

Approved March 29, 1991
Date

MINUTES OF THE HOUSE COMMITTEE ON AGRICULTURE

The meeting was called to order by Representative Lee Hamm at
Chairperson

9:12 a.m./~~p.m.~~ on Thursday, March 21, 1991 in room 423-S of the Capitol.

All members were present except: Representative Freeman, excused
Representative Gatlin, excused

Committee staff present: Raney Gilliland, Legislative Research
Lynne Holt, Legislative Research
Jill Wolters, Revisor of Statutes Office
Pat Brunton, Committee Secretary

Conferees appearing before the committee: Joe Lieber, Executive Vice President, Kansas
Cooperative Council
Chris Walker, Legislative Representative for
Kansas National Farmers Organization
Howard Tice, Executive Director, Kansas
Association of Wheat Growers
Roger Tollefson, Brown County Cooperative,
Hiawatha
Bill Fuller, Assistant Director, Public
Affairs Division, Kansas Farm Bureau

Chairman Hamm opened hearings on SB 73 - cooperative marketing act.

Jill Wolters, Revisor, reviewed SB 73 as amended by Senate Committee of the Whole, stating the current law, as well as reviewing the proposed changes in the bill. (Attachment 1).

Joe Lieber, Executive Vice President of the Kansas Cooperative Council, testified in support of SB 73 stating the purpose of the bill is to change and update the Kansas Cooperative Marketing Act. This Act gives Kansas farmers and ranchers the power and opportunity to form agriculture cooperative, to allow them to do together what they can not do alone. Mr. Lieber gave several reasons why the Kansas Cooperative Council supports updating the Kansas Cooperative Marketing Act. (Attachment 2).

Chris Walker, legislative representative for Kansas National Farmers Organization, testified in opposition to SB 73 giving several reasons for their opposition. (Attachment 3).

Howard Tice, Kansas Association of Wheat Growers, testified in support of the proposals addressed by SB 73. Mr. Tice informed the committee of the importance to note that Kansas Association of Wheat Growers support for changes in the Cooperative Marketing Act extends only to the Cooperative Council proposals. The fact that this bill allows the proposed changes, if a local co-op votes for them, but does not mandate them, greatly influenced the vote. Discussion made it clear that any amendment that changes the voluntary aspect of the proposals should be vigorously opposed. (Attachment 4).

Roger Tollefson, Brown County Cooperative, testified in support of SB 73. Mr. Tollefson stated he believes there will be more and more cooperatives merging in the future and that SB 73 should streamline that process. (Attachment 5).

Bill Fuller, Kansas Farm Bureau, testified that members of the Kansas Farm Bureau overwhelmingly support an update in the Cooperative Marketing Act. They believe the changes are needed to allow diversification,

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON AGRICULTURE,
room 423-S, Statehouse, at 9:12 a.m./~~p.m.~~ on Thursday, March 21, 1991

flexibility and the ability to compete in today's business world. He further stated they strongly believe the control, operation and management of a Cooperative must remain with the members and their elected directors. SB 73 is totally permissive and gives the members of each Coop the opportunity to make changes that will be beneficial to their individual Coop. (Attachment 6).

The meeting adjourned at 10:00 a.m. The next meeting of the House Agriculture Committee will be Friday, March 22, 1991 at 9:00 a.m. in room 423-S, State Capitol.

MEMORANDUM

TO: House Agriculture Committee

FROM: Jill Wolters, Assistant Revisor

RE: SB 73, As Amended by Senate Committee of the Whole,
Amendments to the Cooperative Marketing Act

This memorandum is a review of SB 73, As Amended by Senate Committee of the Whole, stating the current law, as well as reviewing the proposed changes in the bill.

Section 1 amends K.S.A. 17-1601, which is currently, and will remain, the purpose section of the act. Briefly, this section states that the purpose of the act is to promote, encourage and develop the marketing of agricultural products and to distribute the agricultural products efficiently.

Section 2 amends K.S.A. 17-1602, the definition section of the bill. The first three terms are not amended; however, the term "person" is amended to include trusts. The terms "patronage", "equity" and "cooperative" are added and defined.

Subsection (b) states that associations that organize under this act shall be nonprofit. The act shall be referred to as the Cooperative Marketing Act.

Section 3 amends K.S.A. 17-1603. Currently, under subsection (a), it takes 10 persons engaged in agricultural production to form a coop. The bill changes that number to five.

Subsection (b), at present, allows a corporation, organized under this act, to join with four other members or stockholders of the corporation to form a corporation under this act, to act as a subsidiary of the original corporation and conduct any business of such corporation. The amendment strikes the four-member requirement and would allow a corporation to form a new corporation to act as a subsidiary and conduct business.

Subsection (c) amendments are technical. This subsection states that all cooperatives who organize under this act shall have the benefits and be bound by the provisions of the act.

Subsection (d) states what "this act" includes.

The first paragraph of section 4, K.S.A. 17-1604, states what an association may be organized to do. Such activities include

H.S. Ag.
3-21-91
ATTACHMENT 1

the marketing or selling of agricultural products of the association's members, as well as those activities listed on the top of page 3, lines 1 through 13.

Paragraph 2 makes it clear that an association shall not engage in banking. It further states that, unless prohibited by the articles of incorporation, associations may deal in products of nonmembers and provide services to nonmembers. The amendments in lines 18 through 22 allow the association to supply to nonmembers services, products, etc., whether or not supplied to members and otherwise engage in business with nonmembers. The last sentence states that the association shall not market, deal, etc., services or supplies to nonmembers in an amount greater in value than the association provides for members. The amendments to that sentence are the same as stated above, so they are included in the amount of value of services to nonmembers.

The powers of the association are set forth in section 5, K.S.A. 17-1605. Subsection (a) allows the association to engage in any activity in connection with marketing, selling, processing or handling of any agricultural products, as well as agricultural education and research.

Subsection (b) permits the association to collect dues; the ability to borrow money and make advances to members is granted in subsection (c).

The association may act as the agent of the members in subsection (d).

Subsection (e) discusses the association's rights with respect to the shares of the capital stock or bonds.

Subsection (f) has an amendment to note. Current law allows the association to become a member of a corporation engaged in any "related activity". The proposed amendment would allow the association to engage in any "lawful activity".

Subsection (g) permits the association to establish reserves and invest funds.

The association, pursuant to subsection (h), may own real and personal property as is necessary to conduct its business.

Subsection (i) currently allows the association to do all that is necessary to benefit the association, as well as to exercise all powers and privileges "necessary or incidental to the purposes for which the association is organized", in addition to other rights under the laws of Kansas that are granted to corporations. The amendment strikes the incidental language and allows associations to do all that ordinary corporations in Kansas may do.

Section 6, K.S.A. 17-1606, states who may be a member of an association. A member must be engaged in the production of agricultural products. This section currently allows the association to accept associate or sustaining members, without voting power, to anyone regardless of occupation. The amendments strike the use of "sustaining" member and insert a participating nonmember and participant as nonvoting members.

Subsection (b) currently permits a member who is not a natural person to be represented by an individual or officer if authorized in writing. The amendments insert "stockholder" along with member and allows a trustee to represent a stockholder or member who is not a natural person.

Subsection (c) allows the association to become a member or stockholder of any association organized under this act.

K.S.A. 17-1607, section 7, sets forth that an association must file an application for charter stating the name and purpose of the association. Current law requires that the application state where the association's principal business will be transacted; the bill strikes that language. Presently, the association's charter can have a term of existence not to exceed 50 years. This language is redrafted to allow perpetual existence, or a set term. The association shall have five or more directors. The charter of the association shall further state that, if organized without capital stock, the property rights of each member shall be determined and fixed. The association may admit new members in accordance with the association's general rules, but the provisions of the application for charter cannot be altered, except by the vote or written consent of 3/4 of the members. If organized with capital stock, the charter shall state the amount of stock and the number of shares, as well as its par value.

Subsection (b) allows the stock to be divided into preferred and common stock. This section further states that the application to charter must be witnessed and acknowledged by the incorporators and duly filed.

Section 8, K.S.A. 17-1608, discusses when a charter may be altered or amended. An amendment must be first approved by 2/3 of the directors and then adopted by a vote representing a majority of all members. In lieu of this vote, the amendment may be adopted by 2/3 vote of voting members attending the annual or a special meeting. The remaining language provides that notice of the meeting must have been mailed at least 10 days prior to the meeting. The changes in the bill draft allow "voting stockholders" to vote and be counted in the majority of the association. At the meeting, the voters (members and stockholders) must be present and voting to be counted in the 2/3 majority.

Section 9, K.S.A. 17-1609, states that an association, 30 days after incorporation, shall adopt bylaws. The association may include in its bylaws, such things as the time and place of meeting, penalties for violations, membership fees and the number of directors to constitute a quorum.

The amendment in subsection (b) [page 6, line 31] allows the bylaws to state the number or voting power of stockholders or members to constitute a quorum. Current law allows the bylaws to set the number of stockholders or members.

Subsection (i) provides other items the bylaws may contain. The current law requires an association to pay a member who withdrew or was expelled from membership an equitable amount for such member's interest within one year of withdrawal/expulsion. This language has been deleted in the bill draft.

Subsection (j) currently sets a limit of 8% interest on annual dividends paid on stock. The amendments allow the interest rate to be higher, as set forth in the contract interest rate. (Set by statute up to 15%). An association will want to be very careful here; to meet the requirements of the Capper-Volstead Act, an Association must have the one-member one-vote rule or limit the dividends on stock to 8% per year.

Section 10, K.S.A. 17-1610, requires the bylaws to provide for an annual meeting, as well as setting standards for calling a special meeting. The amendments to this section require the special meeting to be held within 60 days of receipt of demand. Notice shall be mailed to members at least 10 days prior to the meeting. The amendment strikes the provision that allows the bylaws to instead provide for notice by publication in a newspaper.

Section 11, K.S.A. 17-1611, currently mandates a board of at least five directors elected by the members or stockholders from the membership. The amendments allow the members and "voting" stockholders to elect the directors and also allows 20% of the board to be nonmembers. This section further allows the bylaws to state how elections will be carried out, the compensation for officers and directors, and how a vacancy on the board will be filled.

Section 12, K.S.A. 17-1612, provides for officers to be elected. The amendments allow the president to be referred to as the chairperson and the vice presidents to be referred to as the vice chairpersons.

Section 13, K.S.A. 17-1613, discusses the payment of membership fees and the certificate of membership. Currently, no stockholder, except another association, shall own more than 5% of the common stock. The association, through the bylaws, may

limit the amount of common stock a member may own to less than 5%. The amendments to the bill allow 20% ownership of the association by one person.

Subsection (b) states the bylaws may require the one-person one-vote rule. The amendments allow voting to be based on patronage or patronage equity, or both. If based on patronage, in no event can this vote exceed 5%, unless the member is another association. Here again, note that a violation of the Capper-Volstead Act may occur if the association enacts this provision, as well as exceeding the 8% limit on dividends.

In subsection (c), the bylaws shall prohibit the transfer of common stock of the association to persons not eligible to be members.

Currently, subsection (d) provides that except when the debts exceed 50% of the assets, the association may buy its common stock at book value within a year. The amendment strikes the debt/asset ratio language, as well as inserting par value along with book value as the purchase price and further, strikes the requirement of paying within one year.

K.S.A. 17-1614, section 14, allows members to bring charges against an officer or director. The removal and filling of the vacancy shall be voted on by a majority of the members. The amendments to this section allow voting stockholders to bring charges and vote under the one-person one-vote plan. It also allows a vote of a majority of the outstanding shares of voting stock.

Subsection (b) provides that the person against whom the charges have been brought shall be informed of the charges and have an opportunity to be heard.

Section 15, K.S.A. 17-1615, provides that if, 1/3 of the board so demands, any matter approved by them shall be referred to the entire membership. The amendment provides that the meeting shall be held not less than 15 but not more than 60 days after the board's action.

Section 16, K.S.A. 17-1616, allows the association to make marketing contracts. Included in the expenses currently is the 8% limit on interest. The amendment changes the interest to a greater amount and the Capper-Volstead concerns apply here, as well.

Subsection (b) permits the bylaws to fix sums, as liquidated damages, if a contract breach occurs.

Section 17, K.S.A. 17-1617a, allows any association to have an interest in, or become a member of, any association. It

further allows any association to have an interest in, or become a part of, another corporation. The language stricken on page 12, lines 10 through 13 is redundant.

Section 18, K.S.A. 17-1618, is technical, merely adding "and amendments thereto".

Section 19, K.S.A. 17-1621, allows associations or corporations organized under other statutes by 2/3 vote of the stockholders or members attending the annual meeting, to accept the benefits and be bound by the provisions of the Cooperative Marketing Act. The amendments include, "voting" stockholders or members "voting" at an annual meeting to by 2/3 majority accept the provisions of this act.

Sections 20, 21, 22 and 23 are technical, merely adding "and amendments thereto".

Section 24, K.S.A. 17-1629, currently allows a corporation organized under this act to increase its capital if approved by 2/3 majority of the outstanding shares of voting stock or 2/3 of members, if one-person one-vote. In lieu of the above, the 2/3 vote may be of those voting and present at a meeting. The amendment allows the increase in capital, but it must first be approved by 2/3 of the directors and then approved by 2/3 of the voting stock or voting stockholders.

Section 25, K.S.A. 17-1630, states, unless otherwise provided by the bylaws, the stockholder meetings shall be at the corporation's principal office. The amendment replaces "principal office" with "the corporation's registered office". Current law further allows the stockholders to hold the meetings elsewhere; but, requires them to maintain a principal office in the state, as well as to have a resident agent. The amendments do not require the corporation to have a principal office in Kansas, just a resident agent.

Sections 26, 27, 28 and 29 are technical.

Section 30, K.S.A. 17-1636, permits a corporation to dispose of its property and assets for consideration as determined by the board. These transactions shall be approved by a 2/3 vote of the members or stockholders, or, in lieu thereof, by a 2/3 vote of members or stockholders at a meeting.

The remaining sections are new language to the Cooperative Marketing Act. They are very similar and, in some cases, identical to the existing merger language found in K.S.A. 17-6701 et seq., and amendments thereto.

Section 31 allows associations incorporated under the Cooperative Marketing Act and corporations organized in Kansas to

merge. The board of directors of each association or corporation involved in the merger shall adopt a resolution approving the merger. The requirements of the agreement are listed on page 15, line 43 and continue on page 16, lines 1 through 8. The agreement shall be submitted to the members or stockholders at a meeting for the purpose of acting on the agreement. Notice requirements are set forth and the resolution must pass by a majority.

In subsection (g), a merger does not have to be approved by the members or stockholders of the surviving corporation if, the agreement does not amend the articles of incorporation of the surviving corporation and the aggregate stockholder's equity of the stock of the surviving corporation to be issued under the merger does not constitute more than 25% of the aggregate stockholder's equity of all classes of stock. There is a departure here from the corporation code; the current merger law is 15% of the aggregate stockholder's equity.

Section 32 allows associations organized under the act to merge with out-of-state corporations.

Section 33 states that no merger will be effective until fees and taxes have been paid.

Section 34 allows the surviving corporation to issue bonds or other obligations.

Section 35 keeps alive any civil, criminal or administrative action pending, by or against, any association or corporation that is a party to the merger.

Section 36 requires notification, within 10 days after the effective date of the merger, to members or stockholders who objected to the merger or were not entitled to vote. Any such member, within 20 days, shall demand, in writing, to be paid for their interest. The surviving corporation shall pay, within 30 days, the value of the member's interest on the effective date of the merger. A disagreement on price shall require the determination of value to be made by an appraiser.

SB 73 was amended on the Senate floor to reinsert K.S.A. 17-1622. In the original draft, K.S.A. 17-1622 was repealed. This section provides for penalties for someone who maliciously and knowingly spreads false reports about the finances or management of the association. The criminal penalty is a misdemeanor with fines of not less than \$100 but not more than \$1,000. The civil penalty is not to exceed \$500 for each offense.

Testimony on SB 73
House Agriculture Committee
March 21, 1991
Prepared by Joe Lieber
Kansas Cooperative Council

Mr. Chairman and members of the Committee, for the record, I'm Joe Lieber, Executive Vice President of the Kansas Cooperative Council. The Council has a membership of nearly 200 cooperatives, which have a combined membership of nearly 200,000 Kansas farmers and ranchers.

The purpose of SB 73 is to change and update the Kansas Cooperative Marketing Act. This Act gives Kansas farmers and ranchers the power and opportunity to form agriculture cooperatives, to allow them to do together what they can not do alone.

The Act was enacted in 1921 and has had only modest changes since that time, the last being in the 1940's. This makes the Act 70 years old. Think of how many changes have taken place in cooperatives, farming, agriculture and in our state's economy in the last 70 years.

Another way of looking at it is to imagine what farming and agriculture will look like in the year 2061, 70 years from now.

These changes are why the Kansas Cooperative Council supports updating the Kansas Cooperative Marketing Act. If farmer/owned cooperatives are going to continue to provide services for their members, they must be able to diversify and become more flexible.

What does the proposed changes in SB 73 do to help farmers and cooperatives prepare for the '90s and beyond?

1. It makes technical changes such as modern spelling, new terms and definition.
2. It allows five persons to form a cooperative instead of ten. This makes it easier to form cooperatives.
3. It allows cooperatives to form cooperative subsidiaries or

HS. Ag.
3-21-91
ATTACHMENT 2

invest in other types of corporations. If it was a Co-op subsidiary, IRS would treat it like a Co-op. If it was a non Co-op corporation, IRS would treat it like a non Co-op.

4. It allows cooperatives to engage in business with non members as long as the majority of their business comes from members. Example: Non members may use the Co-op convenience store which may enable the Co-op to keep the service station open for its members.
5. It amends the language to increase control of the association by stockholders who attend and vote at meetings.
6. It leaves the decision on payment for a member's stock to the discretion of the board of directors. If the directors had to pay it on demand, a few members could break the Co-op.
7. It allows cooperatives to pay higher annual dividends on common or preferred stock. The Act limits it to 8%, SB 73 allows it to go as high as Kansas Statute allows, currently less than 15%.
8. It designates a special time that the directors must call a special meeting and the notice of the meeting must be mailed. Current law says it can be put in the newsletter.
9. It allows cooperatives to have up to 20% (usually one person) of their board made up of non members if the Co-op members choose to do so by changing their bylaws.
10. It allows cooperatives to call their board president, chairman, and the manager could be called president of the cooperative if the Co-op members choose to do so by changing their bylaws. This is a name change only. There is no change in power.
11. It allows voting to be based on patronage or one man-one vote. Currently, most cooperatives base their voting on one man-one vote. SB 73 would allow voting to be based on patronage if the Co-op members choose to do so by changing their bylaws. SB 73 would prevent any member from having over 5% of the vote; currently, there is no limit. If the cooperative is owned by another cooperative, then the 5% does not apply.

12. It requires that if the cooperative's bylaws provide for election of directors by district, then a petition to remove a director must be signed by 20% of the members residing in that district.
13. It provides that any increase in capital be first approved by two-thirds of the directors.
14. The last part of SB 73 sets forth the procedures for mergers and consolidations of cooperatives.

It is important to note that most of the proposed changes were written by attorney Terry Bertholf. Mr. Bertholf is the only attorney in the state that specializes in cooperative law. In the last 12 years, he has been involved with every Co-op merger in Kansas except the Farmland and Far-Mar-Co merger. During those 12 years, he has been involved in every major case in Kansas that dealt with Kansas Co-op law.

Terry works with the current law every day and knows its shortcomings. His clients are the local farmer/owned cooperatives. For the work he is doing to update the Act, he is being paid from the Cooperative Legal Defense Fund, which was established by local Kansas Cooperatives and governed by a committee of local cooperatives.

Copies of these proposed changes in the "Act" were sent to all of our members, including regional cooperatives. Some of the language was written by attorneys from Associated Milk Producers, National Cooperative Refinery Association in McPherson, Kansas, and Farmland Industries. The Revisor's office made some changes and the Secretary of State also made some suggestions.

Since cooperatives are owned by producers and ranchers of Kansas, it was the philosophy of the Kansas Cooperative Council to get their input and support before we changed the Act.

On August 7, 1990, we sent the proposed changes to the following 13 farm organizations. We sent the entire act, with new language underlined and old language crossed out.

Associated Milk Producers
Kansas Livestock Association
American White Wheat Producers Association
Farmers Union
Kansas Board of Agriculture
Kansas Corn Growers
Kansas Electric Cooperatives
Kansas Farm Bureau
Kansas Pork Producers
Kansas Soybean Association
Kansas State Grange
Kansas Wheat Growers Association
Mid-America Dairy

I made personal presentations to the board of directors of the Farmers Union, the Kansas State Board of Agriculture and the Kansas Wheat Growers Association.

I spoke to the leadership of Farm Bureau, made a presentation to members of the Kansas State Grange at their annual meeting and spoke to several district meetings of the Kansas Wheat Growers Association. I am happy to report we have received favorable support from the Grange, Farm Bureau, Wheat Growers, Pork Producers, and Farm Credit Council, as well as the Committee of Kansas Farm Organizations, which is made up of 21 agriculture organizations.

The only negative response from the above organizations, and the only opponent to testify in the Senate hearings, was Farmers Union. We're disappointed by their opposition because we feel the philosophy expressed in these changes in the Kansas Cooperative

Marketing Act coincides with their philosophy. Namely, the protection of the family farm and keeping local control of the cooperative. We want the same thing!

I would also like to respond to some other negative comments that I've heard.

First of all, I've heard, "These changes will allow Farmland Industries to circumvent the Kansas Corporate Farming laws and take the power away from the country."

Farmland is owned by the country. Without the country, there is no Farmland. Farmland is a member of the Kansas Cooperative Council, but so are nearly 170 local cooperatives and without them, there is no Council. Terry Bertholf does not work for Farmland. His clients are the local cooperatives. In all the discussion in the Council's Legislative Action Committee, the special Ad Hoc Committee and the board of directors meeting, the subject of corporate farming never came up.

Farmland would benefit from some of these changes, but every change they benefit from will help the locals, too. Farmland is in support of SB 73 and would like to see it passed. There is no hidden agenda. If there was, you can rest assured I'd be back next year making new changes.

Another negative comment I would like to respond to is, "Would this give cooperatives competitive advantages?" The answer is NO. What it would do is create a level playing field in which cooperative corporations can compete.

Cooperatives need to be able to be as flexible as other corporations. Since September 1980, 59 Kansas Cooperatives have ceased to be independent operations. Seven of them have gone out of business. Nine have been bought by independents and the rest

have either merged, consolidated or been bought out by other cooperatives.

In a lot of communities, the cooperative is the largest tax payer and largest employer. The proposed changes in SB 73 will not save all of them, but it will give them an opportunity to adjust and to merge, if necessary.

We would like to thank the Committee for your time this morning. We would also like to thank the Revisors Office and Legislative Research for the work they have done.

COMMITTEE OF KANSAS FARM ORGANIZATIONS

Associated Milk Producers, Inc.
American Agri-Women Association
Kansas Assn. of Soil Conservation Districts
Kansas Assn. of Wheat Growers
Kansas Cooperative Council
Kansas Corn Growers Association
Kansas Electric Cooperatives
Kansas Ethanol Association
Kansas Farm Bureau
Kansas Fertilizer and Chemical Assn.
Kansas Grain and Feed Dealers Association
Kansas Livestock Association
Kansas Meat Processors Association
Kansas Pork Producers Council
Kansas Rural Water Districts Assn.
Kansas Seed Industry Association
Kansas Soybean Association
Kansas State Grange
Kansas Veterinary Medical Assn.
Kansas Water Well Association
Mid-America Dairymen, Inc.

Exhibit A

COOPERATIVES PAY TAXES

(1) Farmer cooperatives are taxed like any other corporate entity with one exception. With respect to earnings which may qualify for distribution to the cooperative's farmer members, such earnings may also be deductible to the cooperative. Even so, such earnings remain taxable to the cooperative's farmer members as part of their overall taxable income.

(2) Earnings by farmer cooperatives thus are not exempt from taxation. Such earnings are taxed either at the cooperative level or as taxable income to its farmer members. And, in some cases, such earnings or income may be subject to taxation at both levels.

(3) According to USDA data, the 100 largest cooperatives paid over \$164 million in income taxes in 1989.

(4) Surveys conducted by the Kansas Cooperative Council for 1988, 1989 and 1990 show:

In 1988 local cooperatives paid, on the average, \$41,182.91 in property taxes.

In 1989 the average was \$44,739.72.

In 1990 the average was \$51,566.78.

(5) The annual payroll average was:

1988 - \$428,801.84
1989 - 439,069.75

(6) The average paid for licenses and fees annually:

1988 - \$4,136.31
1989 - 6,396.58

Mr Chairman and members of the House Agriculture
Committee:

I am Chris Walker, legislative representative for Kansas
National Farmers Organization, we are opposed to the changes in the
structure of the co-ops in Kansas as proposed by Senate Bill No. 73,
for the following reasons.

1. The changes in voting procedure will definitely weaken the farmer
control over their ability to run the coop as a business for farmer
2. If our coops merge with other business and allowing 20% of directors
to be non farmers they will or can be more interested in the making
of profit and forget about being there for a service to the farmers
for which they were organized.
3. The farmers put up front money to start our coops because we
needed a market for grain, a competitive place to buy supplies, fertilizer,
seed, etc., a place to get feed ground for our dairies and other livestock.
The profit or deferred-refund (the term used by coops) which farmers
would get for trading with coops has in our coop (and many others)
been retained by our coop to expand and provide more services.
The farmers have paid income tax on this money. We voted to let the
coop use this money so we could benefit from the services.

My equity-reserve is \$2700 which I will be paid as new young
farmers take my place. We want our coops to remain in farmers
hands instead of these many millions of dollars being grabbed
up by greedy hands. A change of the rules will be the beginning
of the end of our equity and services. Please vote against
Senate Bill No. 73. Thank you the time to let us testify
(These are only a few of the reasons)

Chris Walker Hs. Ag.

3-21-91
ATTACHMENT 3



Kansas Association of Wheat Growers

P.O. Box 2349

Hutchinson, KS 67504-2349

(316) 662-2367

ONE STRONG VOICE FOR WHEAT

TESTIMONY

HOUSE COMMITTEE ON AGRICULTURE
Representative Lee Hamm, Chairman

Senate Bill 73

Mr. Chairman and members of the committee, I am **Howard Tice**, Executive Director of the Kansas Association of Wheat Growers. On behalf of our members, I appreciate this opportunity to testify today in support of the proposals addressed by **Senate Bill 73**.

When the **Kansas Cooperative Council** notified us they would be seeking this legislation, they also offered to explain their position to our leaders and local members. **Joe Lieber** attended an **Executive Board** meeting and outlined the proposal and responded to questions. The **Board** also appointed a committee to meet with **Joe** and explore the issue more thoroughly. Following that committee's report, the **Board** agreed to distribute **Co-op Council** brochures concerning the proposed changes at local meetings, and to allow **Co-op Council** representatives time at those meetings to explain the issue.

The issue was discussed at every county and regional meeting we held last fall. When a **Co-op Council** representative could not be present, I explained the proposal as best I could, without making a recommendation.

A resolution was introduced at the county level, to support the **Co-op Council** proposal. At the state convention in **December**, this issue was quite thoroughly discussed. Delegates expressed reservations about allowing non-members to serve on co-op boards and on allowing voting based on patronage. There was enough debate on those suggestions, that they were set aside to give delegates more time to think about them, and the motion was passed, to support the rest of the proposal. When those two sections of the proposal were brought up again later, they were approved as well. Both votes were unanimous.

It is important to note that **KAWG** support for changes in the **Cooperative Marketing Act** extends only to the **Cooperative Council** proposals. The fact that this bill allows the proposed changes, if a local co-op votes for them, but does not mandate them, greatly influenced the vote. Discussion made it clear that any amendment that changes the voluntary aspect of the proposals should be vigorously opposed.

Hs. Ag.
3-21-91
ATTACHMENT 4

Testimony on SB 73
House Agriculture Committee
March 21, 1991
Prepared by Roger Tollefson
Brown County Cooperative
Hiawatha, Kansas

Mr. Chairman and members of the Committee, I'm Roger Tollefson, farmer/director for the Brown County Cooperative in Hiawatha, Kansas. Brown County Cooperative has 1400 farmer members. Our cooperative is currently dealing with many of the issues that SB 73 addresses.

Because margins are so small and competition so fierce, our cooperative has had to become more innovative. We started a lawn care business about three years ago and this year we are opening a retail lawn and garden supply store. Most of the customers are not members of the cooperative, but the profit from this business allows us to keep and provide other services for our members. SB 73 clarifies what we can and cannot do.

We are also in merger talks with another cooperative. This potential merger was brought about by expensive government regulations, competition, the economic climate in agriculture, loss of storage income due to poor crops and less government owned grain. I think you will see more and more cooperatives merging in the future; SB 73 should streamline that process.

Thank you for your time. I will attempt to answer questions if there are any.

HS. Ag.
3-21-91
ATTACHMENT 5



PUBLIC POLICY STATEMENT

HOUSE AGRICULTURE COMMITTEE

Re: S.B. 73 - Updating the Kansas Cooperative Marketing Act

March 21, 1991

Topeka, Kansas

Presented By:
Bill Fuller, Assistant Director
Public Affairs Division
Kansas Farm Bureau

Chairman Hamm and members of the Committee:

My name is Bill Fuller. I am the Assistant Director of the Public Affairs Division for Kansas Farm Bureau. We appreciate this opportunity to testify about S.B. 73 on behalf of the farmers and ranchers who are members of the 105 County Farm Bureaus in Kansas.

Many of our members do business with and are stockholders in cooperatives in Kansas. For these reasons, our farm and ranch members have studied the recommended changes, debated the issues and adopted policy. Early last summer the Kansas Cooperative Council pointed out to Kansas Farm Bureau the need for an update and outlined their recommended changes to the law. We appreciate the efforts of the Cooperative Council in seeking input from our members. We informed our members by distributing 5000 of the Cooperative Council brochures, "For the 90's and Beyond." Also, we included a section in the "1990 Policy Development Questionnaire" for Farm Bureau members. Our members overwhelmingly support an update in the Cooperative Marketing Act. They believe the changes are needed to allow diversification, flexibility and the ability to compete in today's business world.

HS. AG.
3-21-91
ATTACHMENT 6

While strong support was given for the recommendations proposed by the Cooperative Council, some concern was expressed on two provisions. The strongest objection was on the recommendation that would allow some members of the board of directors to be nonmembers. However, the bill requires not less than 80% of the board to be voting members. Therefore, control still remains with the membership. In addition some were concerned about the recommendation that would permit voting based upon patronage. The bill states ... "may also provide for voting based on patronage or patronage equity or both." The "may" is very important and must remain in the bill.

The Voting Delegates at the 1990 KFB Annual Meeting adopted this resolution:

Kansas Cooperative Marketing Act

We believe the Kansas Cooperative Marketing Act should be updated. The Cooperative Marketing Act was enacted in 1921 and has been amended or changed only slightly since that time.

We support changes in the Kansas Cooperative Marketing Act which will permit local cooperatives to be more competitive in today's business and economic environment. Statutes governing cooperatives should provide management and membership with flexibility and the opportunity for diversification.

We strongly believe the control, operation and management of a Cooperative must remain with the members and their elected directors.

The key point in KFB Policy is found in the last paragraph. Our members insist that Coop members and their elected directors must control, operate and manage their Cooperative. Therefore, our members believe all changes to the Act must be "permissive" and require action by the members before changes in structure operation is allowed. S.B. 73 meets that requirement! S.B. 73 is totally permissive and gives the members of each Coop the opportunity to make changes that will be beneficial to their individual Coop.

Thank you for this opportunity to express the opinions of our members on this important issue. We will attempt to respond to any questions.