

Approved March 16, 1992
Date

MINUTES OF THE HOUSE COMMITTEE ON AGRICULTURE

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

12:42 a.m./~~p.m.~~ on Wednesday, March 4, 1992 in room 423-S of the Capitol.

All members were present except: Representative Rezac, Representative Wisdom,
Representative D. Lawrence, Representative Mollenkamp
(all were excused)

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

Conferees appearing before the committee: Larry Woodson, Director of Division of
Inspections, State Board of Agriculture
Bill Rhodes, Jefferson County

Hearings on **HB 3046** - Kansas Dairy Stabilization Act were continued.

Larry Woodson, State Board of Agriculture, appeared before the committee to provide some base information on **HB 3046** and stated he appeared neither in support of the bill nor opposed to it. He further stated one of the intended purposes of the bill is to assure the citizens of Kansas a dependable source of wholesome dairy products through the establishment of a dairy stabilization fund. (Attachment 1).

Bill Rhodes, dairy farmer, Jefferson County, appeared before the committee informing them **HB 3046** will not make any dairy farmer rich but could possibly help them through some bad times. He supports this legislation.

Hearings were closed on **HB 3046**.

Discussion was held on **HB 3079** - weights and measures; relating to dispensing compressed natural gas.

A motion was made by Representative Minor to amend **HB 3079** by changing the language on line 29 and 40 from BTUs to 120 cubic feet. Seconded by Representative Lloyd. Motion carried.

Representative Correll moved to pass **HB 3079** as amended. Representative Gatlin seconded. Motion carried.

Discussion was held on **HB 3082** - limited liability agricultural companies.

An amendment was provided the committee by Representative Garner which would strike language on page 5, page 6 and page 7, because it is no longer needed. (Attachment 2).

Representative Garner made a motion to amend **HB 3082**. Seconded by Representative Reinhardt.

Discussion was held on **HB 3082**.

The meeting adjourned at 1:15 p.m.

The next meeting of the House Agriculture Committee will be at 9:00 a.m., Thursday, March 5, 1992, in room 423-S, State Capitol.

HOUSE COMMITTEE ON AGRICULTURE

House Bill 3046

March 4, 1992

Mr. Chairman, Members of the House Committee on Agriculture. My name is Larry D. Woodson and I am the Director of the Division of Inspections, State Board of Agriculture and I am here to provide some base information on House Bill 3046 and appear neither in support of the bill nor opposed to it.

One of the intended purposes of House Bill 3046 is to assure the citizens of Kansas a dependable source of wholesome dairy products through the establishment of a dairy stabilization fund. Federal support prices have been decreasing due to federal budget pressure. Support prices were originally established to help maintain level and uniform prices. With a decrease in federal price support, House Bill 3046 reflects an attempt to provide price stabilization at the state level. I understand that similar bills are being introduced in other states.

This morning, I wish to provide the committee with some facts about the dairy situation in Kansas.

Chart number one will give you a summary of Grade A Milk producers in Kansas. You will note that we had 1,365 Grade A dairy farms in January of 1986 and we currently have only 1,066.

HS. AG.
3-4-92
ATTACHMENT 1

Chart number two gives you a summary of the Manufacturing Grade Producers in Kansas. Here you will observe that the number decreased from 655 manufacturing grade producers in 1986 to 237 producers in 1992.

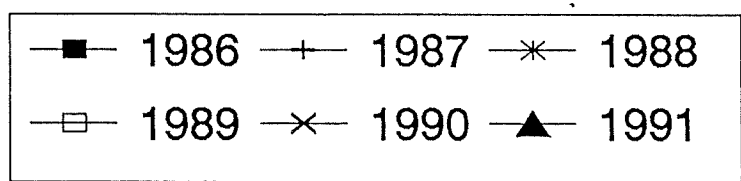
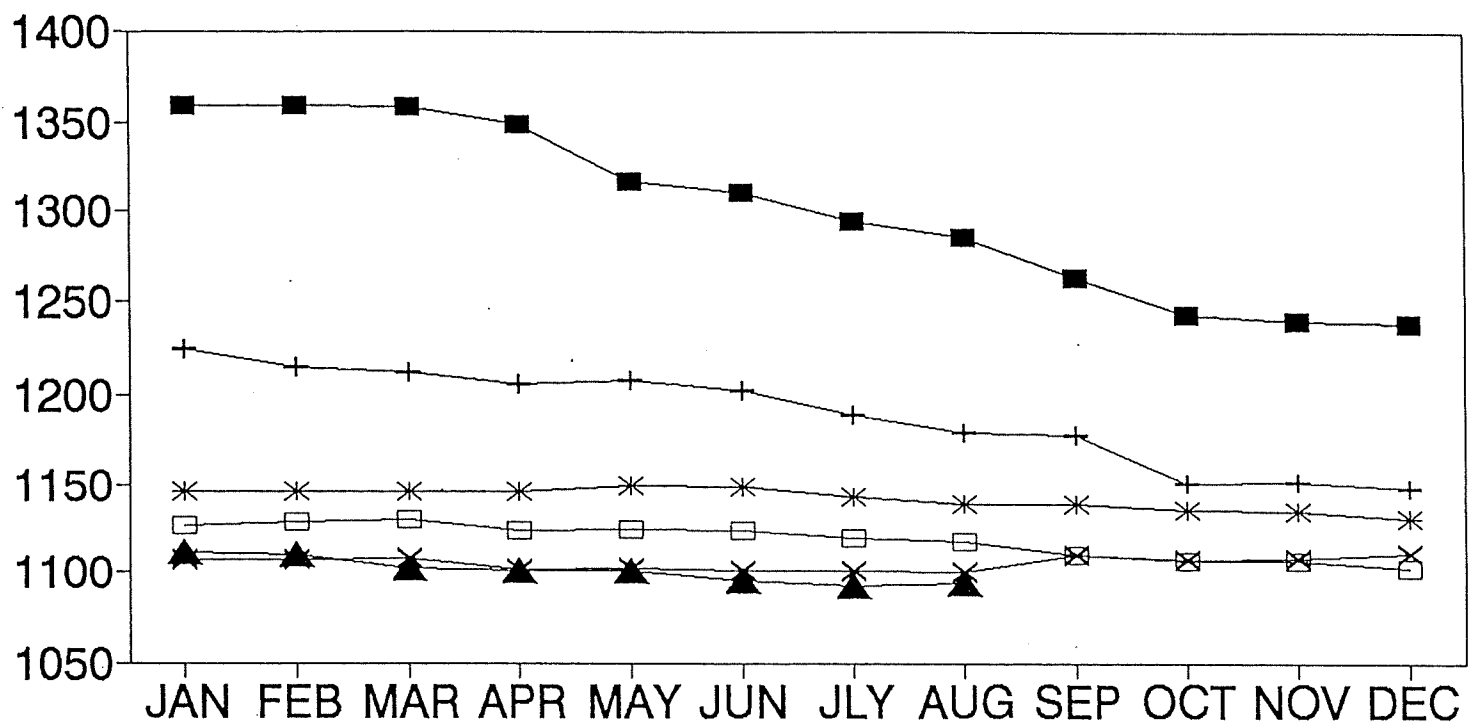
Chart number three reflects the number of dairies as well as the annual milk production in the State of Kansas. Please note that the milk production has not dropped in direct relationship with the number of dairy producers. The size of the dairy farms has increased in the number of cows being milked and the herds have been culled of the lower producers.

The final chart provides the committee with milk price comparisons from 1979 until present. This chart does not reflect the duration or number of months that a producer would have either received the high price for a particular year or the number of months that a producer received the low price. Current cost of production is estimated at \$13.00/cwt.

I trust these facts express our concern over the decline in the number of dairies in Kansas and we believe that low prices paid at the farm for dairy products is a factor. While dairy price stabilization will help the dairy producers during periods of low prices, it will not prevent some producers from going out of business.

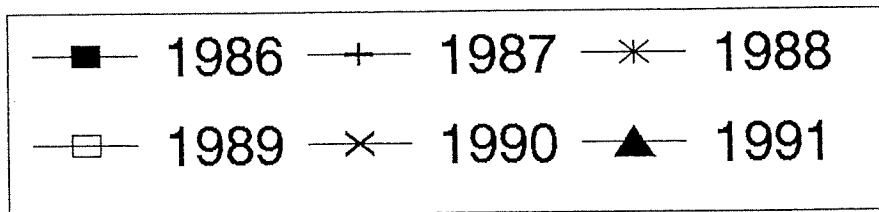
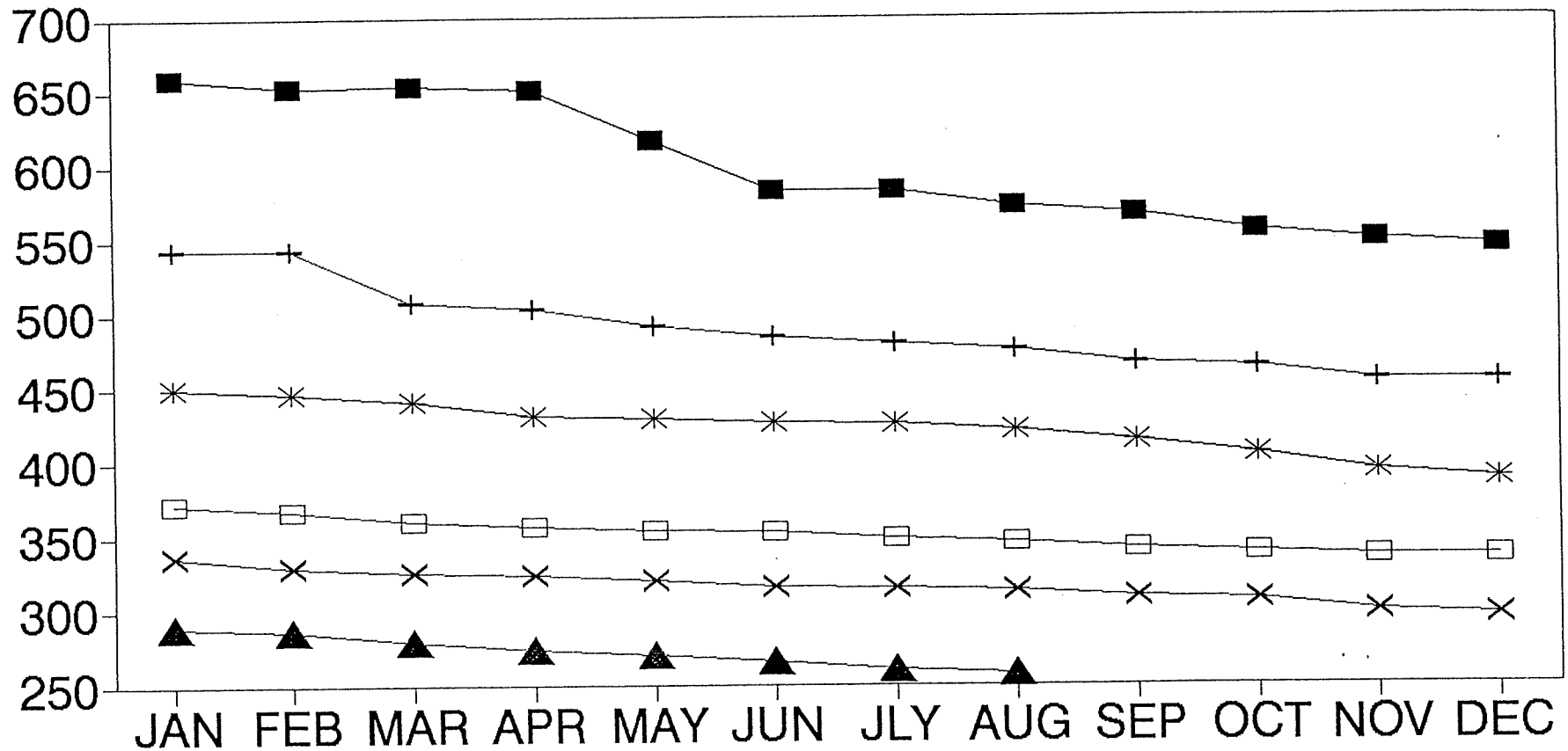
This concludes our presentation. Mel Brose, our Dairy Commissioner, and I stand for questions.

SUMMARY OF GRADE "A" PRODUCERS IN THE STATE OF KANSAS



MANUFACTURING GRADE PRODUCERS

Dairy Farms in Kansas

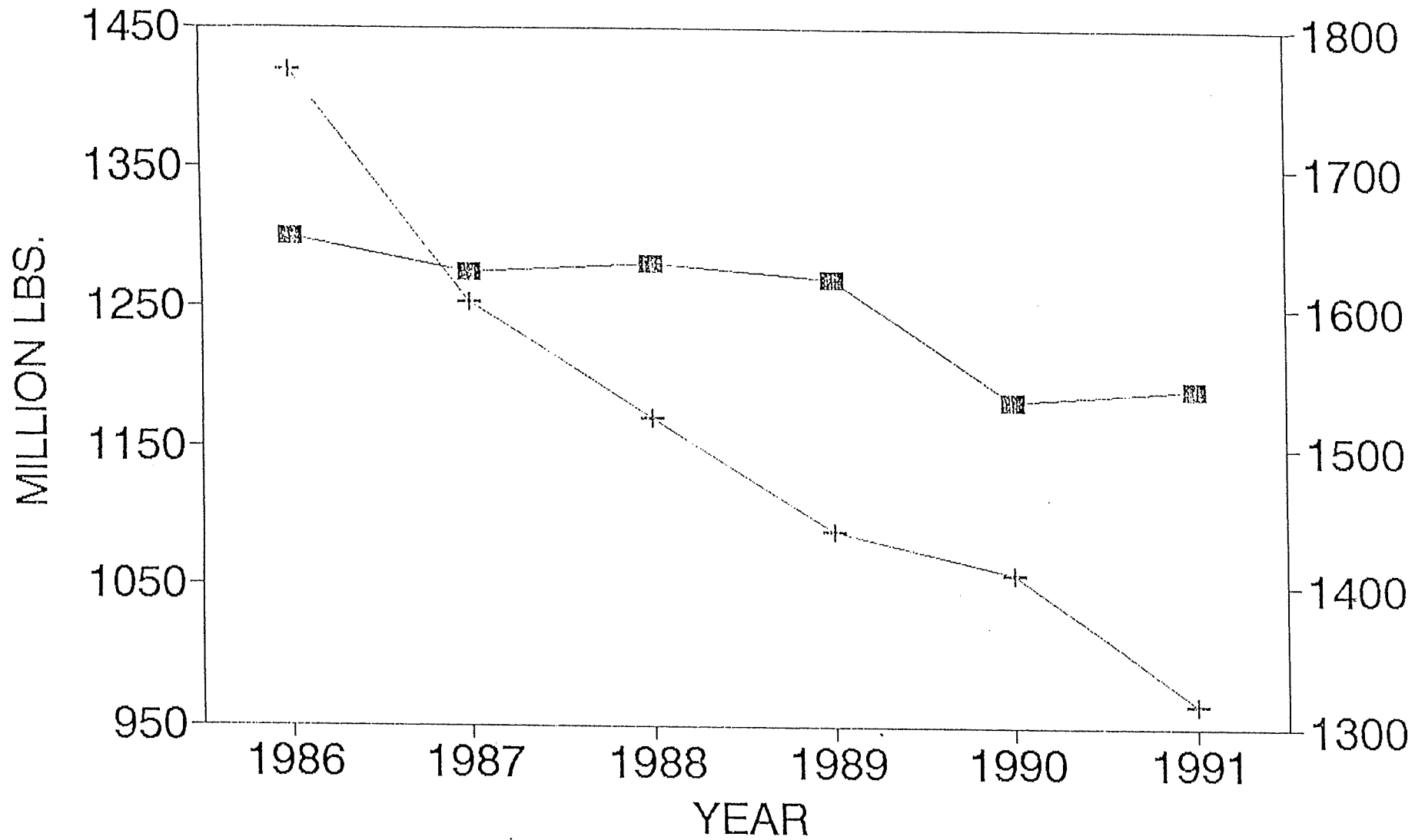


ANNUAL MILK PRODUCTION

NUMBER OF DAIRIES

1986-1991

1-5

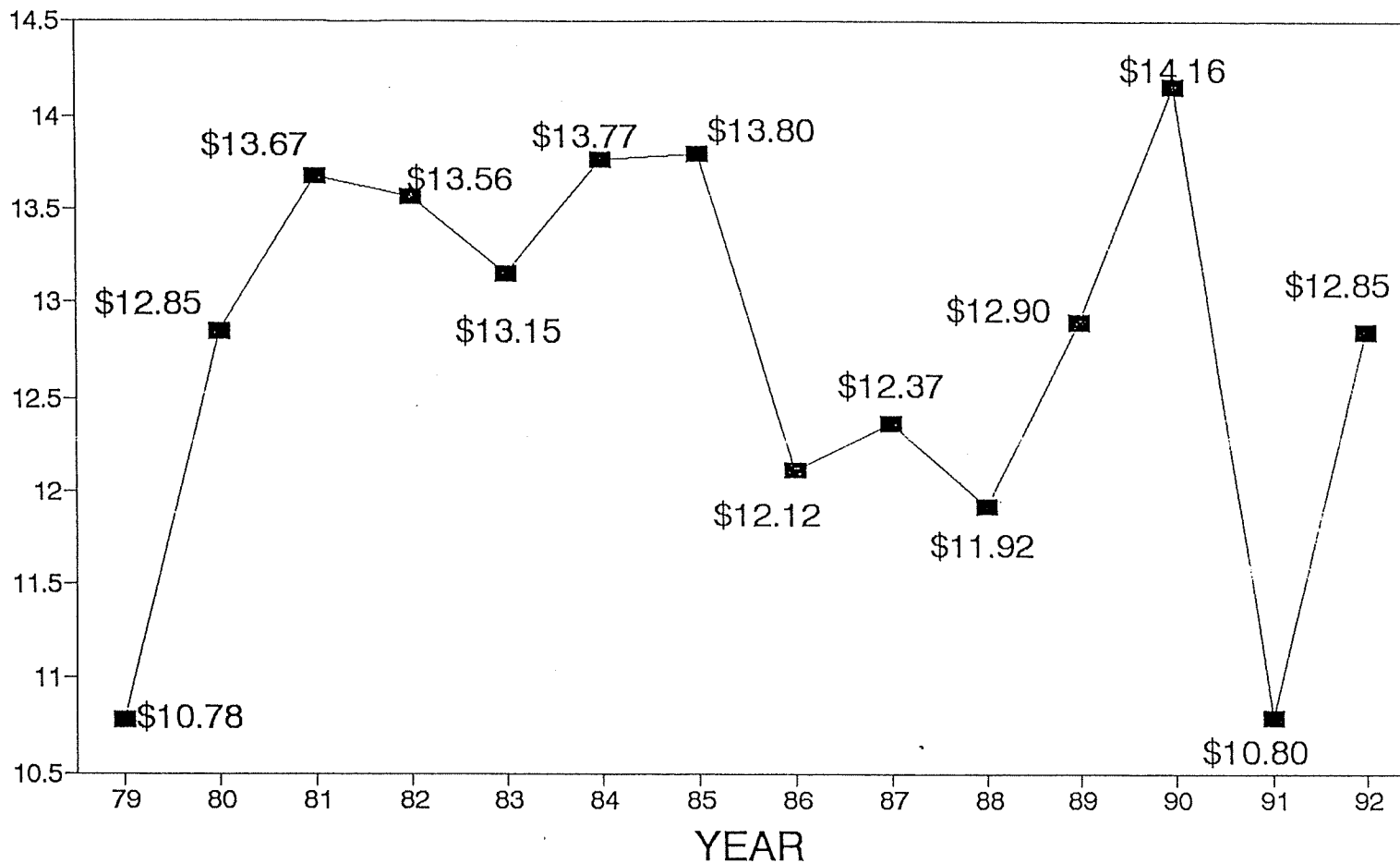


—■— Lbs. of Milk —+— # of Dairies

MILK PRICE COMPARISONS

KANSAS DHIA (1979 - 1992)

MILK PRICE (\$)



HOUSE BILL No. 3082

By Committee on Judiciary

2-20

8 AN ACT concerning limited liability agricultural companies; amend-
9 ing K.S.A. 1991 Supp. 17-5903 [~~and 17-5004~~] and repealing the
10 existing section.

11 *Be it enacted by the Legislature of the State of Kansas:*

12 Section 1. K.S.A. 1991 Supp. 17-5903 is hereby amended to read
13 as follows: 17-5903. As used in this act:

14 (a) "Corporation" means a domestic or foreign corporation or-
15 ganized for profit or nonprofit purposes.

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

19 (c) "Limited partnership" has the meaning provided by K.S.A.
20 56-1a01, and amendments thereto.

21 (d) "Limited agricultural partnership" means a limited partner-
22 ship founded for the purpose of farming and ownership of agricultural
23 land in which:

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

25 (2) the partners are all natural persons, persons acting in a fi-
26 duciary capacity for the benefit of natural persons or nonprofit cor-
27 porations, or general partnerships other than corporate partnerships
28 formed under the laws of the state of Kansas; and

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

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

39 (f) "Feedlot" means a lot, yard, corral, or other area in which
40 livestock fed for slaughter are confined. The term includes within
41 its meaning agricultural land in such acreage as is necessary for the
42 operation of the feedlot.
43

ATTACHMENT 2
3-4-92
H.S. AG.

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

2 (h) "Farming" means the cultivation of land for the production
3 of agricultural crops, the raising of poultry, the production of eggs,
4 the production of milk, the production of fruit or other horticultural
5 crops, grazing or the production of livestock. Farming does not
6 include the production of timber, forest products, nursery products
7 or sod, and farming does not include a contract to provide spraying,
8 harvesting or other farm services.

9 (i) "Fiduciary capacity" means an undertaking to act as executor,
10 administrator, guardian, conservator, trustee for a family trust, au-
11 thorized trust or testamentary trust or receiver or trustee in
12 bankruptcy.

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

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

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

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

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

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

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

41 (3) at least 30% of the stockholders are persons residing on the
42 farm or actively engaged in the day-to-day labor or management of
43 the farming operation. If only one of the stockholders is meeting

1 the requirement of this provision and such stockholder dies, the
2 requirement of this provision does not apply for the period of time
3 that the stockholder's estate is being administered in any district
4 court in Kansas.

5 For the purposes of this definition, if more than one person re-
6 ceives stock by bequest from a deceased stockholder, all of such
7 persons, collectively, shall be deemed to be one stockholder, and a
8 husband and wife, and their estates, collectively, shall be deemed
9 to be one stockholder.

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

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

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

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

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

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

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

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

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

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

42 (p) "Poultry confinement facility" means the structures and re-

1 of poultry in a restricted environment. The term includes within its
2 meaning only such agricultural land as is necessary for proper disposal
3 of liquid and solid wastes and for isolation of the facility to reasonably
4 protect the confined poultry from exposure to disease. As used in
5 this subsection, "poultry" means chickens, turkeys, ducks, geese or
6 other fowl.

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

13 (r) "Processor" means a person, firm, corporation, limited liability
14 company or limited partnership, which alone or in conjunction with
15 others, directly or indirectly, controls the manufacturing, processing
16 or preparation for sale of pork products having a total annual whole-
17 sale value of \$10,000,000 or more. Any person, firm, corporation,
18 member or limited partner with a 10% or greater interest in another
19 person, firm, corporation, limited liability company or limited part-
20 nership involved in the manufacturing, processing or preparation for
21 sale of pork products having a total annual wholesale value of
22 \$10,000,000 or more shall also be considered a processor. The term
23 "processor" shall not include collective bargaining units or farmer-
24 owned cooperatives.

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

33 (t) "Limited liability company" has the meaning provided by
34 K.S.A. 1990 1991 Supp. 17-7502, and amendments thereto.

35 (u) "~~Limited liability agricultural company~~" means a limited
36 liability company founded for the purpose of farming and own-
37 ership of agricultural land in which:

- 38 (1) The members do not exceed 10 in number;
- 39 (2) the members are all natural persons, persons acting in
- 40 a fiduciary capacity for the benefit of natural persons or non-
- 41 profit corporations, or general partnerships other than corporate

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

- (1) The members do not exceed 15 in number;
- (2) The members 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 members 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 members
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 ad-
ministered in any district court in Kansas.

p-2

1 farm or actively engaged in the labor or management of the
2 farming operation. If only one member is meeting the require-
3 ment of this provision and such member dies, the requirement
4 of this provision does not apply for the period of time that the
5 member's estate is being administered in any district court in
6 Kansas.

7 ~~Sec. 2. K.S.A. 1991 Supp. 17-5904 is hereby amended to read~~
8 ~~as follows: 17-5904. (a) No corporation, trust, limited liability com-~~
9 ~~pany, limited partnership or corporate partnership, other than a~~
10 ~~family farm corporation, authorized farm corporation, limited li-~~
11 ~~ability agricultural company, limited agricultural partnership, family~~
12 ~~trust, authorized trust or testamentary trust shall, either directly or~~
13 ~~indirectly, own, acquire or otherwise obtain or lease any agricultural~~
14 ~~land in this state. The restrictions provided in this section do not~~
15 ~~apply to the following:~~

16 (1) A bona fide encumbrance taken for purposes of security.

17 (2) Agricultural land when acquired as a gift, either by grant or
18 devise, by a bona fide educational, religious or charitable nonprofit
19 corporation.

20 (3) Agricultural land acquired by a corporation or a limited lia-
21 bility company in such acreage as is necessary for the operation of
22 a nonfarming business. Such land may not be used for farming except
23 under lease to one or more natural persons, a family farm corpo-
24 ration, authorized farm corporation, family trust, authorized trust or
25 testamentary trust. The corporation shall not engage, either directly
26 or indirectly, in the farming operation and shall not receive any
27 financial benefit, other than rent, from the farming operation.

28 (4) Agricultural land acquired by a corporation or a limited lia-
29 bility company by process of law in the collection of debts, or pur-
30 suant to a contract for deed executed prior to the effective date of
31 this act, or by any procedure for the enforcement of a lien or claim
32 thereon, whether created by mortgage or otherwise, if such cor-
33 poration divests itself of any such agricultural land within 10 years
34 after such process of law, contract or procedure, except that pro-
35 visions of K.S.A. 9-1102, and amendments thereto, shall apply to
36 any bank which acquires agricultural land.

37 (5) A municipal corporation.

38 (6) Agricultural land which is acquired by a trust company or
39 bank in a fiduciary capacity or as a trustee for a nonprofit corporation.

40 (7) Agricultural land owned or leased or held under a lease pur-
41 chase agreement as described in K.S.A. 12-1741, and amendments
42 thereto, by a corporation, corporate partnership, limited partnership,
43 or family farm corporation, authorized farm corporation, family trust,
44 authorized trust or testamentary trust.

2-5

1 entity owned or leased such agricultural land prior to July 1, 1965,
 2 provided such entity shall not own or lease any greater acreage of
 3 agricultural land than it owned or leased prior to the effective date
 4 of this act unless it is in compliance with the provisions of this act;
 5 (B) any such entity was in compliance with the provisions of K.S.A.
 6 17-5901 prior to its repeal by this act, provided such entity shall
 7 not own or lease any greater acreage of agricultural land than it
 8 owned or leased prior to the effective date of this act unless it is
 9 in compliance with the provisions of this act, and absence of evidence
 10 in the records of the county where such land is located of a judicial
 11 determination that such entity violated the provisions of K.S.A. 17-
 12 5901 shall constitute proof that the provisions of this act do not apply
 13 to such agricultural land, and that such entity was in compliance
 14 with the provisions of K.S.A. 17-5901 prior to its repeal; or (C) any
 15 such entity was not in compliance with the provisions of K.S.A. 17-
 16 5901 prior to its repeal by this act, but is in compliance with the
 17 provisions of this act by July 1, 1991.

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

21 (9) Agricultural land held or leased by a corporation for the pur-
 22 pose of the production of timber, forest products, nursery products
 23 or sod.

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

26 (11) Agricultural land used for the commercial production and
 27 conditioning of seed for sale or resale as seed or for the growing of
 28 alfalfa by an alfalfa processing entity if such land is located within
 29 30 miles of such entity's plant site.

30 (12) Agricultural land owned or leased by a corporate partnership
 31 or limited corporate partnership in which the partners associated
 32 therein are either natural persons, family farm corporations, au-
 33 thorized farm corporations, limited liability agricultural compa-
 34 nies, family trusts, authorized trusts or testamentary trusts.

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

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

41 (b) Except as provided for in K.S.A. 17-5905, and amendments
 42 to that act, production contracts entered into by a corporation, trust,
 43 partnership, or limited liability company shall not be subject to the provisions of this act.

7-6

1 ship and a person engaged in farming for the production of agri-
2 cultural products shall not be construed to mean the ownership,
3 acquisition, obtainment or lease, either directly or indirectly, of any
4 agricultural land in this state.

5 (c) Any corporation, trust, limited liability company, limited part-
6 nership or corporate partnership, other than a family farm corpo-
7 ration, authorized farm corporation, family trust, authorized trust or
8 testamentary trust, violating the provisions of this section shall be
9 subject to a civil penalty of not more than \$50,000 and shall divest
10 itself of any land acquired in violation of this section within one year
11 after judgment is entered in the action. The district courts of this
12 state may prevent and restrain violations of this section through the
13 issuance of an injunction. The attorney general or district or county
14 attorney shall institute suits on behalf of the state to enforce the
15 provisions of this section.

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

21 Sec. 3. K.S.A. 1991 Supp. 17-5903 [and 17-5904 are] hereby _____ is
22 repealed.

23 Sec. 4. This act shall take effect and be in force from and after
24 its publication in the Kansas register.