

Approved March 16, 1992
Date

MINUTES OF THE HOUSE COMMITTEE ON AGRICULTURE

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

9:03 a.m./p.m. on Monday, March 2, 1992 in room 423-S of the Capitol.

All members were present except: Representative Crumbaker, excused
Representative D. Lawrence, 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: Rebecca Rice, Legislative Counsel to the
Amoco Production Company
DeVern H. Phillips, Division of Inspections,
Kansas State Board of Agriculture
Raney Gilliland
Kansas Legislative Research Department
Representative George Teagarden
Fifth District, LaCygne
Jerry Jost, Kansas Rural Center, Lawrence
Jack Staatz, Kansas Farmers Union,
Junction City
Shaun McGrath, Executive Director,
Kansas Natural Resource Council
Sharon Schwartz, President Elect,
Kansas Pork Producers Council
Paul Monty, Attorney, Washington

Chairman Hamm opened hearings on **HB 3079** - weights and measures; re.
to dispensing compressed natural gas.

Rebecca Rice, Legislative Counsel to the Amoco Production Company,
testified in support of **HB 3079** stating passage of this legislation will
assist Amoco in attempting to present compressed natural gas as a viable
alternative fuel. (Attachment 1).

DeVern H. Phillips, Kansas State Board of Agriculture, informed the
committee that his job as State Sealer and being responsible for assuring
the consumer of Kansas that they receive that for which they have paid,
there is no readily available method that he or his staff can test or
monitor the delivery and sales of Compressed Natural Gas as proposed
through **HB 3079**. (Attachment 2).

A question and answer period followed each testimony.

Hearings were closed on **HB 3079**.

Hearings were opened on **HB 3082** - limited liability agricultural companies.

Raney Gilliland, Kansas Legislative Research Department, summarized the
corporate farming statutes in Kansas. He explained the provisions of
the statutes from the original law to the present legislation. (Attachment
3).

Representative Teagarden, LaCygne, made a brief statement to the committee
that his original intent was to slow down corporate farming at that time.

Jerry Jost, Kansas Rural Center, testified in support of **HB 3082**. He
stated that last year an amendment to **HB 2535** inadvertently created a
loophole for limited liability agricultural companies in the corporate
farm law and that **HB 3082** removes this exemption. (Attachment 4).

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON AGRICULTURE

room 423-S, Statehouse, at 9:03 a.m./~~p.m.~~ on Monday, March 2, 1992

Jack Staatz, Kansas Farmers Union, appeared before the committee reading testimony prepared by Ivan Wyatt, President, Kansas Farmers Union, giving their support of **HB 3082** and suggesting some other corrections need to be dealt with. (Attachment 5).

Shaun McGrath, Kansas Natural Resource Council, testified before the committee expressing a need to clean up this bill. He stated this bill leaves the original intent of the legislation passed last year, but strikes all references to Limited Liability Agricultural Companies; the basis of the inadvertently created loophole. (Attachment 6).

Sharon Schwartz, Kansas Pork Producers Council, testified in opposition to **HB 3082**. She stated this is another attempt to treat their industry as something rather than a business. (Attachment 7).

Paul Monty, Attorney, Washington, appeared before the committee stating he is a strong opponent to **HB 3082**. This bill only creates an obstacle for Kansas farmers in their ability to try to compete.

Hearings will continue on **HB 3082** today at noon or upon adjournment of the House in room 521-S.

The meeting adjourned at 10:56 a.m.

Name (PRINT)	Address	Org
Deborah H. Phillips	Topeka	KSBA
A/LeDoux	Holtan	CKFO
Leo Schwart	Washington	Corporate Farmer
Tim Stroda	Manhattan	KPRC
Dale Ketcher	Washington	Swim producer
Paul Monty	Washington	Attorney
Mike Jensen	Manhattan	KPRC
Shawn Schwartz	Washington	J.P.C.
Shawn McCarath	Topeka	KWRC
Larry Post	Lawrence	KRC
Lee Brinkhaus	Topeka	KHPGA
Jim Bausch	LaCygne	Linnwatch
Bob Mangold	LaCygne, Ks	" "
Norothy A. Mangold	" " "	" " "
Mary Grosshain	Olcsanton, Ks	Housewife
Joe Lieber	Ks Co-op Council	Typist
Kenneth M. Wilke	Topeka	KSBA
LARRY D. WOODSON	TOPEKA	KSBA
Lewis J. Huffies	TOPEKA	KSBA
John Freed	KC, Ks	CFARE
Bob Nichols	LaCygne, Ks	Linnwatch
Virginia Nichole	LaCygne, Ks	Linnwatch

TESTIMONY PRESENTED TO THE
HOUSE AGRICULTURE COMMITTEE
re: HB 3079

March 2, 1992

by Rebecca Rice, Legislative Counsel
to the Amoco Production Company

Thank you Mr. Chairman and members of the committee. I appear before you today on behalf of Amoco Production Company, who requested that HB 3079 be introduced.

As most of you are aware, Amoco Corporation installed a retail pump for compressed natural gas at 6th and Quincy in Topeka. This is an important development for Kansas as the country moves forward in attempting to utilize alternative cleaner burning fuels.

HB 3079 will allow compressed natural gas to be dispensed at retail in units of "gallon equivalent". A gallon equivalent as defined by the bill is that unit of compressed natural gas which contains energy not less than 112,000 British Thermal Units (BTU's). The purpose of measuring the gallon equivalent in this manner is to attain the same amount of energy in a gallon equivalent of compressed natural gas as a gallon of unleaded gasoline. The sale of compressed natural gas as a motor fuel is not presently addressed in Kansas statute. As addressed by SB 675 and SB 676, the Division of Weights and Measures would require compressed natural gas to be sold by weight or volume, measurements not understood by the motoring public.

It is Amoco's experience in retailing natural gas, in other locations throughout the United States, that the public is resistant to purchasing motor fuel at retail in any unit other than "gallons". By dispensing compressed natural gas in "gallon equivalents", the motoring public can compare price, miles per gallon, and other variables which the public deems useful in determining which motor fuel, gasoline or compressed natural gas, they wish to purchase.

Without a comparable measure such as the "gallon equivalent", the public appears reluctant to purchase compressed natural gas as an alternative fuel as other measurements are confusing.

We would appreciate this committee's support in assisting Amoco in this original and progressive endeavor. Passage of this legislation will assist Amoco in attempting to present compressed natural gas as a viable alternative fuel.

Thank you, Mr. Chairman.

HS. AG.
3-2-92
ATTACHMENT 1

Rev. 2

HOUSE AGRICULTURE COMMITTEE

HOUSE BILL 3079

March 2, 1992

Good morning Mr. Chairman, Members of the Committee. My name is DeVern H. Phillips. I am the State Sealer and responsible for enforcement of the Weights and Measures laws for the Division of Inspections of the Kansas State Board of Agriculture.

House Bill 3079 requests the establishment of a method of sale for Compressed Natural Gas (CNG) by an "equivalent gallon" based upon 112,000 BTU.

What House Bill 3079 proposes is a special method of sale for a product whose marketers are attempting to compete with a product whose use is similar, but the product itself has different characteristics. Natural gas is a vapor and unless the product is refrigerated to -260° (with higher pressures) it remains a vapor and must be handled as such. Gasoline is a liquid and can be tested volumetrically by Weights and Measures Staff, such as milk, gasoline and other fluids are to assure accurate delivery.

The United States Department of Commerce has established that there are only two methods of accurately measuring Compressed Natural Gas. They are: by the cubic foot or by weight. These methods of delivery are readily measurable and can be monitored by regulatory activity. As an example of such regulatory activity, natural gas, as sold for home use, is metered and sold by the cubic foot and regulated by the Corporation Commission.

HS. AG.
3-2-92
ATTACHMENT 2

House Bill 3079 requests establishment of an "equivalent gallon" based upon BTU delivered. A British Thermal Unit (BTU) is defined as 1/180 part of the heat required to raise the temperature of one (1) pound of water from 32° to 212° F.

It is not possible for the Kansas Weights and Measures program to test and/or monitor the BTU values of Compressed Natural Gas.

Liquids are measured by fluid volume. A gallon contains 128 fluid ounces. It may also be weighed to establish a weight of the product in a given volume.

If the sellers of CNG for motor fuel wish to sell the product, it must be displayed at the dispenser in a manner approved by the United States Department of Commerce. Such methods are by cubic feet or by weight.

We have cooperated with the Kansas Corporation Commission, the Department of Administration and AMOCO since they announced the installation of a CNG dispenser in Topeka. From the beginning, we have explained the Kansas Weights and Measures laws, and stressed that the product can only be sold by cubic feet or by weight. Both of these methods of sale readily permit accuracy testing of the dispensing device by Weights and Measures officials, to assure the consumer they are receiving that for which they have paid.

We have also told all parties that we would accept a dual declaration on the device. The primary indication should be in cubic feet or mass with a secondary indication in "equivalent gallons".

Currently, we are temporarily permitting AMOCO to sell by "equivalent gallons" based upon 120 cubic feet (based upon KSA 79-3492, Department of Revenue's tax equivalent gallons). We are permitting this only until July 1, 1992. While a few other states are permitting the sale of CNG by "equivalent gallons", this is in direct opposition to the U.S. Department of Commerce's established method of sale.

The natural gas sold by the public utility companies in eastern Kansas has a minimum required BTU value of 950 BTU's per cubic foot. The Department of Revenue has established 120 cubic feet delivery (for tax purposes) to equate to a gallon a gasoline (K.S.A. 79-3492). If 120 cubic feet were delivered at 950 BTU's per cubic foot, an equivalency of 114,000 BTU's would then be an "equivalent gallon".

Studies from an independent laboratory, however, showed that unleaded regular gasoline had nearly 20% more BTU's than the proposed "equivalent gallon" of CNG. Diesel, when tested, had 22% more BTU's than an "equivalent gallon" of CNG.

BTU's

House Bill 3079	
"gallon equivalency"	112,000
"gallon equivalency"	114,000
(based upon 950 BTU ft, 120 cubic ft)	
*Unleaded Regular	134,400
*Gasohol	129,000
*Diesel	137,000

*Provided through independent laboratory study.

While we appreciate the attempt to improve customer acceptance of an alternative fuel, through equivalent gallon comparisons, those individuals or companies who have spent nearly \$3,000 for vehicle conversion should be familiar enough with the physical properties of CNG to know that the product is a vapor, not a liquid. If, however, the dispensing device owner/operator wishes to provide an "equivalent gallonage" comparison between gasoline and CNG, the dispensing device can show cubic feet delivery and a secondary display showing equivalent gallons. Or if the cost of this modification of equipment is a consideration, a simple display on the top of the pump (see attachment) will provide the consumer with a gallonage equivalency information.

As the State Sealer and responsible for assuring the consumers of Kansas that they receive that for which they have paid, there is no readily available method that I or my staff can test or monitor the delivery and sales of CNG as proposed through House Bill 3079..

I will stand for questions at this time.

120	Cubic Feet	=	1	Equivalent Gallon
240	Cubic Feet	=	2	Equivalent Gallons
360	Cubic Feet	=	3	Equivalent Gallons
480	Cubic Feet	=	4	Equivalent Gallons
600	Cubic Feet	=	5	Equivalent Gallons
720	Cubic Feet	=	6	Equivalent Gallons
840	Cubic Feet	=	7	Equivalent Gallons
960	Cubic Feet	=	8	Equivalent Gallons
1080	Cubic Feet	=	9	Equivalent Gallons
1200	Cubic Feet	=	10	Equivalent Gallons
1320	Cubic Feet	=	11	Equivalent Gallons
1440	Cubic Feet	=	12	Equivalent Gallons
1560	Cubic Feet	=	13	Equivalent Gallons
1680	Cubic Feet	=	14	Equivalent Gallons
1800	Cubic Feet	=	15	Equivalent Gallons
1920	Cubic Feet	=	16	Equivalent Gallons
2040	Cubic Feet	=	17	Equivalent Gallons
2160	Cubic Feet	=	18	Equivalent Gallons
2280	Cubic Feet	=	19	Equivalent Gallons
2400	Cubic Feet	=	20	Equivalent Gallons

MEMORANDUM

KANSAS CORPORATE FARMING LAWS

Background

The following summarizes the corporate farming statutes in Kansas.

The original law prohibiting certain types of corporate farming in Kansas was passed in 1931. It prohibited corporate farming for the purpose of growing wheat, corn, barley, oats, rye, or potatoes and the milking of cows. Following the enactment of the corporate farming law of 1931, several amendments were made, among which was an amendment to allow a domestic or foreign corporation, organized for coal mining purposes, to engage in agricultural production on any tract of land owned by the corporation which had been strip mined for coal.

In 1965, major amendments were made to the law. Grain sorghums were added to the list of crops that were restricted. In addition, the 1965 amendments made it possible for certain types of corporations, which met specific specifications, to engage in agricultural production of those restricted crops and also the milking of cows. However, problems with the statute continued to exist. As a result, the Legislature had special interim committees study the problems with the Kansas Corporate Farming Law in 1972, 1975, and 1978. As a result of the 1972 interim study, the 1973 Kansas Legislature passed additional reporting requirements of corporations which held agricultural land in the state. The purpose of this legislation was to determine the extent of corporate ownership of agricultural land. Neither the 1975 nor the 1978 study resulted in legislation being adopted. Additionally, discussions of the problems with the corporate farming statute were held throughout this time period.

Among the problems discussed with the law between 1972 and 1981 were the following:

1. The fact that the former corporate farming statute permitted corporations to be engaged in certain types of crop endeavors, while having no restrictions on crops such as alfalfa and soybeans. Also, the former statute was unclear as to whether pasture land was to be included in the acreage restrictions contained in the statute (5,000 acres).
2. The fact that the former corporate farming statute lacked an enforcement provision, which was said to have made it difficult for the Attorney General or other officials to enforce.
3. The fact that the 5,000-acre limitation imposed on corporations permitted to engage in certain agricultural activities was too restrictive, especially given the various types of farming enterprises in the state, and particularly if pasture land was to be included in the 5,000-acre limitation. This acreage limitation was of particular concern to farming interests in western Kansas, where acreages generally are much larger.

4. The fact that the restriction of ten stockholders was too limiting; and the fact that the restriction of owning stock in more than one agricultural corporation is encountered often through marriage and inheritance.
5. The fact that nonagricultural corporations often owned agricultural land as a buffer zone or for expansion purposes. Because the former statute placed restrictions on the characteristics of corporations permitted to be engaged in certain farming activities, some of them may have been in violation when they leased or rented the land back to farmers. This issue was addressed in the Attorney General's case against the DuPont Corporation in 1980 and 1981.
6. The fact that some of the universities and colleges in the state acquired agricultural land and were somewhat dependent upon the land's revenue-raising capabilities.
7. The fact that some legislators were concerned that large pension and benefit funds operating as trusts could acquire significant amounts of agricultural land for investment purposes.

As a result of these concerns and others expressed to the Senate Agriculture and Small Business Committee early in the 1981 Legislative Session, the Committee introduced S.B. 298. Extensive hearings as to the problems inherent in the current law were held before the decision was made to introduce a bill. Additional hearings were heard after the bill had been introduced. This bill eventually became the basis for the state's current Corporate Farming Law, being signed by the Governor on April 28, 1981.

Since 1981, this law has undergone slight modifications. However, these modifications have not impacted significantly on the intent or policy of the legislation.

The law prohibits corporations, trusts, limited partnerships, or corporate partnerships other than family farm corporations, authorized farm corporations, limited agricultural partnerships, family trusts, authorized trusts, or testamentary trusts from either directly or indirectly owning, acquiring, or otherwise obtaining or leasing any agricultural land in Kansas.

Legislators in 1981 recognized certain circumstances or entities which may at one time or another have a legitimate need or situation which requires the acquisition of agricultural land. As a result, 13 exemptions from the restrictions outlined above were included in the original legislation. The restrictions on owning, acquiring, obtaining, or leasing do not apply to:

1. a bona fide encumbrance taken for purposes of security;
2. agricultural land when acquired as a gift, either by grant or devise, by a bona fide educational, religious, or charitable nonprofit corporation (this addresses the problems that some state colleges have when agricultural land is left to them by grant or devise, and is used as a source of revenue);
3. agricultural land acquired by a corporation as is necessary for the operation of a nonfarming business, provided the corporation does not engage or receive any financial benefit, other than rent, from the farming operation (this exemption was

to solve problems with nonfarming businesses, such as DuPont, which need land for buffer zones, industrial expansion, or other similar needs);

4. agricultural land acquired by a corporation by process of law in the collection of debts or pursuant to a contract for deed executed prior to the effective date of the act, or by any procedure for the enforcement of a lien or claim, if the corporation divests itself of any agricultural land within ten years;
5. a municipal corporation;
6. agricultural land which is acquired by a trust company or bank in a fiduciary capacity or as a trustee for a nonprofit corporation;
7. agricultural land owned or leased by a corporation, corporate partnership, limited corporate partnership, or trust either: (a) prior to July 1, 1965; or (b) which was not in compliance with K.S.A. 17-5901 prior to its repeal, provided that under both (a) and (b) these entities do not own or lease any greater acreage of agricultural land than they owned or leased prior to this act; or (c) which was not in compliance with K.S.A. 17-5901 prior to its repeal, but is in compliance by July 1, 1991 (this exemption is the "grandfather clause," which clarifies the status of corporations, corporate partnerships, limited corporate partnerships, or trusts currently engaged in agricultural activities in the state or which own or lease agricultural land presently);
8. agricultural land held or leased by a corporation for use as a feedlot;
9. agricultural land held or leased by a corporation for the purpose of the production of timber, forest products, nursery products, or sod;
10. agricultural land used for educational research or scientific or experimental farming;
11. agricultural land used for the growing of crops for seed purposes or alfalfa by an alfalfa processing plant within 30 miles of the plant site;
12. agricultural land owned or leased by a corporate partnership or limited corporate partnership in which either natural persons, family farm corporations, or authorized farm corporations are associated; and
13. any corporation, either domestic or foreign, organized for coal-mining purposes, which engages in farming on any tract of land owned by it which has been strip mined for coal.

A fourteenth exception was enacted in 1986. This was that: agricultural land owned or leased by a limited partnership prior to the effective date of the act would be exempted from the general prohibition.

Another amendment in 1986 made it clear that when a bank acquires ownership of real estate through the satisfaction of debt that the bank statute, K.S.A. 9-1102, is the statute that governs. This statute permits the ten-year ownership by banks, but also grants the State Banking Commissioner the authority to grant an extension for an additional four years, or any portion of four years.

The 1981 enactment made corporations, trusts, limited corporate partnerships, or corporate partnerships which violated the provisions of the bill subject to a civil penalty of not more than \$50,000 and to divestiture of any land acquired in violation within one year after judgment is entered. The bill permitted district courts to prevent and restrain violations through injunction, and authorized the Attorney General or county attorney to institute suits on behalf of the state to enforce the provisions of the bill. Civil penalties sued for and recovered by the Attorney General are paid into the State General Fund. Civil penalties sued for and recovered by the county attorney or district attorney are paid into the general fund of the county where the proceedings were instigated.

Background on the Issue of Permitting Corporate Hog Operations

The issue of permitting current corporate hog operations to expand their acreages was first brought to the Legislature by former State Senator Charlie Angell of Plains in 1984. He requested that legislation be introduced that would permit the Dekalb Swine Breeders to expand its operation in the Plains area in a partnership with the Seaboard Corporation and Pauls & Whites International. The legislation was introduced by the Senate Agriculture and Small Business Committee and received eventual approval by that Committee. The bill, S.B. 519, added an additional exemption to the provisions of the Corporate Farming Law. The exemption was for "swine confinement facilities" owned or leased by a corporation. "Swine confinement facility" was defined to mean the structures and related equipment used for housing, breeding, farrowing, or feeding of swine in an enclosed environment. The term included within its meaning agricultural land in such acreage as is necessary for isolation of the facility to reasonably protect the confined animals from exposure to disease and minimize environmental impact. Eventually, the bill received approval by both the Senate Agriculture and Small Business Committee and by the Senate Committee of the Whole. In the House, the bill was referred to the Judiciary Committee, which passed the bill without recommendation. The House Committee of the Whole rereferred the bill to the House Agriculture and Livestock Committee, where it eventually died. In its final form, S.B. 519 would have permitted corporations to own or lease agricultural land for use as a swine confinement facility, but only as much agricultural land as would be necessary for proper disposal of liquid and solid wastes and for isolation of the facility to reasonably protect the confined animals from exposure to disease.

During this time, the Attorney General was asked by then Secretary of Economic Development, Jamie Schwartz, to respond to specific questions regarding the types of activities that are permitted under the state's Corporate Farming Law. Specifically, Secretary Schwartz asked whether a corporation, desiring to operate a feedlot for hogs, is precluded from the ownership of agricultural land because of its desire to incorporate an incidental breeding operation on its feedlot premises. The Attorney General was responding to the premise that the hogs would be bred, fed, and slaughtered on the feedlot premises.

1987 and 1988 Legislative Actions and Amendments

The next time this issue came before the Legislature was in 1987, as a result of a recommendation made by the Legislative Commission on Kansas Economic Development and by the Economic Development Task Force on Agriculture. The Task Force heard from a spokesperson from the Dekalb Swine Breeders, Inc. He indicated that the firm had intentions of expanding its facilities and would like to do so in Kansas, but said that the current Corporate Farming Law prevented its expansion in Kansas. As a result, the Agriculture Task Force recommended that legislation be introduced to expand the Kansas Corporate Farming Law by permitting a corporation to own or lease agricultural land for the purpose of operating a swine confinement facility.

In making this recommendation, the Task Force had learned that since 1980 hog numbers in Kansas have declined by 32 percent and the number of hog operations have declined by 42 percent. Also, the Task Force heard testimony that Kansas is ideally located for pork production, the result of which should be the fostering of hog processing facilities. The Task Force also recommended that the expansion of the law should apply to the poultry industry as well.

The recommendation of the Task Force was also made by the Commission. This recommendation resulted in 1987 H.B. 2076, which was first referred to the House Economic Development Committee. The House Economic Development Committee amended the bill to permit corporations to purchase agricultural land for the purpose of operating poultry confinement facilities. The bill at this point also prohibited any city or county from granting any exemption from ad valorem property taxation under Section 13 of Article 11 of the Kansas Constitution to a poultry confinement facility located on agricultural land and owned or operated by a corporation. The bill also prohibited any exemption from ad valorem property taxation for property purchased, equipped, constructed, repaired, or enlarged with all or part of the proceeds of revenue bonds used for any poultry confinement facility which is located on agricultural land and owned, acquired, or leased by a corporation. The Committee had eliminated the provision granting any exemption to swine confinement facilities. When it was referred to the Senate Agriculture Committee, rabbit confinement facilities were added to the exemption list. In the Senate Committee of the Whole, an amendment was added to exempt swine confinement facilities. During Conference Committee, the swine confinement facility exemption was deleted. The Governor signed the version exempting poultry and rabbit confinement facilities, and prohibiting them from taking advantage of the tax exemptions described above.

During the interim of 1987, the Special Committee on Agriculture and Livestock was assigned to study the topic of corporate farming and its impact on Kansas swine producers. During this time period, a consultant was hired to do an analysis of the swine industry in Kansas. The Special Committee reviewed the consultant's report and concluded that a select committee should be formed during the 1988 Legislative Session to consider further the consultant's report, and to receive input from around the state.

The Select Committee again reviewed the consultant's report and received testimony from concerned citizens. The Select Committee recommended legislation, which the Senate Ways and Means Committee introduced, and on which the Senate Agriculture Committee held hearings. This bill, S.B. 727, did not receive approval by the Senate Agriculture Committee.

The 1988 Legislature, however, did approve H.B. 3018, which contained amendments to the Kansas Corporate Farming Law. The bill amended the Kansas Corporate Farming Law by defining

the terms "processor" and "swine confinement facility"; making it unlawful for processors of pork to contract for the production of hogs of which the processor is the owner or own hogs except for 30 days before the hogs are processed; making pork processors violating the ownership of hogs restriction subject to a \$50,000 fine; clarifying that, except for the pork processors' limitation, agricultural production contracts entered into by corporations, trusts, limited partnerships or corporate partnerships, and farmers are not to be construed to mean the ownerships, acquisition, obtainment, or lease of agricultural land. The bill also prohibits any "swine confinement facility" from being granted any exemption from ad valorem taxes by a city or county, the use of proceeds of revenue bonds, the benefits of being in an enterprise zone, or the benefits of the Job Expansion and Investment Credit Act of 1976. Further, the bill establishes a swine technology center at Kansas State University, but provides no appropriations for its establishment. No appropriations were appropriated for the swine technology center by the 1988 Legislature.

1991 Amendments – Limited Liability Companies

The 1991 Legislature approved and the Governor signed H.B. 2535, which made amendments to the Kansas Corporate Farming Law. The bill was assigned to the Judiciary committees in both the House and the Senate. Numerous amendments to various sections of the Corporation Code were made by the bill regarding limited liability companies. Among those were the amendments to the Corporate Farming Law.

In regard to the amendments made to the Kansas Corporate Farming Law, "limited liability companies" were added to the list of entities that are generally prohibited from indirectly or directly owning, acquiring, or otherwise obtaining or leasing any agricultural land in this state. To review the earlier explanation of the Kansas Corporate Farming Law, other entities that are generally prohibited from owning or acquiring agricultural land in Kansas are: corporations, trusts, limited partnerships, or corporate partnerships. The term "limited liability company" is defined in K.S.A. 1991 Supp. 17-7602 to mean a company that is organized under the Kansas Limited Liability Company Act.

As was related earlier in this memorandum, the 1981 and subsequent amendments did establish a list of exemptions to the general prohibitions established in the law. The 1991 bill amended the exemptions to the general prohibitions in K.S.A.17-5904. As a result of the legislation, limited liability companies are now able to own and acquire agricultural land:

1. in such acreage as is necessary for the operation of a nonfarming business;
2. by process of law in the collection of debts, or pursuant to a contract for deed executed prior to the effective date of the Act, or by any procedure for the enforcement of a lien or claim;
3. for use as a feedlot, a poultry confinement facility, or rabbit confinement facility;
4. if the "limited liability companies" are partners in corporate partnerships or limited corporate partnerships; and
5. if they are organized for coal mining purposes and engage in farming on any tract of land owned by them which has been strip mined for coal.

The Kansas Limited Liability Company Act specifically states that a limited liability company formed under the Act is to be considered a separate legal entity and is not to be construed as a corporation.

The Kansas Corporate Farming Law also was amended to permit limited liability agricultural companies to own and acquire agricultural land in Kansas. Again to review, prior law had permitted only family farm corporations, authorized farm corporations, limited agricultural partnerships, family trusts, authorized trusts, and testamentary trusts to own and acquire agricultural land. (Of course, this law never prohibited or attempted to prohibit any individual from owning any amount of agricultural land in Kansas.)

The term "limited liability agricultural company" was defined by the 1991 legislation. By law this term means a limited liability company founded for the purpose of farming and ownership of agricultural land in which:

1. the members do not exceed ten in number;
2. the members are all natural persons, persons acting in a fiduciary capacity for the benefit of natural persons, or nonprofit corporations, or general partnerships other than corporate partnerships formed under the laws of the State of Kansas; and
3. at least one of the members is a person residing on the farm or actively engaged in the labor or management of the farming operation. If only one member is meeting the requirement of this provision and such member dies, the requirement of this provision does not apply for the period of time that the member's estate is being administered in any district court in Kansas.

The legislation also modified the term "processor" to include limited liability companies. This would mean that any limited liability company that directly or indirectly controls the manufacturing, processing, or preparation for sale pork products having a total annual wholesale value of \$10,000,000 or more would be considered a "processor." This is significant since it is unlawful under K.S.A. 17-5904 for processors of pork to contract for the production of hogs of which the processor is the owner or to own hogs except for 30 days before the hogs are processed. Also included in the term "processor" would be any person, firm, corporation, member, or limited partner with a 10 percent or greater interest in another person, firm, corporation, limited liability company, or limited partnership involved in the manufacturing, processing, or preparation for sale of pork products having a total annual wholesale value of \$10,000,000 or more.

Kansas general corporation code which conflicts with it. The provisions of the professional corporation law of Kansas shall take precedence over any law which prohibits a corporation from rendering any type of professional service. Any person or organization as defined in K.S.A. 17-2707, and amendments thereto, which is authorized to form a professional corporation also may incorporate under the Kansas general corporation code contained in K.S.A. 17-6001 *et seq.*, and amendments thereto, or organize under the Kansas limited liability company act contained in K.S.A. 17-7601 *et seq.*, and amendments thereto.

Sec. 9. K.S.A. 17-5903 is hereby amended to read as follows: 17-5903. As used in this act:

(a) "Corporation" means a domestic or foreign corporation organized for profit or nonprofit purposes.

(b) "Nonprofit corporation" means a corporation organized not for profit and which qualifies under section 501(c)(3) of the federal internal revenue code of 1954 as amended.

(c) "Limited partnership" has the meaning provided by K.S.A. 56-1a01, and amendments thereto.

(d) "Limited agricultural partnership" means a limited partnership founded for the purpose of farming and ownership of agricultural land in which:

(1) The partners do not exceed 10 in number;

(2) the partners are all natural persons, persons acting in a fiduciary capacity for the benefit of natural persons or nonprofit corporations, or general partnerships other than corporate partnerships formed under the laws of the state of Kansas; and

(3) at least one of the general partners is a person residing on the farm or actively engaged in the labor or management of the farming operation. If only one partner is meeting the requirement of this provision and such partner dies, the requirement of this provision does not apply for the period of time that the partner's estate is being administered in any district court in Kansas.

(e) "Corporate partnership" means a partnership, as defined in K.S.A. 56-306, and amendments thereto, which has within the association one or more corporations or one or more limited liability companies.

(f) "Feedlot" means a lot, yard, corral, or other area in which livestock fed for slaughter are confined. The term includes within its meaning agricultural land in such acreage as is necessary for the operation of the feedlot.

(g) "Agricultural land" means land suitable for use in farming.

(h) "Farming" means the cultivation of land for the production of agricultural crops, the raising of poultry, the production of eggs,

the production of milk, the production of fruit or other horticultural crops, grazing or the production of livestock. Farming does not include the production of timber, forest products, nursery products or sod, and farming does not include a contract to provide spraying, harvesting or other farm services.

(i) "Fiduciary capacity" means an undertaking to act as executor, administrator, guardian, conservator, trustee for a family trust, authorized trust or testamentary trust or receiver or trustee in bankruptcy.

(j) "Family farm corporation" means a corporation:

(1) Founded for the purpose of farming and the ownership of agricultural land in which the majority of the voting stock is held by and the majority of the stockholders are persons related to each other, all of whom have a common ancestor within the third degree of relationship, by blood or by adoption, or the spouses or the stepchildren of any such persons, or persons acting in a fiduciary capacity for persons so related;

(2) all of its stockholders are natural persons or persons acting in a fiduciary capacity for the benefit of natural persons; and

(3) at least one of the stockholders is a person residing on the farm or actively engaged in the labor or management of the farming operation. A stockholder who is an officer of any corporation referred to in this subsection and who is one of the related stockholders holding a majority of the voting stock shall be deemed to be actively engaged in the management of the farming corporation. If only one stockholder is meeting the requirement of this provision and such stockholder dies, the requirement of this provision does not apply for the period of time that the stockholder's estate is being administered in any district court in Kansas.

(k) "Authorized farm corporation" means a Kansas corporation, other than a family farm corporation, all of the incorporators of which are Kansas residents and which is founded for the purpose of farming and the ownership of agricultural land in which:

(1) The stockholders do not exceed 15 in number;

(2) the stockholders are all natural persons or persons acting in a fiduciary capacity for the benefit of natural persons or nonprofit corporations; and

(3) at least 30% of the stockholders are persons residing on the farm or actively engaged in the day-to-day labor or management of the farming operation. If only one of the stockholders is meeting the requirement of this provision and such stockholder dies, the requirement of this provision does not apply for the period of time that the stockholder's estate is being administered in any district court in Kansas.

For the purposes of this definition, if more than one person receives stock by bequest from a deceased stockholder, all of such persons, collectively, shall be deemed to be one stockholder, and a husband and wife, and their estates, collectively, shall be deemed to be one stockholder.

(l) "Trust" means a fiduciary relationship with respect to property, subjecting the person by whom the property is held to equitable duties to deal with the property for the benefit of another person, which arises as a result of a manifestation of an intention to create it. A trust includes a legal entity holding property as trustee, agent, escrow agent, attorney-in-fact and in any similar capacity.

(m) "Family trust" means a trust in which:

(1) A majority of the equitable interest in the trust is held by and the majority of the beneficiaries are persons related to each other, all of whom have a common ancestor within the third degree of relationship, by blood or by adoption, or the spouses or step-children of any such persons, or persons acting in a fiduciary capacity for persons so related; and

(2) all the beneficiaries are natural persons, are persons acting in a fiduciary capacity, other than as trustee for a trust, or are nonprofit corporations.

(n) "Authorized trust" means a trust other than a family trust in which:

(1) The beneficiaries do not exceed 15 in number;

(2) the beneficiaries are all natural persons, are persons acting in a fiduciary capacity, other than as trustee for a trust, or are nonprofit corporations; and

(3) the gross income thereof is not exempt from taxation under the laws of either the United States or the state of Kansas.

For the purposes of this definition, if one of the beneficiaries dies, and more than one person succeeds, by bequest, to the deceased beneficiary's interest in the trust, all of such persons, collectively, shall be deemed to be one beneficiary, and a husband and wife, and their estates, collectively, shall be deemed to be one beneficiary.

(o) "Testamentary trust" means a trust created by devising or bequeathing property in trust in a will as such terms are used in the Kansas probate code.

(p) "Poultry confinement facility" means the structures and related equipment used for housing, breeding, laying of eggs or feeding of poultry in a restricted environment. The term includes within its meaning only such agricultural land as is necessary for proper disposal of liquid and solid wastes and for isolation of the facility to reasonably protect the confined poultry from exposure to disease. As used in

this subsection, "poultry" means chickens, turkeys, ducks, geese or other fowl.

(q) "Rabbit confinement facility" means the structures and related equipment used for housing, breeding, raising, feeding or processing of rabbits in a restricted environment. The term includes within its meaning only such agricultural land as is necessary for proper disposal of liquid and solid wastes and for isolation of the facility to reasonably protect the confined rabbits from exposure to disease.

(r) "Processor" means a person, firm, corporation, *limited liability company* or limited partnership, which alone or in conjunction with others, directly or indirectly, controls the manufacturing, processing or preparation for sale of pork products having a total annual wholesale value of \$10,000,000 or more. Any person, firm, corporation, *member* or limited partner with a 10% or greater interest in another person, firm, corporation, *limited liability company* or limited partnership involved in the manufacturing, processing or preparation for sale of pork products having a total annual wholesale value of \$10,000,000 or more shall also be considered a processor. The term "processor" shall not include collective bargaining units or farmer-owned cooperatives.

(s) "Swine confinement facility" means the land, structures and related equipment owned or leased by a corporation and used for housing, breeding, farrowing or feeding of swine in an enclosed environment. The term includes within its meaning only such agricultural land as is necessary for proper disposal of liquid and solid wastes in environmentally sound amounts for crop production and to avoid nitrate buildup and for isolation of the facility to reasonably protect the confined animals from exposure to disease.

(t) "*Limited liability company*" has the meaning provided by K.S.A. 1990 Supp. 17-7602, and amendments thereto.

(u) "*Limited liability agricultural company*" means a *limited liability company* founded for the purpose of farming and ownership of agricultural land in which:

(1) *The members do not exceed 10 in number;*

(2) *the members are all natural persons, persons acting in a fiduciary capacity for the benefit of natural persons or nonprofit corporations, or general partnerships other than corporate partnerships formed under the laws of the state of Kansas; and*

(3) *at least one of the members is a person residing on the farm or actively engaged in the labor or management of the farming operation. If only one member is meeting the requirement of this provision and such member dies, the requirement of this provision does not apply for the period of time that the member's estate is being administered in any district court in Kansas.*

Sec. 10. K.S.A. 17-5904 is hereby amended to read as follows: 17-5904. (a) No corporation, trust, *limited liability company*, limited partnership or corporate partnership, other than a family farm corporation, authorized farm corporation, *limited liability agricultural company*, limited agricultural partnership, family trust, authorized trust or testamentary trust shall, either directly or indirectly, own, acquire or otherwise obtain or lease any agricultural land in this state. The restrictions provided in this section do not apply to the following:

- (1) A bona fide encumbrance taken for purposes of security.
- (2) Agricultural land when acquired as a gift, either by grant or devise, by a bona fide educational, religious or charitable nonprofit corporation.
- (3) Agricultural land acquired by a corporation or a *limited liability company* in such acreage as is necessary for the operation of a nonfarming business. Such land may not be used for farming except under lease to one or more natural persons, a family farm corporation, authorized farm corporation, family trust, authorized trust or testamentary trust. The corporation shall not engage, either directly or indirectly, in the farming operation and shall not receive any financial benefit, other than rent, from the farming operation.
- (4) Agricultural land acquired by a corporation or a *limited liability company* by process of law in the collection of debts, or pursuant to a contract for deed executed prior to the effective date of this act, or by any procedure for the enforcement of a lien or claim thereon, whether created by mortgage or otherwise, if such corporation divests itself of any such agricultural land within 10 years after such process of law, contract or procedure, except that provisions of K.S.A. 9-1102, and amendments thereto, shall apply to any bank which acquires agricultural land.
- (5) A municipal corporation.
- (6) Agricultural land which is acquired by a trust company or bank in a fiduciary capacity or as a trustee for a nonprofit corporation.
- (7) Agricultural land owned or leased or held under a lease purchase agreement as described in K.S.A. 12-1741, and amendments thereto, by a corporation, corporate partnership, limited corporate partnership or trust on the effective date of this act if: (A) Any such entity owned or leased such agricultural land prior to July 1, 1965, provided such entity shall not own or lease any greater acreage of agricultural land than it owned or leased prior to the effective date of this act unless it is in compliance with the provisions of this act; (B) any such entity was in compliance with the provisions of K.S.A. 17-5901 prior to its repeal by this act, provided such entity shall not own or lease any greater acreage of agricultural land than it

owned or leased prior to the effective date of this act unless it is in compliance with the provisions of this act, and absence of evidence in the records of the county where such land is located of a judicial determination that such entity violated the provisions of K.S.A. 17-5901 shall constitute proof that the provisions of this act do not apply to such agricultural land, and that such entity was in compliance with the provisions of K.S.A. 17-5901 prior to its repeal; or (C) any such entity was not in compliance with the provisions of K.S.A. 17-5901 prior to its repeal by this act, but is in compliance with the provisions of this act by July 1, 1991.

(8) Agricultural land held or leased by a corporation *or a limited liability company* for use as a feedlot, a poultry confinement facility or rabbit confinement facility.

(9) Agricultural land held or leased by a corporation for the purpose of the production of timber, forest products, nursery products or sod.

(10) Agricultural land used for bona fide educational research or scientific or experimental farming.

(11) Agricultural land used for the commercial production and conditioning of seed for sale or resale as seed or for the growing of alfalfa by an alfalfa processing entity if such land is located within 30 miles of such entity's plant site.

(12) Agricultural land owned or leased by a corporate partnership or limited corporate partnership in which the partners associated therein are either natural persons, family farm corporations, authorized farm corporations, *limited liability agricultural companies*, family trusts, authorized trusts or testamentary trusts.

(13) Any corporation, either domestic or foreign, *or any limited liability company*, organized for coal mining purposes which engages in farming on any tract of land owned by it which has been strip mined for coal.

(14) Agricultural land owned or leased by a limited partnership prior to the effective date of this act.

(b) Except as provided for in K.S.A. 17-5905, *and amendments thereto*, production contracts entered into by a corporation, trust, *limited liability company*, limited partnership or corporate partnership and a person engaged in farming for the production of agricultural products shall not be construed to mean the ownership, acquisition, obtainment or lease, either directly or indirectly, of any agricultural land in this state.

(c) Any corporation, trust, *limited liability company*, limited partnership or corporate partnership, other than a family farm corporation, authorized farm corporation, family trust, authorized trust or testamentary trust, violating the provisions of this section shall be

subject to a civil penalty of not more than \$50,000 and shall divest itself of any land acquired in violation of this section within one year after judgment is entered in the action. The district courts of this state may prevent and restrain violations of this section through the issuance of an injunction. The attorney general or district or county attorney shall institute suits on behalf of the state to enforce the provisions of this section.

(d) Civil penalties sued for and recovered by the attorney general shall be paid into the state general fund. Civil penalties sued for and recovered by the county attorney or district attorney shall be paid into the general fund of the county where the proceedings were instigated.

Sec. 11. K.S.A. 17-6002 is hereby amended to read as follows: 17-6002. (a) The articles of incorporation shall set forth:

(1) The name of the corporation which, except for banks, shall contain one of the words "association," "church," "college," "company," "corporation," "club," "foundation," "fund," "incorporated," "institute," "society," "union," "syndicate" or "limited," or one of the abbreviations "co.," "corp.," "inc.," "ltd.," or words or abbreviations of like import in other languages if they are written in Roman characters or letters, and which shall be such as to distinguish it upon the records in the office of the secretary of state from the names of other corporations, *limited liability companies* and partnerships organized, reserved or registered under the laws of this state, unless there shall be obtained the written consent of such other corporation, executed, acknowledged and filed in accordance with K.S.A. 17-6003, and amendments thereto. The name of every corporation heretofore organized, except for banks, may be changed to conform to the provisions of this section, but such change of name for existing corporations shall not be required, and nothing herein shall be construed as requiring any corporation which is subject to special statutory regulation to include any of such names or abbreviations in the name of such corporation if such name or abbreviation would be inconsistent or in conflict with such special statutory regulation;

(2) the address, which shall include the street, number, city and county of the corporation's registered office in this state, and the name of its resident agent at such address;

(3) the nature of the business or purposes to be conducted or promoted. It shall be sufficient to state, either alone or with other businesses or purposes, that the purpose of the corporation is to engage in any lawful act or activity for which corporations may be organized under the Kansas general corporation code, and by such statement all lawful acts and activities shall be within the purposes of the corporation, except for express limitations, if any;

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Testimony in Support for HB 3082

Family farms, self-employment, and local ownership strengthens Kansas agriculture. Kansas led the nation by passing the first corporate farming restrictions in 1931. Unfortunately, corporate interests weakened the Kansas law over the following five decades. Last year an amendment to HB 2535 inadvertently created a loophole for limited liability agricultural companies in the corporate farm law. HB 3082 removes this exemption.

The loss of family farms and market consolidation in agriculture in the 1980's rekindled support for non-family corporate farm restrictions. Nebraska passed the nation's toughest family farm law in 1982. Kansas passed a vertical integration barrier on large hog processors in 1988. Similar initiatives in Iowa, Minnesota, and South Dakota demonstrate popular support for protecting family farms.

A broad collection of studies reveal a consistent relationship with large scale, hired-labor farming with worse socioeconomic conditions, declining rural population, less community services, greater environmental pollution, and increased energy depletion. The loss of seven family farms is estimated to close one business on mainstreet. As farms grow larger, they bypass local businesses for regional trade centers or buy directly from wholesalers.

Medium-size farmers efficiently produce food. In a recent study, Dr. Glenn Helmers, economist at the University of Nebraska, states that farmers gain little advantage in the cost of production by increasing the size of their farm from 300 to 3,000 acres. The Kansas Swine Industry, written by the Kansas State Board of Agriculture, states that management, not hog herd size, determines the efficiency of cost of production.

Large corporate farms squeeze out family farms through their market access to information and better prices. National Hog Farmer revealed that large producers received \$1.45 more for their hogs and paid less for their soybean meal than smaller operators.

Nebraska passed the nation's toughest corporate farm law in 1982 that prohibits non-family farm corporations from land and livestock ownership. By comparison, Kansas places few restrictions on livestock production. Since Nebraska's tough family farm protection law was passed, it has increased both its cattle and hog production. In comparison to Kansas, Nebraska spreads the majority of its livestock production on 6-7 times the number of farms or feedlots; has almost one more farmer in ten that farms full time; and has a 32% higher ratio of people entering into farming than quitting. Nebraska's agriculture grows with the protection of family farmers.

The Kansas Rural Center strongly supports HB 3082.

HS. AG.
3-2-92
ATTACHMENT 4

Whose Food Shall We Eat?

"A Perspective
on the
Effect
of Corporate Involvement
in Agriculture"

Interfaith Rural Life Committee
January, 1991

Preface

The Interfaith Rural Life Committee is a committee of the Kansas Ecumenical Ministries. Members include the American Baptist Churches, Catholic Diocese of Dodge City, Catholic Diocese of Salina, Catholic Diocese of Wichita, Church of the Brethren, Christian Church (Disciples), Episcopal Diocese of Kansas, Episcopal Diocese of Western Kansas, Evangelical Luther Church in America, Lutheran Church Missouri Synod, Mennonite Church General Conference, Presbyterian Church (USA), United Church of Christ, United Methodist Church Kansas East Conference, United Methodist Church Kansas West Conference, The Kansas Jewish Community, and Church Women United in Kansas.

The Interfaith Rural Life Committee is strongly committed to rural communities and is deeply concerned about the present changes occurring in agriculture. These concerns and commitments are identified in this report and its recommendations.

The Interfaith Rural Life Committee is appreciative to the work done by Jerry Jost of the Kansas Rural Center who helped research and author this report.

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Executive Summary

Family farming constitutes one of the last vestiges of smaller scale enterprises and widespread ownership of productive assets in the United States. However, current trends in agriculture continue to eliminate the survival of many self-employed farm families. These trends are shaped by the concentration and vertical integration in the agricultural markets that undermine competition and fair prices for both consumers and farmers. Market power profiteering rather than economic efficiency drive these trends.

The present nature of the chicken industry demonstrates many of the problems of industrial agriculture. Growers are forced into contractual production arrangements that often favor the buyer. Vertical integration and concentration within the industry move management decisions away from the farm and usually limit the grower to just one buyer and supplier. The grower often accepts all of the production financial liability and is forced to operate under batch-to-batch contracts. Food quality problems and environmental pollution plague the industry.

This change in farm structure damages the social fabric of rural communities. Profits and businesses exit the local community as farm ownership leaves the community. Community control of its economic future is lost and poverty rises.

The shift of livestock production off family farms into corporate feedlots generates greater environmental problems. Individual communities and regions find their interests pitted against each other as they compete to survive amid rural disintegration. Farm families lose economic diversification and economic stability in this process of farm specialization.

The recent dramatic concentration and vertical integration in the meatpacking industry significantly lower the prices farmers receive. Large corporate feedlots often receive a higher premium on their livestock solely because of their large volume of sales. This gives the large corporate feedlots a significant competitive edge over family farmers. Family feeders are squeezed out of business as market competition declines. A comparison between Nebraska and Kansas demonstrates that the stronger corporate farming restrictions in Nebraska have benefited family farmers and the state's agriculture production.

Kansas should adopt non-family corporate farm restrictions similar to those in Nebraska. Federal anti-trust laws should be enforced to enhance competition and price discovery in livestock markets. Corporate reporting requirements need to be expanded in order to identify existing violations of the Kansas corporate farming law and trends in farm ownership.

Whose Food Shall We Eat?

"A Perspective on the Effect of Corporate Involvement in Agriculture"

The Trends

During the next decade, government analysts project only 50,000 farms will account for 75% of our food and fiber production. Medium-sized farms will disappear and be replaced by small, part-time farms or superfarms. Biotechnologies will enable production to be more centralized and vertically integrated with increased contract production. These changes will benefit some rural communities at the expense of many other communities. Very large-scale industrialized agriculture is associated with higher rates of poverty, substandard housing, and exploitative labor practices in the rural communities that provide labor for these new farms.¹

This movement from family farming toward industrial agriculture is evident most in the livestock industry. Chicken production offers a poignant illustration of the what is wrong with how we produce and deliver our food. The benefits of production have been moved away from the local rural community to investors living in distant cities. Menial labor and financial risk remain on the farm while management decisions and profits have been moved to a centralized office. Competition in the marketplace is lost as growers often have only one buyer and seller.

Food processing workers and consumers also are losers with this sociological and technological revolution in food production. Workers in chicken processing plants are underpaid and work in hazardous situations. Consumers receive low quality chickens that are often contaminated with salmonella. Loss of genetic diversity, increased reliance on antibiotics for health control, and environmental pollution underscore the instability of the food chain.

The chicken industry has been looked upon by some agricultural leaders to be the model for the rest of agriculture to follow. The cattle and hog sector is currently undergoing a period of concentration and vertical integration similar to that of the chicken industry. Because of this discussion on the appropriate direction of agriculture, it is important to understand more about the chicken industry.

The Chicken Industry

The poultry industry is best known for its vertical integration throughout the food chain. The \$16 billion industry is controlled by 48 companies that manage everything from the corn and soybean mills that feed the birds to processing plants that package 110 million fryers each week.

Wall Street Journal writer Timothy Smith notes:

"Still more efficiency derives from the chicken industry's unusually thorough vertical integration. The biggest producers ... generally control everything from the chickens to the feed mill to the trucks to the processing plant. Chicken farmers are merely wardens of the companies' birds, paid to provide housing and labor."²

The profit motive drives agribusinesses to crowd out their competition. Don Tyson, president of Tyson Foods, states that his approach to the marketplace is to "segment, concentrate, and dominate". His advice to other businesses is to "find your niche and devote your resources to driving out the other suppliers."³

This market concentration within the poultry industry forces farmers to lose control over their farms. "Bunch to bunch" contracts offered by usually only one poultry contractor in the area leaves growers with little security. The Rural Advancement Fund, a North Carolina advocacy group, cites state figures for 1984 that the average grower could expect to make \$1,409 per poultry house per year before taxes.⁴

Contracts for poultry growers are often written in interests of the buyer. While promised to be good for ten years, many contracts are operative only if the chickens are on the farm. These contracts mean nothing if the next bunch of birds do not come in. Larry Campbell, a former North Carolina grower and poultry firm representative describes the chicken contracting business in the following way, "At the outset, the companies make the package as attractive as possible. But they have the control of the market, and you have no say."⁵

In Florida, Arthur Gaskin, the president of a regional growers' association, has sued Cargill for intentionally underweighing his chickens. Cargill counteracted by refusing to supply Gaskin with broilers.⁶ The lack of other marketing options found in the poultry industry leaves a grower with a complaint (such as Gaskin) vulnerable to possible economic blackmail.

"The poultry industry treats its chickens better than it treats the people who raise, package, and eat them," states Don Hall in *Southern Exposure*, a journal on politics and culture.⁷ Workers in processing plants suffer under one of the most dangerous working conditions in United States. The rate of injury and illness - 18.5 per 100 employees - is twice that of textile or tobacco workers and even higher than miners. Most of these health problems come from fast assembly lines; abnormal temperatures; and rapid, repetitive hand motions. Skin diseases, cumulative trauma disorders, ammonia exposure, infections, stress, and back problems are common.⁸

Employees at poultry processing plants are receiving an ever smaller share of the consumers' food dollar. While between 1960 and 1980 the price paid per pound of chicken rose from 43 to 72 cents, wages only rose from 2.6 to 3.3 cents per pound. This was in spite of the fact that workers increased their productivity by 33% between 1981 and 1985 alone.⁹

Food quality of poultry products has been frequently under attack. USDA estimates that 40% of all chickens are contaminated with salmonella, a bacteria that poisoned an estimated 2.5 million people last year including 500,000 hospitalizations and 5,000 deaths.¹⁰

Environmental pollution is a growing problem for the poultry industry. The industry uses 5.5 gallons of water for each bird processed. In Green Forest, Arkansas the citizens are suing Tyson for polluting the streams and contaminating well water. Citizens have successfully sued several poultry firms as public nuisances only to have a state government later exempt the companies from nuisance ordinances. Perdue has been cited and fined repeatedly for polluting a stream near its Accomac, Virginia plant.¹¹

Federal tax breaks have encouraged growth for these large poultry firms. Large chicken agribusinesses such as Tyson Foods, the nation's largest poultry producer with over \$1.9 billion in sales in 1988; Hudson Foods, ranked eighth; and Perdue Farms, a private firm with over \$1 billion in sales, all use a family farm tax loophole to defer large amounts of their federal tax bills. These loopholes helped Tyson Foods avoid paying taxes from 1981-1985.¹²

Family Farming and Rural Communities

Sociological studies generally agree that the local medium-sized farmer contributes far more to the health of the local community in terms of economic stimulation, civic involvement, and the creation of jobs than the large industrial farm which relies on hired labor and shifts ownership and profits outside the local community. Following are some summaries of various related studies.

It is estimated that for every six or seven farmers who go out of business, one local business also goes under. Larry Swanson, a Nebraska demographer, studied 27 remote counties between 1950-1980 and estimated that every 10% loss in farm population resulted in 15% loss in retail businesses, school enrollment, and labor supply (Swanson, 1980).

"The economies of rural communities are generally centered around the agricultural sector. There can be little doubt that the vitality of these communities has been adversely affected by the growth in farm size and the corresponding decline in their numbers. One reason for this assertion is that declining farm numbers tend to erode the population base of rural counties. Another factor is that larger farmers are more apt to bypass local service facilities and implement

dealerships, preferring instead to purchase supplies at larger, regional trade centers or to deal directly with wholesalers." ¹³

"The research done to date backs up the argument that local ownership has advantages over external control for rural areas," explains economist James Miller of USDA's Economic Research Service. "Independent firms tend to purchase more from the local area and sell less outside the area, with most of the revenue staying in the community". ¹⁴

"Retention of medium-sized farms leads to greater community vitality than the growth of very large farms in the small grain and livestock areas of the western half of the United States" (Flora, 1985).

Dr. Walter Goldschmidt in a classic study of two California towns that were alike in all the causative factors except the scale of surrounding farm operations concluded that by every measure he could devise, the quality of Dinuba (the small farm community) was superior to that of Arvin (the large farm community). Dinuba prospered with a 20% larger population, a higher average income, and over twice the number of farmers and independently employed businessmen including white collared workers. Dinuba also had more paved streets, better public services, more parks, twice the number of civic organizations, and 77% more separate business establishments. The retail trade in Dinuba was 61% greater, and local expenditures for household goods was three times greater than the larger farm community.

A follow-up study was performed thirty years later in 1977 and reached similar and more alarming conclusions. The large farm community had become more dependent on outside funding partly due to an eroded tax base.

The Macrosocial Accounting Project - Community Information Bank at the University of California at Davis focused its sociological research on 85 diverse towns in the Central Valley region over an eight year period. Dean MacCannell, researcher at the project, writes as follows:

"As farm size and absentee ownership increase, we have found depressed median family incomes, high levels of poverty, low education levels, social and economic inequality between ethnic groups, etc., associated with land and capital concentration in agriculture. . . . Communities that are surrounded by farms that are larger than can be operated by a family unit have a bi-modal income distribution with a few wealthy elites, a majority of poor laborers, and virtually no middle class (MacCannell, 1983)."

The Center for Rural Affairs studied census data in six midwestern states and found striking higher rates of self-employment in both the farm and non-farm sector of "farm based" as compared

to metro counties.¹⁵ Self-employment, the largest reason why individuals choose to farm, is a strong component of the entrepreneurial base of rural communities.

A wide collection of studies point to a generally consistent relationship with large-scale and/or hired-labor farming with worse socioeconomic conditions. These impacts are: a decline in the rural population; greater income inequality; lower levels of living; less community services; less democratic political participation; lower community social participation and integration; decreased retail trade; environmental pollution and energy depletion; and greater unemployment (Lobao, 1990).

Meat Production Attracts Corporate Investment

Wealthy interests investing in agriculture have concentrated on meat production. While grain production involves long term, high capital investments in land, meat production can provide quicker returns and is indirectly heavily subsidized by farm commodity programs. Bill Haw, president of National Farms, believed to be the nation's largest red meat producer, explains, "the cattle feeder. . .is going to continue to let the taxpayer indirectly pay half of his feed bill. . . ."¹⁶

Net cash income for livestock producers rose 49% between 1986 and 1987. Between 1985 and 1987, 80% of the increase in agriculture income went to livestock enterprises.¹⁷ Six years of financial analysis on the profitability of different farming enterprises show that livestock oriented operations were consistently the most profitable.¹⁸ These profits attract outside investment in agriculture.

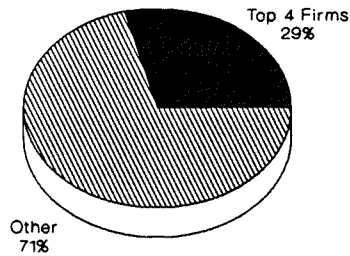
Livestock is a very important economic component for many farms. Livestock provides farm families with income diversification and value added profits. Therefore, public policies related to livestock production currently deserve as much attention as actual farmland ownership.

Cattle Packer Concentration

Tremendous concentration in the cattle packing industry, the nation's fourth largest manufacturing industry, has hurt farmers and consumers. Packer concentration, vertical integration, and contract production in the cattle industry all serve as leverage tools to squeeze out fair competition in the marketplace. This damages the smaller producers with less access to the marketplace most.

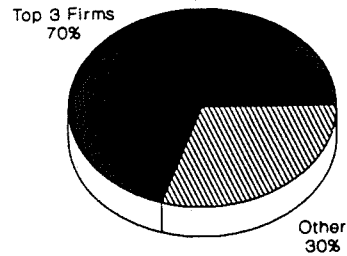
In 1973 the top four beef packing companies slaughtered 29% of the steers and heifers. A wave of mergers and expansions beginning in 1977 has led to the top four firms holding over 70% of the market; and over 80% of the boxed-beef market (Center for Rural Affairs, 1990).

Cattle Slaughter Market % Held by Top Four Firms



1973

Cattle Slaughter Market % Held by Top Three Firms



1990

Concentration is even higher in the more important regional markets. Kansas is part of two regional markets. The concentration within those regions by the top four packers ranges between 71% and 85%. This concentration is 30 - 50 percentage points higher than the efficiencies of economies of scale would demand (Quail, 1986).

Although precise data is not available, industry estimates that Iowa Beef Packers (IBP) controls 35% of the cattle slaughter; ConAgra with 25%; and Excel, which is owned by Cargill, has 20%.¹⁹

"The breathtakingly rapid increase in consolidation and concentration of economic power that has occurred in the meatpacking industry in the last two decades. . . is unprecedented. Never in any American industry in any other time period has there been such a huge and rapid seizure of economic power," states John Helmuth who served as chief economist for the U. S. House of Representatives Committee on Small Business between 1979 and 1987.²⁰

Concentration Hinders Competition

One of the largest obstacles to ranchers and farmers from this market concentration is that relatively few buyers are bidding on their animals. A 1988 survey showed that 87% of the responding feedlot operators received three or fewer bids for fat cattle and 67% received two or less (Hogeland, 1988).

Concentration Depresses Cattle Prices

Economic research strongly suggests that concentration in regional markets is associated with depressed cattle prices. Correspondingly, more bidders generally will raise prices. This fits in with the basic theory of supply and demand economics.

One study (Quail, 1986) analyzed the impact of market concentration on fed cattle prices in 13 regional markets between 1971 and 1980. Among the study's conclusions:

- 1) Selecting 1975 as an example year, a 10% increase in the concentration of the four biggest packers lowers cattle prices by an estimated \$0.10 per hundredweight.
- 2) Feedlot operators lost an estimated \$0.19 per hundredweight, totaling \$45 to \$50 million, in the western two-thirds of the United States between 1971 and 1980.
- 3) The presence of IBP in a region is estimated to lower regional cattle prices by \$0.44 per hundredweight.
- 4) Reducing the top four packers to 40% of the market in the leading four regions would have raised cattle prices \$0.47 per hundredweight, totaling \$82 million.

Market Concentration Displaces Farmers

Concentration in the marketplace has a direct impact on the economic survival of family farmers. Walt Hackney, a former buyer for IBP, describes this relationship as follows:

"When I left the packing industry in 1974, I knew that I had helped all but destroy a lot of farmer feeders. The big packers were making a lot of money, but the farmers weren't getting any of it. I felt it was completely needless for farmers to lose all of that money just because they couldn't compete with me as a marketer."²¹

Vertical Integration Captures Supplies

Cattle supplies have dropped from 128 million head in 1974 to under a 100 million head in 1988. Vertical integration guarantees a packer a consistent supply of cattle among a smaller pool of purchases. Packers extend their market power as they feed their own cattle, place their own cattle in custom feedlots owned by others, contract with feeders for later placements, or defer delivery of purchased cattle for short period of time. The top ten packers purchased less than 1% of their cattle through public markets revealing the extreme reliance on private transactions (Packers & Stockyard Administration, 1989).

Cargill owns Excel, the third largest cattle packer, and Caprock Industries, the largest feedlot in Kansas. Caprock is estimated to feed 640,000 head a year. Cargill is reported to have as much as 50% of its slaughter forward contracted (Center for Rural Affairs, 1990).²²

IBP has signed major marketing agreements with Cactus Feeders, the leading cattle feeder in the nation, and National Farms, the largest cattle feeder in Kansas. These two arrangements might supply IBP with over 15% of its annual slaughter (Center for Rural Affairs, 1990).

The largest three packers are estimated to own outright or purchase under a forward contract or a formula pricing relationship one-fourth of their slaughter needs.²³

Vertical Integration Lowers Prices

A study done by the Packers & Stockyard Administration documented the price manipulation with packer feeding (Aspelin and Engelman, 1966). The study concluded that while an increase in fat cattle sales by independent feeders will reduce cattle prices, the price reduction was ten times greater when additional cattle supplies came from packer feedlots. Overall, packer feeding lowered market prices in the terminals by \$.25 to \$.50 per hundredweight.

Cattle feeders believe vertical integration through contract feeding hurts the supply side of the market as well. A survey conducted on cattle feeders by researchers Ward and Bliss in 1989 revealed that cattle feeders reasoned that while contracts might benefit the feeders who use them, they hurt the industry as a whole since they created lower and more volatile cash and futures markets. This placed a greater emphasis on the futures and reduced the number of cash prices reported to the public. Overall, this reduced buyer competition for cattle.

Concentration in Cattle Feeding

Concentration in the packer side of the market encourages concentration in the cattle supply side as well. Forward contracting is used by packers with very large feedlots primarily because they can capture larger market shares with less effort (Center for Rural Affairs, 1990). A survey of feedlots conducted by Ward and Bliss indicated that 84% of all cattle contracted by packers were in feedlots of 20,000 head or more.

Since 1970 there has been a 65% reduction in the number of feedlots in the United States. The largest 200 feedlots, with more than 16,000 head capacity, sold 50% of the nation's fed cattle in 1988. Similarly there has been a decline in the number of cow-calf operators - a 27% decline in 27 years. More cattle feeders are signing contracts with cow-calf operators to lock in their supply. If long term trends continue, by the mid-1990's there will be half the cow-calf producers that existed in the early 1960's.²⁴

The top 20 feeding operations in the United States feed nearly one-third of all cattle on feed.²⁵ In Kansas 5% of the feedlots marketed 90% of the finished cattle (Kansas Agricultural Statistics).

Market Concentration Costs Consumers

"Economists generally agree that if 55% of a market is controlled by four or fewer companies, then an oligopoly exists. This is the case for every food category. The United States food system is geared to getting people to eat money," writes Susan George in the *Feeding the Few*.

Overcharges to consumers as a result of this market concentration is estimated to be between \$26 to \$29 billion in 1987. This cost is estimated to have more than doubled since then figures Willard Mueller, University of Wisconsin economist and former chief economist of the Federal Trade Commission. Between 1986 and 1987 net profits on net worth of food companies were 18.9%, second only to drug companies. In 1988 food stocks outperformed the overall stock index by 20-25% states George Dahlman, a market analyst.²⁶

More of consumer's meat dollar is going to the middleman and less finds its way in the pockets of farmers and packinghouse workers. Productivity for packinghouse workers between 1980-1982 and 1986-1988 increased 9% while their hourly wages decreased 6%. At the same time the average retail price for red meat rose 21%. The farm-to-carcass spread for beef dropped 20.7% while with pork this spread increased 8%. At the same time the spread between the middleman and the retailer surged 63.7% in beef and 140% in pork.²⁷

Large supermarkets and beefpackers can daily manipulate what consumers eat. Glenn Freie of Meat Price Investigators Association, a legal action group formed by over 500 cattle feeders, explains,

"The supermarkets control the ultimate consumer demand for beef by the specials they feature in their meat departments. If the wholesale price of beef threatens to move higher they lessen demand for beef by either raising their prices to a level where consumers hesitate to buy, or feature other items, such as poultry, ham, etc. This determines what the housewife will have on her table. This permits the supermarkets to withdraw from the wholesale beef market for periods of time sufficient to allow carcass beef to accumulate and depress the carcass wholesale prices."²⁸

Americans during the 1970's quickly realized what shortages in oil could do to prices and availability of gasoline. This profitable insight was not lost upon Occidental Petroleum. This company with large investments in petroleum, fertilizer production, and feed supplements saw the

future short of both food and energy. Occidental Petroleum declared it "wants to be a significant factor in both." Its purchase of IBP in 1981 was a "logical and deliberate strategy for the 1990's."²⁹

Dr. John W. Helmuth, Assistant Administrator at the Center for Agriculture and Rural Development at Iowa State University, summarizes the common problem encountered by farmers and consumers.

"When a few large firms buy, slaughter, and sell the meat products from most of the livestock produced by farmers, those few firms are in a position to control the price they pay for livestock, control the quality of the meat produced, and control the price of meat products they sell.

"Such firms are motivated to pay the lowest possible price for farmers' livestock, produce the minimum quality meat product that consumers will accept, and charge the highest possible price for the meat products they sell. All such activities harm livestock producers.

"In such an environment livestock producers receive less than a competitive price for their animals, consumers receive a less than competitive quality product, and pay a more than competitive price for it. In such an environment consumers eat less meat, further harming producers because of shrinking demand."³⁰

We Broke Up the Beef Industry Before

Five firms (Armour, Cudahy, Morris, Swift, and Wilson) controlled over 60% of U. S. slaughter just after the turn of the century. The Federal Trade Commission issued a report in 1919 that concluded that competition in the meatpacking industry no longer existed. The Consent Decree of 1920 effectively dissolved the "Beef Trust" monopoly. Shortly afterwards the Packers and Stockyards Act was passed to restore competition and restrict diversification of meatpackers into other businesses. An even more concentrated packing industry today deserves as dramatic action.

The Hog Industry

Many analysts see the hog industry following the path of the chicken and cattle industry with more concentration, vertical integration, contract production, and less family farmers. Fewer than 250 operations the size of the 16,000-sow National Farms' hog factory in O'Neill, Nebraska could potentially supply the U.S. with its current pork needs.³¹

Few state this trend better than Bill Haw, president of National Farms:

"We've picked a trend, a leading edge, of what we believe is a transition from individual farmer production to the large, commercial production of hogs . . . My feeling is the hog industry has passed a threshold. They have solved enough of the problems of confinement production that the hog industry will inevitably take the same path as the production of chickens."³²

These projections are an ominous warning to family farmers who have traditionally seen hogs as a "mortgage lifter" - a way for a beginning farm family to get their feet more financially set in farming. One important way to help create more opportunities in farming is to keep hog production among younger farmers.

The loss of hog farmers over the years has been a result of disadvantages in the marketplace for smaller, independent producers. *National Hog Farmer* revealed that large producers received \$1.45 more for their hogs than smaller operators. Large producers also paid less for their soybean meal amounting to a 39 cent per hundred weight advantage in the cost of raising hogs.³³

Currently the top four firms--IBP, ConAgra, Morrell, and Excel--share 45% of the hog slaughter market. IBP has the capacity to slaughter 20% of the nation's hogs. Given these trends, *Hog Farm Management* estimates that only three or four firms will slaughter 70% of the nation's hogs by the year 2000.³⁴ Each of the "big three" beef packers have spread into the pork packing industry.

Kansas Hog Production

A study paid for the Kansas legislature on hog production by the Georgia-based Development International consulting firm projected the chicken industry as the model for development of the hog industry in Kansas. "The swine farming sector is at a critical stage. . . (Hog) producers have little or no control over the 'profit chain' and the prices they receive. . . (These) problems are similar to those experienced by poultry farmers during the 1950's, 60's and 70's. . . acceptance of ('vertical integration' and 'contract production') soon overcame the major deficiencies then being experienced by poultry farmers."³⁵

Kansas ranks tenth in the nation in hog production. Increasing concern in the industry has centered on reduced market competition and packer outlets for these hogs. This has been exacerbated by the closure of the Arkansas City Packing Plant owned by the John Morrell Company last spring that slaughtered 1.5 million hogs and cited insufficient slaughter numbers as a major reason for closing (KSBA, 1990).

The Ark City plant has in the past followed a familiar pattern within the meatpacking industry of closing down a plant only later to reopen with substantially lower wage rates. Rodeo Meats, a

unionized subsidiary of John Morrell and Co., closed down the Ark City plant in 1982 because of its high labor costs. It reopened a few months later as Ark City Packing Co. offering only \$5 an hour to its new labor force. This was in stark contrast to \$11 paid by the defunct Rodeo Meats (Stanley, 1988).

Kansas producers consistently have received less for their hogs over the last several years than their counterparts nationally and in the neighboring states of Nebraska, Iowa, and Missouri. This price gap ranges from \$0.46/cwt to \$0.98/cwt. It is thought that the farmers along the northern and eastern borders receive similar prices to the neighboring states but producers in the southwest part of the state suffer under this differential burden (KSBA, 1990).

The lower price Kansas hog producers receive is more than can be explained by cost of transportation to distant slaughter plants, according to the *Kansas Swine Industry* report. Many Kansas hogs are delivered to packer plants out-of-state to receive higher prices. These higher prices become part of the neighboring state's statistics contributing to some of the across state line differential. The lack of market competition in the state is believed to be a significant contributing factor. It is believed that a minimum of three markets is needed for adequate market competition (KSBA, 1990).

Modern confinement hog production is a costly investment. Such a facility can cost \$2,000 per sow with a 1,000 sow unit costing \$3.2 million. *The Kansas Swine Industry* explains that local capital financing for these facilities will be unlikely for the following reasons:

"Kansas bankers are well aware of the many empty hog facilities located around the state. This coupled with the high level of management skill required, the potential for catastrophic failure, and the rapid changes occurring in the production technology have discouraged bankers from developing the skills to evaluate and provide continuing oversight of hog investment opportunities. Bankers also express concerns about the negative impact of the Kansas corporate farm laws on hog enterprises as a reason for lack of interest."

Conventional thinking is that more hog production will be needed in Kansas before any new hog packers will come to the state. This belief rests on the experience that the packers followed the development of the cattle industry in southwest Kansas.

Kansas has lost hog farms and increased herd size faster than the national average allowing Kansas to maintain its 2% of the nation's total production. The state trend is toward larger hog production units that are singularly dedicated to hog production. This growth in farm size comes in spite of the fact that size doesn't have to be necessary to achieve efficiencies of production (KSBA, 1990).

Better management of resources is very important to profitable hog operations. However, this doesn't have to be associated with size. Farrow-to-Finish operations with 100-200 litters per year had an almost 15% better cash flow than herds with over 200 litters (KSBA, 1990). A comparison of high- and low-return hog producers in Iowa, which produces one quarter of the nation's hogs, shows that the average size of the top third is 112 sows per herd, only ten sows larger than the bottom third of the producers. This top third lowered their cost per hundredweight by 28%, or \$43,796. These top operators had lower feed costs, lower labor costs, lower death losses, more pigs weaned per sow, and better feed conversion rates. The key to this difference was not herd size but management (KSBA, 1990).

Large factory hog farms are attracted to areas with low density of human population and hog producers. This minimizes negative community reaction to odor from the facility and disease transmission between herds. Kansas, the nation's largest grain sorghum producer, provides a competitive advantage for Kansas hog producers since it is a less expensive feed source than corn-based rations frequently used in the corn-belt states.

Declining Price Discovery and Market Competition

Market outlets for hogs have declined over the past decade. Fewer public auctions, terminal markets, and commission houses have been replaced by direct sales to packer plants. Again *The Kansas Swine Industry* concludes:

"Many agricultural economists do not regard this change as an improvement -- quite the contrary! Competition for hogs has been reduced, price discovery is more difficult, and producers tend to receive lower prices for their animals."

Price discovery becomes increasingly difficult as more hogs are sold direct to slaughter houses. Only an estimated 19% of Kansas hogs are sold in public markets. Terminal markets become the public arena for price discovery but it is argued that these terminal markets receive fewer quality hogs and distort prices against the interests of the hog producer (KSBA, 1990).

Organization of Farm Enterprises

In 1982, about 87% of farms in the United States were family organized, 10% were partnerships, and 3% were corporations. Family farms accounted for 59% of agricultural production sales, partnerships accounted for 16%, and corporations made up 24% of sales. The number of corporate farms increased 178% between 1969 and 1982. Their share of sales jumped from 18% to 23% between 1974 and 1982. Of the largest farms with over half a million dollars in sales, 40% were sole proprietorships and 37% were corporations.

Most corporate farms according to census definitions are family held (89%) and have fewer than 10 shareholders. In 1982 these farms held 85% of all the acreage in farm corporations. Almost half of cash receipts received by non-family corporations came in the marketing of fattened cattle (Lobao, 1990).

Incorporating is one useful legal tool farm families can use to keep their business successfully operating. Corporate farming restrictions need not interfere with these family farm operations. Concern about corporate farming should center on issues of scale, local ownership, concentration, and use of hired labor. Branching out these concerns for social equality and environment protection should include all forms of business organizations whether they be corporations, partnerships, or sole proprietorships.

Kansas Corporate Farm Law

The Kansas corporate farm law has been a focus of legislative debate throughout the last decade. Hog production has usually been the pivotal point of the corporate farming issue. Through an Attorney General's opinion, it has been interpreted that large corporations can raise hogs for slaughter but can not raise hogs for breeding stock sale. This opinion has particularly affected DeKalb Swine Breeders Inc. since their primary purpose is breeding stock production and they are owned by an out-of-state corporation. Their inability to have the law changed to permit their expansion has forced them to move south into Oklahoma. The law is reputed to still have a dampening effect of large corporate investment in Kansas hog production. Kansas State Board of Agriculture's *The Kansas Swine Industry* states:

"Over the years several large farm production corporations, feed firms and feed processing companies have expressed an interest in investing in hog operations in Kansas. While such investments are not prohibited under the present Kansas Corporate Farm Law, except in the case of packers or slaughter plants, most have been discouraged by what they believe to be negative political climate and public objection to corporate involvement in production agriculture in Kansas."

Farm Ownership Laws: Kansas Doesn't Stand Alone

Many individuals concerned about the preservation of the family farm understand the threat of the tax, capital and market advantages of large corporate agribusinesses. However, some argue that state actions through corporate restrictions end up forcing these corporate jobs to only go elsewhere. The argument continues that corporate farms still compete across state lines in the national marketplace whether in Kansas or elsewhere.

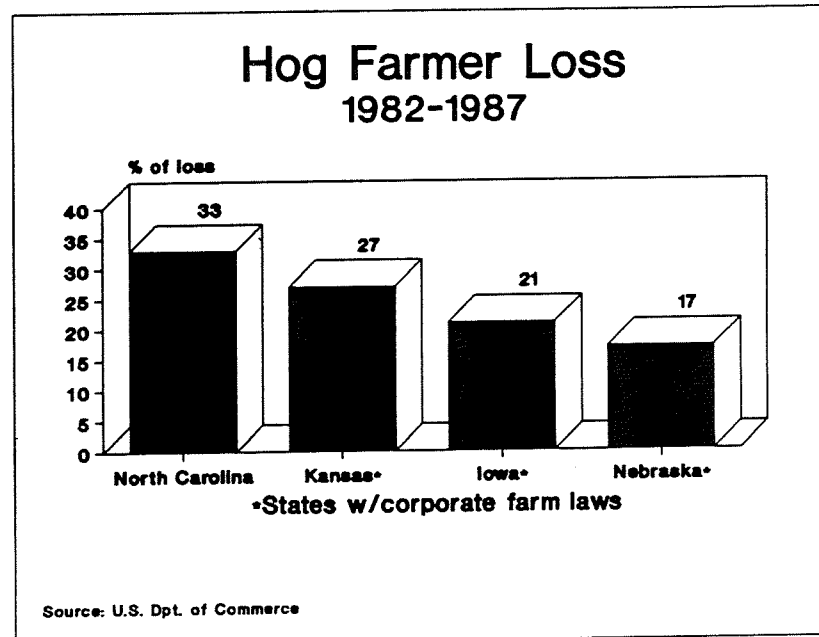
This single argument has reduced some Kansans to resignation of the "inevitable trends" of corporate farms replacing our family farmers. The actions of midwestern states have refuted the notion of these "inevitable trends" by clearly establishing a pattern towards tighter state laws on agricultural corporations.

Nine midwestern states have corporate farm laws. The following states have significantly tightened their laws during this decade constructing a regional band of corporate restrictions in our farmbelt.³⁶

- *Nebraska in 1983 passed the nation's tightest corporate farm law.
- *Iowa placed a 1,500 acre restriction on authorized corporations and limited partnerships.
- *Minnesota recently placed a 1,500 acre cap on limited partnerships.
- *After a governor's veto on a bill that would ban large corporate hog farms, South Dakota passed similar legislation by public referendum.
- *Kansas passed a vertical integration barrier on hog processors owning hogs in the 1988 legislative session.

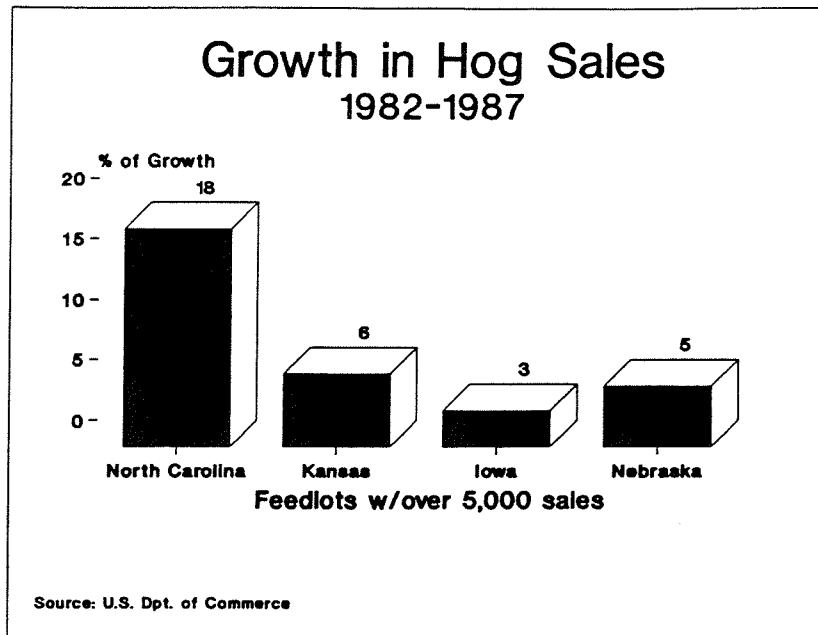
Clearly these trends indicate that attempts to loosen our corporate restrictions in Kansas are out of step with the larger trends in the midwest. Corporate restrictions in Kansas blend into similar laws across the midwest. One state's corporate fence becomes a larger corral intended to keep farm profits and business within the local economy.

The following tables point the usefulness of corporate farm law restrictions in Kansas and two neighboring states, Iowa and Nebraska. These three states are compared with North Carolina which has no restrictions and has become a leading hog producing state. It is estimated that one individual has control over one-fourth of the hog production in North Carolina.³⁷



These tables reveal that states with corporate farm restrictions have slower losses of hog producers and keep more of the production in smaller units.

(Figures are for total hogs and pigs sold)



Farm Ownership Laws: Nebraska's Economic Edge Over Kansas

Nebraska passed the nation's toughest corporate farm law in 1982 by a public initiative. Nebraska prohibits non-family farm corporations from land and livestock ownership. Only non-family farm corporations existing at the time were grandfathered in as an exemption.

Kansas allows any corporation to raise and feed livestock for slaughter with only one exception. This exception restricts large hog packers from feeding their own hogs. The significant differences in their respective laws provides for an excellent comparison between how corporate farm laws affect farm families and livestock ownership. *Danny*

Nebraska has increased its cattle on feed inventory 26% since its strict corporate farm law passed. At the same time its share within the 13 leading states of cattle on feed has grown from 18.2% to 20.7%. This locks Nebraska with Texas for the national lead.³⁸ Nebraska is a larger cattle feeding state than Kansas with 29% more cattle on feed at the beginning of 1990.³⁹

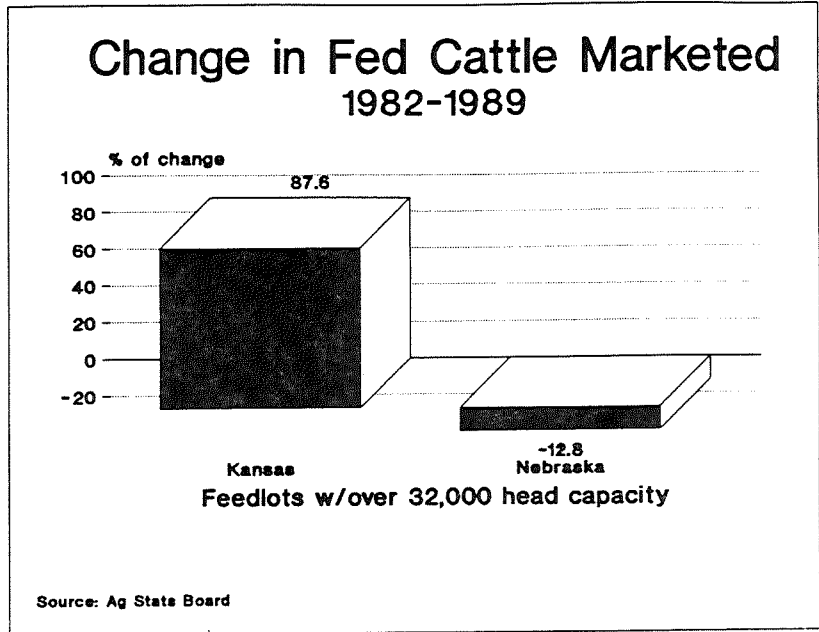
Nebraska has many more farm families and rural communities benefiting from cattle feeding than Kansas. Nebraska has 460% more cattle feedlots than Kansas. While both states have lost cattle feeders over the last seven years, Nebraska has lost these feeders at a significantly slower rate than Kansas - 20% in Nebraska to 34% in Kansas.⁴⁰

Contrary to Kansas, Nebraska's fed cattle growth has occurred at the same time its largest feedlots, those with greater than 32,000 head capacity, have declined in importance. While Kansas has had a faster rate of growth of cattle feeding than Nebraska, it has occurred chiefly among thirteen huge feedlots. While the cattle on feed in these largest feedlots has actually

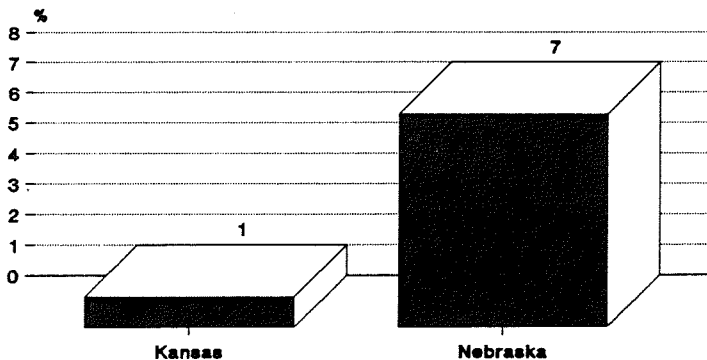
declined in Nebraska since 1982, Kansas's largest feedlots have had an increase of 87% in marketed fat cattle.⁴¹

Nebraska's pork sector outperformed the national sector in the down years of this decade and has grown with it in the up years. Nebraska has benefited under a stabler and stronger hog industry than Kansas. Since 1982, Nebraska has increased its share of the leading state's

inventory from 8.9% to 10%. Kansas has significantly lost hog numbers during that time. While both states have lost hog farmers, Kansas rate has been 27% to 17% for Nebraska between 1982-1987. In 1987, Nebraska had seven times as many hog farms caring for half of the state's inventory as did Kansas.⁴³

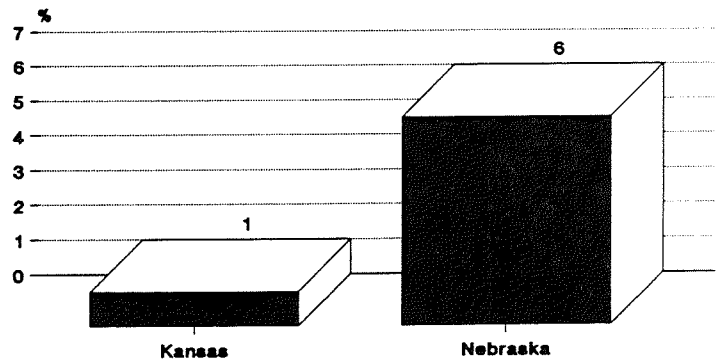


Livestock Farms w/Half of State Hog & Pig Sales



Source: 1987 Ag Census, Dpt. of Commerce

Livestock Farms w/Half of State Cattle & Calf Sales



Source: 1987 Ag Census, Dpt. of Commerce

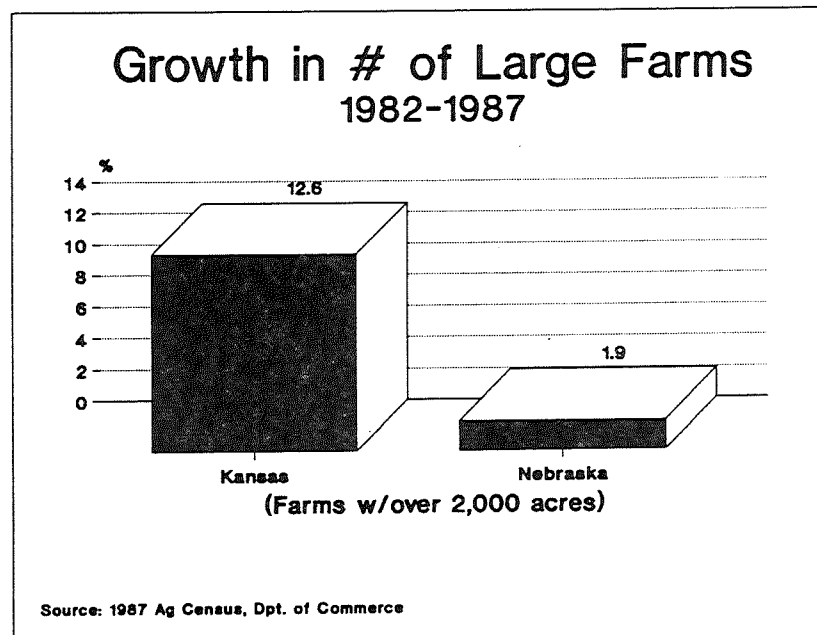
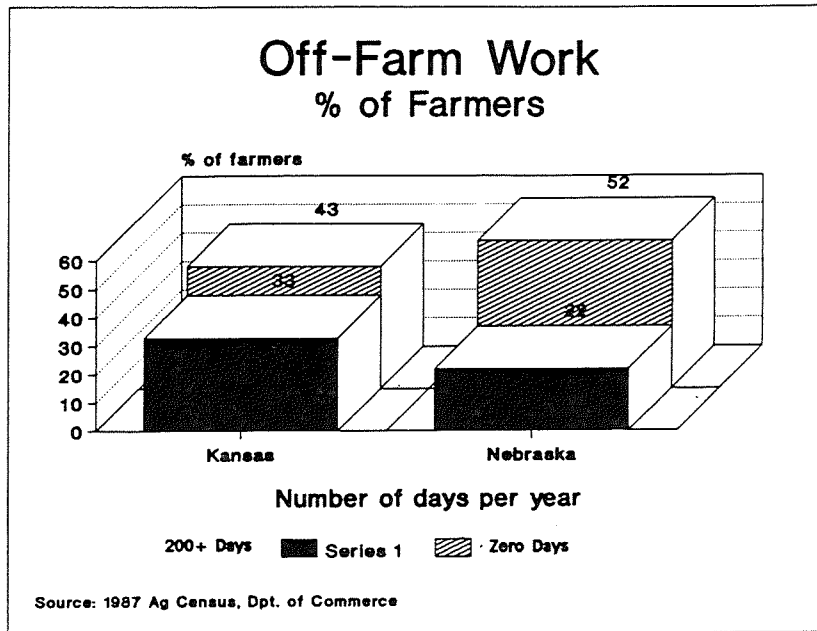
The fact that Nebraska through its tough corporate farm law restrictions is able to keep more livestock on family farms means more Nebraskans are full time farmers. Kansas has 9% fewer full time farmers than Nebraska. Consequently, Kansas has more farmers who work 200 or more days off farm - 33% to Nebraska's 22%.⁴⁴

Kansas also has a much faster growth among the largest farms. Between 1982 to 1987, Kansas experienced a 12.6% increase in the number of farms with over 2,000 acres. During the same time Nebraska's growth among these largest farms has been one-sixth that rate.⁴⁵

Recommendations

Kansas should take an active role in the development of the hog industry by providing family farm hog producers with group and cooperative marketing assistance to aid the development of more competitive markets. The state could assist farmers with the development of group marketing strategies, informal pooling arrangements, collective marketing/bargaining, and cooperative marketing programs.

Kansas should assist family farmers with innovative financial arrangements for hog expansion and research on lower-cost livestock production systems rather than the pursuit of economic development



strategies that pit communities and regions against each other. Reducing the cost per sow for housing facilities would be an attractive way to bring in new family farmers into hog production and allowing smaller farms to expand.

Kansas should hold legislative field hearings and adopt recommendations from the Multi-State Anti-Corporate Farm Task Force concerning the Kansas corporate farm law. Kansas should adopt restrictions similar to Nebraska and North Dakota on non-family and out-of-state corporations investing in agriculture. Tighter restrictions on non-local ownership of land and livestock production within the Kansas corporate farm law should be adopted. Vertical integration between large agribusiness corporations and agricultural production should be prohibited in Kansas.

Kansas should expand the annual public reporting requirements of large, non-family farm corporations. These requirements should include the necessary information to determine whether the corporation is in compliance with the state corporate farm law and federal antitrust legislation.

Congress should amend the Packers and Stockyard Act to clarify that neither packers nor principals in packing companies may own, operate, manage, or finance custom livestock facilities. Caps should be placed the percentage of supply held captive held by large packers.

Existing antitrust, Packers and Stockyards Act and Commodity Exchange Act should be vigorously enforced by the government. Any merger by any of the three leading beef packers should be challenged by the appropriate federal agencies.

Congress should require that agribusinesses with a significant share of a regional or national market should be required to prove that any attempted merger on their behalf to increase concentration would increase rather than lessen competition. Presently the burden of proof rests with the government.

Congress should establish through the Packers & Stockyard Administration a mandatory and verifiable price reporting system that determines price, procurement location, and plant destination.

Congress should strengthen regulatory control over the livestock futures market to make sure that the futures market performs a legitimate economic purpose with sufficient long and short hedges to establish a market-based expectation of future value. Insider trading should be prohibited on the futures market.

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MIDWEST CORPORATE FARM LAW NINE STATE CHART

	CORPORATIONS (Stockholders are generally limited to natural persons or estates.)				CORPORATIONS (For-profit corporations are generally prohibited from being a stockholder.)				LIMITED PARTNERSHIPS (Iowa and Minnesota have different requirements for family limited partnerships.)	INTEGRATION	(Generally nonfarm business expansion, nonprofits, and corporations involved in research, coal, seed, nursery, alfalfa and mineral extraction are exempted.)	OWNERSHIP																		
	All stockholders related	Majority stockholders related	Family member active engagement requirement	Stockholder active engagement requirement	Restrictions on non-farm and passive income	Maximum # stockholders	Restrictions on non-farm and passive income	1,500 acre limitation	Stockholder active engagement requirement	Maximum # partners	General partner active engagement	Restrictions on non-farm and passive income	1,500 acre limitation	Hog packer feeding prohibition	Cattle packer feeding prohibition	Hog packer contract feeding prohibited	Exemption for livestock feedlots	Exemption for poultry operations	Exemption for breeding stock operations	20% limited expansion for grandfathered	# years exemption period for land taken for security as a result of indebtedness (Generally applies only to state chartered banks)	Maximum dollar penalty for violations of reporting requirements	Maximum dollar penalty for violation of farmland ownership restrictions	Divestment period (years)	Reporting requirements	Public disclosure in county newspapers	5% random compliance check	County to state information transfer on corporate farmland transactions	Alien corporation restrictions	Acreage limitation for alien corporations
IOWA		X			X	25		X					X	X	X			X			5	1,000	50,000	1	X			X		
KANSAS		X		X		15			X	10	1			X ⁴		X ⁴	X	X			10	50,000	50,000	1	X					
MINNESOTA		X	X			5	X	X	X			X	X					X	X		5	1,000		5	X				X	
MISSOURI		X		X			X										X	Hogs		X	10	1,000 ⁶			X			X		
NEBRASKA		X	X				PROHIBITED				PROHIBITED			X ⁵	X ⁵			X			5			2				X	X	
NORTH DAKOTA	X ¹		X ³		X		PROHIBITED							X ⁵	X ⁵						3		25,000		X	X	X	X	X	
OKLAHOMA		2			X	10				10		X					X				7	500			X				X	
SOUTH DAKOTA		X		X		10										Cattle			X		10	1,000		5	X				X	
WISCONSIN	Limited to 15 Different Families					15												X			5									640

6 Stiffer penalties may apply for alien corporations

1. Maximum # stockholders is 15
 2. Stockholders in excess of 10 must be related
 3. Officers and directors must be actively engaged
 4. Partnerships and cooperatives are excluded from these restrictions
 5. Law is interpreted to prohibit packer feeding

4-26

End Notes

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25. "Farewell, Cowboy Freedom?," by Nita Effertz, Beef Today, October, 1988.
26. Marketing Section, by Edward Clark, Dairy Herd Management, July, 1989, pg. 22.
27. Op. cit., Krebs, Heading Toward the Last Roundup, 1990, pg. 26-27.
28. Ibid, pg. 32.
29. "IBP, Occidental OK Merger," by Tom Knudson, The Des Moines Register, July 17, 1981.
30. Testimony of Dr. John Helmuth before the Committee on Economic Development for the Kansas State Legislature, Topeka, Kansas, February 7, 1990.
31. "Headed Toward Hog Factories?," by Barbara Smythe, Farm Journal, December, 1985.

32. Farm Journal, October, 1984.
33. Taken from the Center for Rural Affairs newsletter, Center for Rural Affairs, Walthill, Nebraska, December, 1988.
34. "Competition Shrinkage," by Steve Marberry, Hog Farm Management, September, 1989, pg. 8.
35. "A Study of the Impacts on Kansas of Corporate Swine Farm Laws," Development International, Atlanta, Georgia, 1987. This study was commissioned by Kansas Inc. and was used by the Kansas legislature.
36. A chart in the back of this report shows how individual states differ in their respective corporate farm laws.
37. "North Carolina's Hog Farmers Struggle with Big Changes," by Charles Johnson, Farm Journal, March, 1986.
38. Taken from the Center for Rural Affairs newsletter, Center for Rural Affairs, Walthill, Nebraska, October, 1990.
39. Taken from information provided by the Kansas Agricultural Statistics and the Nebraska Agricultural Statistics Service.
40. Taken from information provided by the Agricultural Statistics Board, NASS, USDA.
41. Ibid.
42. Taken from the Center for Rural Affairs newsletter, Center for Rural Affairs, Walthill, Nebraska, October, 1990.
43. Taken from information provided by the Census of Agriculture, Bureau of Census, Department of Commerce, 1987.
44. Ibid.
45. Ibid.

STATEMENT
OF
KANSAS FARMERS UNION, MCPHERSON, KANSAS
ON
HB-3082 (LIMITED LIABILITY AGRICULTURAL COMPANIES)
PREPARED BY IVAN W. WYATT, PRESIDENT

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE:

TO ERROR IS HUMAN. A SMALL ERROR IN LEGISLATING THE STATE'S LAWS CAN HAVE SEVERE RAMIFICATIONS ON A GREAT NUMBER OF PEOPLE'S FUTURES AND FORTUNES.

WE APPRECIATE THIS COMMITTEE ADDRESSING THE ERROR OF 1991. IN HB-3082, THIS ERROR CAME ABOUT IN THE HECTIC CLOSING HOURS OF THE 1991 SESSION. THIS ERROR IS UNDERSTANDABLE.

WE SUPPORT THE DELETIONS OF HB-3082. HOWEVER, WE BELIEVE THERE MAY BE SOME OTHER CORRECTIONS THAT NEED TO BE DEALT WITH WHICH QUESTIONS THE POSSIBLE RAMIFICATIONS TO FARMERS, PRODUCERS, SMALL BUSINESS OPERATIONS INCLUDING LOCAL SMALLER PACKERS OF PORK. (PG. 4, LINE 1).

QUESTION 1: WHY WOULD THE MEMBERS OF THE COMMITTEE WANT TO EXCLUDE FROM THE DEFINITION OF "PROCESSORS", ANY FIRM DOING LESS THAN \$10 MILLION OF BUSINESS? WHY SHOULD INDIVIDUALS HAVING LESS THAN \$1 MILLION INTEREST IN THE BUSINESS BE DISCRIMINATED AGAINST.

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3-2-92
ATTACHMENT 5

WE CONSTANTLY HEAR THAT TALK OF "RURAL ECONOMIC DEVELOPMENT" AND THE NEED FOR SMALLER BUSINESSES TO LOCATE IN OUR RURAL COMMUNITIES, SO WHY THE DISCRIMINATION?

IT IS OUR OPINION THAT THE PARAGRAPH DEFINING "PROCESSOR" SHOULD BE REPEALED ALSO, AS I DO NOT DETECT IT USED ANYWHERE IN THE BILL.

LINES 22 - 23 - 24, PAGE 4 RAISES FURTHER QUESTIONS ABOUT WHAT THE DEFINITION OF "PROCESSOR" SHALL NOT INCLUDE. EXCLUDED ARE "COLLECTIVE BARGAINING UNITS". APPARENTLY THIS REFERS TO ORGANIZATIONS SUCH AS NFO. ARE THEY OR ANY COLLECTIVE BARGAINING UNIT SUCH AS "FARMER-OWNED COOPERATIVES" A THREAT TO THE PROCESSING OF PORK? IF A FARMER-OWNED COOPERATIVE IS TO BE EXCLUDED, WHAT SORELY IS NEEDED IS A DEFINITION OF WHAT IS A FARMER-OWNED CO-OP, OR WHAT IS NOT A "FARMER-OWNED COOPERATIVE".

WOULD FARMLAND FOODS, INC. NOT BE CONSIDERED A FARMER-OWNED COOPERATIVE, SINCE IT IS A SUBSIDIARY CORPORATION OR CO-OP, OF ANOTHER CORPORATION OR CO-OP?

IF PRODUCERS THAT RECEIVE PATRONAGE AND/OR STOCK, BASED ON THE BUSINESS THEY DO WITH FARMLAND FOOD INC., CONVERT OR EXCHANGE THAT STOCK FOR FARMLAND INDUSTRIES STOCK, WOULD THIS THEN MEAN FARMLAND FOODS INC. IS, OR WOULD NOT BE, A FARMER-



OWNED COOPERATIVE?

MEMBERS OF THE COMMITTEE, I HOPE WE CAN FIND CLEAR
ANSWERS TO THESE QUESTIONS.

TO ERROR IS HUMAN. WORKING TOGETHER, I HOPE WE CAN CUT
THE ODDS OF ERROR.

THANK YOU,

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Kansas Natural Resource Council

Testimony by the Kansas Natural Resource Council

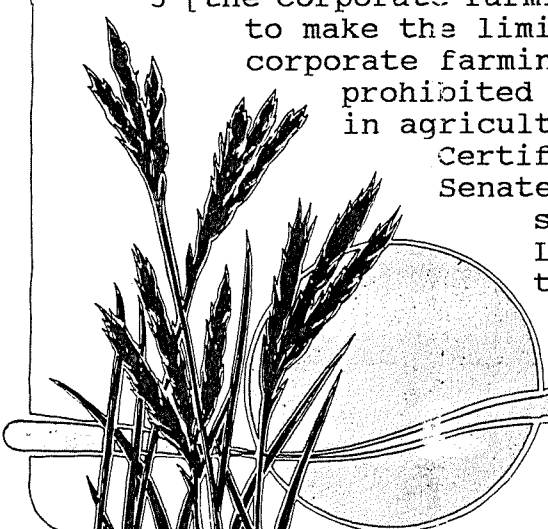
To: House Agriculture Committee
From: Shaun McGrath
Executive Director
Re: HB3082 Limited Liability Agriculture Companies
Date: March 2, 1992

The Kansas Natural Resource Council is a private, non-profit organization devoted to the advocacy of sustainable energy and natural resource policies for the state of Kansas. Our statewide membership is 850.

In 1990, the Kansas Legislature passed the Limited Liability Company Act. Limited liability companies provide the limited liability of corporations with the tax and organizational advantages of a partnership. The main attributes of the LLC structure are avoiding the double taxation of corporation profits and providing the flexibility of partnerships as to the relationships between the parties.

The Kansas LLC Act was modeled after Wyoming and Florida. As often happens when borrowing other states' language, technical problems were realized with the original act, and thus, in 1991 a clean-up bill was introduced. The proponents of 1991 HB2539 contended that one such clean-up was that farmers should also have access to LLC status, and thus included a provision in the bill which amended the Kansas corporate farming statute. HB2539 was eventually amended into HB2535 in the Senate Judiciary Committee, and HB2535 passed the Senate 40-0, and the House 130-4.

During testimony on HB2539/HB2535, conferees claimed the corporate farming provision was only a technicality. Shook, Hardy & Bacon said in an April 5, 1991 letter to Senator Winter, "Sections 2 and 3 [the corporate farming provision] are lengthy but merely intended to make the limited liability provisions correspond with the corporate farming provisions. The original LLC Act simply prohibited limited liability companies from being engaged in agricultural activity." The Kansas Society of Certified Public Accountants testified before the Senate Judiciary Committee that "HB2539 contains some important technical amendments to [the LLC] Act. One would permit those covered by the professional corporation act to not only



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3-2-92
ATTACHMENT 6

form general corporations, but also Limited Liability Companies." Tom Peebles, a Salina CPA and attorney, said there was no intent in the amendments to create a loophole in the corporate farming ban. And Stan Andeel of Foulston & Siefkin in Wichita claimed the intent of the clean-up bill was to give LLCs the same access to farming as other corporations have, albeit with the same restrictions.

Unfortunately, HB2535/HB2539 created another technical flaw. It not only brought LLCs into the corporate farming statute, giving LLCs the same right to farm as corporations, it also established a new type of company -- Limited Liability Agricultural Companies -- which were exempted from the corporate farming ban. An attorney general's opinion requested last fall by Representative Sader on behalf of Midland Land & Cattle confirmed the loophole: "A limited liability agricultural company is not subject to the prohibition against the corporate ownership of farmland found in K.S.A 17-5904, as amended."

HB3082 before you today is a clean-up bill. It leaves the original intent of the legislation passed last year, but strikes all references to Limited Liability Agricultural Companies; the basis of the inadvertently created loophole.

Conferees from Linn County will tell you what the effect of this loophole has already been in their county with Midland Land and Cattle Company of Overland Park, and their efforts to have a 12,000 sow farrowing operation to raise nearly a quarter of a million pigs per year. (An article printed in January, 1992 edition of Hog Farm Management is attached for additional background on Midland, and their intentions to use the LLC loophole.)

In the "1988 Kansas Hog Marketing Statistics" by the Kansas Agricultural Statistics Office, only .2% of all hog producers had operations larger than 7,000 head. The Statistics Office verified for me that the Midland proposal, which could have as many as 100,000 head on hand at any given time, would be one of the largest operations, if not the largest, in the state.

I sincerely believe that Legislature did not mean to create a loophole in the corporate farming statute. This belief is emphasized by the fact that the bill which opened up this extremely sensitive issue last year could nearly have passed on the consent calendar. KNRC urges you correct this mistake.

Thank you for this opportunity to testify before you.

Corporate-farming test

A plan to put a big operation in Kansas reveals hidden loophole in corporate-farming law.

By Steve Marbery

In late November, an eastern Kansas zoning board vetoed a proposal for a 12,000-sow farrowing operation that would have enabled a group of "outside investors" to slip through a crack in the state's complex corporate-farming statutes.

Linn County's zoning-board commissioners rejected a proposal by Sugar Creek Farms, a limited-liability agricultural company, because they felt it would not meet the economic growth objectives of the county. Formed by principals of Midland Land & Cattle Co., Kansas City, Mo., on Oct. 29, Sugar Creek was spawned by a little-known and untested July 1 amendment to the Kansas corporate-farming statutes.

The amendment exempts "limited-liability agricultural companies" from the state's prohibition on corporate ownership of agricultural land. A 1990 Kansas law legalized limited-liability companies. Only a few states have such laws. Hog-production interests in Wyoming, for instance, recently have been exploiting that state's limited-liability clause to generate capital for expansion of a tiny, but dynamic industry.

Battle's first blow

Despite chronic double-digit unemployment and no industrial base, Linn County residents overwhelmingly rejected and denounced the proposed hog scheme. While the case was a temporary setback for upscale pork production, it may have been the first blow in a battle to loosen the state's anti-corporate farming attitude.

The three-man board of commissioners refused to issue a construction permit to Sugar Creek Farms, not because of its business structure, but due to its potential negative impact on property values. (Linn County is 80 miles north of Kansas City.)

Mike Christie, president of Midland Land & Cattle Co., and a partner in Sugar Creek, formally appealed to the county for a special-use permit on Nov. 21, during a county commission meeting attended by several hundred citizens in Mound City, Kansas. Christie and other principals formed Midland as a spinoff to land-development activities in the Kansas City area.

Peddling snake oil

Judging from the crowd's angry reaction, Christie

might as well have been peddling snake oil. Catcalls from a capacity crowd inside the county 4-H barn brought repeated calls for order, as Christie and a battery of corporate attorneys tried to market their theory on rural economic development

Critics say Midland pushed the hog option only after failing to garner support for a landfill/recycling center designed to consume Kansas City trash. Christie says the landfill is still an option, but county residents vehemently oppose it.

Kansas' attorney general has ruled that a limited-liability agricultural company appears to qualify for the newly enacted exemption on land ownership, but with one qualification.

been phased in over four years. The area economic development commission quickly warmed to the initial proposal when it was presented informally last February. That reaction, however, was before anti-corporate farming and environmental activist organizations formed a resistance movement.

As outlined, Sugar Creek Farms, a limited-liability corporation, would capitalize five 2,400-sow farrowing and compatible nursery units built on a two-site design. Each sow "module" would consist of several structures - two gestation, two breeding and two farrowing units plus an office. The plan called for eight employees per sow unit and two per nursery. Sows would have been concentrated on 114 acres, with nurseries constructed on a 47-acre site approximately one mile away.

A loophole

If the operation had been approved, it would have been a major test of the amended corporate-farming law. Eastern Kansas is a hotbed of environmental and anti-corporate farming sentiment. According to the July amendment, "limited-liability agricultural companies" are legal as long as they possess no more than 10 members, among other stipulations. At least one investor, called a "member," not a stockholder, must be actively engaged in the labor or management of the operation. Obviously, the enterprise also must qualify as a bonafide agricultural venture.

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actually

Although the new law has not been tested in court — locally or nationally — the Kansas attorney general interpreted it favorably, upon request by a state representative, at the behest of the law firm representing Sugar Creek Farms.

One gray area

The attorney general, in an October 25 opinion, explained that a limited-liability agricultural company, structured similarly to Sugar Creek Farms appears to qualify for the newly enacted exemption on land ownership, with one specific qualification. The only gray area, according to the attorney general, is whether the "active" investor functions in such a manner as to imply full and total control of the operation. As long as the farm meets that and other stipulations, he noted, the entity is legal.

An accurate test of the "control clause" would be possible only after the venture is in full operation, he concluded. Mike Christie says Sugar Creek will satisfy this aspect of the regulation.

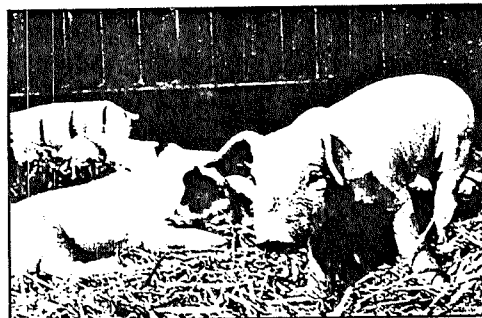
The door has been opened, at least a crack, for the entry of corporate-scale hog production in Kansas.

Without the amendment to the Kansas statute, made possible by strategically placed political pressure during the 1991 legislative session, Midland might have chosen Missouri for its hog operation, because its corporate-farming laws are less stringent. It is possible the July 1 amendment will stimulate hog production throughout Kansas, especially in remote western and northern parts of the state.

Although it would have had no equity in the venture, DeKalb Swine Breeders was committed to supply genetics and management, under contract. Farmland Industries, Inc., would have supplied feed and acquired feeder pigs, also under contracts. According to Christie, Farmland Financial, a subsidiary of the cooperative, would have loaned funds for building facilities. The building contractor would have been Farmer Boy Ag, Inc., of Pennsylvania. These arrangements, however, were contingent on state and local permitting requirements. Christie says no formal arrangements were signed prior to the zoning-board rejection.

Farmland's interest in the scheme may stem from its demand for large numbers of uniform pigs for contract-finishing operations as part of its "coordinated swine project." The cooperative has "production partnerships" with producers in Minnesota, South Dakota, Iowa, Missouri and Kansas. Despite some member opposition, Farmland plans to systematically produce hogs, under contract, using similar facilities, management techniques, rations and genetics. Ultimately, hogs will be transposed into value-added products at one of the cooperative's packing plants. ■

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KANSAS PORK PRODUCERS COUNCIL

2601 Farm Bureau Road • Manhattan, Kansas 66502 • 913/776-0442

Testimony before the
House Committee on Agriculture and Small Business

in opposition to

H.B. 3082

Presented by

Sharon Schwartz, President Elect

Ks. Pork Producers Council

Mr. Chairman, members of the committee, I am Sharon Schwartz, swine producer and President-elect of the Kansas Pork Producers Council. I appear before you today in opposition to House Bill 3082. Along with my family and employees, we operate a diversified agricultural business in Washington County. Both in our agricultural business and as an involved member of the Pork Producers Council, I have watched as the legislature has dealt with issues of concern to our industry. H.B. 3082 is another attempt to treat our industry as something rather than a business. There are numerous pork producers - family farmers, I might add - who have taken advantage of the opportunities afforded them by the Limited Liability Agricultural Company (LLAC) statutes. The Pork Producers Council has a

HS. AG.
3-2-92
ATTACHMENT 7

specific policy that supports the rights of our state's pork producers to utilize any type of financing or business structure available to any business. If LLC's are available to other business in the state, and I understand they are becoming readily used, then agriculture should have the same business advantages through the LLAC's. Members of the Committee, I cannot stress to you enough, that for our industry to thrive in this state we must be treated as a business. The thought that protectionist legislation will protect the swine producer of this state has been disproved many times over as we have seen our numbers, both hog and producers, steadily erode and our marketing situation deteriorate with the closing of Ark City Packing company as well as buying stations across the state. I ask you, on behalf of the agribusiness's in this state that produce pork, to defeat H.B. 3082, and allow us in the swine business to have access to the same type of capitalization and business entity tools that other businesses have.