

MINUTES OF THE HOUSE ETHICS AND ELECTIONS COMMITTEE.

The meeting was called to order by Chairperson Representative Tony Powell at 3:30 p.m. on March 20, 2002 in Room 521-S of the Capitol.

All members were present except: Representative Steve Huebert, Excused
Representative Carlos Mayans, Excused
Representative Gerry Ray, Excused
Representative Gwen Welshimer, Excused

Committee staff present: Ken Wilke, Revisor
Hank Avila, Research
Shirley Weideman, Secretary

Conferees appearing before the committee:

HB 3013 Proponents: Representative John M. Faber
Representative Dennis McKinney

Others attending: See attached list.

Chairman Powell opened the hearing on: **HB 3013 - Consulting contracts-disclosure requirements.**

Chair Powell recognized Representative John Faber as a proponent of **HB 3013**. Representative Faber questions how much universities receive for consulting with large corporations and how much do the dollars effect what universities research and is the outcome effected? He said that environmentalists suggest that land grant universities have been reluctant to challenge chemical companies on the safety of their herbicides and pesticides for fear of losing research dollars. Representative Faber also told the committee that Kansas taxpayers deserve to know how publicly funded universities are using their assets to augment outside income for public employees. He said that disclosing consulting fees would raise the integrity of a university to a higher level. (Attachment 1)

Representative Faber responded to committee members' questions regarding where the bill was introduced and which schools would be affected, which is only those under the Kansas Board of Regents. He indicated that the basic terms of the contract could not be disclosed because of trade secrets.

Representative Dennis McKinney appeared before the committee as a proponent of **HB 3013**. He said that an article in the November, 2001 Progressive Farmer highlights the potential conflict between the state's universities need to raise private money for research and consulting services and the public interest. Representative McKinney told the committee that the bill does not aim to reduce research or consulting or attack university faculty in any way. The proposal would require the disclosure of outside consulting by faculty members and this information would be open for public scrutiny. Supervisors at universities are already required to file statements of substantial interest and this would broaden it to include all faculty members and unclassified employees. (Attachment 2)

There was a question as to what the punishment would be for violation of this law and if it would be strong enough (a Class B misdemeanor).

Chairman Powell directed the committee's attention to the written testimony by Senator Jim Barone in support of **HB 3013**. (Attachment 3)

Hearing was closed on **HB 3013**.

Consideration was opened on **HB 3013**.

Representative Wilson moved and the motion was seconded by Representative Barnes that **HB 3013** be passed favorably from committee.

Representative Hermes moved that **HB 3013** be amended to have the disclosure filed with the Secretary of

CONTINUATION SHEET

MINUTES OF THE HOUSE ETHICS AND ELECTIONS COMMITTEE at on March 20, 2002 in Room 521-S of the Capitol.

State as well as with the School Information Officer. The motion was seconded by Representative Morrison. Motion passed.

Guest, Representative Bruce Larkin, told the committee that a professor at Washburn Law School would like to have Washburn University included in this bill.

Representative Hermes moved and it was seconded by Representative Morrison that Washburn University be included in **HB 3013**.

Representative Goering said that including Washburn University without official input would not be right. Revisor Ken Wilke said the rules and regulations under this bill would be devised by the board of regents and Washburn is not directly subject to the Kansas Board of Regents.

Representative Hermes withdrew her motion and Representative Morrison withdrew his second.

The motion that **HB 3013 as amended** be passed favorably from committee carried.

Vice-chair Powers reminded committee members to be on time to committee.

Without objection, committee minutes for March 6 and 11 will be approved as received.

Meeting was adjourned at 4:05 p.m. The next scheduled meeting is March 25 at 3:30 p.m. [**Meeting was canceled.**]

STATE OF KANSAS
HOUSE OF REPRESENTATIVES



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MEMBER: AGRICULTURE
EDUCATION
FEDERAL AND STATE AFFAIRS
JOINT COMMITTEE ON INFORMATION
TECHNOLOGY

How many dollars do universities receive for consulting with large corporations and who are these corporations? The question becomes how much do the dollars effect what universities research and does it affect the outcome. We may not be able to tell by this legislation alone, but money is a reliable indicator of motive. Put another way, "Follow the money".

We can say this with certainty, we have no idea and the question then becomes, should we have this information. I think we should:

Recently A Kansas State University professor, Dennis Weisman testified for a bill easing regulations on Southwestern Bell. Sen. Barone recognized the professor and the committee ultimately found out he had previously worked for Southwestern Bell as a marketing director and still did consulting work for them.

Environmentalists have suggested that herbicide and pesticide manufacturers aren't entirely candid about the risks of using their products. They also have suggested that land grant universities have been reluctant to challenge the chemical companies for fear of losing research dollars.

Large corporations provide an expanding share of research funding for universities and this bill would help the public understand any bias that could exist.

Kansas taxpayers deserve to know how publicly funded universities are using their assets to augment outside income for these public employees.

Disclosing consulting fee's wouldn't compromise a university's integrity, it would raise it to a higher level of integrity.

A handwritten signature in black ink, appearing to read "John Faber".

Representative John Faber

House Ethics and Elections
3-20-02
Attachment 1

Universities

A lack of government funds for ag research has led land-grants to make deals with private companies. Is the public research system compromised?

BY JIM PATRICO

You might as well hang a "For Sale" sign on the front doors of land-grant universities. So say critics who charge that in a rush for research dollars, public institutions are making too many deals with agribusinesses. The results, these critics say, are that professors have become profit centers, private companies often are setting the research agendas for universities, and supposedly unbiased research is bought and paid for by the companies that sponsor it.

"At land-grant universities today, the guy who puts up the loot is the guy who benefits . . . and that's not always farmers and ranchers," says Fred Stokes, president of the Organization for Competitive Markets, an advocacy group for family farms.

Stokes and others say land-grants take too much research money from chemical, pharmaceutical and seed companies. Sponsors then use the research to develop expensive private-label products, which farmers feel compelled to buy to remain competitive.

"I believe this violates the mission of our land-grant institutions, promotes concentration of agriculture and contributes to the demise of the family farm," says Stokes.

That is quite a load to lay on the academic world. After all, public colleges and private industry have long been research and funding partners. And those partnerships have led to many of the advances that fueled the Green Revolution and shaped the way we farm.

But that relationship has gotten out of

whack in recent years, critics say. They cite the following evidence:

- In 1998, the University of California-Berkeley signed an agreement with Novartis that gave the university access to some of the company's proprietary technology. Novartis also gave \$25 million over five years for research in the Department of Plant and Microbial Biology. In return, the company will receive first rights to license up to 33% of the patents that result from work using those funds. The deal also grants Novartis (now Syngenta) two of five seats on the department's research committee, which determines how the \$25 million is spent.

The arrangement didn't sit well with some UC-Berkeley faculty members. As Ignacio Chapela, a UC professor of microbial ecology, told *Atlantic Monthly* magazine, "This deal institutionalizes the university's relationship with one company, whose interest is profit. Our role should be to serve the public good."

- Land-grant researchers increasingly find themselves shut out of the scientific process by patents owned by industry. For instance, William Folk, a professor of biochemistry at the University of Missouri, recently found that he could not obtain licenses to use certain plant-transformation techniques developed by industry. He wanted to use the techniques to improve plant nutritional quality.

First planted in 1888, Sanborn Field at the University of Missouri is symbolic of ag research at land-grants. PHOTOS: JIM PATRICO



FOR

ALE?

"A large part of this [ag research] work is done in the public sector," says Folk. "But broad patents on the technology make them inaccessible to us."

● Michigan State University recently licensed patents to Amway for health products MSU researchers developed using funds provided in part by the Cherry Marketing Institute. The deal came as a shock to CMI Director Phil Korson, who had no idea MSU had patented anything as a result of its work for cherry growers.

"I would warn any commodity group that funds university research to make clear at the beginning who is going to own the intellectual property rights for what they develop," says Korson. "Growers can't take their relationship with [public] universities for granted any more."

LONG TIES STRAINED. Farmers have long thought of state universities as their own, ever since the Morrill Act of 1862 gave federal lands to states as a way to fund education based on "agriculture and the mechanical arts."

But three developments in the last 20 years have put a strain on the university-farmer relationship, while pushing the public sector and big business closer together.

First, federal funding for ag research has been flat since the 1980s, yet the price of research keeps rising. (By one estimate, it takes an average of \$300,000 a year to keep one university researcher on staff and properly equipped.) As a result, land-grants have had to scramble to find new sources of funding.

Second, Congress in 1980 passed the Bayh-Dole Act, which enables universities to patent inventions and processes developed during federally funded research. Suddenly, public institutions had access to the profits of the marketplace . . . and they responded with vigor. By 1998, the top 10 research universities held 1,921 patent licenses, earned more than \$370

William Folk, a professor of biochemistry at the University of Missouri, hopes to use gene-splicing techniques to increase the nutritional value of plants. But a company that now holds the license to some of the technology refused Folk the right to use it.

million a year in license revenues and had started up 78 for-profit companies, according to an article in the *Chronicle of Higher Education*.

The third event made agriculture a prime target for patents. When the U.S. Supreme Court in 1980 ruled that life forms could be patented, it made biotechnology a goose that promised to lay unlimited golden eggs for those who owned the patents. Private industry rushed into biotech, and so did land-grants. Within months of that Supreme Court decision, faculty members at UC-Davis created Calgene, a private company and one of the first biotech companies out of the chute.

MONEY TRAIL. University administrators interviewed for this article acknowledge that funding needs have created new ground rules for ag research.

"Farmers and land-grants have always had a good relationship, because colleges could respond to farmers' needs," says James Fischer, dean for public service research at Clemson University. "But now the faculty is having to go to outside sources [for funds]. Colleges are no



PATENTS PENDING

When it was written, many saw the Bayh-Dole Act as a way to prevent public universities from becoming too reliant on research funds from industry. They thought universities could patent discoveries, sell licenses and provide a new cash stream to finance more research. And some of that has happened. In fact, the University of California alone has garnered more than \$73 million from license revenues.

Nearly every major university has its own intellectual property rights office to obtain and license patents on potentially valuable ideas.

"If research leads to something with commercial value, everyone wants a piece of the action . . . including us," says the University of Missouri's Mike Chippendale. "It's a new era of doing business."

But business is not always good.

"Most patents are not winning lottery tickets," says Norm Pollack, assistant vice president at Michigan State University.

In the early 1980s, MSU licensed patents on two cancer drugs that brought \$25 million in revenue. The other 400 patents that MSU has acquired in the last 20 years have not done so well.

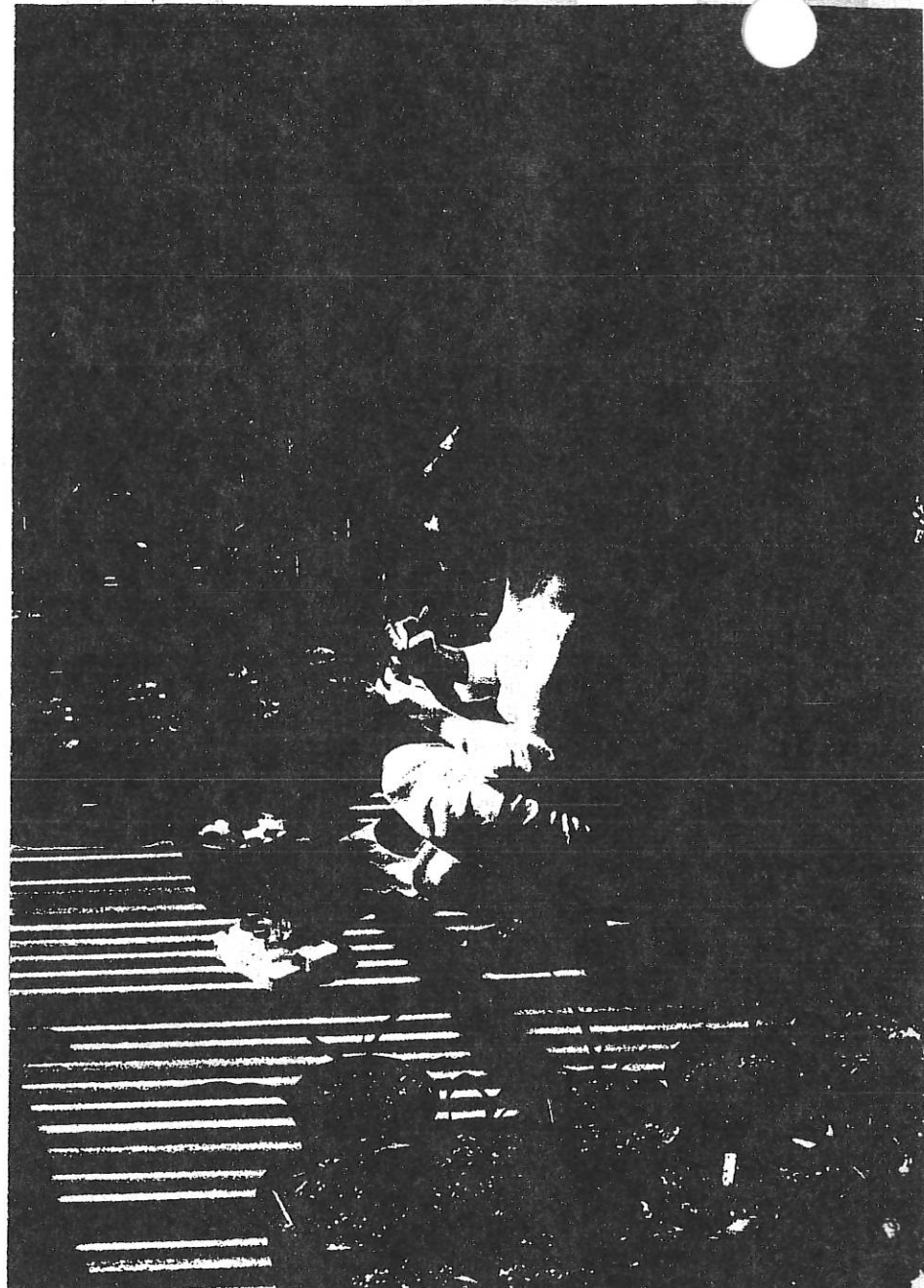
"They are not a blip on the screen," says Pollack.

longer in the driver's seat. My concern is, Who is setting the research agenda?"

Researchers have to seek outside sources, because federal funds have not kept pace either with inflation or with the cost of new technology. In 1978, the USDA food and agriculture research budget was about \$1.6 billion. By 1998, it had fallen to about \$1.5 billion.

Formula funding (the federal government's dollar-for-dollar matching funds for state land-grants) has decreased 8% in the last 10 years, says Fischer. Meanwhile, federal funding for other types of research (health, energy, defense, etc.) has increased. Agriculture gets a mere 2 cents of every research dollar Uncle Sam spends.

While federal funding for ag research



Lab technician Katie Hanson collects tissue samples from corn grown in a University of Missouri greenhouse, which cost \$7.6 million to build in 1999.

has declined or remained flat, private industry has increased its spending an average of 4.5% each year since 1980. It now spends about 60% of all money spent on ag research in the U.S., says Fischer. With the federal cupboard increasingly bare and with private industry willing to spend, it's little wonder that researchers—and universities—look longingly to the private companies for funds.

PARTNERS OR PAYOLA? The perception that universities have sold out is unfair and inaccurate, says Mike Chippendale, former head of Extension Research at the University of Missouri. "Put it in perspective," he says. "Only 8% of total college support comes from outside industries.

The rest is nonindustry support. But it's that small piece [8%] that gets everyone's attention."

Chippendale is keenly aware of public scrutiny of university-industry ties. Monsanto contributes mightily to UM ag research, and the university has taken some heat for its perceived closeness to the St. Louis-based company. Critics have given UM a particularly snide nickname: The University of Monsanto.

Chippendale shakes his head at the intended slur. "Monsanto's home is in this state," he says. "We work on many of the same things they do. It's only natural that we work together somehow. Partnering is not the same as selling out."

The concern over university-industry partnerships is overblown, says Terry Wolf, an Illinois farmer who is president of the National Coalition for Food and Agriculture Research. The group was formed early in 2001 by universities, private companies and individuals with the goal of doubling federal funding for ag research in the next five years.

"We have always had a partnership with public and private research," says Wolf. "The populist philosophy that says we shouldn't [have such partnerships] doesn't have much foundation in fact."

Even if universities wanted to avoid partnerships—and they don't—government encourages them to seek outside sources to supplement their income.

"When we go to the state Legislature and a senator from Dallas asks the question, 'Is the industry providing matching funds for our appropriation?' our answer better be 'yes,'" says Ed Hiler, deputy chancellor and dean of agriculture at Texas A&M.

Administrators aren't the only university employees feeling the pressure to get closer to private companies. On condition that we not use his name, a researcher at a Midwestern land-grant university told *Progressive Farmer*, "We are being told we need to form relationships with private industry. Our main mission is revenue generation. There is not a big pool of money for research. So we are all fighting to get our share."

Other current and former researchers tell the same story. One who left a public institution to work for a private company says he did so in part because fund-raising became too much of a distraction.

"I probably spent 15 to 20% of my time [at the university] submitting grant proposals. In the private sector, you don't spend nearly as much time on it [fund-raising for research]. You can do what you're trained to do," he says.

The researchers we interviewed deny, however, that ties with industry affect the objectivity of their research. Says one researcher at a land-grant, "Even though we take that money, we show no bias. We can't, and we don't."

As for bias in setting research agendas, Chippendale and other university administrators insist that the public's good is their first concern. Strict procedures ensure that research proposals come in and are evaluated, voted on and prioritized without bias. Farmer "stakeholders" are

a part of the process along the way.

"But we have to look very, very closely at our priorities, because we can't do many of the things we'd like to do. The money isn't there," says Chippendale.

Seed breeding is a good example of a research area that has suffered from a lack of funds.

"In cotton, there are probably fewer than half the cotton breeders in the public sector that there were 15 years ago," says Tom Kerby, Delta and Pine Land Company's vice president of technical services.

He lists land-grants that had to stop cotton-breeding operations and says, "The heads of university ag research programs look at plant breeding and see that they don't get much money from state legislatures for applied research like that. So they drop it."

"There is a real concern, especially for minor crops," says Chippendale. "Industry will take care of the major crops, because that's where the money is. But minor crops? Niche crops? Who is going to work on them?"

Who, indeed?

INDUSTRY'S STAKE. Kerby will tell you that his company has a stake in strong land-grant plant-breeding programs. "We are not in competition with them," he says. "We pay royalties every year [to uni-

versities] to use important varieties they developed."

What's more, if land-grants cut all plant-breeding programs, where would future plant breeders go to learn? And without trained breeders, how could D&PL develop new cotton varieties?

Private companies will tell you that they don't have—and don't want—land-grant universities in their pockets.

"I don't think it's happening," says Rob Horsch, Monsanto's vice president of product and technology cooperation. "The No. 1 issue for us with universities and with science is to get good information . . . unbiased, believable, reproducible information."

If growers perceive university research as biased, the perception becomes reality. Then they stop trusting what land-grant scientists tell them.

"Even the possibility that it could happen is a good argument for public-sector funding," says Horsch.

"From our perspective, we want to see a healthy university system," notes D&PL's Kerby. "We want to see universities taking on plant breeding and teaching that to students. But we also want to be in a position to provide support."

WITH REPORTS BY DEL DETERLING

LEGAL LANDMARKS

● **The Morrill Act of 1862** gave each state federal land grants (30,000 acres each) equal to the number of congressmen from that state. With the sale of that land, the states were to establish colleges "where the leading object shall be . . . to teach such branches

of learning as are related to agriculture and the mechanical arts." It was the beginning of the land-grant college system.

● **The Hatch Act of 1887** authorized Congress to make direct payments of federal funds to each state to establish experiment stations.

● **The Smith-Lever Act of 1914** formed the basis for the cooperative Extension service. It was to disseminate to farmers and the general community information and practices developed at land-grant colleges.

● **The Bayh-Dole Act of 1980** enabled universities to patent inventions and processes developed with federally funded research.

● **The U.S. Supreme Court ruled in 1980** (in the *Diamond v. Chakrabarty* case) that genetically engineered life forms could be patented and the licenses could be sold.



For more info, visit this article on our web site:

<http://www.progressivefarmer.com/issue/1101/research>

NOTES regarding Faculty Consulting Contracts

There appear to be no constitutional conflicts prohibiting the public disclosure of information related to public university faculty contracts for consulting services with businesses and other organizations.

Some options:

- Request an Attorney General's Opinion. Are these contracts which are currently disclosed to the institution to be considered part of a privileged personnel record? They are not contracts for services with the educational institution.
- The reason to disclose these contracts to the University is to avoid a potential conflict between the faculty member and the University. Shouldn't the University be required to disclose the information should a potential conflict exist with the Legislature over professor X being employed as a consultant with company Y?
- The Board of Regents could require the institutions to create a register which provides for the disclosure of these consulting arrangements. Such a register need not include the amount of compensation, but could include information regarding the contractual relationship.
- The Legislature could adopt joint rules or the committees could adopt a format to be required of any individual appearing before the committee which would require disclosure of any consultant contractual relationship between that faculty member and any corporation or business which would be affected by the legislation or policies upon which the faculty member is testifying.
- The Legislature could adopt rules requiring such disclosure on the part of faculty members appearing before Legislative committees.
- The records would only become public if a faculty or staff member appears before a legislative committee.
- Finally, legislation like irs2272 could be enacted. It could be made more acceptable by showing compensation in ranges rather than in specific amounts and decriminalizing failure to fully disclose and making it a civil offense rather than criminal.

Date: 527 3-2-02

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Professor's link to Ma Bell raises eyebrows

By CAROL CRUPPER

Harris News Service

TOPEKA - As Kansas State University professor Dennis Weisman testified this week for a bill easing regulations on Southwestern Bell, Sen. Jim Barone thought Weisman looked familiar.

Weisman told the Senate Commerce Committee that allowing Bell to escape some regulation in exchange for a commitment to spread high-speed Internet statewide would serve consumers well.

"The benefits of broadband are significant and the risks minimal," he said.

What Weisman didn't reveal to the Senate Commerce Committee was his link to the telecommunications giant.

As Barone, D-Frontenac, listened, he realized why the professor looked familiar.

What followed was what Barone terms "a sort of a 'Perry Mason' moment."

Responding to Barone's questions, Weisman said that not only had he been a marketing director for Southwestern Bell, but he still did consulting for the company.

Barone, a retired Southwestern Bell executive, said it suddenly struck him that he had worked with Weisman more than a decade ago.

"He has less hair and is a little grayer," Barone said.

No one would have been wiser had it not been for Barone. The agenda simply listed Weisman as a K-State economics professor.

"I got lucky because I recognized him," Barone said.

The incident has raised eyebrows at the Statehouse about academic experts who offer advice to state policy-makers.

Sen. Steve Morris, R-Hugoton, said it would be nice to know when professors have vested interests.

"We don't always know," he said.

Carol Williams, executive director of the Kansas Governmental Ethics Commission, said law doesn't require state employees to divulge that information.

"It's one of those things that falls through the cracks," she said.

No compensation from Bell

Weisman said that although Bell sought and coordinated his testimony it didn't compensate him.

"I came on my own time and my own money," he said.

Weisman, an expert on regulation, hasn't been a Bell employee since 1993.

"I thought my role was to speak for the implications of the act," Weisman said.

The professor said he has published more than 60 articles, some critical of Bell. He has written books and served on editorial boards of scholarly journals.

"You don't get there by being an advocate for one company," he said.

Weisman noted that no one else who testified talked about past jobs.

"I didn't believe it was relevant," he said.

More questions next time

Commerce Chairman Karin Brownlee, R-Olathe, thought she'd been listening to an objective economist.

But after Barone's questions, she said, "It cast a whole new light on his message."

Weisman said he'd sent a copy of his testimony, including his resumé, to Southwestern Bell. He thought they would forward that information to Brownlee's office to be included in the official record.

By Friday, Brownlee's office hadn't received it. A spokeswoman at Southwestern Bell said she didn't know what had happened.

"Certainly Southwestern Bell has a great deal of passion for SB 606," Brownlee said. "In their zeal, they maybe didn't realize that rather than add credibility to their efforts, this detracts from it."

Date: WEDNESDAY 11-28-01

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Opinion

Seeds of doubt

Knowing where experts' money comes from helps us better evaluate their advice

One of the oldest pieces of advice in unraveling political alliances is follow the money.

Money is a reliable indicator of motive. When companies spend money on lobbyists and experts, they don't spend it casually.

So when Sen. Dennis McKinney, D-Greensburg, says he thinks university professors should be required to disclose consulting fees they receive, he has a good point.

Some members of the academic community sound wounded by his suggestion.

"If we are scientists, our goal is to educate the public," says Ted Schroeder, an agricultural economist. "It has nothing to do with who we are consulting with."

Right. And politicians tell us they make decisions based on what's best for their constituents, not on who gave them how much money.

We would hope scientists wouldn't adjust their opinion according to who is paying them money. But they are as human as the rest of us, which means they will be tempted to avoid offending

the people writing them the checks.

Science strives to be unequivocal, cut-and-dried, black-and-white. It rarely is. Does anyone really wonder why the only scientists who believe cell phones cause brain cancer are ones who don't work for cell phone manufacturers? You wouldn't expect it to be the other way around, would you?

Some environmentalists have been so bold as to suggest that herbicide and pesticide manufacturers aren't entirely candid about the risks of using their products. They've even suggested that land grant schools have been too reluctant to challenge the chemical companies, fearing it might jeopardize the money they get from these sources.

It's safe to say that most scientists offer their honest view, regardless of who helps pay their salary. But the public would be better served if it had access to that information.

Disclosing it wouldn't compromise their integrity. It would only enhance it.

— Duane Schrag

Date: Tuesday 11-27-61

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OPINION

Without disclosure, questions

THE ISSUE

University consultants

THE ARGUMENT

Contracts must be made public

Rep. Dennis McKinney has a gripe with the Kansas State University Extension Service.

And we can't say we blame him.

The Greensburg Democrat says K-State professors who provide advice on cattle and grain operations for Kansas farmers and ranchers also perform consulting work with large ag-related corporations. Plus, he says, big companies provide an expanding share of research funding for the university.

McKinney says that means Kansas producers may be getting biased advice from those who also depend on large corporations for a paycheck. His concerns were outlined in a story published Sunday in the Journal.

McKinney is correct in raising this issue. The potential for conflict of interest in these cases is high and the Kansas Legislature should do something about it.

The solution does not rest with forcing K-State faculty to discontinue consulting work for large corporations. This is an important function for both the university and pri-

vate industry. Academics need contact with the corporate arena to stay abreast of "real world" conditions. And corporations need the focus, specialized knowledge and research found among K-State staff and faculty.

A better solution is for the Legislature to require professors and staff to report consultant work they perform outside the state's public universities, in much the same way lawmakers are required to file statements of substantial interest with the secretary of state. The statements list business ownerships, consulting fees, commissions and other financial interests.

Currently, faculty members who perform consulting services must obtain approval of their department head and dean. The activities are recorded in personnel files, but the information is not public record.

Requiring full disclosure of consultant work would help Kansas farmers and ranchers understand any potential bias that may exist when they seek advice from the K-State faculty through the Extension Service.

But this issue involves more than ag-related consulting. Full disclosure legislation should include all faculty, staff and administrators at any state university and college. Kansas taxpayers deserve to know how publicly supported assets, such as university buildings, labs, offices and administrative services, are being used to augment outside income for these public employees.

— Tom Bell
Editor & Publisher

Date: Saturday 11-24-01

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Our View

Voluntary disclosure

A Kansas lawmaker's suggestion that public university professors disclose who hires them as consultants is a good one, but it need not be legislated.

Rep. Dennis McKinney, D-Greensburg, says producers should have the right to know when university agriculture faculty hire out as paid consultants to private industry.

McKinney, a cattle and grain farmer, says he relies on Kansas State University Extension officials for advice, as do many other Kansas farmers. McKinney questions the objectivity of information supplied by K-State experts given that many are hired by agriculture-based businesses for consultation.

McKinney would like to see professors receiving consultation money from large ag-based corporations disclose those relationships to the public. Supporters say it's a good idea. Opponents say the professors are in the education business and their objective in accepting consulting jobs is to be, well, objective.

There's nothing to suggest those in academia are not true to themselves in that regard. And disclosing which organizations are soliciting advice from which professors does not suggest bias on the part of the educator.

Moreover, such disclosure would practically ensure professors would be true to their cause to consult, rather than promote, the goods and services of a company.

Currently, professors on the payrolls of private business must report such activity to their deans for approval. The information is in the professor's personnel file, which is, as it should be, a confidential file.

McKinney isn't seeking a revolutionary change or one that would cause to alter the relationship professors have with outside business.

But mandating disclosure would not be in the spirit of the consulting business. Rather, school officials should encourage voluntary disclosure, and professors should be willing to provide it.

(3) Persons appointed to 12 month unclassified positions may accumulate a maximum of 304 hours of annual leave; provided, however, that no employee may receive, upon termination or retirement from employment or upon moving from a twelve-month annual leave earning position to a position for less than twelve months, payment for more than 176 hours of annual leave.

G. Bereavement Leave for Unclassified Employees

Unclassified employees may be granted leave with pay upon the death of a close relative. Such leave shall in no case exceed six working days. The employee's relationship to the deceased and necessary travel time shall be among the factors considered in determining whether to grant bereavement leave, and, if so, the of leave to be granted.

H. Shared Leave for Unclassified Employees

- (1) All unclassified employees who accumulate sick leave shall be eligible for participation in the shared leave program of the state of Kansas.
- (2) All unclassified employees who participate in the shared leave program may donate sick leave as long as the donation does not cause the accumulated sick leave balance of the donating employee to be less than 480 hours, unless the employee donates sick leave at the time of separation from service.
- (3) Each Regents institution shall adopt appropriate procedures for administering this policy.

I. Family Medical Leave

- (1) For purposes of administering the Family Medical Leave Act (FMLA), all Regents institutions shall:
 - (a) designate qualifying leave as Family Medical Leave whether or not the employee requests such a designation;
 - (b) consider the twelve-month period, within which an eligible employee who experiences a FMLA qualifying condition or circumstance, to begin concurrently with the first day of Family Medical Leave and any subsequent twelve-month period would begin the first time an eligible employee again experienced a FMLA qualifying condition or circumstance after the expiration of the first twelve-month period; and
 - (c) require employees whose leave is designated Family Medical Leave to substitute accrued paid leave for unpaid Family Medical Leave for up to twelve weeks within the applicable twelve-month period.
- (2) Any Regents institution may adopt a policy allowing a member of the faculty holding a tenure earning appointment who has taken Family Medical Leave to request an additional year in which to work toward tenure.
- (3) Subject to the above, each Regents institution shall adopt policy and procedures to provide leave to its employees pursuant to the FMLA.

13. COMMITMENT OF TIME, CONFLICT OF INTEREST, CONSULTING AND OTHER EMPLOYMENT

Preamble:

The Board of Regents encourages the Regents institutions to interact with business, industry, public and private foundations, and government agencies in order the relevance of their missions of teaching, research and service; to provide for and facilitate the professional development of their faculty and unclassified staff promote the rapid expansion and application of knowledge, gained through research, to the needs of Kansas, the region and the nation. With particular reference interaction, the Board of Regents considers it of utmost importance that university employees conduct their affairs so as to avoid or minimize conflicts of time commitments and conflicts of interest, and that the Regents institutions must be prepared to respond appropriately when real or apparent conflicts arise.

To those ends, the purposes of this policy are to: (i) educate about situations that generate conflicts; (ii) provide means for faculty and unclassified staff and the university to manage real or apparent conflicts; (iii) promote the best interests of students and others whose work depends on faculty direction; and (iv) describe situations that are prohibited. Every faculty member and member of the unclassified staff has an obligation to become familiar with, and abide by, the provision policy. If a situation raising questions of real or apparent conflict of commitment or conflict of interest arises, affected faculty and/or unclassified staff must meet their department chair, school dean or supervisor, report the conflict as described below, and eliminate the conflict or manage it in an acceptable manner.

a. General Principles

(1) Conflict of Time Commitment

- (a) Attempts to balance university responsibilities outlined in the preamble with external activities, such as, but not limited to, consulting, public service or pro bono work, can result in real or apparent conflicts regarding commitment of time and effort. Whenever a faculty or staff member's external activities exceed reasonable time limits, or whenever an unclassified staff or faculty member's primary professional responsibility is not to the institution, a conflict of time commitment exists.
- (b) Conflicts of commitment usually involve issues of time allocation. Faculty members and unclassified staff of Regents institutions owe their primary professional responsibility to their employing institutions, and their primary commitment of time and intellectual effort should be to the education, service, research and scholarship missions of said institutions. Faculty and unclassified staff should maintain a presence on campus commensurate with their appointments. The specific responsibilities, position requirements, employment obligations and professional activities that constitute an appropriate and primary commitment of time will differ across schools and departments, but said responsibilities, requirements, obligations and activities should be initially premised on a general understanding of full-time commitment for full-time faculty or unclassified staff of the institutions. Exceptions must be justified and shown to enhance the institutional mission.

(2) Conflict of Interest

- (a) A conflict of interest occurs when there is a divergence between an individual's private, personal relationships or interests and

- missing p 41

submitted indicates that a conflict of time, commitment or interest does exist, the institution may require that the faculty or unclassified staff member submit additional information and explanation regarding that conflict. (9-21-95)

(2) Reporting Significant Ad Hoc Current or Prospective Conflicts As They Occur

Faculty and unclassified staff must disclose on the form approved by the Council of Presidents to the department chair or dean or supervisor on an *ad hoc* basis current or prospective situations that may raise questions of conflict of commitment or interest, as soon as such situations become known to the faculty or unclassified staff member.

(3) Reporting of Consulting

The faculty member must inform the chief academic officer, through the department chair or head and the dean, of all external personal, professional activities. For all such activities, except those single-occasion activities specified below, the faculty member must report in writing the proposed arrangements, and secure approval prior to engaging in the activities. Those personal, professional activities which occur within a single 24-hour period must be reported annually in writing as prescribed. For all activities concerned, the report should indicate the extent and nature of the activities, the amount of time to be spent in the activities, and the total amount of time spent or expected to be spent on all such outside activities during the current academic year.

(4) Disposition of Reports

All required reports shall be submitted in accordance with institutional requirements and shall be included in individual personnel files to be used for the determination of whether an individual is in compliance with this policy. Such reports will also be available to institutional research officers to permit certification and/or verification of compliance with federal regulations. Institutions must maintain these reports for a minimum of three years.

d. Use of University Name

The Name of the Board of Regents, a Regents institution or the Regents System may never be used as an endorsement of a faculty member or unclassified staff member's external activities without expressed and advance written approval of the University chief executive officer and/or the Board's Executive Director, as appropriate. Faculty members or unclassified staff members may list their institutional affiliation in professional books, articles and monographs they author or in connection with professional workshops they conduct or presentations they make without securing approval.

e. Campus Policy Development and Enforcement

Additional rules and procedures for personal external activity, consistent with Board policy, will be established by each Regents institution. In situations in which objectivity of a faculty or unclassified staff member could reasonably be questioned, or where apparent conflicts of interest exist, each Regents institution will use an effective review mechanism to determine if a conflict of time or interest exists and to facilitate resolution of the conflict where possible, and to decide upon appropriate sanctions when an unclassified staff or faculty member's activities have been determined to constitute a conflict. Such review mechanisms will include opportunity for appeal.

f. Distribution and Dissemination

This policy statement will be distributed upon initial appointment to all faculty and unclassified staff by each Regents institution.

14. HONORARIUMS

Institutions under the jurisdiction of the Board are authorized to pay honoraria as required for visiting lecturers upon authorization by the chief executive office institution. (4-7-60)

15. POLITICAL ACTIVITY

a. Faculty, administrators and other unclassified personnel are eligible to accept any public or political party position which does not involve any conflict of interest and does not require substantial time away from assigned duties or in other respects infringe upon them. Such eligibility covers membership on city commissions, boards, planning groups, and county, state and national party committees and like organizations, by either appointment or election.

b. The filing of a declaration of intent to become a candidate shall not affect the status or appointment of an unclassified member of a college or university staff provided, however, such person at all times while a candidate shall properly and fully perform all of his or her assigned duties; provided further, however, that such person while he or she is a candidate for office fail to perform all of his or her assigned duties, such person shall not receive any salary or benefits from the filing for office.

c. Leave without salary or other benefits will be granted to those elected or appointed to public office requiring full time or lengthy sustained periods away from assigned duties, such as Congress, the State Legislature, and state and county offices or appointments to office falling within this category, effective, as to a person elected or appointed to Congress or the State Legislature, from the date such person takes the Oath of Office or the first day of the Legislative session and continues until the adjournment of Congress or to a date no sooner than the last adjournment in April or sine die adjournment, whichever occurs first, of each regular and special session of the State Legislature; effective, as to other state and county offices, during the entire time a person serves as such officer. Leave without salary or other benefits shall not be required for any person serving in the State Legislature or for service on any committee during a period when the Legislature is not in regular session, provided that such person shall decline to accept all legislative compensation for such service, but such person shall be entitled to mileage and expense allowances as provided by statute and paid by the Legislature.

d. In the interest of the fullest participation in public affairs, personnel are free to express opinions speaking or writing as an individual in signed advertisement pamphlets and related material in support of or opposition to parties and causes. There will be the commensurate responsibility of making plain that each person doing so is acting for himself and not in behalf of an institution supported by tax funds drawn from citizens of varying political and economic views. (12-19-66; 5-2-15-85)

16. RETIREMENT

a. Retirement Benefits

1-12
2/8/02 8:33 A

Questions about KSU Extension bias arise

Large companies provide funding for research at K-State

By SARAH KESSINGER
Harris News Service

TOPEKA — Like many Kansas farmers, Rep. Dennis McKinney, D-Greensburg, relies on Kansas State University's Extension Service for advice on his cattle and grain operation.

But as large companies provide more of the funding for

research at K-State, and as large grain or meat-packing companies hire professors as consultants, McKinney questions whether K-State's advice is unbiased or favors the industry.

Producers should have the right to know, he said, when university agriculture faculty hire out as paid consultants to private industry. But currently that's private information.

In contrast, McKinney said, the public can learn of legislators' biases by reading their statements of substantial in-

terest filed with the secretary of state. Those statements list business ownerships, consulting fees, commissions and other financial interests.

He said it would be appropriate if faculty working for K-State's Extension program also were required to file such statements.

"If a researcher is receiving money from a major corporation, then Kansas producers deserve to know," he said.

Buying a bias?

During a recent legislative

hearing, McKinney asked K-State Dean of Agriculture Marc Johnson whether public disclosure of contracts was a good idea.

"You all can do what's appropriate on that score," Johnson replied.

But it would be wrong, he said, to assume a researcher is biased because he does work for a private firm.

"They hire them to be objective," Johnson said. "It's unfair to say this company bought them off forever."

McKinney equated the issue

to that of campaign finance. Disclosure is required to give the public knowledge of who is receiving money from private businesses and other special interests.

"I'm just wondering if it would help the trust level about the university," McKinney said.

Campaign contributions "don't buy me off," he said, but the public still should know and decide for themselves.

See KSU, Page A5

KSU / Consulting encouraged at KSU

SUNDAY, NOVEMBER 25, 2001 **A5**

FROM PAGE A1

McKinney said he has heard the concern raised more than once by Kansas cattlemen who rely on the Extension Service for information.

St. Francis feedlot owner Mike Callierate, for example, is a plaintiff in a lawsuit against IBP, a leading meatpacker. He long has complained about K-State staff that consult with IBP and other major packers he believes are squeezing small, independent cartlemen out of the business.

K-State agricultural economist Ted Schroeder, however, denied that biases come out of consulting jobs.

Schroeder has consulted for IBP and other industry and producer groups. The school allows staff to consult with companies on a limited basis outlined in a faculty handbook.

"Faculty members are encouraged to accept outside consulting assignments that support professional growth as long as the assignments do not interfere with the effective discharge of university responsibilities," school policy states.

Must obtain approval

Faculty members who perform consulting services outside the university must obtain approval of their department head and dean. The activities are recorded in personnel files, which are not public record. Schroeder argued that faculty learn from the consulting experience.

"I'd be disheartened if policy might discourage faculty from doing consulting," Schroeder said. "I think it's enriching."

The economist said some producers might disagree with his analysis of livestock issues.

"If we are scientists, our goal is to educate the public. It has

nothing to do with who we are consulting for," Schroeder said.

His work doesn't always sit well with some in corporate offices or on the farm, he said.

"I'm one who's going to provide the economic facts. Some folks may not like what they hear, but that's my job."

National debate

But not all academics agree industry's relationship with universities is bias-free. Some protest the fact public funding for research has stagnated while more and more private sector dollars fill the void.

Among the concerns are research grants, gifts to universities and consulting contracts that professors accept. Some say the need for funds has forced academics to create ties with industry.

Noted farm economist Neil Hart of Iowa State University said after a speech in Topeka this week that the coziness between industry and universities is a worrisome trend nationally.

But Senate Agriculture Chairman Derek Schmidt, R-Independence, said he had no indication of bias by K-State and had never met a professor who wouldn't disclose consulting jobs.

"It's apparently the dawn of the annual beat-up-on-K-State season," Schmidt said. "I guess it just seems to me if we disagree with the professor's thinking we ought to debate him or criticize on the merits. But don't question his motives."

Rep. McKinney said if consulting advice is unbiased, then the university should have no concern in disclosing work for outside firms.

"I think that should be public information," he said. "These are public-funded universities with a mission as a land grant school to provide unbiased advice."

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 REPRESENTATIVES

ASSISTANT MINORITY LEADER
 COMMITTEE ASSIGNMENTS
 MEMBER: TRANSPORTATION
 ENVIRONMENT
 INTERSTATE COOPERATION
 CALENDAR AND PRINTING

March 20, 2002

Testimony on House Bill 3013

Thank you for the opportunity to testify today on House Bill 3013.

An article in the November, 2001 Progressive Farmer magazine poses the question, "Are universities for sale?" The article highlights the potential conflict between the need to raise private money for research and consulting services and the public interest.

First, I want to assert that HB3013 does not aim to reduce research or consulting or attack university faculty in any way. I fully agree that interaction between university faculty and business enhances the teaching and research missions of the universities and colleges in Kansas.

Rather, 3013 seeks to address potential conflicts with the public interest by applying the same standards to university personnel that we apply to ourselves. That is, we understand that there will be campaign contributions, therefore, we require public disclosure. We know that private financial interests will affect our views, therefore, we require an annual filing of a statement of substantial interest.

This proposal just requires disclosure of outside consulting. That allows public scrutiny of the recommendations or other work by the faculty member in light of outside interests. Outside consulting work is not discouraged. Information provided to the public is enhanced.

You may also want to ask if some research contracts do not fit under the definition of consultant. If so, the bill's disclosure application may need to be broadened.

Supervisors at universities are already required to file statements of substantial interests. However, because they are busy in administrative roles they are less likely to have outside contracts. But the same principle applies. Disclosure allows greater public scrutiny and, in the long run, enhances trust of the university.

Thank you.

House Ethics and Elections
 3-20-02
 Attachment 2

State of Kansas

Senate Chamber



JIM BARONE
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STATEMENT ON HB 3013 AN ACT CONCERNING ETHICS RELATING TO DISCLOSURE OF REQUIREMENTS FOR CERTAIN CONSULTING CONTRACTS

Thanks for the opportunity to provide a statement regarding HB 3013. The attached news article clearly demonstrates the need for appropriate and thorough public disclosure. The KSU professor who was testifying before the Senate Commerce Committee on a Southwestern Bell deregulation plan just happened to be an individual who previously worked in my organization while we were both employed at Southwestern Bell. And, Mr. Chairman, because of this past relationship, I was the only person on the committee, and very likely in the room, with the exception of current Bell employees, who knew of the past employment relationship with Bell. As Chairman Brownlee said, if these past relationships were disclosed, "it cast a whole new light on his message," referring to the professor's testimony. I support the need for full and complete disclosure when independent experts who are state employees, or for that matter, any state employee, are offering "expert testimony." These past and, very likely, present business relationships of these witnesses certainly can influence their "expert thinking."

Mr. Chairman, thank you for the opportunity to provide this written statement. I regret I cannot appear in person due to Senate floor activities but will be delighted to share further insight or answer further questions should you or members of the committee need additional clarification.


Senator Jim Barone
District #13

House Ethics and Elections
3-20-02
Attachment 3

Date: Sat 3-2-02

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| <input type="checkbox"/> Wichita Eagle | <input type="checkbox"/> | <input type="checkbox"/> Iola Register | <input type="checkbox"/> | <input type="checkbox"/> Olathe Daily News |
| <input type="checkbox"/> Kansas City Star | <input type="checkbox"/> | <input type="checkbox"/> Johnson County Sun | <input type="checkbox"/> | <input type="checkbox"/> Ottawa Herald |
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| <input type="checkbox"/> Garden City Telegram | <input type="checkbox"/> | <input type="checkbox"/> Leavenworth Times | <input type="checkbox"/> | <input type="checkbox"/> Winfield Daily Courier |

Professor's link to Ma Bell raises eyebrows

BY CAROL CRUPPER
Harris News Service

TOPEKA - As Kansas State University professor Dennis Weisman testified this week for a bill easing regulations on Southwestern Bell, Sen. Jim Barone thought Weisman looked familiar.

Weisman told the Senate Commerce Committee that allowing Bell to escape some regulation in exchange for a commitment to spread high-speed Internet statewide would serve consumers well.

"The benefits of broadband are significant and the risks minimal," he said.

What Weisman didn't reveal to the Senate Commerce Committee was his link to the telecommunications giant.

As Barone, D-Frontenac, listened, he realized why the professor looked familiar.

What followed was what Barone terms "a sort of a 'Perry Mason' moment."

Responding to Barone's questions, Weisman said that not only had he been a marketing director for Southwestern Bell, but he still did consulting for the company.

Barone, a retired Southwestern Bell executive, said it suddenly struck him that he had worked with Weisman more than a decade ago.

"He has less hair and is a little grayer," Barone said.

No one would have been wiser had it not been for Barone. The agenda simply listed Weisman as a K-State economics professor.

"I got lucky because I recognized him," Barone said.

The incident has raised eyebrows at the Statehouse about academic experts who offer advice to state policy-makers.

Sen. Steve Morris, R-Hugoton, said it would be nice to know when professors have vested interests.

"We don't always know," he said.

Carol Williams, executive director of the Kansas Governmental Ethics Commission, said law doesn't require state employees to divulge that information.

"It's one of those things that falls through the cracks," she said.

No compensation from Bell

Weisman said that although Bell sought and coordinated his testimony it didn't compensate him.

"I came on my own time and my own money," he said.

Weisman, an expert on regulation, hasn't been a Bell employee since 1993.

"I thought my role was to speak for the implications of the act," Weisman said.

The professor said he has published more than 60 articles, some critical of Bell. He has written books and served on editorial boards of scholarly journals.

"You don't get there by being an advocate for one company," he said.

Weisman noted that no one else who testified talked about past jobs.

"I didn't believe it was relevant," he said.

More questions next time

Commerce Chairman Karin Brownlee, R-Olathe, thought she'd been listening to an objective economist.

But after Barone's questions, she said, "It cast a whole new light on his message."

Weisman said he'd sent a copy of his testimony, including his resumé, to Southwestern Bell. He thought they would forward that information to Brownlee's office to be included in the official record.

By Friday, Brownlee's office hadn't received it. A spokeswoman at Southwestern Bell said she didn't know what had happened.

"Certainly Southwestern Bell has a great deal of passion for SB 606," Brownlee said. "In their zeal, they maybe didn't realize that rather than add credibility to their efforts, this detracts from it."

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