

To: Senate Committee on Local Government, Senator Carolyn McGinn, Chairperson
From: Allie Devine, Kansas Farm Bureau
Date: February 16, 2021
Re: Opposition to SCR 1606 - A constitutional amendment to grant counties home rule powers

Thank you Madam Chair and members of the Committee. I am Allie Devine and here today representing Kansas Farm Bureau. Kansas Farm Bureau opposes SCR 1606.

SCR 1606 is similar to numerous resolutions introduced in the legislature over the past few years. These resolutions seek to give counties home rule authority. As outlined by Mr. Mike Heim, Revisor of Statutes, *City and County Home Rule-A Brief Review (2017)*, “Local governments are considered creatures of the state as well as subdivisions of the state and as such are dependent upon the state for their existence, structure and scope of powers. See *Hunter v. Pittsburgh*, 207 U.S.161, 28 S. Ct. 40, 52 L. Ed. 151 (1907). State legislatures have plenary power over the local units of government they create, limited only by such restrictions they have imposed upon themselves by state law and by provisions of their state constitutions, most notably home rule provisions.”

In short, counties, as subdivisions of the state, have no authority beyond that given to it by state law. We believe this is an appropriate check on county authority and limits overreaching or growth of government. Most notably counties may not regulate in areas that are subject to uniform enactments of the state legislature. Those areas are outlined in K.S.A. 19-101a(a). The Kansas Farm Bureau has participated in many of these enactments to assure uniform application of laws governing key parts of the agricultural industry. Our businesses, like many other businesses, cannot efficiently survive with checker board regulations.

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 SCR 1606 would cast doubt over our regulatory system.

If SCR 1606 was adopted, what would be the impact on existing limitations of power provided in K.S.A. 19-101a? 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. Kansas farmers and ranchers fought attempts to turn an entire county into a lake through eminent domain. After that heated debate, restrictions on the use of eminent domain were included in state law (K.S.A. 19-101a (36)). 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 SCR 1606 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 will be much easier for counties to regulate and more difficult for affected Kansans 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 SCR 1606 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 SCR 1606 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 SCR 1606 be rejected.