

## 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.

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

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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 196**. 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 **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. ([Attachment 8](#))

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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.