Approved: March 30, 2005
Date

MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE

The meeting was called to order by Chairman Pete Brungardt at 10:40 a.m. on Thursday, March 10, 2005, in Room 231-N of the Capitol.

All members were present except:
Senator James Barnett (E)

Committee staff present:
Athena Andaya, Kansas Legislative Research Department
Dennis Hodgins, Kansas Legislative Research Department
Mary Ann Torrence, Revisor of Statutes Office
Dee Woodson, Committee Secretary

Conferees appearing before the committee:
Norm Jennings, Co-owner of Smokey Hill Vineyards & Winery and Kansas Grape Growers & Wine Makers Association
Dr. John Brewer, President and owner of Wyldewood Cellars, Mulvane, KS
Dan Ward, Chairman, Grape & Wine Industry Advisory Council
Adrian Polansky, Kansas Secretary of Agriculture
Janna Dunbar, Kansas Department of Commerce
Tuck Duncan, Kansas Wine & Spirits Wholesale Association
Gregory Shipe, President, Kansas Viticulture and Farm Winery Association (written)
Janet Forge, Prairie Ridge Vineyards, St. George, KS (written)
Frances Riley, Jr., Overland Park, KS (written)
Amy Campbell, Kansas Association of Beverage Retailers
Neal Whitaker, Kansas Beer Wholesalers Association
Tom Groneman, Director of Alcoholic Beverage Control, Kansas Department of Revenue
Sally Pritchett, Kansas Real Estate Appraisal Board

3/1

Others attending:
A Guest List was not circulated.

Chairman Brungardt noted that Fiscal Notes had been distributed to committee members on **SB 267**, **SB 276**, and **SB 274** as information and for review. (Attachment 1)

SB 267 - Farm wineries, number of outlets and gallons of wine; liquor retailers, sampling

Chairman Brungardt opened the hearing on **SB 267**. Norm Jennings, on behalf of Smokey Hill Vineyards & Winery and Kansas Grape Growers & Wine Makers Association, testified in support of **SB 267**. He stated that this bill was a mechanism for furthering both the Kansas grape and wine industries. The grape and wine industry in Kansas is one that has the potential to be a major contributor to the state agritourism and value-added agricultural industries, as well as state alcohol tax revenue sources. He explained the three items the bill addressed: i.e. sampling, outlets and production level. The sampling off-site would greatly increase the exposure of Kansas wines. As recommended by the ABC Director, the licensee will be held responsible for the same requirements as on-site and adhering to the rules and regulations set by the ABC to monitor the tastings. Included in the sampling provisions is the ability for sampling to be conducted at retail liquor stores. He said that current state law allows for two outlets away from the winery, and this bill would allow for the number to increase to five per winery. Mr. Jennings talked about the production tap on the Kansas farm wineries. (Attachment 2)

Dr. John Brewer, Wyldewood Cellars, spoke in favor **SB 267**. He talked about the Kansas wineries as agritourism facilities, and how the wine industry advances Kansas agriculture. He said that his tasting rooms are visited by over 100,000 people every year. The changes proposed in the bill will help bring Kansas up to par with surrounding states, and help the wineries become more competitive within their region and ultimately nationally. Dr. Brewer spoke about the production levels of a "small producer" as defined by the Federal government at less than 250,000 gallons per year. He stated that Wyldewood Cellars' wine production and sales have been increasing at over 50% per year, and at the present rate of growth, they will be at the 50,000 gallon limit within two years. By present Kansas law, Wyldewood Cellars would be forced to stop encouraging new growers and the expansion of their present growers when they reach the limit. He pointed out that with the growth of the wineries, the tax revenue to Kansas would also be increased from the wine industry. (Attachment 3)

Dan Ward, Kansas Grape and Wine Industry Advisory Council, testified in favor of **SB 267**. He talked about the growth of grape growing and related the farm winery industry in Kansas as a positive objective for the state. He pointed out there are other products and opportunities offered by Kansas farm wineries and vineyards to include, but not limited to, agritourism activities, organic table grapes and fruits, juice production, corporate off-site meeting rooms, special event venues, nature trails, picnic areas, horticultural education events, and free research areas for our universities and colleges. Mr. Ward stated that this bill not only benefits the farm wineries, but also assists retailers and wholesales to move their patronage toward Kansas products via controlled and regulated ability to serve samples. In regard to the increase of production limitations on farm wineries, he said this was a common sense opportunity to combine efforts and bring the Kansas law in line with the federal production limits. Mr. Ward explained that by increasing the number of farm winery outlets, it will increase the opportunity of the small farm wineries, many of which are in remote areas, to set up tasting rooms closer to population concentrations. He added that farm wineries are required to ensure that the products are made from no less than 60% of Kansas fruit/products. He stated that to enable his business to grow, he must have access to the markets and must have freedom to grow his business with regard to production. (Attachment 4)

Adrian Polansky, Secretary of the Department of Agriculture, spoke in support of **SB 267**, which he said reflects the consensus of the Kansas Grape and Wine Industry Advisory Council. He talked about being authorized to form the Kansas Grape and Wine Advisory Council, and he appointed members to the council to advise himself and others about the state's burgeoning grape and wine industry. The mission of the council is to provide support to grow the industry through legislative initiatives, research, education and marketing to stimulate tourism and value-added, sustainable, environmentally responsible agriculture. Secretary Polansky stated that the grape and wine industry can grow to be profitable and successful, both as an agricultural crop and as an agritourism and entertainment venue that links rural Kansans with urban residents from around the world. In conclusion, he said **SB 267** would remove some outdated barriers to the success of this industry, and it is time to let that industry grow. (Attachment 5)

Janet Dunbar, Kansas Department of Commerce, testified in favor of **SB 267**. She explained that in December 2004, the Kansas Grape & Wine Industry Advisory Council sponsored a survey of the current market, and the results of that survey showed the possibility of a prosperous industry. The survey results are attached to Ms. Dunbar's written testimony, which shows where the current industry is at and where it is headed. She said the surveys also depict the possibility for 16 new Kansas farm wineries within the next five years which is in addition to the current eight Kansas farm wineries. The ninth Kansas farm winery location will open in May 2005. There is also the potential for 167 new acres of grapes in the next five years. There are 42 full-time employees currently employed by the grape and wine industry and 66.5 part-time employees with a payroll of nearly $1 million. Ms. Dunbar pointed out that many of the vineyards rely heavily on volunteer labor and tourists to prune and harvest their fruits. The Kansas vineyards and wineries exemplify rural entrepreneurship, but growth should not be stagnated by outdated laws and prohibitions. (Attachment 6)

Tuck Duncan, Kansas Wine & Spirits Wholesalers Association (KWSWA), spoke in support of **SB 267**. He explained that the Grape and Wine Industry Advisory Council had several recommendations this year including that a retailer licensee be allowed to serve samples of alcoholic liquor on the licensed premises if the premises are located in a county where the sale of alcoholic liquor is permitted by law in licensed drinking establishments. In respect to the farm wineries, the counsel recommended the wineries be allowed to serve samples of their products on licensed premises and at special events, monitored and regulated by the Division of Alcoholic Beverage Control (ABC).

Mr. Duncan stated that KWSWA supports the recommendations, but also suggested some amendments be adopted to clarify what it means to serve samples. The amendments he offered were drawn from the Missouri law: (1) that the retail licensee must apply to the Director of the ABC for a special annual permit to conduct alcoholic liquor tastings on the licensed premises. KWSWA suggested a $25 fee in order to be consistent with the CMB permit fee; (2) that such samples for tasting must be withdrawn from the retailer's own inventory; and, (3) that the Director shall issue rules and regulations specifying the sizes of the sampling units. Mr. Duncan also requested that the committee amend the bill to allow distributors and farm wineries to withdraw products from their inventories for donation to charitable events, provided they pay the state's enforcement tax thereon. Again, the Director should be allowed to promulgate regulations regarding same. He spoke briefly regarding the proposed number to increase the production capacity, and said he thought that the problem could be cured by amending K.S.A. 41-701 without having to change the ceiling. The 250,000 quantity ceiling was originally developed because that was the small producer's definition for purposes of a tax credit at the federal level. (Attachment 7)

Senator Vratil stated that the intent of the bill in authorizing the service of samples was that the samples would be provided free of charge, and would he propose an amendment to clarify that provision. Mr. Duncan said he had no problem with that clarification. Senator Vratil asked what the application fee was for a farm winery license. Mr. Duncan responded that it was a $250 license fee plus a $10 administrative fee and a required grocery license.

Written testimony in support of **SB 267** was submitted by:

Gregory Shipe, Kansas Viticulture and Farm Winery Association (Attachment 8)
Janet Forge, Prairie Ridge Vineyards (Attachment 9)
Francis Riley, Jr., Overland Park, KS (Attachment 10)

Amy Campbell, Kansas Association of Beverage Retailers (KABR), testified in opposition to **SB 267**. She explained the bill seeks to bypass the primary principles of the three tier distribution system and create exceptions for a few licensees, which threatens the business of retail liquor store licensees by: (1)creating loopholes in Kansas liquor law which make the state vulnerable to questions of fair competition under the Commerce clause of the U.S. Constitution; (2) expanding the number of retail outlets for farm wineries from two to five while liquor store owners may hold one retail license; and (3) blurring the lines of separation between manufacturer, distributor, and retailer. Ms. Campbell stated that KABR has repeatedly advocated for uniform State law regulating the licensees who sell alcoholic liquor. She said they could not support the overall legislation including off-premise retailers in the sampling provisions of the bill. She talked about cases currently before the U.S. Supreme Court regarding fair competition under the Commerce clause involving the state's authority to grant preferential treatment to in-state wineries over out-of-state wineries. Ms. Campbell concluded by stating KARB does not want to be here as a roadblock, but is urging caution. (Attachment 11)

Neal Whitaker, Kansas Beer Wholesalers Association (KBWA), spoke in opposition to **SB 267,** and what is happening nationally to the state's ability to regulate the alcoholic beverage industry. He distributed CD's to each committee member which contained a detailed explanation of the three tier system: i.e. its history, where it came from, and why it is used in the United States (copy available upon request from the Kansas Beer Wholesalers Association). He stated that this bill creates privileges for farm wineries across the tiers, and with exceptions continuing to be made; Kansas comes closer to having a federal court limit its ability to regulate its liquor laws. He reiterated that Kansas needed to wait until a decision is rendered by the Supreme Court, and examine how Kansas can continue to regulate beverages the way it has been done the last 50 years. He pointed out that another issue in the bill allowed liquor retailers to sample, and KBWA believes that is inadvisable at this time. There are over 600 liquor retailers in Kansas, and most of them have no experience in dispensing alcoholic beverages by the drink to the public. (Attachment 12)

Tom Groneman, Director of the Alcoholic Beverage Control Division (ABC), testified as a neutral conferee on **SB 267**. He said the ABC requests clarification of Section 2 (a)(4) regarding the new language "and at special events, monitored and regulated by the division of alcoholic beverage control." He explained the proposal does not define what constitutes a special event and whether special events monitored and regulated by the division meant that an agent has to be present at each of these events. The department can develop rules and regulations defining and regulating special events, but it would be helpful to have these terms defined further within the proposal. He briefly talked about the field inspections at each of the 13 licensed farm wineries and 6 outlets, production totals for 2004 in Kansas, and the Kansas farm products used in the manufacture of wine other than grapes. (Attachment 13)

Committee questions and discussion related to what the fees are for farm winery outlets, whether there were rules or guidelines for the samplings, how often the six outlets are inspected, how many full-time ABC agents does it take to cover the outlets, and how much time is involved in monitoring the farm wineries. Question was asked where the collected licensed fees go, and if they went to the ABC Division to help with inspections and enforcement. Mr. Groneman said the fees go into the State General Fund.

Senator Vratil referred to the fiscal note on **SB 267**, and asked why two positions would be required. Mr. Groneman replied that the licensed wineries could have five outlets according to the proposed bill, and it also was because of the added number of special events around the state plus monitoring the 720 liquor stores if those were allowed to have sampling.

Chairman Brungardt closed the hearing on **SB 267**.

SB 276 - Transitional licenses for appraisers
Chairman Brungardt opened the hearing on **SB 276**. Sally Pritchett, Kansas Real Estate appraisal Board, testified in support of **SB 276** which would repeal K.S.A. 58-4109 sections (f) and (g). She explained the reason for requesting the repeal of 58-4109 (f) is that it was recently brought to the attention of the Board that the time frame for passing an examination was changed to two years effective in April of 2000. The current statute specifically allows for five years, and by repealing this section it would not take away the Board's authority to monitor examination requirements as this is still covered in 58-4109(c)(3) which gives the Board authority to establish examination specifications. Ms. Pritchett stated that the request to repeal the statute is simply being done as a cleanup measure since the statue is outdated. (Attachment 14)

There being no other conferees to appear to speak on this bill, Chairman Brungardt closed the hearing on **SB 276**.

Final Action:
SB 68 - Elections; establishing requirements for daily reporting of campaign contributions
Chairman Brungardt called for discussion and possible final action on **SB 68**. He asked the Revisor about possible change in regard to electronic filing. The Revisor explained that it was a recommendation by the Secretary of State's Office that the filings be with the Secretary of State rather than with the commission. The Revisor said that the new proposed substitute bill for **SB 68** had not been formally printed because the committee had not passed it out yet, and the draft form was handed out to committee members at the March 2 meeting.

Senator Vratil made a conceptual motion to amend new subsection (c), to say, "Reports required by this section shall be filed by hand delivery, express delivery service, facsimile transmission or any electronic method authorized by the Secretary of State." The motion was seconded by Senator Reitz, and the motion carried.

The Chairman called for discussion on the proposed substitute bill. Senator Reitz stated some of the members had spoken to the fact they do not like this bill, but he had to take exception to that as all these campaign finance measures had been brought to the Legislature by the Ethics Commission and were valid and worthwhile. He supported the Commission's requested changes wholeheartedly, and he supported the substitute bill in the same way.

Senator O'Connor asked if the balloon amendment offered earlier was included in the draft of the substitute bill. The Revisor responded that it was incorporated into the proposed substitute. Senator O'Connor referred to Mr. Stern's recommendations when he testified before the Elections and Local Government, and whether those recommendations had been included in this substitute bill. The Chairman asked Carol Williams to respond, and she said that language was included on page 2. Senator O'Connor inquired about page 1, line 14, regarding raising the $300 threshold to $500, which is the threshold for committees filing reports section 25-4175, and whether that was done. Ms. Williams said that was not done because that was in **SB 68** and it was never in Elections and Local Government. She explained that original **SB 68** was in this committee from the beginning so there were no changes made to it based on the comparable changes made in Elections and Local Government on **SB 64**. Senator O'Connor asked if the committee was putting **SB 64** into **SB 68**. Ms. Williams said that was correct.

Senator O'Connor expressed her dissatisfaction with and the problems caused by the committee trying to by-pass the normal process. She stated that this bill belongs in the Elections and Local Government Committee and not in the Federal and State Affairs Committee. Chairman Brungardt reminded Senator O'Connor that the bills were referred to this committee by the Senate President and this committee was trying to work the bills referred.

Senator O'Connor stated that she objected to everything that was going on in this committee, stated her reasons, and that she would oppose this whole procedure.

Senator Vratil made a motion to recommend the proposed bill favorable for passage as amended. He stated that it was very important for this committee to put **SB 64** and **SB 66** into the proposed substitute bill, along with **SB 68**, because these issues should be dealt with by the entire Senate and not have them bottled up in committee. The motion was seconded by Senator Reitz.

The Chair called for discussion. Senator Barnett asked Carol Williams if there were reasonable recommendations that the committee was not hearing about or ignoring. Ms. Williams responded that the recommendations certainly had merit and were reasonable, and the Commission would be agreeable to them. Senator Barnett suggested that since these were reasonable changes that the committee continue to work on the proposed substitute bill. He said he had a great deal of faith in Ms. Williams' work and her expertise on these type matters.

Senator Vratil stated that he would withdraw his motion, with permission of Senator Reitz who seconded his motion, because he did not realize there were additional amendments to be offered. Senator Reitz was in agreement.

Senator Barnett asked if those additional changes involving the recommendations could be explained in order for the committee to consider amending those into the substitute bill. Chairman Brungardt agreed, and explained that the committee was looking to make things uniform across the various reporting thresholds, and that sort of thing. He asked Ms. Williams to go over the recommendations.

Ms. Williams explained that Mr. Stern's first suggestion was to change the language in **SB 64,** page 1, line 13, by deleting "makes or contracts to make an expenditure" and substitute "spends or contracts to spend." The second recommendation regarded a policy decision on page 1, line 14, raising the $300 threshold to $500, which is the threshold for committees filing reports under Section 25-4175. Mr. Stern's third suggestion was on page 1, line 19, to change the occupation threshold to $150 because that was not addressed in the original bill. She explained that $150 was what all the legislators had to do when they filed their reports; and for consistency purposes, this was not an issue for the Commission.

Senator Vratil asked where the occupation threshold provision was in the substitute bill. Ms. Williams responded that it was in new Section 2, beginning on page 2.

Ms. Williams said Mr. Stern's fourth suggestion was on page 1, line 23, deleting "the expenditure" and add "a payment of $50 or more." This would again have the same threshold for a payment as is required for committee payments. She explained that would also be in new Section 2, page 2, and would be in Sub. Section 4 under (a).

Chairman Brungardt asked Ms. Williams if the five bills that the Ethics Commission brought to the Legislature now have better consistency in terms of thresholds, amounts, etc. Ms. Williams replied that was correct and that two of the bills have already gone to the House.

MINUTES OF THE Senate Federal and State Affairs Committee at 10:40 a.m. on Thursday, March 10, 2005, in Room 231-N of the Capitol.

Senator Barnett made a motion to adopt those amendments as explained. Senator Brownlee seconded the motion, and the motion carried.

Senator Vratil made a motion to recommend Substitute Bill for **SB 68** as amended for passage, and seconded by Senator Reitz.

The Chairman called for discussion.

Senator O'Connor stated that **SB 64** and **SB 66** have not been heard in this committee although copies of the testimony on those bills from Elections and Local Government were furnished to this committee's members. She said no one in this committee heard the testimony as given nor the questions and responses to the questions asked during the hearing on these bills. She expressed that she still finds this committee's actions inappropriate, and will continue to vote "no" as a protest on how these bills are being dealt with in circumventing the committee the bills were assigned to originally.

Chairman Brungardt asked if she wanted her remarks recorded, and she responded not particularly. She just wanted her position stated and explained.

Senator Hensley commented that he thought Senator O'Connor made a good point. He explained that **SB 68** was assigned to this committee, but noted that it had been introduced by the Committee on Elections and Local Government as well as **SB 64** and **SB 66**. He expressed a general concern about other bills that have been assigned to committees that are not of that jurisdiction, i.e. consolidation. The issue of city and county consolidation is a issue that should have gone to the Elections and Local Government Committee. He said he understands that there is going to be a change of venue on the gaming issue, which should come to this committee because it deals with gaming issues, but it is now going to the Ways and Means Committee. Senator Hensley stated that this is a trend that is not positive to the process, and bills should be assigned to the committees where they are applicable to that particular committee.

Senator Brownlee requested that she be on record as being in agreement with comments from both Senator O'Connor and Senator Hensley. Senator Ostmeyer stated that he also wanted to be on record that he agreed with the previous comments.

Chairman Brungardt called for the vote on the motion to recommend Substitute Bill for **SB 68** as amended. The Chair was in doubt of the voice vote and called for a show of hands. The vote was four (4) for the motion, and four (4) against the motion, with one (1) member abstaining. Motion was lost on a tie vote.

SB 263 - Administrators of ambulance services added to membership of emergency medical services board

Senator Brungardt called for discussion and final action on **SB 263**. He said there was possibly an amendment regarding the designated number of members for the emergency medical services board. The Revisor clarified that there had been committee discussion at the time of the hearing to possibly not add two new members, but instead the committee had suggested designating one of the current members to be an administrator in order to hold the size of the board to its current number.

Senator Brownlee made a motion to amend **SB 263** on page 1, paragraph (G), beginning on line 34, that one of those positions would be the administrator of ambulance services as described in paragraph (F). Senator Barnett seconded the motion, and the motion carried.

Senator Brownlee moved to pass **SB 263** out favorably as amended, seconded by Senator Reitz, and the motion carried.

HB 2027 -Library boards; reduction of waiting period for reappointment

Chairman Brungardt called for discussion and final action on **HB 2027**. He explained the bill would reduce from two years to one year the recess period a person would have to serve before that person could be reappointed to a library board.

MINUTES OF THE Senate Federal and State Affairs Committee at 10:40 a.m. on Thursday, March 10, 2005, in Room 231-N of the Capitol.

Senator Barnett made a motion to pass **HB 2027** out favorably, seconded by Senator Reitz, and the motion carried.

SB 262 - Administrators of ambulance services added to membership of emergency medical services board

HB 2083 - Consolidation of Topeka and Shawnee County

Chairman Brungardt called for discussion and possible final action on either one or both of the consolidation bills. He inquired what the committee's pleasure would be on the consolidation bills.

Senator Hensley moved that the committee report **HB 2083** favorable for passage, seconded by Senator O'Connor, and the motion carried.

Senator Hensley moved that the committee report favorably for passage **SB 262**, seconded by Senator Gilstrap, and the motion carried.

The meeting was adjourned at 11:53 a.m. The next meeting is scheduled for March 15, 2005.

March 9, 2005

The Honorable Pete Brungardt, Chairperson
Senate Committee on Federal and State Affairs
Statehouse, Room 143-N
Topeka, Kansas 66612

Dear Senator Brungardt:

SUBJECT: Fiscal Note for SB 267 by Senate Committee on Federal and State Affairs

In accordance with KSA 75-3715a, the following fiscal note concerning SB 267 is respectfully submitted to your committee.

SB 267 would change current law regarding the Liquor Control Act. The bill would allow retail liquor stores to serve samples of alcoholic liquor on licensed premises, if a store is located in a county where liquor by the drink is permitted. The bill would also allow farm wineries to serve samples of wine or limited amounts of imported wine at special events. The bill would also increase the limit on farm winery outlet stores from two to five for each farm. The threshold for distinguishing farm wineries from manufacturers would increase from 50,000 gallons to 250,000 gallons.

According to the Department of Revenue, only four of the thirteen farm wineries have winery outlet stores. Of these four wineries, two have two outlet stores each and two have one outlet stores each. If each farm winery were to increase the number of outlet stores to the maximum allowed, the Department indicates that it would need two additional enforcement agents to inspect the additional stores and to monitor the sampling of wine at special events. The Department indicates that these two positions would require $140,800 in additional expenditures from the Division of Vehicles Operating Fund. Of this amount, $83,581 would be for salaries and wages for the two positions, and $57,200 would be for other operating expenditures, including two vehicles, computers and office equipment.

Senate Federal & State Affairs Committee
3-10-05
Attachment 1

It is not known if all of the farm wineries would open the maximum number of outlet stores allowed under this bill. As a result, the actual fiscal effect could be less than the estimates provided by the Department of Revenue. Any fiscal effect resulting from the passage of this bill would be in addition to amounts contained in *The FY 2006 Governor's Budget Report.*

Sincerely,

Duane A. Goossen

Duane A. Goossen
Director of the Budget

cc: Steve Neske, Revenue

March 9, 2005

The Honorable Pete Brungardt, Chairperson
Senate Committee on Federal and State Affairs
Statehouse, Room 143-N
Topeka, Kansas 66612

Dear Senator Brungardt:

SUBJECT: Fiscal Note for SB 276 by Senate Committee on Ways and Means

In accordance with KSA 75-3715a, the following fiscal note concerning SB 276 is respectfully submitted to your committee.

SB 276 would eliminate several sections of law regarding real estate appraisers in order to comply with federal real estate appraisal regulations. Under current state law, an individual seeking a real estate appraisal license is required to have passed the appropriate federal license examination within the five-year period immediately preceding the date of license application to the Kansas Real Estate Appraisal Board. Federal regulations limit the timeframe to two years instead of five years. SB 276 would remove this section from state law, and the agency would utilize the rules and regulations process to regulate this activity. Also, the bill would remove authority of the Board to approve transitional real estate appraisal licenses received by the agency prior to December 31, 1991.

Passage of SB 276 would have no fiscal effect.

Sincerely,

Duane A. Goossen

Duane A. Goossen
Director of the Budget

cc: Cheryl Magathan, Real Estate Appraisal

March 9, 2005

The Honorable Pete Brungardt, Chairperson
Senate Committee on Federal and State Affairs
Statehouse, Room 143-N
Topeka, Kansas 66612

Dear Senator Brungardt:

SUBJECT: Fiscal Note for SB 274 by Senate Committee on Federal and State Affairs

In accordance with KSA 75-3715a, the following fiscal note concerning SB 274 is respectfully submitted to your committee.

SB 274 amends the Liquor Control Act. The proposal provides for the Director of Alcoholic Beverage Control to issue a microbrewery packaging and warehousing license to a microbrewery licensee. The license would allow a microbrewery to transfer beer manufactured by the licensee for the purpose of packaging and/or storage from the microbrewery to the warehouse, or vice versa, or to a licensed beer wholesaler. The fee for the microbrewery license is $50.

In addition, the bill allows the director to issue to the Kansas State Fair or any bona fide group of brewers or beer enthusiasts a permit to import small quantities of beer, to be used only for educational and scientific tasting programs, which cannot be resold. The permit would identify the brand and type of beer, the quantity to be imported, and time and location of programs. In addition, the bill would expand alcoholic beverages allowed on the state fairgrounds to include a farm winery or a microbrewery licensee permit that is sold and consumed during the Kansas State Fair. The permit would show the premises leased by the Fair to a person who holds a temporary permit.

Estimated State Fiscal Effect				
	FY 2005 SGF	FY 2005 All Funds	FY 2006 SGF	FY 2006 All Funds
Revenue	--	--	$450	$450
Expenditure	--	--	$2,800	$2,800
FTE Pos.	--	--	--	--

According to the Department of Revenue, if all of the nine microbreweries in the state were to apply for the new license, there would be an increase in license fees of $450. Also, the Department would have expenses for revision of forms and publications costing $2,800. The Kansas State Fair states that passage of SB 274 would not have a fiscal effect on its expenditures. However, enactment of SB 274 could increase Fair revenues because it would allow farm winery and microbrewery licensed vendors to sell products. No information is available upon which to base an accurate estimate.

Sincerely,

Duane A. Goossen

Duane A. Goossen
Director of the Budget

cc: Amy Craig, State Fair
Judy Moler, KS Association of Counties
Steve Neske, Revenue

Kansas Grape Growers & Wine Makers Association

March 10, 2005

To: Senate Federal & State Affairs Committee
From: Norman M. Jennings
On behalf of: Smoky Hill Vineyards & Winery (Co-owner)
Kansas Grape Growers & Wine Makers Association (Legislative Chair)

RE: SB267

Mr. Chairman and members of the committee, thank you for the opportunity to offer this testimony. The Kansas Grape Grower & Wine Maker Association (KGGWA) is a state association established by the growers and wineries of Kansas, with the mission statement of furthering the growth and development of both of these industries, and therefore the economic impact in Kansas. The KGGWA represents commercial growers and wineries responsible for approximately 80% of the Kansas wines produced. The grape and wine industry in Kansas is one that has the potential to be a major contributor to the state agritourism and value-added agricultural industries, as well as state alcohol tax revenue sources.

The Kansas Grape Grower & Wine Makers Association supports SB267 as a mechanism for furthering both the Kansas grape and wine industries. Following are comments on each of the three items this bill addresses.

1. Sampling – Sampling off-site has the potential to greatly increase the exposure of Kansas wines. Venues such as the Kansas Sampler Festival have a lot of natural synergy for this type of tasting. As recommended by the ABC Director the licensee will be held responsible for the same requirements as on-site and adhering to the rules and regulations set by the ABC to monitor these tastings. Included in the sampling provisions is the ability for sampling to be conducted at retail liquor stores. This is commonplace in many other states and has been stated many times that the retailers want this ability.
2. Outlets - Currently KSA41-308a allows for two outlets away from the winery. This bills would allow for the number to increase to five per winery.
3. Production level - Currently KSA41-308a allows for production of up to 50,000 gallons per year. At levels above that amount the farm wineries are required to comply with KSA 41-701 through 41-705 and 41-709.
   a. 701 – "Certain sales by a distributor or manufacture prohibited…"
   b. 702 – "Gifts and credit from distributor or manufacture prohibited…"
   c. 703 – "Gifts, loans and interest in customer's business by distributor or manufacture prohibited…"
   d. 704 – "Manufactures interest in business of distributors prohibited…"
   e. 705 – "Violation of 41-703 or 41-704…"
   f. 709 – "Authorized sale or delivery by distributor or manufacture; withdrawal of samples from warehouse; license revocation for violations…"

Senate Federal & State Affairs Committee
3-10-05
Attachment 2

Because these statutes refer to distributors and manufactures, opinions differ on what applies to a farm winery. Some say they just give further restrictions on warehousing and business practices, while others say it requires farm wineries to give up the right to sell at retail. 41-701 refers to the types of sales allowed and if a farm winery was to adhere to the entirety of this statute, then the winery would not be able to sell to the public at the winery or at their outlets. Currently there are only 14 states that have production "caps" of which Kansas is at the lowest level. This bill raises the production level to 250,000 gallons matching that of the Federal Small Producer level.

Passing SB267 would further the growth and development of Kansas grape/wine fruit growing and the Kansas wine industry. Referring to testimony by the Forge's owners of Prairie Ridge Vineyards, you can see first hand the potential these industries have on value-added agriculture. Additionally growth of these industries delivers economic impact to statewide tourism as well as to economic area of each winery and or outlet. We thank you for your time and the opportunity to appear before this committee and ask for your support on SB267.

W‑‑dewood Cellars, Inc.
P.‑ ‑ox 205
Mulvane, Ks 67110

(316) 554-9463
(316) 554-9191 fax
wyldewoodcellars.com

RE: SB267

Mr. Chairman and members of the committee, thank you for the opportunity to offer testimony.

Wyldewood Cellars supports SB267 as vital to growing the Kansas Wine Industry and thereby supporting and advancing Kansas Agriculture and Agri-tourism. We grow some of our fruit, but we mainly purchase fruit from over 30 Kansas growers, and this number increases every year. Our tasting rooms are visited by over 100,000 people every year from all 50 States and over 75 other countries. In 2004, Wyldewood Cellars employed 21 people, our sales increased 78%, and we generated over $230,000 in taxes (sales, liquor enforcement, property, employment, and income) for the State of Kansas. Yet, our winery is only one-tenth the size of the largest winery in Missouri (Stone Hill), and Missouri has over 40 wineries.

The changes proposed in SB267 will help bring Kansas up to par with our surrounding States and help the wineries to be more competitive within our region and ultimately nationally.

Oklahoma and Missouri allow Farm Wineries to sample and sell their wines at Festivals and their State Fair. The attendance at these Festivals was greatly enhanced by tourists who attended only because of the wine sampling, and many of them took wine back home to share their experience with their friends. Agri-tourism wine sampling and sales can be a great economic development tool for rural communities. Ohio wineries sell over 300,000 gallons of wine each year at their 10-Day State Fair. This is over six times the yearly output of all Kansas wineries, and 75% of Missouri's yearly production.

According to the Kansas Tourism survey, every year Kansas has an above average number of Tourists passing through our state. Every time tourists stop, they spend money. Farm wineries and their outlets are Agri-tourism facilities. Tourists will stop at wineries if they are convenient to their route of travel. Colorado encourages their wineries' tourism efforts by allowing a Farm Winery to have 5 outlets so all of their tourists will have a chance to spend money in Colorado. Kansas should be doing no less for Kansas.

There is confusion as to the effect on Farm Wineries when their production level reaches 50,000 gallons per year. Most States do not limit the amount of wine that can be produced by a farm winery, and the Federal Government defines a "Small Producer" as less than 250,000 gallons per year. Wyldewood Cellars' wine production and sales have been increasing at over 50% per year. At our present rate of growth, we will at the 50,000-gallon limit within two years. By present Kansas Law interpretation, we will be forced to stop encouraging new growers and the expansion of our present growers when this occurs.

Wine production is the Sixth largest Agricultural industry in the US and the largest without Government Subsidies. Grape and fruit growing for wine production provides an alternative crop that can help save the small family farm. A 40-acre vineyard can produce as much revenue as 2500 acres of wheat. Kansas has the Potential to regain its 1880's position as a major wine producing state, but we need your support of SB267 to allow this to occur. If Wyldewood Cellars were allowed to grow to the size of Stone Hill Winery (200,000 gallons per year), the tax revenue to Kansas from just one winery would be more than $2,000,000 per year.

Thank you for your time, interest, and support of SB267.

Dr. John A. Brewer President and Owner, Wyldewood Cellars

Senate Federal & State Affairs
Committee
3-10-05
Attachment 3

Testimony in Support of SB267

Daniel Ward
Chairman, Kansas Grape and Wine Industry Advisory Council; grape and fruit grower; winery and agritourism business owner

During 2004, Secretary of Agriculture Adrian Polansky re-established the Kansas Grape and Wine Advisory Industry Council to advise him on marketing, regulatory, research, and legislative issues important to this growing Kansas agricultural venture. The council quickly clarified its mission as providing support to grow the grape and wine industry through legislative initiatives, research, education, and marketing to stimulate tourism and value added, sustainable, environmentally responsible agriculture. What you see here in SB267 is not a representation of individual entities and special interests, but a collaborative initiative sent forward by the council.

I believe that no single entity could disagree that the growth of the grape growing and the related farm winery industry in Kansas is a positive objective for the state. While there are those that do not support alcohol in any form, they must look at the other products and opportunities offered by our Kansas farm wineries and vineyards to include, but not limited to, agritourism activities, organic table grapes and fruits, juice production, corporate off-site meeting rooms, special event venues, nature trails, picnic areas, horticultural education events, and free research areas for our universities and colleges.

As I began this testimony I mentioned the collaborative nature of this bill. SB267 benefits not only the farm wineries, but also assists our retailers and wholesalers to move their patronage toward Kansas products via the controlled and regulated ability to serve samples. The ability to conduct regulated and controlled sampling, and the resulting movement of consumers to Kansas products, is a win-win for all involved.

Another issue addressed in SB267 involves the increase of production limitations on our farm wineries. I see this as a common sense opportunity to combine efforts and bring the Kansas law in line with the federal production limits.

By increasing the number of farm winery outlets, we will increase the opportunity of the small farm wineries, many of which are in remote areas, to set up tasting rooms closer to population concentrations. We may hear arguments that this move undermines the three-tier distribution system. I would say that this is not true. Farm wineries are required to ensure that their products are made from no less than 60 percent Kansas fruit/products. This increases the base cost of the product as Kansas has a small production of available fruit. Because of this, use of a wholesaler significantly cuts into the profit of the small winery, thereby making direct marketing and distribution the only cost-effective means for farm wineries to sell their products. As the farm winery and subsequent production grows, basic business economics will eventually drive them back to the three-tier system. This has already occurred with a couple of the wineries, and I hope to someday do the same with mine.

In summary, SB267 is a fantastic bill for encouraging and enabling growth of Kansas grape and fruit production, movement of people to Kansas products, and growth of a tremendous agritourism business in the form of farm wineries.

Thank you for your attention and the dedicated service you perform.

Senate Federal & State Affairs
Committee
3-10-05
Attachment 4

AD ASTRA PER ASPERA
KANSAS

KATHLEEN SEBELIUS, GOVERNOR

DEPARTMENT OF AGRICULTURE
ADRIAN J. POLANSKY, SECRETARY

Testimony on Senate Bill 267
to
The Senate Federal and State Affairs Committee
by Adrian Polansky
Secretary
Kansas Department of Agriculture

March 10, 2004

Good morning, Chairman Brungardt and members of the committee. I am Adrian Polansky, Kansas Secretary of Agriculture, and I am here to testify in support of SB 267. This bill reflects the consensus of the Kansas Grape and Wine Industry Advisory Council.

When Governor Sebelius appointed me secretary of agriculture, I reviewed the department's relevant statutes and regulations and found that I was authorized to form the Kansas Grape and Wine Advisory Council. Although the authorization existed, no council had been convened.

I appointed members to the council to advise me and others about the state's burgeoning grape and wine industry. This council soon will have been meeting for a year. Its mission is to provide support to grow the industry through legislative initiatives, research, education and marketing to stimulate tourism and value-added, sustainable, environmentally responsible agriculture.

As an ardent advocate for Kansas agriculture, I support the state's young grape and wine industry. A hundred years ago, grapes and wine were prime agricultural crops. In 1904, our homegrown wineries produced nearly 86,000 gallons of wine valued at $64,000. That was about the same value as the poultry and eggs produced and sold in the state that year.

Our soils and climate helped us become one of the nation's leading grape and wine producers in those years. Our resources are the same today, and we have the potential to again have a healthy grape and wine industry.

Challenges and opportunities abound for this specialty crop. Although we're unlikely to approach the glory days of a century ago, the grape and wine industry can grow to be profitable and successful, both as an agricultural crop and as an agritourism and entertainment venue that links rural Kansans with urban residents from around the world.

109 SW 9TH ST., TOPEKA, KS 666
Voice (785) 296-3556 Fax (785) 296-8389

Senate Federal & State Affairs Committee
3-10-05
Attachment 5

I support SB 267. It would remove some outdated barriers to the success of this industry. It is time to get out of the way and let them grow.

Thank you. I will be happy to answer questions at the appropriate time.

Testimony in Support of SB 267
To
The Senate Federal and State Affairs Committee

By Janna Dunbar
Agriculture Marketing Division
Kansas Department of Commerce
March 10, 2005

Good morning, Chairman Brungardt and members of the Committee. I am Janna Dunbar, Foods & Feeds Program Manager of the Ag Marketing Division of the Kansas Department of Commerce, and I want to thank you for this opportunity to offer our support for SB 267 and the Kansas Grape & Wine Industry Advisory Council, the council requesting these statutory changes.

The Kansas Grape & Wine Industry Advisory Council was established through KSA 74-552. The advisory council works on pertinent issues relating to the grape and wine industry and to support its growth. Its members represent the commercial grape growing industry, licensed farm winery industry, licensed wine distributors industry, licensed retail liquor industry, state tourism industry, KSU College of Agriculture, Kansas Department of Agriculture, and an individual with marketing expertise.

The council has worked to find recommendations to some of the issues facing the Kansas grape growers and winemakers. This year the council proposes three changes to the current farm winery laws. Those three changes are:

1) Increase the number of outlets allowed from 2 to 5 per winery.
2) Increase the number of gallons allowed to produce from 50,000 to 250,000 gallons. The federal limit for a farm winery is 250,000 gallons; this change would create uniform limits for our farm wineries.
3) Allow sampling of alcoholic beverages at liquor stores and special events.

Kansas has had seven wineries for at least a decade, and if we expect to see those wineries expand and prosper as value added agricultural operations, we need to remove statutory barriers that currently exist regarding number of retail outlets, gallons allowed to produce, and sampling restrictions. Our eighth winery opened in late 2004, and the ninth Kansas farm winery will open in May 2005.

In December 2004, the Kansas Grape & Wine Industry Advisory Council sponsored a survey of the current market. The results showed the possibility of a prosperous industry. Over 150,000 people visited a Kansas farm winery in 2004; nearly half of these visitors were from out of state. The wineries serve an important role in the State Agritourism initiative by providing festivals, dinners, music, theatre and harvesting opportunities to their guests.

Senate Federal & State Affairs Committee
3-10-05
Attachment 6

The survey also showed the possibilities for growth in the next five years. Sixteen respondents expressed the desire to open a new farm winery, and vineyard owners hope to plant at least 167 acres of grapes. There are many other Kansas fruits utilized in wine production, including apples, raspberries, elderberries, peaches, and pears. The Kansas grape and wine industry supports 42 full-time employees and 66.5 part-time employees with a payroll of nearly $1 million. Many of the vineyards rely heavily on volunteer labor and tourists to prune and harvest their fruits.

Our Division has a statutory obligation to assist with the domestic and international marketing of Kansas agricultural commodities and processed food products. Because of that responsibility, we are acutely aware of the competitive disadvantage under which our Kansas wineries currently operate.

Our Division is working closely with existing Kansas vineyards and wineries to expand their markets, expand the industry, and garner tourism dollars to our state. They exemplify rural entrepreneurship, but growth should not be stagnated by outdated laws and prohibitions. Therefore, we ask this Committee to consider SB 267 and pass the bill out favorably. Thank you.

Wine Industry Survey Results
01/07/2005

A survey questionnaire was distributed to 51 grape growing and wine making businesses. Thirty-seven of these businesses (72.5%) responded with their answers to the 18 questions.

The first question asks how long they have been in the business. The answers varied from less than a year to 103 years. The largest group (21.6%), consists of 8 respondents, who have been in the business for one year. Five (13.5%) of the respondents have been in the business less than one year, three (8.1%) for two years, five (13.5%) between 3 and 5 years, eight (21.6%) between 6 and 10 years, another eight for more than ten years.

Table 1 shows the responses to the question of how many aces of various fruits they produced in 2004. It is interesting to note that only one respondent indicated that s/he produced 1.5 acres of Elderberries. The respondents indicated that the other fruits included peaches, pears, cherries, strawberries, blackberries and other berries.

Acres	0		<1		1		2		3-5		>5	
	n	%	n	%	n	%	n	%	n	%	n	%
Grapes	12	32.4%	5	13.5%	5	13.5%	7	18.9%	4	10.8%	4	10.8%
Elderberries	0	0%	0	0%	1	100%	0	0%	0	0%	0	0%
Apples	30	81.1%	2	5.4%	0	0%	0	0%	0	0%	4	10.8%
Other Fruits	28	75.7%	3	8.1%	1	2.7%	0	0%	1	2.7%	3	8.1%

Table 2 shows the responses to the question of how many pounds of different fruits they produced in 2004.

Pounds	0		<5,000		5k – 10k		>10k		Total Pounds
	n	%	n	%	n	%	n	%	
Grapes	16	43.2%	11	29.7%	5	13.5%	5	13.5%	242,618
Elderberries	0	0%	0	0%	1	2.7%	0	0%	7,900
Apples	32	86.5%	2	5.4%	0	0%	3	8.1%	1,111,608
Other Fruits	29	78.4%	6	16.2%	0	0%	2	5.4%	110,824

When asked whether they produced wine in 2004 or not, approximately one third (32.4%, n=12) of respondents answered in the positive with the other two thirds (n=24) in the negative while one respondent did not give an answer.

The survey questionnaire also asked those respondents who did not have a winery whether they were planning to open one in the next five years. Of the thirty-seven respondents, six (16.2%) indicated they already have a winery while four did not provide responses. Of the twenty-seven who indicated that they did not have a winery, sixteen (59.3%) respondents expressed their desire to open a winery in the next five years while the other eleven (40.7%) did not have a plan to do so.

Of the twelve respondents who produced wine in 2004, their production varied from 20 to 27,500 gallon. In general, seven (58.3%) respondents said that they produced less than 1,000 gallons of wine, three said they produced between more than 1,000 but less than 10,000, and the remaining 2 produced more than 10,000.

In 2004, three respondents purchased juice from out-of-state sources. Their purchases varied from 100 gallons to 5645 gallons. The total purchases resulted in 11,251 gallons of juice.

Of the twelve who responded in the positive to the question on whether they produced wine in 2004, six reported their sales of wine by dollar amount. The sales ranged between $1,000 and $662,176. Three had sales between $1,000 to $5,000; one had sales more than $10,000 but less than $50,000. The other two had sales more than $400,000. The total sales of wine reported by the respondents was $1,198,028.

The majority (n=26, 70.3%) of the respondents did not have full-time employees, and only three of them had 2 to 6 part-time employees. The remaining 11 (29.7%) had between 1 and 19 full-time employees; seven of them also had part-time employees ranging between 0.5 and 21. Further analysis illustrates that among the respondents who had full-time employees, slightly more than half (n=6, 54.5%) had only one full-time employee; only one had more than 10 full-time employees.

Only 12 (32.4%) respondents reported their total payroll amounts. These ranged between $400 and $476,897. The respondent who reported the highest number of full-time employees also reported the highest amount of payroll. Half (n=6) reported less than $10,000 in their payroll, 25% reported their payroll in the range between $10,000 and $100,000, and the other 25% reported payroll higher than $100,000.

Sixteen (43.2%) respondents reported no in-state visitors to their operation while 22 reported no out-of-state visitors. The in-state visitors ranged from 4 to 25,000 and the out-of-state visitors ranged from 1 to 40,243 totaling 152,259 visitors from both in-state and out-of state to the Kansas winery operations.

When asked to provide the number of points of sale, one person did not provide a valid answer, twenty-three (63.9%) of the respondents reported no sales point, 10 respondents (27.8%) reported having 1 sales point, and the remaining three reported having 2 to 3 sales points.

Eighteen respondents did not respond to the question on activities they offer for visitors. Among the remaining 19, 7 (36.8%) offered one type of activity, 4 (21.1%) offered 2 types of activities, another 4 (21.1%) offered 3, 1 (5.3%) offered 4 and 2 (10.5%) offered all five types of activities to their visitors. Further analysis shows that 13 respondents offered "wine tasting or retail store," 11 offered "grape picking," 5 offered "dinner event," 4 offered "banquet room(s)," and 13 offered other activities such as fruit picking, school field trips, tours, nature trails, picnicking, fishing, hunting, wild flower tour, grape growing seminars, winemaking classes, hayrack rides, bonfires, etc.

When selecting the marketing tool that worked BEST for them, 6 respondents gave invalid answers (having selected more than one choice). Of the 31 valid responses, 17 (54.8%) selected none of the choices provided and did not provide their own answer, 3 (9.7%) thought newspaper was the best marketing tool, 0 selected radio, 1 (3.2%) selected Internet, 3 selected newsletter/direct mail, and 7 selected "other" category. They further specified their choices as the best marketing tool to be "word of mouth," "billboards," "TV," sales directly to wineries, phone calls and drive-by.

When asked whether they have business-expansion plans for the nest 5 years, 4 respondents did not answer the question. Of the 33 who provided responses, 26 (78.8%) answered in the positive while 7 (21.2%) answered in the negative.

The responses to the importance of some state regulations are mixed and varied. The answers are listed in Table 3. The importance for each regulation is numbered from 1 to 7 with 1 as the most important and 7 as the least important.

Table 3

Importance	Herbicides/ Pesticides		Shipping		No. of Outlets		Gallons to Produce		Property Taxes		Conduct Tasting		Minority Ownership	
	n	%	n	%	n	%	n	%	n	%	n	%	n	%
1	14	45.2%	3	10.7%	3	10.3%	2	7.4%	5	16.1%	4	14.3%	1	3.7%
2	4	12.9%	8	28.6%	4	13.8%	2	7.4%	7	22.6%	5	17.9%	0	0%
3	3	9.7%	7	25.0%	1	3.4%	3	11.1%	9	29.0%	7	25.0%	0	0%
4	6	19.4%	3	10.7%	4	13.8%	4	14.8%	5	16.1%	4	14.3%	1	3.7%
5	2	6.5%	2	7.1%	10	34.5%	4	14.8%	1	3.2%	4	14.3%	4	14.8%
6	0	0%	2	7.1%	7	24.1%	9	33.3%	2	6.5%	4	14.3%	3	11.1%
7	2	6.5%	3	10.7%	0	0%	3	11.1%	2	6.5%	0	0%	18	66.7%
Total no. of Respondents	32		28		29		27		31		28		27	

The respondents were asked to list, by their importance, the primary impediments to future growth and success of their winery/vineyard. Again, they were asked to number the importance for each impediment from 1 to 7 with 1 as the most important and 7 as the least important. The results are shown in Table 4.

Table 4

Importance	Lack of Capital		Herbicide Damage		Lack of Market		Restrictive Regulations		Lack of Technical Knowledge		Lack of Grape Varietals		Lack of Vineyard Knowledge	
	n	%	n	%	n	%	n	%	n	%	n	%	n	%
1	16	50%	6	20.6%	2	7.1%	5	17.2%	1	4%	0	0%	2	7.7%
2	5	15.6%	8	27.6%%	4	14.3%	5	17.2%	5	20%	1	4%	3	11.5%
3	3	9.4%	7	24.1%	2	7.1%	5	17.2%	4	16%	2	8%	3	11.5%
4	3	9.4%	2	6.9%	4	14.3%	4	13.8%	3	12%	4	16%	4	15.4%
5	0	0%	3	10.3%	2	7.1%	5	17.2%	5	20%	7	28%	3	11.5%
6	2	6.3%	2	6.9%	3	10.7%	3	10.3%	2	8%	6	24%	7	26.9%
7	3	9.4%	1	3.4%	6	21.4%	2	6.9%	5	20%	5	20%	4	15.4%
Total no. of Respondents	32		29		28		29		25		25		26	

New Mexico Business Weekly

From the March 7, 2005 print edition

Survey: State's wine revenues spurt upward

Sean O'Hara
NMBW Staff

New Mexico's wine industry is staging a comeback according to research conducted by New Mexico State University.

The new 17-page survey, completed by Jay M. Lillywhite, an agricultural economist at the Agricultural Economics and Agricultural Business department at NMSU, is the first in-depth look at New Mexico's wine industry in the last 10 years.

Although total acreage has substantially declined from 4,100 acres in 1985 to less than 1,000 acres in 2004, research found that in the last five years, the number of wineries and wine tasting rooms operating in the state has increased from 19 to 34.

During the same period, wine production rose from 240,000 gallons per year to more than 400,000 gallons per year. More importantly for wine growers and the state, the survey found that industry revenues have jumped from $30 million to $60 million.

The results of the survey were presented by Lillywhite and Nasiba Alimova at the Southwest Regional Vine and Wine Conference in Albuquerque last week.

The survey focused on an owner's or manager's age and experience, a vineyard's location and elevation, production information -- like acreage and grape varieties -- and assistance or industry needs. Researchers made personal visits to vineyards to recruit participants last September and found 57 grape growers in the state willing to respond. The statewide questionnaire was developed by researchers in NMSU's College of Agriculture and Home Economics with the help of vineyard owners, managers and industry leaders.

In spite of the report's news about the industry's growth in New Mexico, it points out that "while wine production has seen significant increase, wine grape production has not kept up with demand" and that some wine producers are importing grapes from other states in order to meet their production needs.

Most of the survey's respondents noted that climate conditions, like winter die back and early freezes, were stunting grape production and adding to the industry's woes.

However, these issues were mostly identified in the state's central and northern regions. Southern region wine growers responded that insufficient marketing and general education were their most common needs.

Assistance needs were common in all three regions, with nutrient management, pest control, pruning and irrigation topping the list of issues.

The survey was paid for with some of the funds allocated to the wine industry last year by the Legislature. The industry had asked the state body for $75,000, part of which would pay the salary of a state viticulturist position based out of NMSU. Half of those funds were allocated in 2004 and used for soil gathering projects, workshops r the statewide survey.

The balance is to be allocated this year and NMSU and the wine industry are again lobbying state legislators for the viticulturist position through Şenate Bill 89, introduced by Mary Kay Papen, D-Doña Ana. The legislation requests another $75,000.

The viticulturist would work with state wine growers, instructing them on how to grow grapes at different altitudes and providing marketing aid.

The results of the New Mexico wine industry survey could assist the state's wine industry in competing with other U.S. grape and wine producing regions like California, as well as "New World" wine producing countries like Chile and Australia, according to Lillywhite.

"I think this is being very well received and I don't think any of this is really surprising most in the industry. I think this is more of a confirmation of what they know," Lillywhite says.

He says the survey represents one phase of a more extensive research program, which will include an in-depth profiling of New Mexico wine consumers. Lillywhite says NMSU will send representatives to state wine festivals this year to collect and develop that analysis.

Henry Street, the owner of Ponderosa Valley Vineyard & Winery on the southern slopes of the Jemez Mountains, believes the report's findings represent a "turning point" for New Mexico's wine industry.

"We as an industry have been on our own with in-house funding and no money from the state. This has been driven by the industry and now with the university involved, I think we will see a major change in our focus and efforts in where we have to go," Street says.

Street says the wine industry has been "unfocused" and decentralized for too long and says now with NMSU on board, it will help the industry grow and enhance its ability to market itself more aggressively.

NMSU also has taken initial steps to regain lost ground in wine production by researching, at its Los Lunas Experiment Station, new grape varieties more suitable to New Mexico's climate, elevations and agricultural soils.

The survey also found that the state's vineyards are divided into three geographic regions; the northern region which includes 26 vineyards; the central region, with 19 vineyards; and the southern region, which includes 12 vineyards that are New Mexico's largest and most commercially viable. Chardonay and Merlot were among the top ten in all three regions in terms of production.

A majority of the survey's respondents were between the ages of 35 and 65, and 64 percent had less than 10 years of wine growing experience in New Mexico.

The average elevation for state vineyards was just short of a mile above sea level, at 5,256 feet, while the average vineyard size, in terms of acreage for the northern and central regions, was 2.45 acres. The average southern vineyard size was 57.5 acres.

The report also found that 91 percent of state wine growers indicated that they planned to increase production in the next three years or keep production constant.

Claudia Chittim, executive director of the New Mexico Wine Growers Association, says the report gives the industry grounds to expand and move forward by providing industry data, which will help track industry trends.

"I lighted they've done this because it gives us a base that we haven't had before. It's a wonderful st forward," says Chittim.

sohara@bizjournals.com | 348-8306

6-9

Kansas Wine & Spirits Wholesalers Association

To: Senate Committee on Federal and State Affairs
From: *R.E. "Tuck" Duncan*
RE: SB 267

This bill originates from recommendations of the grape and wine industry advisory council. Created pursuant to KSA 74-552 there was established within the department of agriculture a grape and wine industry advisory council. The membership of such council includes, a member representing the college of agriculture at Kansas State University; two members representing the commercial grape growing industry; two members representing the licensed farm winery industry; a member representing the licensed wine distributors industry; a one member representing the tourism industry of Kansas; and a member representing the public at large having experience in marketing. Purtsuabnt to KSA 74-553

The grape and wine industry advisory council has the following duties, authorities and powers:

(a) to advise the department of agriculture and other state agencies on the grape and wine industry initiatives, problems and needs;

(b) to determine and recommend specific research programs and priorities at Kansas state university;

(c) to facilitate improved communication and interaction among grape and wine producers, wine and liquor wholesalers and retailers, governmental agencies, both federal and state, and state tourism interests;

(d) to determine and recommend specific marketing program priorities to assist in promoting and marketing the state's grape and wine industry;

(e) to develop and recommend a long-term plan for financing continued programs for promotion, marketing, research and extension in support of the Kansas grape and wine industry; and

(f) to report to the department of agriculture and the standing committees on agriculture of the senate and house of representatives on the status of the Kansas grape and wine industry.

Among the recommendations this year are that a retailer licensee be allowed to serve samples of alcoholic liquor on the licensed premises if the premises are located in a county where the sale of alcoholic liquor is permitted by law in licensed drinking establishments, and that with respect to the farm wineries they be allowed to serve samples of their products on the licensed premises and at special events, monitored and regulated by the division of alcoholic beverage control.

Senate Federal & State Affairs
Committee
3-10-05
Attachment 7

KWSWA supports these recommendations. We do, however suggest that the following amendments be adopted to clarify what it means to serve samples. These amendments are drawn from the Missouri law.

(1) That the retail licensee must apply to the director of the ABC for a special annual permit to conduct alcoholic liquor tastings on the licensed premises. We suggest a $25.00 fee (consistent with the CMB permit fee).
(2) That such samples for tasting must be withdrawn from the retailer's own inventory; and,
(3) That the director shall issue rules and regulations specifying the sizes of the sampling units.

Also, we respectfully request that the committee amend the bill to allow distributors and farm wineries to withdraw product from their inventories for donation to charitable events, provided they pay the state's enforcement tax thereon. Again the director should be allowed to promulgate regulations regarding same.

The bill also proposes to expand the ceiling of the Kansas farm winery production BEFORE it must sell its products through the three-tier system of distribution. Currently A farm winery having a capacity of 50,000 gallons per year or more which sells wine to any distributor shall be required to comply with all provisions of article 4 of chapter 41 of the Kansas Statutes Annotated and of K.S.A. 41-701 through 41-705 and 41-709, and amendments thereto, in the same manner and subject to the same penalties as a manufacturer.

The proposed number to increase this capacity was recommended because pursuant to the federal regulations producers of not more than 250,000 gallons of wine are eligible for a credit which lowers the tax due on the first 100,000 gallons of wine taxably removed each calendar year. Originally we believed that there might be other benefits to the farm winery to raise this ceiling before selling through the three tier system. We have learned that there are not, and so we oppose this amendment because we believe it might subject Kansas' laws to attack akin to the challenge being made in the state of Washington by Costco. The target of the Costco suit is Washington's "tied house" laws that seek to prevent vertical integration in the liquor industry by forcing the separation of the three tiers of product manufacture and delivery — (1) beverage alcohol producers, (2) wholesalers and distributors, and (3) retailers. This separation of the tiers of production and sales in the alcohol industry is deeply rooted in the history of liquor legislation at both the federal and the state levels. Until that litigation is complete, we believe this provision should not be amended.

Thank you for your attention to and consideration of these matters.

7-2

TESTIMONY OF GREGORY SHIPE
KANSAS VITICULTURE AND FARM WINERY ASSOCIATION

"In support of SB267 provided that the current 60% Kansas grown product requirement is maintained in law and actively enforced."

To Senate Committee on Federal and State Affairs. Chairman Brungardt

March 10, 2005

Gregory A. Shipe. Davenport Orchards, Vineyards and Winery. 1394 E 1900 Rd, Eudora, Ks. 66025. (785)542-2278 ks_wines@hotmail.com
President of the Kansas Viticulture and Farm Winery Association. I am a small grain, apple and grape farmer in addition to a winemaker.

The position of the Kansas Viticulture and Farm Winery Association regarding Senate Bill 267 is as follows:

Section 1:

K.S.A. 41-308 (a)(2)(b): The KVFWA supports this and similar subsequent provisions allowing retailers to serve samples on their premises.

Section 2:

K.S.A. 41-308a (a)4: The KVFWA supports this provision allowing the serving of samples at special events.

K.S.A. 41-308a (b): The KVFWA supports this provision expanding the number of farm winery outlets from two to five, provided that the current 60% Kansas grown product requirement is maintained in law and actively enforced.

K.S.A. 41-308a (d): The KVFWA does not oppose this provision, provided that the current 60% Kansas grown product requirement is maintained in law and actively enforced.

Thank You
Gregory Shipe
Gregory Shipe

Senate Federal & State Affairs
Committee
3-10-05
Attachment 8

Senate Committee on Federal and State Affairs

March 10, 2005

To: Senate Federal and State Affairs Committee

From: Prairie Ridge Vineyards, Dale Jr. and Janet S. Forge, owners/operators

RE: SB267

Mr. Chairman and members of the committee, thank you for taking the time to consider this written testimony.

We support the changes to the Farm Winery Act, as proposed in Senate bill 267. Wines made from grapes grown in Kansas are a value added agricultural product. Allowing these wines to be served at special events (line 23), and increasing the number of outlets from two to five (line 34) would greatly increase the exposure of this industry. Yes, our finished product is an alcoholic beverage, however, the production of the end product adds greatly to the economy of the state of Kansas, particularly the more rural areas. Many people are involved the making of a finished bottle of wine, from the farmer, to the winemaker, to the people they employ, each paying taxes to the state, in the way of gallonage tax, and property tax, and income tax. Agritourism is a natural fit for this industry, thus generating income for the state in the way of sales tax, and generating economic dollars from out of state.

When we started in this business 12 years ago, we saw the potential for this industry to grow, and we have seen just that happen. We have such faith in this industry, that this is a full time operation for us, and our means of support for our family of 6. We have added 4400 vines (approximately 8 acres) from 2004 to 2005, and plan to add another 5500 vines in the next two years, bringing our total operation up to about 28 acres. Other growers are also putting in vines, with about 32 total acres of new plantings planned for 2005, and 81 acres planned for 2006. This information comes from a survey taken by Kansas State University. Many of the growers who are getting started have aspirations of one day opening a winery of their own. This process takes time however, because the vines that are planted this year will not produce fully until 2009-2010. Kansas is an excellent place to grow grapes, and before Prohibition, was one of the top producers in the nation.

Approval of the proposed changes will serve to enhance this industry, and encourage others to become active in this value added, alternative form of agriculture.

Respectfully submitted,

Janet Forge

Please defer any questions to Norm Jennings, representative of the Kansas Grape Growers and Wine Makers Association, and one of our customers.

Senate Federal & State Affairs Committee
3-10-05
Attachment 9

Testimony on Senate Bill 267
to
The Senate Federal and State Affairs Committee
by Francis C. Riley, Jr.

March 10, 2004

With one exception, I support SB 267. The exception to my support is the portion of Section 2, SB 267 that would amend KSA ~~14~~ 41-308a (d) as follows:

"(d) A farm winery having a capacity of ~~50,000~~ 250,000 gallons per year or more which sells wine to any distributor shall be required to comply with all provisions of article 4 of chapter 41 of the Kansas Statutes Annotated and of K.S.A. 41-701 through 41-705 and 41-709, and amendments thereto, in the same manner and subject to the same penalties as a manufacturer."

In the past various persons involved in farm winery operations have misinterpreted KSA ~~14~~ 41-308a (d) as limiting farm winery production to 50,000 gallons and have urged that the perceived production cap be raised. This may be the origin of the proposal to amend KSA ~~14~~ 41-308a (d). In fact, KSA ~~14~~ 41-308a (d) as currently written does not impose any production limit on farm wineries, but rather sets two conditions (production of 50, 000 gallon and selling to a distributor) under which farm wineries are required to adhere to more strict warehousing and record keeping requirements. The attached letter from an ABC Department staff attorney supports my contention that current Kansas statutes do not impose a maximum production limit on Kansas farm wineries.

To put the suggested 250,000-gallon warehousing/record-keeping threshold into perspective, that amount of wine is equivalent to approximately 1,261,803 bottles, or approximately 105,150 cases, of wine. I believe that this significantly exceeds the present production capability of any single Kansas farm winery operation that adheres to the requirement that not less than 60% of the products utilized in the manufacture of its domestic wine be grown in Kansas.

Since KSA ~~14~~ 41-308a (d) does not limit farm winery production, I do not at this time see a compelling rationale to change the existing conditions under which farm wineries must start to comply with more stringent warehousing and record keeping requirements. I do not believe these requirements are excessively onerous to any operation capable of producing 50,000 gallons (21,000 cases) of Kansas domestic wine.

In conclusion, I ask that the Committee on Federal and State Affairs not support amending KSA ~~14~~ 41-308a (d) as proposed in Section 2, SB 267.

Sincerely,

Francis C. Riley, Jr.

Francis C. Riley, Jr.
11721 Woodward St.
Overland Park, KS 66210 Tel: (913) 338-3593

Attachment: a/s

Senate Federal & State Affairs Committee
3-10-05
Attachment 10

JOAN WAGNON, SECRETARY

KANSAS

KATHLEEN SEBELIUS, GOVERNOR

DEPARTMENT OF REVENUE
DIVISION OF ALCOHOLIC BEVERAGE CONTROL

December 23, 2004

Gregory Shipe
Davenport Winery
1394 East 1900 Road
Eudora, Kansas 66025

Dear Mr. Shipe:

I am legal counsel for our Division of Alcoholic Beverage Control and have been asked by our Director, Tom Groneman, to respond to your recent letter regarding the statutes regulating farm wineries.

Subsection (d) of K.S.A. 41-308a in the Kansas Liquor Control Act places certain additional requirements on farm wineries that have a capacity to produce 50,000 gallons or more of wine in a year <u>and</u> which sells wine to any distributor. These restrictions deal with warehouse procedures as set forth in K.S.A. 41-401, 402, 403 and 405; distributor franchise arrangements as set forth in K.S.A. 41-410; and duties of manufacturers as set forth in K.S.A. 41-701, 702, 703, 704, 705 and 709.

Unlike a microbrewery licensee, a farm winery licensee has no maximum production restrictions.

I cannot find any statute that limits what non-alcoholic products may be sold by farm wineries. The first sentence of K.S.A. 41-104 deals only with activities involving alcoholic beverages and does not regulate any non-alcoholic products. The only restrictions on the sale of non-alcoholic products which I can find throughout the Kansas Liquor Control Act is subsection (b) of K.S.A. 41-308, which applies only to retail liquor stores.

If you have any further questions, please call me at the phone number below.

Sincerely,

D. Philip Wilkes

D. Philip Wilkes
Staff Attorney

Copy to A.B.C. Director

DOCKING STATE OFFICE BUILDING, ROOM 214, 915 SW HARRISON ST., TOPEKA, KS 66612-1588
Voice 785-368-8388 Fax 785-296-7185 http://www.ksrevenue.org.htm

THE KANSAS ASSOCIATION OF BEVERAGE RETAILERS MEMBER HONORABLE PEOPLE IN AN HONORABLE BUSINESS

The Kansas Association of Beverage Retailers

P.O. Box 3842
Topeka, KS 66604-6842
www.kabr.org

Phone 785-266-3963
Fax 785-234-9718
kabr@amycampbell.com

Martin Platt, President

Amy A. Campbell, Executive Director

TESTIMONY PRESENTED TO THE
SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS
re: SB 267
MARCH 9, 2005
BY AMY A. CAMPBELL, EXECUTIVE DIRECTOR

Thank you, Chairman and members of the Committee. My name is Amy Campbell and I appear before you today on behalf of the Kansas Association of Beverage Retailers to oppose SB 267. The Kansas Association of Beverage Retailers represents the State licensed owners of retail liquor stores. Currently, there are approximately 700 stores in the state of Kansas.

KABR has appeared before you in the past to support some of the initiatives proposed by farm wineries and continues to support the sale of locally grown and manufactured wines. Our members sell these products in our stores and hope to continue to do so. A strong market for Kansas wines is obviously an economic benefit to licensed liquor stores.

However, this bill seeks to bypass the primary principles of the three tier distribution system and create exceptions for a few licensees. This threatens the businesses of retail liquor store licensees by:

1. creating loopholes in Kansas liquor law which make the state vulnerable to questions of fair competition under the Commerce clause of the United States Constitution;
2. expanding the number of retail outlets for farm wineries from two to five while liquor store owners may hold one retail license; and
3. blurring the lines of separation between manufacturer, distributor, and retailer.

KABR has repeatedly advocated for uniform State law regulating the licensees who sell alcoholic liquor. We appreciate efforts to include off-premise retailers in the sampling provisions of the bill. Unfortunately, at this time, we simply can't lend our support to the overall legislation.

If these measures are passed, what is to stop Beringer from seeking to open its own chain of sampling and retail outlets in Kansas shopping centers? If these exceptions are provided to the wineries, will the microbreweries be next?

As members of the Federal and State Affairs Committee, you are more aware than most policymakers of the complexities of Kansas liquor laws. Certainly, it may be true that elements of the law could be altered. This will not become clear until the United State Supreme Court renders their decision regarding the State's authority to grant preferential treatment to in-state wineries over out-of-state wineries. Ultimately, we would respectfully ask that there be a comprehensive review of the potential impacts of such changes with the participation of relevant interest groups at the table before such attempts are pursued in the Legislature.

Thank you, Mr. Chairman, for allowing us to present our concerns regarding SB 267.

Senate Federal & State Affairs
Committee
3-10-05
Attachment 11

BEER WHOLESALERS ASSOCIATION, INC. · KANSAS
KBWA

SB 267
Senate Federal & State Affairs
March 10, 2005
Neal Whitaker
Kansas Beer Wholesalers Association

At the very beginning I want to state that we appreciate the contribution that Kansas farm wineries make to the Kansas economy and the hospitality industry. As a result our opposition to SB 267 is not about farm wineries but about what is happening nationally to the state's ability to regulate the alcoholic beverage industry.

The state's right to regulate sales of wine has been under attack in the US Supreme Court and today we await a ruling. Washington State's right to regulate has been challenged in federal court. These cases are based on exceptions to the three tier system. SB 267 is about exceptions.

As the liquor control act is today, Kansas could be shielded from the type of constitutional challenge brought in Michigan (current Supreme Court case) and Washington State. But if we continue to make exceptions to the law allowing Farm wineries to cross the three tiers the state steps closer to having a federal court limit its ability to regulate. SB 267 is one of those steps.

Raising the production limit from 50,000 to 250,000 gallons takes these businesses out of the class of farm wineries and places them in a class of major suppliers. It is our understanding that total annual production of Kansas farm wineries is not much over 60,000 gallons. The industry would have to grow by 416% to collectively produce 250,000 gallons. Other exceptions include allowing farm wineries 5 outlets when we restrict liquor retailers to one, and sampling at festivals but, not for other on premise licensees. And then there is the public policy decision to allow liquor retailers to sample at their place of business. This contemplates opening up beverage service to a whole class of business that have no experience dispensing alcoholic beverages by the drink.

Even the federal court in Washington State has postponed arguments in the Costco case until after the expected Supreme Court ruling on the Michigan wine shipping case. Any action this legislature takes before that decision could jeopardize the state's future control of the production, distribution, taxation, and sale of alcoholic beverages within its borders.

We urge the committee to wait and see what the Supreme Court has to say and then evaluate the decision to determine how best to protect the state's regulatory rights.

Senate Federal & State Affairs
Committee
3-10-05
Attachment 12

Testimony on Senate Bill No. 267
Concerning alcoholic liquor;
To
The Senate Federal and State Affairs Committee
By
Tom Groneman, Director
Alcoholic Beverage Control Division

March 10, 2005

Mr. Chairman, members of the committee, thank you for allowing me to appear before you today regarding Senate Bill 267.

Senate Bill 267, as introduced amends various statutes within the Liquor Control Act. Section 1 amends KSA 41-308 to allow liquor stores to serve samples of alcoholic liquor on the licensed premises if the store is located in a county where the sale of alcoholic liquor is permitted by law in drinking establishments. Section 2 amends KSA 41-308a to allow farm wineries to serve samples of their wine or limited amounts of imported wine at special events. It increases the number of winery outlet stores allowed from two to five. It also increases from 50,000 to 250,000 gallons the threshold for farm wineries to start conforming to all of the requirements for manufacturers.

The Department requests clarification of Section 2 (a)(4) regarding the new language "and at special events, monitored and regulated by the division of alcoholic beverage control,". The proposal does not define what constitutes a special event and does "at special events, monitored and regulated by the division of alcoholic beverage control," mean that an agent has to be present at each of these events? Although the department can develop rules and regulations defining and regulating special events it would be helpful to have these terms further defined within the proposal.

During the month of January 2005, the ABC did a field inspection at each of the 13 licensed farm wineries and 6 outlets. Currently, only four of the 13 farm wineries have outlet stores. Two have two outlet stores each and two have one outlet each. In 2004, producing wineries (10) reported manufacturing a total of 53,547 gallons of wine, ranging from a high of 26,000 gallons to a low of 60 gallons. Three wineries had no production in

2004. Of the ten farm wineries producing wine, eight used 100% Kansas grown products, 1 reported using 97% Kansas products and 1 reported using 49% Kansas grown products. Kansas products used in the manufacture of wine other than grapes include: elderberries, peaches, apples, sand hill plums, blackberries and Rhubarb.

REAL ESTATE APPRAISAL BOARD

KATHLEEN SEBELIUS, GOVERNOR

The Honorable Senator Brungardt
300 SW 10th Street
Topeka, KS 66612

Dear Mr. Chair and Members of the Committee.

I appreciate you allowing me to appear before the Committee and wish to take only a few minutes of your time.

My name is Sally Pritchett and I represent the Kansas Real Estate Appraisal Board. I am here in support of SB- 276 which would repeal K.S.A. 58-4109 sections (f) and (g).

The first item I would like to address is that the Kansas Real Estate Appraisal Board has over site by The Appraisal Subcommittee. Please see the attached item that outlines both Title XI and the authority of the Appraisal Subcommittee in monitoring each states licensing requirements.

The reason for requesting the repeal of 58-4109 (f) is that it was recently brought to the attention of the Board that the timeframe for passing an examination was changed to two years effective in April of 2000. Our current statute 58-4109 (f) specifically allows for five years.

By repealing this section it would not take away the Boards authority to monitor examination requirements as this is still covered by 58-4109(c)(3) which gives the Board authority to establish examination specifications.

According to the Subcommittee this was also a noted problem with several other states. Missouri is one of the states which was recently written up during an audit. In order to correct the problem the Subcommittee is requiring that each appraiser issued a license/certified after April of 2000, who did not meet the two year examination requirement retake the examination. The Missouri Appraisal Board is paying for the cost of each appraiser to take the exam. The cost of the exam is approximately $150.00 and they have approximately 250 appraisers who must take the exam over (this will cost the state of Missouri approximately $37,500).

As of this date, Kansas has been very fortunate and has only issued 3 license/certificates that do not fall into the two year timeframe. However, we have not authority to limit the timeframe to two years.

The request to repeal 58-4109(g) is simply being done as a cleanup measure since the statute is outdated.

Senate Federal & State Affairs Committee
3-10-05
Attachment 14

14-2

Narrative Information—DA 400

Division of the Budget

State of Kansas

Agency 543

Program 2732

STATUTORY HISTORY.

The State Certified and Licensed Real Property Appraisers Act became effective on April 19, 1990. The act established the Kansas Real Estate Appraisal Board and provides for the licensure and certification of real estate appraisers. Under K.S.A. 58-4121, the act requires all state certified and licensed appraisers comply with the Uniform Standards of Professional Appraisal Practice promulgated pursuant to federal law.

The 1993 legislature amended the act to separate the Appraisal Board from the Real Estate Commission on October 1, 1993. This created the establishment of an independent agency.

The Appraisal Subcommittee (ASC) of the Federal Financial Institutions Examination Council (FFIEC) was created on August 9, 1989 pursuant to Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989. Title XI's purpose is to "provide that federal financial and public policy interests in real estate transactions will be protected by requiring that real estate appraisals utilized in connection with federally related transactions are performed in writing, in accordance with uniform standards, by individuals whose competency has been demonstrated and whose professional conduct will be subject to effective supervision." In general, the ASC oversees the real estate appraisal process as it relates to federally related transactions, as defined in Section 1121(4) of Title XI. The ASC is a FFIEC subcommittee. The FFIEC was established pursuant to Tile X of the Financial Institutions Regulatory and Interest Rate Control Act of 1978 to create an interagency body empowered to prescribe uniform principles for the federal examination of regulated financial institutions.

The ASC has six members, each designated respectively by the heads of the Office of the Comptroller of the Currency (OCC), the Board of Governors of the Federal Reserve System (FRS), the Federal Deposit Insurance Corporation (FDIC), the Office of Thrift Supervision (OTS), and the National Credit Union Administration (NCUA), collectively the federal financial institutions regulatory agencies (Agencies), and the U.S. Department of Housing and Urban Development (HUD).

Section 1103 of Title XI sets out the ASC's general responsibilities:

- Monitor the requirements established by States, territories and the District of Columbia (States) and their appraiser regulatory agencies (State agencies) for the certification and licensing of appraisers every three years. The ASC reviews each state's compliance with the requirements of Title XI and is authorized by Title XI to take action against non-complying states;
- Monitor the requirements established by the states regarding appraisal standards for federally related transactions and determinations of which federally related transactions will require the services of state licensed or certified appraisers;
- Maintain a national registry of state licensed and certified appraisers (Registry) who may perform appraisals in connection with federally related transactions;
- Monitor and review the practices, procedures activities and organizational structure of the Appraisal Foundation (Foundation); and
- Transmit an annual report to Congress regarding the activities of the ASC during the preceding year.

14-3

Narrative Information—DA 400

Division of the Budget — Agency 543

State of Kansas — Program 2732

During FY 2005, the ASC will again audit the Kansas Real Estate Appraisal Board by reviewing enforcement procedures and the procedures for processing appraisal related complaints within a one-year time frame. The audit will also include the Board's procedures for reviewing credentials of new applicants for licensure/certification and procedures for monitoring continuing education requirements.