

MINUTES OF THE HOUSE AGRICULTURE COMMITTEE

The meeting was called to order by Chairman Dan Johnson at 3:30 p.m. on January 26, 2004, in Room 423-S of the Capitol.

All members were present.

Committee staff present:

Raney Gilliland, Legislative Research Department  
Gordon Self, Revisor of Statutes Office  
Kay Scarlett, Committee Secretary

Conferees appearing before the committee:

Doug Wareham, Kansas Grain & Feed Association and Kansas Agribusiness Retailers Association  
Brad Harrelson, Associate State Director, Governmental Relations, Kansas Farm Bureau  
Laurel Murdie, Legislative Division of Post Audit  
Ron Hein, Kansas Food Dealers Association and Kansas Restaurant and Hospitality Association  
Adrian Polansky, Secretary, Kansas Department of Agriculture  
Lesla Roberts, Director of the Bureau of Consumer Health, Department of Health and Environment  
Leslie Kaufman, Director, Governmental Relations, Kansas Cooperative Council  
Todd Johnson, President, Kansas Agricultural Alliance  
Position statement of the Kansas Meat Processors Association leadership (written only)  
Sally Finney, Executive Director, Kansas Public Health Association, Inc.  
Stephen Paige, Topeka, Kansas

Others attending:

See attached list.

Tracy Streeter, Executive Director, State Conservation Commission, requested introduction of a committee bill to modify the water rights purchasing program, converting it to the irrigation transition program. Representative Thimesch, seconded by Representative Faber, moved to introduce this request as a committee bill. The motion carried.

**Hearing on HB 2460 - Appointment of secretary of agriculture by governor.**

Chairman Johnson opened the hearing on **HB 2460**. Raney Gilliland explained that this bill provides that the Secretary of Agriculture be directly appointed by the Governor, rather than having the Governor choose the Secretary from a list of three nominees put forward by the State Board of Agriculture.

Doug Wareham, on behalf of the Kansas Grain & Feed Association and Kansas Agribusiness Retailers Association, testified in support of **HB 2460**. He stated that while both organizations fully support the nine-member State Board of Agriculture's role in advising the Secretary and Governor on agricultural policy, they believe the role of the Board in nominating persons for the position of Secretary of Agriculture has been proven to be problematic. Specific concerns identified include the potential for significant delays in the current nomination/ appointment process and the costs associated with the additional meetings and advertising necessary to discover candidates for possible nomination by the Board. (Attachment 1)

Brad Harrelson, Associate State Director, Governmental Relations, Kansas Farm Bureau, appeared in opposition to **HB 2460**. He stated that Kansas Farm Bureau policy is supportive of the current statutory responsibilities given to the State Board of Agriculture. He reported that KFB members have thoroughly discussed the role of the Board and affirmed its value during their policy development process this past year. Specifically, KFB continues to support the existing statutory responsibilities, including the nomination of three individuals to the Governor for the appointment as Secretary of Agriculture. (Attachment 2)

Senator David Corbin, sponsor of **SB 145**, an identical bill heard in committee last session, provided background information on current law enacted by the legislature in the mid 1990's. He believes the current system has proven to be flawed and inefficient.

There being no other conferees, the Chairman closed the hearing on **HB 2460**.

CONTINUATION SHEET

MINUTES OF THE HOUSE AGRICULTURE COMMITTEE at 3:30 p.m. on January 26, 2004, in Room 423-S of the Capitol.

**Hearing on ERO 32 - Transferring powers, duties and functions of the Department of Health and Environment to the Department of Agriculture.**

Chairman Johnson opened the hearing on **ERO 32**.

Laurel Murdie, Legislative Division of Post Audit, summarized the findings, conclusions, and recommendations from the performance audit report, *Food Safety Programs in Kansas: Evaluating Possible Costs and Efficiencies of Combining Them*, dated October, 2003. The Post Audit performance audit of this topic proposed to answer the question: Could food service inspection programs in Kansas be consolidated to streamline operations, save money, and improve food safety? The staff of Post Audit identified several factors that suggest Kansas' current food safety system needs to be improved. It was found that Kansas could realize significant savings and improve food safety if food safety inspections are combined and inspections are changed to a risk-based approach. It was recommended that food safety inspection functions be reorganized into three areas—dairy inspections; food processing inspections; and retail sales inspections. The report also recommended that Kansas continue taking steps to become better prepared for intentional threats to food safety.

Raney Gilliland, Legislative Research Department, reviewed the conclusions and recommendations of the interim Special Committee on Agriculture that met in November after completion of the performance audit report. The members of the Special Committee on Agriculture recommended that legislation be introduced, in the Senate first, with the following components:

- Transfer food safety programs from the Kansas Department of Health and Environment to a newly-named Department of Agriculture and Food Safety;
- Formally create a working group to review a variety of issues relating to food safety and report to the legislature by February 1, 2005;
- Make necessary statutory changes to bring all “food processing plants” back under state licensing and inspection. This action would correct 2002 legislative action; and
- Require communication between the newly-named Department of Agriculture and Food Safety and the Bureau of Epidemiology and Disease Prevention in KDHE with regard to food safety issues.

Ron Hein, representing the Kansas Food Dealers Association, appeared as a neutral conferee on **ERO 32** that would move the inspection of grocery stores from KDHE to the Department of Agriculture. He noted that, currently, it is confusing to some Association members which department has what responsibilities for inspecting their business. Association members want an inspection program that insures the consumer of the safest and most wholesome products regardless of which department conducts the inspections. (Attachment 3)

Ron Hein, representing the Kansas Restaurant and Hospitality Association, stated that members of the Association believed it was inappropriate to advise who should be the industry regulator, but strongly support the continuation of food service inspections and food safety education. He noted that **ERO 32** would help both state departments to be more specialized and focused on their respective inspection, bioterrorism, and food borne illness responsibilities and will give focus and ownership to these very important topics. The Association requested that there be no further fee increases. (Attachment 4)

Adrian Polansky, Secretary, Kansas Department of Agriculture, appeared in support of **ERO 32** transferring several program responsibilities from the Kansas Department of Health and Environment to the Kansas Department of Agriculture. The Department of Agriculture will be the key authority for safety as food is produced, processed, and transported to consumers, giving many businesses a single point of contact for food safety regulation. He believes this shift in duties will complement their existing authority for dairy, meat, and egg compliance. The specific types of establishments that will transfer to the Department of Agriculture include retail grocery stores, food service in retail grocery stores, mobile ice cream vendors, vending machines, convenience stores, retail meat stores and meat processors, specialty shops, variety stores, food wholesalers and warehouses, food manufacturers, bakeries, mills and elevators, bottling plants, wineries, breweries, food re-packers, bottled water businesses, pet food manufacturers, food salvagers, ice plants, cider mills, seed sprouting businesses, and fruit and vegetable markets. (Attachment 5)

CONTINUATION SHEET

MINUTES OF THE HOUSE AGRICULTURE COMMITTEE at 3:30 p.m. on January 26, 2004, in Room 423-S of the Capitol.

Lesa Roberts, Director of the Bureau of Consumer Health, Kansas Department of Health and Environment, testified that the Department supports **ERO 32**, assigning duties related to food production, processing, and packaging for retail to the Kansas Department of Agriculture, while maintaining the public health priorities related to highest risk food safety establishments with the Kansas Department of Health and Environment. The Kansas Department of Health and Environment believes it is important that licensing of restaurants remain at KDHE for the overall protection of the public's health and to facilitate continuity in the Department's ability to respond quickly and effectively to critical health risks. (Attachment 6)

Leslie Kaufman, Director, Governmental Relations, Kansas Cooperative Council, appeared in support of **ERO 32**, although the Council would have liked the ERO to cover a broader, more inclusive transfer of the food safety programs. They support the consolidation of restaurant and grocery store food safety programs in the Kansas Department of Agriculture. The Council appreciates provisions in the ERO that provide for the transfer of funding and staff when the programs move to the Department of Agriculture. (Attachment 7)

Todd Johnson, President of the Kansas Agricultural Alliance, a group of nineteen organizations representing agricultural, agribusiness, and rural interests, testified in support of **ERO 32**. The Alliance feels the order accomplishes their goal of greater governmental coordination, efficiencies and capitalizes on existing synergies. (Attachment 8)

Brad Harrelson, Associate State Director, Governmental Relations, Kansas Farm Bureau, appeared in support of **ERO 32** transferring food safety and inspection functions to the Kansas Department of Agriculture; however, they had hoped that the ERO would have been broader in scope and included all facets of food safety and not excluded businesses that prepare food for immediate consumption. It was noted that adequate funding for increased food safety responsibilities must be recognized and addressed. Kansas Farm Bureau recommends that the KDA retain its current statutory designation as the Kansas Department of Agriculture. (Attachment 9)

Leadership of the Kansas Meat Processors Association submitted written testimony in support in principle of **ERO 32**. They wrote that if efforts to effectively and efficiently deliver safe food to Kansas citizens can better be accomplished by combining divisions of the KDHE and KDA so that regulatory inspections become more consistent, practical, and science-based, they support those efforts. Their Association would like to see stronger efforts by state agency personnel to develop a higher level of consistency in the implementation of regulations so that they are consistent with statutory authority, and in their case, with the "equal to" provisions of the Federal Meat & Poultry Inspection regulations. (Attachment 10)

Sally Finney, Executive Director, Kansas Public Health Association, Inc., testified in opposition to **ERO 32** and the consolidation of food safety inspections under the Kansas Department of Agriculture because members of the association believe it would be a conflict of interest and food safety is a core public health function. The Association supports consolidation if it improves the system and if it is done under a state agency whose mission it is to protect the public's health. They believe that agency is the Kansas Department of Health and Environment. (Attachment 11)

Stephen Paige, Topeka, Kansas, a retired director of the Kansas Department of Health and Environment's food protection program, appeared in opposition to **ERO 32**. He suggested a Memorandum of Understanding between the agencies as an alternative to **ERO 32**. He believes the responsibility for the state's food protection program is in the Kansas Department of Health and Environment. (Attachment 12)

There being no other conferees, Chairman Johnson closed the hearing on **ERO 32**.

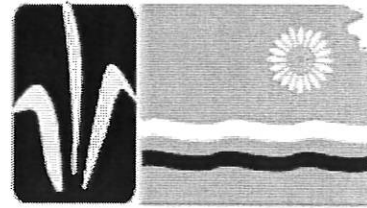
Representative Schwartz, on behalf of the Kansas Department of Commerce and Housing, moved introduction of a committee bill concerning intrastate shipment of wine. Seconded by Representative Gatewood, the motion carried.

The meeting adjourned at 5:40 p.m. The next meeting is scheduled for January 28, 2004.

# HOUSE AGRICULTURE COMMITTEE GUEST LIST

DATE: January 26, 2004

NAME	REPRESENTING
Adrian Polansky	K DA
Carole Jordan	K DA
Doug Farmer	KDAHE
Lesia Roberts	KDHE
Susan Kang	Kdhe
Steve Paige	Self
Vally Finney	Ko. Public Health Assn.
Leslie Kaufman	Ka Coop Council
Ken RAHOES	Ks Dairy Assn.
Garett Schmidt	Rep. Larry Powell
Jared Holst	Rep D. Johnson
Jerry Dudley	Ks Dept of Commerce - Ag mkt
Jodd Johnson	KLA
Doug Wareham	KGFA / KARA
Danielle Hee	Johnson County
BRAD HARRELSON	KFB
Ric Anderson	Topeka Cap-Journal
Rep. Willa De Castro	
Laurel Murdie	Post Audit - CPA



STATEMENT OF THE  
KANSAS GRAIN & FEED ASSOCIATION  
AND  
KANSAS AGRIBUSINESS RETAILERS ASSOCIATION  
SUBMITTED TO THE  
HOUSE AGRICULTURE COMMITTEE  
REGARDING HOUSE BILL 2460  
REPRESENTATIVE DAN JOHNSON, CHAIR

**KGFA AND KARA MEMBERS ADVOCATE PUBLIC POLICIES THAT ADVANCE A SOUND ECONOMIC CLIMATE FOR AGRIBUSINESS TO GROW AND PROSPER SO THEY MAY CONTINUE THEIR INTEGRAL ROLE IN PROVIDING KANSANS AND THE WORLD THE SAFEST, MOST ABUNDANT FOOD SUPPLY.**

Chairman Johnson and members of the House Agriculture Committee, I am Doug Wareham appearing on behalf of the Kansas Grain and Feed Association (KGFA) and the Kansas Agribusiness Retailers Association (KARA). The KGFA is a voluntary state association with a membership encompassing the entire spectrum of the grain receiving, storage, processing and shipping industry in the state of Kansas. KGFA's membership includes over 950 Kansas business locations and represents 99% of the commercially licensed grain storage in the state. KARA's membership includes 730 agribusiness firms that are primarily retail facilities that supply fertilizers, crop protection chemicals, seed, petroleum products and agronomic expertise to Kansas farmers. KARA's membership base also includes ag-chemical and equipment manufacturing firms, distribution firms and various other businesses associated with the retail crop production industry.

I appear in support of House Bill 2460. While our organizations fully support the nine-member State Board of Agriculture's role in advising the Secretary and Governor on agricultural policy, we believe the role of the Board in nominating persons for the position of Secretary of Agriculture has been proven to be problematic. House Bill 2460 removes that responsibility from the Board and places the responsibility of naming a Kansas Secretary of Agriculture solely with the Governor, as is the case with every other cabinet level position in Kansas.

Some of the specific concerns with the current process of having the Board nominate individuals from which the Governor must choose include:

- Potential for significant delays in the appointment of a permanent Secretary of Agriculture, as we are presently experiencing.
  - The nomination process itself can cause a significant delay.
  - Further delays can be caused by the rejection of all three nominees.
- There are significant costs associated with the additional meetings and advertising necessary to discover candidates for possible nomination by the Board.

While KGFA does not presently have formal policy regarding the role of the State Board of Agriculture, KARA does have specific policy regarding the Department of Agriculture and the nine-member advisory board, which is highlighted below:

- **KANSAS DEPARTMENT OF AGRICULTURE--**KARA has a vested interest in the effective and efficient operation of the Department since the majority of the regulations it enforces directly impact our industry. Consequently, we fully support the outcome of the debate during the 1995 session as the most efficient and effective way for the Department to carry out its regulatory mission. The Secretary of Agriculture is chosen by the Governor and confirmed by the Senate. The Secretary has rule and regulation authority, as well as complete authority over all personnel decisions. A 9-member advisory board is appointed by the Governor to advise the Secretary and Governor on agriculture policy in Kansas.

Thank you for the opportunity to appear in support of this bill and I would be happy to stand for questions.



## **Kansas Farm Bureau**

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### **PUBLIC POLICY STATEMENT**

#### **House Committee on Agriculture**

**RE: HB 2460 – an act relating to the appointment of the Secretary of Agriculture**

**January 26, 2004  
Topeka, Kansas**

**Presented by:  
Brad Harrelson, Associate State Director  
KFB Governmental Relations**

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Chairman Johnson and members of the committee, thank you for the opportunity to provide comments on House Bill 2460. I am Brad Harrelson, Associate State Director of Governmental Relations for the Kansas Farm Bureau. KFB policy is supportive of the statutory responsibilities given to the agriculture board. Therefore, we oppose HB 2460.

***We support the existence of the State Advisory Board of Agriculture and its role in providing advice to the Secretary of Agriculture and the Governor. The duties and responsibilities of the Board should include oversight to ensure the agency's regulations are effective in protecting public safety, are reasonable, scientifically-based and promote a strong agricultural industry.***

The board, by statute, serves in an advisory capacity to the Governor and Secretary on Department legislative initiatives. Statute also prescribes that the board review and make recommendations on proposed rules and regulations or on proposed revised rules and regulations prior to the submission of such to the Secretary of Administration. The agriculture board also advances recommendations for Secretary of Agriculture candidates to the Governor.

Kansas Farm Bureau members have thoroughly discussed the role of the board and affirmed its value during the policy development process this past year. Specifically, we continue to support the existing statutory responsibilities, including forwarding candidates for Secretary of Agriculture. This bill would remove an opportunity for the board's role in secretary selection. As such, we respectfully ask the committee to not pass HB 2460 favorably. Thank you.

*Kansas Farm Bureau represents grassroots agriculture. Established in 1919, this non-profit advocacy organization supports farm families who earn their living in a changing industry.*

House Agriculture Committee  
January 26, 2004  
Attachment 2

**HEIN LAW FIRM, CHARTERED**

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*Ronald R. Hein*

*Attorney-at-Law*

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**Testimony Re: ERO 32  
House Agriculture Committee  
Presented by Ronald R. Hein  
on behalf of  
Kansas Food Dealers Association  
January 26, 2003**

Mr. Chairman, Members of the Committee:

My name is Ron Hein, and I am legislative counsel for the Kansas Food Dealers Association. The KFDA represents retailers, distributors and manufacturers of food products throughout the state of Kansas.

Jim Sheehan, Executive Director of KFDA, has testified before the Senate Agriculture Committee and Special Committee on Agriculture regarding this issue. In his testimony, he made it clear that our members are very supportive of the various inspection programs that are currently in effect in Kansas. There is no other industry in Kansas that is affected more by the various inspections than the grocery industry. "Farm To Fork" is the quote that has been used by Governor Sebelius. That would include those inspections conducted by the Department of Agriculture or the Kansas Department of Health and Environment. These inspections provide our consumers the confidence that we are providing them with safe and wholesome products. This is a very important to our consumers and to our members.

ERO 32 moves the inspection of grocery stores from KDHE to KDA. Our members have had a very good working relationship with both departments, and Jim has served on various committees regarding food safety and the updating of the Food Code. Since no other industry in the State is more involved in this process than the grocery stores from food safety to the marketing of food products, KFDA feels that there needs to be a better understanding between the producer and the retailer that we are indeed in a partnership in providing safe food products to the consumer.

Currently, it is confusing to some KFDA members which department has what responsibilities for inspecting their business. As business men and women, our members do understand budgets and the need to meet them. KFDA feels that we are the most competitive industry in the state. Our members want an inspection program that insures the consumer of the safest and most wholesome products regardless of which department conducts the inspections.

Thank you very much for permitting me to testify, and I will be happy to yield to questions.



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**Testimony re: ERO 32, Food Safety Regulation  
House Agriculture Committee  
Presented by Ronald R. Hein  
on behalf of  
Kansas Restaurant and Hospitality Association  
January 26, 2004**

Mr. Chairman, Members of the Committee:

My name is Ron Hein, and I am legislative counsel for the Kansas Restaurant and Hospitality Association. The KRHA is the Kansas professional association for restaurant, hotel, lodging and hospitality businesses in Kansas. Kansas' restaurant and lodging facilities generated \$2.9 billion in sales last year and directly employed 96,000 workers, which is 7.2% of the total state job base.

Since the KRHA is an association that represents regulated businesses, KRHA is on record that we feel it is inappropriate for us to determine who should be our industry regulator, and that we strongly support the continuation of food service inspections and food safety education. Therefore, KRHA has been neutral on bills in the Senate, SB 124 and SB 296, and is neutral on ERO 32.

We can, however, support some of the concepts of Governor Sebelius' ERO 32 since it does not attempt to change who regulates us. As it relates to food safety, it appears ERO 32 will help both departments to be more specialized and focused on their respective inspection, bioterrorism, and food borne illness responsibilities and will give focus and ownership to these very important topics.

However, we want to be on record that we believe the current targeted KDHE restaurant inspection and manpower ratios be accomplished with no further fee increases. In addition we hope the restaurant license fees can be reduced from the current \$200 once the 3-year expenditure is completed for the KDHE information systems.

As you know the food service industry has changed significantly over the years, and with change come many challenges. Today's informed consumer spends more dollars dining outside the home than ever before. (Approximately 47% of food dollars are spent away from home). With emphasis on dining out, more pressure is placed on the food service

industry to cater to the public's demand for a greater variety of high quality food that has been prepared and cooked safely.

Because food service establishments must meet higher standards of food safety than ever before, KRHA supports the regulatory system under which we are inspected, licensed, and governed. However, several years ago the Department of Health and Environment determined that the regulatory process should also be educationally oriented, and not just inspection and punishment oriented. Therefore, KDHE proposed moving more towards education and away from punitive inspections as the best way to insure a safe food supply. KRHA applauded KDHE's proposal at that time, and encourages this type of relationship with the state regardless of what department regulates the industry or conducts the inspections. Our industry continues to support a process which places an appropriate focus on the education of food safety standards to food service employees.

For restaurateurs to rise to the challenge of preparing quality safe food, they must teach, train and practice food safety every minute of every workday. It is imperative that a cooperative partnership between industry and health or other regulatory officials be maintained with the common goal of preventing food borne illness.

While regular inspections are important, the most effective way to insure a safe food environment is to have well trained food handlers who are operating their businesses utilizing up-to-date information on food preparation and storage.

Previous legislation and ERO 32, prompt many questions that we have asked the Special Interim Committee On Agriculture to consider, and we hope that this committee will consider. The questions this past interim included:

1. Will the focus on food safety education continue?
2. In case of a food borne outbreak how will communications between the Department of Ag, the Department of Health, local health departments and industry evolve?
3. How will existing relationships and contracts between KDHE [and now, under the ERO, possibly KDA] and local health departments for restaurant [and retail food dealer food service] inspections be impacted or adjusted?
4. Will there be cost increases to our members in one form or another for the same services?
5. Will there be duplication of effort or inspections if/when the transfer occurs?

Now, with the ERO, additional questions might be added, including:

1. Will the allocation of functions between KDA and KDHE eliminate duplication of services?
2. Will the quality of inspections be adversely impacted in any way?
3. Will the savings from elimination of duplication of services, if any, present any potential risk to the quality of food safety inspections?
4. How will the transfer of regulated entities pursuant to the ERO impact fees on the regulated industries under both agencies?
5. If retail food dealers and others currently regulated by KDHE are moved to KDA, will removal of those fees from KDHE be offset by reductions of expenses of KDHE? If not, will fees for restaurants rise simply from the passage of legislation or implementation of the ERO? If the transfer in and of itself causes another increase in fees to our members and others in the food service industry in Kansas, when will that occur?

Regarding fee increases, KDHE has just recently increased our fees to the statutory cap, \$200 per year for food service establishments. In 2001, the fee cap was raised by statute from \$100 to \$200, and the fees were increased to \$130 in 2001 and to \$200 in 2003. Part of the fee increase was to pay for a new computer system for KDHE.

As we understand from communications with KDHE, the approximately \$660,000 projected to be spent on computer hardware and software upgrades by KDHE (which is being paid by fees on the food service establishments) is being used to enhance tracking and communications of inspection information. KDHE has indicated that the system will be used and is needed regardless of where inspections are housed. We also understand that the system will be compatible with the Department of Agriculture if inspections are not consolidated.

We understand that KDHE's focus is on health, but we are appreciative of the fact that KDA has been concerned with health as a part of its regulation and inspection on foods from the production stage through the retail distribution stage over the years. We believe the focus of any legislation in this area should be on food safety, whoever administers the various programs.

We look forward to working with this committee on this issue, and would offer our assistance in addressing questions or concerns that we have raised.

Thank you very much for permitting me to testify, and I will be happy to yield for questions.



# KANSAS

DEPARTMENT OF AGRICULTURE  
ADRIAN J. POLANSKY, SECRETARY

KATHLEEN SEBELIUS, GOVERNOR

## **Testimony on Food Safety Reorganization**

to

**The House Agriculture Committee**

**by Secretary of Agriculture Adrian Polansky**

**January 26, 2004**

Good afternoon, Chairman Johnson and members of the committee. I am grateful for this opportunity to focus on the issue of food safety in Kansas. Food safety and consumer protection programs are at the core of the mission of the Kansas Department of Agriculture. We strive to provide this consumer protection as efficiently and effectively as possible, and we look forward to broadening and improving our efforts.

Because conditions involving food safety are dynamic, and because effects on consumers can be dramatic, we believe in maintaining a strong presence in the food safety arena. We support policy changes that will protect consumers and, at the same time, increase the efficiency and effectiveness of food safety programs. Consumer protection must remain the overall goal as we look at program changes.

Under Governor Sebelius' executive reorganization order number 32, as food is produced, processed and transported to consumers, the Kansas Department of Agriculture will be the key authority for safety. We believe this is an appropriate function that will fit well into current activities. At the same time, the reorganized program will give many businesses a single point of contact for food safety regulation. It complements our existing authority for dairy, meat and egg compliance checks in grocery stores.

KDHE will continue to regulate businesses that prepare food for immediate consumption. The state public health agency has the capacity for detecting food-borne illness and conducting appropriate follow-up in order to diminish any future risks. We believe this also is appropriate.

I would like to take this opportunity to tell the committee a bit about the Kansas Department of Agriculture's current efforts in the food safety arena.

## **Dairy Inspection Program**

Our dairy inspection program reaches from the farm to the grocery store shelf. Its employees conduct inspections, collect samples for analysis, and issue permits and licenses to ensure that milk and dairy products are produced, processed and distributed to consumers in a safe, wholesome and unadulterated form.

Inspectors who are experts in FDA regulations and techniques visit the family farm or the large dairy to make note of sanitary conditions, records, temperatures and storage of medications. Grade A farms are inspected at least four times a year—and more when follow-ups are called for—to see that the milking barn, tank room and milking equipment are clean and sanitary. Milking is observed. And each farm bulk milk supply is sampled monthly for temperature, bacteria, drug residue, somatic cell limits and the presence of added water.

Dairy inspection staff train and check the individuals who pick up the milk at the farm and haul it to the processor. They inspect processing plants for sanitation, temperatures, handling and procedures. At every step they take controlled samples to test for substances or conditions which could affect the safety or quality of the milk or processed dairy food.

These food safety professionals protect consumers in a number of states besides Kansas. Grade A milk produced in the Sunflower State is exported to states all around the region. Based on per-capita consumption, approximately 40 percent of Kansas milk is consumed here; 60 percent is exported. Our activities to comply with regulations of the Food and Drug Administration ensure that it is legal to sell milk outside our borders. Our inspectors check products from the shelves of grocery stores, and they investigate when consumer complaints are received.

## **Meat and Poultry Inspection Program**

The meat and poultry inspection program is the largest KDA food safety program. Cooperatively funded by USDA and state general funds, we work with the state's small meat and poultry processors, mostly in our rural communities, to ensure food safety for consumers and to serve our farmers and ranchers.

This program has worked side-by-side with industry and Kansas State University to meet tough new federal food safety requirements, and we will continue to do so as new requirements arise. We have a history of building partnerships to help the industry meet new demands. We have worked with KSU to provide no-cost HACCP and sanitation training, and to explain regulations about E. coli 0157:H7. We also worked with FSIS to educate industry about new ready-to-eat regulations.

When we help our plants meet requirements and maintain sanitary conditions, it is positive for rural economies. Some have questioned the economic benefit of these small, rural businesses. We do not. We believe they provide employment and tax dollars to our small towns, as do our inspectors who live in the same small communities, and provide valuable services for

farmers and agribusinesses. State inspection is more reasonable financially for the small plants, and guidance and advice are more easily accessible than they are for federally inspected plants.

Staff of this program inspect and license commercial and custom slaughterhouses (those are the plants that process animals for an individual and his or her family's personal use, not for retail sale) and processing facilities located in Kansas.

At those fully inspected facilities, we inspect every animal while it is still alive and then again, after slaughter, to ensure no sign of disease is missed. Only healthy carcasses will be marked with the Kansas Department of Agriculture inspection legend before they enter the food supply. We retain the carcasses of animals suspected of disease until the results of tests are returned giving them a clean bill of health.

Our inspectors assure that all areas and equipment in the plants are clean, sanitary and properly maintained when the daily work begins. All ingredients and steps in the preparation of meat and poultry products are inspected for quality, freshness and compliance with national standards. Samples of finished products are analyzed.

Program inspectors also are a first line of detection and defense against natural or introduced animal diseases. Field staff learn to detect signs of dangerous animal diseases and to put immediate precautionary measures in place. In case of a major animal disease emergency, the program's nine veterinarians would join the Department of Animal Health's three vets to contain and correct the situation.

Management of this program currently is staying abreast of all new federal rules coming down to the states as a result of USDA's response to the case of BSE discovered in Washington state in December.

### **Agricultural Commodities Assurance Program**

The agricultural commodities assurance program in the Department of Agriculture regulates the quality of eggs, feed, pet food and seed. These inspectors routinely visit supermarkets, feed mills, pet stores and other retail and wholesale outlets to verify that products are properly labeled and to collect samples to be tested by our agricultural laboratory.

These food safety professionals inspect more than 100,000 eggs each year to verify that they are stored at a temperature that retards the growth of salmonella, and to ensure they are clean and free of cracks. We also make sure that eggs cartons bear a packaging date and that eggs are properly graded.

Our work to ensure the quality of seeds and feeds is important to the agriculture industry and to consumers. We help the federal government investigate tissue residue cases when antibiotics and other drugs are detected in animals destined for the human food supply. We investigate the source of the problem, which often can be traced to a dairy producer or rancher who medicated a sick animal and did not wait long enough for the drugs to be expelled by the animal's body before marketing it. Often, we are responsible for communicating to the animal's

owner the importance of following label instructions and federal rules, and the possible consequences of improperly medicating animals.

Again, these are food safety activities that protect human and animal health and ensure consumer confidence in Kansas agriculture and food production.

At any given time, Kansas has more cattle than people. And, our state has a reputation of providing safe, wholesome beef products. ACAP inspectors maintain the integrity of Kansas beef by inspecting facilities that contribute to the production of cattle feed to ensure that they produce feed that is safe and complies with state and federal rules. We test feed products to ensure prohibited materials are not found in ruminant feed.

### **Weights and Measures**

Trained in a different discipline and requiring a different set of skills and equipment, our weights and measures inspectors nevertheless contribute to consumer protection and enter some of the same facilities where food safety inspectors work.

Weights and measures inspectors test all kinds of commercial weighing and measuring devices. They test scales used in grocery stores, grain elevators, livestock sale barns, pawn shops and other locations. They test gas pumps and meters used to sell chemicals or to sell propane to home owners. They check packages containing edible and inedible products to ensure consumers receive the quantity stated on the label. They even verify that in-store scanners scan the correct price. Essentially, all consumer goods are subject, in one way or another, to the weights and measures law.

### **Response to Legislative Post Audit**

KDA supports policy changes that will promote food safety and increase the efficiency and effectiveness of food safety programs. Consumer protection must remain the overall goal as we look at program changes. The post audit report is a good starting place for new and improved food safety efforts in Kansas. Further food inspections would fit well into our department's mission and will appropriately broaden our oversight to all parts of our complex food system, from farm to plate.

The post audit report led me to direct my staff to work with the Kansas Department of Health and Environment to make immediate changes when possible and to begin looking at longer term program improvements designed to provide food safety effectively and efficiently.

As a result of the post audit and the ERO, we began a series of interagency meetings on the logistics of changing the program. We identified some 70 facilities that LPA determined dropped off the inspection radar in 2002, and staff are now implementing these inspections.

KDA is committed to implementing and operating efficient, effective programs. KDA is open to recommendations and opportunities that could lead to operational improvements. We and the Kansas Department of Health and Environment are on the same team and embrace

opportunities to enhance food safety and coordination. With that in mind we look forward to working together to implement Executive Reorganization Order #32.

The specific types of establishments that will transfer to the Department of Agriculture include retail grocery stores, food service in retail grocery stores, mobile ice cream vendors, vending machines, convenience stores, retail meat stores and meat processors, specialty shops, variety stores, food wholesalers and warehouses, food manufacturers, bakeries, mills and elevators, bottling plants, wineries, breweries, food re-packers, bottled water businesses, pet food manufacturers, food salvagers, ice plants, cider mills, seed sprouting businesses, and fruit and vegetable markets.

Thank you for your attention. I will stand for questions at the direction of the chairman.





**K A N S A S**

RODERICK L. BREMBY, SECRETARY

KATHLEEN SEBELIUS, GOVERNOR

DEPARTMENT OF HEALTH AND ENVIRONMENT

**Testimony on Executive Reorganization Order No. 32  
to  
The House Committee on Agriculture**

**by  
Lesa Roberts  
Director of the Bureau of Consumer Health**

**January 26, 2004**

Chairman Johnson and members of Committee on Agriculture, my name is Lesa Roberts and I am the director of the Bureau of Consumer Health at the Kansas Department of Health and Environment. Thank you for the opportunity to appear before you today regarding issues related to the **Food Protection and Consumer Safety Program** at KDHE.

The Food Protection program is administered to prevent foodborne illnesses and injury. Kansas has a rich history of public health and food safety. The first regulation for oysters was enacted in Kansas, a unique accomplishment for this landlocked prairie state. Inspection for food service establishments was initiated in 1913. As changes have occurred in the industry of food service, there have been changes in the inspection and enforcement process.

Today, the eradication of disease persists as the primary objective that the policies and procedures of this program support. The inspection and regulation of food service establishments (restaurants), retail food stores (grocers), and food processing plants continue to target the prevention of foodborne illnesses associated with the locations where food is being manufactured, prepared, served, or stored while promoting industry understanding of disease prevention. Risk for communicable disease is greatest where there is ample opportunity for infectious microorganisms to live, thrive, and be transmitted. In the business of food safety, the highest risk environment is where there are the most handling and multiple processes in preparing, serving and storing food. These facilities pose the greatest risk to the everyday health and safety of the public.

The Kansas Department of Agriculture and the Kansas Department of Health and Environment support the Governor's Executive Reorganization Order No. 32, assigning duties related to food production, processing and packaging for retail to the Kansas Department of Agriculture while maintaining the public health priorities related to highest risk food safety establishments with the Kansas Department of Health and Environment. We believe this is the most effective means of protecting the consumers of Kansas food products and food services.

KDHE has close relationships with each and every local health department. This is critical in the investigation of foodborne illness. Local health departments can immediately investigate reported illnesses that may become public health threats in their community. Working collaboratively with the food service establishments, KDHE inspectors, epidemiologists and local health officials are able to efficiently collect information that identifies the most likely cause of the illness and initiate steps to limit its impact.

The goal of the Department has been to enhance the program's inspection and enforcement processes while maintaining high degree of adherence to fairness and standards. In 2001, steps were taken to organize the program to enhance supervision of inspection processes and enforcement activities. A formal quality improvement process was implemented which establishes standards by which all inspectors are trained and evaluated, and inspection processes and program elements are analyzed. This emphasis on standards and process improvement helps shape the program's ability to achieve the Department's vision of enhanced inspection and enforcement while maintaining fairness. The education portion of the unit provides support to the field staff, the industry and consumers.

The mechanisms through which regulations are enforced have also been improved. Inspection documents were modified to provide better illustration of the regulatory infractions and the immediate efforts made by the establishment and observations of the inspector that correct the problem. Intermediate remedies are employed through a progressive form of enforcement to give ample opportunity and encouragement for the operator to correct management practices that have critical health risks. Education is a key component in correcting risky practices; therefore the program has linked its quality assurance with education.

Education is provided through formal and informal presentations and materials distribution. The program's "Focus on Food Safety" training program and the "Did You Wash'em?" handwashing campaign materials have been adopted for use literally throughout the world, including several Pacific Island public health agencies as well as NASA, the Coast Guard and the American Embassy in Brussels.

As mentioned earlier, the program turned its focus to high-risk establishments over the course of the past two years. This effort appropriately targeted resources where the greatest risk of illness could be identified. The Governor's ERO recognizes this single-focus as an important public health priority.

The fees for licensing of restaurants and like facilities were increased this year to provide additional staffing support and to develop a data system to better handle information collected by the program and improve our ability to manage resources. There was some speculation that the restaurant industry would sustain decline as the overall economy lags. However, recent industry sources indicate 2004 may be a year of growth. "Eating out" appears to be growing rather than slowing.

This reliance on the food service industry by consumers emphasizes the need for strong public health measures. The food service industry representatives in Kansas have always supported food safety for consumers as illustrated by the principle that "food safety is not negotiable." The licensing of restaurants should remain at the Department for the overall protection of the public's health and to facilitate continuity in the Department's ability to respond quickly and effectively to critical health risks.

Shifting all food safety programs to another department would pose potential burdens and disruption of effectiveness to the departments, the licensees, the local health departments and the public. The Department asks for your support of Executive Reorganization Order No. 32.

Thank you for your time, I will answer any questions that you may have at this time.



**Leslie Kaufman, Director  
Governmental Relations  
Kansas Cooperative Council**

## **HOUSE COMMITTEE ON AGRICULTURE**

**January 26, 2004**

### **ERO 32 – Transferring Certain Food Safety Inspection Programs from the Kansas Dept. of Health and Environment to the Kansas Dept. of Agriculture.**

Chairman Johnson and members of the House Committee on Agriculture, thank you for the opportunity to appear today and support moving food safety functions to the Kansas Dept. of Agriculture. I am Leslie Kaufman and I serve the Kansas Cooperative Council as Governmental Relations Director. The Council has a membership of 186 cooperative businesses who have a combined membership of nearly 200,000 Kansans and encompasses enterprises related to food production from the ground to the table.

The Kansas Cooperative Council supports a strong state Department of Agriculture. We support the consolidation of restaurant and grocery store food safety programs in the Kansas Dept. of Agriculture (KDA). The KDA already has a variety of regulatory functions aimed at ensuring the food supply in Kansas is safe and wholesome. We agree with the Legislative Post Audit report that efficiencies could be achieved through consolidating these vital programs into one agency. We think the Kansas Dept. of Agriculture is the place for broad, food safety inspection programs and inclusion of programs now housed at KDHE is a natural extension of work already performed within KDA.

Critical to maintaining a strong KDA during this transition, is assurance that people and dollars move with the programs. Funding and personnel currently supporting KDHE's food safety programs should follow the programs to the Dept. of Agriculture. Obviously, there may be the opportunity to streamline functions and staff through the move, but KDA should not be placed in a position to divert current resources away from their existing programs to accommodate the consolidation. We appreciate provisions within ERO 32 that provide for the transfer of funding and staff when the programs move to the KDA.

ERO 32 is one option that would accomplish many of the consolidation goals the Cooperative Council supports. While this is a viable option that the Council can support, we recognize that it does not move all food inspection functions to KDA. We would have liked to see the ERO cover a broader, more inclusive transfer of the food safety programs. We would tell you that the Council testified in support of SB 296 last week before the Senate Agriculture Committee. As you know, that bill would move more food inspection functions to KDA than the ERO before you now.

Again, we do support efforts to provide a greater role for the Dept. of Agriculture in ensuring the wholesomeness of food in Kansas. The Department is uniquely situated to address food safety in a comprehensive manner from the field, through various stages of production and on to the end consumer. We encourage the legislature to work with the administration to see that this is accomplished. Thank you.



# KANSAS AGRICULTURAL ALLIANCE

## HOUSE COMMITTEE ON AGRICULTURE

**RE: ERO 32 – reorganizing the Kansas Department of  
Agriculture and initiatives to improve food safety**

**January 26, 2004**

**Presented by:  
Todd Johnson, President  
Kansas Agricultural Alliance**

*Kansas Agribusiness  
Retailers Association*

*Kansas Agricultural  
Aviation Association*

*Kansas Agri-Women*

*Kansas Association of  
Agriculture Educators*

*Kansas Association of  
Conservation Districts*

*Kansas Association of  
Wheat Growers*

*Kansas Corn Growers  
Association*

*Kansas Cooperative Council*

*Kansas Dairy Association*

*Kansas Electric  
Cooperatives*

*Kansas Ethanol Association*

*Kansas Farm Bureau*

*Kansas Grain & Feed  
Association*

*Kansas Grain Sorghum  
Producers*

*Kansas Livestock  
Association*

*Kansas Pork Association*

*Kansas Seed Industry  
Association*

*Kansas Soybean Association*

*Kansas Veterinary Medical  
Association*

Good afternoon, Chairman Johnson and members of the House Agriculture Committee. Today's testimony is presented on behalf of the Kansas Agricultural Alliance (KAA). KAA is a group of nineteen organizations representing agricultural, agribusiness and rural interests. The alliance only takes positions on legislation when its members are unanimous in their support of or opposition to a bill.

Prior to this legislative session, Alliance members met and formulated their 2004 Statement of Principles, or general philosophy on certain topics facing the agricultural industry. The principle related to the future scope of the Kansas Department of Agriculture is highlighted below.

### **KDA Programs - Expanding Their Scope**

The Kansas Agricultural Alliance (KAA) supports a strong state department of agriculture. Examination should be given to increasing the role the Kansas Department of Agriculture (KDA) plays in ensuring the state's food supply; and that delivery and services industries provide safe, wholesome, and affordable food for consumers. Consolidation of functions into the KDA should result in greater governmental coordination, efficiencies, and capitalize on existing synergies. Adequate funding must be provided for KDA programs. Any plan to reorganize or streamline government agencies must maintain the KDA's status as a cabinet level agency.

Upon the governor's issuance of Executive Reorganization Order (ERO) 32, the Alliance met and members took action to support ERO 32. We feel the order accomplishes our goal of greater governmental coordination, efficiencies and capitalizes on existing synergies. We ask for your support of these proposals.

Thank you.

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January 26, 2004  
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## **Kansas Farm Bureau**

2627 KFB Plaza, Manhattan, Kansas 66503-8155 • 785.587.6000 • Fax 785.587.6914 • www.kfb.org  
800 SW Jackson St., Ste. #1008, Topeka, Kansas 66612 • 785.234.4535 • 785.234.0278

### **PUBLIC POLICY STATEMENT**

#### **HOUSE COMMITTEE ON AGRICULTURE**

#### **Re: Executive Reorganization Order No. 32**

**January 26, 2004  
Topeka, Kansas**

**Presented by:  
Brad Harrelson, Associate State Director  
KFB Governmental Relations**

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Chairman Johnson and members of the Committee, thank you for the opportunity to comment on the proposal for transferring food safety authority to the Kansas Department of Agriculture (KDA). I am Brad Harrelson, Associate State Director, Governmental Relations for Kansas Farm Bureau (KFB). KFB is the state's largest general farm organization and represents more than forty thousand agricultural producer families through the 105 county Farm Bureau Associations across Kansas.

The members of KFB rise in support of transferring food safety and inspection functions to KDA. At their recent annual meeting, KFB delegates overwhelmingly adopted policy affirming the need for a strong department of agriculture with regulatory oversight of state food inspection programs.

The Legislative Post Audit report on combining food safety programs also supports that this step be taken. The report concludes that cost savings and greater efficiency could be gained by combining all food safety-related inspections into a single agency. More importantly however, overall improvements in assuring food safety for Kansans could be achieved, according to the report. The Governor's Executive Reorganization Order No. 32 is one option that could accomplish that objective. As such, we support the major components of the ERO. However, we had hoped that the ERO would have been broader in scope, and included all facets of food safety, and not excluded businesses that prepare food for immediate consumption.

House Agriculture Committee  
January 26, 2004  
Attachment 9

We strongly believe that the best interest of all Kansans is served by KDA assuming the lead role in food safety inspection programs. Kansas Farm Bureau recognizes the important contributions that KDA and the Kansas Department of Health and Environment (KDHE) have made with respect to food safety efforts in the past. Now is the time to improve and strengthen those efforts with increased consistency and efficiency. It is our understanding that both agencies are actively engaged in determining the best course for a smooth transition that does not compromise food safety, should any proposal being under consideration move forward. We look forward to specific details regarding the implementation process, if approved.

Furthermore, Farm Bureau policy advocates a strong and fully funded Kansas Department of Agriculture. Adequate funding for increased food safety responsibilities must be recognized and addressed under any plan adopted. In an effort to promote continuity and reliability in shifting additional food safety programs we recommend that the KDA retain its current statutory designation as the Kansas Department of Agriculture.

In conclusion, Farm Bureau members not only have a vested interest in a strong regulatory program to assure continued safe food and fiber, but also an obligation to support improved and strengthened food safety efforts from field to table. We appreciate the opportunity to provide input as you consider this proposal and urge the committee to take favorable action on moving food safety and inspection functions to the Kansas Department of Agriculture. Thank you.



Position statement of the Kansas Meat Processors Association (KMPA) leadership

Issue: A proposed reorganization of state governmental agencies that would combine food safety/inspection functions of divisions of the Department of Health & Environment and the Department of Agriculture.

The Kansas Meat Processors Association representing 60 member plants scattered across our state, and mostly “state inspected,” support in principle well-considered efforts to effectively and efficiently deliver safe food to Kansas citizens. If that can better be accomplished by combining divisions of the KDH&E and KDA so that regulatory inspections become more consistent, practical and science-based, we support those efforts. While this is being done, KMPA and its members would appreciate strong efforts by state agency personnel to develop a higher level of consistency in the implementation of regulations so that they are consistent with statutory authority, and in our case, with the “equal to” provisions of the federal Meat & Poultry Inspection regulations.

Since our total membership has not had the opportunity to react to this new development with our annual meetings in April each year and no approved resolution on record, the above statement is made by KMPA leadership on a short notice call.

Dated January 25, 2004

Drafted by: David E. Schafer, KMPA Executive Director with concurrence from President Mark Tittel and President-Elect Connie Halls

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ASSOCIATION, INC.**

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Testimony presented to  
House Committee on Agriculture  
by Sally Finney, CAE, M.Ed.  
Executive Director  
January 26, 2004

Chairman Johnson and members of the committee, I am here today on behalf of the members of the Kansas Public Health Association to express our opposition to Executive Reorganization Order 32.

Our system of government is based on the concept that the people will be protected by "checks and balances" aimed at assuring that everyone has a voice in developing public policy. We believe that maintaining these safeguards is critical to making certain that balance exists in formulating food safety policy that affects both producers of food and consumers of food. We believe that ERO 32 runs afoul of this concept.

According to the Kansas Department of Agriculture, its role is to, "...advocate and educate on behalf of Kansas agriculture." Certainly, Kansas farmers and ranchers deserve such an advocate. Agriculture is about production; food safety is about public health. The fundamental question here becomes: can the state agency that says it is an advocate for producers also effectively protect the public when it comes to formulating sound policy? We believe it cannot and ask that you oppose implementation of ERO 32.

Regarding consolidation of state-level food safety programs in general, KPHA supports consolidation if it improves the system and if it is done under a state agency whose mission is to protect the public's health. At the present time, that agency exists as the Kansas Department of Health and Environment. We also support measures that would reduce costs to operate programs and increase efficiency, so long as such steps do not compromise the quality of food safety activities.

I have attached a copy of an issue paper which KPHA and the Kansas Association of Local Health Departments has developed jointly. It elaborates on the points I have made here today.

In closing, I would like to say that KPHA applauds your interest in what CDC recognizes as one of the top 10 health advances of the 20<sup>th</sup> century, food safety. I thank you for allowing me to appear before you to present our views.

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# **Consolidation of Food Safety: The Public Health Perspective**

January 2004

A Joint Issue Paper of  
the Kansas Association of Local Health Departments  
and  
the Kansas Public Health Association, Inc.



## Introduction:

In October of 2003, the Legislative Division of Post Audit ("Post Audit") released the results of its performance audit titled, "Food Safety Programs in Kansas: Evaluating Possible Costs and Efficiencies of Combining Them." Because food safety is a significant public health concern, the state's two major public health associations, the Kansas Association of Local Health Departments and the Kansas Public Health Association, jointly set out to review Post Audit's findings and formulate recommendations concerning their implementation.

At issue is whether or not to transfer most or all food safety activities currently conducted by the Kansas Department of Health and Environment to the Kansas Department of Agriculture. This document outlines concerns which we believe the Kansas Legislature and Governor should consider in the event they decide to act on the Post Audit's findings.

## Overview:

Before moving to consolidate food safety inspection activities, we ask state lawmakers to consider that:

1. food safety is a *core public health function*;
2. it would create a *conflict of interest* if the state agency charged with promoting the state's food production industry were also charged with overseeing the safety of food production;
3. consolidating activities to *improve efficiency and reduce expenditures* is important and must be achieved *without compromising the public's safety*; and
4. the consolidation efficiencies cited by Post Audit may be realized with full protection of the public's health by *shifting food safety to KDHE*.

## Major Policy Considerations:

Food safety is a public health function.

The Centers for Disease Control and Prevention recognize food safety as one of the 10 most significant health achievements of the 20<sup>th</sup> century. The public health system has a proven record of assuring food safety in Kansas, in part because it is able to maintain two essential components: 1) coordination with public health epidemiology to assure proper investigation and control of outbreaks of foodborne illness; and 2) the use of inspectors who have the public health education and training needed to understand the science that connects risk of foodborne illness with improper food preparation.

It is important to note that the overwhelming majority of states (38) continue to rely on public health to protect food. Many agricultural states, like Nebraska, still rely on local public health departments to conduct inspections.

Consolidating all food safety activities under the Kansas Department of Agriculture would create a conflict of interest.

The central question here is whether or not the same state agency charged with promoting Kansas' agricultural interests can also effectively regulate the industry, protecting the health of consumers of the industry's products. In other words, can the Kansas Department of Agriculture serve two masters? We believe they cannot and cite as an example the current situation in this country concerning Bovine Spongiform Encephalopathy, or BSE, also known as "mad cow disease."

In recent years, various consumer groups like the Consumers Union have urged the U.S. Department of Agriculture to enact more aggressive policies concerning "downer" animals. These are animals that are obviously impaired, possibly due to illness. The USDA has resisted this notion, largely because of pressure from producers fearful of lost profits. In short, the agency has been caught in a conflict of interest between its two charges – protecting the industry and protecting the public.

Concern over conflicts at USDA is shared by *former USDA secretary Dan Glickman*. In an article published in the *Philadelphia Enquirer* in July, 2003, *Glickman expressed concerns about conflicts between ties to agriculture for high-level administrators at USDA and the agency's ability to enforce food safety regulations.*

Also of note are examples from other nations. The outbreak of BSE in Great Britain prompted a change there. Public opinion was that the *agriculture ministry reacted slowly in dealing with the outbreak because its dual functions (promoting agriculture and the food industry versus regulating food safety) conflicted* and the ministry thus acted slowly in order to protect the cattle industry. In the late 1990's, *Great Britain consolidated food safety activities under an independent agency, represented by the minister of health.*

In Ireland, a succession of high-profile foodborne illnesses worldwide (such as Britain's BSE outbreak and Scotland's *E. coli* outbreak) shook consumer confidence. In 1998, roughly 80 head of Irish cattle (out of a nationwide herd of approximately 7 million) were found to have BSE. This was not only a public health concern, but a major economic one, as Ireland exports about 90 percent of its meat produced. *Irish food safety officials felt these developments highlighted the difficulties its Department of Agriculture and Food faced in trying to carry out the dual mission of protecting consumers and promoting the food industry.* In July, 1998, Ireland enacted legislation that created the Food Safety Authority of Ireland. The Authority oversees food safety activities and reports to the Minister of Health and Children.

Consolidating food safety activities under Kansas' agricultural agency would create a conflict between the promotion of agricultural interests and the protection of the public's health.

Improving efficiency and reducing costs is worthwhile.

Post Audit has identified several areas where food safety might be enhanced and where the state could realize cost savings. *We endorse those measures that would improve efficiency in the system so long as they are done without diminishing the quality of the food safety system.* For reasons mentioned previously, we support consolidation so long as it moves food safety activities to the state public health agency, KDHE.

Post Audit suggests using a risk-based approach to scheduling inspections. The U.S. Food and Drug Administration has developed a risk-based approach which we endorse for use in Kansas.

Additional comments concerning Legislative Post Audit's findings:

- One cost-saving measure contained in the body of the performance audit on consolidation is missing from Post Audit's final recommendations. The auditors correctly note that the State of Kansas spends state revenue to continue the meat inspection program at the Kansas Department of Agriculture, despite the fact that this activity is the responsibility of the U.S. Department of Agriculture. Kansas could discontinue state funding for the program, and the USDA would carry out inspections and realize an annual savings of between \$750,000 and \$1.5 million. For reasons which they fail to mention, Post Audit does not address this in its final recommendations.
- The auditors point out that in a 1999 report the U.S. General Accounting Office recommended combining federal food safety functions into a single agency. While this is true, the Kansas audit on consolidation incorrectly gives the impression that the GAO recommends consolidation under an existing agency. This is not the case. Rather, the GAO urges consolidation under a brand-new, food-exclusive agency.
- The Kansas audit also mentions that four nations have consolidated their food safety functions but fails to note that in Great Britain and Ireland, as noted above, public concern about conflict of interest and safety of the food supply drove consolidation under the ministers of health. Canada and Denmark consolidated under the ministers of agriculture. All four countries appear to hold similar views about the costs and benefits of consolidation.

Testimony Presented to  
The House Committee on Agriculture  
By Stephen N. Paige  
January 26, 2004

Chairman Johnson and members of the committee, I appear today as a concerned consumer and the retired director of the Kansas Department of Health and Environment's food protection program. I appear today in opposition to Executive Reorganization Order 32.

During my years at the KDHE, there were many times decisions needed to be made in favor of consumer health and at the expense of industry. For example: Tough decisions had to be made regarding pesticide contaminated wheat, floodwater contaminated raw and processed commodities, grain elevator disasters and transportation accidents. Tough decisions had to be made regarding private water supplies impacting food manufacturing and food service facilities. Tough decisions had to be made regarding the Americold cave fire involving an estimated \$1 billion in food products and impacting 700 jobs. In addition to these examples, many tough decisions had to be made regarding control of foodborne outbreaks and food recalls. In each instance it was public health that served as the firewall to protect consumer interests from industry influence.

In the above examples, making decisions in favor of economic interests would have been detrimental to the consumer's health. Making decisions in favor of short-term economic interests would have had long-term detrimental effects on the Kansas economy. Decisions were not made in a vacuum, but included the expertise and advice of many agencies including the Dept. of Agriculture, Dept. of Commerce, Dept. of Animal Health, KSU, local health departments, federal agencies and the Office of the Governor. The KDHE having the lead role among these agencies utilized in-house resources including epidemiology, public water supply, laboratory services, air and radiation, waste management, and local and rural health. As the State's public health agency, the KDHE could make informed decisions in the interest of consumers. The Department of Agriculture should not be placed in a policy making position that may compromise its role as an advocate for agricultural interests.

During my tenure with KDHE I appeared before legislative committees on issues including AIDS, child care licensing, private water supply, radiation control, food protection, immunizations, disease reporting, bottled water, childhood lead poisoning prevention, community right to know, infectious disease control and others. Each of these above topics maintains their own identity. However, they do share a commonality in that they are all public health programs. Food protection is a public health program and the responsibility for food protection should be housed in the State's public health agency.

Recognizing the need for efficiencies in the State's food protection program isn't new. In the interest of reducing duplication of services by the KDHE and the Department of Agriculture, memorandums of understanding have been proposed. Two Secretaries of the Department of Agriculture have rejected these proposed MOUs that would have streamlined inspection services. I suggest a MOU between the agencies as an alternative to ERO 32.

In summary, I would encourage you to house responsibility for the state's food protection program in the Kansas Department of Health and Environment.

I thank you for the opportunity to appear today.

House Agriculture Committee  
January 26, 2004  
Attachment 12