Approved March 24, 1992
Date

MINUTES OF THE SENATE COMMITTEE ON AGRICULTURE.

The meeting was called to order by Sen. Don Montgomery (Chairperson) at 10:30 a.m./~~p.m.~~ on March 23, 1992 in room 423-S of the Capitol.

All members were present except:

Committee staff present:

Raney Gilliland, Legislative Research
Lynne Holt, Legislative Research
Jill Wolters, Revisor of Statutes
Shirley Higgins, Committee Secretary

Conferees appearing before the committee:

Dwight Haddock, Associated Milk Producers, Inc.
Myron Schmidt, Associated Milk Producers, Inc.
Harold Bailey, Mid-America Dairymen, Inc.
Dave Parrish, Mid-America Dairymen, Inc.
Pam Wells, Kansas Cooperative Council
Ted Barlows, Anderson Erickson Dairy Company
Larry Woodson, State Board of Agriculture

Substitute for HB 3046 - Creating the dairy stabilization fund; relating to an assessment on milk products.

The Chairman called the committee's attention to Fax transmittal he had received this morning from Bill LaRue of Derby, Kansas, in opposition to the bill. (Attachment 1).

The chairman also informed the committee that the bill had passed the House on a 119-4 vote, however, he has received some negative response to it.

First to testify in support of Sub. for HB 3046 was Dwight Haddock, Associated Milk Producers, Inc. (Attachment 2).

Myron Schmidt, also of Associated Milk Producers, followed with further support (Attachment 3).

Harold Bailey, Mid-America Dairymen, Inc., followed with testimony in support of the bill. (Attachment 4).

Dave Parrish, Mid-America Dairymen, testified in further support of the bill. (Attachment 5).

Pam Wells, Kansas Cooperative Council, presented her testimony in support. (Attachment 6).

Ted Barlows, Anderson Erickson Dairy Company, testified in opposition to the bill. (Attachment 7).

Final testimony was given by Larry Woodson of the State Board of Agriculture. Mr. Woodson was neither in support of or opposed to the bill but had come to inform the committee. (Attachment 8).

The chairman asked if other states have enacted similar legislation. Mel Brose, Dairy Commissioner, stood to answer. Mr. Brose said Maine and Vermont have enacted this, however, he is not aware of how they operate. Staff agreed to further reseach the Louisana case mentioned in testimony and how Maine and Vermont operate and report back to the committee.

Sen. Webb asked Mr. Barlows if the Anderson Erickson Dairy Company had evolved from a dairy farm. Mr. Barlows answered that it had not.

CONTINUATION SHEET

MINUTES OF THE SEBATE COMMITTEE ON AGRICULTURE,

room 423-S, Statehouse, at 10:30 a.m./~~p.m.~~ on March 23, 1992

Staff began a short discussion with Mr. Brose which confirmed that the study conducted by Kansas State University referred to in testimony is statistically correct. Mr. Brose agreed to check with K-State to confirm this.

The chairman questioned Mr. Barlows regarding his statements referring to the cost to the consumer going up for milk products as to how this can be determined when there is a variation in the cost of milk. After a short discussion, Mr. Barlows conceded that the fluctation in the price of dairy products cannot be pinpointed to any certain thing.

Sen. Daniels said the children are the ones being hit by this increase, and the concept of this increase does not set well with her. She inquired as to what kind of subsidies the dairy industry is getting from the federal government. It was expressed by conferees that the federal subsidy was so far below the cost of production that it could not legitimately be called a subsidy. It was felt that as diarymen deal with tighter federal budgets, they need to deal with the State of Kansas to insure that milk production continues in the state.

The minutes of March 18 were approved.

The meeting was adjourned at 11:00 a.m.

GUEST LIST

COMMITTEE: Senate Agriculture DATE: 3-23-92

NAME	ADDRESS	ORGANIZATION
Ted Barlows	5341 Speaker Rd	
~~Myron Schmidt~~	Kansas City Ks	AE Dairy
Myron Schmidt	Rt 2 Newton Ks	AMPI Dairy Farmer
Dwight Haddock	516 N Main Wichita	AMPI
[illegible]	[illegible]	[illegible]
Kenneth M. Wilke	Topeka	KSBA
Harold Bailey	Manhattan	Mid America Dairymen
[illegible]	Topeka	[illegible]
Dave Parrish	SPCF [illegible]	Mid Am
LARRY D. WOODSON	TOPEKA	KBOA
Joe Lieber	Topeka	Ks Co-op Council

March 20, 1992

Senator Don Montgomery
Senat Agriculture Committee
Room #128 South
Topeka, Kansas

Dear Senator Montgomery,

I am writing in response to House Bill #3046. I am opposed to the bill as I understand it at this time.

This bill would put a tax on the wholesale value of dairy products sold. This, in turn, is going to drive the prices up and will be passed along to the retailer. This would have a negative impact and would decrease the amount of dairy products sold, compounding the problem of getting money to the farmers. Actions to stimulate dairy product sales, not restrain them, are needed for the long-term survival and prosperity of the dairy industry.

Taxes on food are regressive, having the greatest negative impact on those with the fewest dollars to spend. Taxes on dairy products, especially milk that is an important part of the diet of infants, children and mothers, are particularly regressive.

Thank you for your consideration on this matter.

Cordially,

Bill LaRue

Bill LaRue
216 Village Lake Dr.
Derby, KS 67037
(316)788-7424

Senate Agriculture
3-23-92
Attachment 1

Chairman Montgomery and members of the Ag Committee

I would like to introduce myself...I am Dwight Haddock, Manager of the Kansas Division of Associated Milk Producers, Inc. I am here to testify in behalf of the Dairy Stabilization Bill.

The number of dairies in the State has declined from just under 1,800 in 1986 to less than 1,300 in 1992. This, like most of the agricultural numbers, has declined, but we must remember for every seven farm families lost, one business in the small communities is also lost. As the population declines, it also leaves open the possibility of the loss of two processing plants. These two plants are in the communities of Hillsboro and Sabetha. Combined they process approximately $77 million dollars worth of milk annually, while employing some 300 people. The loss of these jobs also means the loss of tax base in these communities, and to the State of Kansas.

Somewhere I read that a Recession is when my neighbor loses his job. A depression is when I lose my job. I feel like we need to fight both recessions and depressions through a minimum stabilization in the Dairy price. This would help our young farmers to maintain a cash-flow during the time of the year that their price falls below the break-even point for the finished product. The swine people have lost their processing plant due to reduced numbers, and the poultry industry is non-existant in the State of Kansas. With a little help from the residents of Kansas in the way of this stabilization bill, we can maintain a thriving Dairy Industry. The maximum this increase would cost to the average household is $1.65 per year or less than 1/2 cent per day. This slight increase in taxes would easily offset the increase in funds needed to run the State.

This bill exempts State and Federal needs for Dairy Products so it should have no adverse effect on our schools and other institutions within the State. In order to maintain a level pricing field for anyone handling Dairy products in the State of Kansas, the assessment would be levied on all Dairy products on a wholesale level, and only be levied when the USDA estimates the M & W to drop below a minimum of 11.00-11.50/cwt. This will only create a fund large enough to protect your neighbors within the State of Kansas.

Senate Agriculture
3-23-92
Attachment 2

We will hear testimony stating that natural forces should control the prices to our producers. Ideally this is right, but because of various differences and climatic conditions it makes it possible for other areas of the US to produce milk at a lower price than in Kansas. For this reason their milk will be shipped to us from the Southwestern part of the US reducing the quality of the products because of the distance shipped and the time from the producer to the consumer.

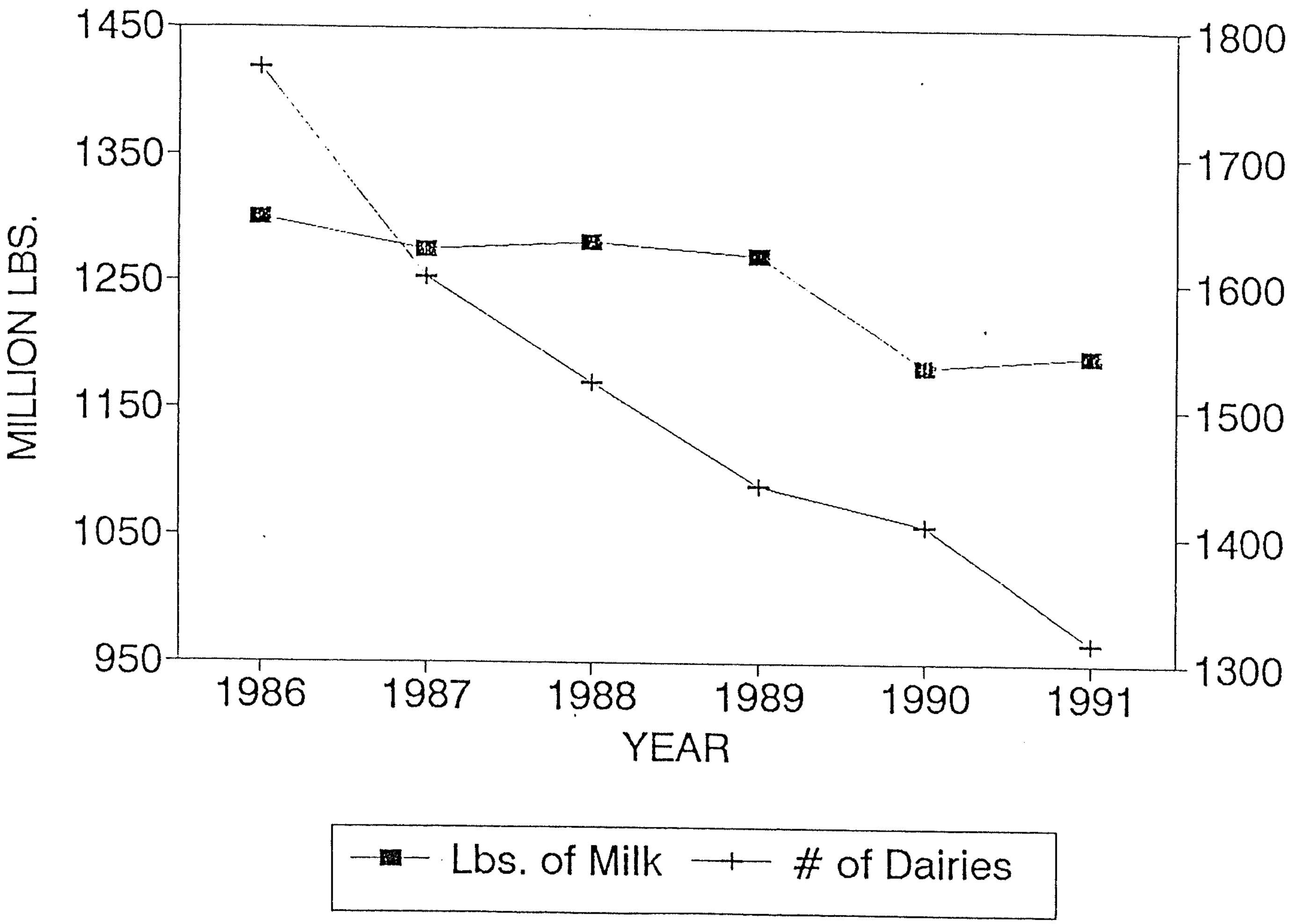
With the assistance of the people of Kansas we can help assure the continuing life of our small communities and help stabilize the population of the State. As you know, we are losing a Representative this year on the National level, and possibly one on the State level. All these things indicate that we should do something to maintain our population within the State. We hear of some finger-pointing as to who is making profits on milk products. But I feel that with the competition in the State everyone from the farmer to the processor to the grocery store, must hold their margin to a minimum.

If at all possible I hope the finger-pointing does not harm a bill so valuable to our farm communities and to the Urban population as well. I feel that each and every family will benefit from the stabilization of the marketing of Dairy products, and therefore we can be assured of a high quality product being on the grocers shelf every day for you and your family to enjoy.

ANNUAL MILK PRODUCTION

NUMBER OF DAIRIES

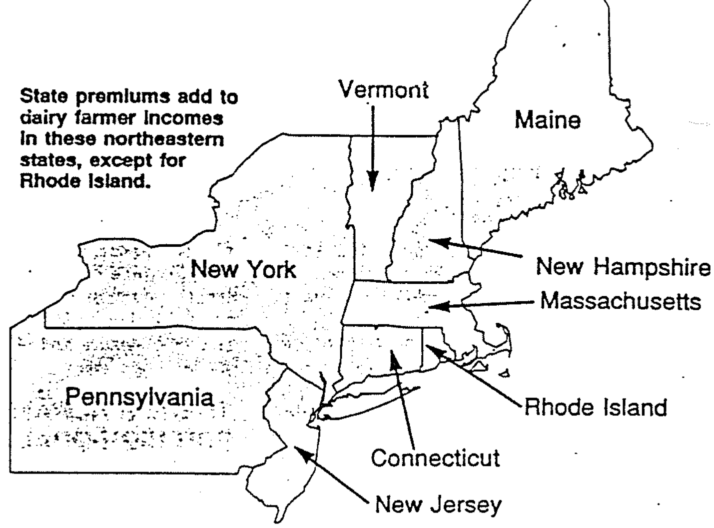
1986-1991



2-3

H RDS DAIRYMAN
Founded in 1885

Northeast shores up milk prices with state premiums



State premiums add to dairy farmer incomes in these northeastern states, except for Rhode Island.

by Lorraine S. Merrill

NORTHEASTERN state governments took unprecedented action after farm milk prices crashed. Five New England states (Rhode Island is the exception), New York, Pennsylvania and New Jersey put together a patchwork of partially coordinated programs to obtain over-order premiums for dairy farmers.

Pennsylvania and Maine already had state-ordered premiums in effect before the economic crisis in dairying. Other states used existing milk regulatory authority or passed new, emergency legislation to address the dairy crisis. New laws in Vermont, New Hampshire and Connecticut were geared to pricing action taken by neighboring states.

The strength and swiftness of the political response in urban northeastern states surprised many. "It came about primarily because of the acute recession affecting all the economies of the northeastern states," suggests New Hampshire Commissioner of Agriculture, Steve Taylor. "There was a hunger in the political community for actions we might take in individual states to address economic distress in the northeast."

New York Commissioner of Agriculture and Markets, Richard McGuire, agrees. Political leaders were persuaded when they saw that the collapse of farm milk prices was taking $250 million to $300 million out of New York's hard-pressed economy in 1991. Adding appeal for states struggling with budget deficits, the state pricing programs required no appropriations.

The commissioners and secretaries of agriculture for the northeast states first met to discuss the dairy crisis at a "summit meeting" in February 1991. The states continue to work together. At an August meeting in Albany, N.Y., Jack Kelley, Massachusetts Department of Food and Agriculture noted, "This is Reagan's 'New Federalism,' that's why we're sitting here."

From $1.05 to $2 . . .

Dairy farmers have received state-mandated over-order premiums of $1.05 to $2 on Class I (fluid) milk since June. Producer payments vary with Class I utilization for each state, even when Class I premiums are identical. For June milk, a Class I premium of $1.39 got Vermont dairymen 46 cents per hundredweight in their milk checks, while New Hampshire's higher fluid use netted 78 cents a hundredweight. Most state premiums will phase out as federal order prices rise.

Maine farmers, producing for the Maine market, received nearly $2 in Maine-Milk-Commission-mandated premiums for June milk. Maine farmers shipping to the Boston federal order market were paid about 50 cents less. On top of those premiums, Maine producers began to benefit in August from a new "vendor's fee" program on milk sales.

Implementation of state-ordered premiums has not been without problems. Legal challenges were filed by milk dealers in New York and New Jersey, and compliance problems cropped up in areas of New Jersey and New York. The same controversies over 'level playing fields' for dealers and the Class I market carrying all the over-order burden that plagued the RCMA (Regional Cooperative Marketing Agency) over-order pricing effort now beset the state efforts.

"Achieving a 'delicate balance' that improves producer income without losing markets is a challenge," Taylor observed. "We have to be careful not to disadvantage our processing industry."

$14.50 Class I floor . . .

New York and the New England states set a floor price ($14.50 per hundredweight for Class I milk effective in New York from August through July 1992), so the premium decreases as the market price rises. New York's Class I utilization is about 38 percent. Commissioner McGuire expected federal order Class I prices to exceed the floor by November. "We will be pricing milk through September and October," he predicted, "and then we may not be pricing again until April or May."

Northeast dairy and agricultural leaders are not enthusiastic about the concept of state-by-state milk pricing. The effort is viewed as a band-aid response to inaction and inadequate policy at the federal level.

"I'm not in favor of state-by-state solutions," McGuire commented. "The whole situation has got to be addressed — not piecemeal, but as a total pricing mechanism."

McGuire favors national policy to increase the price of manufacturing milk, without automatically raising the price of Class I milk. Because manufactured products compete in a national market, states are constrained from pricing manufacturing milk. "That's where the price increase ought to be and where it would hurt the consumer least," he said.

New York's Commissioner has acted under two laws: The Rogers-Allen Act passed in the 1930's but never before used and emergency legislation passed this spring to permit swifter action. Under Rogers-Allen, producers can petition the commissioner to hold hearings and a producer referendum on milk pricing.

McGuire's emergency order included compensatory payments by dealers buying milk outside the state for sale in New York. Producers vote on amending the permanent order to include compensatory payments after hearings early this fall. The compensatory payment provision has been challenged in two lawsuits filed in federal court by Farmland Dairies and by several others, including Labatt's Tuscan Farms and Lehigh Valley.

Loss of the compensatory payment provision would likely end New York's pricing program, and, with it, New England's. Some dealers, especially in the New York City market, would have competitive advantages.

"We have no problem whatsoever in New England," Commissioner McGuire reported. "They've adjusted, so it's a level playing field. But, on the other side, it is not an equal playing field from Pennsylvania."

The New England states coordinated their programs with New York, always the key to milk pricing in the region. But Pennsylvania's longer established program works differently, and not all producers are covered. The Pennsylvania Milk Marketing Board sets prices on fluid milk sold within the state "from the cow to the consumer" explains John Pierce, secretary of the Pennsylvania board.

But Pennsylvania milk sold into Federal Order 2 (New York-New Jersey market) is a gap that worries McGuire, cooperative leaders and producers. RCMA executive director, Carmen Ross, expressed concern that "Pennsylvania farmers may be used to break the New York price."

Unlike Pennsylvania's program, the New York and New England Class I premiums are blended on a state utilization basis, so all producers get some premium.

$1.05 since 1988 drought . . .

Pennsylvania has had a fluid premium of $1.05 since the 1988 drought. It was extended for wet and dry weather and boosted temporarily to $1.35 during the Kuwait oil crisis. The premium was extended again this spring to June 1992, for reasons of economic hardship in the dairy industry. The board may raise the premium in response to the severe drought in Pennsylvania.

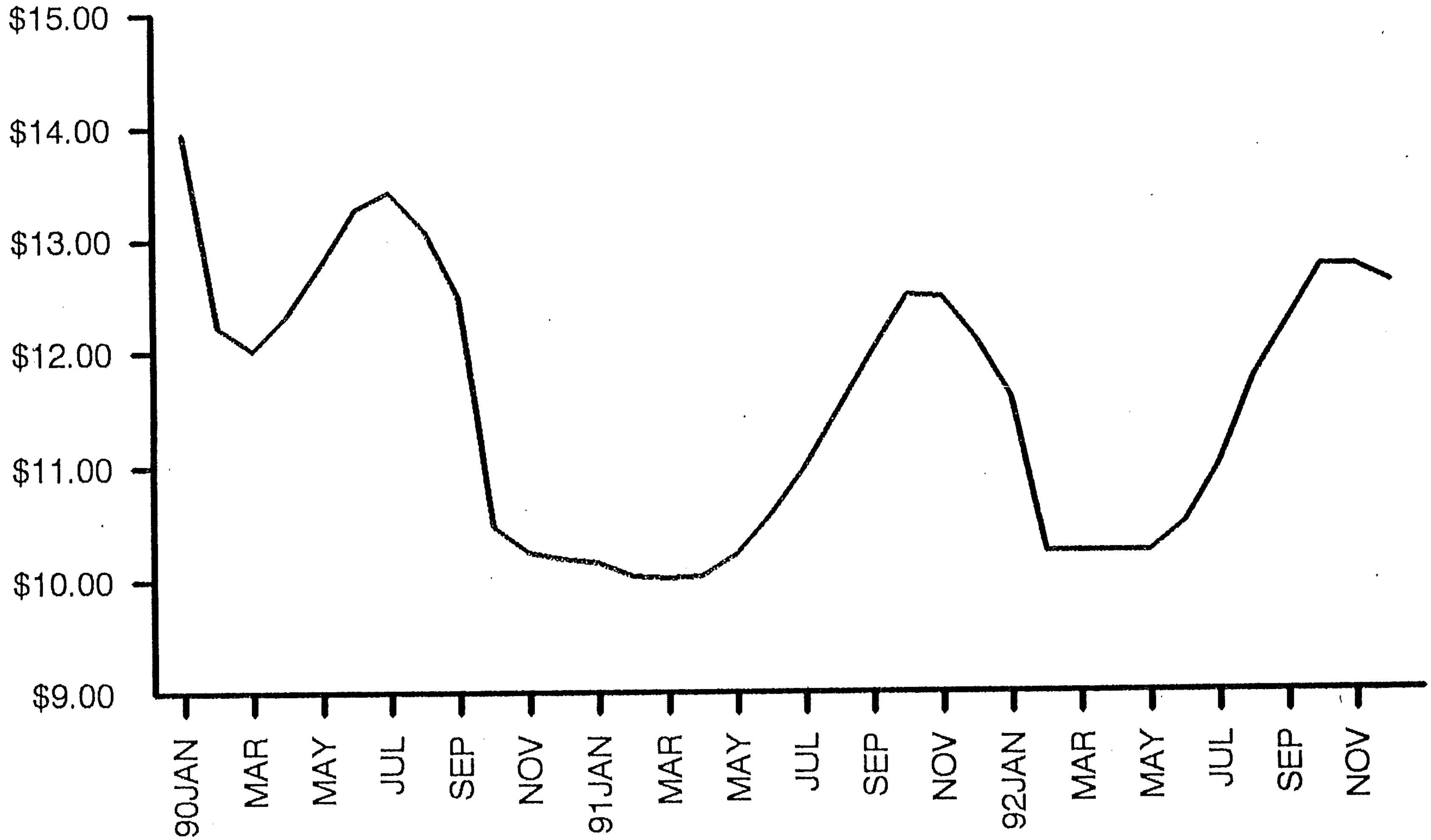
Like Pennsylvania, New Jersey's premium is $1.05, and dealers can count existing premiums. Vin Samuel, active chief of the New Jersey Department of Agriculture Dairy Bureau, reports problems with dealer compliance in Northern New Jersey where cooperative membership is low. The New Jersey Farm Bureau has asked the attorney general to look into the practices of the state's large dairies.

Samuel attributed the problems to Canadian brewer Labatt's flexing its concentrated East Coast market power. "Southern New Jersey has had no compliance problems because nearly all producers belong to Atlantic Cooperative," he says.

2-4

2-5

Minnesota - Wisconsin Price Series
1990 - 1992 (est.)



THE KANSAS DAIRY PRICE STABILIZATION PROJECT

BACKGROUND

In the fall of 1990, producer milk prices crashed, losing nearly 30% of their value when compared with the previous year. By the spring of 1991, the full effect of these disastrous price cuts had worked their way through the milk pricing system, having a dramatic negative impact on all dairy farmers.

The spring of 1991 saw dairy farmers in the streets across much of the U.S. picketing in front of Congressional offices and cooperative and proprietary plants.

The situation in Kansas was similar, with highly publicized milk dumpings and demonstrations by producers, including agonized cries for help to their milk marketing organizations, their representatives in Congress and state legislators, all the while striking out at the retail dairy marketing system, accusing grocers and milk processors of price gouging and profiteering at the expense of consumers and dairy farmers.

As prices rose seasonally and with dairy interests pursuing national legislation to correct the problems, the pressure in the country eased somewhat.

CURRENT SITUATION

In November of 1991, the national legislative initiative failed, primarily a result of its being perceived as too little, too late, with no long-term prospects for price stability or significant improvement.

Milk prices have begun to slip seasonally, and we anticipate a significant drop between now and the spring of 1992.

OUTLOOK

From a current price level of $12.10, we anticipate by February of 1992 the M&W series price will be in the $10.25 range and will stagnate there through May of 1992. History indicates that this $10.25 level is significantly below the cost of production in the state.

Thus the whole process will continue to force large numbers of dairy farmers out of business in Kansas, leading to severe economic disruptions in the rural communities where they live. It will also lead to extremely volatile milk prices for consumers over much of the year, and will leave us facing the severe unrest we had to deal with in the spring of 1991.

ACTION PLAN

It is the intention of Mid-America Dairymen, Inc. and Associated Milk Producers, Inc. to pursue a dairy price stabilization effort on an emergency basis in the Kansas State Legislature in January of 1992. The initiative would:

1. Establish a target price formula based on the M&W for all milk produced in Kansas. For purposes of this discussion we are using a target price of $11.50 per cwt.

2. The price stabilization initiative would be funded by a two and one-half percent assessment on the wholesale value of all dairy products sold at retail within the state of Kansas. The assessment would be collected by the dealer/wholesaler/processors and remitted to a dedicated fund established by legislation.

ACTION PLAN, Continued

3. When the M&W series price fell below the targeted price of $11.50 for any given month, the stabilization fund would write a check to individual dairy producers for the difference during that month.

   Example:

   Target price of $11.50 - M&W of $11.00 = difference of $.50 x milk marketed for the month. The average dairyman in Kansas produces 792 cwt. per month x $.50 = $396.00 stabilization payment for that month.

4. The fund would be reviewed and adjusted annually as appropriate to prevent any shortfall or excessive surplus from developing at the expense of consumers and producers.

Dairy Stabilization Project

Liscensee:
Dealer, Processor and Wholesaler

Calculates % of Wholesale Value of All Dairy Products Destined for Final Sale at Retail

All Institutional Sales Are Exempt:
Food Service, Schools, Hospitals, etc.

Liscensee Remits to Dairy Stabilization Fund

State Department Determines Target Price

M&W Price Falls Below Target Price

Dairy Stabilization Fund
Pays All Milk Producers in the State

Target $11.50 - M&W $11.00 = $0.50 per cwt.
Stabilization payment

M&W Above Target Price, No Payment

Annual review to insure adequate
but not excessive amounts in the fund

Kansas

1990 Per Capita Consumption, Expenditures

	Units	Unit Cost	Per Capita Cost	Adjusted Per Capita Cost
Fluid Milk (gal.)	19.8	$1.87	$37.03	$38.00
Butter (lb.)	4.3	1.52	$6.54	$6.72
Am. Cheese (lb.)	11.1	2.37	$26.32	$27.02
Other Cheese (lb.)	13.4	2.80	$37.47	$38.46
Cottage Cheese (lb.)	3.4	0.99	$3.35	$3.44
Ice Cream (gal.)	3.5	4.91	$17.20	$17.65
Ice Milk (gal.)	1.7	3.83	$6.50	$6.67
NFDM (lb.)	3.2	1.28	$4.08	$4.19
Total			$138.50	$142.15

Kansas Population	2,492,000
Kansas expenditures on dairy products	$345,131,035
Dairy stabilization assessment rate	2.27%
Dairy stabilization receipts	$7,850,400
Kansas annual milk production	1,238,890,831
Annual per cwt. return	0.63

2-10

M–W and Kansas Milk Production: 1992 (est.)

	M–W	Target Price	Diff.	Production	Allocation of Receipts
Jan	$10.40	$11.50	–1.10	104,185,068	$1,146,036
Feb	10.25	11.50	–1.25	97,198,608	$1,214,983
Mar	10.25	11.50	–1.25	108,418,284	$1,355,229
Apr	10.25	11.50	–1.25	103,040,360	$1,288,005
May	10.25	11.50	–1.25	106,082,260	$1,326,028
June	10.50	11.50	–1.00	100,895,020	$1,008,950
July	11.00	11.50	–0.50	102,233,988	$511,170
Aug	11.75	11.50	0.25	100,713,780	$0
Sep	12.25	11.50	0.75	97,078,500	$0
Oct	12.75	11.50	1.25	106,709,900	$0
Nov	12.75	11.50	1.25	103,182,300	$0
Dec	12.60	11.50	1.10	109,152,763	$0
Total				1,238,890,831	$7,850,400

2-14

Chairman Montgomery and members of the Ag Committee

I would like to introduce myself...I am Myron Schmidt, President of the Board of Directors of the Kansas Division of Associated Milk Producers, Inc. I am here to testify in behalf of the Dairy Stabilization Bill.

Some time ago on display at the National Archives in Washington, D.C. a 70 year old poster quoted President Woodrow Wilson as saying "The National economy depends on the output of the miner and the farmer." Have 70 years changed that? Seventy years has changed a lot of things but it has not changed the basic requirement that people have to have food to eat in order to survive.

Because food is such a necessity there are more negative remarks made about the cost of it than anything else. Food purchased in the United States however, requires less of the disposable dollar than anywhere in the world.

Dairy farm families have provided the U.S. consumer, day in and day out, in every city across the country with a dependable supply of fresh milk and dairy products at a reasonable price. When we have market stability, dairy farmers have made continuous gains in productivity, holding milk and dairy product prices consistently below increases in the consumer price index and all other food indexes.

The typical U.S. worker today earns the money needed to make purchases like milk, butter and ice cream in less than half the time required 25 years ago. Over the past 25 years, increases in dairy product prices have stayed consistently below the general inflation rate and index for all foods.

Why do the people in this country have the benefit of the largest supply of food at the cheapest price, and the best quality anywhere in the world? The answer is simple. It is the farmers pride, dedication and a work ethic that states "as long as I can pay my bills I will continue to farm".

The farmer is not concerned about the almighty dollar beyond cost of production. His main interest is in how many pounds of milk he can get per cow per year, or how many bushels of wheat will he get per acre, or the rate of gain on a steer. This productivity has become the consumers gain today, but may be his loss tommorrow.

Senate Agriculture
3-23-92
Attachment 3

So, what do I mean by this statement? The lack of food today in Russia is the result of what happened in the early 1900's. The farmers in Russia, mainly in the Ukraine area, were wealthly. They were aggressive in food production and operating factories to manufacture machinery for themselves. Because of greed and jealousy in the country toward the wealthly farmers, they decided to emigrate from Russia to Canada, U.S., and Old Mexico. Those that stayed behind were slaughtered or imprisoned. Russia then went to collective farming and tried to operate these farms like factories. Russia is an excellent example of what not to do, and yet the U.S. is going in the same direction....larger and fewer farms.

Although the farmers in the U.S. are not being imprisoned or slaughtered they are being driven out of business due to economics.

For more than 30 years, farmers have been told to increase the size of their farms and become more efficient. The average dairy farm in the U.S. has 70 cows which each average about 14,000 lbs. of milk per year. This means that the average farm is producing enough milk to supply 1,340 people with one quart of milk each day of the year.

Lets look at some statistics in Kansas. In 1950 there were 2,700 commercial dairies in Kansas. Today there are less than 1,300 commercial dairies. Dairy farmers have exited at a rate of 38 per year. Because of drastic milk prices last year we lost 112 dairies in Kansas. These losses have contributed a great deal to the shut down of small grain elevators, banks, implement dealers and main street businesses in small town USA.

President Wilson was correct 70 years ago when he stated that we cannot live without the farmer. We can live without the ballplayer. We do live in a recreational oriented society today. If an abundance of food is not available and the consumer has to spend more of his disposable dollar for food, recreation will not be as important.

As Russia drove out their farmers, they lost not only those farmers but the knowledge the next generation would provide. The same is true in the U.S. today. It will take Russia two generations to rebuild their skills. We still have those skilled farmers. Lets try to save what we have left.

Sixty-five years ago, Secretary of Agriculture Henry Wallace made two points in his report to the President that are as valid today as they were then. The following was taken from the 1921 yearbook of Agriculture.....and I quote: "Any circumstances which depress agriculture, making it impossible to exchange products of the farm for products of the factory on a fairly normal basis, make for closed factories and unemployment in industries. The energy and the intelligence with which the farmer works, the number of hours he works, the cost he incurs in producing crops...none of these is considered in determining the price."

If farmers received prices which would give them an income equal to those of similar ability in the nonfarm sector, they would be able to hire more of the people who have only their labor to sell. They might hire them directly on their farms. They might hire them indirectly by purchasing the results of their labor, whether as a product or a service.

Although we have an abundance of food today, will this be true tommorrow. An abundance of food is no excuse to pay the farmer less than cost of production. The farmer needs to receive a fair price for his products, if the economy is to remain strong and people have jobs.

And so, I, in testifying on behalf of the dairy farmer in Kansas, strongly encourage you to endorse the dairy stabilization bill. You must answer these questions. Is the dairy farmer important in Kansas? Is food important to your children and their children? Is industry important in Kansas to create jobs?

Today we have only four major milk processing plants in Kansas. AMPI Hillsboro, Mid-America Sabetha, Jackson in Hutchinson and Mid-America Steffens in Wichita. Food Barn in Kansas City, Kansas and Zarda Ice Cream in Kansas City, Kansas process about 117 million pounds of milk a month.

If your answer is NO to the Dairy Stabilization Bill you will severely jeopardize the processing plants and the entire economy in Kansas.

Very early in the history of the U.S. 90% of the people lived on small farms and were mostly self-sufficient at providing food for themselves. Today, the numbers are more than reversed. Only 600,000 commmercial farms supply 90% of the food needs for our population of 250 million. This means, therefore, that most of the population owns no land on which to grow their own food. This being the fact, will farmers in the U.S. provide the food or will it be imported, a dangerous situation for any country.

Even though I produced milk at below cost of production in the last couple of years it still gives me great satisfaction to know that I am providing 1,340 people one quart of milk every day for a year. I am asking you to show the dairymen of Kansas your appreciation for what they are doing for the economy of Kansas by endorsing the Dairy Stabilization Bill.

Thank You.

MID-AMERICA DAIRYMEN, INC.

HAROLD BAILEY, DIRECTOR • 4700 TABOR VALLEY ROAD, MANHATTAN, KS 66502 • 913-539-4831

TESTIMONY BEFORE THE SENATE

AGRICULTURAL COMMITTEE

MARCH 23, 1992

Mr. Chairman and members of the committee, my name is Harold Bailey. I am here as a concerned dairy farmer as well as a board member of Mid-America Dairymen, Inc. I milk about 90 cows on a dairy near Manhattan, Kansas. I thank you for the opportunity to appear before this committee today to seek your support for House Bill No. 3046, relating to the Kansas Dairy Stabilization Fund.

I would like to address three points today as they apply to H.B. 3046: First, present conditions in the dairy industry, Second, technical implications of H.B. 3046, and Third, the link between H.B. 3046 and the Kansas economy.

Under the present U.S. Farm Bill, which will last three more years, the price of milk is projected to fall below the cost of production at the farm level in the spring of each year. Support of the Dairy Stabilization Fund would help recoup prices below the cost of production at the farm level.

House Bill 3046 gives dairy producers the opportunity to move from government price supports to dairy product pricing in the marketplace.

Financing of the Dairy Stabilization Fund comes from two sources: wholesale dairy products going to retail and dairy producers. The assessment of products going to retail facilities will have a cap of $10 million dollars. Funds will also come from producers when the blended price for milk paid to producers reaches 115 percent of the established cost of production.

Last, I would like to address the relevance of dairy stabilization to the state of Kansas. In the beginning of 1991, there were 1425 dairy farms in Kansas. Today, there are less than 1300, with the probability of more dairy farmers leaving the industry. Kansas is a deficient state in milk production. There is a tremendous need to enhance a shrinking milk production to maintain present processing plant levels. Maintaining production levels at capacity in these Kansas facilities is vital to the employment of Kansans working in milk processing plants.

Senate Agriculture
3-23-92
Attachment 4

Your support of H.B. 3046 will strengthen the financial condition of the dairy farmer and slow the exit of this industry from the state, thus helping to keep the industry alive in our rural communities.

By assuring large enough milk production we will be able to preserve the processing facilities that now exist in our state.

Thank you for your consideration.

Respectfully submitted,

Harold Bailey

Harold Bailey

HB/jsb

KANSAS HOUSE BILL 3046

Q. WHAT IS KANSAS HOUSE BILL 3046?

A. *THE MAIN PROVISION OF KANSAS HOUSE BILL 3046 IS THE CREATION OF THE "KANSAS DAIRY STABILIZATION FUND."*

Q. WHAT IS THE "KANSAS DAIRY STABILIZATION FUND?"

A. *IT IS A FUND OF MONEY CREATED ON AN EMERGENCY BASIS TO BE USED TO STABILIZE FARM MILK PRICES WHEN IN THE SPRING OF EACH YEAR THEY FALL SUBSTANTIALLY BELOW THE COST OF PRODUCTION AND CAUSE LARGE NUMBERS OF DAIRY FARMERS TO BE DRIVEN OUT OF BUSINESS.*

Q. WHERE DOES THE MONEY FOR THIS FUND COME FROM?

A. *IT IS COLLECTED FROM THE MARKETPLACE IN THE FORM OF AN ASSESSMENT CALCULATED ON THE WHOLESALE VALUE OF ALL DAIRY PRODUCTS DESTINED FOR FINAL SALE AT RETAIL WITHIN THE STATE OF KANSAS. A UNIQUE FEATURE OF THE FUND IS IT WILL BE PARTIALLY FUNDED BY DAIRY FARMERS IN SOME INSTANCES. IF THE BILL BECOMES LAW, THE "DAIRY SELF HELP" PROVISION WILL BE THE FIRST WORKING MODEL OF THE CONCEPT IN THE NATION.*

Q. WHO WILL PAY FOR THE ADMINISTRATION OF THE FUND?

A. *THE FUND WILL PAY ALL COSTS ASSOCIATED WITH ITS ADMINISTRATION. IN ADDITION, IT WILL PAY THE STATE A GENERAL FUND FEE WHICH IS REQUIRED UNDER EXISTING STATE LAW AS IT APPLIES TO THE OTHER AGRICULTURAL COMMODITIES AND MARKET DEVELOPMENT AGENCIES. THE ENTIRE CONCEPT IS REVENUE-NEUTRAL TO THE STATE, EVEN TO THE EXTENT THERE IS NO ASSESSMENT ON DAIRY PRODUCTS PURCHASED WITH PUBLIC MONIES.*

Q. WHO PAYS THE ASSESSMENT?

A. *EVERYONE SELLING DAIRY PRODUCTS AT THE WHOLESALE LEVEL IN THE STATE IS LICENSED TO DO SO. THAT LICENSE IS A PRIVILEGE GRANTED BY THE STATE TO DO BUSINESS IN THE STATE, AND ALONG WITH THAT PRIVILEGE GOES CERTAIN RESPONSIBILITIES. ONE OF THOSE RESPONSIBILITIES WILL BE TO CALCULATE THE WHOLESALE VALUE OF THEIR SALES IN THE STATE AND REMIT A PERCENTAGE OF THAT VALUE IN THE FORM OF A PAYMENT TO THE DAIRY STABILIZATION FUND.*

Q. WHAT IS THE PERCENTAGE? I'VE HEARD THAT IT'S GOING TO BE 4%.

A. *HOUSE BILL 3046 CAPS THE ASSESSMENT AT A MAXIMUM OF 4%. ACTUALLY, DEPENDING ON THE LEVEL OF THE TARGET PRICE, IT WILL BE SUBSTANTIALLY BELOW 4%. IN ADDITION, IT CANNOT BE INCREASED BY MORE THAN .5% IN ANY ONE YEAR.*

Senate Agriculture
3-23-92
Attachment 5

Q. WHAT IS THE TARGET PRICE, AND WHO DETERMINES IT?

A. *THE TARGET PRICE AND THE AMOUNT OF ASSESSMENT WILL BE DETERMINED ANNUALLY BY THE SECRETARY OF AGRICULTURE FOR THE STATE OF KANSAS. HOUSE BILL 3046 ESTABLISHES THE GUIDELINES FOR THE SECRETARY TO USE. EACH YEAR, THE SECRETARY SHALL REQUEST OF KANSAS STATE UNIVERSITY THE COST OF PRODUCTION STUDY FOR MILK IN THE STATE FOR THE PRECEDING YEAR. THE BILL INSTRUCTS THE SECRETARY TO ESTABLISH THE TARGET PRICE AT 85% OF THE ACTUAL COST OF PRODUCTION. FOR 1992, BASED ON THE ACTUAL COST OF PRODUCTION IN 1991, THE TARGET PRICE WOULD BE $11.36.*

Q. SO NOW WE'VE ESTABLISHED THIS FUND PAID FOR BY MONIES COLLECTED FROM THE MARKETPLACE AND/OR DAIRY FARMERS; HOW DO THESE DOLLARS GET BACK TO THE DAIRY FARMERS?

A. *IN ANY MONTH WHEN THE MINNESOTA AND WISCONSIN PRICE (WHICH IS THE BASIC FORMULA PRICE FOR MOST OF THE DAIRY PRODUCTS SOLD IN THE UNITED STATES) FALLS BELOW THE TARGET PRICE, THE DEPARTMENT OF AGRICULTURE WILL CALCULATE THE DIFFERENCE BETWEEN THE TARGET PRICE AND THE M&W AND MAKE A DIRECT PAYMENT TO DAIRY FARMERS BASED ON THEIR INDIVIDUAL PRODUCTION FOR THAT MONTH. FOR EXAMPLE, IF THE TARGET PRICE WAS $11.36 AND THE M&W WAS $11.00, THE FUND WOULD PAY EVERY DAIRY FARMER IN THE STATE, REGARDLESS OF GRADE OR AFFILIATION, 36¢ PER CWT. FOR ALL OF THE MILK SHIPPED BY THAT FARMER THAT MONTH.*

Q. WHAT HAPPENS IN THE MONTHS WHEN THE M&W IS ABOVE THE TARGET PRICE?

A. *THE FUND WILL CONTINUE TO COLLECT, BUT NOTHING WILL BE PAID OUT.*

Q. WHAT IF THE M&W NEVER FALLS BELOW THE TARGET PRICE?

A. *THE DAIRY FARMERS IN THE STATE WOULD BE RECEIVING APPROXIMATELY THEIR ACTUAL COST OF PRODUCTION, WHICH IS THE INTENT OF HOUSE BILL 3046 IN THE FIRST PLACE.*

Q. I'VE HEARD DAIRY FARMERS WILL BE ASKED TO HELP PAY FOR THIS PROGRAM. IS THIS THE "DAIRY SELF HELP" CONCEPT YOU ARE TALKING ABOUT?

A. *YES. IN ASKING FOR HELP WHEN MILK PRICES WERE LOW, DAIRY FARMERS RECOGNIZED THAT WHEN MILK PRICES WERE HIGH, IT WOULD BE ONLY FAIR THAT THEY PARTICIPATE BY PAYING INTO THE FUND IN THE FORM OF "DAIRY SELF HELP." THEREFORE, WHEN THE BLENDED PRICE FOR MILK REACHES 115% OF THE ACTUAL PRICE OF PRODUCTION, THE PRODUCER WOULD BE ASSESSED 5% OF THE AMOUNT OVER 115%, AND THESE DOLLARS WOULD FLOW INTO THE FUND TO BE PAID OUT DURING TIME OF NEED.*

Q. WOULD YOU PLEASE RECAP HOUSE BILL 3046 IN A BRIEF ANSWER SO I CAN EXPLAIN IT TO MY NEIGHBOR?

A. *HOUSE BILL 3046 CREATES AN EMERGENCY DEDICATED DAIRY STABILIZATION FUND, WHICH WILL BE PAID FOR BY THE CONSUMERS OF DAIRY PRODUCTS AND DAIRY FARMERS IN THE STATE, TO STABILIZE THE DAIRY INDUSTRY IN THE STATE ON AN EMERGENCY BASIS. THE BILL RECOGNIZES THAT THE DAIRY INDUSTRY IN THE STATE OF KANSAS IS A VITAL ECONOMIC ENTITY. THE STATE'S 1,300 DAIRY FARMERS GENERATE AN ECONOMIC IMPACT IN THE HUNDREDS OF MILLIONS OF DOLLARS ANNUALLY. THE DAIRY PROCESSING INDUSTRY IN THE STATE EMPLOYS OVER 1,000 IN RELATIVELY HIGH-PAYING JOBS IN SEVERAL AREAS AROUND THE STATE, INCLUDING THE RURAL COMMUNITIES WHERE THE PLANTS ARE LOCATED.*

THE DAIRY INDUSTRY CONTRIBUTES TO THE RURAL ECONOMIC DEVELOPMENT IN A WAY NO OTHER SEGMENT OF AGRICULTURE CAN BECAUSE OF THE REGULAR NATURE OF THE INCOME STREAM ASSOCIATED WITH DAIRY MARKETINGS. IT IS IMPORTANT THAT WE REMEMBER WHEN DAIRYMEN ARE FORCED OFF THEIR FARMS, NOT ONLY DO WE LOSE THAT FARMER, BUT THERE IS AN IMPACT ON THE COMMUNITY HE OR SHE LIVES IN, INCLUDING HIS FEED DEALER, THE EQUIPMENT DEALER, SUPPLY HOUSE, THE BANKER, PLUS ALL OF THE OTHER MERCHANTS WHO ARE IMPACTED AS WELL.

WHEN ENOUGH DAIRY FARMERS ARE FORCED OUT, CONDITIONS CREATE THE NEED TO CLOSE AND CONSOLIDATE PROCESSING FACILITIES, WHICH IN TURN CREATES A FURTHER NEGATIVE ECONOMIC IMPACT IN THE COMMUNITIES THEY SERVE, IMPACTING CHERISHED INSTITUTIONS SUCH AS CHURCHES, SCHOOLS AND LIBRARIES, DOCTORS AND HEALTH SERVICES, PLUS OTHER THINGS OFTEN TAKEN FOR GRANTED, SUCH AS LAW ENFORCEMENT AGENCIES, ROADS AND BRIDGES AND OTHER COMMUNITY SERVICES.

IT IS IMPORTANT TO REALIZE THAT THIS IS NOT JUST A DAIRY STABILIZATION BILL - IT'S A JOBS BILL, IT'S A RURAL ECONOMIC ISSUES BILL, HOUSE BILL 3046 IS A GOOD BILL FOR THE PEOPLE OF KANSAS IN GENERAL.

COST OF SUPPLYING BULK MILK TO WICHITA

SHIPPING LOCATION	MILES	TRANSP COST	CLASS I PRICE DIFF	RECEIVING AND HANDLING	TOTAL COST/CWT	TOTAL COST/GAL
SOUTHWEST, MO	250	$0.92	($0.11)	$0.30	$1.11	$0.10
SIOUX CITY, IA	380	$1.40	($0.72)	$0.30	$0.97	$0.08
AMARILLO, TX	351	$1.29	$0.19	$0.30	$1.78	$0.15
SULPHUR SPRINGS, TX	366	$1.34	$0.86	$0.30	$2.50	$0.22
CLOVIS, NM	455	$1.67	$0.05	$0.30	$2.02	$0.17

5-4

Testimony of HB 3046
Senate Agriculture Committee
March 23, 1992
Prepared by Pam Wells
Kansas Cooperative Council

Mr. Chairman and members of the committee, I am Pam Wells, executive assistant for the Kansas Cooperative Council. The Council has a membership of nearly 200 cooperatives which have a combined total of almost 200,000 Kansas farmers and ranchers.

It is our understanding that HB 3046 establishes a Dairy Stabilization Fund enabling dairy producers to stay on the farm.

The Fund is paid for by assessing a 2.25 percent tax on products sold by milk processors and wholesalers.

This could increase the price of a $2 gallon of milk by 2.5 cents, assuming processors pass the cost down to consumers.

We feel this is a small cost to consumers to ensure that Kansas continues to have dairy farmers.

The Stabilization Fund will be regulated by the State Department of Agriculture, and any cost incurred by the Department will be paid for out of the Fund.

Senate Agriculture
3-23-92
Attachment 6

HB 3046 is a win-win situation. Milk producers can survive, while consumers can be assured they will have fresh, quality dairy products.

Some people may ask, "What would happen if the cattle ranchers, wheat growers or other groups wanted to establish this type of Fund? Would we sponsor that?"

If these other groups were losing producers because their prices are cyclical and regularly fall below the cost of production, we would see nothing wrong with them developing their own stabilization programs.

Remember, if the price of milk goes 15 percent above the cost of production, dairy producers are then required to pay into the Fund.

If every group established a stabilization fund, American consumers would still have the least expensive and highest quality food in the world.

I won't apologize, nor should committee members apologize for, establishing funds that will ensure Kansas producers the ability to maintain their family farms and livelihood.

HB 3046 does exactly this, and that is why the Kansas Cooperative Council supports it.

Thank you for your time, and I will attempt to answer any questions.

ANDERSON ERICKSON DAIRY CO.

KC, A
Des Moines

March 23, 1992

STATEMENT FOR TESTIMONY BEFORE KANSAS SENATE AGRICULTURE COMMITTEE CONCERNING DAIRY STABILIZATION FUND PROPOSED BILL (HB 3046):

I am appearing today on behalf of Anderson Erickson Dairy Company in opposition to the bill which would create a Dairy Stabilization Fund by imposing a wholesale tax on the sale of milk and other dairy products in Kansas. The stated purpose of the bill is to provide payments to Kansas dairy farmers from a fund created from such collections. We think that this fee is a bad idea for Kansas, and other states; it is unworkable; it will create an administrative nightmare for Kansas state officials; and it most likely violates the commerce clause of the United States Constitution by placing a burden on interstate commerce.

Market forces can and do drive the prices paid for milk to dairy farmers. In 1989 and 1990 these prices reached record high levels and dairy farmers were paid substantial sums for their milk. Then market forces intervened as production naturally soared to take advantage of the high prices. This resulted in a substantial drop in milk prices in early 1991. Then prices recovered from their relatively low levels. This process has led to unfortunate dislocations for dairy farmers; however, gimmicks like the Dairy Stabilization Fund are not the answer because they merely distort the market and result in higher prices to consumers. Higher prices to consumers can result in less consumption and even lower prices to dairy farmers.

We understand that the Fund would reimburse dairy farmers based upon a study of costs of production. We have had experience with Costs of Production surveys. They are subject to a great deal of variability and statistical manipulation. They are simply unreliable. Moreover, recent studies by the United States Department of Agriculture reveal that costs of production closely track (but lag) the price paid for milk. When the price that dairy farmers receive for milk is high, their costs tend to follow that price and increase. When farmer prices are low, costs of production will eventually trend downwards. The difficult times for farmers result from the lag when farmer milk prices have fallen, but costs of production are still high. To understand why costs of production go up when farmers' milk prices have gone up, one must only understand the law of supply and demand. When milk

(continued)

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"Quality You Can Taste"

Senate Agriculture
3-23-92
Attachment 7

prices are high, dairy farmers naturally want to take advantage of those higher prices. They tend to invest more in their operation. They spend more money on feed and on adding cattle. Unfortunately increased supply then causes milk prices to fall -- at least in a free market. The dairy farmers though continue to have the higher costs from added production and investment. Lower costs will follow as farmers adjust to lower prices.

The Kansas bill, for all of its valid concern for the well being of a valued resource -- dairy farmers -- would upset the market forces. When supply is higher than needed, dairy prices would normally fall, but the Kansas bill would artificially inflate the amount of money received by dairy farmers. Instead of receiving the signal to decrease production, farmers will receive a contrary signal. They may even continue to increase production. Market prices will continue to fall, but the stabilization fund will prevent consumers from benefiting from falling prices and prevent farmers from learning that supply needs to be reduced.

The bill will cause Kansas an administrative nightmare. Given the volumes of milk and dairy products flowing into and out of Kansas, a whole new authority will need to be established to monitor and collect this wholesale tax. From cottage cheese and yogurt to cheddar cheese and whole milk, all wholesale transactions will be monitored.

One method of monitoring appears to give state officials the right to inspect all the books and records of any dairy company from the smallest family operation to the largest multinational corporation. How is Kansas going to pay for this kind of operation and still have money left over for dairy farmers?

Any party who moves dairy products into Kansas would run into a tariff barrier. He would have to pay this new tax at the Kansas border. Moreover, we understand that if a wholesaler came to us and bought milk from our loading dock in Des Moines, Iowa, he would also be charged this fee (if he weren't, then a built in advantage exists for such sales).

However, a fee charged on wholesalers bringing in packaged milk or other dairy products violates the Commerce Clause of the United States Constitution and could not survive challenge in federal couts. A similar program in Louisiana was overturned by the federal courts in 1980 -- <u>Louisiana Dairy Stabilization Board v. Dairy Fresh Corp., et all.</u>, 631 F.2d 67 (5th Cir. 1980), <u>aff'd without opinion</u> 454 U.S. 884 (1981). Kansas cannot validly pass legislation which restricts distant access to its markets for the local protection of dairy farmers in Kansas.

(continued)

The Commerce Clause of the United States Constitution grants Congress the authority to regulate commerce among the individual states, and also directly limits the power of individual states to discriminate against interstate commerce. Under the "negative" aspect of the Commerce Clause, states may not enact regulations that discriminate against interstate commerce by providing a direct commercial advantage to local businesses. Many state taxes have been struck down by the United States Supreme Court and lower courts under this doctrine as unconstitutional violations of the Commerce Clause.

The Kansas bill appears to create precisely the economic protectionism prohibited by the Commerce Clause. A processor or manufacturer would be able to buy milk from a Kansas farmer at a given price, knowing that the Kansas farmer will actually get a higher price through payments, by others, from the dairy stabilization fund. An out-of-state farmer would be at a competitve disadvantage. The processor would not be willing to pay that out-of-state farmer a higher price than the Kansas farmers; but unlike the Kansas farmer, the out-of-state farmer would not get any price enhancement from the stabilization fund. The combination of the milk tax and subsidization of Kansas dairy farmers will create a direct commercial advantage to Kansas dairy farmers and harm out-of-state farmers while also harming all processors and manufacturers. Such a program runs directly afoul of the United States Supreme Court's pronouncement in Baldwin v. G.A.F. Seelig. Inc., 294 U.S. 511 (1935) striking down New York's mandatory milk price level.

Since the law cannot work with an unconstitutional restriction on the movement of fluid milk or dairy products, it should not be enacted at all. We need constructive and thoughtful solutions to issues affecting the entire dairy industry, not proposals which merely promise results to farmers and then fail to deliver because of legal deficiences.

We would be happy to work with you to reach such solutions which benefit dairy farmers, consumers and processors alike.

SENATE COMMITTEE ON AGRICULTURE

House Bill 3046

March 23, 1992

Mr. Chairman, Members of the Senate 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.

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

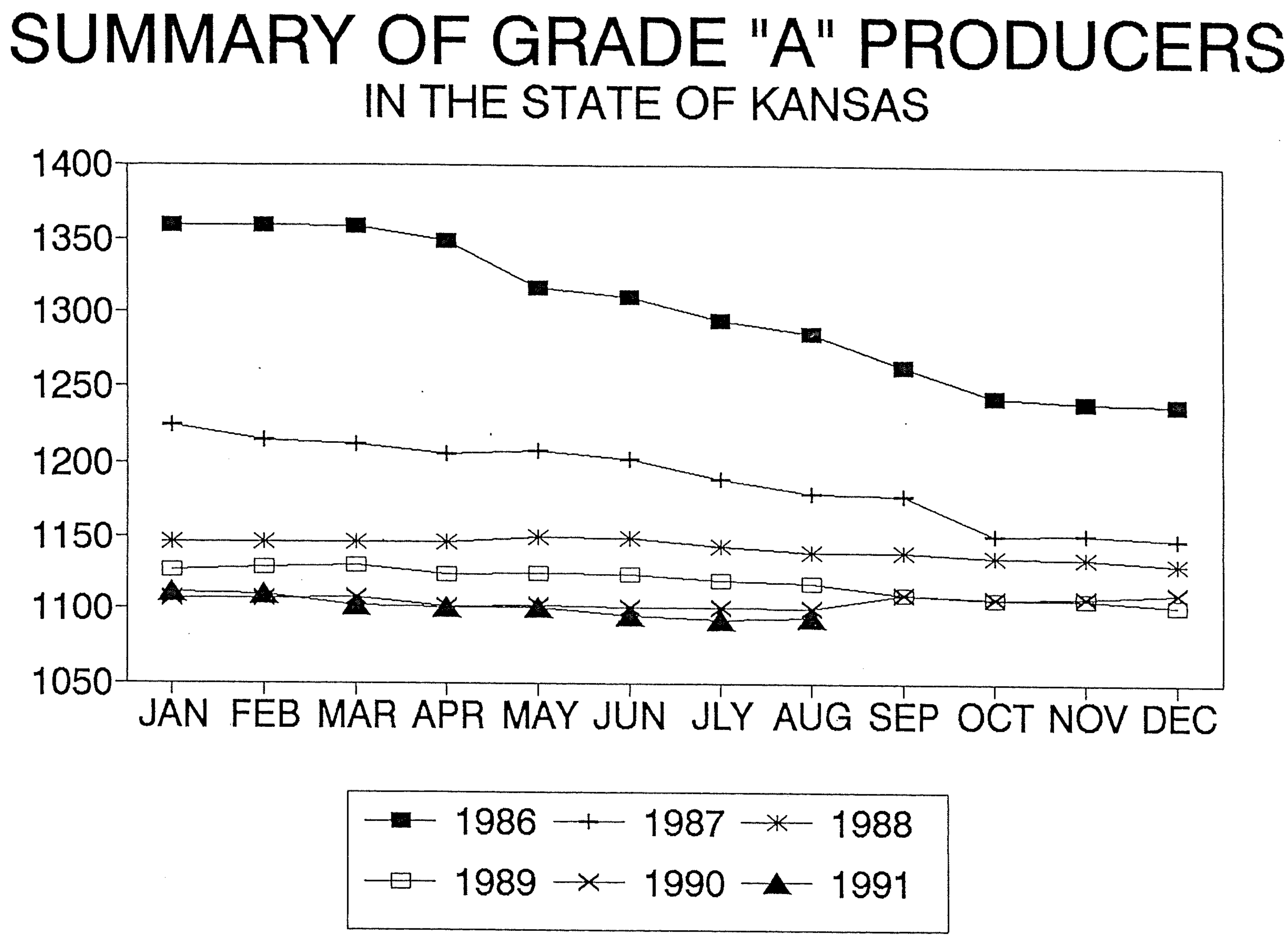
Senate Agriculture
3-23-92
Attachment 8

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.

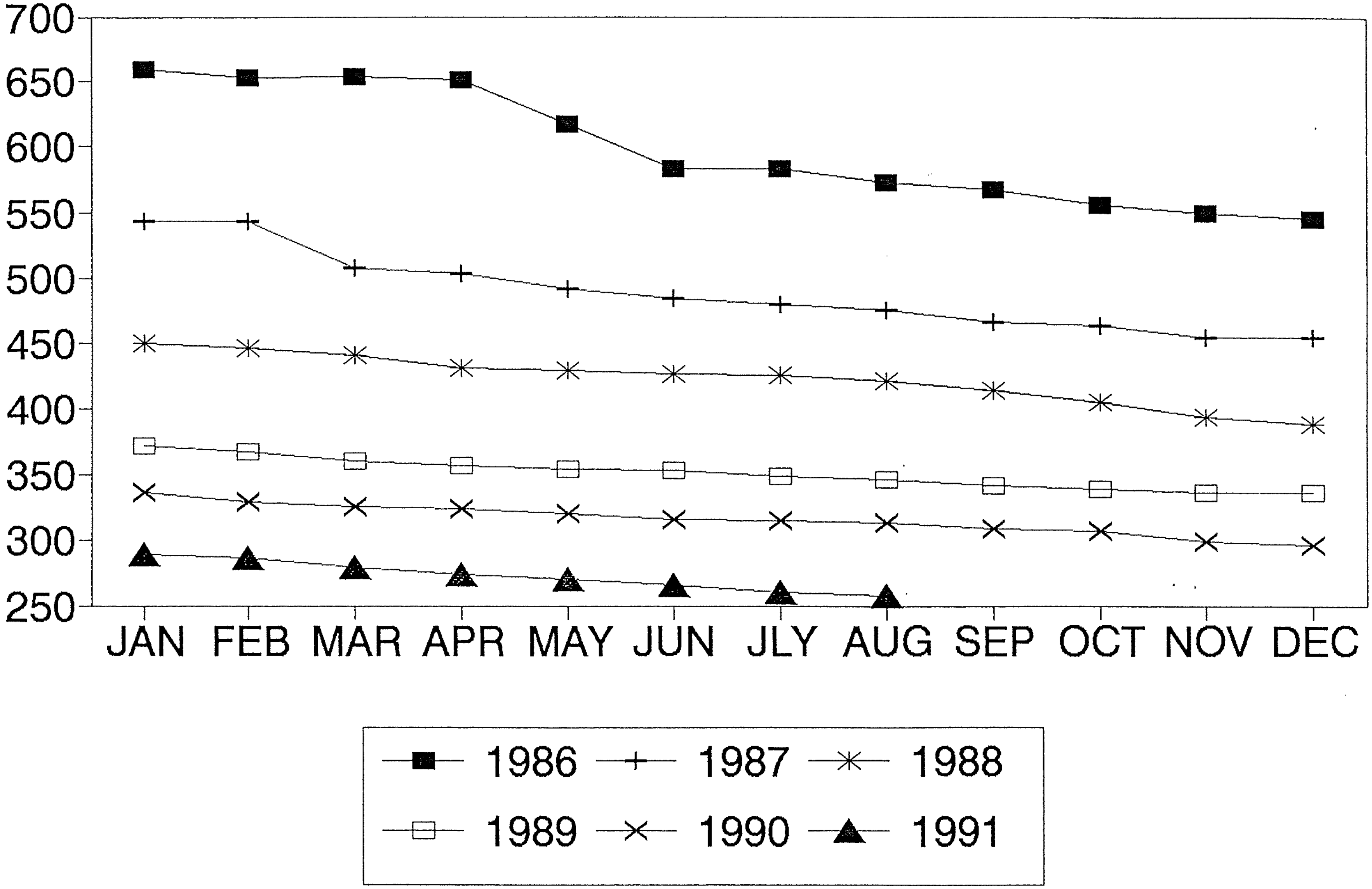
This concludes our presentation. Mel Brose, our Dairy Commissioner, and I stand for questions.

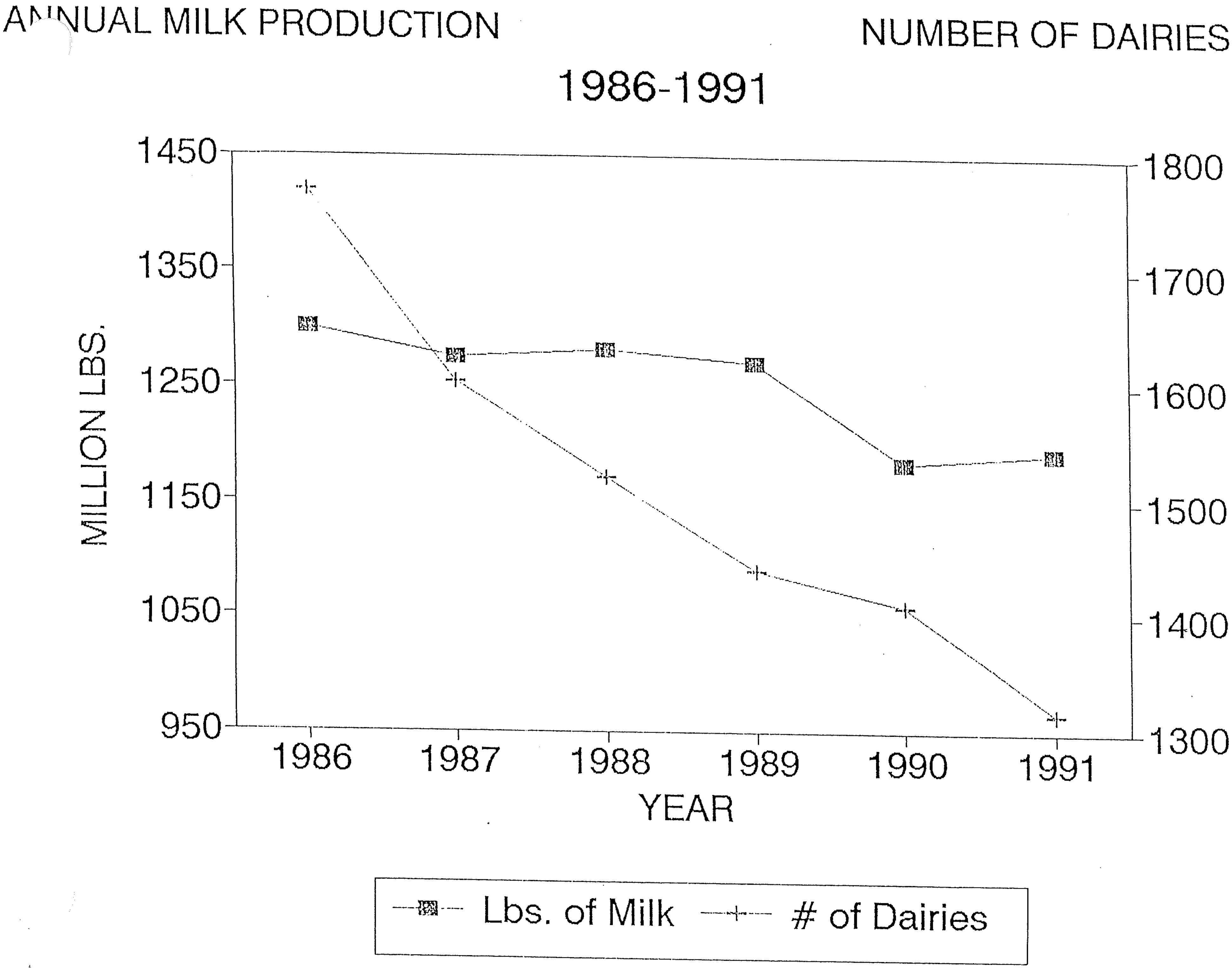

SUMMARY OF GRADE "A" PRODUCERS
IN THE STATE OF KANSAS
1400
1350
1300
1250
1200
1150
1100
1050
JAN
FEB
MAR
APR
MAY
JUN
JLY
AUG
SEP
OCT
NOV
DEC
1986
1987
1988
1989
1990
1991

8-3

MANUFACTURING GRADE PRODUCERS

Dairy Farms in Kansas




ANNUAL MILK PRODUCTION
NUMBER OF DAIRIES
1986-1991
MILLION LBS.
1450
1350
1250
1150
1050
950
1800
1700
1600
1500
1400
1300
1986
1987
1988
1989
1990
1991
YEAR
Lbs. of Milk
# of Dairies

8-5

MILK PRICE COMPARISONS

KANSAS DHIA (1979 - 1992)