

Approved: January 25, 2005
Date

MINUTES OF THE SENATE AGRICULTURE

The meeting was called to order by Chairman Mark Taddiken at 8:30 A.M. on January 12, 2005 in Room 423-S of the Capitol.

Committee members absent:

Committee staff present: Raney Gilliland, Kansas Legislative Research Department
Lisa Montgomery, Office of Revisor of Statutes
Jacqui Jones, Committee Secretary

Conferees appearing before the committee:

Adrian Polansky, Secretary, Kansas Department of Agriculture

Others attending: See Attached List

Adrian Polansky, Secretary, Kansas Department of Agriculture (KDA), introduced key members of his staff, C.V. Cotsoradis, assistant secretary; Carole Jordan, legislative and policy liaison; Erik Wisner, legislative assistant; Lisa Taylor, public information officer; Dan Riley, chief legal counsel; and Dale Lambley, special assistant. He submitted the Kansas Department of Agriculture 2004 Annual Report (A copy is on file in the office of the Legislative Research Department).

Mr. Polansky presented an overview of the Department for the benefit of the new members of the Committee stating KDA has approximately 300 full-time employees, about half of whom work in Topeka, and the remainder are spread across the state working in the field. The KDA budget is about \$22 million with about 46 percent of the funding coming from the State General Fund, 5 percent from the State Water Plan Fund, 33 percent from fee funds and 16 percent from federal funds.

The Secretary told the Committee that KDA is a regulatory agency serving all Kansans. KDA ensures a safe food supply; regulates the responsible use of pesticides and plant nutrients; protects the state's native and cultivated plants; ensures the integrity of weighing and measuring devices; and guards the beneficial use of state's waters.

During 2004 a variety of topics were addressed by KDA such as:

- Flint Hills burning
- biotechnology
- homeland security
- the grape and wine industry
- grain elevators
- Karnal bunt
- dams and water structures, and
- rules and regulations affecting direct marketers of farm crops

The challenges addressed by KDA in 2004 included concerns regarding BSE in one cow from Washington state and its effect on the cattle industry and Asian soybean rust in nine states that could adversely effect the economic vitality of Kansas agriculture. They are continuing to work to minimize those possibilities.

Head sprouting in the wheat crop caused major concerns for producers in 2004 but KDA was able to change the USDA policy on sprout-damaged wheat and save the credibility of the federal crop insurance program.

KDA reported several successful initiatives as a result of the recommendations of the Governor's Rural Life Task Force.

The Department assumed responsibility for most state-level food safety functions. The Department is establishing and becoming administrators of new food safety laws and regulations.

CONTINUATION SHEET

MINUTES OF THE Senate Agriculture at 8:30 A.M. on January 12, 2005 in Room 422-S of the Capitol.

Secretary Polansky then spoke regarding the following subjects:

- Food Safety
- The Kansas Beef Industry
- Homeland Security
- Karnal Bunt
- Asian Soybean Rust
- Legislative Post Audit and Grain Warehouse Inspection
- Governor's Rural Life Task Force
- Grape and Wine Industry Advisory Council
- Irrigation Transition Assistance Program

The Secretary said he feels that KDA manages effective regulatory programs. He feels that these and other activities benefit consumers, rural communities, agriculture and agribusiness in Kansas (Attachment 1).

Mr. Polansky then stood for questions.

The meeting adjourned at 9:30 a.m.

The next meeting is scheduled for January 19, 2005.



KANSAS

DEPARTMENT OF AGRICULTURE
ADRIAN J. POLANSKY, SECRETARY

KATHLEEN SEBELIUS, GOVERNOR

The State of Kansas Agriculture

Presentation to the Senate Agriculture Committee

By Adrian Polansky
Secretary
Kansas Department of Agriculture

January 12, 2005

Good morning, Chairman Taddiken and members of the committee. I am Adrian Polansky, Kansas Secretary of Agriculture.

Thank you for inviting me to update you about Kansas agriculture and the Kansas Department of Agriculture. I look forward to working with all of you, and encourage you to contact me or one of my staff whenever we can help you.

I have brought some key staff with me today. They are Constantine Cotsoradis, assistant secretary; Carole Jordan, legislative and policy liaison; Erik Wisner, legislative assistant; Lisa Taylor, public information officer; Dan Riley, chief legal counsel; and Dale Lambley, special assistant.

The Kansas Department of Agriculture

First, for the benefit of some new members of the committee, I will briefly introduce you to the Department of Agriculture. KDA has about 300 full-time employees, about half work in Topeka, and about half are spread across the state working in the field. Our budget is about \$22 million. The governor's budget recommendations show our funding at about 46 percent from the state general fund, 5 percent from the state water plan, 33 percent from fee funds and nearly 16 percent from federal funds.

KDA is a regulatory agency that serves all Kansans, rural and urban, agriculture and consumer. We are charged by law with ensuring a safe food supply; regulating the responsible and judicious use of pesticides and plant nutrients; protecting the state's native and cultivated plants; ensuring the integrity of weighing and measuring devices in every aspect of commerce; and guarding the beneficial use of the state's waters.

Senate Agriculture Committee

Date: 1/12/05

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Attachment # 1

Our effective and efficient regulatory programs provide a sound foundation for agricultural ventures to succeed and for me to effectively advocate and educate on behalf of our state's foundation industry. I believe in talking with—and listening to—the Kansans we serve. And so, in 2004, we met with a variety of stakeholders on a variety of topics, including Flint Hills burning, biotechnology, homeland security, the grape and wine industry, food safety, ethanol and biofuels, sensitive crops, the beef industry, grain elevators, Karnal bunt, dams and water structures, and rules and regulations affecting direct marketers of farm crops. We will continue to consult Kansans to help us develop efficient and effective programs and to respond to the inevitable challenges and changes we face.

The Status of Agriculture in 2004

Kansas agriculture faced a number of challenges in 2004. The year began in the aftermath of a single case of BSE in a cow from Washington state and its effects on the cattle industry. The year ended with the discovery of Asian soybean rust in nine states. Both these events could adversely impact the economic vitality of Kansas agriculture, and we are working to minimize those possibilities.

In many ways, 2004 also was a very good year for agriculture. Most parts of the state received much-needed relief after at least five years of drought. Abundant rainfall—except for in parts of west-central and northwest Kansas—led to excellent fall harvests, which helped make up for a small wheat crop. Despite the uncertainties of BSE and its effects on foreign markets, beef prices remained good. Agriculture played no small part in a rebound of the Kansas economy in 2004.

Rain toward the end of wheat harvest caused wheat-head sprouting in some farmers' crops. The intensity of moving the crop to storage, and communication problems between elevators and USDA's risk management agency, put millions of dollars of crop insurance payments due to producers in doubt. I am proud to have communicated my concerns forcefully to USDA, and to have been a part of the successful effort to get the USDA policy on sprout-damaged wheat changed last summer. It meant money in the pockets of our producers and helped save the credibility of the crop insurance program.

2004 was a year of great strides. The Governor's Rural Life Task Force continued its work to examine ways to preserve, renew and sustain the value of rural Kansas in the economic and cultural life of Kansas. We can report several successful initiatives as a result of their recommendations.

And finally, 2004 was a year of change. The Kansas Department of Agriculture assumed responsibility for most state-level food safety functions during the latter part of the year. We are well on our way to establishing ourselves as effective, efficient and equitable administrators of new food safety laws and regulations.

Food Safety

About a year ago, Governor Sebelius issued an executive reorganization order that transferred certain food safety responsibilities from the Department of Health and Environment to the Kansas Department of Agriculture. The Legislature followed the governor's ERO with Senate Bill 296, which provided changes in statute to reflect the change in responsibilities. The changeover was effective October 1, 2004, and we are working to develop, evaluate and improve our efforts.

Before the transfer, we guaranteed public safety by regulating the production and sale of meat, poultry, dairy products, eggs, agricultural seeds and feeding stuffs. Our new responsibilities include licensing and inspecting grocery stores, restaurants in grocery stores, food processors and manufacturers, food wholesalers and warehouses, convenience stores, farmers' markets, mobile ice cream vendors, and food vending machine companies and dealers. Also, we will work with KDHE's epidemiologist to investigate foodborne illnesses that may be traceable to a facility we inspect.

Although many food safety functions transferred to the Kansas Department of Agriculture, the Kansas Department of Health and Environment will continue to inspect restaurants, school food service operations, senior meal sites, mobile food units and all lodging facilities.

For much of the year, we planned how we would smoothly transition these new duties to our department. We worked with KDHE to transfer existing records from their database to one we will use to manage compliance and licensing data. We created new licensing and inspection forms, and we are working with KDHE to update the Kansas Food Code.

Last year, the Legislature required that we create a statistically based random selection of at least 1,000 retail food stores to inspect and evaluate as a transferred program baseline. We were asked to report to you this year by February 1 on the status of our baseline inspection program using 359 randomly selected retail food stores.

I am happy to report that we have met and passed this goal. Today I can report that state and county food safety staff inspected 467 food service operations in retail groceries, retail grocery stores, convenience stores, retail meat stores, specialty and variety shops, health food stores, and food wholesalers and warehouses. We have documented a 93 percent average compliance rate in those establishments.

Another time-consuming but important duty we accepted with the food service program was responding to wrecks and other disasters, and following up on consumer complaints. Since October 1 we have responded to 14 disasters, investigated 60 consumer complaints, and developed and released 15 certificates of free sale for food exporters in Kansas.

We are beginning to identify how we can improve the food safety program. Some improvements may require legislative action, and we likely will stand before you next year with a plan in hand.

The Kansas Beef Industry

In late December 2003, USDA announced that bovine spongiform encephalopathy, or BSE, had been detected in a 6 ½-year-old Holstein cow in Washington state. Officials determined that the animal was imported from Canada and that it likely contracted the BSE agent before it entered the United States.

USDA announced new initiatives to strengthen protections against BSE, many of which did not impact the Kansas Department of Agriculture. However, those that related to meat slaughter and processing, including a ban on slaughter of nonambulatory animals, were immediately implemented by our department.

Many of our international customers halted beef imports after the BSE detection. One of them, Japan, has a history of marketing trademark Kansas beef—a brand that means quality to Japanese consumers. In 2003, they imported \$175.1 million worth of our beef products. To help restore this important market, I traveled to Japan with Governor Sebelius in September. While there, we met with retailers and trade officials to discuss how we could expedite resumed trade.

It was very clear that Japanese consumers want to know where their food comes from. In their supermarkets, food items are identified with the specific farm where they were grown or raised. Ultimately, in the framework agreement to resume beef imports from the United States, Japanese officials said they would accept beef without testing from animals 20 months or younger whose age could be verified through production records.

Japan is now updating its domestic regulations to alter BSE testing requirements to accommodate the terms of the framework agreement. They are taking a slow, measured approach explaining to Japanese citizens why rules on BSE testing can be relaxed and why the resumed importation of U.S. beef is acceptable. While this is consistent with the framework agreement, we believe an expedited process should be encouraged at the highest levels.

Governor Sebelius and I have worked with stakeholders to identify what we can do to help our beef producers and processors get back into the Japanese market. Much of the discussion has focused on animal identification. USDA has already 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. The Kansas Animal Health Department was able to secure a USDA grant for a premises identification pilot project.

To meet Japan's request for age verification through live animal production records, USDA's Agricultural Marketing Service is launching a beef export verification program for exports to that country. It requires individual age verification, group age verification, insemination age verification, or USDA process-verified animal identification and data collection services.

While USDA has two systems that could be useful to meeting Japan's requests, the two USDA programs administering them don't appear to be communicating with each other. This was an important point made by stakeholders in a meeting in early December 2004. Several

issues were discussed by that group, and consensus was reached on certain action items. The group agreed to:

- Support increased communication within USDA regarding animal identification and related voluntary marketing programs.
- Support federal legislation to protect producer information and confidentiality related to premises and animal identification.
- Make funding for our own premises identification program through the Kansas Animal Health Department a priority.
- Support legislation to remove the sunset clause of the enabling legislation for this state's premises identification program.
- Promote educational efforts about premises identification.

Fortunately, domestic demand for beef has remained stable and producers have continued to receive relatively good prices. We will continue to focus on the future of our beef industry and take actions that will ensure our presence in overseas markets. I've commissioned a study by KSU economists to document the effects BSE has had on Kansas beef producers through lost export markets and changes in production and processing. Findings from that study could help us identify other actions we can take to minimize long-term economic impacts on the Kansas beef industry.

I am pleased with the appointment of former Nebraska Governor Mike Johanns as U.S. Secretary of Agriculture. He has a working knowledge of Midwest Agriculture, and a specific and keen interest in traceability and source verification of agricultural products. He has committed to making the Japanese market a top priority in his administration. I am encouraged by that.

Homeland Security

Again, forces beyond our control have forced us to adapt and change. Threats to the security of agriculture have led us to join a number of state- and nationwide partnerships to protect our food supply. We are working with state and federal partners to prevent and plan a response to intentional or accidental acts that could contaminate or destroy animals, agricultural products or food supplies. In 2004, the governor appointed me to her Council on Homeland Security, recognizing the importance of agriculture to the security of this state.

In fiscal year 2005, we will receive our first grant dedicated to homeland security activities. Our plans are to use the \$370,000 grant to identify vulnerabilities in the food production chain, and to purchase and upgrade equipment that will help us respond to an agroterrorism event.

We also have been working with eight other states in a multistate partnership for agriculture and food security. Cooperatively, the states will deal with issues related to security. The partnership received funding from the Department of Homeland Security for two projects: one, to develop risk communication materials for use at all levels of the agriculture and food industry; and two, to develop emergency response materials and enter cooperative arrangements to best use our states' respective resources.

Food security is another driver to the need to make traceability from farm to fork a reality and a necessity. If food has been contaminated, either purposely or accidentally, we need to be able to track it to its source quickly and efficiently. This is of paramount importance to agriculture and to consumers.

Asian Soybean Rust

In early November, USDA announced that Asian soybean rust was found in soybean plots associated with a Louisiana State University research farm. The disease was subsequently found in Alabama, Arkansas, Florida, Georgia, Mississippi, Missouri, South Carolina and Tennessee.

USDA said the discovery likely won't impact soybean exports, since most exporting countries with which American farmers compete already have the disease. A USDA economist did say that treatments to control the disease could increase soybean production costs by up to \$25 an acre. Fungicide treatments can help manage it and reduce yield losses, which can range from 10 percent to 80 percent, depending on the severity of the infection.

Asian soybean rust is readily spread by wind, so its management hinges on early detection and judicious use of fungicides. To prepare ourselves, we asked EPA to approve registering certain fungicides for Kansas, and in September they approved five products. Last year our Plant Protection and Weed Control program monitored soybean crops in 12 Kansas counties. They will increase their efforts in 2005. We also expect to participate in a national soybean rust detection survey in partnership with USDA's Animal and Plant Health Inspection Service.

Managing Asian soybean rust is contingent on early detection and treatment. We are encouraging producers to become familiar with the disease's symptoms, to monitor for its presence in their fields and to be prepared to treat it quickly. Last year, Kansas ranked 11th nationwide in soybean production, with a crop valued at \$433.5 million.

Karnal bunt

Another plant disease, Karnal bunt, has been an action item for the department since it was first discovered in this country in 1996. Karnal bunt is a fungal disease of wheat, durum wheat and triticale. Although it is a relatively minor disease, it affects the quality of the grain and many of our trading partners refuse to accept shipments from areas known to be affected by the fungus. Our continuing emphasis has been to do whatever we can to keep it out of Kansas so our wheat exports can continue unaffected. We continue to monitor USDA actions and proposed

rules and regulations regarding Karnal bunt. In 2004, we held a stakeholder meeting to update grain producers about the status of Karnal bunt in the U.S., and to gather input on how we should proceed in the future.

Legislative Post Audit and Grain Warehouse Inspection

The Legislative Division of Post Audit completed a review of the Grain Warehouse Inspection program in August. Essentially, the audit showed that the Kansas program, though beset with funding difficulties, has kept our state's farmers relatively well-protected when grain is stored in Kansas-licensed warehouses. It also said the program should be doing more to protect grain quality in addition to its clear charge to monitor the quantity of grain stored in the warehouses.

When we responded to the committee, we told them we would work to amend the statute to clarify our authority in the area of quality. Since the grain warehouse program was transferred to the department 1997, it has been drawing down its reserve fund until it is nearly depleted. We also told the post audit committee we would work with industry to develop a strategy to keep the program solvent.

We are pleased that the governor's budget recognizes the importance of our state-licensed grain elevators to our farmers and rural communities. It authorizes a new, state general fund expenditure for the program. Those dollars and judicious increases in fees should put the program on sound financial footing.

We will seek a change to the statute that would provide the grain examiner with clear authority to obtain representative samples whenever suspicions of grain quality problems arise during an inspection, and the authority to assess the cost of those samples. The statute should then provide clear authority for the secretary of agriculture to require the warehouse to have suspect grain thoroughly sampled and graded by the Kansas Grain Inspection Service with results reported to the secretary. If the facility does not comply with the required sampling, the secretary should have the authority to order it done at the facility's expense. This will be a legislative initiative and priority for the department in this legislative session.

Governor's Rural Life Task Force

In late 2003, Governor Sebelius appointed 43 Kansans to serve on the Rural Life Task Force. During the past year they completed stories of the past, present and future of rural Kansas. They forwarded some priorities for action to the governor. I'd like to share a few of those priorities and their status.

They asked the administration to pursue liability legislation related to agricultural tourism. SB 334 was enacted into law in 2004. It provided a tax credit to help agritourism operators obtain liability insurance. Further activities in support of agritourism have included hiring a nationally known agritourism consultant, appointing a statewide agritourism council, publishing an agritourism guide and sponsoring a highly successful statewide agritourism conference.

They supported an energy plan for Kansas. Governor Sebelius issued Executive Order 04-05 in 2004. It created the Kansas Energy Council, a group with a broad-based membership charged to help more effectively address energy policy and planning in Kansas. I was pleased to be asked to serve on that council. We recently proposed that the state authorize the Kansas Development Finance Authority to offer revenue or municipal bonds to finance Kansas energy projects; adopt language clarifying that negotiations and discussions between wind energy developers and local governments regarding voluntary payments for wind projects are legal; and remove mandatory labeling for 10 percent ethanol mixtures at the gas pump. I will be supportive of legislation brought forth by the industry this session to remove that labeling. I believe ethanol and other biofuels benefit our environment, our economy, and our global security.

The task force also supported the establishment of a Kansas Products warehouse through which Kansas products can be sold. We are now working with Kansas Originals and accessKansas, the host of Kansas state government websites, to develop internet-based opportunities for consumers to buy Kansas products.

I will continue to work with the governor and the Rural Life Task Force to advance the opportunities they've identified as essential to the health and well-being of our rural communities and their economies.

Grape and Wine Industry Advisory Council

In July I named a Kansas Grape and Wine Industry Advisory Council to advise me on marketing, regulatory, research and legislative issues important to the industry. I was authorized to form the council by a 1994 statute and to appoint members to two-year terms.

Kansas currently has more than 30 vineyards with about 100 acres devoted to grape growing. In 2003, Kansas vintners produced 49,000 gallons of wine, an amount equal to a little less than one percent of all wine consumed in the state. Before prohibition, Kansas and Missouri together produced 86 percent of all the wine consumed in the entire country. I believe that grapes and wine could grow in importance, both as a specialty agricultural crop and an agritourism destination to benefit our rural areas.

Among items discussed during the council's three meetings last year were promotional events, needed state and federal legislation, and our department's efforts to protect grapes and other sensitive crops from inadvertent damage by pesticides. I will support reasonable legislation agreed on by the advisory group that will be offered to benefit our farm wineries.

Irrigation Transition Assistance Program

The Kansas Department of Agriculture's division of water resources is responsible for a number of programs regarding the beneficial use of the quantity of water in Kansas. It currently is working with other Cabinet-level agencies to develop and promote an irrigation transition assistance program. This particular program relates to three areas of the state where KDA has helped develop enhanced water management programs to reduce water use where supplies are

particularly tight. Those areas are the Rattlesnake Creek subbasin, the Middle Arkansas subbasin and the Ogallala Aquifer. When water users are interested in voluntary, incentive-based programs to reduce water use, we look for ways to provide them, rather than wait until regulatory action is the only option available to us. The irrigation transition assistance program could provide incentives to help water users reduce their dependence on irrigation and help extend the life of the aquifer. We will continue to seek cooperative and creative methods to conserve and extend our groundwater supply to enhance the long-term viability of our agricultural economy.

In conclusion

The Kansas Department of Agriculture manages effective regulatory programs that affect all Kansans. Those and other activities benefit consumers, rural communities, agriculture and agribusiness in the state. Our operations are lean but effective, and we believe in talking with and listening to our stakeholders. We look forward to a beneficial legislative session. I would be happy to stand for questions.