

MINUTES OF THE SENATE AGRICULTURE COMMITTEE.

The meeting was called to order by Chairperson Derek Schmidt at 8:30 a.m. on February 25, 2003 in Room 423-S of the Capitol.

All members were present.

Committee staff present: Raney Gilliland, Legislative Research  
Lisa Montgomery, Revisor of Statutes  
Judy Swanson, Committee Secretary

Conferees appearing before the committee: Don Teske, Kansas Farmers Union  
Ben Hopper, Kansas Dairy Association  
Mike Beam, Kansas Livestock Association

Others attending: See attached guest list

Senator Downey moved and Senator Huelskamp seconded a motion to approve the Minutes as written for the January 28, February 4, February 5, February 11, February 12, February 18 and February 19 Committee meetings. Motion carried.

Senator Tyson moved to amend SB 145 by striking the Agriculture Advisory Board's responsibility of recommending candidates for the Secretary of the Board of Agriculture. Senator Lee seconded the motion, and the motion carried.

Senator Lee moved to report SB 145 as amended favorably for passage. Senator Tyson seconded the motion, and the motion carried.

Senator Taddiken made a motion to amend SB 191 to apply a 10 cent cap on the differential on ethanol purchase the same as on biodiesel. Senator Huelskamp seconded the motion, and the motion carried.

Senator Umbarger moved to report SB 191 as amended favorably for passage. Senator Downey seconded the motion, and the motion carried.

Senator Taddiken moved that SCR 1604 be adopted. Senator Umbarger seconded the motion, and the motion passed.

Senator Schmidt moved to amend SCR 1606 on line 9 by striking the words, "legislature of the". Senator Umbarger seconded the motion, and the motion carried.

Senator Tyson moved that SCR 1606 as amended be adopted. Senator Umbarger seconded the motion, and the motion carried.

Senator Huelskamp reported on his work on **SB 131**, exclusion of livestock auction barns from confined feeding facility requirements. KDHE has some concern about how they are counting animals. After his study and work with Committee members, he suggested the bill be passed.

Senator Tyson moved to report SB 131 favorably for passage. Senator Umbarger seconded the motion. The motion passed with Senator Downey voting NO.

Senator Umbarger moved to amend SB 124 by striking the provisions of food services with Department of Education to the Department of Agriculture from the bill. Senator Downey seconded the motion, and the motion passed.

Senator Lee moved to send a letter to the Legislative Coordinating Council requesting that SB 124 as

CONTINUATION SHEET

MINUTES OF THE SENATE AGRICULTURE COMMITTEE at 8:30 a.m. on February 25, 2003 in Room 423-S of the Capitol.

amended be the subject of a major interim study on food safety. Senator Downey seconded the motion, and the motion passed

**SB 154**, membership of the Kansas animal health board was considered.

Don Teske, Kansas Farmers Union, testified in favor of **SB 154**. (Attachment 1) He provided information concerning surrounding states' commission boards.

Written testimony in support of **SB 154** was received from Mike Schultz, Executive Director of Kansas Cattlemen's Association. (Attachment 2)

Ben Hopper, Kansas Dairy Association, opposed **SB 154**. (Attachment 3)

Mike Beam, Kansas Livestock Association, opposed **SB 154**. (Attachment 4) He testified that KLA has been prudent in the past, and the nominating procedure should not be changed.

George Teagarden, Kansas Animal Health Department, said that by statute it is an advisory board, and they discuss and approve regulations. They have no actual power except over the retention of his position.

Senator Downey suggested the Board do a self-examination. After further Committee discussion, no action was taken on the bill.

The meeting adjourned at 9:30 a.m.

# SENATE AGRICULTURE COMMITTEE GUEST LIST

DATE: 2-25-03

NAME	REPRESENTING
Mike Beem	Ks. Livestock Assn.
Kevin Berone	Hem Law Firm
Mary Jane Stattelmaier	KGFA / KARA
Fodd Johnson	KLA
GEORGE TEAGARDEN	Ks Animal Health Dept
Paul Hoppel	Ks Dairy Assoc.
Janet McPherson	Ks Farm Bureau
DAVE MURPHY	FRIENDS OF THE KAW
TOM PALACE	PMCA OF KS.
Don Teske	Ks Farmers Union
Ken PETERSON	KS Petroleum Council
Carole Jordan	KDA
Deane Hume	KS Co-op Council
Don M. Reye	KCA

Senate Ag Committee Hearing on SB 154  
Increasing membership of Kansas animal health board

Donn Teske  
President, Kansas Farmers Union  
2-25-03

Hello, my name is Donn Teske and I currently serve as Kansas Farmers Union president. I would like to address the committee today in support of SB 154. I had no idea that the Kansas animal health board was totally selected by the Kansas Livestock Assn. until the foot and mouth scare of last summer. As I followed in the media what happened through that time I was shocked to learn of the relationship and expressed concerns about the credibility of a state agency controlled by one membership organization.

A quick search over the Internet of our neighboring states didn't show me a sister agency that was represented by a single membership organization. Nebraska and Missouri didn't explain the board appointment process, however Colorado and Texas did and I have included their info in the following pages as well as Kansas's guidelines. Both of them have representation on the board from all areas overseen by the agencies. Oklahoma's disease prevention board is under the department of ag and their brand inspection together with Texas appears to be totally separate from the state governments.

I have no idea how this agency and board evolved into the current status that it is, and I'm not saying that it isn't working fairly and effectively. I do say that I question why taxpayers dollars are paying for operations of an agency controlled by one private party. To me that casts a shadow over the Animal Health Department and hints of conflicts of interest. SB 154 does nothing more than spread the responsibility of the animal health board over a wide representation of the state of Kansas. This would be fair and I feel would give better credibility to the agency. I would think that you as the Kansas legislature, after last years mess, would want to see this change made to the structure of the board just to protect the integrity of the Kansas Animal Health Department the next time procedure is scrutinized by the public.

One other thing I noticed while browsing the neighboring states government structures is that Kansas is the only state where the animal health and disease control was a separate agency instead of under the Department of Agriculture of those states. Is there a reason that there is a separate agency? Is this something that could be streamlined to work within our board of ag in the future? I don't have an opinion on this, just questions.

Thank you for having a hearing on SB 154 and I thank the drafters of the bill for including Kansas Farmers Union as having board representation. I speak on behalf of KFU in support of SB 154.

*Senate Agriculture  
Attachment 1  
02-25-03*



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## Division of Brand Inspection

201 Livestock Exchange Building  
 4701 Marion St.  
 Denver, CO 80216  
 Telephone: (303) 294-0895  
 Fax: (303) 294-0918

*J. G. Shoun, Brand Commissioner*

The Brand Inspection Division has a long history in Colorado beginning around 1865 in what was then the Colorado Territory. Today, the division administers more than 37,000 livestock brands to identify ownership of cattle, sheep, mules, burros, horses, elk and fallow deer. Brand inspection is crucial to verify ownership in cases of strayed or stolen livestock, and animal health programs are strengthened by the ability to trace animals to their herd of origin.

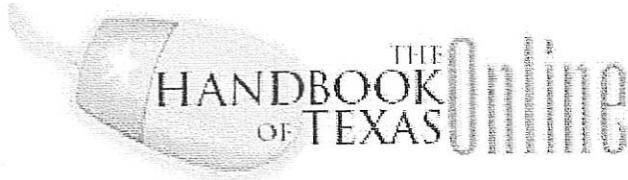
The division is administered by the State Board of Stock Inspection comprised of five members, appointed by the Governor, representing all segments of the industry. The members of the board are Mr. Dick Tanner of Yoder, Mr. Dean Davis of Lindon, Mr. Lee Spann of Gunnison, Ms. Linda Ingo of Ridgway, and Mr. Roger Hickert of Akron of Akron.

The division employs 65 brand inspectors located throughout the state, eight brand foremen, and nine administrative personnel, including Brand Commissioner J.G. Shoun. The annual budget for the division exceeds \$3 million and is completely funded by fees levied to livestock owners and brand registration fees levied every five years.

The division is assigned five principal regulatory responsibilities: to record and administer livestock brands; inspect livestock and verify ownership before sale, transportation beyond 75 miles, or slaughter; inspect and license packing plants, livestock sale rings, and inspect all consignments before sale to verify ownership; license and inspect alternative livestock (elk and fallow deer) facilities; and prevent and return strayed or stolen livestock and investigate reports of lost or stolen livestock.

In addition, brand inspectors collect beef and horse promotion and research funds. The division is also the trustee for all surety bonds issued to licensed markets and packinghouses doing business in Colorado.

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**TEXAS ANIMAL HEALTH COMMISSION.** The Texas Animal Health Commission was established in 1893 as the Livestock Sanitary Commission. In 1892 the United States Secretary of Agriculture placed a quarantine on parts of Texas because of tick fever (*see* TEXAS FEVER). The commission was to determine quarantine lines and make regulations to prevent the spread of any malignant, contagious disease. The Livestock Sanitary Commission had three paid commissioners and a two-year budget of \$20,000. Although initial work was on cattle, the commission was soon given authority to control and eradicate other livestock and poultry diseases. By the 1940s the tick eradication program had been so successful that only 1,200 square miles in eight counties along the Mexican border were quarantined. This area was still under quarantine in 1993. In 1955 the commission was increased to six members, none of whom were employees and who were paid only a per diem and expenses. One member was required to be a veterinarian and the others representatives of specific livestock or poultry industries. The name of the commission was changed in 1959 to the Texas Animal Health Commission. In 1973 the number of commissioners was increased to nine and in 1983 to twelve. The twelve members included nine each from specific livestock industries and three from the general public, but one member had to be a veterinarian. The commission has the responsibility of inspection of livestock, their premises, and livestock products and market and regulation of exhibitions and livestock movement. In 1992 the commission had a staff of 270 veterinarians, animal health inspectors, laboratory specialists, and office staff, assisted by 2,000 private veterinarians who are accredited by the commission to do regulatory work. The agency has developed programs against infectious diseases such as foot and mouth disease and the screwworm. In 1993 a major program was in progress to eradicate brucellosis in cattle. The 1992 and 1993 appropriations for the Texas Animal Health Commission were for \$11,508,435 each year. The United States Department of Agriculture cooperates with local work and employs additional veterinarians and inspectors in the twelve regional areas of the commission.

*John G. Johnson*

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## Who We Are

- Agency Mission
- Dept. Philosophy
- Action Plan
- Administration
- Brand Recording and Field Operations
- Animal Facilities Inspection Division

The Kansas Animal Health Department was created on July 1, 1969 and is directed by the Livestock Commissioner. This department consolidated all of the activities of the former departments known as the Livestock Sanitary Commission and the State Brand Commission.

The Kansas Animal Health Board was created to serve as an advisory and policy making board to the Livestock Commissioner. The board consists of seven members (six members are appointed by the governor and the seventh member is the current president of the Kansas Livestock Association). The board of directors of the Kansas Livestock Association submits three names for each appointive position to the governor. Recommendations are obtained from livestock organizations within the state and represent various segments of the livestock industry. The Livestock Commissioner is appointed by and serves at the pleasure of the board.

Powers and duties of the livestock commissioner are set forth in Chapter 47, Articles 1, 2, 4, 6, 9, 10, 11, 12, 13, 15, 17, 18, 19, 21, and 22 as well as K.S.A. 75-3142. K.S.A. 47-610 states, "It shall be the duty of the livestock commissioner to protect the health of domestic animals of the state from all contagious or infectious disease and for this purpose, he is hereby authorized and empowered to establish, maintain and enforce such quarantine, sanitary and other regulations as he may deem necessary."

Legislation enacted in 1973 (Article 17 -- Animal Dealers -- K.S.A. 47-1701 through 47-1718) provided for licensing and inspection of all pet shops, and required the pounds and shelters of first class cities to be registered and inspected by the Kansas Animal Health Department.

Legislation enacted in 1988 expanded the earlier regulatory authority to include the task of inspecting and licensing the facilities of animal dealers (breeders and brokers of dogs and cats), pet shop operators (retailers of animals), pounds and shelters of first class cities, and private research facilities. The legislation also created a registration category for persons raising and selling three, four or five litters of dogs or cats annually, known as hobby kennel operators. This category was inspected only upon complaint giving reasonable grounds to believe a violation has been committed.

The 1991 legislature amended the fee structure to double license fees to \$300 without a USDA license and \$150 with a current USDA license and tripled registration fees to \$75. It also broadened the program authority to license all animals pounds and shelters in the state and to register all boarding kennels in Kansas with the exception of those operated by a licensed veterinarian.

The 1995 legislature amended the animal dealer act to include a definition of "no-kill shelter" under the pound and shelter laws. No-kill shelter is defined as any premises where 20 or more dogs or cats, or both, are housed. No-kill shelters do not ascribe to the euthanasia of unwanted animals. No-kill shelters must meet the same requirements as animal pounds and shelters and are inspected twice a year. The license fee is set by rules and regulations at \$200.

The 1996 legislature renamed the Act. As of July 1, 1996, it is the Kansas Pet Animal Act, rather than the Kansas Animal Dealer Act. Most of the changes to the Act were technical in nature. Terminology changed, and licensee categories were more clearly defined. The "no-kill shelter" provision enacted in 1995 was

Senate Agriculture Committee  
Testimony of  
Mike Schultz  
Executive Director  
Kansas Cattlemen's Association  
February 24, 2003  
Senate Bill # 154

Mr. Chairman and members of the committee,

My name is Mike Schultz. I am from Brewster, Kansas. I am actively involved in every aspect of the farming and cattle industry in that my own operation is a farm and ranch, including a 150 cow/calf operation (with exception to the current drought sell-off). I am a very diversified business owner with a licensed commercial and residential plumbing business, rural trash service and I am a full time City Superintendent.

Today I come before you as the Kansas Cattlemen's Association (KCA) Executive Director. I am representing about **1500 independently paid members** in our grassroots producer organization. We are the fastest growing cattle organization in Kansas. Last year alone we saw a 65% growth in new membership. We have gained respect from producers because we work for producers. We also now have several feedyards and independent feedyard managers working with us in a Support Program. The number of cattle we represent would be a number of significant proportions to other organizations across the U.S.

We are very supportive to the proposed changes in the State Animal Health Board committee membership. We do have members who have agreed to serve on this committee. We currently have members working on the National Identification program and very concerned about the continued health and safety of the Kansas livestock industry. Our organization has shown the commitment and dedication to the cattle industry and producers.

With Senate Bill #154 we do want to encourage change and the legality of the way members in the past have been selected. In a similar decision involving the State Board of Agriculture back in 1993 a ruling came down from U.S. Judge John Lungstrum in that he ruled it was unconstitutional and that the method was flawed because it excluded many Kansans, in violation of the U.S. Supreme Court's "one person, one vote" doctrine.

We fully support allowing more producer organizations to be represented by having the option of having a member on the State Animal Health Board. The way the bill is to be changed is that members so appointed shall represent the major species or phases of the livestock industry. Members in the Kansas Cattlemen's Association do hold a big stake in the livestock industry and have great concerns about the way issues were handled in the past in relation to the Holton, Kansas Foot and Mouth Disease

*Senate Agriculture  
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rumor. Just this one rumor alone cost cattlemen millions with a media leak when details were not confirmed.

We are excited to have the chance to work with every organization to make things better for everyone. We hope that you will join with us and give your support for Senate Bill # 154. I now stand for questions.

Respectfully submitted,

Mike Schultz  
Executive Director  
Kansas Cattlemen's Association

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# Kansas Dairy Association

*Providing a unified voice for Kansas dairy farmers*

STATEMENT OF THE KANSAS DAIRY ASSOCIATION

TO THE SENATE AGRICULTURE COMMITTEE

SENATOR DEREK SCHMIDT, CHAIR

REGARDING S.B. 154

FEBRUARY 25, 2003

Chairman Schmidt and Members of the Senate Agricultural Committee. My name is Ben Hopper and I am the Director of Communications and Member Services for the Kansas Dairy Association. The Kansas Dairy Association opposes S.B. 154.

Though Americans don't consider Kansas as one of the top dairy producing states, it is a significant and growing part of the Kansas and national agricultural economy. Dairymen in this State are working to have a greater presence in U.S. dairy products production. When it comes to milk production, Kansas ranks 20th in the nation. We were 25th just three years ago. Kansas is experiencing a huge growth in the dairy industry.

The Kansas Dairy Association represents more than 550 dairy producers across the State. Of all the producers in Kansas, 99.5 percent are members of the Kansas Dairy Association. Even though the number of producers has decreased significantly in the past few years, the amount of milk being produced within our borders has increased

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substantially. In 2002, Kansas recorded the largest annual percentage gains compared to 2001 than any other state, with milk production increasing 24.8 percent. More than 1.6 billion pounds of milk are produced annually in Kansas.

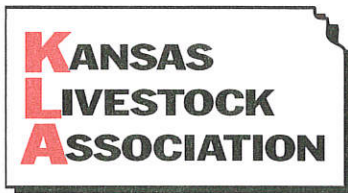
In 2000, the number of dairy cows in Kansas was roughly 88,000. This year, the Animal Health Department estimates that the number of dairy cows in Kansas is approximately 96,000. There are 20 dairy operations that are licensed by the Department because they milk more than 1,000 head. The Kansas dairy industry is strong and will only continue to grow in the number of cows and in the amount of milk produced in the future.

The Kansas dairy industry has a strong presence in Kansas. Our dairy producers deserve more than just one and a half names to submit to the Governor as candidates for the Animal Health Advisory Board. We do support having several aspects of the agricultural industry and associations dealing with animal health and production involved in selecting qualified members of the Animal Health Advisory Board, but why slight the Kansas Dairy Association and the Kansas Pork Producers Association? Both are strong industries within the State. Both have an abundant membership and qualified producers to serve on the Board. It would be unfortunate for animal health issues in Kansas if the Board didn't consist of a membership selected by fair and representative means. Dairy producers deserve that voice.

The Kansas Dairy Association respectfully requests that you amend S.B. 154 to put our association on an equal footing with the other organizations listed in the bill or that you not recommend it for passage. Thank you for your time and attention and I will answer any questions.

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*Since 1894*

## TESTIMONY

To: The Senate Agriculture Committee  
Senator Derek Schmidt, Chairperson

From: Mike Beam, Sr. Vice President

Date: February 25, 2003

Subject: **SB No. 154** - Amending the statutes for Animal Health Board appointments.

*The Kansas Livestock Association (KLA), formed in 1894, is a trade association representing over 6,000 members on legislative and regulatory issues. KLA members are involved in many aspects of livestock production, including cow-calf/stocker enterprises, cattle feeding, seed stock production and diversified farming operations.*

*Kansas ranked third nationally with 6.6 million cattle on ranches and in feed yards as of January 1, 2002. The state's beef industry consumes 72% of the corn, 16% of the soybeans, and 60% of the hay grown in Kansas. Cattle sales typically generate nearly two-thirds of all annual agricultural receipts.*

The Kansas Livestock Association (KLA) sincerely appreciates the opportunity to voice our concerns with this legislation. Perhaps the best way to express our opposition to the bill is to provide a brief history of the relationship between the Kansas Animal Health Department and the Kansas Livestock Association.

During KLA's centennial year, in 1994, a history book written by Jim Hoy of Emporia was published to capture the highlights of the Kansas beef cattle industry since the early 1900's. This book, titled the Riding Point, claims the young KLA faced a crisis in 1915 when a foot-and-mouth out-break surfaced in Sedgwick County. The KLA Executive Committee voted to turn over to the State Livestock Sanitary Commissioner the use of the association's Wichita office and the services of Joseph Mercer, KLA's executive secretary. Soon after this move, KLA representatives successfully lobbied the legislature for a quarter of a million dollars to indemnify farmers and ranchers whose herds were depopulated.

Apparently this cooperation and commitment by Mercer and KLA impressed Governor Capper because he appointed Mercer as the Livestock Sanitary Commissioner. The author of the Riding Point stated Governor Capper realized "the industry, out of its own manifest self interest, would itself maintain strict vigilance over matters of livestock health".

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Consequently, beginning in 1919, this relationship was solidified by legislative action. Starting with Mercer, the KLA executive secretary often shared duties as the Livestock Sanitary Commissioner until 1966 when newly elected Governor Robert Docking refused to reappoint A.G. Pickett because Governor Docking found Commissioner Pickett too visible in his support of incumbent Governor William Avery.

Since that time the Livestock Commissioner and the Kansas Animal Health Board has virtually maintained a low key, but responsible approach to regulating the health matters of the states livestock industry. I personally have observed the deliberations and actions of this Board for over twenty years and found them to be very knowledgeable about the industry and dedicated to guiding the agency in a manner that is responsive, pragmatic, and highly regarded by Kansas livestock producers and animal health officials from other states.

Please note I've attached a current list of the Animal Health Board members. You'll see they represent a good cross section of the state's animal industry. While there is no statutory requirement as to what segments are to be represented it has been a long time practice to nominate a representative of the veterinarian community, the livestock markets, swine producers, beef cattle producers, and the dairy industry.

I'll close by saying the Kansas Livestock Association Board of Directors takes its historic role of nominating individuals for the Animal Health Board seriously. We believe it is appropriate for the association to make these nominations and respectfully ask you to not move this bill forward. If this committee has any concerns regarding past nominations submitted by the KLA Board I'd be most willing to receive your suggestions or comments.

Thank you.

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### 2003 Kansas Animal Health Board

<b>Position</b>	<b>Position Title</b>	<b>Board Member</b>	<b>Address</b>	<b>Term Expiration</b>
Position #1	Veterinarian	Vincent Traffas	Rural Route 1, Box 29 Smith Center, KS 66967-9704	July 1, 2003
Position #2	Dairy Industry	Michael Currie	3548 South Gypsum Valley Gypsum, KS 67448-9406	July 1, 2004
Position #3	Beef Industry	Terry Handke	Handke Farms, Inc. 16725 U.S. Hwy. 159 Muscotah, KS 66058-3017	July 1, 2003
Position #4	Beef Industry	Andrew Murphy	Great Bend Feeding, Inc. 355 N.W. 30 Ave. Great Bend, KS 67530-8554	July 1, 2005
Position #5	Swine Industry	Leon Dunn	Sandy Knoll Farm Rural Route 3, Box 113 Saint John, KS 67576-8020	July 1, 2004
Position #6	Auction Markets	Dennis Rezac	Rezac Land & Cattle P.O. Box 142 Saint Marys, KS 66536-0142	July 1, 2005
Position #7	KLA President	Larry Jones	J O Cattle Company P.O. Box 7 Holcomb, KS 67851-0007	Yearly

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K-1

**Research of Kansas Regulatory Boards**  
**By Mike Beam (KLA)**  
**February 2003**

<b>Board</b>	<b>Members</b>	<b>Appointed By</b>	<b>Nominations By</b>	<b>Executive</b>	<b>Appointment By</b>	<b>Statute</b>
Board of Accountancy	7	Governor		Secretary	Board	1-201
State Banking Board	9	Governor		State Bank Commissioner	Governor	
Behavioral Sciences Regulatory Board	11	Governor		Executive Director	Board	74-7501
Board of Healing Arts	15	Governor		President & Vice President	Board	65-2812
Board of Examiners in Optometry	5	Governor	Kansas Optometric Association	Secretary/Treasurer	Board	74-1501
Board of Pharmacy	6	Governor	Kansas Pharmacy Association	Executive Secretary	Board	74-1604
Board of Cosmetology	7	Governor		Executive Director	Governor	74-2701
Kansas Dental Board	9	Governor	Kansas Dental Association	Secretary/Treasurer	Board	74-1404
Real Estate Commission	5	Governor		Director	Commission	74-4201
State Board of Technical Professions	13	Governor		Executive Director and Assistant	Board	74-7004
Board of Nursing	11	Governor	Kansas Nurses Association Kansas Federation of Licensed Practical Nurses Kansas Association of Human Services Technologies	Executive Administrator	Board	74-1106
Board of Mortuary Arts	5	Governor		Secretary	Board	74-1701