

MINUTES OF THE SENATE AGRICULTURE COMMITTEE

The meeting was called to order by Chairman Derek Schmidt at 8:30 a.m. on March 16, 2004 in Room 423-S of the Capitol.

All members were present.

Committee staff present:

Raney Gilliland, Legislative Research
Lisa Montgomery, Office of the Revisor of Statutes
Robert Myers, Committee Secretary

Conferees appearing before the committee:

George Teagarden - Kansas Animal Health Department
Donn Teske - President, Kansas Farmers Union
Doran Junek - Executive Director, Kansas Cattleman's Association
Todd Johnson - Kansas Livestock Association
Brad Harrelson - Kansas Farm Bureau
Ken Winter - Independent Cattle Producer
David Pfrang - Independent Cattle Producer, Goff, Kansas
Allie Devine - Vice President and General Counsel, Kansas Livestock Association
Brad Harrelson - Kansas Farm Bureau

Others attending:

See Attached List.

HB 2593: Provides for premise registration and preparation for an animal identification program.

Chairman Schmidt opened the hearing on **HB 2593**.

George Teagarden appeared before the committee as a proponent of **HB 2593**. He started by pointing out that the topic of animal identification has been discussed for several years among health officials at United States Animal Health Association (USAHA) meetings. He stressed the importance of such identification by signaling the need to both identify and track the past history of individual animals, stating also that at the present time this is not effectively possible. More specifically, with regard to the discussion of animal identification in recent years, he pointed out that USAHA approved the formation of a national animal identification working group of approximately 70 producer representatives and 30 government officials. This working group has drafted a plan, described by Mr. Teagarden as starting off with a phase of premises identification to begin in July of the current year, 2004. He did however note that current United States Department of Agriculture statements indicate that this and other original time lines in the plan may be pushed back. Nevertheless, he stated to the committee that the implementation of an animal identification program is inevitable.

George stressed to the committee that maintaining the health and economic viability of animal agriculture in the United States, as he indicated to be the focus of the animal identification plan, is critical to our food supply as well as to the industry itself. He listed the following as being benefits of a national animal identification system:

- Enhanced disease control and eradication capabilities, and enhanced ability to respond
- Enablement to meet demands for source-verified products, both domestically and internationally
- Mitigation of threats to the biosecurity of the food supply

George then noted that, following the discovery in December 2003 of Bovine Spongiform Ecephalopathy, the United States lost 10% of its beef market. He gave the example of the \$900,000,000 market with Japan that still remains closed. He also pointed out that several other countries have implemented or are implementing animal identification programs, giving the example of Argentina, one of the largest beef markets in the world. With regard to the implementation of a program here in Kansas, he stated that it cannot occur without additional resources. However, he said also that he expected the federal

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government to provide funds to states for implementation ([Attachment 1](#)).

Donn Teske appeared before the committee as a proponent with reservations regarding **HB 2593**. He acknowledged the concerns that he had felt with regard to the original version of the bill, especially concerning the power given to the Kansas State Livestock Commissioner. He continued, however, by stating that the substitute version of the bill is much better in that it is more stringently tied to the implementation of a federal program. On behalf of the Kansas Farmers Union, he expressed that support would not be given for the bill as it is currently written, giving authority to the Kansas State Livestock Commissioner. He stated rather that a federal program should be administered through the county Farm Service Agency offices. Also, he noted the disappointment of the Kansas Farmers Union due to the failure to address the mandatory Country of Origin Labeling (COOL) in the bill ([Attachment 2](#)).

Doran Junek appeared before the committee as a proponent with reservations regarding **HB 2593**. He pointed out that he had attended the United States Animal Identification Plan (USAIP) working group meeting held in Kansas City on March 10. He stated that his impression from the meeting was that more questions were raised than answers. He expressed support for the bill's allowance of the Livestock Commissioner to proceed with premise definition and number allocation, but noted that more direction must be received from the federal level beforehand. Included in the written testimony that he submitted to the committee is a list of some of the questions that were raised at the March 10 USAIP working meeting ([Attachment 3](#)). In closing, he expressed the support of the Kansas Cattlemen's Association for an animal identification program headed up by the Kansas State Livestock Commissioner. However, he also noted concern for the wording of the current bill and requested that the committee look at the proposed amendments that are attached to his written testimony ([Attachment 4](#)).

Todd Johnson appeared before the committee as a strong proponent of **HB 2593**. He focused on how the bill had changed since its original introduction in the House Agriculture Committee and also pointed out what the bill does and why it is valuable for the livestock industry. Speaking with regard to whether or not the bill would cause Kansas to jump ahead of the proposed federal program, he emphasized that the plan being discussed is one consisting of several phases. Furthermore, he pointed out that the bill directs the Kansas State Livestock Commissioner to work with the implementation of the United States Animal Identification Plan (USAIP). He stressed the importance of Kansas being involved in the implementation of this national plan. He then referred to the comments, attached to his written testimony, made by Scott Charbo of the United States Department of Agriculture. He highlighted Mr. Charbo's talk of state governments maintaining a state premises database system, an intrastate animal movement database, and reporting interstate movement to a national database. Furthermore, Mr. Johnson spoke of the education of livestock producers and processors as being essential in the implementation of a program of this magnitude. He specifically mentioned such means of education as public hearings, educational meetings, and forming study groups. Regarding the program being voluntary or mandatory, he acknowledged the United States Department of Agriculture's approach for not initially requiring participation as being valid in that it allows time for system development before enforcement. He also noted that the bill in question has no enforcement provisions, meaning that the animal identification program in Kansas would not be mandatory before the federal program is ready.

Todd continued his testimony by addressing the issue of accessing individual records, noting that the Kansas Livestock Association is striving to ensure that access not be possible without producer consent. He pointed out that the bill addresses the issue by amending the open records act. Turning next to the authority needed to implement an animal identification program, he spoke of the United States Secretary of Agriculture being granted such a power by the Animal Health Protection Act. Furthermore, he stated that the Kansas State Livestock Commissioner is directed to cooperate with the United States Secretary of Agriculture. Mr. Johnson also briefly touched upon the issue of federal funding, stating that the Kansas Livestock Association would work with any federal agencies and available funding in order to keep the pressure off of Kansas producers. In closing, he stated his firm belief that action does need to be taken in support of the bill ([Attachment 5](#)).

Brad Harrelson appeared before the committee as a proponent of **HB 2593**. He started by stating that the Kansas Farm Bureau does indeed concur with most of the points that had been raised by the other conferees testifying in support of the bill. He stressed the importance of Kansas playing a role in the

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implementation of the states' component of the national animal identification plan. Also, with regard to the costs of the program, he spoke of acceptance for reasonable producer costs, but stated that they should be evenly balanced. He pointed out that Kansas Farm Bureau has been actively engaged in the discussions about and the development of the substitute bill in its current form, having worked with the Kansas Animal Health Commissioner among others. He expressed the belief that it would be unfortunate to not allow the Kansas Animal Health Commissioner to play a role in the process prior to the implementation of a federal plan. He also stressed that the proposed animal identification program is concerned solely with disease control and is not to be confused with marking programs such as Country of Origin Labeling (COOL). He ended by stressing the support of Kansas Farm Bureau for the bill and urging the support of the committee as well ([Attachment 6](#)).

Ken Winter appeared before the committee as an opponent of **HB 2593**. He brought to the attention of the committee the numerous conversations that he had participated in with customers of the auction markets and feed yard in which he is involved. He stressed the fact that he had not heard of anyone in favor of the implementation of the animal identification program. He also noted the general misunderstanding that surrounds the concept of such a program. Furthermore, he spoke of visiting the legislative website and seeing the bill represented as a means of preventing disease. His claim was that an animal identification program would not prevent disease any more than the Social Security System prevents disease. In addition, he expressed concern for the bill putting undue expense and shrink on cattle, and thus driving business away from the markets. Before closing, he questioned giving unlimited authority to the Kansas State Livestock Commissioner, someone who is appointed by a political action group ([Attachment 7](#)).

David Pfrang appeared before the committee as an opponent of **HB 2593**. He stressed that an animal identification program would be effective only after the breakout of a disease, thus in no way serving as a preventative tool for the livestock industry. It was his stated belief that such a program would serve as a distraction from the primary challenge at hand: preventing the introduction of disease. He pointed out that every animal he sells is marked with a hot iron brand, and that this traditional means of animal identification is sufficient and is less expensive than that which is proposed by the bill. Mr. Pfrang then addressed the cost to be involved in the animal identification program, noting an estimated cost of 1.3 billion dollars for producers in the first year of its implementation due to an estimated cost of \$7 to \$20 per animal. In addition, he stressed the need to identify not domestic animals but rather those imported from other countries. With regard to the handling of animal records, he recommended to the committee that it be the responsibility of the United States Department of Agriculture's Farm Service Agency as opposed to other politically affiliated groups such as the Kansas Farm Bureau and the Kansas Farmers Union. In closing, he questioned the expenditure of money on a program plagued by many unknowns, and thus requested that the committee not pass the proposed bill ([Attachment 8](#)).

Chris Wilson, Executive Director of the Kansas Dairy Association, submitted written testimony to the committee containing both support and reservations for **HB 2593** ([Attachment 9](#)).

Larry Brack, President of the Kansas Cattlemen's Association, submitted written testimony to the committee in opposition to **HB 2593** as it is currently proposed and written ([Attachment 10](#)).

Jo Johnston, on behalf for Concerned Citizens for Ethical Kansas Government, submitted written testimony to the committee in opposition to **HB 2593** ([Attachment 11](#)).

HB 2594: Duty of care of livestock producers.

Chairman Schmidt opened the hearing on **HB 2594**.

Allie Devine appeared before the committee as a proponent of **HB 2594**. She explained that the bill is an effort to clarify for livestock producers the level of liability that is faced upon the implementation of an animal identification system. She further explained that liability attaches where one party owes a duty to another, and that duty is not met. Specifically, with regard to food, she stated that the selling party has standards to assure that the product is wholesome. In addition, she noted that most case law regarding food products deals with a product that contains a foreign material. She stated also that the producer's duty over an animal exists only until the point at which it is slaughtered and processed, pointing out that

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this is the point at which producers have no more input into the development of their products. She then advocated to the committee the Kansas Livestock Association's view that the producer's duty of care to the consumer through the preparation of livestock and resulting meat products be that of "ordinary care." Furthermore, she advocated that a passed inspection under state or federal laws provides a presumption that the producer has met that standard of "ordinary care." Along with her written testimony, she submitted a balloon amendment to be considered by the committee (Attachment 12).

Brad Harrelson appeared before the committee as a proponent of **HB 2594**. He offered his full support for the comments made by Allie Devine on behalf of the Kansas Livestock Association. He urged the committee to favorably pass the bill. He submitted more extensive testimony in written form (Attachment 13).

Chris Wilson, Executive Director of the Kansas Dairy Association, submitted written testimony to the committee in support of **HB 2594** (Attachment 14).

Terry Humphrey of the Kansas Trial Lawyers Association submitted written testimony to the committee in opposition to **HB 2594** (Attachment 15).

The Kansas Department of Agriculture submitted written testimony to the committee regarding **HB 2594** (Attachment 16).

The next meeting is scheduled for Wednesday, March 17, 2004.