

MINUTES OF THE SENATE AGRICULTURE COMMITTEE

The meeting was called to order by Chairman Derek Schmidt at 8:00 a.m. on March 23, 2004 in Room 423-S of the Capitol.

All members were present.

Committee staff present:

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

Conferees appearing before the committee:

Tom Sloan - House of Representatives  
Todd Johnson - Kansas Livestock Association  
Bob Rhoton - Douglas County Agri-Business Network  
Terry Holdren - Kansas Farm Bureau  
Marci Francisco  
Mike Hayden - Secretary, Kansas Department of Wildlife and Parks  
Leslie Kaufman - Kansas Cooperative Council  
George Teagarden - Kansas Animal Health Department

Others attending:

See Attached List.

**HB 2531: Historical preservation; consideration of established agricultural use of land required.**

Chairman Schmidt opened the hearing on **HB 2531**.

Tom Sloan appeared before the committee as a proponent of **HB 2531**. He pointed out that, under current state law, the request for a building permit within the environs of an historic site requires much consideration with regard to the future impact of the proposed construction. He specifically noted that the environs of a given historical site exist as follows: in urban areas, 500 feet in extension from the historic property; in non-urban areas, the extension is 1,000 feet. He stated that the legislation proposes that there be no such discrepancy between the extent of urban and rural historical environs, or more specifically, that both be equal to 500 feet in extension. Regarding the objective of establishing this equality within the bill, he stated that farmers in urbanizing communities need to be protected from adverse impact as a result of being close to an historic site. Furthermore, he said that the bill attempts to protect both the integrity of state historical sites and the ability of farmers to earn a living. Attached with his written testimony is the bill language that had been determined to be acceptable by the Kansas Department of Wildlife and Parks (Attachment 1).

Todd Johnson appeared before the committee as a proponent of **HB 2531**. He also pointed out that a person must obtain an appropriate building or demolition permit before beginning a project that encroaches upon an historic property. He presented to the committee, as is noted in his written testimony, a list of ways in which the proposed legislation act clarifies how agricultural land and farming practices fit into the historic preservation act (Attachment 2).

Bob Rhoton appeared before the committee as a proponent of **HB 2531**. He expressed his opinion that the bill protects farmers in that it allows them to continue operating without placing added expenses and restrictions on the use of their land. Just as the first two conferees had also done, Mr. Rhoton spoke of the discrepancy between the current definition of historical environs in rural and urban areas. Furthermore, he noted the amendment to the bill that would exempt agricultural land from being reviewed so long as it remains in agricultural use. He pointed out that the bill would still control development and encroachments upon historical environs, but that it would not prevent a farmer from making necessary alterations to their farm or house (Attachment 3).

CONTINUATION SHEET

MINUTES OF THE SENATE AGRICULTURE COMMITTEE at 8:30 a.m. on March 23, 2004 in Room 423-S of the Capitol.

Bob Rhoton submitted written testimony to the committee, on behalf of Kermit Kalb, in support of **HB 2531** (Attachment 4).

Terry Holdren appeared before the committee as a proponent of **HB 2531**. He also spoke of the possible restrictions that exist under the current law with regard to a farmer's property abutting a registered historical site. He acknowledged the proposed bill as seeking to correct the potentially negative impact of such restrictions on normal farming and ranching activities (Attachment 5).

Marci Francisco appeared before the committee as an opponent of **HB 2531**. She expressed her belief that the act concerning state historic property never intended to nor did have negative effects on agriculture in Kansas. She stated that if the new Section 1 of the bill (that which clarifies that the act concerning state historic property shall not prohibit, hinder or restrict the agricultural use of land within an historic environ) were to be adopted, then it would be unnecessary to also add Section 6 (b) (that which calls for notification to be provided to owners of agricultural land of a meeting that may result in an action on an historical environ to which their land abuts). Furthermore, with regard to this notification, she questioned the use of resources and funds on the publication of notices for meetings. As is shown in her written testimony, she urged the committee to consider two amendments for the proposed bill (Attachment 6).

Mike Hayden appeared before the committee in order to stress that there are a lot of historic properties within the scope of the Kansas Department of Wildlife and Parks, urging that we must be careful with what is done to them. He asked of the committee that the Kansas Department of Wildlife and Parks be notified of any hearings involving a bill which contains the proposed balloon amendment that had been submitted by Tom Sloan earlier in the hearing. He also expressed the opinion that it would be great to limit the proposed bill, at this time, to just Douglas County, thus addressing Tom Sloan's perceived problem.

**HB 2530: Removal of officers of cooperative agricultural marketing association by board of directors.**

Chairman Schmidt opened the hearing on **HB 2530**.

Leslie Kaufman appeared before the committee as a proponent of **HB 2530**. She stated that, under current law, the Board of Directors for an entity organized under the state Cooperative Marketing Act consists of officers elected from within the board itself, with the exceptions of the secretary and the treasurer. According to her, the Kansas Cooperative Council had been interpreting the statutes to mean that the board could remove and replace an officer, an interpretation not supported by the court. She pointed out that, thus, the desired provisions of the bill in question would make an amendment allowing the board of directors to make an officer change in an appropriate and timely manner. She further clarified that the Kansas Cooperative Council is asking simply that a board be afforded the corollary ability to remove a person from office, should it be deemed necessary (Attachment 7).

Terry Holdren appeared briefly before the committee as a proponent of **HB 2530**. He submitted written testimony, on behalf of the Kansas Farm Bureau, showing a supporting view (Attachment 8).

**HB 2593: Provides for premise registration and preparation for an animal identification program.**

Chairman Schmidt asked that final action be taken on **HB 2593**.

Chairman Schmidt distributed to the committee, staff and guests a Proposed Senate Substitute for Substitute for **HB 2593** (Attachment 9). He explained that this proposed substitute would delegate to the Kansas State Livestock Commissioner, between now and January of 2005, only the authority to implement the premises identification aspect of the animal identification plan. He further explained that the individual animal identification component of the plan would be implemented at a later time.

George Teagarden appeared before the committee in order express his concerns regarding the Chairman's



CONTINUATION SHEET

MINUTES OF THE SENATE AGRICULTURE COMMITTEE at 8:30 a.m. on March 23, 2004 in Room 423-S of the Capitol.

proposed substitute. He stressed his belief that it varies greatly from the legislation that was introduced in and passed by the House of Representatives. Furthermore, he pointed out that all animal health officials in the United States see the need for implementing an animal identification system. Pointing out the language on the top of page 2 of the proposed substitute, he questioned how a voluntary animal identification program would ever work, stating that the proposed bill does not really give any authority of implementation.

Chairman Schmidt pointed out that the basic policy issue to be addressed when considering the proposed implementation of an animal identification system is one of timing. He further explained that one must consider whether or not we (i.e., Kansas) wish to be ahead of the proposed federal animal identification program.

The committee as a whole expressed opinions and concerns regarding the development of a voluntary premises identification program, as indicated on the top of page 2 of the proposed substitute.

Senator Tyson moved to amend **HB 2593** by adopting the proposed substitute, seconded by Senator Taddiken. The motion carried.

Senator Downey moved to strike the word *voluntary* from within the sixth *WHEREAS* on the top of page 2 of the Proposed Substitute for Substitute for **HB 2593**. Senator Lee seconded the motion. The motion carried.

Senator Huelskamp moved to add the phrase *and with the provisions of the United States Animal Identification Program* at the end of section (b) (1), at the top of page 2 of the Proposed Substitute for Substitute for **HB 2593**. Senator Taddiken seconded the motion. The motion carried.

The committee asked that it be noted in the minutes that it is the intent of the Proposed Substitute for Substitute for **HB 2593** that the Kansas State Livestock Commissioner be able to share data and/or records regarding animal identification with the necessary parties.

Senator Downey moved to strike the phrase *or the discovery of food-borne illness* from the end of the second *WHEREAS* on page 1 of the Proposed Substitute for Substitute for **HB 2593**. Senator Umbarger seconded the motion. The motion carried.

Senator Downey moved to report the Proposed Substitute for Substitute for **HB 2593** favorably for passage. Senator Huelskamp seconded the motion.

Senator Downey withdrew her previous motion to report the Proposed Substitute for Substitute for **HB 2593** favorably for passage.

Senator Huelskamp withdrew his second to the above-mentioned motion made by Senator Downey.

**HB 2594: Duty of care of livestock producers.**

Senator Tyson moved to add the provisions of **HB 2594** into the Proposed Substitute for Substitute for **HB 2593**. Senator Umbarger seconded the motion. The motion carried.

Senator Lee moved to adopt the balloon amendment that had been proposed by Allie Devine of the Kansas Livestock Association at the March 16, 2004 hearing on **HB 2594** at the Senate Agriculture Committee meeting. Senator Huelskamp seconded the motion. The motion carried.

Senator Downey moved to report the Proposed Substitute for Substitute for **HB 2593** favorably for passage. Senator Huelskamp seconded the motion. The motion carried.

**HB 2530: Removal of officers of cooperative agricultural marketing association by board of directors.**

CONTINUATION SHEET

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Chairman Schmidt asked that final action be taken on **HB 2530**.

Senator Downey moved to report **HB 2530** favorably for passage, seconded by Senator Corbin. The motion carried.

The next meeting is scheduled for Wednesday, March 24, 2004.

# SENATE AGRICULTURE COMMITTEE GUEST LIST

DATE: 3-23-04

NAME	REPRESENTING
Alan Warner	Ks Livestock Assoc.
Leslie Kaufman	Ks Co-op Council
Todd Johnson	KLA
Bill Wood	Dg Co Extension
Bob Photon	Dg Co Agri Business Network
Nancy Ulrich	ICARD
George Teagarden	ICARD
Don Reszac	KAA
Mike Jensen	Ks Tort Assn.
Kon Seeber	How Law Firm
marci francisco	LPA
Kermit Kalb	Douglas Co Farmer
Margaret Kalb	Douglas Co Farmer
Doug Wareham	KGFA / KARIA
GREG A. FOLEY	KDA

DM SLOAN  
REPRESENTATIVE, 45TH DISTRICT  
DOUGLAS COUNTY

STATE CAPITOL BUILDING  
ROOM 446-N  
TOPEKA, KANSAS 66612-1504  
(785) 296-7677  
1-800-432-3924

772 HWY 40  
LAWRENCE, KANSAS 66049-4174  
(785) 841-1526  
sloan@house.state.ks.us



TOPEKA

HOUSE OF  
REPRESENTATIVES

### Testimony on **HB 2531**

Mr. Chairman, Members of the Committee: **HB 2531** addresses the preservation of family farms, while protecting historic sites.

Under current state law, the request for a local government permit ( e.g., building permit) within the environs of an historic site requires local and state officials to consider the impact of the proposed development or construction project on the historic site/structure. Within urban areas, the environs extend 500 feet from the historic property; in non-urban areas, the environs extend 1,000 feet.

**HB 2531** proposes that urban and rural environs be equal - 500 feet. The bill further states that within the 500-foot environs, statutorily defined and accepted agricultural practices are acceptable. The objective is to protect farmers in urbanizing counties from having their ability to continue earning a living because of the proximity to an existing or future historic site adversely impacted. From a pragmatic public policy perspective, a proposed subdivision of houses within the environs would still "trigger" strict review at the local and state levels for possible adverse impact on the historical site because such construction would not be an acceptable agricultural practice. However, replacing a hay barn that was destroyed in a tornado would not trigger the historic preservation statutes.

I have devoted great efforts to identifying language acceptable to both the agricultural and historic preservation communities. Early drafts on **HB 2531** were shared with agricultural practitioners and historic preservationists. Suggestions from both are incorporated in the current version. The final draft was also circulated separately by the State Historic Preservation Officer and me to historic preservationists across the state. Great effort has been made to balance the need to protect the integrity of our state's historical sites and to protect the ability of farmers to earn a living from their land. This triggering of the Historic Preservation Act is especially important as more counties adopt land use zoning. The bill also standardizes the definition of environs between urban and rural areas.

After learning last week that the Department of Wildlife and Parks might have concerns, I subsequently met twice with Secretary Mike Hayden. Attached to this testimony is language acceptable to the Department that clarifies the notification process already in the bill. It is my understanding that with this language added, the Department has no problem with **HB 2531**.

Senate Agriculture  
March 23, 2004  
Attachment 1

1 (g) “state or any political subdivision of the state” means the state of  
 2 Kansas, any office, department, agency, authority, bureau, commission,  
 3 board, institution, hospital, college or university of the state, or any  
 4 county, township, city, school district, special district, regional agency,  
 5 redevelopment agency or any other political subdivision of the state.

6 ~~(e) “Person” means any individual, firm, association, organization,  
 7 partnership, business, trust, corporation or company.~~

8 Sec. 6. K.S.A. 75-2720 is hereby amended to read as follows: 75-  
 9 2720. (a) The state historic sites board of review shall have the power and  
 10 duty to: ~~(a)~~ (1) *Subject to the provisions of subsection (b)*, approve nom-  
 11 inations to the state and national registers of historic places.

12 ~~(b)~~ (2) Review the state survey of historic properties undertaken in  
 13 accordance with the provisions of this act.

14 ~~(c)~~ (3) Review the content of the state preservation plan developed  
 15 in accordance with the provisions of this act.

16 ~~(d)~~ (4) Approve the removal of properties from the state register of  
 17 historic places.

18 ~~(e)~~ (5) Recommend the removal of properties from the national reg-  
 19 ister of historic places.

20 ~~(f)~~ (6) Otherwise act in an advisory capacity to the state historic pres-  
 21 ervation agency.

22 ~~(g)~~ (7) Upon request, to advise the legislature concerning matters  
 23 relating to historic properties and historic preservation.

24 ~~(h)~~ (8) Elect a chairman and vice-chairman and establish such rules  
 25 of procedure as it deems necessary.

26 (b) *The state historic sites board of review shall not consider or ap-  
 27 prove any nomination of historic property located in an unincorporated  
 28 area of any county to either the state register of historic places or the  
 29 national register of historic places unless owners of agricultural land lo-  
 30 cated within 500 feet of the boundaries of a proposed historic property  
 31 have been notified of the time and place of the board meeting at which  
 32 such nomination is to be approved. Notification shall be by publication  
 33 notice. Such notice shall be published at least once each week for two  
 34 consecutive weeks in a newspaper of general circulation in each county  
 35 in which all, or any part, of the proposed historic property is located. The  
 36 last publication shall be at least 30 days, but not more than 50 days, prior  
 37 to the date of such board meeting.*

38 Sec. 7. K.S.A. 75-2714, 75-2715, 75-2716 and 75-2720 are hereby  
 39 repealed.

40 Sec. 8. This act shall take effect and be in force from and after its  
 41 publication in the statute book.

Whenever the state historic sites board of review submits a notice to a newspaper for publication under this subsection, such board shall, at the same time, also submit a copy of such notice to the secretary of the department of wildlife and parks.

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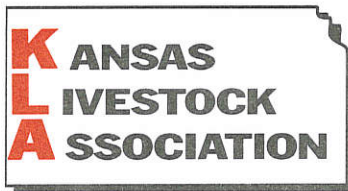
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*Since 1894*

## TESTIMONY

To: Senate Agriculture Committee  
Senator Derek Schmidt, Chairman

From: Todd Johnson, Governmental Affairs Staff

Subject: **Support for HB 2531** – An act concerning historic property and agricultural land

Date: March 23, 2004

Thank you for allowing me to address your committee regarding HB 2531. The State Historical Society and landowners have agreed upon this legislation as a compromise solution to potentially burdensome regulations for agricultural practices.

Based on authority granted the State Historical Society through KSA 75-2724 (d), if a person fails to obtain appropriate building or demolition permits before undertaking a project that encroaches upon an historic property, or the **environs of such property**, they shall be subject to a civil penalty. If the proposed project is located within 500 feet of the boundaries of a historic property located within the city limits, or within 1,000 feet of the boundaries in the **unincorporated** portion of a **county**, notice will be given to the state historic preservation officer who shall be given the opportunity to investigate and comment upon the proposed project.

HB 2531 clarifies how agricultural land and farming practices fit into the historic preservation act as follows:

- The act shall not restrict the use of ag land, restrict landowner ability to construct or remodel buildings on agricultural land, or require the owner of ag land to change or modify the use of such land.
- Makes the historic environs consistent at 500 feet, for cities and unincorporated portions of the county.
- Directs the state historical society to notify landowners, within 500 feet of the boundaries of a proposed historic property, before consideration is taken to list a property as historic.

These clarifications provide some relief from burdensome regulations to our members who farm and ranch near historic sites. We respectfully request your committee to act favorably upon this bill. Thank you for your time.

*Senate Agriculture  
March 23, 2004  
Attachment 2*

March 23, 2004

My name is Bob Rhoton and I represent the Douglas County Agri-Business network. I also work as an agricultural lender in Lawrence.

I would like to support the proposed changes in the historical preservation environs rule as outlined in House Bill 2531.

The former State Historical Preservationist worked diligently with our concerns to come up with a proposal, which made their job easier yet help protect the concerns we have about the interpretation of the environs rule. I feel we have a bill that protects a farmer's ability to continue to operate a farm without further limiting or placing added restrictions and expenses to produce an income from their land. It is difficult enough to make a living by farming today, but having a law that requires farmers located next to a historical property to go through the State Historical Preservationist, adds another level of hardship.

The current law specifies that in rural areas there is a 1,000-foot environs on any state or national historical site. For a farmer to change a corral, add a machine shed, or make a house improvement or addition if within this 1000 foot environ they would require approval by the State Historical Preservationist. This would seem to work a hardship on the farmer and create unnecessary work for the state office. Therefore the rule seems to be detrimental to both parties.

Reducing this environs rule to 500 feet will reduce the workload of the State Historical Preservationist in reviewing requests and also save them time and money, while reducing the headaches for the landowner.

Senate Agriculture  
March 23, 2004  
Attachment 3

The other amendment to the bill will exempt agricultural land from being reviewed as long as the land will remain in agricultural uses. This will allow farmers to continue to operate their farms without this review processes. I don't think any of us can argue against historical preservation, but having one of these sites located next to a working farm and possibly having to change your practices could be an economic hardship. For example: If you have a machine shed that is destroyed in a storm and you wish to replace it with a typical machine shed structure, you should not have to submit plans to the State Historical Preservationist and wait for a decision. The key words in this amendment will be "land used for agricultural purposes". The environs rule would still control development and other encroachments, but it would not preclude a farmer from making the necessary additions to their house or farm.

This time last year we were asking that this bill be amended, but there were objections made over the way the bill was submitted. We have had a year to set down with the local preservation societies and work out a bill that is mutually accepted by all interested parties. With extra time spent on this proposal and the fact that the bill will still protect State and National Historical Sites as well as production agriculture interests, I would hope that you see fit to accept HB 2531 as proposed.

Thank you for your time.



My name is Kermit Kalb. I live in eastern Douglas County right next to the historical Black Jack battlefield and the Santa Fe Trail ruts.

We now have the fifth generation of the Kalb family living and farming on our ground surrounding the Black Jack battlefield.

I would like to speak out in favor of the changes that House Bill #2531 would bring in regards to the environs laws concerning historic sites. Having lived in this area all my life, I have a great respect for the preservation of this historical site. However, I feel that the current environs laws infringes on my rights as a property owner.

We were quite surprised to learn that a group of people, who had no direct contact with the Black Jack site could petition for the historical designation that would put such constraints on our property. Because of the current environs law, and the fact that we are the contiguous landowner of 400 acres that falls within that 1000 feet environs, this current law puts undue restrictions on us.

Our main concern is that we want to be able to continue in our farming operation the way it is today, and even expand that operation if we so choose. With the current environs regulations this will require more paper work and more headaches for us to deal with if we do expand our operation. We have already dealt with the growing paperwork involved with our cattle feedlot operation permits. This would be just one more agency that we would have to answer to. It gets to the point that we don't know who we will have to answer to next concerning what we will want to do with our own property.

The rights of property owners is the most important factor to us. Most people don't seem to understand that we have been in the area continuing our farming operation for many generations and have always had the upmost respect for the historical aspects of the community. Theses environs restrictions just seem to limit our rights as property owners.

The farming community in our area is growing older and not many are returning to the farm. Because of this, much of the farm ground in our part of the county is being sold for development purposes. That is not our intention, especially with my son joining our farming operation. But with the current environs laws this would restrict what we could do with our land if we were forced to sell some of our land because of this rural development.

We support the changes in House Bill #2531 concerning the environs regulations and thank you for the opportunity to speak today.

Kermit Kalb  
1973 N 200 Rd  
Wellsville, KS 66092-4005  
785-883-4216

*Kermit Kalb*

*Senate Agriculture  
March 23, 2004  
Attachment 4*



## **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: HB 2531 – an act concerning state historic property;  
Relating to agricultural use of land.**

**March 23, 2004**

**Topeka, Kansas**

**Presented by:**

**Terry Holdren, Associate State Director  
KFB Governmental Relations**

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Chairman Schmidt and members of the committee, thank you for the opportunity to provide comments on House Bill 2531. I am Terry Holdren, Associate State Director of Governmental Relations for the 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.

Our members have a long history of treasuring and protecting their private property rights.

#### **We vigorously support landowner's rights. AG12**

Through one of our local county farm bureaus, we have come to understand that individuals' rights can potentially be restricted under current law, should their property abut a registered historical site. Furthermore, the restriction covers a rather large area of impact. It is possible that normal farming and ranching activities or construction of facilities to carryout those activities could be negatively impacted. The bill before you today seeks to correct this over-extension of governmental authority.

Again, thank you for the opportunity to speak to you today, and we would respectfully ask the committee to take favorable action on HB 2531.

*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.*

*Senate Agriculture  
March 23, 2004  
Attachment 5*

23 March 2004

The Honorable Derek Schmidt, Chair, and Members of the Senate Committee on Agriculture:

**TESTIMONY RE: HOUSE BILL 2531**

I am Marci Francisco, a citizen of Kansas, and an active member of the preservation community in our state, having served on the Lawrence Preservation Alliance for some twenty years and also as a past board member and President of the Kansas Preservation Alliance. I am appearing before you today as an opponent of the proposed language in House Bill 2531 in Section 6 (b) to require publication of a notification to owners of agricultural land located within 500 feet of the boundaries of a property located in an unincorporated area and nominated to the state or national registers of historic places.

I do not believe that it was ever the intent or reality that the act concerning state historic property would have negative effects on agriculture in Kansas. However there seems to be fear that designation of historic property adjacent to agricultural land could have such an effect. The new Section 1 of House Bill 2531 makes it clear that no provision of the act concerning state historic property shall prohibit, hinder or otherwise restrict the agricultural use of any land used for agricultural purposes within the environs of a historic property.

If the new Section 1 is adopted it seems unnecessary to also add Section 6 (b) to provide notification to owners of agricultural land through publication of a notice of a meeting that may result in an action that will have no effect on them. The fiscal note submitted for this bill suggests that it could cost the Historical Society \$2,080 annually in agency fees and federal funds to meet the notification requirement. It might be helpful for adjacent property owners if the Historical Society sent them a letter notifying them of a nomination, but the requirement to spend limited preservation dollars on publication of a notice of the meeting for two consecutive weeks in a newspaper does not seem to me to be a wise or defensible use of scarce resources. These funds are not substantial but they could be funds spent more purposefully on preservation.

If you decide to keep Section 6 in the bill, I would hope that you consider substituting the word "considered" for "approved" on page 4, line 32 so that the phrase would read "of the board meeting at which such nomination is to be considered" rather than "of the board meeting at which such nomination is to be approved". I believe the reference to the national register of historic places in line 29 of page 4 to be unnecessary; it is my understanding that all nominations to the national register begin with a nomination to the state register and that there are no environs identified for properties placed on the national register.

The definition of agricultural land (page 2, line 39) could be shortened to eliminate the words "located in an a county" to just start off with "Means land which is devoted to the production..."

Thank you very much for your interest and for your work on behalf of the citizens of Kansas.

*marci francisco*

Marci Francisco

1101 Ohio, Lawrence, Kansas 66044 785-842-6402

*Senate Agriculture  
March 23, 2004  
Attachment 6*





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

**SENATE COMMITTEE ON AGRICULTURE  
March 23, 2004**

**RE: HB 2530 -- Amending the Kansas Cooperative Marketing Act to allow a board of directors to remove an officer and elect a successor.**

Chairman Schmidt and members of the Senate Committee on Agriculture, thank you for the opportunity to appear today in support of HB 2530 amending the Kansas Cooperative Marketing Act to allow a cooperative's board of directors the ability to remove an officer and elect a successor. I am Leslie Kaufman and I serve the Kansas Cooperative Council as Government Relations Director. The Council has a membership of 186 cooperative businesses. Together, they have a combined membership of nearly 200,000 Kansans.

Under current law, the Board of Directors for an entity organized under the state Cooperative Marketing Act, elects officers from within the board. (In the case of the secretary and treasurer, those officers can be non-board members.) The Council had been interpreting the statutes to mean that the board, which initially elects officers, could remove and replace an officer. The court has clarified this portion of the law and their interpretation was not the same as ours. As such, we, along with Kansas Farm Bureau, requested introduction of the bill before you now.

*Senate Agriculture  
March 23, 2004  
Attachment 7*



The provisions of HB 2530 make a targeted amendment to allow the board of directors the ability to make an officer change in an appropriate and timely manner. This legislation will align the statute with what we thought, for many years, was a valid interpretation.

We are not seeking authority for the board to be able to remove another member-elected board member from the board, altogether. This bill will not alter the current method of removing an officer/board member from the board (petition of the membership and hearing before them). We are simply asking that a board, statutorily provided with the authority to initially elect an officer, be afforded the corollary ability to remove that person from office should the need arise.

We certainly appreciate the opportunity to appear today in support of HB 2530. Our hope is that you will look favorably on this legislation and pass it without substantive amendment. Thank you for your consideration.



## **Kansas Farm Bureau**

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

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

**RE: HB 2530 -- Amending the Kansas Cooperative Marketing Act to allow a Board of Directors to remove an officer and elect a successor.**

**March 23, 2004  
Topeka, Kansas**

**Presented by:  
Terry D. Holdren, Associate State Director  
KFB Governmental Relations**

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Chairman Schmidt and members of the committee, thank you for the opportunity to appear today in support of HB 2530. The bill would amend the Kansas Cooperative Marketing Act allowing a cooperative's board of directors the ability to remove an officer and elect a successor. I am Terry Holdren, Associate State Director, Governmental Relations for Kansas Farm Bureau (KFB). KFB is the state's largest general farm organization and represents more than 40,000 agricultural families through the 105 county Farm Bureau Associations across Kansas.

The membership of Kansas Farm Bureau agrees with the testimony offered by the Kansas Cooperative Council and supports the bill. KFB policy reflects support of this targeted amendment to the Cooperative Marketing Act through the following policy statement:

We support the opportunity for entities to organize under the Kansas Cooperative Marketing Act. We encourage changes in the law to allow the Board of Directors the ability to remove an officer.

*Senate Agriculture  
March 23, 2004  
Attachment 8*

Under the current statute, the Board of Directors for an entity organized under the state Cooperative Marketing Act, elects officers from within the board. The court has clarified this portion of the law and their interpretation was not the same as ours. Consequently, we support a change to the statute that would allow a Board of Directors the same authority to remove an officer, as they currently have to elect an officer.

Boards of Directors, of virtually all other organizational structures, have the capacity to remove an officer. As such, we believe it is appropriate that entities organized under the Cooperative Marketing Act, who share many of the same responsibilities and duties, have that same ability.

Passage of this bill would have a significant impact upon Kansas Farm Bureau. A substantial number of our members are patrons of local or community/regional coops, and indeed, some would serve on the boards of these organizations. Furthermore, all 105 county Farm Bureau Associations are organized under the Cooperative Marketing Act, as well the Kansas Farm Bureau.

For these reasons it is important that this limited amendment to the statute be passed. Therefore, we respectfully ask the committee to take favorable action on HB 2530. Thank you for your consideration.

## PROPOSED SENATE Substitute for Substitute for HOUSE BILL NO. 2593

By

AN ACT concerning agriculture; relating to animal identification program.

WHEREAS, The Kansas constitution vests all legislative authority in the legislature and such authority should be delegated to the executive branch only in limited circumstances; and

WHEREAS, The United States department of agriculture is in the process of developing a federal animal identification program for the purpose of promoting food safety by enabling a rapid response to outbreaks of animal disease or the discovery of food-borne illness; and

WHEREAS, The authority to conform Kansas law with any federal requirements for an animal identification program rests with the legislature; and

WHEREAS, It is possible that a federal program may be established before the legislature convenes in January 2005 but no such program is yet established; and

WHEREAS, It is in the best interest of Kansas agriculture and Kansas consumers for the state of Kansas to be prepared to implement in Kansas a federal animal identification program whenever such program is implemented; and

WHEREAS, It is in the best interest of Kansas agriculture and Kansas consumers for the livestock commissioner to have authority to timely participate in establishment of a process for the voluntary identification and registration of premises where animals are located if a premise identification program is implemented by the federal government prior to the legislature reconvening in January 2005.

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

Section 1. (a) The livestock commissioner is authorized to cooperate with the United States department of agriculture, other state governmental officials and representatives of private industry to define premises where animals are located and to

Senator Schmidt

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Attachment 9



develop a voluntary premises identification and registration system for Kansas.

(b) In the development of such system, the livestock commissioner shall ensure that:

(1) The requirements of identification of premises are consistent with the federal program;

(2) the costs and paperwork requirements for identification and registration of premises are minimized for the registrant and the state; and

(3) the program is not duplicative of or in conflict with federal requirements.

Sec. 2. (a) If, prior to May 15, 2005, the United States department of agriculture issues proposed or final rules for the implementation of a national animal or premises registration and identification program, or (b) the congress of the United States enacts requirements for a national animal or premises registration and identification system, or (c) another state establishes requirements for animal or premises registration or identification for importation of livestock from Kansas, the livestock commissioner is authorized to issue such rules and regulations as may be reasonably necessary to implement premises identification and registration.

Sec. 3. Subject to appropriations therefor, the livestock commissioner is authorized to hire, in accordance with the civil service act, not more than one employee for the purpose of carrying out the provisions of this act.

Sec. 4. The livestock commissioner is authorized to enter into agreements with federal agencies or officials, other state agencies or officials or the owner of animals or such owner's authorized agent to coordinate efforts and share records and data systems pursuant to law to maximize the efficiency and effectiveness of this act.

Sec. 5. Any data or records provided pursuant to this act to an official of the animal health department by owners of premises or animals shall be considered confidential and shall not be

disclosed to the public.

Sec. 6. Any federal financial aid or assistance, grants, gifts, bequests, money or aid of any kind for animal identification in Kansas, shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance the state treasurer shall deposit the entire amount in the state treasury to the credit of the animal identification fund, which fund is hereby created. All expenditures from such fund shall be made in accordance with appropriations acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the livestock commissioner or by a person designated by the livestock commissioner and shall be used solely for the administration of the animal identification program.

Sec. 7. The livestock commissioner shall prepare a report and present such report to the legislature by February 1, 2005, on the status of the animal identification program. Such report shall include the recommendations of the livestock commissioner as to the definition of premise for purposes of the program, appropriations and fees necessary in administration of the program, enforcement provisions necessary in administration of the program and any other recommendation deemed necessary by the livestock commissioner to carry out the provisions of this act.

Sec. 8. The provisions of this act shall expire on May 15, 2005.

Sec. 9. This act shall take effect from and after its publication in the statute book.