

MINUTES OF THE SENATE AGRICULTURE COMMITTEE.

The meeting was called to order by Chairperson Derek Schmidt at 8:30 a.m. on May 1, 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:   Adrian Polansky, Secretary of Agriculture

Others attending:   See attached list

Chairman Schmidt opened the confirmation hearing for Adrian Polansky's appointment by the Governor as Secretary of the State Department of Agriculture. Committee members were furnished with copies of information regarding the confirmation.

Adrain Polansky presented remarks to the Committee. (Attachment 1) In response to Chairman Schmidt's request, he also provided Opinion No. 2003-06 from the Governmental Ethics Commission regarding regulations concerning his ownership in Polansky Seed Company and recusal from regulatory functions relating to that company, and the procedures that are set in place for such. (Attachment 2)

Committee members asked questions and made comments on the Department of Agriculture and how Secretary Polansky would be involved. Members concurred that he had an excellent agriculture background for this job.

A written statement from Chris Wilson, Kansas Seed Industry Association, Agricultural Aviation Association, Building Industry Association & Dairy Association, was received in support of Polansky's confirmation. (Attachment 3)

Senator Huelskamp moved to recommend the confirmation of Adrian Polansky as Secretary of the Kansas Department of Agriculture. Senator Umbarger seconded the motion, and the motion passed with no opposition.

The meeting adjourned at 9:30 a.m.





# KANSAS

DEPARTMENT OF AGRICULTURE  
ADRIAN J. POLANSKY, SECRETARY

KATHLEEN SEBELIUS, GOVERNOR

## Senate Agriculture Committee

May 1, 2003

### Confirmation Statement Adrian J. Polansky, Secretary of Agriculture

Good morning, Chairman Schmidt and members of the committee. Thank you for allowing me to make a few brief remarks this morning.

Let me begin by saying that I believe the balance and diversity of my past experiences prepare me to meet the leadership challenges facing agriculture. I understand the issues at all levels, and I am capable of building a consensus to develop and implement solutions for industry concerns.

I grew up on a Republic County farm, graduated from K-State with a degree in agronomy and launched a successful agribusiness. My lifetime involvement in farming and agribusiness give me the practical, hands-on experience I need to understand the concerns of Kansas agriculture. Those experiences are rounded out by leadership skills I gained at the local, state, national and international levels.

I served as state executive director of the Kansas State Farm Service Agency for eight years. While there, I supervised 104 county offices with 589 full-time employees. I managed a \$39 million operating budget and annually directed the delivery of \$1.25 billion through a wide variety of programs.

I don't underestimate the challenges we face during this important time for a growing and changing Kansas agriculture. I look forward to meeting those challenges by serving as secretary.

I will take a broad and open view of the varied segments of our industry and rural communities, and I will seek new opportunities and partnerships for their benefit. Successful partnerships include many diverse interests and areas of expertise, and I am committed to identifying enthusiastic participants.

This does not mean we can ignore efficient, effective regulatory programs in the Department of Agriculture. If we do not have consumer confidence and reliable consumer protection, we will never have a successful agricultural industry.

*Senate Agriculture  
May 1, 2003  
Attachment 1*

109 SW 9TH ST., TOPEKA, KS 66612-2180

Voice (785) 296-3556

Fax (785) 296-8389

<http://www.accesskansas.org/kda>

Another priority for me is homeland defense. It is a natural direction for this department, since we have always been vigilant and alert to threats to our land, crops and livestock. In Kansas, homeland defense means a safe, reliable food supply and a healthy agriculture.

Economic development is absolutely necessary for rural Kansas. My department and I will be active members of the state's economic development team. Together we will be alert to every opportunity and partnership that can add value to our products and to our communities.

This administration is committed to fostering greater cooperation between the departments of agriculture and commerce. To that end, I have assigned one of my personal staff to meet weekly with agricultural marketing staff from the Department of Commerce.

I was a member of U.S. Wheat Associates for seven years and served a term as their chairman. That gives me a solid background in, interest in and understanding of how to market our agricultural products in an international arena. It also gives me an understanding of international concerns and the expectations of our export customers.

Many entities have a stake in rural development. I believe it is important for all stakeholders – state, federal and private – to work together in creative and serious ways to enrich our farms and our rural communities. Coalitions and cooperation are necessary to improve rural life. And a healthier rural Kansas means a healthier Kansas. That's the bottom line.

All of us must be advocates for agriculture, and it will require bipartisan cooperation and effort. In the mid-1980s, while serving as chairman of the Agriculture Council of America, I helped put together a National Agriculture Forum with then-Representative Pat Roberts and Representative Charlie Stenholm. It took cooperation from both sides of the aisle to make that a successful effort. I will seek similar opportunities for cooperation during my term for the benefit of Kansas agriculture.

The challenges are there – depopulation, income and employment losses, resource and environmental concerns, and always, the weather. But with coalitions and cooperation, and through partnerships with interested Kansans, I know we can meet those challenges.

The hurdles before us make the secretary of agriculture's involvement and advocacy essential. I will call upon my experiences from Republic County to Washington, D.C., to make a positive impact on Kansas agriculture. I will monitor USDA programs, and I will call on contacts I have made during my career, to ensure friendly, practical and workable rules and regulations for Kansas agriculture. This will translate to efficient, effective leadership for Kansas.

I look forward to working with each of you, and I appreciate your support of my confirmation as secretary of the Kansas Department of Agriculture.

Thank you.



**GOVERNMENTAL ETHICS COMMISSION**

March 20, 2003

Opinion No. 2003-06

Adrian J. Polansky  
Secretary of Agriculture  
109 SW 9<sup>th</sup> Street  
Topeka, Kansas 66612-1280

Dear Mr. Polansky:

This opinion is in response to your letter of February 24, 2003, in which you request an advisory opinion from the Kansas Governmental Ethics Commission concerning the application of the governmental ethics laws (K.S.A. 46-215 *et seq.*). We note at the outset that the Commission's jurisdiction is limited to the application of K.S.A. 46-215 *et seq.*, and whether some other statutory system, common law theory or agency rule or regulation applies to your inquiry is not covered by this opinion.

**FACTUAL STATEMENT:**

We understand you request this opinion in your capacity as the Secretary of Agriculture. You have explained that you own Polansky Seed Company and that your agency is responsible for some regulations regarding seed companies. You have made arrangements to recuse yourself from all regulatory functions relating to Polansky Seed Company.

**QUESTION:**

May the Kansas Secretary of Agriculture continue to own a company regulated by his agency?

Senate Agriculture  
May 1, 2003  
Attachment 2

**OPINION:**

Several sections of the state conflict of interest laws must be reviewed to answer your question: K.S.A. 46-286, which involves participation in licensure or regulation of a business in which the state employee holds a position, K.S.A. 46-233, which involves participation in the making of contracts, and K.S.A. 46-241, involving the use of confidential information. Each will be addressed in turn.

K.S.A. 46-286 states in pertinent part:

(a) No state officer or employee, in the officer's or employee's official capacity, shall participate directly in the licensure, inspection or administration or enforcement of any regulation of or in any contract with any outside organization with which the officer or employee holds a position.

You have stated that you will not be directly involved in the licensure, inspection or administration or enforcement of any regulation involving the seed company, and, therefore, you will not be in violation of this statute.

K.S.A. 46-233 states in pertinent part:

“(a) No state officer or employee shall in the capacity as such officer or employee be substantially involved in the preparation of or participate in the making of a contract with any person or business by which such officer or employee is employed or in whose business such officer or employee or any member of such officer's or employee's immediate family has a substantial interest. . . .

“(d) Subsections (a) and (b) shall not apply to the following:

“(1) Contracts let after competitive bidding has been advertised for by published notice . . . .”

Pursuant to this statute, you would be prohibited, as a state employee, from being substantially involved in the preparation of or from participating in the making of a negotiated contract with the seed company.

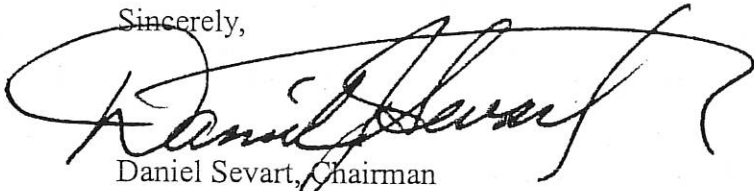
Finally, K.S.A. 46-241 should be considered. It states:

“No state officer or employee shall disclose or use confidential information acquired in the course of his or her official duties in order to further his or her own economic interest or those of any other person.”

2-2

Therefore, as long as you, in your official capacity, do not participate in the regulation of or the making of a contract with the seed company, or misuse confidential information, you will not be violating the conflict of interest laws.

Sincerely,

A large, stylized handwritten signature in black ink, appearing to read "Daniel Severt". The signature is written in a cursive style with a large initial "D" and "S".

Daniel Severt, Chairman  
By Direction of the Commission

DS:VMG:dlw

Procedures regarding Polansky Seed Farms  
April 30, 2003

Pursuant to the applicable state law and the opinion # 2003-06 by the Governmental Ethics Commission on March 20, 2003, the following procedural safeguards will be followed by the Kansas Department of Agriculture to assure that no ethical conflict results regarding the operation of Polansky Seed Farms.

In regard to K.S.A. 46-286, Adrian Polansky as secretary will not participate directly in the licensure, inspection, administration or enforcement actions by the Kansas Department of Agriculture related to the operation of Polansky Seed as a regulated seed establishment. The license issued to Polansky Farms will bear the signature of the Secretary; however, any review, determination or decision related to the issuance of the license will be conducted by a three-person panel consisting of Assistant Secretary Greg Foley, Chief Legal Counsel Dan Riley and Agriculture Commodities Assurance Program Manager Constantine Cotsoradis. Written documentation of all administrative activity will be maintained and made available for immediate review at any time. If a hearing is requested or required for any matter related to compliance with the applicable statutes and regulations, the hearing will be conducted by an independent hearing officer from the Office of Judicial Administration.

In regard to K.S.A. 46-233, the Department of Agriculture currently does not and has not entered into contracts with any of the seed dealers licensed in Kansas for any purpose. Should the situation develop where any such contract be considered **with any** licensed seed dealer, the preparation, negotiation and making of the contract shall not include the Secretary and shall be conducted by the above named panel of three.

In regard to K.S.A. 46-241, any confidential information will be maintained as such and any information that has the potential of creating a conflict or the appearance of a conflict will be likewise be dealt with by the panel appointed for the purpose.



STATEMENT OF KANSAS SEED INDUSTRY ASSOCIATION  
KANSAS AGRICULTURAL AVIATION ASSOCIATION  
KANSAS BUILDING INDUSTRY ASSOCIATION  
KANSAS DAIRY ASSOCIATION

TO THE SENATE AGRICULTURE COMMITTEE

IN SUPPORT OF THE NOMINATION OF ADRIAN J. POLANSKY  
TO BE SECRETARY OF AGRICULTURE

MAY 1, 2003

Mr. Chairman and Members of the Committee, I am Chris Wilson, and on behalf of the associations listed above, I am pleased to be here today to recommend the nomination of Adrian Polansky to serve as Secretary of the Kansas Department of Agriculture. Mr. Polansky's background in agriculture, business and government have provided a tremendous preparation for one to serve in this capacity. His education, expertise and experience, we believe are ideally suited for this position.

His experience as an agricultural producer, agricultural leader and USDA official have given him an outstanding knowledge of the industry his agency regulates and serves. His background as a businessman and agency administrator have prepared him for leading the Department of Agriculture and its employees. His leadership on a national level has prepared and enabled him to hit the ground running, with a strong vision for leading the agency and being a spokesperson for Kansas agriculture.

Our associations are excited about Mr. Polansky's nomination and about his vision for the job and the Department. We commend the Governor on her appointment and are proud to enthusiastically recommend to you the confirmation of Adrian Polansky to serve as Kansas Secretary of Agriculture.

Senate Agriculture  
May 1, 2003  
Attachment 3