

## **KANSAS HOUSE AGRICULTURE COMMITTEE**

**February 8, 2018 – Paul Johnson – Kansas Rural Center**

### **TESTIMONY IN OPPOSITION TO HOUSE BILL 2583**

Thank you for this opportunity to testify on HB 2583. My name is Paul Johnson and I represent the Kansas Rural Center (KRC) on agricultural and local/regional food system issues. I have been an organic vegetable market gardener since 1985 on my 40 acre farm in southern Jefferson County. I was a founding member in 1994 of the Rolling Prairie Farmers Alliance CSA vegetable subscription service that today produce weekly from May to October to 250 households in Kansas City, Lawrence and Topeka.

This legislation is foundational and could impact 21 million acres of cropland and 17 million acres of pasture in Kansas. After twenty years of exponential growth in agricultural chemicals – particularly glyphosate (Round-Up), Kansas is now a 'spray first/dispute chemical damages later' state. Kansas could strive for a balanced approach of biological/cultural practices (burning, mowing, crop rotations, intensive grazing, etc.) and the use of synthetic herbicides. This bill could be improved by including a mission or purpose statement declaring this balanced approach as State Policy. This would help ensure that a truly 'integrated pest management' strategy or approach is implemented.

Fundamentally, this bill moves the authority of declaring and controlling noxious weeds from elected Legislators to 'un-elected' governmental officials. KRC could support a provision mandating that the Kansas Department of Agriculture (KDA) -- along with a well-balanced State Pesticide Management Advisory Council (that includes agro-ecology representatives and certified organic or specialty crop representatives) -- file an annual 'noxious weed/pesticide' report with the Kansas Legislature that includes legislative recommendations.

In existing pesticide law or this bill, there is no definition of 'chemical drift' to non-target areas. KRC supports additional authority in the administrative adjudication process (K.A.R. 4-13-40) for parties to voluntarily opt for resolving pesticide drift damages and compensation via "consent to mediation" instead of having to wait for court action. KRC supports the implementation of a mandatory 'Driftwatch program' with landowners, farmers, and ranchers to submit sensitive crop location information so that those applying pesticides can quickly and easily identify areas needing greater protection.

Kansas now has 26 'super weeds' that are resistant to glyphosate so the toxic chemical treadmill turns to more lethal chemicals such as 2,4-D and Dicamba that drift much longer distances. Shouldn't there be an 'impact fee' on the companies for external damages caused by the overuse of glyphosate? These 'fees' should fund the staffing and administrative hearings at KDA while also funding 'integrated pest management' research to fine tune cultural and biological practices. What 'non-chemical' research is now going on at KSU or elsewhere in the State?

The responsibility for enforcement of this law is vested in the counties. There is some legal uncertainty as to whether county weed employees or the county itself have special liability protection from 'drift damage'? This certainly needs to be clarified.

The question of funding county weed departments is problematic. After the State has reneged on financial promises to cover local revenue losses and after the State took away the mortgage registration fee and slapped on a property tax lid, many county governments are in serious financial straits. So where does the funding of county weed departments stack up with other essential priorities such as roads and public safety? Do the county weed departments have to 'self-fund' by pushing more chemicals and taking their share of the sales? HB 2583 radically speeds up the payment of spraying costs to 'non-cooperative' landowners to assist the county weed budget. Could this be called 'chemical eminent domain' to force land sales and property tax payments? Unlimited fines are now authorized in HB 2583 if county or state officials are blocked entrance to look for noxious weeds on any private premise. This overt expansion of governmental power is troubling.

In conclusion, the good news is that HB 2583 is focusing the debate on expanded 'chemical trespass' today and proper methods to eradicate noxious weeds. The better news would be for lawmakers, stakeholders and the next Governor's administration to collect the necessary research and information to implement a balanced approach to weed control that focuses on public health first. The best news would be for lawmakers and key stakeholders to agree on a consensus on legislation that incorporates noxious weed, pesticide and chemical drift law into one proposal. Kansas could truly be a national leader in this regard!