

MINUTES OF THE HOUSE AGRICULTURE COMMITTEE

The meeting was called to order by Chairman Dan Johnson at 3:30 p.m. on January 14, 2004, in Room 423-S of the Capitol.

All members were present.

Committee staff present:

Alan Conroy, Legislative Research Department  
Gordon Self, Revisor of Statutes Office  
Kay Scarlett, Committee Secretary

Conferees appearing before the committee:

Adrian Polansky, Secretary, Kansas Department of Agriculture  
George Teagarden, Livestock Commissioner, Kansas Animal Health Department  
Jack Lindquist, Kansas Agriculture and Rural Leadership, Inc.

Others attending:

See attached list.

Chairman Johnson welcomed everyone to the first meeting of the House Agriculture Committee of the 2004 Legislative Session. Committee rules, as well as rules for conferees appearing before the committee, were distributed.

Doug Wareham, Kansas Agribusiness Retailers Association, discussed the 2004 Agricultural Biotechnology Education Tour for the Agriculture and Environment Committees and other agriculture leaders on January 15 and 16. They will visit the Bayer CropScience Research Facility in Kansas City and the Danforth Plant Science Center and Monsanto World Headquarters in St. Louis. The tour will be hosted by the Kansas Corn Growers Association and Kansas Agribusiness Retailers Association and supported through a grant from the Council for Biotechnology Information.

Leslie Kaufman, Government Relations Director, Kansas Cooperative Council, requested introduction of a committee bill concerning removal of officers of agricultural marketing association by board of directors. Representative Thimesch, seconded by Representative Powell, moved to introduce this request as a committee bill. The motion carried.

Adrian Polansky, Secretary, Kansas Department of Agriculture, presented the department's annual report and discussed recent events in Kansas agriculture and accomplishments of the Kansas Department of Agriculture. He provided an update on the nation's first case of Bovine Spongiform Encephalopathy (BSE) discussing the department's detection and prevention efforts to avoid an occurrence in Kansas. The department will be requesting legislation necessary to adopt new protective standards against BSE; a bill to remove sunset dates from fee funds in five of their programs; statutory changes that will be necessary to strengthen and increase the efficiency of the state's food safety regulatory efforts; and issues dealing with grain warehouse bonding and sericea lespedeza. (Attachment 1)

Secretary Polansky reported that today Governor Sebelius announced an Executive Reorganization Order which will transfer several program responsibilities from the Kansas Department of Health and Environment to the Kansas Department of Agriculture. The Kansas Department of Agriculture will be the key authority for safety as food is produced, processed, and transported to consumers. He said this shift in duties would complement their existing authority for dairy, meat, and egg compliance. The specific types of establishments that will transfer to the Department of Agriculture include retail grocery stores, food service in retail grocery stores, mobile ice cream vendors, vending machines, convenience stores, retail meat stores and meat processors, specialty shops, variety stores, food wholesalers and warehouses, food manufacturers, bakeries, mills and elevators, bottling plants, wineries, breweries, food re-packers, bottled water businesses, pet food manufacturers, food salvagers, ice plants, cider mills, seed sprouting businesses, and fruit and vegetable markets. KDHE will continue to regulate businesses that prepare food for immediate consumption. (Attachment 2)

CONTINUATION SHEET

MINUTES OF THE HOUSE AGRICULTURE COMMITTEE at 3:30 p.m. on January 14, 2004, in Room 423-S of the Capitol.

Distributed were copies of two letters from Swift & Company to producers and all live animal suppliers notifying them that to ensure compliance with new USDA regulations, effective January 12, any cattle they slaughter over 30 months of age will be discounted 15 cents per pound regardless of their grade. (Attachment 3)

George Teagarden, Livestock Commissioner, Kansas Animal Health Department, discussed issues surrounding the discovery of Bovine Spongiform Encephalopathy in the state of Washington. He provided a time line of events in regard to BSE in the United States since December 23, 2003, and the regulations that have been in effect in the United States since 1989. Regulation changes Secretary Veneman, USDA, announced December 30, 2003, were outlined and discussed. (Attachment 4)

Commissioner Teagarden requested introduction of a committee bill to authorize the livestock commissioner to develop and implement a program, consistent with the provisions of any federal identification program, of data collection, animal identification, and premise registration for the purpose of preventing, tracking, and eradicating infectious or contagious diseases in Kansas livestock, to be called the Kansas Animal Identification Program. (Attachment 5) Representative Feuerborn, seconded by Representative Schwartz, moved to introduce this proposal as a committee bill. The motion carried.

Jack Lindquist, Kansas Agriculture and Rural Leadership, Inc., provided an overview of the KARL program, a private, not-for-profit organization dedicated to identifying and developing leadership for agriculture and rural communities in order to enhance the quality of life for all Kansans. He explained that it is a two-year educational experience offering intensive study, training, and travel for future leaders of Kansas. (Attachment 6)

Derenda Mitchell, Assistant Counsel, Kansas Livestock Association, requested introduction of a committee bill concerning the liability of livestock and meat food product producers in product liability actions. (Attachment 7) Representative Powell, seconded by Representative Dahl, moved to introduce this proposal as a committee bill. Motion carried.

Chris Tymeson, Legal Counsel, Kansas Department of Wildlife & Parks, requested introduction of a committee bill relating to the Interstate Wildlife Violators Compact; game warden dog protection; and values for illegal commercialization of fish and mussels. Representative Larkin, seconded by Representative Thimesch, moved to introduce this request as a committee bill. The motion carried.

Chairman Johnson on behalf of Representative Tom Sloan requested introduction of a committee bill concerning preservation of historical property to require consideration of established agricultural use of land. Representative Light, seconded by Representative Powell, moved to introduce this proposal as a committee bill. The motion carried.

The meeting adjourned at 4:55 p.m. The next meeting is scheduled for January 21, 2004.

# HOUSE AGRICULTURE COMMITTEE GUEST LIST

DATE: January 14, 2004

NAME	REPRESENTING
Kent Miller	Farmway Co-op - Beloit
Allen E. Best	Farmway Coop - Beloit
George Teagarden	KAHD
Adrian Polansky	KDA
GREG FOLEY	KDA
JACK LINDQUIST	KARL Program
Tim Burr	KANSAS COOP <sup>ST. FRANCIS</sup> Council
Jared Halster	Rep. Johnson
Chris Tymeson	KDWP
<b>BRAD HARRELSON</b>	<b>KFB</b>
Melanie Lawrence	Kansas Highway Patrol
Carole Jordan	KDA
Lodd Johnson	KLA
Clayton Neumann	KLA
LeAnn Schmitt	KDWP
Bob E. Field	Farmway Coop - Beloit
Mike Jordan	Farmway Coop - Beloit
Megan Dunn	Hein Law Firm
Jessie Phelps	Liberty 19 <sup>th</sup>

# HOUSE AGRICULTURE COMMITTEE GUEST LIST

DATE: January 14, 2004

NAME	REPRESENTING
Leslie Kaufman	Coop Council
Steve Magette	FGS - Greensburg
Eric King	Kansas Federation of Animal Owners
Kirk Kumbel	Valley Coop, Inc Winfield
Larry Heim	CGS Hillsboro Kansas
Jim Enns	CGS Hillsboro Ks
Lyman Adams Jr	CGS Hillsboro
Zolt K. Sudeira	CGS HILLSBORO
Donna Tisher	96a Farmer Union
Ric Anderson	Topeka Cap-Bound
Deane Turner	KS Coop Council
Ron Seibel	Hein Law Firm
Clifford Alexander	Cropland Coop Ulysses, Ks
Pam Olin	Cropland Coop Ulysses Ks



# KANSAS

DEPARTMENT OF AGRICULTURE  
ADRIAN J. POLANSKY, SECRETARY

KATHLEEN SEBELIUS, GOVERNOR

## **Presentation to the House Agriculture Committee**

**January 14, 2004**

### **The State of Kansas Agriculture**

#### **Secretary of Agriculture Adrian Polansky**

Good afternoon, Chairman Johnson and members of the committee. I am pleased to be speaking with you today at the beginning of the 2004 legislative session. This afternoon I'll be talking about recent events in Kansas agriculture and the Department of Agriculture, and about some challenges I see for us all in the future.

#### **The Past Year**

When I was appointed less than a year ago, I came before you to describe my vision for the department, Kansas agriculture and rural Kansas. Our work since then has been aimed to meet that vision.

First and foremost, in my opinion, was a need for a broad view of the varied segments of the agricultural industry and rural communities. I promised to seek a variety of opportunities and partnerships for their benefit. At the same time, I assured you I would maintain efficient and effective regulatory department programs to ensure consumer confidence and protection. I believe both are essential to a successful agriculture.

I also described my commitment to economic development, which benefits agriculture and rural Kansas. I believe a healthier rural Kansas translates to a healthier Kansas, and that has been my guiding principle since taking office.

#### **The Kansas Beef Industry and One Case of BSE**

Less than a month ago, USDA found the nation's first case of BSE in a single dairy cow in Washington state. This finding shook consumer confidence, brought an immediate drop in cattle prices, and challenged the nation's animal health network. It has had real and immediate impacts on Kansas, one of the nation's top beef-producing states.

Almost immediately after the BSE finding was announced, most of our major trading partners halted imports of U.S. beef. During 2002, nine percent of our beef sales went to export

House Agriculture Committee  
January 14, 2004  
Attachment 1

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markets. This causes an increase in the domestic supply, which likely will decrease domestic prices by 15 percent or more, even if the American consumer's confidence in the safety of beef remains high.

For the Kansas economy, ranch and city alike, this is bad news. A Creighton University economist recently estimated that the ban on beef imports to Asia will lower the Kansas 2004 job growth rate by 1.3 percent. The economist calculated the potential impact of a yearlong Asian export ban, and concluded that Kansas would be the second hardest-hit state, just behind Nebraska. Nearly 14,000 Kansans are employed in the meat processing industry. Some processing plants are now running at reduced hours. Others are laying off employees, including 700 employees laid off from five Excel plants over this past weekend. The pet food industry also is feeling the pinch.

Governor Kathleen Sebelius recognizes the importance of our beef industry. She took proactive steps immediately to bolster consumer confidence. She initiated a conference call meeting with her fellow governors from the top beef producing states to discuss the BSE issue. The result was a concerted effort across 11 states to educate consumers about the disease and the firewalls in place to prevent its spread. She also has reminded Kansans that beef is a staple in the Sebelius home, as it is in mine.

To protect consumers and the economics of our state, we must continue to do everything possible to avoid an occurrence in Kansas. It also is important for all consumers to know what is being done to provide safe and wholesome food. The good news is that government is and has been working to protect consumers, producers and cattle from this and other animal health and food safety threats.

Systems to detect and protect from any effects of this disease have been in place for more than a decade. USDA discovered the December BSE case in Washington state as part of a surveillance program ongoing since 1990, targeting animals showing signs of neurological disorders, or having difficulty walking. When BSE was first discovered in Europe in the 1980s, the United States took proactive steps to keep it from becoming established here.

The Kansas Department of Agriculture plays an integral part in protection and detection efforts. Our meat and poultry inspection program protects consumers by ensuring that only wholesome animal products are processed and allowed to enter the food supply. We test animals which show signs of the disorder, and we hold the product until negative test results are known.

Our agricultural commodities assurance program protects animals and plants by ensuring that the inputs to agriculture are safe and of high quality. BSE is believed to be transmitted to cattle through feed containing protein from an infected animal. When this was learned, the U.S. Food and Drug Administration adopted regulations to prohibit feeding most mammalian proteins to ruminants and to establish good manufacturing practices for feed mills to ensure that prohibited materials do not get into ruminant feed.

Several years ago, the Kansas Legislature adopted these protective FDA regulations. Our inspectors from the Department of Agriculture enforce them. We inspect all feed milling

facilities, looking for labeling of feed containing prohibited material; procedures to prevent commingling of prohibited material with feed products; and record-keeping investigations to trace product origin, uses and their ultimate destination.

These inspectors target facilities that have prohibited materials to verify they are keeping required records, and that products are properly marked with a cautionary statement. In fiscal year 2002, we inspected 204 facilities and found 95 percent compliance. In fiscal year 2003, 223 facilities were inspected and again we found 95 percent compliance. Our goal is to reach 100 percent compliance. We are very serious about that.

The Department of Agriculture laboratory supports our inspections by analyzing samples we collect. Equipment there can detect small traces of prohibited material in feed. In fiscal year 2003, 94 samples were analyzed. Five percent of those were found to contain prohibited materials but were not labeled with the cautionary statement. These same products were not intended to be fed to cattle, but we continue to check and require the cautionary statement to ensure they are not mixed up with cattle feed.

So far this fiscal year, we have tested 112 feed samples for the presence of prohibited materials. We found two positives, both in products intended for horses. The products were voluntarily recalled by the retailer, after which the FDA resolved problems with the California manufacturer.

In the coming days we will be pursuing emergency regulations or statutory changes necessary to adopt new federal rules regarding cattle slaughtering and processing. We must be diligent in the actions we take to ensure consumer confidence, both at home and abroad, in our Kansas beef products.

### **Food and Agriculture Security**

Long before the Washington cow was found, we were well aware that the potential for the introduction of plant or animal pests and diseases was a major challenge for Kansas, whether those threats came by natural or human means.

Last February, a representative from USDA's smuggling intervention and trade compliance program informed us they had seized illegal food products in Kansas that had come from countries with documented cases of foreign animal diseases like foot-and-mouth and hog cholera. Federal inspectors also found federal noxious weeds, such as the water plant giant salvinia, in Kansas. We want to keep these diseases or pests from becoming entrenched in Kansas.

We coordinated a food safety working group that included representatives from my immediate staff, as well as staff from our plant protection, dairy inspection, and meat and poultry inspection programs and representatives of the Kansas Department of Health and Environment and related government agencies.

The food safety working group quickly identified gaps in communications, as well as a limited understanding of the different agency regulatory roles in responding to food safety concerns with the potential to impact food safety and our agricultural system. Since the initial meeting in April, this team has worked to fill those gaps and to improve communication.

In August, we became involved in a broader effort to counter threats to agriculture and agriculture products when we joined a multi-state partnership that includes nine Midwestern states. Three working groups now are exploring areas where improvements can be made to protect agriculture.

In Kansas, we have continued to work with the Animal Health Department and the Division of Emergency Management to plan a state response to foreign animal disease. We had the opportunity to test our response plan in June in an exercise orchestrated by the Kansas State University National Agricultural Biosecurity Center. As was our intent, we were able to identify plan shortcomings that need to be improved if we are to have a coordinated, effective response to foreign animal disease in Kansas.

Agriculture and food security are priorities for me and for all Kansas Department of Agriculture programs. We participate in several state-level endeavors to protect the agriculture industry and the food supply, and we will continue to do so as new opportunities arise.

Just last week we learned of a new challenge. A prohibited and potentially damaging plant pathogen, *Ralstonia*, was discovered in December in New York. For six months, geraniums carrying the disease had been shipped to 41 states from a greenhouse in Guatemala without detection at our borders. *Ralstonia* is on USDA's Select Agent list because of its potential danger to other plants, but it is not a threat to human or animal health.

Eleven Kansas nurseries, in Butler, Cherokee, Johnson, Leavenworth, Miami, Montgomery, Riley, Seward and Wyandotte counties, received these geranium cuttings. They have been notified to hold the plants, and our employees will visit the facilities to perform risk assessments.

It is our concern that the nurseries may be required to destroy the cuttings without any compensation from the federal government. We will be actively involved in working with the nurseries, and strongly encouraging the federal government to reconsider their stance about compensation for our nursery businesses.

## **Food Safety**

Ensuring that consumers can rely on safe, wholesome food is a priority for the Kansas Department of Agriculture. Currently, our primary food safety functions are broken down into three categories covering meat, milk and eggs.

The Meat and Poultry Inspection program provides services "equal to" federal inspection, and it has adopted federal standards for safe, sanitary meat and poultry products. The program benefits consumers because they can be assured of safe, wholesome meat and poultry products.



It also benefits our rural communities because many of these smaller, family owned ventures are in small towns across rural Kansas.

Our Dairy Inspection program conducts inspections, collects samples for analysis, and issues permits and licenses to ensure that milk and dairy products are produced, processed and distributed to reach consumers in a safe, wholesome and unadulterated form.

Our Agricultural Commodities Assurance Program contributes to food safety by ensuring that inputs to agriculture are safe, quality products that are not misrepresented to their consumers. ACAP inspectors also ensure that eggs are labeled, handled and stored in such a way that they are safe for consumption.

All of our food safety functions were examined this year by a team from the Division of Legislative Post Audit. The audit resulted from Senate Bill 124, which was introduced in the 2003 legislative session. It proposed transferring responsibility for restaurant and grocery store inspections to the Kansas Department of Agriculture from the Kansas Department of Health and Environment.

The intent of the audit was to determine if food safety inspection programs in Kansas could be combined to streamline operations, save money and improve food safety. The LPA review of our programs revealed that we are effectively carrying out our food safety functions and that the potential exists for some savings and efficiencies by moving all food safety functions into one agency.

### **Executive Reorganization Order**

Today I am pleased that Governor Kathleen Sebelius has announced an Executive Reorganization Order which will transfer several program responsibilities from the Kansas Department of Health and Environment to the Kansas Department of Agriculture. This reorganization is part of this administration's continuing search for changes in government to better serve Kansans.

As food is produced, processed and transported to consumers, the Kansas Department of Agriculture will be the key authority for safety. This is an appropriate function for KDA and will provide businesses in this state with a single point of contact for food safety regulation. This shift in duties complements our existing authority for dairy, meat and egg compliance checks in grocery stores.

KDHE will continue to regulate businesses that prepare food for immediate consumption. The state public health agency has the capacity for detecting food-borne illness and conducting appropriate follow up in order to diminish any future risks.

The specific types of establishments that will transfer to the Department of Agriculture include retail grocery stores, food service in retail grocery stores, mobile ice cream vendors, vending machines, convenience stores, retail meat stores and meat processors, specialty shops, variety stores, food wholesalers and warehouses, food manufacturers, bakeries, mills and

elevators, bottling plants, wineries, breweries, food re-packers, bottled water businesses, pet food manufacturers, food salvagers, ice plants, cider mills, seed sprouting businesses and fruit and vegetable markets.

I have brought copies of the executive reorganization order for the committee.

## **Federal Issues**

Several proposals put forth by USDA's Animal and Plant Health Inspection Service this year had the potential to impact Kansas agriculture. First was a proposal to develop more comprehensive regulations for test plots for crops that produce pharmaceuticals and industrial compounds.

To ensure that my comments to APHIS on the proposed regulations reflected the diverse concerns of Kansas agriculture, I sought input from a host of groups representing crop growers, agribusiness, sustainable agriculture, and the grain, feed and seed industries. In the end, I recommended that APHIS:

- establish site-specific risk assessments to consider all relevant cultural considerations from pre-plant to post-harvest;
- require contingency response plans that address contamination and disposal issues;
- develop standardized training and education programs for growers, landowners and state cooperators;
- and increase the number of field inspections done to ensure compliance with permit conditions.

In July, USDA-APHIS advanced a proposal to change how it regulates Karnal bunt, a disease of wheat that has been found in Arizona, California, New Mexican and Texas. The disease can affect wheat yield and quality, but its primary impact is economic: 78 wheat-importing countries do not allow Karnal bunt-infected wheat to cross their borders.

To protect Kansas' \$1 billion wheat industry, I collaborated with my contemporaries from 13 Midwestern states to make comments in response to the proposal by USDA-APHIS. Some of the proposed changes were agreeable to our states, including new definitions that add clarity to the regulations. However, other proposed changes raised concerns.

We recommended that milling products and by-products from infected host crops be stored, handled and used only within the regulated area to minimize the opportunity for bunted kernel dispersal.

We also recommended that cattle that that been fed unprocessed Karnal bunt-positive host crops, or allowed to graze in known infected fields, be subjected to a five-day clean-out period. It is common practice for cattle from regulated areas to be moved to feedlots in the central and southern Plains and for manure from those cattle to be spread on fields where susceptible crops are planted.

We have not yet seen a final version of this rule. It appears USDA is still considering the comments provided last fall. USDA's Karnal bunt strategic plan still has the goal of deregulating the disease by 2007. The greatest challenge to this goal will be the acceptance of deregulation by our trading partners. Movement on the international scene is very slow. Karnal bunt will most likely become a bargaining chip in trade discussions with countries that have imposed such restrictions on U.S. wheat.

Also in July, USDA-APHIS proposed establishing a cost-share rule that could require states to pay up to 50 percent of USDA's costs to respond to foreign plant pests or animal diseases. Animal Health Commissioner George Teagarden and I expressed strenuous objection to the rule in comments to USDA-APHIS.

Our greatest concern about the proposal was that it was not based on any specific authority in either the Plant Protection Act or the Animal Health Protection Act that would obligate states to share the cost of federally initiated emergency eradication programs. We recommended that APHIS could achieve its goal — reducing the overall cost of emergency response activities — by working with states to develop a joint system for early detection and eradication of plant and animal pests and diseases.

We also conveyed to APHIS our belief that compensation is the sole responsibility of the federal government, since they are responsible for regulated articles moving in national and international commerce. This issue was especially important, since Kansas' plant and animal health statutes do not contain provisions for providing compensation. The U.S. Congress later halted implementation of this rule.

Also in 2003, our Meat and Poultry Inspection program was selected for review by USDA's Food Safety and Inspection Service. The review came about as a result of a provision in the 2002 Farm Bill that requires the U.S. Secretary of Agriculture to report to Congress on a full review of state inspection programs. It is our understanding that Congress intended the report to be used to further the debate on interstate shipment of state-inspected meat and poultry products.

Our Meat and Poultry Inspection program has fared well in recent reviews, so we were not concerned by the possibility of another one. However, in the spring, USDA introduced a new methodology for reviewing state inspection programs, even though they already have 30 years' worth of data against which to judge them.

We were notified three days before the review was to begin that Kansas was one of four states chosen for review under the new methodology. We are concerned that the U.S. Secretary of Agriculture will base her report to Congress on a review of only four state programs. We also are concerned that the new procedures do not allow federal reviewers to share their in-plant findings with the management of our state program

The new FSIS process posed some challenges, so I was pleased to learn that reviewers found nothing to suggest that the safety of state-inspected meat and poultry products was compromised. However, I still have concerns because USDA historically has opposed interstate shipment of state-inspected meat. I worry that they will portray review results in a way that

supports their stance. We won't have access to the final report until it is shared with Congress in February.

### **Special Projects**

One important promise I made on being appointed secretary was to be a strong advocate for and supporter of Kansas agriculture, and I got to work immediately. In February, I announced that the department had secured USDA Agriculture Marketing Service funds to reimburse organic producers and handlers for some or all of their costs for organic certification. We have disbursed nearly every dollar of the \$25,000 Kansas was allocated, and have submitted a request to receive another \$25,000 for our organic producers.

I also made it my mission to develop a more formal working relationship with the Kansas Department of Commerce's Agriculture Marketing Division. Our agencies meet weekly to identify ventures we can work on jointly, such as a guide to Kansas wine and grape operations and a nutritional guide to promote Kansas-grown produce sold at farmers' markets. We also were a partner with the Kansas Department on Aging and other agencies to implement a Senior Farmers' Market Nutrition Program using a grant from USDA.

Under the program, more than 6,200 low-income seniors received \$30 worth of coupons to use between June 1 and Sept. 30. The program promoted better nutrition for seniors and expanded the revenue base for 61 farmers marketing fresh, locally grown produce at organized farmers' markets. We were fortunate to be one of the 38 states able to participate in this program in 2003. We are support continuing such a program, since reviews from farmers and senior citizens alike were positive.

In November, I joined Barry Flinchbaugh and 35 Kansas wheat growers on a trip to Cuba to explore trade opportunities. We met with a representative from Alimport, Cuba's single largest food importer. From that meeting, we learned that Cuba is interested in Kansas hard red winter wheat, beef, pork and dairy products. Once back in the states, I met with Governor Sebelius and Lt. Gov. John Moore to discuss what actions we might take to help open the door to trade with Cuba for more Kansas products. Governor Sebelius has since signed a joint communique with Cuba's largest food importer.

### **Governor's Rural Life Task Force**

Last fall we launched the Governor's Rural Life Task Force. I represent the governor, along with Kansas Water Office Director Joe Harkins, on the task force steering committee. Co-chairs of the group are Marci Penner of the Kansas Sampler Foundation and Dan Nagengast of The Rural Center.

The goal of the task force is to examine ways to preserve, renew and sustain the value of rural Kansas in the economic and cultural life of Kansas. Through the task force, we are bringing many representative voices of rural communities together to discuss challenges in rural development and to cultivate a common vision and preliminary action plan to preserve and enhance rural life in Kansas.

Rural Life Task Force members have finished their preliminary stories, developed action points, and have agreed to support legislative initiatives on energy, housing and health care. A meeting with the governor to make an official report is in the planning stages.

The Governor's Rural Life Task Force will continue its work throughout the term of this administration.

## **Drought**

When I started my tenure as secretary, there were several challenges facing agriculture. The most immediate was a multiyear drought that was impacting farmers and ranchers statewide.

The economic toll on farmers and ranchers for 2002 production losses was significant. K-State Extension economists predicted that net farm income would likely average \$10,000 statewide. On the low end of the scale, they predicted some farmers would probably have net farm incomes hovering in the \$5,000 range.

In April, USDA notified us that livestock producers in three Kansas counties — Norton, Phillips and Smith — were eligible to participate in the 2003 Livestock Feed Program. They were the only three counties to meet USDA criteria that identified them as experiencing the most severe drought. The USDA-sponsored program was to provide nonfat dry milk for producers to use as an animal feed supplement.

We notified every known livestock producer in those counties, and we announced the program through the local media. We also worked with local feed mills and dealers to secure delivery points for the commodity, and we orchestrated shipments to them from USDA storage facilities. In the end, we provided 479 producers with more than four million pounds of nonfat dry milk to feed nearly 70,000 head of cattle, sheep, bison and goats.

We got a slight reprieve from the drought when timely spring rains helped Kansas farmers produce the third largest wheat harvest on record. But the drought did not abate.

When it was clear that drought was decimating our fall crops, Governor Sebelius and I wrote to our delegates and to U.S. Secretary of Agriculture Ann Veneman to encourage their support of drought disaster aid for 2003 losses. At the end of the year, the governor had requested drought declarations for 82 counties. We expect and hope to receive those designations from Secretary Veneman early this year, making producers eligible for low-interest loans.

Many areas, especially the northwest, continue to be extremely drought-stressed. It's very likely we will again be dealing with issues of drought, irrigation, minimum desirable streamflow and disaster declarations during the foreseeable future.

To help keep Kansans informed of drought issues and resources in Kansas, we continue to host a drought information section on our agency website. On it, we explain state and federal agency roles in drought mitigation, provide links to other websites with drought-related

information, and post up-to-date news related to drought. Our goal is to be a one-stop shop for anyone interested in knowing what the state is doing with regard to drought.

### **Legislation**

This year we will ask your help with several issues. We will be returning to talk more about them later. They include whatever legislation may be necessary to adopt new protective standards against BSE, a bill to remove sunset dates from fee funds in five of our programs, statutory changes that will be necessary to strengthen and increase the efficiency of the state's food safety regulatory efforts, and issues dealing with grain warehouse bonding and serencia lespedeza. I look forward to working with you all for the benefit of Kansas agriculture, the protection of consumers, and the economy and health of all Kansans.

Thank you for your time. Are there any questions?



# BSE Surveillance and Prevention

Kansas Department of Agriculture / 109 SW 9th Street / Topeka, KS 66612  
(785) 296-3556 / [www.accesskansas.org/kda](http://www.accesskansas.org/kda)

## FACT SHEET

Bovine spongiform encephalopathy (BSE, or mad cow disease) is a chronic, degenerative disease that affects a cow's central nervous system and ultimately results in the animal's death. BSE belongs to a family of diseases known as transmissible spongiform encephalopathies (TSE). TSEs are believed to be caused by a tiny, abnormally behaving protein particle called a prion (PREE-awn). Prions are not considered "germs" in the classic sense. Instead, they are more like "agents" of disease.

TSEs share a number of common characteristics:

- A prolonged incubation period of months or years;
- Progressive debilitating neurological illness that is always fatal;
- Brain tissue from animals or humans affected by these diseases have a sponge-like appearance;
- Pathological changes appear to be confined to the central nervous system;
- The transmissible agent elicits no detectable specific immune response in the host.

TSEs occur in several animal species: Scrapie in sheep and goats has been known for several hundred years; and chronic wasting disease in elk and deer was first diagnosed in captive deer in Colorado in 1981 in Colorado and in 1985 in Wyoming.

BSE first appeared in cattle in England in the 1980s. Symptoms of BSE include change in temperament, abnormal posture, lack of coordination, decreased milk production and weight loss.

Humans are also susceptible to TSEs. The human TSE is Cruetzfeld-Jakob disease. Each year, one or two people out of every million will be afflicted with CJD. The onset for CJD typically occurs after an individual has reached age 63.

A variation of the human TSE surfaced in England after BSE was diagnosed in cattle. The new variant CJD differs from classical CJD in that it afflicts younger individuals and it bears pathological similarities to BSE.

As of December 1, 2003, a total of 153 cases of vCJD had been reported in the world: 143 from the United Kingdom, six from France, and one each from Canada, Ireland, Italy and the United States (note: the U.S. case was reported in a patient who lived in the United Kingdom before moving to the United States).

Almost all the 153 vCJD patients had multiple-year exposures in the United Kingdom between 1980 and 1996 during the occurrence of a large UK outbreak of BSE.

The UK outbreak of BSE was quite extensive, with tens of thousands of animals confirmed to have

the disease. Because so few cases of vCJD have been confirmed, it suggests that the disease is not easily contracted by humans.

As a food safety concern, BSE poses very little risk because USDA prohibits from ground beef those parts of the animal that harbor the BSE agent, including the brain, spinal column and central nervous system tissue. And, muscle meats like steak and roast are believed to be free of the BSE agent.

Countries other than the United Kingdom with confirmed cases of BSE in native cattle include Austria, Belgium, Czech Republic, Denmark, Finland, France, Germany, Greece, Ireland, Israel, Italy, Japan, Luxembourg, Liechtenstein, the Netherlands, Northern Ireland, Poland, Portugal, Slovakia, Slovenia, Spain and Switzerland. While there is a decline in the number of cases of BSE in the United Kingdom, confirmed cases of BSE have arisen in other European countries. Oman, the Falkland Islands, Canada, and the Azores have detected BSE in cattle imports from other countries known to have BSE.

In May 2003, Canada had a cow test positive for BSE. Previously, there had been only one case of BSE in North America, and it was in a single cow in Canada in 1993. The animal had been imported from Great Britain and it was destroyed.

In December 2003, USDA reported a 6 1/2-year old Holstein cow in Washington state had the disease. Officials reported that the animal was imported from Canada and that it likely contracted the BSE agent before it entered the United States.

On Dec. 30, 2003, USDA announced new initiatives to strengthen protections against BSE by removing nonambulatory animals and specified risk material and tissues from the human food chain; requiring additional process controls for establishments using advanced meat recovery (AMR); holding meat from cattle that have been tested for BSE until the test has confirmed negative; and prohibiting air-injection stunning of cattle.

Many of the new initiatives won't impact Kansas Department of Agriculture functions. However, those that relate to meat slaughter and processing, including a ban on nonambulatory animals, were immediately implemented by the Meat and Poultry Inspection program.

USDA also announced a mandate to establish an animal identification system to enhance the speed and accuracy of response to animal disease outbreaks across many animal species. Secretary of Agriculture Adrian Polansky and his staff will work with USDA and industry to ensure the required

animal ID program is workable and effective.

Following is a summary of department activities related to BSE surveillance and prevention.

#### **Meat and Poultry Inspection Program**

The Kansas Meat and Poultry Inspection Act requires that all who are engaged in the business of slaughtering, processing, dressing, packing, manufacturing, distributing, brokering, wholesaling, or storing meat and poultry food products in Kansas be registered with the Kansas Department of Agriculture. In fiscal year 2003, there were 365 such businesses registered.

The Kansas program is modeled after the federal inspection program. The Kansas Meat and Poultry regulations, the program's compliance section, and the department's laboratory, which performs chemical and microbiological analyses, have all been rated as "equal to" their federal counterparts by USDA's Food Safety and Inspection Service reviewers. Plant owners under state inspection face the same sanitation and facility standards as their federal competitors.

Meat and Poultry Inspection program staff work closely with the Kansas Animal Health Department and USDA's Animal and Plant Health Inspection Service in the surveillance for foreign animal diseases, including BSE.

All animals presented for slaughter at state-inspected plants are examined by meat and poultry inspectors to assess their overall health. During slaughter, vets also examine lymph nodes and other tissue as an added safety measure. Inspectors prevent from entering the food supply any animal product that could be considered a human health hazard.

If an animal presented for slaughter exhibits central nervous system dysfunction, samples are collected for BSE testing under USDA's surveillance program. Those carcasses are condemned (destroyed) so they do not enter the human food chain.

Since USDA began its surveillance program in 1990, only a few animals with central nervous system dysfunction symptoms have been presented for slaughter at state-inspected plants. All were condemned and tissue samples were collected and sent to USDA for testing.

Under new directives from USDA, Kansas plants will no longer accept nonambulatory animals for slaughter. Meat and poultry inspectors currently are educating plant owners and operators of the new USDA mandate.

Inspectors also are educating industry about USDA mandates regarding specified risk material (brain, eyes, skull, brain, trigeminal ganglia, eyes, vertebral column, spinal cord and dorsal root ganglia) from cattle over 30 months of age and the small intestine of cattle of all ages.

#### **Agricultural Commodities Assurance Program**

BSE is believed to be transmitted to cattle through feed containing protein from an infected animal. Once feed was identified as the method of transmission, the Food and Drug Administration adopted regulations to prohibit feeding most mammalian proteins to ruminants (cud-chewing animal like cows, sheep and goats) and to establish good manufacturing practices that feed mills abide by to prevent commingling prohibited materials with ruminant feed.

The Kansas Legislature adopted current FDA regulations and the department's Agricultural Commodities Assurance

Program inspectors enforce them. We inspect all feed milling and rendering facilities, focusing on:

- labeling of feed containing prohibited material
- procedures that prevent commingling prohibited material with feed products
- record keeping to trace product origin, uses and ultimate destination

Inspectors routinely visit feed mills, and other retail and wholesale outlets, to verify that products are properly labeled and to collect samples to send to the Agricultural Laboratory for analysis.

ACAP staff visit approximately 1,200 state and federally licensed feed mills each year to conduct good manufacturing practice inspections. Inspectors verify that these feed mills follow established good manufacturing practices to ensure that they produce feed that is safe and in compliance with state and federal rules.

During feed mill inspections, ACAP staff pay extra attention to materials that include bovine (cow) protein. Certain bovine protein has been identified as the vehicle responsible for spreading BSE.

Firms that handle FDA-prohibited material must keep sufficient records to track it and must prevent its commingling with nonprohibited material and label all products containing prohibited material with a cautionary statement indicating that the feed is not to be fed to cattle or other ruminants. Only one percent of the 193 inspected facilities handling prohibited materials failed to meet all of these requirements.

The compliance rate for feed samples checked for prohibited materials was 95 percent. This number includes feed not intended to be fed to ruminants. Because compliance is so important to human health and the livestock industry, our goal is to reach 100 percent compliance. When violations are reported by the Agricultural Laboratory, inspectors investigate to ensure that prohibited materials were not fed to cattle or other ruminants.

The Food and Drug Administration recently reported nearly 100 percent compliance among companies subject to prohibited material feed ban. FDA reported that of the 1,664 firms handling prohibited materials nationwide, more than 99 percent had no violations.

Additionally, ACAP samples feed not labeled with a cautionary statement. This feed may or may not be intended to be fed to cattle. The sampled feed is analyzed to determine if it contains prohibited materials. Five percent of the 94 samples analyzed contained prohibited materials but were not labeled with a cautionary statement. Fortunately, these products were not intended to be fed to cattle or other ruminants. However, to prevent the possibility that these products could end up as cattle feed, ACAP ordered the products off-sale until they were properly labeled.

ACAP will continue to enforce the FDA prohibited material ban and will focus in the upcoming year on enforcing the rules pertaining to pet food. Retail pet food may legally contain prohibited materials, but it is not required to be labeled with a cautionary statement unless it is salvaged. ACAP is working to educate pet retailers of this requirement to prevent feeding of pet food to cattle or other ruminants.



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- Food Safety
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- Environmental Protection
- Water Resource Management
- Agriculture Advocacy

agency



2003  
**ANNUAL REPORT**



## 2003 ANNUAL REPORT

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## 2003 in Review

Not long after Governor Kathleen Sebelius appointed me secretary of the Kansas Department of Agriculture, I appeared before the House and Senate agriculture committees to describe my vision for the department, agriculture and rural Kansas during my tenure.

First and foremost, in my opinion, was a need for a broad view of the varied segments of the agricultural industry and rural communities. I promised to seek a variety of opportunities and partnerships for their benefit. At the same time, I assured committee members that I would maintain efficient, effective regulatory department programs to ensure consumer confidence and protection, as I believe both are essential to a successful agriculture.

I also described my commitment to economic development, which is necessary for agriculture and rural Kansas. I play an important role in the Kansas economic development team, and I promised to work closely with the Kansas Department of Commerce to find ways to add value to our products and our communities.

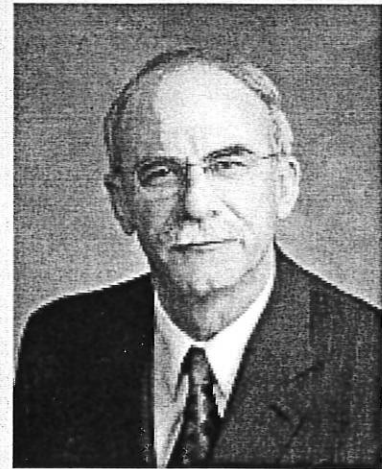
Many entities — state, federal and private — have a stake in rural development, and I made a commitment to help bring stakeholders together to work in creative and serious ways to improve rural life. I believe a healthier rural Kansas translates to a healthier Kansas, and that has been my guiding principle since taking office.

## Drought

When I started my tenure as secretary, there were several challenges facing agriculture. The most immediate was a multiyear drought that was impacting farmers and ranchers statewide. In February 2003, Congress passed a drought disaster aid package that promised to bring roughly \$200 million to Kansas producers who had sustained drought losses in 2001 and 2002.

USDA was beginning to implement provisions of the 2002 Farm Bill when Congress passed the aid package, so sign-up for aid was going to be postponed until midsummer. Because so many Kansas farmers and ranchers were struggling, Governor Sebelius and I, in March, wrote to President George W. Bush and U.S. Secretary of Agriculture Ann Veneman to ask that aid be expedited. Unfortunately, they failed to honor our request and Kansas producers had to wait until the year was half over to begin receiving much-needed, Congress-approved disaster aid.

The economic toll on farmers and ranchers for 2002 production losses was significant. K-State Extension economists predicted that net farm income — the money a farmer has to live on after paying business expenses, taxes and debt service — would likely average \$10,000 statewide. On the low end of the scale, they predicted some farmers would probably have net farm incomes hovering in the \$5,000 range. When the Kansas Agricultural Statistics Service released its 2003 Farm Facts, they confirmed that net farm income for 2002 was \$5,995 per farm.



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In April, USDA notified us that livestock producers in three Kansas counties — Norton, Phillips and Smith — were eligible to participate in the 2003 Livestock Feed Program. They were the only three counties to meet USDA criteria that identified them as experiencing the most severe drought. The USDA-sponsored program was to provide nonfat dry milk for producers to use as an animal feed supplement in counties hardest hit by drought. Eligible livestock was defined as foundation herds, or breeding and replacement stock, of beef cattle, buffalo, sheep and goats.

We worked with Kansas Agricultural Statistics Service to get notification to every known livestock producer in those counties, and we announced the program through the local media. We also worked with local feed mills and dealers to secure delivery points for the commodity, and we orchestrated shipments to them from USDA storage facilities. In the end, we provided 479 producers with more than 4 million pounds of nonfat dry milk to feed nearly 70,000 head of cattle, sheep, bison and goats.

We got a slight reprieve from the drought when timely spring rains helped Kansas farmers produce the third largest wheat harvest on record. To mark the event, Governor Sebelius and I traveled to Goodland, where the governor got some hands-on experience helping with harvest on Ken Palmgren's farm. Despite a successful wheat harvest, it wasn't long before Kansas was back in the throes of drought.

On July 31, Governor Sebelius issued a drought warning covering 53 counties in northern and western Kansas and a drought watch for the remainder of Kansas counties. At the same time, she activated our state's drought response team to monitor conditions statewide. When it was clear that drought was decimating our fall crops, Governor Sebelius and I wrote to our delegates and to U.S. Secretary of Agriculture Ann Veneman to encourage their support of drought disaster aid for 2003 losses.

Governor Sebelius asked for a drought disaster designation for Morton County in July. That request was granted by Secretary Veneman on October 23. On October 27, Governor Sebelius asked that 73 more counties be declared drought disaster areas. She requested declarations for eight more counties on December 22. We expect to receive drought disaster designations from Secretary Veneman early in 2004, and that will make producers in those counties eligible for low-interest loans.

To help keep Kansans informed of drought issues in Kansas, we continue to host a drought information section on our agency website. On it, we explain state and federal agency roles in drought mitigation, provide links to other websites with drought-related information, and post up-to-date news related to drought. Our goal is to be a one-stop shop for anyone interested in knowing what the state is doing with regard to drought.

## Food and Agriculture Security

Another challenge facing agriculture has been the potential for the introduction — whether intentional or accidental — of plant or animal

pests and diseases. In February 2003, a representative from USDA's Animal and Plant Health Service smuggling intervention and trade compliance program informed us that they had seized illegal food products in Kansas that had come from countries with documented cases of foreign animal diseases like foot-and-mouth and bovine spongiform encephalopathy (BSE, or mad cow).

Apparently, marketplace research conducted three years ago revealed a plethora of illegal products found nationwide. In Kansas, federal inspectors had seized three federal noxious weeds and a number of meat-based products from countries known for foreign animal disease.

We coordinated a food safety working group that included representatives from my immediate staff, as well as staff from our plant protection, dairy inspection, and meat and poultry inspection programs. We also included representatives from Governor Sebelius' office, Kansas Department of Health and Environment, Kansas Animal Health Department, USDA-APHIS, USDA-FSIS, FDA, and the K-State National Agricultural Biosecurity Center.

The food safety working group quickly identified gaps in communication between our respective agencies, as well as a limited understanding of each of our regulatory roles when responding to food safety concerns with the potential to impact food safety and our agricultural system. Since the initial meeting in April, they have worked to fill those gaps and to improve communication.

In August, we became involved in a broader effort to counter threats to agriculture and agriculture products when we joined a multistate partnership that includes nine Midwestern states. Three working groups are exploring areas where improvements can be made to protect agriculture:

- State-to-State Relations: This group is looking at ways to improve communication and agricultural security on an interstate basis.
- State-to-Federal Relations: This group is looking at ways to improve coordination between state agencies and the federal government on a broad range of issues related to agricultural security.
- State Resource Sharing: This group is looking at ways to encourage and develop agreements between states to share manpower, equipment and diagnostic resources in a crisis situation.

In Kansas, we have continued to work with the Animal Health Department and the Division of Emergency Management to plan a state response to foreign animal disease. We had the opportunity to test our response plan in June in an exercise orchestrated by the Kansas State University National Agricultural Biosecurity Center. As was our intent, we were able to identify plan shortcomings that need to be improved if we are to have a coordinated, effective response to foreign animal disease in Kansas.

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Agriculture and food security are priorities for me and for all Kansas Department of Agriculture programs. We participate in several state-level endeavors to protect the agriculture industry and the food supply, and we will continue to do so as new opportunities arise.

## Food Safety

Ensuring consumers safe, wholesome food is a priority for the Kansas Department of Agriculture. Our primary food safety functions are broken down into three categories covering meat, milk and eggs.

The Meat and Poultry Inspection program provides services "equal to" federal inspection, and it has adopted federal standards for safe, sanitary meat and poultry products. The program benefits consumers because they can be assured of safe, wholesome meat and poultry products. It also benefits our rural communities because many of these smaller, family owned ventures are in small towns across rural Kansas.

Our Dairy Inspection program conducts inspections, collects samples for analysis, and issues permits and licenses to ensure that milk and dairy products are produced, processed and distributed to reach consumers in a safe, wholesome and unadulterated form.

Our Agricultural Commodities Assurance Program contributes to food safety by ensuring that inputs to agriculture are safe, quality products that are not misrepresented to their consumers. ACAP inspectors also ensure that eggs are labeled, handled and stored in such a way that they are safe for consumption.

All of our food safety functions were examined this year by a team from the Division of Legislative Post Audit. The audit resulted from Senate Bill 124, which was introduced in the 2003 legislative session and proposed transferring responsibility for restaurant and grocery store inspections to the Kansas Department of Agriculture from the Kansas Department of Health and Environment.

The intent of the audit was to determine if food safety inspection programs in Kansas could be combined to streamline operations, save money and improve food safety. The LPA review of our programs revealed that we are effectively carrying out our food safety functions and that the potential exists for modest savings by moving all food safety functions into one agency.

Debate over SB 124 will continue in the 2004 legislative session, and we are prepared to carry out in the best way possible any food safety initiatives identified for our agency.

## Federal Issues

Several proposals put forth by USDA's Animal and Plant Health Inspection Service this year had the potential to impact Kansas agriculture. First was a proposal to develop more comprehensive regulations for test plots for crops that produce pharmaceuticals and industrial compounds.

To ensure that my comments to APHIS on the proposed regulations reflected the diverse concerns of Kansas agriculture, I sought input from a host of groups representing crop growers, agribusiness, sustainable agriculture, and the grain, feed and seed industries. In the end, I recommended that APHIS: establish site-specific risk assessments to consider all relevant cultural considerations from pre-plant to post harvest; require contingency response plans that address contamination and disposal issues; standardized training and education programs for growers, landowners and state cooperators; and increase the number of field inspections done to ensure compliance with permit conditions.

In July, USDA-APHIS advanced a proposal to change how it regulates Karnal bunt, a disease of wheat that has been found in Arizona, California, New Mexican and Texas. The disease can affect wheat yield and quality, but its primary impact is economic: 78 wheat-importing countries do not allow Karnal bunt-infected wheat to cross their borders.

To protect Kansas' \$1 billion wheat industry, I collaborated with my contemporaries from 13 Midwestern states to make comments in response to the proposal by USDA-APHIS. Some of the proposed changes were agreeable to our states, including new definitions that add clarity to the regulations. However, other proposed changes raised concerns.

We recommended that milling products and by-products from infected host crops be stored, handled and used within the regulated area to minimize the opportunity for bunted kernel dispersal.

We also recommended that cattle that that been fed unprocessed Karnal bunt-positive host crops, or allowed to graze in known infected fields on host crops, be subjected to a five-day clean-out period. It is common practice for cattle from regulated areas to be moved to feedlots in the central and southern Plains and for manure from those cattle to be spread on fields where susceptible crops are planted.

Also in July, USDA-APHIS proposed establishing a cost-share rule that could require states to pay up to 50 percent of USDA's costs to respond to foreign plant pests or animal diseases. Animal Health Commissioner George Teagarden and I expressed strenuous objection to the rule in comments to USDA-APHIS in October.

Our greatest concern about the proposal was that it was not based on any specific authority in either the Plant Protection Act or the Animal Health Protection Act that would obligate states to share the cost of federally initiated emergency eradication programs. We recommended that APHIS could achieve its goal — reducing the overall cost of emergency response activities — by working with states to develop a joint system for early detection and eradication of plant and animal pests and diseases.

We also conveyed to APHIS our belief that compensation is the sole responsibility of the federal government, since they are responsible for regulated articles moving in national and international commerce. This issue was especially important, since Kansas' plant and animal health statutes do not contain provisions for providing compensation.

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Also in 2003, our Meat and Poultry Inspection program was selected for review by USDA's Food Safety and Inspection Service. The review came about as a result of a provision in the 2002 Farm Bill that requires the U.S. Secretary of Agriculture to report to Congress a full review of state meat and poultry inspection programs. It is our understanding that Congress intended the report to be used to further the debate on interstate shipment of state-inspected meat and poultry products, which currently is not approved.

Our Meat and Poultry Inspection program has fared well in recent reviews, so we were not concerned by the possibility of another one. However, in spring 2003, USDA-FSIS introduced a new methodology for reviewing state inspection programs, even though they already have 30 years' worth of data against which to judge the efficacy of state programs. The change also came in spite of an endorsement in 2002 from the Secretary's National Advisory Committee on Meat and Poultry Inspection for the previously used procedures for evaluating state meat and poultry inspection programs.

We were notified three days before the review was to begin that Kansas was one of four states chosen for review under the new methodology. One concern we have is that the U.S. Secretary of Agriculture will base her report to Congress on a review of only four state programs. Another is that the new policy does not allow for sharing in-plant review findings with Meat and Poultry Inspection management. Finally, review findings, in raw data, will be given to higher-ranking FSIS officials for dissemination into a final report.

The new FSIS review process posed some challenges, so I was pleased to learn that reviewers found nothing to suggest that the safety of state-inspected meat and poultry products was compromised. However, I still have concerns because USDA historically has opposed interstate shipment of state-inspected meat. My strongest concern is that they will portray review results in a way that supports their stance. We won't have access to the final report until it is shared with Congress in February 2004.

## Special Projects

One important promise I made on being appointed secretary was to be a strong advocate for and supporter of Kansas agriculture, and I got to work immediately. In February, I announced that the department had secured USDA Agriculture Marketing Service funds to reimburse organic producers and handlers for some or all of their costs for organic certification. In March, I hosted the first of a series of successful Kansas Agriculture Day events and arranged for Governor Sebelius to proclaim March 21 Kansas Agriculture Day.

I also made it my mission to develop a more formal working relationship with the Kansas Department of Commerce's Agriculture Marketing Division. Our agencies meet weekly to identify ventures we can work on jointly, such as a guide to Kansas wine and grape operations and a nutritional guide to promote Kansas-grown produce sold at farmers' markets.

We also were a partner with the Kansas Department on Aging and other agencies to implement a Senior Farmers' Market Nutrition Program using a \$182,000 grant from USDA. I personally visited a Topeka-area senior center to distribute coupons to income-eligible seniors to redeem for Kansas-grown fruits, vegetables and herbs at local farmers' markets.

Under the program, more than 6,200 low-income seniors received \$30 worth of coupons to use between June 1 and Sept. 30. The program promoted better nutrition for seniors and expanded the revenue base for 61 farmers marketing fresh, locally grown produce at organized farmers' markets. We were fortunate to be one of the 38 states able to participate in this program in 2003.

In November, I joined ag economist Barry Flinchbaugh and 35 Kansas wheat growers on a trip to Cuba to explore trade opportunities. While there, we toured several farms producing fruits, tobacco, vegetables and sugar cane. We also met with a representative from Alimport, Cuba's single largest food importer. From that meeting, we learned that Cuba is interested in Kansas hard red winter wheat, beef, pork and dairy products. Once back in the states, I met with Governor Sebelius and Lt. Gov. John Moore to discuss what actions we might take to help open the door to trade with Cuba for more Kansas products. That effort is ongoing.

## Governor's Rural Life Task Force

The most important initiative launched in 2003 was the Governor's Rural Life Task Force, which was announced in August. I represent the governor, along with Kansas Water Office Director Joe Harkins, on the task force steering committee. Co-chairs of the group are Marci Penner of the Kansas Sampler Foundation and Dan Nagengast of The Rural Center.

The goal of the task force is to examine ways to preserve, renew and sustain the value of rural Kansas in the economic and cultural life of Kansas. Through the task force, we are bringing many representative voices of rural communities together to discuss challenges in rural development and to cultivate a common vision and preliminary action plan to preserve and enhance rural life in Kansas.

Immediately after the task force was announced, the group was divided into issue teams to look at challenges facing our rural communities. Those teams are helping develop the stories that identify the past, present and future hopes of rural Kansas. Once those stories are finalized late in 2003, the issue teams will invite groups, agencies and individual experts to help them identify pathways to achieve the goals they set for rural Kansas.

Our hope is that the task force will identify initiatives we can undertake now that will have long-term benefits for all of Kansas, especially our rural communities. Gov. Sebelius and I are confident that the task force will be an important driving force in rural policy development in the years to come.

Task force members were selected for their energy, enthusiasm and dedication to all facets of rural Kansas. They represent different

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communities, professions and memberships, and they share a commitment to rural Kansas. Task force members, and their respective issue teams, are:

*Energy and Infrastructure Issue Team:* John Cyr, Beloit; Dave Govert, Cunningham; Joe King, Lawrence; Mike Klein, Dodge City; Laura McClure, Osborne; Jerry McReynolds, Woodston; Gene Merry, Burlington; Tim Peterson, Monument; Nancy Spiegel, Formoso; Shirley Strnad, Scandia; and Ted Wary, Columbus.

*Health and Human Services Issue Team:* Shawn Pine Bay, Lawrence; Tom Bishop, Nortonville; Gary Kilgore, Chanute; Scott Moore, Ellsworth; Susan Mueller, Burlington; John Osse, Beloit; Marvin Penner, Hesston; Debbie Richter, Lindsborg; Marcia Walsh, Onaga; and Grace Webdell, Holcomb.

*Agriculture and Diversified Economy Issue Team:* Brian Dunn, St. John; Galen Fink, Manhattan; Henry Gardiner, Ashland; Jay Garetson, Copeland; Gary Gore, Great Bend; Brenda Johnson, McDonald; Sharla Krenzel, Leoti; Roger Masenthin, Harper; Lynn Rundle, Manhattan; Terryl Spiker, Syracuse; and Dan Thalmann, Linn.

*Government and Community Empowerment Issue Team:* Liz Hendricks, Howard; Mike Mayberry, Kiowa; Will Carpenter, El Dorado; Lori Fink, Manhattan; Gary Hobbie, Russell; Carla Kuhn, Jamestown; Sally Hatcher, Leavenworth; Michele Flax, Overland Park; Robert Cole, Wamego; Reynaldo Mesa, Garden City; and Faye Minium, Morland.

## Agency Mission and Secretary's Role

The Kansas Department of Agriculture is, first and foremost, a regulatory agency serving all Kansans. It is charged by law to ensure: a safe meat, milk and egg supply; responsible and judicious use of pesticides and nutrients; the protection of Kansas' natural and cultivated plants; integrity of weighing and measuring devices in commerce; and, that the state's waters are put to beneficial use.

The strong foundation provided by the agency's regulatory programs allows the secretary of agriculture to effectively advocate and educate on behalf of Kansas agriculture.

## Office of the Secretary

The secretary of agriculture is responsible for overseeing the day-to-day operation of the agency and for being a leading advocate for Kansas agriculture. State law also authorizes the secretary to foster and promote the development and economic welfare of Kansas' agricultural industry. This is accomplished through a strategic partnership with Kansas producers and agribusinesses and by focusing on important issues that require leadership, resources and technical expertise typically not available to individual producers and agribusinesses.

## Food Safety and Consumer Protection Programs

These programs guarantee public safety and consumer protection by regulating the production and sale of meat, poultry, dairy products, eggs, agricultural seeds and feeding stuffs. These activities also benefit the agriculture industry by maintaining a climate of consistency and confidence in the marketplace.

The **Dairy Inspection** program conducts inspections, collects samples for analysis, and issues permits and licenses to ensure that milk and dairy products are produced, processed and distributed to reach consumers in a safe, wholesome and unadulterated form.

The **Meat and Poultry Inspection** program provides services "equal to" federal inspection, and has adopted federal standards for safe, sanitary meat and poultry products. Program staff provide antemortem and postmortem inspections of cattle, sheep, swine, American bison, rabbits, goats, horses, mules, other equine, and poultry slaughtered for human consumption. They also inspect sanitary conditions in meat processing facilities, assist with sanitary and labeling information, and investigate complaints about the sale of meat and poultry.

The **Agricultural Commodities Assurance Program (ACAP)** contributes to food safety by ensuring that inputs to agriculture are safe, quality products that are not misrepresented to their consumers. These products include: seeds, which must meet label guarantees and contain no noxious or restricted weed seeds exceeding the quantity allowed; commercial feeding stuffs, including pet foods, which are analyzed and

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The Kansas Department of Agriculture budget for fiscal year 2003 was \$20,147,328.

47 percent came from the state general fund and 53 percent came from fees, grants and federal funds.

The Kansas Department of Agriculture had 300.5 full-time and 16 unclassified, temporary employees in fiscal year 2003.

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registered to prevent contaminants and adulterants from entering the human and animal food chain; eggs, which are regulated to ensure safe and properly identified products for human consumption; FDA medicated feeds, which are monitored for good manufacturing practices and compliance at feed mills to prevent adulterated, misbranded or unhealthy animal feeds from entering the human food chain; and, FDA tissue residue tests are performed on beef and pork products when cases of misuse of federally regulated livestock medications are reported.

The **Grain Warehouse Inspection** program operates to ensure the quantity and quality of all stored commodities to all producers of grain in Kansas, and to ensure that grain producers have solvent, licensed warehouses in which to store their grain. Staff examine licensed warehouses at least once a year as required by law, and examine warehouses that meet only minimum financial requirements more than once a year, to protect each warehouse's depositors of grain.

The **Weights and Measures** program protects consumers by inspecting and certifying large and small scales, scanners and gasoline pumps, by calibrating weights and by testing fuel quality.

## Water Resource Programs

The water resource programs provide a public safety function through management of the quantity of the state's scarce water resources and inspection of water structures.

The **Water Appropriation** program manages the state's water supplies through a system of permits, reviews and inspections. It issues water rights, maintains data about water use and administers water rights during times of shortage.

The **Water Structures** program inspects and regulates the safety of dams which, if they failed, could endanger lives and property. The program also monitors activities affecting the flow of rivers and streams to ensure that these activities are properly planned, constructed, operated and maintained.

The **Water Management Services** program administers the four interstate river compacts and the subbasin resource management plan, which is developed in conjunction with local agencies working toward a long-term, statewide water use plan.

The **State Water Plan** program encompasses activities from other programs, including interstate water, and basin and floodplain management.

## Environmental Protection Programs

These programs focus on protecting the health of the state's natural and cultivated plant resources, and the environment, through preventive actions and activities designed to ensure the safe and proper use of agricultural chemicals.

The **Plant Protection and Weed Control** program protects the state's natural and cultivated plant resources from the introduction of foreign plant pests. It also works with county noxious weed departments to help control or eradicate destructive weeds in Kansas.

The **Pesticide and Fertilizer** program protects the public's health by promoting the safe use of pesticides and fertilizers. Regulated under the Pesticide and Fertilizer program are: pesticides, by licensing and certifying pesticides and pesticide applicators; commercial fertilizer, by assuring fertilizer products are labeled accurately, and by allowing program staff to issue stop sale/stop use orders to prohibit further sale of a fertilizer, or further use of facilities or equipment used in the transport, handling, distribution, dispensing, selling, storage, or disposal of fertilizer; soil amendments, for which proof of product efficacy must be provided before products are offered for sale; anhydrous ammonia, the sale of which is monitored, and the storage, handling and transportation of which is inspected, and for which staff try to prevent, and reduce the impact of, accidental releases of anhydrous ammonia, through a strong industry training program; agricultural lime, compounds that contain calcium or magnesium for neutralizing soil, are monitored for effectiveness and accuracy in labeling.

The **Agricultural Laboratory** establishes, maintains and improves analytical laboratory services for the Meat and Poultry Inspection program, the Dairy Inspection program, ACAP, and the Pesticide and Fertilizer program. It ensures that submitted samples are subjected to the highest possible testing standards of accuracy and precision. This is done to protect the health and safety of Kansans and to facilitate accuracy in labeling of products offered for sale.

## Administrative Services and Support

Under the direction of the secretary of agriculture, the administrative services and support section provides the general policy, outreach, coordination and management functions for the department. This includes the office of the secretary, central fiscal and records center, personnel, legal, automation and telecommunications, research, information and education.

Within the administrative services grouping is the statistical services and support program, also known as the **Kansas Agricultural Statistics Service**, a cooperative federal-state program involving the Kansas Department of Agriculture and the U.S. Department of Agriculture. Through KASS, data about the many segments of Kansas agriculture are collected, analyzed and disseminated.

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## Agency Overview

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## Food Safety and Consumer Protection Programs

The Dairy Inspection budget for fiscal year 2003 was \$618,079. 50 percent came from the state general fund and 50 percent came from fees.

The Dairy Inspection program had nine full-time employees in fiscal year 2003.

## Dairy Inspection

The Dairy Inspection program mission is twofold: to provide a statewide system of milk inspection and regulatory services that provide uniform inspections of permit and license holders; and to assure consumers safe, wholesome milk and dairy products by inspecting and/or sampling all areas of the dairy industry.

Our regulatory services are divided into the general subprograms of farm production, raw product transportation, milk processing, packaged product distribution, and wholesale and retail sale. These goals are accomplished using sanitation inspections with supporting laboratory test results obtained from milk and dairy food samples.

Kansas dairy farms are inspected at least four times a year. Inspectors look at the general sanitation and cleanliness of the milking barn, tank room and milking equipment. Actual milking practices are observed to ensure that a safe, wholesome raw product is being delivered to the pasteurization plants, where it will undergo pasteurization and processing. Each farm bulk milk supply is sampled monthly to confirm that it complies with standards for temperature, bacterial limits, drug residue, somatic cell limits, pesticide residues and added water.

There were 536 Grade A dairy farms and two manufacturing grade dairy farms permitted as of June 30, 2003. During fiscal year 2003, these farms underwent 3,348 inspections and 6,617 raw milk farm samples were collected for official regulatory testing.

Dairy processing plants, and milk transfer/receiving stations, are inspected at least four times a year. Inspectors make sure they comply with cleaning and sanitation requirements. Pasteurization equipment is a primary focus of a plant inspection. It is tested quarterly to ensure that the raw milk is processed in a way that destroys all pathogens. Also, all products processed by the plant are sampled monthly to make sure they comply with standards for bacterial limits, drug residues, coliform bacteria limits, phosphatase testing and vitamin addition, and to make sure they are correctly labeled according to butterfat. Single-service dairy container manufacturers are also inspected. These facilities produce cartons, containers and closures for packaging dairy products.

In fiscal year 2003, there were 14 milk processing plants and transfer/receiving stations permitted. A total of 211 processing plant inspections (both Grade A and manufacturing) were performed to determine overall sanitation. Also, 66 equipment tests and timings were performed to ensure compliance of milk pasteurization equipment. The department's dairy laboratory tested 678 pasteurized, packaged milk samples collected by dairy inspectors throughout the year.

Milk haulers in Kansas are licensed to sample, collect and transport raw milk from the farm to the processing plants. New milk haulers must complete a training exercise and a written test before they are licensed by the Kansas Department of Agriculture. Each year an inspector evaluates the hauler's sampling and measuring practices. The hauler's truck tank, pump, hose and sampling equipment are inspected at least yearly for

construction, cleaning and sanitation. Licenses are renewed annually, and refresher training is required every three years.

In fiscal year 2003, there were 260 milk haulers licensed by the department. Dairy inspection staff conducted 83 milk hauler training sessions and 280 on-farm sampling procedure evaluations and 337 in-plant truck tanker sanitation inspections.

Dairy inspectors perform random consumer protection inspections at retail stores selling milk and dairy products. In addition, whenever there is a complaint related to a dairy, milk or a dairy product, the assigned inspector will visit with the consumer to determine the nature of the complaint, collect samples, if necessary, and follow up at the retail store, distribution center or the processing plant where the milk was packaged.

In FY 2003 there were 846 consumer protection-related inspections and 435 consumer protection samples collected and analyzed in the department's dairy laboratory.

The dairy industry is changing. While the number of individual dairy farms continues to decline, their size is growing rapidly. The largest 10 to 12 farms in Kansas are responsible for 50 percent of the state's total raw milk production. As a result of the influx of large dairies into the state, Kansas recently was ranked 20<sup>th</sup> in total pounds of milk produced. Kansas also ranked highest in the percent of growth in milk production. Each day, three to six semi-tankers of milk are being transported from each of the large dairy farms in western and southwestern Kansas.

On the other end of the spectrum, smaller producers are looking for ways to maximize returns. For some of these producers, on-farm fluid milk bottling or cheese making operations have become a reality. The success of these operations will depend on developing local markets for these high-quality, value-added dairy products. Small-scale processing facilities are required to meet the same requirements, and to maintain the same public health standards for sanitation and food safety, as large-scale processors. However, many of the standards are viewed as limiting by small producers. Currently, there are five small-scale dairy processing plants permitted. The department is working with three more who plan to construct a plant.

These two trends present several new challenges for the Dairy Inspection program:

- Larger dairy production and new processing facilities are applying newer technologies in their operations. This requires ongoing training for inspection staff in order to maintain proficiency.
- When milk quality/adulteration violations are found today, it affects a greater quantity of milk than it did in the past. In addition, much of the milk from the dairies in western and southwestern Kansas is marketed to processing plants two or three states away. The milk is dispatched by cooperatives with offices located outside of Kansas. When sampling or inspection

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## Food Safety and Consumer Protection Programs



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## Food Safety and Consumer Protection Programs

of the milk shows violations, timely communication between the department, the dairy industry and regulatory agencies in other states is crucial to find and correct the problem before the next shipment of milk from that dairy. That poses a special challenge when milk shipments are picked up frequently on large dairy farms. The distance between farm and processor, and between sample site and laboratory site, is a growing challenge.

- Currently, we have one inspector trained to perform milk processing plant inspections and the required quarterly testing of all pasteurization equipment. He travels the entire state to do this work. With the addition of the smaller processing plants, one or two more inspectors should be trained to perform plant inspections and pasteurization equipment testing.

The dairy program is first and foremost a regulatory program. Inspectors identify problems through the physical evaluation of facilities as well as with the use of laboratory samples. It also is important that the dairy inspection program keep pace with the previously described trends. To that end:

- Persons wishing to develop on-farm milk processing facilities can request an information packet giving the basic plant requirements and regulations concerning the legal pasteurization of milk and dairy products.
- The department's website is another important resource. An information packet for prospective new dairy producers is available on the KDA website. A listing of the local dairy inspector's contact phone numbers also is there. There also is a link to the FDA website where national milk standards documents can be viewed. The department meets the information and training needs for the Hispanic milk hauler by providing written training materials for obtaining a milk hauling license in Spanish as well as English.
- An updated dairy statute and regulation handbook has been printed in a more user-friendly format.
- Recently, steps have been taken to improve communication between state agencies that regulate the dairy industry. The Department of Agriculture, Department of Health and Environment, and Department of Commerce are exchanging information on dairy industry permit applicants to help new processing plant applicants get through the licensing and permitting process as easily as possible. Communication of this kind will improve the public perception of state government, and it will promote growth in the regulated community.
- Lastly, the department realizes that the inspector is the point of contact when dealing with the regulated industry. The department is taking steps to equip inspectors with the necessary tools to meet the regulatory and food safety needs of the job. Upgrades to field staff computers are currently under way, as is

comprehensive computer training. This will improve the communication loop between the inspector, Records Center and the Agriculture Laboratory.

- Whether an inspector inspects a large dairy farm or a small dairy processor, training is key. We will send several inspectors to FDA-sponsored training courses over the next few years to bring them up to speed on new technologies in the industry, specifically in the area of dairy pasteurization and processing.

## Meat and Poultry Inspection

The Meat and Poultry Inspection program ensures the safety and wholesomeness of meat and poultry items produced by Kansas slaughter and processing plants that are not under federal inspection. Our mission is to detect, and eliminate from commerce, meat and poultry items that pose a health threat, are improperly labeled, or serve as a source of economic fraud to the consumer.

The program provides on-site inspections at slaughter and processing plants, and out-of-plant enforcement through personnel who review products in commerce. Kansans who depend on the Meat and Poultry Inspection program include consumers who obtain meat and poultry products through commerce, plant owners who offer those products for sale, and livestock producers who market such Kansas-raised products.

There also is a link to the FDA website where national milk standards documents can be viewed. The Kansas Meat and Poultry Inspection Act requires that all who are engaged in the business of slaughtering, processing, dressing, packing, manufacturing, distributing, brokering, wholesaling, or storing meat and poultry food products in Kansas be registered with, and in some cases pay a fee to, the Kansas Department of Agriculture. In fiscal year 2003, there were 365 such businesses registered.

The Meat and Poultry Inspection program has three objectives: food safety, consumer protection, and education and outreach. The food safety objective is accomplished by ensuring that only meat and poultry products that do not pose a food safety hazard are allowed to enter the human food supply. The consumer protection objective is achieved by inspecting meat and poultry products involved in intrastate commerce to ensure that they comply with established standards of identity and labeling, which minimizes the opportunity for product adulteration and economic fraud. The education and outreach objective is met by supplying Meat and Poultry Inspection personnel with educational meetings, continuing education exercises and training materials, and by helping owners and operators of state-inspected facilities understand and comply with state and federal laws and regulations.

The Kansas program is modeled after the federal inspection program. The Kansas Meat and Poultry regulations, the program's compliance section, and the department's laboratory, which performs chemical and microbiological analyses, have all been rated as "equal to" their federal counterparts by USDA's Food Safety and Inspection Service

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## Food Safety and Consumer Protection Programs

The Meat and Poultry Inspection budget for fiscal year 2003 was \$2,895,350.

49 percent came from the state general fund, 49 percent came from federal funds and 2 percent came from fees.

The program has one unclassified, temporary employee and 61 full-time employees.

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## Food Safety and Consumer Protection Programs

reviewers. Plant owners under state inspection face the same sanitation and facility standards as their federal competitors. However, they are not allowed to ship products across state lines. These plants provide a valuable service to Kansas' smaller communities, and they contribute to local economies by providing jobs and an outlet for livestock producers. The Kansas Department of Agriculture is an active supporter of federal legislation that would eliminate the ban on interstate shipment of state-inspected meat and poultry products.

During fiscal year 2003, the Kansas Department of Agriculture, along with the Kansas Department of Health and Environment, the Kansas Rural Center and Kansas State University, met with a group of farmers' market vendors to educate them on regulatory issues regarding meat sales at open air markets. The goal was to provide these vendors with practical information that could be used to expand their markets while complying with current regulations. The department's Meat and Poultry Inspection staff explained the current requirements for labeling and marketing meat and poultry products.

Due to the ongoing concern about a possible foreign animal disease outbreak, such as foot-and-mouth disease, and the close proximity of Kansas to states with confirmed cases of chronic wasting disease in deer and elk, the Kansas Department of Agriculture continues to work closely with the Kansas Animal Health Department and USDA's Animal and Plant Health Inspection Service in the surveillance for these and other animal diseases. Recently, all Meat and Poultry Inspection program veterinarians completed training in collection techniques of chronic wasting disease diagnostic specimens to help USDA and the Kansas Animal Health Department in their surveillance efforts.

The Meat and Poultry Inspection program also has updated its foreign animal disease and emergency response protocol to include responsibilities for assisting the Kansas Animal Health Department and USDA's Animal and Plant Health Inspection Service in the event we should ever have a foreign animal disease outbreak in Kansas. Initial training has been provided for staff and for owners and operators of state-inspected slaughter facilities to help them recognize foot-and-mouth disease. Additional training for Meat and Poultry Inspection staff is being planned to include a thorough definition of the roles the program's inspectors would assume should foot-and-mouth disease be diagnosed in Kansas. A review on foot-and-mouth disease recognition also will be included in this training effort.

During the June 2003 foreign animal disease emergency response exercise, we worked closely with USDA and the Kansas Animal Health Department, and our veterinarians and inspectors played a critical role in responding to the mock disease outbreak.

During fiscal year 2004, new food safety initiatives will be emphasized. Major changes have been mandated by USDA that impact how state and federally inspected establishments address food safety concerns like *E. coli* O157:H7 in raw beef product and *Listeria monocytogenes* in cooked, ready-to-eat foods. Enhanced product testing by both industry and inspection programs will be required.

USDA's Food Safety and Inspection Service also is modifying the procedure it uses to review the adequacy of state meat and poultry inspection programs. State programs will provide USDA with a self-assessment document prior to on-site reviews conducted by Food Safety and Inspection Service reviewers. The Kansas Meat and Poultry Inspection program was reviewed by USDA in November 2002.

## Agricultural Commodities Assurance Program

The Agricultural Commodities Assurance Program regulates the quality of eggs, feed, pet food and seed. Inspectors routinely visit supermarkets, feed mills, pet stores, and other retail and wholesale outlets, to verify that products are properly labeled and to collect samples to send to our Agricultural Laboratory for analysis. These inspections ensure that food products consumed by the public are safe.

Last year, more than 100,000 eggs were inspected by ACAP staff. Inspections ensure that eggs are stored at 45 degrees Fahrenheit or lower, since storing them at a higher temperature may cause salmonella to grow, posing a human health threat. Unfortunately, at 64 percent (a 6 percent increase from last year), the compliance rate for eggs is very low. This percentage includes compliance with all requirements, not just temperature. Increased egg inspections will continue this fiscal year in an effort to further improve the compliance rate.

ACAP staff visit approximately 1,200 state and federally licensed feed mills to conduct good manufacturing practice inspections. Inspectors verify that these feed mills follow established good manufacturing practices to ensure that they produce feed that is safe and in compliance with state and federal rules.

During feed mill inspections, ACAP staff pay extra attention to materials that include bovine (cow) protein. In Europe, bovine protein has been identified as the vehicle responsible for spreading bovine spongiform encephalopathy, or mad cow disease, a disease that has not been found in the United States. Inspectors verify that any product containing bovine protein is labeled with a cautionary statement indicating that it must not be fed to cattle or other ruminants.

The compliance rate for feed samples checked for prohibited materials was 95 percent. This number includes feed not intended to be fed to ruminants. While this number is very high, it is not acceptable for this program. Because compliance is so important to human health and the livestock industry, our goal is to reach 100 percent compliance. When violations are reported by the Agricultural Laboratory, inspectors investigate to ensure that prohibited materials were not fed to cattle or other ruminants.

ACAP also helps the federal government investigate tissue residue cases, where antibiotics and other drugs have been detected in animals destined for the human food supply. When a carcass is examined by a federal inspector, and antibiotic or other drug residue is found, ACAP

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## Food Safety and Consumer Protection Programs

The ACAP budget for fiscal year 2003 was \$520,177.

86 percent came from fees, 8 percent came from a grant and 5 percent came from federal funds.

ACAP had eight full-time employees in fiscal year 2003.

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## Food Safety and Consumer Protection Programs

investigates the cause and source of the problem. Last year, five tissue residue cases were referred to ACAP for investigation and the number is likely to increase this year.

Typically, when drug residue is detected, the problem can be traced to a dairy producer or rancher who medicated a sick animal and did not wait long enough for the drugs to be expelled by the animal's body before marketing it. The ACAP inspector provides information regarding the importance of following label instructions and federal rules, and conveys the consequences of improperly medicating animals.

Most consumers look at nutrition labels on foods they consume. Some also look at the nutrition labels on their pet's food. ACAP inspectors make sure that the food we feed our pets contains what is identified on the product label.

Seed inspections are important to the agricultural industry and to consumers. Farmers use germination and purity guarantees to determine crop yield. If seed does not meet those guarantees, the crop will be less than expected and the farmer may suffer economically. Poor crop yields may ultimately raise the price of food for consumers.

At the end of fiscal year 2002, ACAP began outsourcing its seed analyses to a private seed laboratory. Outsourcing the seed laboratory work resulted in cost savings to ACAP, which allowed us to fund additional seed inspections and investigations. Seed samples collected and submitted for analysis increased by more than 60 percent, while the cost for providing analytical services decreased by more than 25 percent.

Greater emphasis was placed on egg and prohibited material inspections in the last fiscal year. The goal was to shift resources to these areas while maintaining adequate inspections in other areas. For example, it has been routine to sample all types of seed each spring and fall. We still will conduct seed inspections during these critical times, but we will reduce the number of samples taken for seeds that historically have had a high compliance rate.

ACAP often has to shift emphasis due to changing marketplace conditions. For example, routine duties are often interrupted to investigate prohibited material violations and to help with Karnal bunt-related inspections. We anticipate similar changes in course in the future as we encounter unforeseen issues that affect food safety and consumer protection.

## Weights and Measures

Weights and measures is one of the oldest government functions. It is specifically mentioned in the Articles of Confederation and the United States Constitution. The global and United States economies depend on uniform standards of mass, volume and length. Thus, the Weights and Measures program serves a very important role in consumer protection and in facilitating trade.

Weights and Measures inspectors test all kinds of commercial weighing and measuring devices. Inspectors test scales used in grocery stores, grain elevators, livestock sale barns, pawn shops and other locations. They test gas pumps and meters used to sell chemicals or to sell propane to homeowners. Weights and Measures inspectors check packages containing edible and inedible products to ensure that the consumer receives the quantity stated on the label. They even verify that scanners scan the correct price. Essentially, all consumer goods are subject, in one way or another, to the weights and measures law.

Functions of the Weights and Measures program fall into six categories:

- Small scales
- Scanners and packages
- Large scales
- Gas pumps and fuel quality
- Meters
- Metrology

The metrology function provides traceability services, both internally and externally. In addition to certifying the mass and volume standards for our own inspectors, the metrology function provides certification for service companies and industry.

Each year, the metrology program certifies approximately 10,000 standards. These standards include weights, test measures and provers. The certification provides traceability of those standards to those at the National Institute of Standards and Technology. Most of these standards are used to calibrate weighing and measuring devices, but a small portion are used by local industry in their quality control programs.

The metrology program participates in round-robin tests of standards and regional metrology meetings to ensure that the results of their laboratory are consistent with other metrology laboratories throughout the world. Because of the strict guidelines the metrology laboratories follow, one can be confident that a pound in New York is the same as a pound in Topeka and is the same as a pound in Los Angeles.

Kansas requires every commercial weighing or measuring device, excluding gas pumps, to be tested by a licensed service company each year. The Weights and Measures program licenses service companies and their technicians. These companies are authorized to repair, install and certify commercial weighing and measuring devices. Kansas is believed to be the only state that allows its service technicians to actually certify commercial weighing and measuring devices.

The Weights and Measures program provides oversight to these service companies and service technicians. Computer-generated lists of scales recently tested by service companies are provided to inspectors of large and small scales. The inspectors retest the devices and compare results to ensure that the device was properly tested. Commercial scales found not tested properly by the service company are required to be retested and the service company may be fined.

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## Food Safety and Consumer Protection Programs

The Weights and Measures budget for fiscal year 2003 was \$1,347,717. 41 percent came from the state general fund and 59 percent came from fees.

The Weights and Measures program had one unclassified, temporary employee and 21 full-time employees in fiscal year 2003.

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## Food Safety and Consumer Protection Programs

Compared to some other states, the number of devices tested by the Weights and Measures program is lower, but our compliance rate for accuracy of these devices tends to be higher. The goal of any weights and measures program should not be the number of devices tested, but ensuring accurate devices. Thus, focusing on outcomes and not outputs has served us well.

During the last fiscal year, the Weights and Measures program found that 92 percent of small scales in the state were accurate. The compliance rate for large scales is lower; 82 percent. This is an improvement over the previous fiscal year's compliance rate and can be attributed to a greater emphasis on follow-up inspections. Traditionally, the focus has been on conducting a representative scale test to determine the compliance rate for the state. Since the compliance rate is known and is low, the program is now concentrating on problem scales and conducting more follow-up inspections. It is hoped that through these efforts the compliance rate for large scales will continue to improve. After this fiscal year, the program will again conduct tests based on a representative sample to determine if the compliance rate has improved.

Unlike small scales, which are used in a controlled environment, vehicle-tank meters and liquefied petroleum meters are used on the backs of trucks. They are subject to harsh environmental conditions (rain, snow, ice, heat, dust, vibration, etc.) and are harder to maintain in an accurate condition. As with large scales, emphasis is placed on follow-up inspections. Compliance rates improved in fiscal year 2002 and again in fiscal year 2003. The compliance rate for meters in fiscal years 2002 was 73 percent, which improved to 79 percent in fiscal year 2003. While this number may not appear high, it is an improvement over the compliance rate of 67 percent for fiscal year 2000. Also, it is close to the target compliance rate of 80 percent or better.

Weights and Measures inspectors also conduct price verification inspections at facilities using scanners. The compliance rate for inspected facilities in fiscal year 2002 was only 49 percent, but it improved to 55 percent in fiscal year 2003. This number is still low. However, it includes stores that undercharged as well as those that overcharged. In fact, the number of items for which stores undercharge is slightly greater than those for which they overcharge. The Weights and Measures program continues to prosecute serious repeat offenders. While this has been effective at bringing those repeat offenders into compliance, the overall compliance rate has not improved as quickly as hoped.

Inspectors who conduct small scale and scanner inspections also verify the net contents of consumer packages. Last fiscal year, inspectors sampled lots containing more than 300,000 packages to ensure that they contained the correct net quantity. In other words, they made sure that the consumer was receiving the amount of product for which he or she had paid. In an effort to use resources effectively, inspectors target packages they suspect do not contain the correct net quantity and do not inspect packages that have a high probability of passing inspection. This is important to understand when looking at the compliance rate for packages. Only 57 percent of the packages passed inspection, but this does not mean that only 57 percent of the packages sold in the state are

correct. One cannot draw any conclusions about all packages sold throughout the state. Inspectors conduct audit inspections (nonofficial inspections) that serve to screen packages and only inspect packages that are likely to be in violation. Consequently, compliance rates apply only to those packages actually inspected

The gas pump program tests more than 20,000 gas pumps each year to ensure that the consumer is getting all the fuel for which he or she has paid. This program has been very successful since changes were made to it in 1996. Prior to 1996, service companies were responsible for the annual gas pump tests. An increase in the petroleum inspection fee fund allowed the Weights and Measures program to assume responsibility for testing gas pumps. While the compliance rate for gas pumps in fiscal year 1997 was only 88 percent, it improved to 95 percent in fiscal year 2001 and remained there through fiscal year 2003.

Gas pump inspectors randomly take fuel samples to send to a private laboratory for analysis. It can be said, based on the results of these inspections, that fuel quality in Kansas is excellent. Ninety-nine percent of the fuel samples this year passed the quality testing performed by the laboratory. The lowest the compliance rate in the last four years was 97 percent, with the average for the last five years being 98 percent.

Equipment for a new program, wholesale meter testing, was acquired in fiscal year 2002 and put into service in fiscal year 2003. The inspector tested 130 of the 219 wholesale meters in the state used to sell gasoline and diesel fuel. The compliance rate for these meters was 91 percent.

The Weights and Measures program will continue to inspect weighing and measuring devices in an effort to protect consumers and to provide equity in the marketplace. Shifting resources based on compliance rates of the various weighing and measuring devices and changing test methods will continue as a way to improve compliance rates without increasing staff size or program cost.

## Grain Warehouse Inspection

The Grain Warehouse Inspection program administers and enforces the Kansas Public Warehouse Law relating to grain storage. It requires that any entity that stores grain for the public to be licensed. It ensures that Kansas grain producers have safe, solvent warehouses where they may store their commodities. To achieve this, the program examines state-licensed facilities at least once each year. More examinations are made on licensed facilities that meet only the minimum financial requirements.

During fiscal year 2003, the Grain Warehouse Inspection program had 154 licensed elevators and 313 additional locations. This 16 percent reduction in licensed facilities was due to the consolidation of 30 plus licenses into one major warehouse. The program performed 209 random examinations on the 154 licensed facilities. Facilities meeting only the minimum financial requirements, or facilities with serious compliance problems, were examined more than once during the year.

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### Food Safety and Consumer Protection Programs



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## Food Safety and Consumer Protection Programs

The Grain Warehouse Inspection budget for fiscal year 2003 was \$580,126. The program is entirely fee funded.

The program had eight full-time employees in fiscal year 2003.

Examinations help:

- Reduce fraud in the grain industry.
- Ensure the quantity and quality of stored commodities in Kansas-licensed warehouses.
- Achieve our goal of maintaining the percentage of loss to producers at zero.

The number of state-licensed elevators continues to decline. However, the total number of licensed locations remains fairly constant. The decline in state-licensed facilities can be attributed to grain companies merging, being sold to another federally licensed or state-licensed facility, or elevators going out of business. When elevators merge, it is to reduce operating costs and to increase productivity.

A licensed elevator, with the approval of the Grain Warehouse program, may move warehouse receipted grain to another licensed, bonded terminal elevator. This allows smaller facilities to free up bin space for the next harvest. Also, with approval from the program, licensed facilities may use emergency or conditional storage space during harvest when storage space is in short supply. This allows the elevator to better serve Kansas crop producers.

A growing concern for the Grain Warehouse program is funding. When the program was brought into the Kansas Department of Agriculture in 1997, it came with roughly \$900,000 in operating funds. However, the cost to run the program typically runs \$150,000 more than the fees it brings in each year. Consequently, the operating fund has diminished over the last few years.

As it operates currently, the Grain Warehouse operating fund should be depleted by March 31, 2005. To maintain the program through the end of fiscal year 2005, and to give the department an opportunity to identify a long-term funding solution, a temporary regulation is proposed to modify the program's current funding structure. It should be adopted before the end of the calendar year.

Under the temporary regulation:

- license fees for all warehouses with a capacity for 700,000 bushels will be raised to the maximum allowed by law;
- fees for amending a warehouse license will be raised from \$100 to \$300;
- the per hour charge for a special examination will be raised from \$30 per hour to \$50 per hour;
- the license fee for each functional unit will be raised from \$350 to \$500.

To resolve these long-term funding concerns for the program, the department is looking at several options:

- Establishing a producer-funded checkoff from both state-licensed and federal-licensed warehouses (including feedlots);
- Seeking state general funds;

- Reducing staff;
- Repealing the statute compelling an annual examination schedule;
- Increasing fees;
- Contracting out the measuring portion of the examination;
- Any combination of the above.

Looking ahead, warehouses may be moving toward electronic receipts. USDA has already announced implementation of electronic warehouse receipts for cotton and peanuts, so it is only a matter of time before they authorize them for grain in federal warehouses. To remain competitive, Kansas may need to draft a law or regulation to facilitate the use of electronic receipts. Authorizing electronic receipts also will reduce the amount of time examiners spend on examinations and they could help reduce fraud.

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## Food Safety and Consumer Protection Programs

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## Water Resource Programs

The Water Management

Services budget for fiscal year

2003 was \$760,640.

99.5 percent came from the

state general fund and

0.05 percent came from

fees and 0.2 percent came

from a grant.

Water Management Services

had 14 full-time employees in

fiscal year 2003.

## Water Management Services

The Water Management Services' goals and responsibilities are to:

- Provide administrative and technical assistance to the three water resource program areas, including leadership, management and coordination from the chief engineer.
- Develop long-term water management programs to address interstate and intrastate issues.
- Provide staff management and training.
- Represent Kansas in interstate river basin compacts.
- Provide quality control of data in the Water Rights Information System.
- Develop and manage Geographic Information System resources.
- Review and approve water conservation plans.
- Coordinate program efforts with other water-related agencies.
- Conduct hydrological studies to provide information for regulatory decisions.
- Monitor stream flows and provide analysis to support minimum desirable streamflow administration.

Kansas is party to four interstate river compacts: Kansas-Nebraska Big Blue River Compact; Kansas-Colorado Arkansas River Compact; Kansas-Oklahoma Arkansas River Basin Compact; and Kansas-Nebraska-Colorado Republican River Compact. The chief engineer serves on each compact administration to ensure that Kansas' interests are represented. Water Management Services program staff provide technical support and serve on various compact committees. The chief engineer, or his designee, also represents Kansas on the Missouri River Basin Association and the Western States Water Council.

The technical services section provides technical support to the chief engineer and to all three water resource programs. This specifically includes the following interstate compact activities: compliance and enforcement, data acquisition and analysis, hydrological or groundwater modeling, and representing Kansas' interests at compact meetings.

*Republican River Compact, Kansas v. Nebraska:* After years of trying to resolve Nebraska's alleged violation of the Republican River Compact, Kansas filed suit in 1998 before the U.S. Supreme Court. During 1999, the court agreed to hear the case and appointed a special master. In 2000, the special master and the court denied Nebraska's motion to dismiss the case based on their theory that groundwater use was not governed by the court.

Concurrent with extensive pretrial activities, the states entered into settlement discussions in October 2001. On December 16, 2002, the states announced that a settlement had been reached. Among other things, the settlement required the parties to jointly complete by July 1, 2003, a groundwater model to quantify, by state, groundwater impacts to streamflow to use in the compact's accounting procedures, or have any remaining issues be subject to binding arbitration. On June 30, 2003, Kansas, Colorado and Nebraska reached agreement on the groundwater model.

Our work for the coming year will focus on implementing settlement provisions, including:

- an annual exchange of an extensive array of water use and other data;
- updating and running the groundwater model for the years 2001 to 2003;
- fully implementing the new accounting procedures;
- completing a plan of study for a five-year study of the impact conservation practices have on the basin's water supply;
- cooperating with the Bureau of Reclamation on a study of potential system improvements in the lower Republican River basin to improve use of the water supply;
- updating an inventory of dams.

Kansas also will need to monitor Nebraska and Colorado's compliance with settlement requirements.

*Arkansas River Compact, Kansas v. Colorado:* During fiscal year 2003, staff supported Kansas' litigation team in trial during summer and fall 2002. This final phase of the trial involved issues related to future compliance with the compact. A final report from the special master is expected in the summer of 2003, followed by briefing and review by the Supreme Court to finalize the case. Staff continue to provide technical support to help resolve ongoing concerns about John Martin Reservoir operations and fulfilling Kansas' duties to the compact administration. As the case nears completion, we are working to transfer expertise from our consultants to our staff, which is needed for ongoing implementation of the court's decisions and to monitor Colorado's compliance.

Other activities of this program in fiscal year 2003 include:

- Finalizing rules and regulations to implement flex account and water banking laws enacted by the Legislature.
- A proposed draft charter for a central Kansas water bank within the boundaries of Big Bend Groundwater Management District No. 5 was received and reviewed.

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## Water Resource Programs

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## Water Resource Programs

The Water Appropriation budget for fiscal year 2003 was \$2,977,731. 82 percent came from the state general fund, 15 percent came from fees and 3 percent came from miscellaneous federal funds and grants.

The Water Appropriation program had 56 full-time employees in fiscal year 2003.

- Generated a data model for migration of the Water Structures Inventory to an Oracle platform.
- Investigated several water right impairment complaints, and collected and analyzed field data to develop sufficient hydrological analysis to support regulatory decisions.

## Water Appropriation

The Water Appropriation program is the largest and most diverse of the Water Resource Programs. It administers the provisions of the Kansas Water Appropriation Act; portions of the Kansas Groundwater Management District Act; portions of the State Water Plan Storage Act; and is involved in the Water Transfer Act.

The Kansas Water Appropriation Act provides the foundation for the acquisition and administration of water rights in the state. Primary functions are to:

- Process applications for a permit to appropriate water for beneficial use.
- Issue certificates of appropriation for beneficial use of water in accordance with actual use within the terms, conditions and limitations of the permit.
- Process applications for a change to an existing water right.
- Process water transfer applications.
- Maintain a reporting and accounting system of the amount of water used as reported by each water right holder.
- Process forfeitures of water rights (abandonment) for failure to use water without sufficient cause being shown for nonuse.
- Allocate water during shortages, investigate impairment, waste, illegal wells, or water use in violation of water right terms, conditions or limitations.
- Review and approve proposed revisions to management programs of the groundwater management districts.

There are about 30,000 permits and water rights in the state that authorize the beneficial use of water. About 740 new permits and 930 change applications were processed between July 1, 2002, and June 30, 2003. All permits that had accumulated over the past 20 years that had not been certified have been certified except roughly 300 that have nonuse questions. Verified reports are being completed by the field offices and hearings are being scheduled to determine if they are abandoned.

Emphasis is now on new permit applications that have accumulated during the last 20 years. The nearly 600 pending permit applications in February 2002 have been decreased to about 350 pending applications. It

is planned that this effort will result in decreasing this number to less than 200 by May 1, 2005. Meeting this goal will allow the division to concentrate on meeting the legislative mandate of completing the application processing within 150 days.

A project was initiated in 2001 to identify users who have pumped more water than their water right allows. Technical assistance is provided to these users to help them stay within their water right. If they persist in overpumping, an enforcement action may be taken to order them to stop pumping. The project initially focused on the Ogallala and those who pumped large amounts in excess of their water rights. Beginning in the 2003 irrigation season, this project was expanded to include all of the Republican River valley and areas in the High Plains aquifer. In addition to those who pumped large quantities, a randomly selected number of those who reported any amount over what was authorized were subject to a compliance investigation and possible enforcement action. Finally, another number of water rights were randomly selected for compliance checks regardless of the amount or use reported. All of those selected were in the same areas.

Persistent dry climatic conditions continue to cause the flow in many streams in the state to go below the minimum desirable streamflow criteria. Water rights junior in priority to MDS have been required to limit diversions to protect MDS on these streams. Other senior surface water rights, primarily municipalities, have also required water administration to limit diversions junior in priority to their water rights, or to protect releases from upstream reservoirs.

Water is an essential public resource, and the Water Appropriation program is committed to ensuring that all Kansans will have an adequate supply of water for the future.

## Water Structures

The Water Structures program is made up of four teams:

- Administration
- Stream obstructions and channel changes
- Dam safety
- Floodplain management

The program regulates human activities that affect the flow of rivers and streams, to ensure that those activities are properly planned, constructed, operated and maintained for their authorized purposes without adversely affecting public health, welfare or safety, the environment, or public and private property. Water resource regulation is accomplished primarily through permitting dams and other structures constructed in a stream or floodplain, or that alter the course, current or cross-section of a stream.

The stream obstruction and channel change team processes permits for floodplain fills, levees, stream obstructions and channel changes. Below is a summary of team activity in fiscal years 2002 and 2003, and our goals for fiscal year 2004:

# 4

## Water Resource Programs

# 4

## Water Resource Programs

The Water Structures budget for fiscal year 2003 was \$1,075,515. 53 percent came from the state general fund, 27 percent came from FEMA funds, 14 percent came from miscellaneous federal funds and grants, and 6 percent came from fees.

The Water Structures program had 14.5 full-time employees in fiscal year 2003.

Stream Obstructions and Channel Changes	FY 2002 Actual	FY 2003 Actual	FY 2004 Goal
- Processing time for regular permit applications (days)	165	166	120
- Processing time for general permit applications (days)	N/A	63	45
- Processing time for floodway fringe fill approvals (days)	104	90	90
- Processing time for floodplain zoning ordinances (days)	90	21	25
- Process stream obstruction permits	319	410	425
- Process channel change permits	79	51	60
- Process floodplain fills/levees	107	122	130
- Permit determinations received	101	141	150
- Permit determinations processed	153	132	150

The dam safety team is responsible for permitting dams above a certain size, and either inspecting or overseeing inspection of those structures. Dams in Kansas are categorized by three hazard classifications (high, significant and low) and four sizes (one through four). The activity of the dam safety team in fiscal years 2002 and 2003, and the goals for fiscal year 2004 are:

Dam Safety	FY 2002 Actual	FY 2003 Actual	FY 2004 Goal
- Number of new dams properly completed	31	36	40
- Dam and dam modification permits processed (FY 2002 includes permit determinations not included in FY 2003)	107	69	80
- Number of core trench inspections	35	28	35
- Number of pipe inspections	17	25	35
- Number of final inspections	31	43	40
- Number of site inspections	10	18	20
- Number of unsafe dam inspections	36	4	7
- Number of high-hazard dam inspections	3	0	12
- Number of significant-hazard dam inspections	5	0	12
- Number of safety inspection reports reviewed	N/A	2	125

The number of routine high- and significant-hazard dam inspections is reduced from historic levels because a 2002 statute change generally made that task the responsibility of owners. If an owner fails to have a routine inspection conducted, the program is responsible for conducting the inspection at the owner's cost. The program is responsible for annual inspections of dams determined to be unsafe, but at the owner's cost according to a schedule provided in the statute.

The floodplain management team provides general technical assistance regarding floodplain management issues, overseeing floodplain mapping projects, and developing strategies for soliciting and utilizing federal grants and state resources to implement future floodplain mapping and studies in the state.

Floodplain Management	FY 2002 Actual	FY 2003 Actual	FY 2004 Goal
- Number of communities with new or updated flood hazard maps	0	23	20
- Number of studies initiated	1	4	3
- Number of studies completed	0	1	2
- Number of floodplain miles mapped in the completed studies	0	100	700
- Number of ordinances reviewed	51	12	20
- Number of ordinances approved	17	8	20

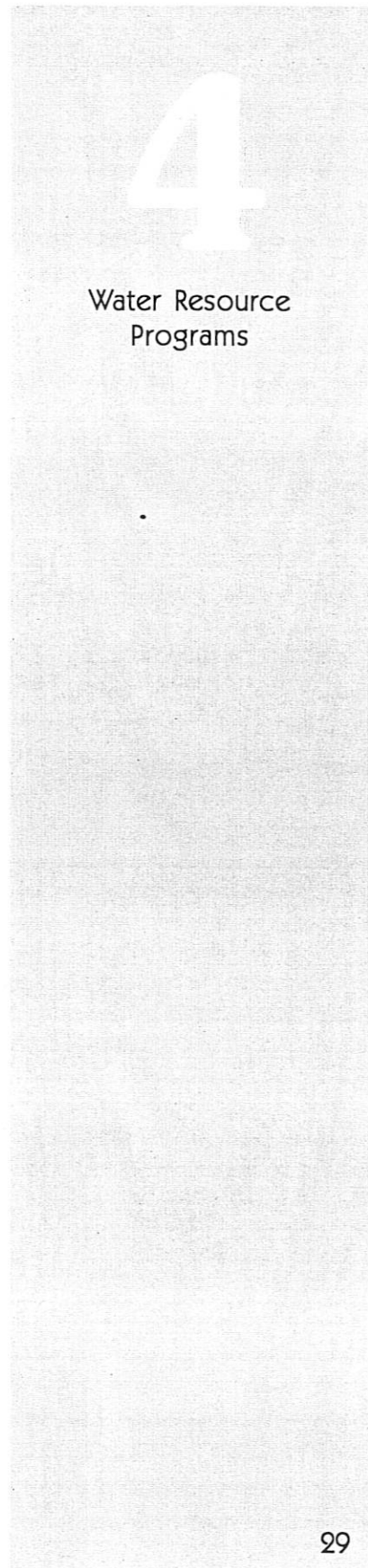
A significant challenge facing the Water Structures program has been recruiting and retaining qualified technical staff. An additional engineer was hired in fiscal year 2003 using fee funds in order to improve our review times, to reduce the number of backlogged projects waiting for review, and to address complaints in a timely manner. This position is located in the Stafford field office. A second position will be funded from the fee fund in fiscal year 2004, while 2.5 positions are proposed to be funded from the federal dam safety grant that was renewed by Congress this year. If the grant application is approved, these positions will enhance the dam safety program by improving public education and information efforts, and investigating dams that currently are not permitted.

During the 2002 legislative session, a fee structure for applications was established in statute for the first time in the Water Structures program's history. Application processing fees are now required for most projects reviewed by the program. Fees vary according to the project's drainage area (for stream obstructions and channel changes) or its location in the floodplain (for levees and floodplain fills). In general, fees for applications are doubled if construction of the project is begun before a permit is issued, which is an incentive to secure a permit before a project is started. In addition, inspections of dams declared to be unsafe, and high- and significant-hazard dams for which the owner does not have an appropriate inspection conducted, are to be inspected by program staff with a fee assessed to the owner.

## State Water Plan

The Subbasin Water Resources Management Program addresses water related issues identified and funded by the State Water Plan. Management strategies are developed as a proactive approach to address groundwater decline, streamflow depletion and related water quality concerns in identified project areas.

Sound scientific information is made available in a cooperative effort by local, state and federal agencies. Input from interested parties and local water users is an integral component to the philosophy of this





# 4

## Water Resource Programs

The Subbasin Water Resources Management budget for fiscal year 2003 was \$782,022. It is funded entirely by State Water Plan special revenue funds.

The Subbasin Water Resources Management program had 11.7 unclassified, temporary employees in fiscal year 2003.

program. This input enables close interaction between government agencies and the public sector when making decisions at the local level.

Even with good interaction between agency staff and the public sector, trust, time, staff turnover and funding for programs initiated through the management strategies are primary concerns. There are many ways to benefit from taking a proactive approach to developing management strategies.

Individuals are more likely to participate in voluntary, incentive-based approaches that address water issues rather than mandatory solutions. Fewer taxpayer dollars are spent on costly litigation to enact an intensive groundwater use control area, which typically results in harsh administrative action. And, local taxpayers have a say in how an area can be protected from further degradation.

The program currently conducts roughly 4,000 water level measurements and 350 to 500 streamflow measurements annually. In addition, about 40 public meetings are held annually to address water issues and to develop management strategies for specific areas. These numbers vary marginally when projects enter into implementation (measurements and meetings are reduced to target priority areas) and when new areas enter the program (measurements and meetings increase to determine priority areas and to develop management strategies).

Irrigation surveys are conducted to determine the percent of irrigation efficiency, the agricultural and water conservation practices implemented, and the level of participation in conservation programs offered by the state in target areas.

The program currently hosts a website — [www.accesskansas/kda/basinteam](http://www.accesskansas/kda/basinteam) — that provides information on data collection activities, water use, project-specific reports, related links, meeting dates and minutes, and contact information for interested parties in targeted areas.

Changes made during fiscal year 2003 include staff changes, incorporating consistency between project areas, where applicable, expanding the amount of data available on the web, and merging water level data with the Kansas Geological Survey to enhance a water level measurement program. In addition, the program has been working with the Kansas Geological Survey to conduct stream-aquifer interaction studies in the Middle Arkansas River basin. Drought conditions have delayed aquifer pumping tests due to no streamflow in the Arkansas River.

Significant changes coming in fiscal year 2004 include developing protocol and beginning a planning process for the Ogallala-High Plains Aquifer in areas outside of groundwater management districts, implementing Pawnee-Buckner and Middle Arkansas River management strategies, assisting Division of Water Resources Water Appropriation staff with implementation of the Rattlesnake Creek project, preparing annual field analysis reports for each project area, and providing an annual report on the status of all program areas.

# Plant Protection and Weed Control

The goal of the Plant Protection and Weed Control program is to ensure the health and protection of the state's natural and cultivated plant resources from high-risk invasive insects, plant diseases and weeds. Most activities occur in three functional program areas:

*Safeguarding.* Program staff conduct activities to protect Kansas plant resources from the entry and establishment of high-risk exotic and invasive pests. Staff have identified more than 200 exotic organisms that could harm the Kansas environment and economy. Excluding pests of regulatory significance will protect native and cultivated plant resources and maintain the capability to export Kansas-produced plant commodities and products. Detection surveys for exotic invasive pests such as gypsy moth, Karnal bunt, boll weevil and Grecian foxglove are conducted annually. Pest exclusion activities also benefit the Kansas environment by avoiding additional pesticide use to control new pests.

*Export Commodity Assurance.* Program staff conduct activities to ensure that the pest-freedom requirements placed on Kansas-produced commodities by other states and foreign countries are met, which helps ensure expeditious movement of those commodities in international and domestic markets. Surveys and inspections for pests of concern to buyers of Kansas-produced commodities are conducted to ensure these commodities are eligible to enter the marketplace. Some of these pests include dwarf bunt and Karnal bunt of wheat, Stewart's bacterial wilt of corn, sorghum downy mildew, various pests of nursery and ornamental plants, and a number of stored grain pests. Information gathered during surveys for established pests also is useful to persons engaged in pest management activities.

*Pest Management, Control and Eradication.* Program staff conduct activities to manage, control, or eradicate selected pests of regulatory significance already established in the state and provide technical expertise to program cooperators involved in pest control. Current eradication efforts are directed toward the imported fire ant in Lawrence, pine pitch moth in parts of northwest Kansas, and Grecian foxglove in southeast Kansas. Examples of current biological control efforts include Japanese beetle, purple loosestrife, and several noxious weeds, including musk thistle and Canada thistle. Biological controls benefit the environment by reducing the reliance on and use of pesticides.

To meet the needs of the state's nursery, greenhouse, grain and forage industries, staff conduct many types of inspections each year. These are performed at sites such as nursery production fields, garden centers, landscape and ornamental plant retailers, grain elevators, and grain, seed and forage production fields. These activities include:

Number of sites surveyed for exotic invasive pests .....	1,477
Number of exotic pests found .....	15
Number of sites surveyed for pests of export significance .....	2,194
Number of Kansas-produced commodities certified for export .....	24
Number of foreign countries importing Kansas-produced commodities ..	51
Number of rejection notices issued for infested out-of-state live plants ...	96

# 5

## Environmental Protection Programs

The Plant Protection and Weed Control program budget for fiscal year 2003 was \$961,156. 78 percent came from the state general fund, 8 percent came from fees and 14 percent came from federal funds.

The Plant Protection and Weed Control program had 12 full-time employees in fiscal year 2003.

# 5

## Environmental Protection Programs

Persistent drought continues to be a concern. With the exception of the 2003 wheat crop, reduced production caused by a multiyear drought has led to reduced exports of Kansas corn, grain sorghum and soybeans.

Modifications made to the Kansas Plant Pest Act during the 2002 Legislative session are producing the results the 2000-2001 stakeholder review committee had envisioned. Program staff are able to perform more activities to detect and mitigate high-risk plant pests rather than performing required inspections that had lower potential of risk with regard to new pest introductions.

From late fiscal year 2002 and through the first half of fiscal year 2004, program staff will work with USDA-APHIS-PPQ on the homeland security initiative to protect the country's plant resources from exotic, invasive plant pests. Current efforts are focused on increasing the program's infrastructure to allow for more rapid communication and response capabilities.

These capabilities were tested in the spring of 2003 when geraniums shipped to the United States from Kenya were found to be infected with *Ralstonia solanacearum*, a bacterial plant pathogen identified by the Agriculture Bioterrorism Act of 2002 as a disease of importance. More than 20 sites in Kansas received materials from the importer. Three sites were positive for the disease. All infected plants were destroyed, and the facilities in which they were found were sanitized. The disease has not reappeared in the state.

Program staff also are developing more effective communication links with diagnostic facilities at Kansas State University and the University of Kansas to facilitate identification of new plant pest organisms that may be detected in the state.

Program staff have expanded their ability to certify Kansas-produced products through a memorandum of understanding with the North American Weed Management Association to inspect and certify forage and mulch materials used on lands requiring this type of forage or mulch. Staff work with producers to ensure the forage or mulch they provide to their customers meets regionally established weed-free standards. Demand for inspection services increased greatly in 2003. Fires in western states continue to generate demand for weed-free mulch materials as burned areas are reseeded.

The eradication of an imported fire ant infestation in Lawrence appears to be successful. Survey and detection activities in the area in 2003 did not reveal any imported fire ants. Staff will continue to monitor the area to ensure the eradication was successful.

Staff continue to make progress on the eradication of Grecian foxglove from an area in Wilson County. The size of the infested area has been reduced to two to three acres from the original infestation of about 20 acres in the mid-1990s. A state quarantine prohibiting the sale of this toxic plant was enacted so new infestations do not become established and threaten the state's livestock industry.

Staff continue to monitor the expansion of purple loosestrife in the state. A few infestations of the wild type of this highly invasive plant are established in central and eastern Kansas and threaten wetlands in those areas. The horticultural varieties of this plant have been popular with landscapers and the nursery industry. However, a quarantine was enacted to remove this invasive plant from commercial sale beginning January 1, 2003. Staff also released biological control insects in parts of northeast Kansas to evaluate their use as a control agent in other parts of the state.

Efforts to maintain vigilance for Karnal bunt disease of wheat continue to protect Kansas wheat producers from this disease. Staff are working with the state's seed industry to ensure commercial wheat seed sold in the state is free of the pathogen that causes this disease.

## Pesticide and Fertilizer

The Pesticide and Fertilizer program is responsible for enforcing Kansas statutes and regulations that govern: pesticide registration, storage, and use; fertilizer registration and storage; and the use of by-products from confined swine feeding operations. In general, we make sure that only approved pesticides and fertilizers are offered for sale or use in Kansas; that they are safely stored so they do not harm people or the environment; that all pesticides are used safely and according to label directions; and that nutrient levels are not exceeded when swine waste is applied to fields.

The 2002 Kansas Legislature passed Senate Bill 438, which modified fees associated with this program. The fertilizer tonnage assessment remained the same, but the program's share of the \$1.67 fertilizer tonnage fee was modified so that \$.05 per ton is credited to the newly created Fertilizer and Pesticide Compliance and Administration Fund. Receipts going to the Fertilizer Fee Fund were correspondingly reduced to \$.18 per ton, leaving the \$.23 per ton going to the program unchanged.

The Fertilizer and Pesticide Compliance and Administration Fund provides needed flexibility to move from a program with separate pesticide and fertilizer activities and staff to a unified program with staff integrated into all program activities. Senate Bill 438 also increased fee receipts to the program's five remaining fee funds. These funds will allow the program to increase its presence in the regulated community and to increase compliance assistance and enforcement activity. The fee changes created by Senate Bill 438 will become effective July 1, 2002, and will expire June 30, 2005.

Senate Bill 489, also passed by the 2002 Legislature, establishes civil penalty authority for fertilizer law violations. Effective July 1, 2003, a civil penalty of no more than \$5,000 per violation may be assessed, with receipts going to the state general fund.

During fiscal year 2003, the Pesticide and Fertilizer program:

- Registered 10,324 pesticide products;
- Licensed 513 pesticide businesses;

# 5

## Environmental Protection Programs

The Pesticide and Fertilizer program budget for fiscal year 2003 was \$1,711,619.

15 percent came from the state general fund, 50 percent came from fees and 35 percent came from grants.

The Pesticide and Fertilizer program had 29 full-time employees in fiscal year 2003.

# 5

## Environmental Protection Programs

- Certified 17,443 private and 5,710 commercial pesticide applicators;
- Registered 1,134 pest control technicians;
- Registered 1,654 pesticide dealers;
- Registered 211 government agencies to use pesticides;
- Investigated 160 reports of pesticide misuse;
- Administered 2,375 pesticide applicator certification tests at 63 locations statewide;
- Issued 886 chemigation permits for 5,716 wells used to apply pesticides, fertilizers or other chemicals, or animal waste, through irrigation equipment;
- Certified 253 chemigation equipment operators;
- Registered 2,667 fertilizer products from 294 companies;
- Registered 109 agricultural lime production locations;
- Registered 12 soil amendments;
- Performed equipment and safety inspections at 776 agricultural anhydrous ammonia facilities;
- Reviewed plans for pesticide and fertilizer secondary containment facilities;
- Reviewed 61 swine nutrient management plans;
- Monitored nutrient levels in 480 fields associated with nutrient management plans;
- Provided special training and outreach assistance to facilitate compliance with the law;
- Performed monitoring inspections across all areas of responsibility to ensure compliance with the law;
- Took enforcement actions proportionate to the number of violations.

Under a cooperative agreement with the Environmental Protection Agency, Kansas is responsible for enforcing the Federal Insecticide, Fungicide and Rodenticide Act. This grant allows us to leverage our state pesticide program dollars for a program well above the state investment.

The program actively participates in discussions with the Environmental Protection Agency on routine pesticide registration reviews and coordinates special local need registrations, or emergency exemptions, to meet producer needs.

The program provides anhydrous ammonia safety training in conjunction with sponsoring associations. This training is attended by facility personnel, first responders and local law enforcement. Staff also work closely with Kansas State University and the Environmental Protection Agency to provide pesticide applicator training.

The program, in conjunction with the Kansas Department of Health and Environment, conducts the annual swine facility operator certification schools and continues to work with USDA-NRCS to coordinate USDA's comprehensive nutrient management planning efforts with the existing Kansas nutrient management program and with KSU on a variety of swine and livestock waste environmental education issues.

This program is actively involved with issues associated with endangered species, protected habitats and water quality. For example, a

cooperative effort will be undertaken this year with Nebraska to wrap up the sampling and analysis needed to map the atrazine levels in the Big Blue River basin.

The program is actively involved with issues related to pesticide effects on sensitive crops (e.g., grapes, cotton and tomatoes). A slight drift of certain, commonly used pesticides can be devastating to sensitive crops. This program established a web-based registry to list the locations of sensitive crops which, in turn, allows applicators to be aware of these locations. This program facilitated the formation of a team of experts from Kansas State University, the Kansas Grape Growers and Winemakers Association, and the Department of Agriculture, to visit vineyards where pesticide damage was suspected to observe the damage and provide assistance.

The program's plan for commercial pesticide applicator recertification training has recently received EPA approval for a credit unit based system. The new requirements are category specific. Applicators will have more flexibility in training options, and they will be relieved of the obligation to attend irrelevant training.

## Agricultural Laboratory

Unlike most Kansas Department of Agriculture programs, the Agricultural Laboratory does not serve the public directly. Instead, our customers are the regulatory programs within KDA. The lab analyzes samples submitted by other programs and provides credible, legally defensible results. While most inspections conducted by KDA do not end up in court, those that do often rely on the analytical results issued by the Agricultural Laboratory.

The Agricultural Laboratory analyzed more than 10,000 samples during fiscal year 2003. These samples included milk, dairy products, feed, fertilizer, pesticides (including soil, vegetation and water samples), meat and seed. While it does not happen very often, it is not unusual for a priority sample that may affect human health or the environment to be rushed to the pesticide laboratory for analysis. These samples may be soil, vegetation, water, or even an article of clothing, and they are part of an investigation involving pesticide misuse. The results of the analysis may determine if water is safe to drink, or if medical treatment is necessary for someone who may have been exposed to a pesticide. The regulatory actions taken by the Pesticide and Fertilizer program often rely on the results reported by the laboratory.

The success of the Agricultural Laboratory is due to the expertise of its staff and its precision instrumentation. Lab staff cannot support the regulatory programs without proper instrumentation. During the last two fiscal years, FDA has provided funds to purchase new instrumentation in the pesticide laboratory. New instrumentation allows lab staff to provide better service to the Pesticide and Fertilizer program.

# 5

## Environmental Protection Programs

The Agricultural Laboratory fiscal year budget for 2003 was \$1,029,362. 20 percent came from the state general fund, 65 percent came from fees, 11 percent came from federal funds and 4 percent came from grants.

The Agricultural Laboratory had 17 full-time employees in fiscal year 2003.

# 6

## Administrative Services and Support

The Kansas Agricultural Statistics Service is a collaborative federal-state program. The state portion of the KASS budget for fiscal year 2003 was \$349,206. 73 percent came from the state general fund, 23 percent came from fees and 4 percent came from federal funds.

## Agricultural Statistics Service

The original powers and duties granted to the State Board of Agriculture in 1872 included biennial reporting on the status of agriculture. These duties were expanded to include statistical reporting in 1917. In 1924, a cooperative agreement was forged with the U.S. Department of Agriculture to ensure coordination of statistical reporting. As part of the agreement, the statistics division is also the state office of the National Agricultural Statistics Service of the U.S. Department of Agriculture. This joint office is known as the Kansas Agricultural Statistics Service (KASS). By sharing resources with the National Agricultural Statistics Service, the statistics program is able to better serve the data needs of the Kansas agricultural community. A statistics fee fund allows KASS to serve the agricultural data needs of other public agencies.

KASS provides a wide array of agricultural data, much at the agricultural statistics district and county levels, including crop and livestock production data. Some reports, like the crop report and cattle-on-feed report, are available monthly. Others, like the hog and pig reports, are available quarterly. Cattle and sheep inventory reports are available biannually. A crop weather report is available weekly from March through November to track crop progress and condition. These reports are financed primarily by federal funds. All reports are available on the Internet at [www.nass.usda.gov/ks/](http://www.nass.usda.gov/ks/).

KASS provides various public agencies access to the division's statistical expertise and data collection resources to perform special surveys that are beneficial to Kansas agriculture. The following reports are funded by the Kansas Department of Agriculture or other Kansas government agencies:

The *Custom Rates* data series is a guide for providers and users of custom services to evaluate fair compensation for custom work performed. Data are collected from users and providers of custom services. The *Custom Rates* publication is available only on the Internet at [www.nass.usda.gov/ks/rlsetoc.htm](http://www.nass.usda.gov/ks/rlsetoc.htm). Custom Rates data are funded by KDA.

Landowners and cattle producers in the important Flint Hills grazing area depend on the *Bluestem Pasture Survey* to evaluate grazing lease rates. Both landowners and cattle producers are included in the survey. Data are available in hard copy and on the Internet at [www.nass.usda.gov/ks/rlsetoc.htm](http://www.nass.usda.gov/ks/rlsetoc.htm). The *Bluestem Pasture Survey* is funded by KDA.

The *Wheat Varieties Survey* is essential to both public and private wheat breeding programs. It takes many years to develop a new variety. The *Wheat Varieties Survey* allows wheat breeders to monitor acceptance of existing varieties and to assess the need for new ones. Seed dealers use the survey to ensure adequate supplies of planting seed. Data are available in hard copy and on the Internet at [www.nass.usda.gov/ks/rlsetoc.htm](http://www.nass.usda.gov/ks/rlsetoc.htm). Beginning in 2003, the *Wheat Varieties Survey* is funded by the Kansas Wheat Commission through the statistics fee fund.

The *Wheat Quality Reports* are funded by the Kansas Wheat Commission through the statistics fee fund. The reports include an analysis of the quality of the current year's crop as measured by the inspection certificates issued by the Kansas Grain Inspection Service Inc. Weekly press releases on wheat quality begin as harvest gets into full swing and continue into August. A *Wheat Quality Bulletin* is available on the Internet in early September covering the current year's crop followed by December and May press releases providing updates that include shipments for the rest of the year. The wheat quality press releases are available in hard copy and on the Internet. The *Wheat Quality Bulletin* is available only on the Internet at [www.nass.usda.gov/ks/rlsetoc.htm](http://www.nass.usda.gov/ks/rlsetoc.htm).

Agricultural land values at the agricultural statistics district level are a barometer of the health of the regional agricultural economy, which is important to producers, suppliers of inputs, financial institutions and others. The *Agricultural Land Values Survey* results are used by Kansas State University's department of agricultural economics to compute the use value of agricultural land as required by state statute. The results are available in hard copy and on the Internet at [www.nass.usda.gov/ks/rlsetoc.htm](http://www.nass.usda.gov/ks/rlsetoc.htm). Funding is provided by the Kansas Department of Revenue through the statistics fee fund.

The *Farm Facts Bulletin*, a summary of each year's statistics, is a historic record widely used by researchers, businesses interested in entering Kansas, suppliers of production inputs and services, and many others. The Farm Facts publication is available only on the Internet at [www.nass.usda.gov/ks/rlsetoc.htm](http://www.nass.usda.gov/ks/rlsetoc.htm).

Kansas Agricultural Statistics Service also has a cooperative agreement with USDA's Agricultural Marketing Service to fund the collection of agricultural marketing data not funded by the federal service. The data include feeder cattle price data from sales at livestock auctions in Pratt, Junction City and Salina. Also, price data on hay and sunflower sales statewide are collected and disseminated weekly.

## Records Center

The Records Center serves the customers of the Kansas Department of Agriculture by issuing all appropriate licenses, permits, registrations and certifications. It also maintains accurate records and provides data to field employees, Kansas residents and organizations who request information through the Kansas Open Records Act. The Records Center serves the Pesticide and Fertilizer, ACAP, Weights and Measures, Dairy Inspection, Meat and Poultry Inspection, Grain Warehouse Inspection, and Plant Protection and Weed Control programs. It is staffed by 10 employees.

Applications for new licenses, permits, registrations and certifications are initiated in the Records Center. Likewise, all renewal notices are mailed from the Records Center. Once applications are received, the information is entered into the appropriate database and a license is printed and mailed. The goal of the Records Center is to process applications in an efficient and effective manner. Renewal applications are mailed one month prior to expiration. Most applications

6

## Administrative Services and Support



# 6

## Administrative Services and Support

The Records Center budget for fiscal year 2003 was \$440,862. 52 percent came from the state general fund, 44 percent came from fees and 4 percent came from a grant.

The Records Center program had 10 full-time employees in fiscal year 2002.

are processed and licenses mailed within one week of receipt in the Records Center.

During fiscal year 2003, the Records Center:

For Pesticide and Fertilizer:

- Processed 10,893 applications for pesticide/fertilizer licenses
- Registered 10,328 pesticide products for 1,113 companies
- Registered 3,150 fertilizer products for 325 companies
- Collected fertilizer inspection fees from 325 companies
- Collected inspection fees from 109 lime quarries
- Permitted 5,685 wells for chemigation

For ACAP:

- Processed applications for 3,567 licenses
- Registered 4,993 feed products for 1,178 companies
- Collected feed inspection fees from 987 companies

For Dairy Inspection:

- Processed 270 licenses
- Entered data from farm inspection and sample analysis for 530 producers

For Meat and Poultry Inspection:

- Processed 357 licenses
- Mailed 926 overtime billings

For Grain Warehouse Inspection:

- Processed 153 licenses

For Plant Protection and Weed Control:

- Processed 1,821 licenses

For Weights and Measures:

- Processed 150 company licenses
- Processed 331 technician applications

Also, the Records Center responded to 236 open records requests.

The Pesticide, ACAP, and Weights and Measures applications have been converted to the Oracle database. This has allowed us to print these licenses in the same license format. It also has allowed us to generate letters for applications that do not meet the renewal criteria. We are able to generate renewals from the database, which eliminates the need to make copies of forms and print labels to mail renewals. The conversion for the remainder of the programs (Fertilizer, Meat and Poultry Inspection, Dairy Inspection, Grain Warehouse Inspection, and Plant Protection and Weed Control) should be complete late in 2003.

We are also developing a common customer database. This will allow us to look in one location in the database to determine all the licenses that an entity holds with the Department of Agriculture. Currently this information is in multiple databases, which makes it difficult to determine all the licenses held by one entity.

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driley@kda.state.ks.us
- Kansas Agricultural Statistics Service ..... (785) 233-2230  
Eldon Thiessen, State Statistician  
ethiessen@nass.usda.gov
- Records Center ..... (785) 296-2263  
Nancy Anderson, Program Manager  
nanderson@kda.state.ks.us
- Fiscal Section ..... (785) 296-2891  
Max Foster, Fiscal Manager  
mfoster@kda.state.ks.us
- Information Resources and Technology ..... (785) 296-5197  
Doug Smith, Chief Information Officer  
dsmith@kda.state.ks.us

## Food Safety and Consumer Protection Programs

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- Agricultural Commodities Assurance Program ..... (785) 862-2415  
Constantine Cotsoradis, Program Manager  
ccotsora@kda.state.ks.us

# 7

## Agency Directory

# 7

## Agency Directory

- Dairy Inspection ..... (785) 296-3511  
George Blush, Program Manager  
gblush@kda.state.ks.us
- Grain Warehouse ..... (785) 296-3511  
Bop Casper, Program Manager  
bcasper@kda.state.ks.us
- Meat and Poultry Inspection ..... (785) 296-3511  
Dr. Evan Sumner, Program Manager  
esumner@kda.state.ks.us
- Weights and Measures ..... (785) 862-2415  
Constantine Cotsoradis, Program Manager  
ccotsora@kda.state.ks.us

### Water Resource Programs

---

- David Pope, Chief Engineer ..... (785) 296-3717  
dpope@kda.state.ks.us
- Water Appropriation ..... (785) 296-3717  
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- Water Structures ..... (785) 296-3717  
Matt Scherer, Program Manager  
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- Water Management Services ..... (785) 296-3717  
Steve Stankiewicz, Program Manager  
sstankiewicz@kda.state.ks.us
- Subbasin Water Resources Management ..... (785) 296-3705  
Tina Alder, Program Manager  
talder@kda.state.ks.us

### Environmental Protection Programs

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- Pesticide and Fertilizer ..... (785) 296-3786  
Gary Meyer, Program Manager  
gmeyer@kda.state.ks.us
- Plant Protection and Weed Control ..... (785) 862-2180  
Tom Sim, Program Manager  
tsim@kda.state.ks.us
- Agricultural Laboratory ..... (785) 862-0108  
Constantine Cotsoradis, Program Manager  
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# KANSAS

OFFICE OF THE GOVERNOR

KATHLEEN SEBELIUS, GOVERNOR

**Governor's Message**  
**Executive Reorganization Order No. 32**  
**By Governor Kathleen Sebelius**  
**January 14, 2004**

As part of my continuing search in government to better serve Kansas and streamline government, I am transferring several program responsibilities from the Kansas Department of Health and Environment to the Kansas Department of Agriculture. This reorganization is part of my administration's continuing search for changes in government to better serve Kansans. The creation of single points of contact for Kansas businesses increases responsiveness on the part of state government, while continuing to strengthen the safety of food in Kansas.

In today's environment, managing food safety is of paramount importance. With a heightened concern for terrorism, there have been changes in national food safety and security measures. The regulation of food safety from "Farm to Fork" is best accomplished through a strategic realignment of food safety duties between these two agencies responsible for consumer protection.

As food is produced, processed and transported to consumers, the Kansas Department of Agriculture will be the key authority for safety. This is an appropriate function for KDA and will provide businesses in this state with a single point of contact for food safety regulation. This shift in duties complements the existing authority of KDA, which already has a presence in grocery stores in its dairy, meat and egg compliance checks.

The Kansas Department of Health and Environment will focus on the food safety arena, which has historically posed the greatest direct risk of illness—businesses that prepare food for immediate consumption. The state public health agency has the capacity for detecting food borne illness and conducting appropriate follow up in order to diminish any future risks. This realignment of duties supports the concept of focusing public health on issues posing greatest risk.

House Agriculture Committee  
January 14, 2004  
Attachment 2

Capitol, 300 SW 10th Ave., Ste. 212S, Topeka, KS 66612

Voice 785-296-3232

Fax 785-296-7973

[www.ks.gov/governor.org](http://www.ks.gov/governor.org)

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**Executive Reorganization Order No. 32**

**By Governor Kathleen Sebelius**

**Transmitted January 14, 2004**

Section 1. Except as otherwise provided by this order, the following powers, duties, and functions of the department of health and environment, the secretary of health and environment, the division of health of the department of health and environment, the director of the division of health, and the office of laboratory services of the department of health and environment are hereby transferred to and imposed upon the department of agriculture and the secretary of agriculture:

(a) all powers, duties, and functions under the food service and lodging act, K.S.A. 36-501 et seq., relating to the licensing, inspection, and regulation of mobile retail ice cream vendors and food service establishments located in retail food stores;

(b) all powers, duties, and functions under the food service and lodging act, K.S.A. 36-501 et seq., relating to the licensing, inspection, and regulation of food vending machines, food vending machine companies, and food vending machine dealers as those terms are defined in K.S.A. 36-501;

(c) all powers, duties, and functions under K.S.A. 65-688 through K.S.A. 65-689 relating to the licensing, inspection, and regulation of retail food stores and food processing plants; and

(d) all of those powers, duties, and functions under K.S.A. 65-619 through K.S.A. 65-687 that relate to the powers, duties, and functions transferred under paragraphs (a), (b), and (c) above.

Sec. 2. (a) The department of agriculture and the secretary of agriculture shall be the successor in every way to the powers, duties, and functions of the department and secretary of health and environment, the division of health of the department of health and environment, the director of the division of health, and the office of laboratory services of the department of health and environment in which the same were vested prior to the effective date of this order and that are transferred pursuant to section 1. Every act performed in the exercise of such transferred powers, duties, and functions by or under the authority of the department or secretary of agriculture shall be deemed to have the same force and effect as if performed by the department or secretary of health and environment, the division of health, the director of the division of health, or the office of laboratory services in which such powers, duties, and functions were vested prior to the effective date of this order.

(b) Whenever the department of health and environment, the secretary of health and environment, the division of health, the director of the division of health, or the office of laboratory services or words of like effect, are referred to or designated by a statute, contract, or other document and such reference is in regard to any of the powers, duties, or functions transferred to the department or secretary of agriculture pursuant to this order, such reference or designation shall be deemed to apply to the department of agriculture or the secretary of agriculture.

(c) All rules and regulations, orders, and directives of the secretary of health and environment which relate to the functions transferred by this order and which are in effect on the effective date of this order shall continue to be effective and shall be deemed to be rules and regulations, orders, and directives of the secretary of agriculture until revised, amended, revoked, or nullified pursuant to law.

Sec. 3. (a) The balances of all funds or accounts thereof appropriated or reappropriated for the department of health and environment relating to the powers, duties, and functions transferred by this order are hereby transferred within the state treasury to the department of agriculture and shall be used only for the purpose for which the appropriation was originally made.

(b) Liability for all accrued compensation or salaries of officers and employees who are transferred to the department of agriculture under this order shall be assumed and paid by the department of agriculture.

Sec. 4. (a) When any conflict arises as to the disposition of any property, power, duty, or function or the unexpended balance of any appropriation as a result of any abolition or transfer made by or under the authority of this order, such conflict shall be resolved by the governor, whose decision shall be final.

(b) The department of agriculture shall succeed to all property, property rights, and records which were used for or pertain to the performance of powers, duties, and functions transferred to the department of agriculture. Any conflict as to the proper disposition of property, personnel, or records arising under this order shall be determined by the governor, whose decision shall be final.

Sec. 5. (a) No suit, action, or other proceeding, judicial or administrative, lawfully commenced, or which could have been commenced, by or against any state agency or program mentioned in this order, or by or against any officer of the state in such officer's official capacity or in relation to the discharge of such officer's official duties, shall abate by reason of the governmental reorganization effected under the provisions of this order. The court may allow any such suit, action, or other proceeding to be maintained by or against the successor of any such state agency or any officer affected.

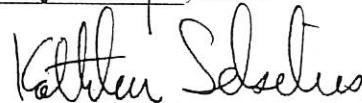
(b) No criminal action commenced or which could have been commenced by the state shall abate by the taking effect of this order.

Sec. 6. (a) All officers and employees of the department of health and environment who, immediately prior to the effective date of this order, are engaged in the exercise and performance of the powers, duties, and functions transferred by this order, as well as all officers and employees of the department of health and environment who are determined by the secretary of health and environment and the secretary of agriculture to be engaged in providing administrative, technical, or other support services that are essential to the exercise and performance of the powers, duties, and functions transferred by this order, are hereby transferred to the department of agriculture. All classified employees so transferred shall retain their status as classified employees.

(b) Officers and employees of the department of health and environment transferred by this order shall retain all retirement benefits and leave balances and rights which had accrued or vested prior to the date of transfer. The service of each such officer and employee so transferred shall be deemed to have been continuous. Any subsequent transfers, layoffs, or abolition of classified service positions under the Kansas civil service act shall be made in accordance with the civil service laws and any rules and regulations adopted thereunder. Nothing in this order shall affect the classified status of any transferred person employed by the department of health and environment prior to the date of transfer.

Sec. 9. Except as otherwise provided by this order, all of the provisions of this order shall take effect and have the force of general law on October 1, 2004, unless disapproved by either house of the Kansas legislature as provided by subsection (c) of section 6 of article 1 of the constitution of Kansas, and unless so disapproved, this order is to be published as and with the acts of the legislature and the statutes of this state.

DONE AT The Capitol in Topeka  
Under the Great Seal of the  
State of Kansas this 19th day  
of January, 2004.



BY THE GOVERNOR  
KATHLEEN SEBELIUS

RON E. THORNBURGH  
*Secretary of State*

JANET A. CHUBB  
*Assistant Secretary of State*

Swift

**Swift & Company<sup>™</sup>**  
**Miller's blue ribbon beef**

LAMY

January 9, 2004

Dear Producer

In the wake of the BSE cow found in Washington State the end of December, the USDA is requiring packers to mouth all cattle on the kill floor to determine their age. Effective January 12, 2004, all cattle which mouth 30 months of age or older will be condemned and their carcasses used only for boneless product. In addition, the back bones must be rendered inedible instead of edible.

This means that packers will lose all head, tongue, and cheek meat. Additional cooler space will be required to keep these carcasses separate and all bones must be separated and moved from the Fabrication Floor to Inedible Rendering.

Because we are not set up to meet these additional demands while maintaining our efficiency, we will discount any cattle we slaughter over 30 months of age 15 cents per pound regardless of their grade. This discount will begin January 12<sup>th</sup> and all other discounts will remain the same.

We are committed to following the USDA rules to keep our food supply safe. We will continue to evaluate our position to ensure fairness and provide a quality product that meets the USDA requirements.

We greatly appreciate your business and want to continue to do business with you under these new guidelines.

Sincerely

Ted Miller  
President

Enclosure

p.s. Enclosed is a BSE Statement like those you sign every year. Please sign it and return it by fax or mail.

PO Box EA • 410 North 200 West • Hyrum, UT 84319-1024  
Tel 435.245.6456 • Toll Free 800.873.0039 • Fax 435.245.5381

House Agriculture Committee  
January 14, 2004  
Attachment 3



LARRY



**Swift & Company**

To Ken  
Winter

Swift & Company  
1770 Promontory Circle  
Greeley, CO 80634-9038

TEL: 970-506-8000  
FAX: 970-506-8339

MEMO

DATE January, 2004

TO: All Live Animal Suppliers

The recent announcement by Agriculture Secretary Ann Veneman of new rules designed to help safeguard the United States against BSE is having an immediate impact on all U.S. beef industry processors. Effective immediately, all beef processors, including Swift & Company, will be required to identify and segregate animals by age to ensure that Specified Risk Materials (SRMs) from cattle 30 months of age or older do not enter the human food supply.

This announcement by the USDA means that the skull, brain, trigeminal ganglia, eyes, vertebral column, spinal cord and dorsal root ganglia of cattle 30 months of age or older - as well as the small intestine of all cattle - are designated as SRMs. Additionally, all non-ambulatory animals presented for slaughter must be condemned.

To ensure compliance with these new rules, Swift & Company, under USDA supervision, will be conducting dental checks to confirm the age of animals.

Because of the diminished value of animals older than 30 months of age along with the costs associated with segregation, and the devaluation of finished products, those animals will be discounted accordingly.

If you have any questions or comments about these steps, please don't hesitate to contact either of us.

Sincerely,

Warren Mirtsching  
Vice President, Food Safety & Quality Assurance  
(970) 506-7772

Tim Schiefelbein  
Director, Live Cattle Procurement  
(970) 506-7829

**STATE of KANSAS**  
**KANSAS ANIMAL HEALTH DEPARTMENT**

George Teagarden, Livestock Commissioner  
708 S. Jackson, Topeka, Kansas 66603-3714  
Phone 785/296/2326 Fax 785/296/1765  
e-mail – [gteagard@ink.org](mailto:gteagard@ink.org)  
web site – [www.accesskansas.org/kahd](http://www.accesskansas.org/kahd)

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January 14, 2004

Mr. Chairman and Members of the House Agriculture Committee

Thank you for allowing me time today to discuss issues surrounding the discovery of Bovine Spongiform Encephalopathy in the state of Washington. I am George Teagarden, Livestock Commissioner for the Kansas Animal Health Department.

Bovine Spongiform Encephalopathy (BSE) is a progressive neurological disease among cattle that is always fatal. It belongs to a family of diseases known as transmissible spongiform encephalopathies (TSEs). Also included in that family of illnesses is the human disease, variant Creutzfeldt-Jakob Disease (vCJD), which is believed to be caused by eating neural tissue, such as brain and spinal cord from BSE-affected cattle. BSE is not contagious; it does not spread from animal to animal. The causative agent is a mutated prion that has never been found in muscle tissue.

It is strongly believed that the only method of disease transmission is for a bovine to consume animal protein composed, in part, of brain and spinal tissue from an infected animal. Not all animals, actually very few, seem to be susceptible. During the 1980's, the rendering process was automated to a continuous flow system from a batch, solvent system. The occurrence of BSE in the United Kingdom followed that change in processing and has since diminished with the prohibition of feeding animal protein to ruminants.

BSE is a rare disease of cattle. It is not a human health risk.

In the following pages, I will discuss, in part, what has taken place with regards to BSE in the United States since December 23, 2003.

Sincerely,



George Teagarden  
Livestock Commissioner

House Agriculture Committee  
January 14, 2004  
Attachment 4

## **Bovine Spongiform Encephalopathy (BSE)**

**December 23, 2003 - Presumptive positive BSE in Washington State**

Index herd quarantined, 6-6.5 year old Holstein

**December 25, 2003 – Confirmed at Weybridge, England, World  
Reference Lab**

**Epidemiology – one of 81 shipped from Canada, September 4, 2001**

- **DNA confirmed index cow was part of Sept 4, '03 shipment and identified birth herd.**
- **11 head positively accounted for:**
  - **9 in index herd, 2 at Mattawa, WA**
- **Others believe to be in Washington**
- **Index cow's 2003 bull calf found in feeder lot, 450 euthanized and disposed**
- **Three herds under quarantine at present, based on risk, portions will be disposed**

**Regulations**

- **Import ban on live animals – 1989**
  - **Previous imports traced, quarantined and tested.**
- **Surveillance of high risk animals – 1990. 12,500 animals meet OIE standards. 2002 and 2003 surveillance numbers 20,000+. 2003 goal is 38,000 samples. Enhanced surveillance program.**
- **Ban ruminant protein to ruminants – 1997**
- **Canadian import ban – May, 2003**

- **Boxed beef ban lifted, Sept, 2003**
- **Proposed rule on live animals – under consideration**

**December 30, 2003 - Secretary Veneman announced regulation changes**

- **Non-ambulatory(downer) cattle prohibited at slaughter. Considered adulterated.**
- **Animals tested for BSE will be on hold until negative results confirmed.**
- **Specified Risk Materials expanded – skulls, brain, trigeminal ganglia, eyes, vertebral columns, spinal cords and dorsal root ganglia of cattle over 30 months of age and the small intestine(distal ileum) and tonsils from cattle of all ages prohibited from human food**
- **Prohibit “air injection” stunning.**
- **Prohibit use of mechanically separated meat in human food.**
- **Advanced Meat Recovery (AMR) – new regulations prevent SRM from becoming human food.**
- **Priority on National Animal Identification System. Will be asking for authority to implement.**
- **International Expert Team: review and make recommendations.**

- (a) The livestock commissioner is authorized and directed to develop and implement a program, consistent with the provisions of any federal identification program, of data collection, animal identification and premise registration for the purpose of preventing, tracking and eradicating infectious or contagious diseases in Kansas livestock. This program shall be called the Kansas animal identification program.
- (b) At the livestock commissioner's discretion, he or she shall require such (1) identification of individual, lots and herds of livestock, (2) registration of premises where the livestock are located, and (3) tracking of livestock movement in Kansas, as the livestock commissioner deems necessary to meet the purposes of this statute and safeguard the health of livestock in Kansas.
- (c) The livestock commissioner is authorized to establish policies and adopt rules and regulations as needed to carry out and enforce the provisions of this statute. The rules and regulations shall include, but not be limited to, definitions of any relevant terms, applicability of the provisions to particular premises, animals, herds or lots, procedures for identifying individual animals, herds or lots, provisions for proscribing the types, amounts and methods of assessing fees to administer the program, deadlines for compliance with provisions of the program, and requirements for records on movement of animals within Kansas and on animals entering or leaving Kansas. The livestock commissioner is further authorized to incorporate by reference any regulations relating to animal identification promulgated by the federal government.
- (d) The livestock commissioner is authorized to hire, in accordance with the civil service act, such employees as may be needed, in the judgment of the livestock commissioner, to carry out the provisions of the program. The livestock commissioner and the inspectors under the control and supervision of the livestock commissioner shall perform such acts as necessary to insure compliance with the program, including investigations, conducting inspections of premises and livestock, and reviewing livestock records.
- (e) The livestock commissioner is authorized to enter into any agreements with federal officials, other state officials or private industry to coordinate efforts and share records and data systems to maximize the efficiency and effectiveness of the program.
- (f) The livestock commissioner shall establish a uniform system of data collection for the receipt and processing of all records filed with the Kansas Animal Health Department pursuant to the animal identification program. Such records shall be deemed confidential and not subject to disclosure under the Kansas open records act, except as required by subsection (d), when, in the livestock commissioner's judgment, sharing records and data with other federal and state animal health officials is necessary to implement and enforce the purposes of this statute. Nothing in this statute shall prevent the livestock commissioner from providing to the governor and the legislature summaries of the records and data collected under the program.
- (g) Pursuant to regulations duly adopted, the Livestock commissioner may charge and collect such fees as needed to defray the costs of administering the animal identification program. Such fees, together with any federal financial aid or assistance, grants, gifts, bequests, money or aid of any kind for animal identification in Kansas, shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance the state treasurer shall deposit the entire amount in the state treasury to the credit of the animal identification fee fund. All expenditures from such fund shall be made in accordance with appropriations acts upon warrants of the director of accounts and

- . reports issued pursuant to vouchers approved by the livestock commissioner or by a person designated by the livestock commissioner.
- (h) In addition to any other penalty provided by law, any person violating this statute or the regulations adopted hereunder, or any person removing an official backtag, eartag or any other type of official identification from Kansas livestock may incur a civil penalty in the amount of not less than \$250 nor more than \$1,000 for each such violation, and, in the case of a continuing violation, every day such violation continues shall be deemed a separate violation. Such fines shall be imposed under the procedures in K.S.A. 47-624. Any civil penalty recovered pursuant to the provisions of this subsection shall be remitted to the state treasurer in accordance with subsection (f) and deposited to the credit of the animal identification fee fund.
- (i) This statute shall be effective upon publication in the Kansas register.

# KARL Program Overview

## MISSION STATEMENT

**Kansas Agriculture and Rural Leadership, Inc., (KARL), is a private, not-for-profit organization dedicated to identifying and developing leadership for agriculture and rural communities in order to enhance the quality of life for all Kansans.**

## SUMMARY STATEMENT

The KARL Program is a two-year educational experience offering intensive study, training and travel for emerging leaders in agriculture and rural communities.

## KARL, INC. VISION

To ensure that the Kansas rural and agricultural community can keep pace with the rate of change, it is imperative we supply informed, decisive, communicative spokespersons to represent our industry and communities, keeping the public **factually** informed, as policies are formed and decisions are made. To address these needs we provide an intensive study, training, and travel experience for future leaders of Kansas.

## CURRICULUM VISION

The **Kansas Agriculture and Rural Leadership Program** strives to enhance rural and agricultural representation; improve professionalism; increase community involvement; sharpen promotional skills; boost urban support and understanding; reduce isolationism; and enrich the quality of life in the state of Kansas.

**GOALS** -- Our endeavor is to see that participants achieve the following program goals:

1. Graduates recognize and appreciate their leadership potential and responsibility.
2. Graduates increase their decision-making and analytical skills.
3. Graduates broaden their perspective relative to history, economics, sociology, culture and arts, and will know how those areas relate to the decision-making process.
4. Graduates increase their ability to communicate persuasively and effectively.
5. Graduates develop a "global" focus as preparation for the enormity of the challenges that a more inter-dependent and interconnected global economy presents to the agricultural industry and rural communities.
6. Graduates will become part of a global network including supporters, previous graduates, and presenters across Kansas and the world.

For more information contact the **KARL Office, 216 Call Hall, Manhattan KS 66506 / Ph. (785)532-6300 / FAX (785)532-7036 / Web-site: <http://www.oznet.ksu.edu/karl> e-mail: [karl@ksu.edu](mailto:karl@ksu.edu)**



House Agriculture Committee  
January 14, 2004  
Attachment 6

# Kansas Agriculture and Rural Leadership, Inc. Class VII (2003-2005) Program Curriculum

**DRAFT**

## 2003

### YEAR 1

#### Genesis

August 15-17, Abilene/Rock Springs

- \* Orientation - with Spouses
- \* Group Dynamic Skills
- Leadership - Skills, Styles
- Perils and Ethics
- \* Ethics in Leadership

#### Community

November 5-7, Garden City

- \* Kings and King Makers
- \* Community Management
- \* Value Added Agricultural Products
- +\* Beef and Other Industry Instructional Tours

#### Personal Development

Dec. 3-5, Colby

- \* Image Building
- \* Discussion Skills
- \* Writing Skills
- \* Extemp. Speaking
- \* Media Workshop
- \* New Technologies

## 2004

#### The Needs of The Many

January 14-16, Topeka

- \* Economics
- \* Population Trends
- \* Understanding and working with the Legislature
- \* Regulating Agriculture
- \* Media Influence

#### Tools for Peace

February 18-20, Leavenworth

- +\* Fort Leavenworth Tour
- \* General Staff College Briefing
- \* International Security Research
- +\* Prison Systems
- \* Juvenile Intervention

#### National Directions

March 15-21, Wash. DC

- \* U.S. Congress
- \* White House Fellows
- \* Embassy Reception
- \* USDA Trade Rep's.
- \* Federal Agencies
- \* The Beltway

### YEAR 2

#### Economic Revitalization

November 3-5, Liberal /  
Ulysses

- \* Rural Economic Development
- \* Quality Educational Systems
- \* Rural Health Care
- +\* Mega Farms
- \* Oil and Gas Industry

#### Adapting to Change

December 8-10, Pittsburg

- \* Water Quality and Quantity
- \* Food Safety & Diet Issues
- \* Environment
- +\* Turkey Farm Tour
- \* Animal Science Issues

## 2005

#### Agriculture's Future

Jan. 5-7, Hutchinson

- \* New Paradigms
- \* Futuring Exercise
- \* International Tour Briefing - Cultures, Customs & Politics

#### International Trade

February 2-4, Wichita/  
Cowley County

- \* Import/Export Balance
- \* International Tour Briefing
- +\* Tour Cotton Industry, McConnel, Boeing, Excel
- \* KARL in the Classroom

#### International Study Seminar

March 15-30 BRAZIL  
(10-12 days within above time frame)

- +\* Trade Relationships
- +\* Comparative Agriculture
- +\* Domestic and Foreign Policies
- +\* Culture, Customs, Politics

#### The Power of One

April 22-23, Salina

- \* International Seminar Debriefing
- \* Leadership Challenge
- \* Implementation
- \* Graduation

{+ = Tours}







# NEWS

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Released: September 25, 2003

## KARL Graduates Heading Three Key Ag Groups

MANHATTAN, Kan. – The role of the Kansas Agriculture and Rural Leadership (KARL) program is to build leadership skills, and the strategy appears to be working.

John Thaemert, president of the Kansas Association of Wheat Growers; Steve Baccus, president of the Kansas Farm Bureau; and Larry Jones, president of the Kansas Livestock Association, are all graduates of the KARL program.

“The brochure that the (KARL) program used had a phrase, ‘Broadening Your Horizons.’ That’s what it did for me,” said Baccus, who as president of the Kansas Farm Bureau heads an organization of 123,000 farm family members – 40,000 of whom are actively engaged in farming. “We learned an awful lot. Being exposed to different ideas ... different ways of doing business ... realizing that there’s so much out there that we otherwise might not have seen. That’s the value of the program.”

Baccus, who farms near Minneapolis, Kan., is a graduate of KARL Class I. His farm is a “KFB Century Farm” – one that has been in his family for more than 100 years. He represents the fourth generation on the totally no-till operation that produces wheat, corn, sorghum, soybeans and sunflowers.

“It’s a great program,” said KAWG president John Thaemert, who also was a member of KARL Class I. “The most valuable aspect of the program for me was the network you build with progressive producers across the state.”

Thaemert said he learned more about Kansas and its industries through the KARL program. That gave him a greater sense of pride in what the state has to offer than he had before he participated.

“It was sure a way to look at the bigger picture, instead of focusing on your own area,” he added.

Thaemert, who farms near Sylvan Grove, Kan., heads an organization of Kansas wheat growers comprised of about 2,000 members in one of the most important wheat-growing states in the country.

KARL classes typically tour such diverse places as the Kansas Correctional Facility for men in Lansing, a hospital, a power plant, a meat-packing plant, the Boeing plant in Wichita and a community college. Class members receive communications training and visit state legislators in Topeka. Each class also takes a one-week trip to Washington, D.C., and a 10-day international study tour.

Previous classes collectively have visited 15 nations to learn about agriculture in those countries and about trade between them and the United States. Those tour sites have included China, Australia, Mexico, Argentina and Costa Rica.

Kansas Livestock Association president Larry Jones was a member of KARL Class II.

"The thing I enjoyed most were the people we met from all over the state," Jones said.

The communications training his KARL class received took some of them out of their comfort zone, he said, and helped prepare them for such roles as his KLA post.

"A lot of producers get tunnel vision and don't always see what's going on around them," Jones said. "Visiting such places as the Kansas Cosmosphere made you think about going down the road. They tried to make you think about the future and how what we do fits into it."

As president of the KLA, Jones, heads an organization of about 6,000 members. He also farms and has a cattle feedlot near Holcomb, Kan., and a cow-calf operation in New Mexico.

Jones said he learned at a recent meeting that about 300,000 people live in western Kansas, compared with about 2 million in the eastern part of the state. In addition, "only five or six counties" in western Kansas have grown over the last few years – the rest have had declining populations.

"We've got to get people out there telling our stories," he said.

"Having KARL leadership in these three key roles is unprecedented," said Kansas State University professor Barry Flinchbaugh, who is an ex officio member of the KARL board of directors and one of its founding members. "It's a great compliment to the program."

Gov. Kathleen Sebelius recently named several other KARL graduates to a Kansas Rural Life Task Force, intended to examine ways to preserve, renew and sustain the value of rural Kansas. Serving on that task force are KARL graduates Jerry McReynolds of Stockton; Liz (Perkins) Hendricks, Howard; Brian Dunn, St. John; and Jay Garetson, Copeland.

McReynolds, who was a member of KARL Class I, is also the vice president of KAWG, so will move into the presidency of that organization when Thaumert's term ends.

The topics to be addressed by the governor's task force include: health care, human services, agriculture, diversified economy, energy, infrastructure, government in rural Kansas, and community empowerment. The group has been charged with making recommendations for action by local leaders, communities and the State of Kansas.

Since 1990, KARL has helped 180 Kansans improve their leadership skills. Each two-year class includes 600 hours of training and experiences for participants. The cost per adult student is \$11,000. Of that amount, \$8,500 is supported by donations.

For more information, interested persons may contact KARL president Jack Lindquist at the program's office on the campus of Kansas State University at 785-532-6300 or visit the Web site at <http://www.oznet.ksu.edu/karl>.

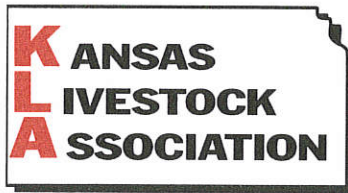
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K-State Research and Extension is a short name for the Kansas State University Agricultural Experiment Station and Cooperative Extension Service, a program designed to generate and distribute useful knowledge for the well-being of Kansans. Supported by county, state, federal and private funds, the program has county Extension offices, experiment fields, area Extension offices and regional research centers statewide. Its headquarters is on the K-State campus, Manhattan.

**Story by:**

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## Memorandum

To: House Agriculture Committee

From: Derenda Mitchell, Assistant Counsel, KLA Research and Legal Affairs

Subject: Product Liability of Livestock and Meat Food Product Producers

Date: January 14, 2004

Mr. Chairman and honorable committee members, legislative staff, and interested attendees, my name is Derenda J. Mitchell. I am Assistant Counsel for the Kansas Livestock Association.

Attached to this memorandum, please find a draft, conceptual legislative proposal concerning the liability of livestock and meat food product producers in product liability actions. Our proposal is a clarification of what should happen in product liability actions against producers. The proposal helps assure producers that they are entitled to raise defenses comparable to that allowed by law in other product liability actions. We will be happy to provide more detail at the appropriate time.

Thank you and welcome back to Topeka.

House Agriculture Committee  
January 14, 2004  
Attachment 7

Draft language:

AN ACT clarifying the duty of care of a producer of livestock or of meat food products and creating a presumption of wholesomeness and a defense to litigation when a meat food product is inspected and passed.

*Be it enacted by the Legislature of the state of Kansas:*

Section 1. As used in this act:

- (a) "Custom slaughtered or processed" is as described in K.S.A. 65-6a31.
- (b) "Inspected and passed" means the process by which a state or federal inspector inspects a meat food product and authorizes the labeling of the meat food product for consumption as human food.
- (c) "Livestock" means cattle, sheep, swine, horses, mules, or goats.
- (d) "Meat food product" means a product or byproduct, if edible, after slaughter and processing by a producer.
- (f) "Person" includes an individual, partnership, corporation, or an association.
- (g) "Producer" means a person who is engaged in the production of livestock or meat food products.

Section 2. In a product liability action against a producer, the parties shall observe the following requirements:

- (a) When the injury-causing aspect of the meat food product was present at the time the meat food product was inspected and passed or at the time the livestock was custom slaughtered or processed, the meat food product shall be deemed wholesome, sound, unadulterated, and fit for human consumption, and not defective.

(b) When the injury-causing aspect of the meat food product was present at the time the meat food product was inspected and passed or when the livestock was custom slaughtered or processed, this shall be an absolute defense, and the product shall be deemed wholesome, sound, unadulterated, fit for human consumption, and not defective for that reason.

Section 3. In no event shall a producer be held to a standard higher than that of ordinary care for injuries, illness, or any type of damages, or economic loss suffered from the consumption of a meat food product when the livestock has been inspected and passed or the livestock custom slaughtered or processed.