

MINUTES OF THE HOUSE AGRICULTURE COMMITTEE

The meeting was called to order by Chairman Dan Johnson at 3:30 p.m. on March 8, 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:

Adrian Polansky, Secretary, Kansas Department of Agriculture
Lesa Roberts, Director of the Bureau of Consumer Health, KDHE
Leslie Kaufman, Director of Government Relations, Kansas Cooperative Council
Todd Johnson, President, Kansas Agricultural Alliance
Chris Wilson, Director of Member Services, Kansas Seed Industry Association
Brad Harrelson, Associate State Director, Governmental Relations, Kansas Farm Bureau
Gary Beachner, Chairman, Kansas State Board of Agriculture (written only)
Danielle Noe, Intergovernmental Relations Manager, Johnson County

Others attending:

See attached list.

Minutes of the February 23 meeting were distributed. Members were asked to notify the committee secretary of any corrections or additions prior to 5:00 p.m., March 10, or the minutes will be considered approved as presented.

Hearing on Sub. SB 296 - Reorganizes department of agriculture

Chairman Johnson opened the hearing on **Sub. SB 296**. Raney Gilliland explained that **Sub. SB 296** would enact provisions of law to follow **ERO 32**. **ERO 32** proposes on October 1, 2004, to transfer certain food safety programs from the Kansas Department of Health and Environment to the Kansas Department of Agriculture. He noted that this bill was originally the interim committee bill from the 2003 Special Committee on Agriculture.

Sub. SB 296 would transfer real property, certain officers and employees, and records dealing with the food safety functions being transferred from KDHE to KDA. The bill would create the Food Safety Fee Fund where money received by or for fees, charges, or penalties would be remitted. Also, the bill would transfer balances of all funds or accounts of KDHE which relate to the functions being transferred to the Food Safety Fee Fund. The bill provides that should any conflict arise as to the disposition of any power, function or duty, or the unexpended balance of any appropriation as a result of the transfer of food safety functions, the conflict would be resolved by the Governor. The bill would modify the definitions for "retail food store" and "food processing plant" and would add a new definition for "food."

The bill would create within KDA a Division of Food Safety. The Secretary of Agriculture would be required to appoint a director of the division and the person would be in the classified service of the Kansas Civil Service Act. On going communication and access between the new Division of Food Safety in KDA and the Bureau of Epidemiology at KDHE would be required. The State Board of Agriculture would have no powers, duties, or functions in regard to rules and regulations concerning the Division of Food Safety.

The Kansas Department of Agriculture would be required to create a statistically based random selection of not less than 1,000 retail food stores to be inspected and evaluated as a transferred programs baseline, and to report to the Legislature on February 1, 2005, the status of the baseline inspection program using 359 randomly selected retail food stores from the 1,000 randomly selected for inspection and evaluation. In addition, KDA is to report to the House and Senate Committees on Agriculture on the status of the transition not later than January 31, 2005, and January 31, 2006.

CONTINUATION SHEET

MINUTES OF THE HOUSE AGRICULTURE COMMITTEE at 3:30 p.m. on March 8, 2004, in Room 423-S of the Capitol.

Penalties for any person or entity who violates any of the provisions of the act or the rules and regulations adopted under the act are set forth in the bill. Finally, the bill would make the Secretary of Agriculture directly appointed by the Governor, rather than through nominations made by the State Board of Agriculture.

Adrian Polansky, Secretary, Kansas Department of Agriculture, testified in support of **Sub. SB 296**, stating that passage of this bill is necessary to deal with the transfer of employees, funds, equipment, and statutes from the Kansas Department of Health and Environment to the Kansas Department of Agriculture. He believes these new duties will complement the department's existing authority for dairy, meat, and eggs in grocery stores and processing facilities. As food is produced, processed, and transported to consumers, KDA will be the key authority for safety. ([Attachment 1](#))

Lesla Roberts, Director of the Bureau of Consumer Health, Kansas Department of Health and Environment, appeared in support of **Sub. SB 296** to provide clarification and definition for the transfer of duties for food safety from KDHE to KDA. Although the preponderance of duties related to food production, processing, and packaging for retail are transferred to the Kansas Department of Agriculture, she said the public health priorities related to highest risk food safety - restaurants - remains with the Kansas Department of Health and Environment. She pledged the department's continued efforts to implement these changes effectively. ([Attachment 2](#))

Leslie Kaufman, Director of Government Relations, Kansas Cooperative Council, testified in support of **Sub. SB 296** to move food safety functions to the Kansas Department of Agriculture. The council supports efforts to provide a greater role for the Kansas Department of Agriculture in ensuring the wholesomeness of food in Kansas. She noted that the department is, by statute, primarily a regulatory agency with a long history of competently regulating for the purpose of protecting all Kansans. ([Attachment 3](#))

Todd Johnson, President, Kansas Agricultural Alliance, appeared in support of **Sub. SB 296** noting that the alliance only takes positions on legislation when its members are unanimous in their support of or opposition to a bill. The Kansas Agricultural Alliance supports a strong Kansas Department of Agriculture and efforts to increase KDA's role in ensuring the state's food supply. The alliance feels consolidation of food safety functions into KDA should result in greater governmental coordination, efficiencies, and capitalize on existing synergies. He stated that the alliance has not taken a position regarding the Secretary of Agriculture appointment process or structure of the KDA advisory board. ([Attachment 4](#))

Chris Wilson, Director of Member Services, Kansas Seed Industry Association, testified in support of **Sub. SB 296**. The Kansas Seed Industry Association believes it is appropriate that authority for food safety programs and regulation be consolidated in the Kansas Department of Agriculture. The association also supports the provision in the bill that would streamline the appointment process for the Secretary of Agriculture. ([Attachment 5](#))

Brad Harrelson, Associate State Director, Governmental Relations, Kansas Farm Bureau, appeared in support of **Sub. SB 296** to transfer food safety and inspection functions to the Kansas Department of Agriculture, with the exception of Section 15, page 7, to eliminate the role of the Agriculture Advisory Board in Secretary of Agriculture selection. ([Attachment 6](#))

Gary Beachner, Chairman, Kansas State Board of Agriculture, submitted written testimony in support of the transfer of food safety duties from the Kansas Department of Health and Environment to the Kansas Department of Agriculture, but opposing Section 15 which removes the board's authority to nominate three individuals to the Governor for appointment as Secretary of Agriculture. ([Attachment 7](#))

Danielle Noe, Intergovernmental Relations Manager, Johnson County, appeared in opposition to **Sub. SB 296**. Johnson County is one of eight local governments who contract with KDHE to license and inspect certain food service establishments. Johnson County supports consolidation of state authority for consumer food safety as long as there are assurances that public health will be adequately protected. However, **Sub. SB 296** does not consolidate all food safety programs into one agency, it leaves restaurant licensure and inspections with KDHE. At minimum, this will necessitate separate county contracts with two state agencies and considerable coordination of day-to-day food safety issues. Johnson County proposes three amendments to

CONTINUATION SHEET

MINUTES OF THE HOUSE AGRICULTURE COMMITTEE at 3:30 p.m. on March 8, 2004, in Room 423-S of the Capitol.

Sub. SB 296: 1) Require KDA and KDHE to apply consistent rules, standards, policies, protocols, and procedures to similar food service establishments; 2) Require appointment of an external stakeholder task force, to include county representation, to advise the agencies on food safety issues; and 3) Authorize KDA to contract with counties to carry out the retail food store requirements as agents of the state. (Attachment8)

There being no other conferees, the Chairman closed the hearing on **Sub. SB 296**.

The meeting adjourned at 4:45 p.m. The next meeting is scheduled for March 10, 2004.

HOUSE AGRICULTURE COMMITTEE GUEST LIST

DATE: March 8, 2004

NAME	REPRESENTING
Carole Jordan	KDA
Adrian Polansky	KDA
Greg A. Doherty	KDA
Doug Farnsworth	KDHE
Lesia Roberts	KDHE
Cindy Lash	Post Audit
Jared Holste	Rep. Johnson
Alan Shyler	Rep. Niebach
Leslie Kaufman	Ks Co-op Council
BRAD HARRELSON	KFB
Danielle Nee	Johnson County
Dag Wareham	KGFA / KARA
Todd Johnson	KLA
Ron Seiber	HinLaw Firm
Ken Rahje	Ks Seed Industry Assn.
Jesse McCurry	Commerce
Doran June K	KCA
Wanda Kinney	KCA



KANSAS

DEPARTMENT OF AGRICULTURE
ADRIAN J. POLANSKY, SECRETARY

KATHLEEN SEBELIUS, GOVERNOR

Testimony on Substitute for SB 296

to

The House Agriculture Committee

By Adrian Polansky
Secretary of Agriculture
Kansas Department of Agriculture

March 8, 2004

Good afternoon, Chairman Johnson and members of the committee. I am here to testify in support of Substitute for SB 296, a bill supporting Governor Sebelius' ERO 32.

With the implementation of the executive reorganization order and passage of Substitute for S 296, a number of food safety activities will transfer from the Department of Health and Environment to the Department of Agriculture. As food is produced, processed and transported to consumers, KDA will be the key authority for safety. Inspection of these new facilities will fit well into our current activities.

As it focuses on food safety, the reorganization also will benefit Kansas businesses. It will give many businesses a single point of contact for food safety regulation, reducing the number of inspectors that will visit many facilities, and simplifying the permit process in some cases. The new duties complement our existing authority for dairy, meat and eggs in grocery stores and processing facilities.

Food safety and consumer protection programs have long been 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 adding these new duties. They will receive our consistent and equitable focus.

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 will remain the overall goal. Further food inspections will 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.

This broadened oversight also gives Kansas agriculture visibility and relevance to all Kansans, urban as well as rural. Ensuring food safety ensures consumer confidence, which is vital to a strong agriculture and markets for our products at home and abroad.

The passage of Substitute for Senate Bill 296 is necessary to deal with the transfer of employees, funds, equipment and statutes from the Department of Health and Environment to the Department of Agriculture. Thank you for your support. I will stand for questions.



K A N S A S

RODERICK L. BREMBY, SECRETARY

DEPARTMENT OF HEALTH AND ENVIRONMENT

KATHLEEN SEBELIUS, GOVERNOR

**Testimony on Substitute for Senate Bill No. 296 - Transfer of Food Safety Program Duties
to
The House Committee on Agriculture**

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

March 8, 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.

As many of you are aware, the Food Protection program is administered to prevent foodborne illnesses and injury. Inspection for food service establishments was initiated in 1913. As changes occurred in the industry of food service, there have been changes in the inspection and enforcement process. 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.

Earlier this session you contemplated and chose to support the proposed changes in food safety duties as prescribed by the Governor's Executive Reorganization Order No. 32. The bill you are considering today provides further clarification and definition for this transfer of duties. The Governor's ERO and Substitute Senate Bill 296 assign the preponderance of duties related to food production, processing and packaging for retail to the Kansas Department of Agriculture. Both documents maintain the public health priorities related to highest risk food safety with the Kansas Department of Health and Environment.

The Kansas Department of Agriculture and the Kansas Department of Health and Environment have worked diligently with the Senate Committee on Agriculture to provide essential language to strengthen this transfer of duties and we pledge our continuing work to implement these changes effectively.

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



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

**HOUSE COMMITTEE ON AGRICULTURE
March 8, 2004**

**RE: Sub. SB 296 – Transferring 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 Government Relations Director. The Council has a membership of 186 cooperative businesses who have a combined membership of nearly 200,000 Kansans.

The Kansas Cooperative Council supports a strong state Department of Agriculture. We support the consolidation of 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 more food safety 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 exiting programs to accommodate the consolidation. We

House Agriculture Committee
March 8, 2004
Attachment 3

appreciate provisions within Sub. SB 296 and corresponding ERO 32 that provide for the transfer of funding and staff when the programs would move to the KDA.

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. During the debate on this issue, critics of the move have challenged that the KDA could not be both an "advocate" of production agriculture and a "regulator" of food safety. We could not disagree more.

The department is, by statute, primarily a regulatory agency -- and one that has a long history of competently regulating for the purpose of protecting all Kansans. The mere fact that KDA has temporarily halted meat processing at facilities when they did not meet sanitary standards or fined agri-chemical handlers for failing to meet regulatory requirements designed to protect public health and the environment is proof that the department is and will continue to fulfill their statutory charge for protecting the food supply, public health and the environment for the benefit of all Kansans.

We support efforts to provide a greater role for the Dept. of Agriculture in ensuring the wholesomeness of food in Kansas. We respectfully encourage the legislature to work with the administration to see that this is accomplished through ERO 32 and the accompanying changes in Sub. SB 296. Thank you.



KANSAS AGRICULTURAL ALLIANCE

HOUSE COMMITTEE ON AGRICULTURE

RE: SB 296 – reorganizing the Kansas Department of Agriculture and initiatives to improve food safety

March 8, 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. KAA supports a strong state department of agriculture and efforts to increase KDA's role in ensuring the state's food supply. KAA feels consolidation of functions into the KDA should result in greater governmental coordination, efficiencies, and capitalize on existing synergies. In addition, adequate funding must be provided for KDA programs and any plan to reorganize or streamline government agencies must maintain the KDA's status as a cabinet level agency.

Our group provided testimony to your committee earlier this session supporting ERO 32, because it accomplishes the goals set forth by our organization. Likewise we are here today supporting the provisions of SB 296 that streamline food inspection programs.

However, I must point out KAA's support is specific to the transfer of food inspection duties found in the original version of SB 296. Since the introduction of the original bill, changes have been made. As I referenced earlier, KAA only takes a position when in unanimous support. KAA has not taken a position regarding the Secretary of Agriculture appointment process or structure of the KDA advisory board. Please accept our support for the underlying components, as we will remain silent on the discussions regarding appointment process or board structure.

Thank you.

House Agriculture Committee
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Attachment 4

STATEMENT OF THE KANSAS SEED INDUSTRY ASSOCIATION

TO THE HOUSE AGRICULTURE COMMITTEE

REPRESENTATIVE DAN JOHNSON, CHAIR

REGARDING S.B. 296

MARCH 8, 2004

Mr. Chairman and Members of the Committee, I am Chris Wilson, Director of Member Services of Kansas Seed Industry Association (KSIA). KSIA's approximately 125 member firms are Kansas companies involved in the production, processing and marketing of agricultural seeds.

KSIA supports SB 296 because we believe it is appropriate that authority for food safety programs and regulation be consolidated under the Department of Agriculture. In our current global situation, it has become increasingly important that Kansas be prepared for food safety and security threats. This is an important step in doing so.

KSIA also supports the provision in SB 296 that would streamline the appointment process for the Secretary of Agriculture. Whenever there is a vacancy and a new secretary must be appointed, it is vital for food safety and security reasons, as well as important to the whole agriculture industry and regulated communities, that the vacancy is filled as soon as possible and a new secretary appointed.

KSIA respectfully requests that you recommend SB 296 favorable for passage. Thank you for your consideration.



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: Sub. SB 296 – an act relating to the Kansas Department of Agriculture; transferring powers and duties of the Secretary

**March 8, 2004
Topeka, Kansas**

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

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 members 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 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 would accomplish that objective. This committee recently took action to support the ERO as well. Substitute for SB 296 is primarily a technical companion bill to the ERO. As such, we support the major components of Sub. SB 296.

House Agriculture Committee
March 8, 2004
Attachment 6

However, we are concerned that this bill, as passed by the Senate, goes beyond what is necessary to efficiently and effectively carry out the transfer of most food safety programs to KDA. Section 15. (b), page 7, amends existing statute and further limits the role of the Agriculture Advisory Board. KFB policy is supportive of the statutory responsibilities given to the agriculture board and therefore, we oppose this section of the bill.

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. As written, this bill would eliminate the opportunity for the board's role in secretary selection.

Previously, this committee heard KFB testify in opposition to HB 2460, which would have also limited the ag board's role in the selection of the Ag Secretary. At that time, many of you agreed with our position and the committee took no action on the bill. It is our hope that you continue to share this opinion, and reject this provision by striking it from the bill.

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.

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 comment today and urge the committee to take favorable action on Sub SB 296 with the suggested amendment. Thank you.

Kansas State Board of Agriculture
by Gary E. Beachner, Chairman
901 Leawood Avenue
Parsons, Kansas 67357

Business 620-449-8500

Residence 620-421-2602

March 8, 2004

Representative Dan Johnson, Chairman
House Agriculture Committee
Rm. 427 Statehouse
Topeka, KS 66612
Sent via fax: 785/368-6365

Dear Representative Johnson,

The State Board of Agriculture met March 5 by conference call to discuss Substitute for SB 296. We considered some of the specifics of the transfer of food safety duties from the Department of Health and Environment to the Department of Agriculture, as well as the amendment, Section 15, which removes the board's authority to nominate three individuals to the Governor for appointment as Secretary of Agriculture. The board is fully supportive of ERO 32, however, board members continue to oppose the attached amendment.

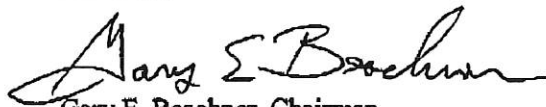
The current board process allows statewide representation from production agriculture, industry, and related businesses to assist with selecting candidates for the position of Secretary of Agriculture. This provision, which was created in 1995, was designed much like the judicial recommendation process, which allows those in the search process to be representative of the position being sought. We firmly believe that we fulfill that role, and that agriculture deserves such representation when filling the Secretary's position.

We agree that the Governor should have the freedom to appoint an individual appropriate for this important cabinet level position, but we are concerned about the future. Retaining this high level of professionalism and representation in the office of the Department of Agriculture is our primary concern. None of us can be assured that the appointment process of future administrations would be representative of the diverse interests of Kansas agriculture and food safety, without input from such a diverse board.

The existence of the Board of Agriculture provides an internal oversight mechanism that enables the Secretary to identify problem areas, share ideas and proposals for addressing agency challenges, and seek input from regulated stakeholders on agency policies and directives. We believe changing the Board's responsibilities would be a disservice to Kansas.

We hope you will share our thoughts with the members of your committee, and feel free to contact any of us if we can provide you with additional information. Thank you for considering our thoughts.

Sincerely,



Gary E. Beachner, Chairman
State Board of Agriculture

Encl: Board member list

House Agriculture Committee
March 8, 2004
Attachment 7

Board Member, Congressional District and Date Term Expires	Home Address and Phone	Business Address and Phone
Gary Beachner, Chair District 2 Jan. 11, 2007	901 Leawood Avenue Parsons, KS 67357 (620) 421-2602	Beachner Grain, Inc. PO Box 128 St. Paul, KS 66771 (620) 449-8500 (620) 449-8512 Fax
Galen G. Swenson, Vice Chair District 1 Jan. 11, 2007	3404 W. Crawford Street Salina, KS 67401 (785) 822-7011 (785) 825-8911 Fax	Swenson Farms 3072 W Crawford Street Salina, KS 67401 (785) 822-7011 (785) 825-8911 Fax
Louise Ehmke District 1 Jan. 11, 2007	74 West Road 130 Healy, KS 67850 (620) 397-2350	34 Star Farms/Ehmke Seed 74 West Road 130 Healy, KS 67850 (620) 397-2350
Ann M. Peuser District 2 Jan. 8, 2005	1313 7th Baldwin, KS 66006 (785) 594-3394	Clinton Parkway Nursery & Garden Store 4900 Clinton Parkway Lawrence, KS 66047 (785) 842-3081 (785) 841-3389
Donald Biggs District 2 Jan. 11, 2007	2712 Olde Creek Court Leavenworth, KS 66048 (913) 682-1802	
John M. Petz District 1 Jan. 8, 2005	1705 Grandview Dr. E Garden City, KS 67846 (620) 272-9502	Irsik & Doll PO Box 847 Cimarron, KS 67835 (620) 855-3111 (620) 855-3748 Fax
Roland L. Rhodes District 3 Jan. 8, 2005	27585 W. 183rd Street Gardner, KS 66030 (913) 856-6915 (913) 856-2140 Fax	Rhodes Chemical Co., Inc. (1129 Merriam Lane) PO Box 3204 Kansas City, KS 66103 (913) 432-2424 Ext. 623 (913) 432-0217 Fax
Patrick Maloney District 4 Jan. 11, 2007	1740 North Spruce Kingman, KS 67068 (620) 532-2126	
Larry Kepley District 4 Jan. 8, 2005	8474 South Road E Ulysses, KS 67880 (620) 356-1559 (620) 356-1559 Fax	



Johnson County, Kansas

BOARD OF COUNTY COMMISSIONERS

Testimony in opposition to Substitute for SB 296

presented to the

House Agriculture Committee

by

Danielle Noe

Intergovernmental Relations Manager

March 8, 2004

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to testify in opposition to Substitute for SB 296 relating to the transfer of certain food safety inspections to the Department of Agriculture (KDA).

Johnson County is one of eight local governments who contract with the Department of Health and Environment (KDHE) to license and inspect certain food service establishments. Under that contract, the Food Safety Program is responsible for licensing and inspecting over 1,800 food service establishments in Johnson County. The licensing process includes reviewing pre-construction plan reviews and doing pre-opening inspections. For the establishments that are currently in operation, the program performs routine and follow-up inspections and complaint investigations.

Johnson County supports consolidation of state authority for consumer food safety, including authority for retail food stores and food manufacturers into a single state agency, as long as there are assurances that public health will be adequately protected. However SB 296 does not consolidate all food safety programs into one agency, it leaves restaurant licensure and inspections with KDHE. There is no assurance that moving only certain establishments will either improve food safety and public health or be more efficient than the current system.

At a minimum, SB 296 will necessitate separate county contracts with two state agencies and considerable coordination of day-to-day food safety issues. KDHE and KDA will need to jointly develop and enforce standardized and consistent regulations, policies, procedures and guidance for all food service establishments regardless of whether they are subject to KDHE or KDA authority. A food service establishment located within a retail food store should be subject to the same rules as a stand-alone establishment next door. In addition, the agencies will need to have detailed written procedures for inter-agency coordination during food borne illness outbreaks. In its current form, SB 296 does not adequately address these issues.

Understanding that the Committee may be interested in moving this issue forward, Johnson County would recommend that the Committee consider a few changes to SB 296. Our proposed amendments do the following (see attachment for language):

- 1) Require KDA and KDHE to apply consistent rules, standards, policies, protocols and procedures to similar food service establishments (we don't want to put our inspectors in the position of having to enforce 2 completely different sets of rules for establishments that might be next door to each other).
- 2) Require appointment of an external stakeholder task force, to include county representation, to advise the agencies on food safety issues. This insures that contract counties have a voice in decisions that will affect them.
- 3) Authorize KDA to contract with counties to carry out the retail food store requirements as agents of the state. Current law does not provide this authority and we don't believe SB 296 does either; KDHE has been doing this work, even though the counties are already inspecting food service establishments *inside* retail food stores. With the transfer to KDA, this is an opportunity to expand the role of local governments in food safety and reduce duplication, assuming the state provides adequate resources.

Johnson County strongly recommends that these concepts be incorporated in law; otherwise they become just a handshake between agencies and the County's interests may not be protected. While we stand in opposition to the transfer of only some of the food safety licensure and inspection functions to KDA, we would respectfully request that you consider amending the bill if you decide to move forward. Thank you for your consideration.



FINGERTIP FACTS
JOHNSON COUNTY FOOD SAFETY PROGRAM
January 2004

- The Johnson County Food Safety Program protects the public from illnesses due to unsafe food handling in the County's food service establishments.
- Johnson County is one of eight local governments in Kansas that inspect food service establishments on behalf of the Kansas Department of Health and Environment (KDHE) under contracts renewed annually. Together, the local programs are responsible for 42% of all the food establishments in the state.
- The County inspects 1,800 food service establishments, of which about 220 (delicatessens, beverage counters, etc.) are part of retail food stores (grocery stores, convenience stores, etc.). The County does not inspect retail food stores.
- In 2003, the County completed 2,870 inspections of food service establishments, an average of 1.6 inspections per establishment.
- The County employs 8.5 food safety inspectors, each of whom performs an average of 338 inspections annually. Inspectors spend an average of 8 hours per year with each establishment.
- The County receives \$160 per establishment from KDHE to perform food safety work (80% of the \$200 state food license fee). This revenue will total about \$288,000 for 2004.
- The County's food safety program costs will be \$677,000 in 2004. Revenue from the state food license fees only covers 43% of the County's costs. The remainder is supported with local tax revenue and local fees.

Substitute for Senate Bill 296
Food Safety Inspections
February 23, 2004

[Underlined text would amend substitute SB 296.]

Page 4, lines 5 – 9, add the underlined text:

New Sec. 7. The secretary of agriculture and the secretary of health and environment shall provide for a mechanism for ongoing communication and access between the division of food safety, as established by this act, and the bureau of epidemiology at the department of health and environment. In exercising their respective authorities under K.S.A. 36-501 et seq., the secretary of agriculture and the secretary of health and environment shall apply consistent standards, policies, protocols and procedures in the licensing, inspection, and regulation of food service establishments, taking into account the relative risk posed by such establishments to public health and food safety.

Page 5, lines 5– 14, add the underlined text:

New Sec. 11. The Kansas department of agriculture and the department of health and environment shall appoint a task force of external stakeholders to provide input during and after the transition and to recommend actions to improve food safety. The task force shall include representation from counties that enforce food safety requirements as agents of the state. Not later than January 31, 2005, and January 31, 2006, the Kansas department of agriculture shall report to the house and senate committees on agriculture on the status of the transition. Such report shall be prepared in cooperation with the department of health and environment. The report shall include the steps taken to ensure that food safety resources are targeted at identifying, preventing and eliminating those concerns that constitute the greatest risk to public health and food safety. The report shall also include a description of what steps have been taken to engage stakeholders in the transition and in deciding what actions would tend to improve food safety.

Page 6, lines 4 – 25, add the underlined text:

New Sec. 13. The secretary of agriculture is hereby authorized and empowered to contract with the governing body of any county for the

enforcement of all or any portion of the rules and regulations established under this act. Any county entering into a contract with the secretary to enforce such rules and regulations shall act as an agent of the secretary in carrying out such duties. Any inspection of any premises by officers, employees or agents of any such county, and any notice of noncompliance issued as a result of any such inspection, shall have the same force and effect as if such had been done by the secretary. For the purposes of carrying out the provisions of this act, the secretary of agriculture or the secretary's agent or the county or district attorney or their agents may enter any premises at any reasonable time, in order:

- (a) To have access. . .; or
- (b) To inspect or sample food. . .; or
- (c) To inspect or investigate complaints. . .; or
- (d) To sample products.

Should the secretary of agriculture, the secretary's agent or the county or district attorney or their agents be denied access to any premises where such access was sought for the purposes authorized, the secretary of agriculture or the county or district attorney may apply to any court of competent jurisdiction for a search warrant authorizing access to such premises for such purposes. The court may upon such application, issue the search warrant for the purposes requested.