation was ordered. The findings, released in December, showed no evidence of criminal behavior but listed recommendations for improved operations of the program.

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Attachment 1-1

In September, Legislative Post Audit began a K-GOAL audit of weights and measures.

**Corrective Action:**

The Secretary requested a KBI Investigation. Results and recommendations were announced in December 1995.

The Secretary requested a program audit to be conducted by Legislative Post-Audit.

Internal examination of the program began and continues.

Research of proposed petroleum measurement regulations and proposed MOU with Department of Revenue is ongoing.

Letters, regulatory discussion and meetings with service companies served to undo "gentlemen's agreements" and underscore commitment to Kansas law, rules and regulations, and National Institute of Standards handbooks and tolerances.

Scheduling of testing, requiring regular testing and improving test standards is underway.

The department is enforcing requirements for submission of service company reports to the Department of Agriculture within 10 days.

A series of meetings have been conducted with field staff informing them to enforce the law, red tag devices or take necessary action; field staff input has been sought.

A series of meetings were held with industry groups informing them of changes from past practices.

Compliance conferences are being scheduled as necessary and conducted by agency legal staff.

Data bases on devices and facilities are being updated.

Statistically defensible sampling plans have been developed for each subprogram; actual testing in the field to determine the level of compliance of devices in Kansas has begun setting a baseline of information.

Other states and the National Institute of Standards have been consulted.

Staff of the Allied Signal Department of Energy Plant in Kansas City have assisted in performing a systems analysis of the weights and measures program.

In December, meetings were held with service companies and device owners to formulate reforms.

Statutory changes/corrective measures have been proposed and approved by the Governor's Advisory Agriculture Board.

**Proposal:**

The agency will require registration of all devices. Efficient ways of registering will be explored, including telephone registration and use of other state agency scale databases.

The agency will attempt to remove conflicts of interest. Service company technicians will still conduct annual testing of devices. State inspectors then will do the actual enforcement action of tagging out-of-compliance devices.

Inspector education and testing requirements will be improved. Private company technicians who calibrate devices will attend educational seminars covering all aspects of device testing, as well as National Institute of Standards and Technology handbooks.

The agency will seek civil penalty authority to fine scale owners and service companies in violation of statutes and regulations.

The head house scale program will be transferred to the Department of Grain Inspection.

The agency will seek ways to provide meaningful fuel quality testing.

In addition to the outlined changes, the agency will institute statistical testing as a part of the permanent work plan for the weights and measures program. Statistical testing will provide meaningful data on device accuracy and service company performance.