

MINUTES OF THE SENATE AGRICULTURE COMMITTEE

The meeting was called to order by Chairman Derek Schmidt at 8:30 a.m. on January 21, 2004 in Room 423-S of the Capitol.

All members were present except:

Senator David Corbin- excused  
Senator Dwayne Umbarger- excused  
Senator Tim Huelskamp- excused

Committee staff present:

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

Conferees appearing before the committee:

Greg Foley - Assistant Secretary of Agriculture, Kansas Department of Agriculture  
Doug Wareham - Kansas Agribusiness Retailers Association  
Chris Wilson - Kansas Dairy Association  
Ron Wilson - Director, Huck Boyd National Institute for Rural Development, Kansas State University  
Lesa Roberts - Director of the Bureau of Consumer Health, Kansas Department of Health & Environment  
Leslie Kaufman - Director of Governmental Relations, Kansas Cooperative Council  
Brad Harrelson - Associate State Director, Kansas Farm Bureau  
Jim Sheehan - Executive Director, Kansas Food Dealers Association  
Ronald Hein - Legislative Counsel, Kansas Restaurant & Hospitality Association

Others attending:

See Attached List.

Greg Foley appeared before the committee in order to request the introduction of a bill that would amend K.S.A. 2-1315, regarding noxious weeds. Specifically, the bill would remove the statutes' sunset date of June 30, 2005, thereby extending the ability of the Secretary of Agriculture to designate a county as a disaster area and to control and eradicate sericea lespedeza in such a county.

Senator Lee moved to introduce the bill as requested, seconded by Senator Downey. The motion carried.

Greg Foley also requested the introduction of a bill that would make technical changes to K.S.A. 83-301, regarding weights and measures. This bill would ensure that anyone who installs, repairs or adjusts weighing and measuring devices be required to be a licensed service company.

Senator Morris moved to introduce the bill as requested, seconded by Senator Lee. The motion carried.

Doug Wareham appeared before the committee in order to request the introduction of a bill that would require a one-time registration with the KDA upon the purchase of large-scale fertilizer and chemical application equipment (Attachment 1).

Senator Downey moved to introduce the bill as requested, seconded by Senator Lee. The motion carried.

Chris Wilson appeared before the committee in order to report on the Kansas Food Industry Roundtable, an event that occurred in the summer of 2003 in Manhattan, Kansas. The goal of the Kansas Dairy Association in organizing the event was to enable communication between the various sectors of the food industry in Kansas. The Huck Boyd Institute at Kansas State University was the primary partner of the KDA in organizing it.

Ron Wilson appeared before the committee in order to further elaborate on what took place during the Kansas Food Industry Roundtable event in the summer of 2003. Ron described the role of the Huck Boyd

## CONTINUATION SHEET

MINUTES OF THE SENATE AGRICULTURE COMMITTEE at 8:30 a.m. on January 21, 2004 in Room 423-S of the Capitol.

Institute in identifying food industry leaders who could take part in the process. Ron made note of a list of recommendations and observations, as made by the participants of the Roundtable, summarizing them into three groups: philosophical statements, those dealing with the Roundtable itself, and finally, those dealing with issue-specific matters. A more in-depth summary of the Roundtable was provided in the written report that was distributed to committee members and staff.

Lesla Roberts appeared before the committee as a proponent of **ERO 32**. She spoke on behalf of KDHE, emphasizing the long commitment of the department to food safety. She further spoke of the recent steps taken by the department in this area, specifically noting strides made toward the standardization of the program regulation and enforcement, especially with regard to restaurants. She showed support for the ERO and its accommodation of the need to focus on these high-risk establishments. Further stressing the importance of this focus on restaurants, Lesla made note of the fact that the choice to consume food prepared outside of the home is apparently growing among Kansans. In ending, she indicated the potential for disruption of effectiveness if these programs were all shifted to another department, thus emphasizing once again her support for the ERO (Attachment 2).

Greg Foley appeared before the committee as a proponent of **ERO 32**. He identified food safety and consumer protection as core elements of the mission of the KDA. He brought to the attention of the committee a past example in which KDA and KDHE had successfully coordinated efforts. Finally, Greg stated his support for the functions given the two departments by the ERO: the authority of KDA over food production, processing and transportation; and the authority of KDHE over food prepared for immediate consumption (Attachment 3).

Leslie Kaufman appeared before the committee in order to support the consolidation of grocery store and restaurant food safety programs within the KDA. Furthermore, she stated that the inclusion of programs currently housed at KDHE is a natural extension of the functions of KDA. She expressed agreement with both **SB 296** and **ERO 32**, although indicating a desire for a broader transfer of food safety programs within the latter (Attachment 4).

Brad Harrelson appeared before the committee in support of the major components of both **SB 296** and **ERO 32**, especially with regard to the proposals of both that KDA should assume the lead role in food safety inspection programs. In addition, he recommended that the KDA retain its statutory designation as the Kansas Department of Agriculture (Attachment 5).

Todd Johnson submitted written testimony stating the unanimous support of the Kansas Agricultural Alliance for both **SB 296** and **ERO 32** (Attachment 6).

Jim Sheehan appeared before the committee as neutral with regard to **SB 296** and **ERO 32**. He stressed that his industry (i.e., grocery stores) is affected more than any other by the system of food safety inspections. He ended by stating a desire only for the safest inspection program possible, regardless of which department it is housed in (Attachment 7).

Ron Hein appeared before the committee as neutral with regard to which department should assume regulatory powers within the realm of food safety, although in strong support of food service inspections and food safety education. He spoke of the changing food service industry, indicating the amount of increase in money spent on food away from the home. Furthermore, he used this increase as an indicator for the need to provide high-quality, safe foods. He included within his written testimony two lists of questions: those asked originally of the Special Interim Committee on Agriculture, and those currently being added to said list (Attachment 8).

Chairman Schmidt appointed a subcommittee to work out the details of the food safety legislation, to be followed by a report to the committee as a whole. He assigned to this subcommittee himself, Senator Huelskamp, and Senator Lee.

Senator Downey moved to approve the minutes of both the January 13 and 14 committee meetings, seconded by Senator Tyson. The motion carried.

CONTINUATION SHEET

MINUTES OF THE SENATE AGRICULTURE COMMITTEE at 8:30 a.m. on January 21, 2004 in Room 423-S of the Capitol.

The next meeting is scheduled for Tuesday, January 27, 2004.

# SENATE AGRICULTURE COMMITTEE GUEST LIST

DATE: 1-21-04

NAME	REPRESENTING
Jim Muehler	Kansas Food Dealer Assn.
Doug Emerson	KDHE
Lesia Roberts	KDHE
Greg A. Doherty	KDA
Adrian Polansky	KDA
Todd Johnson	KLA
BRAD HARRELSON	KFB
Twila Drybread	DOB
Ray Hammark	KDOC
Jerry Dudley	KDOC - Ag mkt.
Dennis Kriesel	Kansas Association of Counties
Caroleyn Medendorp	Ks Ft Ds Coven
Ron Hein	Ks Restaurant & Hospitality Ass'n
Deane Lauer	KS Coop Council
Jessie Kaufman	Ks Coop
Robin Jensen	Hugh Boyd Trull
Steven Graham	K-State Research & Extension

AN ACT concerning agriculture; relating to pest control and fertilizer; amending K.S.A. 2-12-- and K.S.A. 2-2456 and repealing the existing sections.

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

Section 1. K.S.A. 2-2456 is hereby amended to read as follows: 2-2456. The secretary ~~may shall~~, at his or her discretion, require the registration of any application equipment used in the ~~commercial~~ application of pesticides and any application equipment required to be so registered ~~may shall~~ be marked for identification in a manner prescribed by the secretary. Unannounced inspections may be made without charge to determine if the application equipment is properly registered, calibrated and maintained in conformance with laws and regulations, and the secretary may require repairs or other changes before its further use for pesticide application. A list of requirements that application equipment shall meet may be adopted by rules and regulations.

(b) The owner or lessee of the application equipment shall be responsible to register the application equipment with the department on or before July 1, 2005. The registration of the application equipment shall remain valid until the application equipment is sold or the ownership or lease is transferred to another person. After July 1, 2005, all application equipment that is purchased or leased or otherwise transferred shall be registered with the department by the owner or lessee of the application equipment within 30 days of the date of purchase or transfer of ownership of the application equipment.

(d) The secretary may charge a fee of \$10 per application equipment. The payment shall be remitted with the registration form.

Doug Wazeham

Senate Agriculture  
January 21, 2004  
Attachment 1

(c) The secretary may, in his or her discretion, require that any car, truck or other vehicle used for the purpose of applying pesticides or transporting pesticides or transporting pesticide application equipment or personnel to an application site be marked for identification purposes in a location an manner as the secretary shall prescribe: *Provided*, That such application is for the purpose of controlling pests in the categories of either (1) ornamental and turf pest control, or (2) industrial, institutional, structural and health related pest control.

(d) "Application equipment" shall mean any ground or aerial apparatus containing more than 250 gallons used to apply any pesticide.

(e) The secretary may assess a \$100 fine for any violation of this act.

Section 2. K.S.A. 2-12-- is hereby amended to read as follows: The secretary shall require the registration of any application equipment used in the application of pesticides and fertilizers and any equipment required to be so registered shall be marked for identification in a manner prescribed by the secretary.

(b) The registration of the application equipment shall remain valid until the equipment is sold or the ownership or lease is transferred to another person.

The owner or lessee of the application equipment shall be responsible to register the equipment with the department within 30 days of the purchase or transfer of ownership of the application equipment.

d) The secretary shall charge a fee of \$10 per application equipment. The payment shall be remitted with the registration form.

e) “ Application equipment “shall mean any self-propelled ground or aerial apparatus containing more than 250 gallons used to apply any liquid fertilizer.

(f) The secretary may assess a \$100 fine for any violation of this act.



K A N S A S

RODERICK L. BREMBY, SECRETARY

DEPARTMENT OF HEALTH AND ENVIRONMENT

KATHLEEN SEBELIUS, GOVERNOR

**Testimony on Senate Bill No. 296 and Executive Reorganization Order No. 32**

to

**The Senate Committee on Agriculture**

by

**Lesa Roberts**

**Director of the Bureau of Consumer Health**

**January 20, 2004**

Chairman Schmidt 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. 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. On the other hand, where better to identify problems and risk associated with transportation, storage, and safe consumption of potentially hazardous foods? This activity is an example of the public health focus of Dr. Samuel J. Crumbine, a national pioneer in public health, the Kansas Board of Health and its successor, the Kansas Department of Health and Environment. 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.

Food protection of the present day includes processes and service delivery that may not have been contemplated in the era of Dr. Crumbine, but the context of public health and eradication of disease persists in the policy and procedures developed under the authority of this program. 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.

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*Senate Agriculture  
January 21, 2004  
Attachment 2*



There are before you two avenues for the future management of food safety for the citizens of Kansas: the Governor's Executive Reorganization Order No. 32 and Senate Bill 296. The ERO and SB 296 each propose changes to the current duties and responsibilities of regulating food safety in Kansas. Senate bill 296 proposes a wholesale transfer of duties related to any portion of the food production and consumption regulation to the Kansas Department of Agriculture. This includes the inspection and regulatory enforcement of food producers, processors, manufacturers as well as those preparing food for direct consumption.

The Governor's ERO approaches the issue of food safety slightly differently, assigning the preponderance of duties related to food production, processing and packaging for retail to the Kansas Department of Agriculture. The ERO maintains the linkage of 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 favor the Governor's ERO as the most effective means of protecting the consumers of Kansas food products and food services.

The important linkages that the KDHE has with each and every local health department are 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. In several of the major metropolitan areas of Kansas, the Department has contractual relationships with the local health department in providing restaurant inspection services. This enhances the local public health presence in these critical areas when suspected foodborne illness necessitates investigation.

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. We have reorganized the program in support of these principles. 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 including the organization of separate work units. Administrative support is responsible for processing the licensing documents while the inspection fieldwork is managed by districts managers and by the contract manager. A separate Quality Assurance and Education unit establishes standards by which all inspectors are trained, 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 "Focus on Food Safety" program is made available through the program's webpage as well as in print and is being translated to Spanish to promote food safety among our Spanish-speaking operators. The program's "Did You Wash'em?" materials and other food safety resources 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. A recent quality improvement survey conducted among food service operators is being used to identify methods of improving communication and education provided by inspectors to the operators.

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

In the course of these changes, resources have been directed toward improving the methods of inspection, the communication with the public and the industry, establishing more specific standards for performance for state and local inspectors, monitoring the outcomes through specific assessment activities and providing better education through handouts, promotional materials, and expanding on available materials and means of communication.

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. Although there was some expectation that the restaurant industry would sustain decline as the overall economy lags, industry sources indicate 2004 may be a year of growth. Kansas consumers have not declined in consuming food prepared outside the home. Our choice to "eat 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 urges you to support the Executive Reorganization Order No. 32.

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



# KANSAS

DEPARTMENT OF AGRICULTURE  
ADRIAN J. POLANSKY, SECRETARY

KATHLEEN SEBELIUS, GOVERNOR

## Testimony on Food Safety Reorganization

to

### The Senate Agriculture Committee

By Assistant Secretary of Agriculture Greg Foley

January 20, 2004

Good morning, Chairman Schmidt and members of the committee. Thank you again for the focus and balanced discussion you are bringing to the issue of food safety in Kansas. Many lawmakers, industry experts and regulated entities will be required to develop a workable plan for change.

Food safety and consumer protection programs are at the core of the mission of the Kansas Department of Agriculture. Legislative action in 1995 changed the organizational structure of the Board of Agriculture and crafted a cabinet level agency, the Department of Agriculture. The department is charged with implementation of a diverse group of regulatory agriculture and food safety programs. We strive to provide consumer protection as efficiently and effectively as possible and look forward to broadening and improving our efforts.

Gramoxone, paraquat dichloride, contaminated wheat became a discussion item in yesterday's testimony and I would respectfully like to digress to that issue. The facts of the issue have been discussed in this committee, the interim committee and in the legislative post audit. The Department of Agriculture and the Department of Health and Environment worked very closely throughout the entire process and decisions were based on food safety. Some believe that the process was a bit too lengthy; however, food safety was first and foremost with each decision. At the conclusion of this incident the Food and Drug Administration presented a team award for excellence jointly to KDHE and KDA for the way the incident was handled. In addition, FDA sent staff members to train in the KDA laboratory in methods and analysis to evaluate for the pesticide. Advocacy for agriculture is implementing effective regulatory programs that ensure safe and wholesome products that are rewarded by consumer confidence.

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 which will protect food safety and increase the efficiency and effectiveness of food safety programs. Protection of the consumer must remain the over-all goal as we look at program changes.

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*Senate Agriculture  
January 21, 2004  
Attachment 3*

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 which 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.

We are supportive of this reorganization because it will enhance food safety for Kansans. Food safety is our number one priority, and we will deliver it efficiently and effectively. The department looks forward to working with the committee to address the statutory modifications to assist a seamless transition. I will stand for questions at the pleasure of the chairman.



Leslie Kaufman, Director  
Governmental Relations  
Kansas Cooperative Council

## SENATE COMMITTEE ON AGRICULTURE

January 20, 2004

**RE: SB 296 and ERO 32 – Transferring Food Safety Inspection Programs from the Kansas Dept. of Health and Environment to the Kansas Dept. of Agriculture.**

Chairman Schmidt and members of the Senate 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.

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.

*Senate Agriculture  
January 21, 2004  
Attachment 4*

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

ERO 32 is another 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 as many functions to KDA as would SB 296. We would have liked to see the ERO cover a broader, more inclusive transfer of the food safety programs.

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 Farm Bureau**

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### ***PUBLIC POLICY STATEMENT***

#### **SENATE COMMITTEE ON AGRICULTURE**

**Re: Consolidation of food safety and inspection programs.**

**January 21, 2004  
Topeka, Kansas**

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

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Mr. Chairman 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 127,000 food-consuming members through the 105 county Farm Bureau Associations across Kansas. More than forty thousand of these members are agricultural producer families actively engaged in food production.

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. Senate Bill 296 and the Governor's Executive Reorganization Order No. 32 are both options that could accomplish that objective. As such, we support the major components of both.

*Senate Agriculture  
January 21, 2004  
Attachment 5*

We concur with both proposals that the best interest of Kansans is served by KDA assuming the lead role in food safety inspection programs. Kansas Farm Bureau recognizes the important contributions 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 either of these proposals move forward. We look forward to learning more regarding the specific details of 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 continued 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 these proposals and urge the committee to act favorably on moving food safety and inspection functions to the Kansas Department of Agriculture. 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.*





# KANSAS AGRICULTURAL ALLIANCE

## SENATE COMMITTEE ON AGRICULTURE

**RE: SB 296 and ERO 32 – reorganizing the Kansas Department of Agriculture and initiatives to improve food safety**

**January 21, 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*

Chairman Schmidt and members of the Senate Agriculture Committee. The following testimony is presented on behalf of the Kansas Agricultural Alliance (KAA). The 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 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. The Alliance confirmed their support for actions in SB 296 and ERO 32 upon vote at their January 20, 2004, meeting.

### **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.

We ask for your support of these proposals.

Thank you.

*Senate Agriculture  
January 21, 2004  
Attachment 6*



EXECUTIVE DIRECTOR  
JIM SHEEHAN  
Shawnee Mission

**OFFICERS**

January 21, 2004

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CLIFF O'BRYHIM  
Overbrook

**ASST. TREASURER**  
JOHN CUNNINGHAM  
Shawnee Mission

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**JIM McGUFFEY**  
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**JOHN McKEEVER**  
Louisburg

**LEONARD McKINZIE**  
Overland Park

**BILL WEST**  
Abilene

Mr. Chairman and Committee members, I am Jim Sheehan, Executive Director of the Kansas Food Dealers Association. Our members include retail grocery stores, distributors, and manufacturers of food products.

On February 18th, 2003, I testified before this Committee regarding SB 124, and again before the Special committee on Agriculture on November 12th, 2003. In both testimonies I 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 any more by the various inspections than the grocery industry. "Farm To Fork" was the quote used by Governor Sebelius. That would include those inspections conducted by the Department of Agriculture or the Kansas Department of Health and Environment. All of the 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.

During the hearing on November the 12th, it was discussed that all of the inspections be transferred from KDHE to the Department of Agriculture. The ERO #32 that has been issued would move the inspection of grocery stores from KDHE to KDA. Our members have had a very good working relationship with both departments and I have served on various committees regarding food safety and the updating of the Food Code.

Not to be repeating myself and following the "Farm To Fork" statement, no other industry in the State is more involved in this process than the grocery stores from food safety to the marketing of these products. I do feel that there needs to be a better understanding between the producer and the retailer that we are indeed in a partnership in providing these products to the consumer.

Senate Agriculture  
January 21, 2004  
Attachment 7

It is confusing to some of our members which department has what responsibilities in inspecting our places of business. As operators of business we do understand budgets and the need to meet them. I feel that we are in the most competitive industry in the state. The members of the Kansas Food Dealers Association want to have an inspection program that would insure the consumer of the safest and most wholesome products that we can sell to them. This is regardless of which department conducts the inspections.

I would be more than willing to answer any questions you may have.

# HEIN LAW FIRM, CHARTERED

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Ronald R. Hein  
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**Testimony re: SB 296, ERO 32, Food Safety Regulation**  
**Senate Agriculture Committee**  
**Presented by Ronald R. Hein**  
**on behalf of**  
**Kansas Restaurant and Hospitality Association**  
**January 21, 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.

Dennis Carpenter, President and CEO of the Kansas Restaurant and Hospitality Association, planned to deliver this testimony, but late yesterday asked that I testify in lieu of him. He expresses his regrets that he was unable to be here today.

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 SB 124 in the past and is neutral SB 296 and 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

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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.

SB 124 last year, and now SB 296 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 include:

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 the Chairman and the full 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.