

Approved March 22, 1989
Date

MINUTES OF THE Senate COMMITTEE ON Agriculture

The meeting was called to order by Senator Allen at
Chairperson

10:11 a.m./~~xx~~ on March 16, 1989 in room 423-S of the Capitol.

All members were present except: Senator Harder (excused)

Committee staff present: Raney Gilliland, Legislative Research Department
Lynne Holt, Legislative Research Department
Jill Wolters, Revisor of Statutes Department

Conferees appearing before the committee: Sam Brownback, Secretary, State Board of Agriculture
Jim Moore, Associated Milk Producers, Inc.
Robert Thiessen, Jackson Ice Cream, Hutchinson, KS.
Jack Padley, Mid America Dairymen
Larry Woodson, Director, Division of Inspections,
State Board of Agriculture

Senator Allen called the committee to order and attention to SB 346.
The Chairman called on Sam Brownback and the following to testify.

Mr. Brownback gave copies to the committee of his testimony (attachment 1)
and suggested that a deep and thorough study needed to be done concerning
fees for milk inspections and regulatory services involved.

Jim Moore provided the committee with copies of his testimony
(attachment 2) and requested the need for more study and requested that
the committee recommend more study of the issues addressed in SB 346.

Robert Thiessen gave copies of his testimony (attachment 3) to the
committee and expressed opposition to SB 346 but recommended deeper
and more thorough study be given to SB 346.

Jack Padley expressed opposition to SB 346 stating that he was
against fee increases for inspections and then recommended further
study be given to the issues of SB 346 and then if a need is found for
increases in fees he would approve.

The Chairman declared the hearing closed for SB 346 stating that
the committee would recommend SB 346 for further study. The Chairman
then called attention to HB 2131 and called on Larry Woodson to testify.

Mr. Woodson gave the committee copies of his testimony (attachment 4)
and asked the committee to recommend HB 2131 for passage.

Jim Moore expressed support for HB 2131 and requested the committee
recommend the bill for passage.

The Chairman called for committee action on HB 2131.

Senator Frahm made a motion the committee recommend HB 2131 favorably
for passage. Motion was seconded by Senator Sallee. Motion carried.

The Chairman called for action on committee minutes.

Senator Daniels made a motion the committee minutes of March 15 be
approved; seconded by Senator Sallee; motion carried.

Senator Allen adjourned the committee at 10:40 a.m.

Mr. Chairman, members of the Committee, my name is Sam Brownback, Secretary of the State Board of Agriculture. I appear today on Senate Bill 346.

Senate Bill 346 would abolish three dairy fee classifications--Field Superintendents's license, Cream or Milk Broker's license, and the Butterfat Tax. The first two of these fee classifications are abolished because they are antiquated and no longer used by the industry. The third--Butterfat Tax-- is abolished and replaced by two new fees which more appropriately would address the dairy industry as it has evolved in Kansas. The two new fees established by this bill would create a fee of \$.0075 per 100 pounds of manufacturing milk produced in Kansas and \$.0075 per 100 pounds of raw milk processed by Dairy manufacturing plants producing non-Grade A products. The Board of Agriculture would be authorized to increase such fees to a maximum of two cents per 100 pounds if sufficient funds are not realized to fund this activity.

The State Board of Agriculture included these new fees on manufacturing milk in the FY 1990 Budget, at Budget Level C. Such inclusion came after a general discussion of such fee increases with the Milk Advisory Board (see attachments). In Governor Hayden's Budget Recommendations to the Legislature, \$76,942 is proposed as being generated by these new fees. This amount appears as revenue realized, however, no FY 1990 expenditures are predicated upon the realization of these new fees.

Because of changes to the industry the fiscal note drawn for this bill shows that approximately \$79,725 in revenues will be realized. Of that amount, \$10,125 is to be collected from 135,000,000 pounds of manufacturing milk produced in Kansas and \$69,600 in revenue will be collected from manufacturing

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attachment 1*

milk processing plants using: 135,000,000 pounds of in-state produced manufacturing milk; 38,000,000 pounds of manufacturing milk from out-of-state sources; and 755,000,000 pounds of Grade A surplus milk diverted to non-Grade A production.

There has been much discussion in subsequent meetings of the Milk Advisory Board, and by the dairy processors general, as to the desirability of the fees proposed by SB 346 in meeting an equitable established formula of funding the regulation of the dairy industry. This discussion is based primarily on the fact that the dairy laws and supporting fees were established in 1927 with amendments to the basic structure in 1949, 1959 and 1970. Since 1970 the dairy industry has changed dramatically. With those changes many of the regulatory aspects of the dairy law and many of the fee funding sources have become antiquated. The dairy industry has been working, in concert with the State Board of Agriculture, to rectify many of the inadequacies of the enforcement and highlight the inappropriateness of the fee structure. After our budget was submitted, desiring a more in-depth review of statutorily based regulation and fee assessment, the Milk Advisory Board and the dairy processors now feel that SB 346 does not adequately address the necessary funding revisions nor speaks toward an update or modernization of enforcement and regulation of the dairy industry.

The State Board of Agriculture pledges its support to modernize the regulatory and funding aspects of the dairy inspection program. If SB 346 does not achieve the desired funding balance or fee responsibility and since SB 346 does not speak to an update of the regulatory aspects of the dairy laws antiquated by a rapidly evolving and modernizing dairy industry, the State Board

of Agriculture would support a thorough legislative interim study of the dairy laws, enforcement needs, benefit assessment, and fee fund renovation.

Thank you Mr. Chairman and Committee members for this opportunity to present the Board of Agriculture's input on this bill, I stand for your questions.

MINUTES

WHO: Dairy Advisory Committee

DATE: July 8, 1988 10:30 A.M. in Conference Room A

PRESENT: Larry Woodson, Melvin Brose, Elred Burkhardt, George Pretz, Jim Ploger, Robert Thiessen, Myron Schmidt, Jack Greenwell, Jim Moore, Don Jacka, and Brace Rowley.

A brief summary concerning the counter freezer program was presented by Larry Woodson. Brace Rowley told the committee the history leading up to the present program. Stating the first year required a \$10.00 license fee plus .05/1000 gallon tax for product being frozen. Was changed to \$40.00 license and dropped the gallonage fee due to the low volume of users. The first inspections were done by City-Health Departments and gradually the State gained all the inspection responsibilities.

Don Jacka stated the reason the State is questioning the validity of the program is due to antiquated laws and the need to economize.

The committee was unanimous that the State should have counter freezer inspections and sampling. A set number of inspections was not established but few had any objections to quarterly inspections. The committee left the enforcement up to the state and had no preferences as to which agency administered the program.

On the subject of charging manufacturing grade milk an inspection fee the committee recommended \$.0075 tax for all raw manufacturing grade from the farm and also \$.0075 for all milk that is handled through a manufacturing plant.

It was also suggested the entire license and fee schedule be reviewed at a later date.

Meeting was adjourned at 12:30 P.M.

MEMORANDUM

TO: Sam Brownback, Secretary
Don Jacka, Asst. Secretary

FROM: Melvin Brose, Dairy Commissioner

DATE: December 20, 1988

RE: Milk Advisory Board Meeting

The following is a summary of the decisions made by the Milk Advisory Board at their meeting which was held on December 16, 1988:

- A. The state should do more butterfat testing to monitor more closely the accuracy of the industry.
- B. Fine system be established for the plants only if specific standards for violations were established so industry knows when and where the violations occur and the amount of the fine per violation.
- C. Fees of .0075 be established for manufacturing grade milk at producer level.
- D. Fees for manufacturing grade milk purchased by a Kansas dairy manufacturing plant should be studied further; no action should be taken at this time.

MB:jr

cc: Larry Woodson, Director
Ken Wilke, Legal Counsel



ASSOCIATED MILK PRODUCERS Inc.

Mr. Chairman and Members of the Committee:

I appreciate the opportunity to appear before you to discuss S.B. 346.

My name is Jim Moore. I am Manager of the Kansas Division of Associated Milk Producers.

Senate Bill 346 is the result of an effort by the Dairy Advisory Committee to address the needs expressed by the staff of the State Board of Agriculture for an increase in Dairy inspection fees to adequately fund the program.

At a meeting of the Dairy Advisory Committee a suggestion was made to address this need by initiating a .0075 cent per hundred weight fee on all manufacturing milk produced in Kansas and a similar fee on manufacturing milk processors.

This seemed to be a simple and fair method of raising fees to provide funding. However, it quickly became obvious that it was simple only because it had not been properly debated and thought out. I accept the responsibility for this proposal. I made the proposal.

The Committee recognized how unfair this proposal was after giving thought to inequity created between types of manufacturing processes in Kansas plants.

In a December meeting following a discussion on the matter, the Committee recommended no action be taken in this session of the Legislature on changes of plant fees. However, the budget process had already started to move. The result is S.B. 346.

The Dairy industry has changed dramatically in the last several years.

The number of Grade A dairy farms in the Kansas Division has been reduced by about 50% in the last 20 years. Our manufacturing milk producers have been

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reduced from 500 to 65 in this period of time. Grade A pounds have remained at about the same level but manufacturing milk volumes have been reduced from 12,000,000 pounds per month to a present level of under 2,000,000 pounds.

In 1965 there were four major fluid milk processors in Wichita. Today there are a total of five in the state.

Both Mid-America and AMPI operate major manufacturing milk plants in Kansas. Each is heavily dependent on out of state supplies to operate efficiently.

These changes are pointed out to demonstrate just how little the Dairy industry today resembles the Dairy industry of twenty years ago. Along with these changes we have seen major technological advances in the areas of milk standards.

With rapid changes in standards we have seen AMPI and Mid-AM assume the responsibility for much of the laboratory work which would normally fall to the Board of Agriculture.

We have done this work as a matter of cooperation with the Board of Agriculture. It is expensive. We expect to continue.

We need a total review of our Dairy law in Kansas. Industry has indicated it's willingness and desire to participate in this review with the Board of Agriculture.

It seems Senate Bill 346 might be used as a vehicle for implementing any update in the law as a result of such review.

It is the feeling of Industry that changes in our law should be made in one effort and not on a piecemeal basis.

We ask your consideration in having S.B. 346 held over for further study, to be a part of the overall review of our industry requirements. We think this would best serve the Industry, Board of Agriculture and citizens of Kansas.

I will be happy to answer any questions you may have on my remarks.

March 13, 1989

SENATE AGRICULTURE COMMITTEE

My name is Robert Thiessen. I am President of Jackson Ice Cream, Hutchinson, Kansas.

I am opposed to the bill, #346, as written.

The portion I oppose is the \$.0075 per cwt. for milk used in manufacturing and the possible escalation of this rate to \$.02.

Our current fees for our plant cost us \$4,891.85 per year. Under the new schedule (.0075 per cwt.) it would cost us \$10,588.91, an increase of 116%.

At the December 16, 1988 meeting of the Milk Advisory Board this fee schedule was discussed. I was the only processor in attendance and nothing was resolved as the Dairy Commissioner told us this was not necessary to discuss, as it had been withdrawn. I suggested to him that we meet with industry at a near future date to get their input and reaction. This meeting was scheduled for February 6, 1989 but canceled on February 3 as it again was "not being included". At the December 16, 1988 meeting the fee increases were to be "revenue neutral."

To have a clause in our legislative laws that could cause fees to raise from todays amounts to about 6 times todays is not what I would call being financially responsible. I would like to recommend that we review costs and fees each year at a time. Industry changes just like time changes things.

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attachment 3*

I would like to recommend that you either amend this bill
or reject it.

Thank you.



Robert Thiessen
Jackson Ice Cream Co., Inc.
316 663-1244

PRESENTATION TO THE
SENATE AGRICULTURE COMMITTEE

MARCH 16, 1989

GOOD MORNING MR. CHAIRMAN, MEMBERS OF THE SENATE AGRICULTURE COMMITTEE. MY NAME IS LARRY WOODSON, DIRECTOR OF THE DIVISION OF INSPECTIONS. ACCOMPANYING ME TODAY IS MELVIN BROSE, DAIRY COMMISSIONER AND KEN WILKE, CHIEF COUNSEL FOR THE AGENCY.

WE ARE HERE TODAY TO OFFER TESTIMONY ON HOUSE BILL 2131.

OUR ORIGINAL PURPOSE AND INTENT FOR RECOMMENDING CONSIDERATION OF THIS LEGISLATION WAS TO PROVIDE THE AGENCY AND THE DAIRY COMMISSIONER WITH ADDITIONAL ENFORCEMENT TOOLS TO ADDRESS VIOLATIONS OR DEFICIENCIES THAT ARE NOT OF THE CATASTROPHIC LEVEL AND THUS DO NOT REQUIRE TOTAL SUSPENSION OF PRODUCTION ACTIVITIES.

I WISH TO REITERATE THAT THE PASTEURIZED MILK ORDINANCE THAT GOVERNS GRADE A PRODUCTS AND USDA STANDARDS FOR MANUFACTURING MILK PROVIDE FOR SUSPENSION OF ACTIVITIES ANY TIME THERE ARE SUCCESSIVE INSTANCES OF THE SAME VIOLATION. THIS APPLIES VERY WELL IN INSTANCES OF FLAGRANT AND WILLFUL VIOLATIONS THAT MAY ENDANGER PUBLIC HEALTH, E.G. CONTAMINATION, ADULTERATION, OR UNSAFE DAIRY PRODUCTS. OUR INTEREST IS IN FINDING A METHOD TO ADDRESS DEFICIENCIES SUCH AS FLOOR SURFACES THAT NEED REPAIRING, SMALL OPENINGS AROUND DOORS AND WINDOWS,

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UNCOVERED TRASH RECEPTACLES, OR UNKEPT OUTSIDE SURROUNDINGS.

SUSPENSION OF A PLANT OR BOTTLER, IF ENACTED, IMPACTS EVERYONE ... THE DAIRY PRODUCERS, THE RETAIL MARKETS, AND THE CONSUMER. WE BELIEVE THAT CIVIL PENALTIES FOR VIOLATIONS PROVIDES US WITH ENFORCEMENT TOOLS TO ACHIEVE CORRECTIVE ACTION WITHIN A MORE DESIRABLE TIME FRAME.

CERTAINLY THE LANGUAGE OF THE PROPOSED BILL PERMITS THE SECRETARY OR HIS DULY AUTHORIZED AGENT THE ABILITY TO REVERSE OR MODIFY THE ORDER WHERE COMPLIANCE IS ACHIEVED OR WHERE CIRCUMSTANCES JUSTIFY MITIGATION. THE PROPOSED FINE SYSTEM IS NOT ADMINISTERED IN THE FIELD BY THE ON-SITE INSPECTOR.

WE APPRECIATE YOUR CONSIDERATION OF THIS PROPOSAL AND STAND FOR YOUR QUESTIONS.

THANK YOU.