

## SENATE BILL No. 124

By Committee on Agriculture

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AN ACT relating to the department of agriculture; renaming the department of agriculture; transferring powers and duties of the secretary of the department of health and environment to the secretary of agriculture; transferring powers and duties of the state board of education to the secretary of agriculture.

*Be it enacted by the Legislature of the State of Kansas:*

Section 1. (a) On July 1, 2003, the department of agriculture shall be and hereby is officially designated as the department of agriculture and food safety.

(b) On and after July 1, 2003, when the department of agriculture or the secretary of agriculture, or words of like effect, is referred to or designated by a statute, contract or other document, such reference or designation shall mean and apply to the department of agriculture and food safety and to the secretary of agriculture and food safety.

(c) Nothing in this act shall be construed as abolishing the department of agriculture or the office of the secretary of agriculture, or as reestablishing the same.

Sec. 2. On and after July 1, 2003:

(a) Except as otherwise provided by this act, all of the powers, duties and functions of the department of health and environment and the secretary of the department of health and environment concerning food and food service are hereby transferred to and conferred and imposed upon the department of agriculture and food safety and the secretary of agriculture and food safety as renamed by this act.

(b) Except as otherwise provided by this act, the department of agriculture and food safety and the secretary of agriculture and food safety renamed by this act shall be the successor in every way to the powers, duties and functions of the department of health and environment and the secretary of the department of health and environment concerning food and food service in which the same were vested prior to the effective date of this section. Every act performed in the exercise of such powers, duties and functions by or under the authority of the department of agriculture and food safety or the secretary of the department of agriculture and food safety concerning food and food service established by this act

1 shall be deemed to have the same force and effect as if performed by the  
2 department of health and environment or the secretary of the department  
3 of health and environment, respectively, in which such powers, duties  
4 and functions were vested prior to the effective date of this section.

5 (c) Except as otherwise provided by this act, whenever the depart-  
6 ment of health and environment, or words of like effect concerning food  
7 and food service, is referred to or designated by a statute, contract or  
8 other document, such reference or designation shall be deemed to apply  
9 to the department of agriculture and food safety renamed by this act.

10 (d) Except as otherwise provided by this act, whenever the secretary  
11 of the department of health and environment, or words of like effect  
12 concerning food and food service, is referred to or designated by a statute,  
13 contract or other document, such reference or designation shall be  
14 deemed to apply to the secretary of the department of agriculture and  
15 food safety renamed by this act.

16 (e) All rules and regulations of the department of health and envi-  
17 ronment or the secretary of the department of health and environment  
18 concerning food and food service in existence on the effective date of this  
19 section shall continue to be effective and shall be deemed to be duly  
20 adopted rules and regulations of the secretary of the department of ag-  
21 riculture and food safety renamed by this act until revised, amended,  
22 revoked or nullified pursuant to law.

23 (f) All orders and directives of the department of health and environ-  
24 ment or the secretary of the department of health and environment con-  
25 cerning food and food service in existence on the effective date of this  
26 section shall continue to be effective and shall be deemed to be orders  
27 and directives of the department of agriculture and food safety renamed  
28 by this act until revised, amended or nullified pursuant to law.

29 (g) On the effective date of this section, the department of agriculture  
30 and food safety renamed by this act shall succeed to whatever right, title  
31 or interest the department of health and environment has acquired in any  
32 real property in this state concerning food and food service, and the au-  
33 thority shall hold the same for and in the name of the state of Kansas.  
34 On and after the effective date of this section, whenever any statute,  
35 contract, deed or other document concerns the power or authority of the  
36 department of health and environment or the secretary of the department  
37 of health and environment concerning food and food safety to acquire,  
38 hold or dispose of real property or any interest therein, the department  
39 of agriculture and food safety as renamed by this act shall succeed to such  
40 power or authority.

41 (h) The department of agriculture and food safety and the secretary  
42 of the department of agriculture and food safety renamed by this act shall  
43 be continuations of the department of health and environment and the

1 secretary of the department of health and environment concerning food  
2 and food service.

3 Sec. 3. Except as otherwise provided in this act, on July 1, 2003,  
4 officers and employees who, immediately prior to such date, were en-  
5 gaged in the performance of powers, duties or functions of the depart-  
6 ment of health and environment concerning food and food service which  
7 are transferred by this act, or who become a part of the department of  
8 agriculture and food safety, or the powers, duties and functions of which  
9 are transferred to the department of agriculture and food safety, and who,  
10 in the opinion of the secretary of the department of agriculture and food  
11 safety, are necessary to perform the powers, duties and functions of the  
12 department of agriculture and food safety, shall be transferred to, and  
13 shall become officers and employees of the department of agriculture and  
14 food safety renamed under this act. Any such officer or employee shall  
15 retain all retirement benefits and all rights of civil service which had  
16 accrued to or vested in such officer or employee prior to the effective  
17 date of this section. The service of each such officer and employee so  
18 transferred shall be deemed to have been continuous. All transfers and  
19 any abolition of personnel positions in the classified service under the  
20 Kansas civil service act shall be in accordance with civil service laws and  
21 any rules and regulations adopted thereunder.

22 Sec. 4. On and after July 1, 2003:

23 (a) When any conflict arises as to the disposition of any power, func-  
24 tion or duty or the unexpended balance of any appropriation as a result  
25 of any abolition, transfer, attachment or change made by or under au-  
26 thority of this act, such conflict shall be resolved by the governor, whose  
27 decision shall be final.

28 (b) The department of agriculture and food safety shall succeed to all  
29 property and records which were used for or pertain to the performance  
30 of the powers, duties and functions transferred to the department of ag-  
31 riculture and food safety. Any conflict as to the proper disposition of  
32 property or records arising under this section, and resulting from the  
33 transfer or attachment of any state agency, or all or part of the powers,  
34 duties and functions thereof, shall be determined by the governor, whose  
35 decision shall be final.

36 Sec. 5. On and after July 1, 2003:

37 (a) The department of agriculture and food safety shall have the legal  
38 custody of all records, memoranda, writings, entries, prints, representa-  
39 tions or combinations thereof of any act, transaction, occurrence or event  
40 of the department of health and environment concerning food and food  
41 service and any agency or office transferred thereto under this act.

42 (b) No suit, action or other proceeding, judicial or administrative,  
43 lawfully commenced, or which could have been commenced, by or against

1 any state agency mentioned in this act, or by or against any officer of the  
2 state in such officer's official capacity or in relation to the discharge of  
3 such officer's official duties, shall abate by reason of the governmental  
4 reorganization effected under the provisions of this act. The court may  
5 allow any such suit, action or other proceeding to be maintained by or  
6 against the successor of any such state agency or any officer affected.

7 (c) No criminal action commenced or which could have been com-  
8 menced by the state shall abate by the taking effect of this act.

9 Sec. 6. (a) On and after July 1, 2003, the balance of all funds appro-  
10 priated and reappropriated to the department of health and environment  
11 concerning food and food service is hereby transferred to the department  
12 of agriculture and food safety and shall be used only for the purpose for  
13 which the appropriation was originally made.

14 (b) On and after July 1, 2003, the liability for all accrued compensa-  
15 tion or salaries of officers and employees who, immediately prior to such  
16 date, were engaged in the performance of powers, duties or functions of  
17 the department of health and environment concerning food and food  
18 service, or who become a part of the department of agriculture and food  
19 safety renamed by this act, or the powers, duties and functions of which  
20 are transferred to the department of agriculture and food safety provided  
21 for by this act, shall be assumed and paid by the department of agriculture  
22 and food safety renamed by this act.

23 Sec. 7. On and after July 1, 2003:

24 (a) Except as otherwise provided by this act, all of the powers, duties  
25 and functions of the state board of education and the commissioner of  
26 education concerning food service programs are hereby transferred to  
27 and conferred and imposed upon the department of agriculture and food  
28 safety and the secretary of the department of agriculture and food safety  
29 renamed by this act.

30 (b) Except as otherwise provided by this act, the department of ag-  
31 riculture and food safety and the secretary of agriculture and food safety  
32 renamed by this act shall be the successor in every way to the powers,  
33 duties and functions of the state board of education and the commissioner  
34 of education concerning food service programs in which the same were  
35 vested prior to the effective date of this section. Every act performed in  
36 the exercise of such powers, duties and functions by or under the au-  
37 thority of the department of agriculture and food safety or the secretary  
38 of the department of agriculture and food safety concerning food service  
39 programs renamed by this act shall be deemed to have the same force  
40 and effect as if performed by the state board of education or commis-  
41 sioner of education, respectively, in which such powers, duties and func-  
42 tions were vested prior to the effective date of this section.

43 (c) Except as otherwise provided by this act, whenever the state board

1 of education, or words of like effect concerning food service programs, is  
2 referred to or designated by a statute, contract or other document, such  
3 reference or designation shall be deemed to apply to the department of  
4 agriculture and food safety renamed by this act.

5 (d) Except as otherwise provided by this act, whenever the commis-  
6 sioner of education, or words of like effect concerning food service pro-  
7 grams, is referred to or designated by a statute, contract or other docu-  
8 ment, such reference or designation shall be deemed to apply to the  
9 secretary of the department of agriculture and food safety renamed by  
10 this act.

11 (e) All rules and regulations of the state board of education or com-  
12 missioner of education concerning food service programs in existence on  
13 the effective date of this section shall continue to be effective and shall  
14 be deemed to be duly adopted rules and regulations of the secretary of  
15 the department of agriculture and food safety renamed by this act until  
16 revised, amended, revoked or nullified pursuant to law.

17 (f) All orders and directives of the state board of education or the  
18 commissioner of education concerning food service programs in existence  
19 on the effective date of this section shall continue to be effective and shall  
20 be deemed to be orders and directives of the department of agriculture  
21 and food safety renamed by this act until revised, amended or nullified  
22 pursuant to law.

23 (g) On the effective date of this section, the department of agriculture  
24 and food safety renamed by this act shall succeed to whatever right, title  
25 or interest the state board of education has acquired in any real property  
26 in this state concerning food service programs, and the authority shall  
27 hold the same for and in the name of the state of Kansas. On and after  
28 the effective date of this section, whenever any statute, contract, deed or  
29 other document concerns the power or authority of the state board of  
30 education or the commissioner of education concerning food service pro-  
31 grams to acquire, hold or dispose of real property or any interest therein,  
32 the department of agriculture and food safety as renamed by this act shall  
33 succeed to such power or authority.

34 (h) The department of agriculture and food safety and the secretary  
35 of the department of agriculture and food safety renamed by this act shall  
36 be continuations of the state board of education and the commissioner  
37 of education concerning food service programs.

38 Sec. 8. Except as otherwise provided in this act, on July 1, 2003,  
39 officers and employees who, immediately prior to such date, were en-  
40 gaged in the performance of powers, duties or functions of the state board  
41 of education concerning food service programs which are transferred by  
42 this act, or who become a part of the department of agriculture and food  
43 safety, or the powers, duties and functions of which are transferred to the

1 department of agriculture and food safety, and who, in the opinion of the  
2 secretary of the department of agriculture and food safety, are necessary  
3 to perform the powers, duties and functions of the department of agri-  
4 culture and food safety, shall be transferred to, and shall become officers  
5 and employees of the department of agriculture and food safety renamed  
6 under this act. Any such officer or employee shall retain all retirement  
7 benefits and all rights of civil service which had accrued to or vested in  
8 such officer or employee prior to the effective date of this section. The  
9 service of each such officer and employee so transferred shall be deemed  
10 to have been continuous. All transfers and any abolition of personnel  
11 positions in the classified service under the Kansas civil service act shall  
12 be in accordance with civil service laws and any rules and regulations  
13 adopted thereunder.

14 Sec. 9. On and after July 1, 2003:

15 (a) When any conflict arises as to the disposition of any power, func-  
16 tion or duty or the unexpended balance of any appropriation as a result  
17 of any abolition, transfer, attachment or change made by or under au-  
18 thority of this act, such conflict shall be resolved by the governor, whose  
19 decision shall be final.

20 (b) The department of agriculture and food safety shall succeed to all  
21 property and records which were used for or pertain to the performance  
22 of the powers, duties and functions transferred to the department of agri-  
23 culture and food safety. Any conflict as to the proper disposition of  
24 property or records arising under this section, and resulting from the  
25 transfer or attachment of any state agency, or all or part of the powers,  
26 duties and functions thereof, shall be determined by the governor, whose  
27 decision shall be final.

28 Sec. 10. On and after July 1, 2003:

29 (a) The department of agriculture and food safety shall have the legal  
30 custody of all records, memoranda, writings, entries, prints, representa-  
31 tions or combinations thereof of any act, transaction, occurrence or event  
32 of the state board of education concerning food service programs and any  
33 agency or office transferred thereto under this act.

34 (b) No suit, action or other proceeding, judicial or administrative,  
35 lawfully commenced, or which could have been commenced, by or against  
36 any state agency mentioned in this act, or by or against any officer of the  
37 state in such officer's official capacity or in relation to the discharge of  
38 such officer's official duties, shall abate by reason of the governmental  
39 reorganization effected under the provisions of this act. The court may  
40 allow any such suit, action or other proceeding to be maintained by or  
41 against the successor of any such state agency or any officer affected.

42 (c) No criminal action commenced or which could have been com-  
43 menced by the state shall abate by the taking effect of this act.

1     Sec. 11. (a) On and after July 1, 2003, the balance of all funds ap-  
2     propriated and reappropriated to the state board of education concerning  
3     food service programs is hereby transferred to the department of agri-  
4     culture and food safety and shall be used only for the purpose for which  
5     the appropriation was originally made.

6     (b) On and after July 1, 2003, the liability for all accrued compensa-  
7     tion or salaries of officers and employees who, immediately prior to such  
8     date, were engaged in the performance of powers, duties or functions of  
9     the state board of education concerning food service programs, or who  
10    become a part of the department of agriculture and food safety renamed  
11    by this act, or the powers, duties and functions of which are transferred  
12    to the department of agriculture and food safety provided for by this act,  
13    shall be assumed and paid by the department of agriculture and food  
14    safety established by this act.

15    Sec. 12. This act shall take effect and be in force from and after its  
16    publication in the statute book.

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