

To: House Federal & State Affairs Committee, Representative John Barker, Chairman

From: Allie Devine, Kansas Farm Bureau

Date: January 31, 2017

Re: HCR 5004 – Constitutional amendment granting counties home rule powers

Mr. Chairman and Members of the Committee, I am Allie Devine and here today representing Kansas Farm Bureau. Kansas Farm Bureau opposes HCR 5004.

Kansas Farm Bureau supports local control. We believe that government closest to the people best represents the people. However, our businesses are competing in a global market, span across county and state lines, and depend upon new technologies and science to advance. We must have a regulatory system with a state, national, and world view based on solid science and economic analysis. We have learned from experience that local units of government (counties) do not have the resources to fund scientific or economic reviews to craft reasonable regulation of agricultural products or practices. Attempts to do so have led to impractical over reaching regulation resulting in extended litigation creating regulatory uncertainty.

KFB policy, especially in the area of environmental standards, provides that “Any legislation that is enacted or any environmental regulations which are proposed for promulgation, must be based on: factual information, scientific knowledge and economic impact studies. Rules and regulations promulgated by any local unit of government or state agency should not put Kansas producers or businesses at a competitive disadvantage with any other state.” The policy continues, “We favor implementation of environmental regulations by statewide authorities, rather than authorizing the development of regulations by each unit of local government, to ensure a consistent approach.”

This policy incorporates the basic concerns of businesses. Businesses want regulation that is based upon factual, scientific and economic data and is consistent and uniform. Businesses want and need stable and practical regulation in order to expand and invest. Kansas has enjoyed a reputation for factual, practical regulation. We believe adoption of HCR 5004 would cast doubt over our regulatory system.

If HCR 5004 were adopted in Kansas, what impact would it have on existing limitations of power provided in K.S.A. 19-101a? K.S.A. 19-101a outlines specific limitations on the home rule powers of counties. Many of these provisions, like those contained in K.S.A. 19-101a (27), were hotly contested within the legislature and still some counties have sought to exert home rule power to regulate activities. For agriculture, the limitations on counties contained in K.S.A 19-101a dealing with chemigation, swine production, prevention of water and air pollution, and corporate ownership of agricultural land were some of the most heated public debates in the history of this state. We believe those debates were best held in the statehouse with full public scrutiny, and access to input from experts in science and economics.

If HCR 5004 were to pass, complex issues may be decided by 2 of 3 county commissioners and may be effective 60 days after publication. To get a public review, citizens must seek a petition and call for a public vote. Given the complexity of many agricultural issues, it would take more than 60 days to find an expert to analyze a proposed regulation for its particular impacts to raise opposition. If the resolution stands, a citizen’s only recourse is to seek legislative review. It appears legislative review and repeal of a county resolution after HCR 5004 would require a 2/3rds vote in both houses of the Kansas legislature.

(See description of city home rule power on p. 7 of the testimony of Mike Heim, Revisor of Statutes Office January 12, 2017). It will be much easier for counties to regulate and more difficult for a single person to fight.

This proposal has the potential to increase regulation on vast areas of Kansas and to place heavy regulations on industries that depend on natural resources. County home rule is significantly broader than city home rule, as the boundaries of the county are much larger than cities in the majority of the state.

We believe that passage of HCR 5004 and a public campaign to adopt it will send a message to investors that Kansas is no longer a reliable business environment. We fear that passage of HCR 5004 will close the doors to new technologies that science has proven safe, but public opinion does not understand and thus opposes. We believe the current system provides a balanced system wherein issues are debated and thoughtfully resolved with the input of ALL of the state through the legislative process. We ask that HCR 5004 be rejected.