

**EXHIBIT B**

**MINUTES**

**SENATE AND HOUSE INTERIM COMMITTEES ON AGRICULTURE, FORESTRY, AND  
ECONOMIC DEVELOPMENT**

**MEETING JOINTLY**

**Tuesday, December 5, 2017**

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The Senate and House Interim Committees on Agriculture, Forestry, and Economic Development met jointly on Tuesday, December 5, 2017, at 1:30 p.m., Room MAC B, Little Rock, Arkansas.

**House Agriculture, Forestry, and Economic Development Committee members present:** Senators Ronald Caldwell, Chair; Jane English, Blake Johnson, and Bruce Maloch. Representatives Dan Douglas, Chair; David Hillman, Vice Chair; Rick Beck, Mary Bentley, Ken Bragg, Jack Fortner, Jeremy Gillam, Mark McElroy, Ron McNair, Jack Fortner, Steve Magie, Ron McNair, and Stephen Meeks.

**Other legislators present:** Senator Linda Chesterfield, and David Wallace. Representatives Michael John Gray, Steve Hollowell, Joe Jett, Roger Lynch, Rebecca Petty, Marcus Richmond, Brandt Smith, James Sorvillo, and Danny Watson.

Representative Dan Douglas called the meeting to order.

**CONSIDERATION TO APPROVE MEETING MINUTES [EXHIBIT B]**

**Representative McNair made a motion to approve the meeting minutes of October 5, 2017. The motion was seconded by Representative Meeks and without objection, the motion carried.**

**CONSIDERATION TO ADOPT INTERIM STUDY PROPOSAL (ISP) [EXHIBIT C]**

**Interim Study Proposal 2017-097:** “Concerning equine massage; to require licensure or certification for equine massage.”

**Representation McElroy made a motion to adopt ISP 2017-097, and without objection, the motion carried.**

**Presentation Concerning Fake Rice [EXHIBIT D]**

**Ms. Lauren Waldrip Ward, Executive Director, Arkansas Rice Federation (ARF)**, was recognized and presented a PowerPoint presentation titled, “Rice Pretenders” [see **Exhibit D** for full report]. Ms. Waldrip gave a brief overview of the ARF. The ARF is the state’s largest rice industry trade association and serves as the umbrella organization for all sectors including the Arkansas Rice Farmers, Arkansas Rice Council, Arkansas Rice Millers and Arkansas Rice Merchants. Notably, Arkansas’s rice industry accounts for over \$6 billion of economic impact, and over 25,000 jobs across the state. The ARF became aware of a food trend where riced vegetable products are being marketed as a more healthy form of rice. Companies that are marketing the

aforementioned products are trying to capitalize on the rice brand. It is dangerous to mislead consumers to choose a product that has a completely different nutritional profile of rice. The Food and Drug Administration standard of identity for rice does not currently exist, but ARF agrees with the existing Codex definition. Moreover, the United States Rice Federation has requested the Food and Drug Administration to work on enforcing the food identity of rice. Senator Johnson offered to draft a resolution to support the ARF and the aforementioned issues to present at the next committee meeting.

### **Review of the Arkansas State Plant Board's Regulation Concerning Pesticide Enforcement Response and Civil Penalties [EXHIBIT E]**

**Ms. Susie Nichols, Director, Pesticide Division, Arkansas State Plant Board, (ASPB), Mr. Otis Howe, Chairman, ASPB, Mr. West Higginbotham, President, Agricultural Council of Arkansas (ACA), and Mr. Andrew Grobmyer, Executive Vice President, ACA,** were recognized [see **Exhibit E** for full report].

The committees discussed the rule to amend the Enforcement Response Regulations in accordance of Act 778 of 2017, that increases the maximum civil penalty from \$1,000 to \$25,000 for egregious violations from applications of dicamba or an auxin containing herbicide, or any new herbicide technology released after August 1, 2017. After a lengthy discussion, Senator Johnson expressed concern with the civil penalty as being a problem in the future with other chemistry that is coming out. He is not sure how ASPB came up with a commercial applicators license and a restricted use, license, but recommended that there is an add-on to the auxin license to include as a possibility “to localize rather than generalize by dates or anything else in the future and to suspend those licenses of everyone within a quarter of a mile of the complaint until the investigation in a geographic area surrounding the damage”. Ms. Nichols replied, the add-on can be done.

Mr. Grobmyer gave a brief overview of the ACA. The ACA is a trade association that represents the row crop industry of Arkansas. Membership is composed of landowners, farmers, production agriculture, and businesses that supply goods and services to the industry. Referencing the civil penalty issue, Mr. Grobmyer expressed ACA supports legislation to increase fines for egregious violations related to auxin herbicides. Regarding the regulation that is in place, ACA feels there is room for improvement. The ACA would like to make a technical correction to the aforementioned statute. Moreover, the Dicamba Taskforce provided specific language the Committees might want to consider. As a member of the task force, Mr. Higginbotham mentioned the task force recommended a cutoff date.

After a brief discussion the following motion was made:

**Representative Hillman made a motion to adopt the rule. The motion was seconded by Senator Johnson and without objection, the motion carried.**

### **Discussion of the Following Arkansas State Plant Board Rules [EXHIBITS F1 and F2]**

The following Arkansas State Plant Board Rules were discussed:

- Arkansas Pesticide Control Act Regulations
- Arkansas Regulations on Pesticide Classification (Dicamba Use and Application)

Referencing **Exhibit F1**, Ms. Nichols informed the committees that regulation #7 allows the ASPB to clearly lay out what is needed and expected from pesticide manufacturers regarding additional information on certain pesticides before a product is registered in the state for use. Currently, there are regulations on the use of

pesticides in the State, however, the ASPB is in the process of implementing those regulations, as a pesticide can still be registered as other regulations are being worked on for use. This could possibly slow down a registration while additional state regulations are being worked on. Moreover, this allows the ASPB to clearly outline what each company needs. Referencing Section 2-16-411 **Unlawful actions-Exceptions**, Representative Meeks would like to see the Arkansas code or statute that gives ASPB the authority to make it illegal. Ms. Nichols believes this information is included on the ASPB book cover, but will check to make sure.

**Referencing F2**, Ms. Nichols gave background history of Dicamba Use. Since 2011, the Pesticide Committee has met 30 times to discuss dicamba and the full board met 22 times to discuss issues related to dicamba. The Governor approved task force comprised of individuals from all aspects of agriculture met and came up with a recommendation for a cutoff date. The task force wanted the same regulation throughout the State, as crops could change every year. Moreover, the aforementioned groups were presented with information and research concerning new technology from the University of Arkansas researchers. At a public hearing that was held in November, the board voted to implement a restriction on dicamba and agreed to cutoff dates of April 15 through October 31.

### **Questions/Answers**

Representative Jett asked will the ASPB be willing to amend the cutoff dates. Mr. Howe will present this request at the next board meeting. Senator Johnson expressed the aforementioned dates does not allow for use of dicamba, which goes against state law. Ms. Nichols pointed out that one regulation is for dicamba use and another is for a penalty. Senator Caldwell noted that during previous testimony, it was discussed that dicamba chemical moves by drift application, volatility, and where it blew in on dust. If the Committees investigate changing the cutoff date(s) and the temperature, these issues will need to be addressed. Representative McElroy asked does ASPB have any figures on the crop damage caused by dicamba. Ms. Nichols replied ASPB does not have an economical number, but will contact Jeremy Ross, Soybean Expert, with the University of Arkansas to obtain those numbers. This information will be presented at the next board meeting.

Representative Michael Gray asked that the Committees and ASPB reconsider not banning the dicamba product to those that can use it in a safe manner. Representative Meeks wanted to know whether ASPB looked into creating, planning zones across the State to allow variability and were climatologists or meteorologists consulted to discuss the dicamba cutoff date. Ms. Nichols replied, she is not aware of any contact being made to climatologists, but various researchers looked into research from other states to see where they were noticing volatility issues. Moreover, ASPB did not look into creating planning zones. Ms. Nichols will check with ASPB attorneys to find out if the Board has the authority to designate them. Mr. Howe noted the Board can choose to change regulations at any time.

Representative Meeks informed Senator Johnson that the House Agriculture Committee could forward its recommendations regarding this issue to the ALC-Rules and Regulations Committee.

There being no further business, the meeting adjourned at 2:55 p.m.