

Approved: Eugene H. Shore 3-8-93  
Date

MINUTES OF THE HOUSE COMMITTEE ON AGRICULTURE.

The meeting was called to order by Chairperson Eugene Shore at 9:07 a.m. on February 24, 1993 in Room 423-S of the Capitol.

All members were present except:

Committee staff present: Raney Gilliland, Legislative Research Department  
Jill Wolters, Revisor of Statutes  
Kay Johnson, Committee Secretary

Conferees appearing before the committee:

Chairman Shore called the meeting to order and explained today's meeting would be to discuss, amend and take action on **HB 2069**.

**HB 2069: Allows corporate swine production facilities to operate in Kansas.**

Representative Freeborn offered an amendment, attachment #1, to help create a level playing field by not allowing industrial revenue bonds to be issued for any swine production facility.

Chairman Shore explained this amendment does not allow any tax advantages on the production side, but does maintain the opportunity for enterprise zones for processing facilities.

Representative Freeborn made a motion to amend HB 2069 as described above. Representative Kejr seconded the motion. Discussion followed.

Representative Rezac said it is unfair to allow advantages for processing facilities and he would prefer to allow tax advantages for independent producers.

Representative Lloyd stated this amendment addresses concerns raised about granting privileges to new producers and he supports the amendment.

Representative Gatlin said the amendment does not exclude issuing revenue bonds for individuals or farmers who want to build production facilities. Also, why would you not allow revenue bonds for a swine processing plant when any other kind of industrial plant can receive those bonds?

Representative Rezac responded it is still unfair to give a packer the tax advantage on the plant, plus owning the hogs.

Representative Neufeld said packing plants won't build in Kansas without some tax advantage. He said most opponents to this bill were against large operations and this amendment does not allow incentives for large operations, but could provide incentives for independent producers.

Representative Freeborn said producers in her district were not threatened by corporations, only by an unlevel playing field. This amendment addresses that issue. The motion carried.

Representative Reinhardt offered an amendment, attachment #2, to insert on page 4 the current definition of "processor" and to make it unlawful for any processor to own more than 50% of the hogs processed. Representative Reinhardt made a motion to include his amendment in HB 2069. Representative Correll seconded the motion. Discussion followed.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON AGRICULTURE, Room 423-S Statehouse, at 9:07 a.m. on February 24, 1993.

Representative Rezac expressed concern over enforcement of this amendment and he thought 20% would be more realistic.

Representative Gatlin also was concerned about using 50%, but thought it was a good start.

Representative Lloyd, using Farmland as an example, said 50% may not be high enough down the road, but he supports the amendment.

Representative Freeborn said people in her district were satisfied with 75%.

Representative Reinhardt clarified that this amendment only applies to processing plants located in Kansas.

The motion carried.

Representative Neufeld offered a county option amendment, attachment #3, to allow voters to approve the establishment of a swine production facility, either by County Commissioners placing it on the ballot or by voter petition. Chairman Shore explained the Governor supports this amendment.

Representative Reinhardt said you will lose control with this amendment.

Representative Swall doesn't feel this amendment addresses any relevant issue.

Representative Lawrence explained this wouldn't affect independent producers.

Representative Rezac said this would allow the concentration of hogs into the county(ies) that allowed corporate operations and he opposes the local option.

Representative Gatlin said this amendment allows regional differences on an issue to be maintained.

Representative Lawrence reminded committee members not to confuse large operations with corporate operations. This amendment will not prohibit large, non-corporate operations and he believes there will be some large, non-corporate operations in Kansas.

Representative Alldritt said he does not support the amendment as written, but would if the vote was solely at the request of voters.

After a voice vote, division was called. The motion carried 13-7.

Representative Neufeld offered an amendment, attachment #4, to limit a producer from owning more than 12% of the total hog production in the state. It would only affect producers located in Kansas.

Representative Rutledge said the amendment is consistent with banking practices and he supports the amendment.

Jill Wolters, Revisor of Statutes, clarified this amendment applies to producers and a previous amendment passed today applied to processors.

Representative Neufeld made a motion to amend **HB 2069** to include the above described amendment. Representative Alldritt seconded the amendment. The motion carried.

Jill Wolters explained an amendment, attachments #5 and #6, offered by Representative Lawrence which authorizes the marketing division of the State Board of Agriculture to establish models of alternative marketing concepts for independent hog producers. This would be accomplished through grants from the State Board of Agriculture. Chairman Shore explained that North Carolina has done something similar to this for their independent producers. Representative Gatlin made a motion to add this amendment to **HB 2069**. Representative Freeborn seconded the motion. Discussion followed.

Representative Neufeld reminded committee members that this amendment does not replace the current efforts that pork producers and the State Board of Agriculture have with the federal marketing service.

## CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON AGRICULTURE, Room 423-S Statehouse, at 9:07 a.m. on February 24, 1993.

Representative Rezac said there are already several marketing tools available and he feels there is no guarantee this would not turn into subsidized order buying.

Representative Lawrence said the amendment was to offer incentives for independent producers to group market.

The motion carried.

Chairman Shore asked if there were further amendments. There were none. Representative Freeborn made a motion to pass HB 2069 favorably as amended. Representative Bryant seconded the motion. Discussion followed.

Representative Rutledge stated that the amendments made the bill more palatable, but he would still vote against it.

Representative Rezac discussed a survey conducted by WIBW, attachment #7, showing a majority of producers, 54%, are opposed to this bill and he will vote against it.

Representative Alldritt said he will oppose the bill because even with all the information provided during the hearings, he still doesn't know what this bill will mean for Kansas.

Representative McClure said she is not convinced that corporate operations will turn around the market share in Kansas and she will oppose the bill.

Representative Bryant said he has been studying this issue for eight years and he agrees it is difficult to know the full impact on the state, but he will support the bill because at least Kansas won't be driving hogs out-of-state.

Representative Lawrence said the current status quo is not working and that small producers will suffer more without this bill, so he will support it.

Representative Swall said he will oppose the bill because it has not been clarified how it fits positively into the long-range economic development of Kansas. Also, it would increase the control large corporations have over the food chain.

Representative Goodwin said her district has spoken very clearly on this issue, so she will oppose it.

Representative Lloyd said he has studied this issue for ten years and he feels you cannot isolate Kansas from the economic forces that are driving the swine industry. Also, it is important to remember that farming should be treated as a business. He will support the bill.

Representative Rezac said you can only concentrate livestock so thick and he doesn't believe in the inevitability of corporations coming to Kansas. Also, there are already some contract options with operations like Seaboard.

Chairman Shore said that 20 years ago Kansas was in the same situation with beef production, today Kansas is #1 in beef production. A tough decision was made then and there is a tough decision to be made today. Citing the example of a potential feed processing plant, Chairman Shore discussed how other businesses will surround a packing plant. There will be expanded hog production, hopefully in Kansas and not in other states.

After a voice vote, division was called. The motion failed 9-10.

The meeting adjourned at 10:25am. The next meeting is scheduled for February 25, 1993.

HOUSE BILL No. 2069

By Committee on Agriculture

1-20

8 AN ACT concerning agricultural corporations; relating to swine pro-
9 duction facilities; amending K.S.A. 79-250 and K.S.A. 1992 Supp.
10 17-5903, 17-5904 and 79-32,154 and repealing the existing sec-
11 tions; also repealing K.S.A. 12-1749b, 17-5905 and 17-5906.

12-1749b and

House AGRICULTURE
2-24-93
ATTACHMENT #1

13 Be it enacted by the Legislature of the State of Kansas:

14 ~~Section 1.~~ K.S.A. 1992 Supp. 17-5903 is hereby amended to read
15 as follows: 17-5903. As used in this act:

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

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

21 (c) "Limited partnership" has the meaning provided by K.S.A.
22 56-1a01, and amendments thereto.

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

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

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

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

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

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

Section 1. K.S.A. 12-1749b is hereby amended to read as follows: 12-1749b. No revenue bonds shall be issued under authority of K.S.A. 12-1740 to 12-1749a, inclusive, and amendments thereto, in which all or part of the proceeds of such bond issue are to be used to purchase, acquire, construct, reconstruct, improve, equip, furnish, repair, enlarge or remodel property for any swine confinement production facility on agricultural land which is owned, acquired, obtained or leased by a corporation. As used in this section, "corporation," "agricultural land" and "swine confinement production facility" have the meanings respectively ascribed thereto by K.S.A. 17-5903, and amendments thereto.

Sec. 2.

Renumber remaining sections accordingly

1 operation of the feedlot.

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

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

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

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

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

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

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

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

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

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

42 (3) at least 30% of the stockholders are persons residing on the  
43 farm or actively engaged in the day-to-day labor or management of

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

35 (t) (s) "Limited liability company" has the meaning provided by  
36 K.S.A. 1992 Supp. 17-7602, and amendments thereto.

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

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

41 (2) the members are all natural persons, persons acting in a  
42 fiduciary capacity for the benefit of natural persons or nonprofit  
43 corporations, or general partnerships other than corporate partner-

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1 ships formed under the laws of the state of Kansas; and  
2 (3) at least one of the members is a person residing on the farm  
3 or actively engaged in the labor or management of the farming  
4 operation. If only one member is meeting the requirement of this  
5 provision and such member dies, the requirement of this provision  
6 does not apply for the period of time that the member's estate is  
7 being administered in any district court in Kansas.

8 Sec. 2. K.S.A. 1992 Supp. 17-5904 is hereby amended to read  
9 as follows: 17-5904. (a) No corporation, trust, limited liability com-  
10 pany, limited partnership or corporate partnership, other than a  
11 family farm corporation, authorized farm corporation, limited liability  
12 agricultural company, limited agricultural partnership, family trust,  
13 authorized trust or testamentary trust shall, either directly or in-  
14 directly, own, acquire or otherwise obtain or lease any agricultural  
15 land in this state. The restrictions provided in this section do not  
16 apply to the following:

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

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

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

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

38 (5) A municipal corporation.

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

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

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

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

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

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

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

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

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

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

42 (b) ~~Except as provided for in K.S.A. 17-5905, and amend-~~  
 43 ~~ments thereto,~~ Production contracts entered into by a corporation,

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1 trust, limited liability company, limited partnership or corporate  
2 partnership and a person engaged in farming for the production of  
3 agricultural products shall not be construed to mean the ownership,  
4 acquisition, obtainment or lease, either directly or indirectly, of any  
5 agricultural land in this state.

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

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

22 Sec. 3. K.S.A. 79-250 is hereby amended to read as follows: 79-  
23 250. No city or county may grant any exemption from ad valorem  
24 taxation under section 13 of article 11 of the Constitution of the state  
25 of Kansas for all or any portion of the appraised valuation of all or  
26 any part of the buildings, improvements, tangible personal property  
27 and land of any poultry confinement facility, ~~or~~ rabbit confinement  
28 facility ~~or swine confinement facility~~ which is on agricultural land  
29 and which is owned or operated by a corporation. As used in this  
30 section, "corporation," "agricultural land," "poultry confinement fa-  
31 cility," ~~and "rabbit confinement facility" and "swine confinement~~  
32 ~~facility"~~ have the meanings respectively ascribed thereto by K.S.A.  
33 17-5903, and amendments thereto.

34 Sec. 4. K.S.A. 1992 Supp. 79-32,154 is hereby amended to read  
35 as follows: 79-32,154. As used in this act, the following words and  
36 phrases shall have the meanings respectively ascribed to them herein:  
37 (a) "Facility" shall mean any factory, mill, plant, refinery, warehouse,  
38 feedlot, building or complex of buildings located within the state,  
39 including the land on which such facility is located and all machinery,  
40 equipment and other real and tangible personal property located at  
41 or within such facility used in connection with the operation of such  
42 facility. The word "building" shall include only structures within  
43 which individuals are customarily employed or which are customarily

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[ ' ]  
[ or swine production facility ]  
[ ' ]  
[ and swine production facility ]

1 used to house machinery, equipment or other property.

2 (b) "Qualified business facility" shall mean a facility which satisfies  
3 the requirements of paragraphs (1) and (2) of this subsection.

4 (1) Such facility is employed by the taxpayer in the operation of  
5 a revenue producing enterprise, as defined in subsection (c). Such  
6 facility shall not be considered a qualified business facility in the  
7 hands of the taxpayer if the taxpayer's only activity with respect to  
8 such facility is to lease it to another person or persons. If the taxpayer  
9 employs only a portion of such facility in the operation of a revenue  
10 producing enterprise, and leases another portion of such facility to  
11 another person or persons or does not otherwise use such other  
12 portions in the operation of a revenue producing enterprise, the  
13 portion employed by the taxpayer in the operation of a revenue  
14 producing enterprise shall be considered a qualified business facility,  
15 if the requirements of paragraph (2) of this subsection are satisfied.

16 (2) If such facility was acquired by the taxpayer from another  
17 person or persons, such facility was not employed, immediately prior  
18 to the transfer of title to such facility to the taxpayer, or to the  
19 commencement of the term of the lease of such facility to the tax-  
20 payer, by any other person or persons in the operation of a revenue  
21 producing enterprise and the taxpayer continues the operation of the  
22 same or substantially identical revenue producing enterprise, as de-  
23 fined in subsection (i), at such facility.

24 (c) "Revenue producing enterprise" shall mean: (1) The assembly,  
25 fabrication, manufacture or processing of any agricultural, mineral  
26 or manufactured product;

27 (2) the storage, warehousing, distribution or sale of any products  
28 of agriculture, aquaculture, mining or manufacturing;

29 (3) the feeding of livestock at a feedlot;

30 (4) the operation of laboratories or other facilities for scientific,  
31 agricultural, aquacultural, animal husbandry or industrial research,  
32 development or testing;

33 (5) the performance of services of any type;

34 (6) the feeding of aquatic plants and animals at an aquaculture  
35 operation;

36 (7) the administrative management of any of the foregoing activ-  
37 ities; or

38 (8) any combination of any of the foregoing activities.

39 ~~"Revenue producing enterprise" shall not mean a swine con-~~  
40 ~~finement facility as defined in K.S.A. 17-5903, and amendments~~  
41 ~~thereto.~~

42 (d) "Qualified business facility employee" shall mean a person  
43 employed by the taxpayer in the operation of a qualified business

"Revenue producing enterprise" shall not mean a swine production facility as defined in K.S.A. 17-5903, and amendments thereto.

1 facility during the taxable year for which the credit allowed by K.S.A.  
2 79-32,153, and amendments thereto, is claimed. A person shall be  
3 deemed to be so engaged if such person performs duties in con-  
4 nection with the operation of the qualified business facility on: (1)  
5 A regular, full-time basis; (2) a part-time basis, provided such person  
6 is customarily performing such duties at least 20 hours per week  
7 throughout the taxable year; or (3) a seasonal basis, provided such  
8 person performs such duties for substantially all of the season cus-  
9 tomary for the position in which such person is employed. The  
10 number of qualified business facility employees during any taxable  
11 year shall be determined by dividing by 12 the sum of the number  
12 of qualified business facility employees on the last business day of  
13 each month of such taxable year. If the qualified business facility is  
14 in operation for less than the entire taxable year, the number of  
15 qualified business facility employees shall be determined by dividing  
16 the sum of the number of qualified business facility employees on  
17 the last business day of each full calendar month during the portion  
18 of such taxable year during which the qualified business facility was  
19 in operation by the number of full calendar months during such  
20 period. Notwithstanding the provisions of this subsection, for the  
21 purpose of computing the credit allowed by K.S.A. 79-32,153, and  
22 amendments thereto, in the case of an investment in a qualified  
23 business facility, which facility existed and was operated by the  
24 taxpayer or related taxpayer prior to such investment, the number  
25 of qualified business facility employees employed in the operation  
26 of such facility shall be reduced by the average number, computed  
27 as provided in this subsection, of individuals employed in the op-  
28 eration of the facility during the taxable year preceding the taxable  
29 year in which the qualified business facility investment was made at  
30 the facility.

31 (e) "Qualified business facility investment" shall mean the value  
32 of the real and tangible personal property, except inventory or prop-  
33 erty held for sale to customers in the ordinary course of the taxpayer's  
34 business, which constitutes the qualified business facility, or which  
35 is used by the taxpayer in the operation of the qualified business  
36 facility, during the taxable year for which the credit allowed by  
37 K.S.A. 79-32,153, and amendments thereto, is claimed. The value  
38 of such property during such taxable year shall be: (1) Its original  
39 cost if owned by the taxpayer; or (2) eight times the net annual  
40 rental rate, if leased by the taxpayer. The net annual rental rate  
41 shall be the annual rental rate paid by the taxpayer less any annual  
42 rental rate received by the taxpayer from subrentals. The qualified  
43 business facility investment shall be determined by dividing by 12

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1 the sum of the total value of such property on the last business day  
2 of each calendar month of the taxable year. If the qualified business  
3 facility is in operation for less than an entire taxable year, the qual-  
4 ified business facility investment shall be determined by dividing  
5 the sum of the total value of such property on the last business day  
6 of each full calendar month during the portion of such taxable year  
7 during which the qualified business facility was in operation by the  
8 number of full calendar months during such period. Notwithstanding  
9 the provisions of this subsection, for the purpose of computing the  
10 credit allowed by K.S.A. 79-32,153, and amendments thereto, in the  
11 case of an investment in a qualified business facility, which facility  
12 existed and was operated by the taxpayer or related taxpayer prior  
13 to such investment the amount of the taxpayer's qualified business  
14 facility investment in such facility shall be reduced by the average  
15 amount, computed as provided in this subsection, of the investment  
16 of the taxpayer or a related taxpayer in the facility for the taxable  
17 year preceding the taxable year in which the qualified business fa-  
18 cility investment was made at the facility.

19 (f) "Commencement of commercial operations" shall be deemed  
20 to occur during the first taxable year for which the qualified business  
21 facility is first available for use by the taxpayer, or first capable of  
22 being used by the taxpayer, in the revenue producing enterprise in  
23 which the taxpayer intends to use the qualified business facility.

24 (g) "Qualified business facility income" shall mean the Kansas  
25 taxable income, as defined in article 32 of chapter 79 of the Kansas  
26 Statutes Annotated and amendments thereto, derived by the taxpayer  
27 from the operation of the qualified business facility. If a taxpayer  
28 has income derived from the operation of a qualified business facility  
29 as well as from other activities conducted within this state, the Kansas  
30 taxable income derived by the taxpayer from the operation of the  
31 qualified business facility shall be determined by multiplying the  
32 taxpayer's Kansas taxable income, computed in accordance with ar-  
33 ticle 32 of chapter 79 of the Kansas Statutes Annotated and amend-  
34 ments thereto, by a fraction, the numerator of which is the property  
35 factor, as defined in paragraph (1), plus the payroll factor, as defined  
36 in paragraph (2), and the denominator of which is two.

37 (1) The property factor is a fraction, the numerator of which is  
38 the average value of the taxpayer's real and tangible personal prop-  
39 erty owned or rented and used in connection with the operation of  
40 the qualified business facility during the tax period, and the denom-  
41 inator of which is the average value of all the taxpayer's real and  
42 tangible personal property owned or rented and used in this state  
43 during the tax period. The average value of all such property shall

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1 be determined as provided in K.S.A. 79-3281 and 79-3282, and  
2 amendments thereto.

3 (2) The payroll factor is a fraction, the numerator of which is the  
4 total amount paid during the tax period by the taxpayer for com-  
5 pensation to persons qualifying as qualified business facility em-  
6 ployees, as determined under subsection (d), at the qualified business  
7 facility, and the denominator of which is the total amount paid in  
8 this state during the tax period by the taxpayer for compensation.  
9 The compensation paid in this state shall be determined as provided  
10 in K.S.A. 79-3283, and amendments thereto.

11 The formula set forth in this subsection (g) shall not be used for  
12 any purpose other than determining the qualified business facility  
13 income attributable to a qualified business facility.

14 (h) "Related taxpayer" shall mean (1) a corporation, partnership,  
15 trust or association controlled by the taxpayer; (2) an individual,  
16 corporation, partnership, trust or association in control of the tax-  
17 payer; or (3) a corporation, partnership, trust or association controlled  
18 by an individual, corporation, partnership, trust or association in  
19 control of the taxpayer. For the purposes of this act, "control of a  
20 corporation" shall mean ownership, directly or indirectly, of stock  
21 possessing at least 80% of the total combined voting power of all  
22 classes of stock entitled to vote and at least 80% of all other classes  
23 of stock of the corporation; "control of a partnership or association"  
24 shall mean ownership of at least 80% of the capital or profits interest  
25 in such partnership or association; and "control of a trust" shall mean  
26 ownership, directly or indirectly, of at least 80% of the beneficial  
27 interest in the principal or income of such trust.

28 (i) "Same or substantially identical revenue producing enterprise"  
29 shall mean a revenue producing enterprise in which the products  
30 produced or sold, services performed or activities conducted are the  
31 same in character and use, are produced, sold, performed or con-  
32 ducted in the same manner and to or for the same type of customers  
33 as the products, services or activities produced, sold, performed or  
34 conducted in another revenue producing enterprise.

35 Sec. 5. K.S.A. 12-1749b, 17-5905, 17-5906 and 79-250 and  
36 K.S.A. 1992 Supp. 17-5903, 17-5904 and 79-32,154 are hereby  
37 repealed.

38 Sec. 6. This act shall take effect and be in force from and after  
39 its publication in the statute book.

# HOUSE BILL No. 2069

By Committee on Agriculture

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Reinhardt

House AGRICULTURE  
2-24-93  
ATTACHMENT #2

8 AN ACT concerning agricultural corporations; relating to swine pro-  
9 duction facilities; amending K.S.A. 79-250 and K.S.A. 1992 Supp.  
10 17-5903, 17-5904 and 79-32,154 and repealing the existing sec-  
11 tions; also repealing K.S.A. 12-1749b, 17-5905 and 17-5906.  
12

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

14 Section 1. K.S.A. 1992 Supp. 17-5903 is hereby amended to read  
15 as follows: 17-5903. As used in this act:

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

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

21 (c) "Limited partnership" has the meaning provided by K.S.A.  
22 56-1a01, and amendments thereto.

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

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

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

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

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

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

1 operation of the feedlot.

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

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

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

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

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

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

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

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

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

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

42 (3) at least 30% of the stockholders are persons residing on the  
43 farm or actively engaged in the day-to-day labor or management of



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(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.

(t)

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

(s) "Producer" means a person, firm, corporation, limited liability company or limited partnership, which alone or in conjunction with others, directly or indirectly owns swine.

producer

(u)

35 (t) ~~(s)~~ "Limited liability company" has the meaning provided by  
36 K.S.A. 1992 Supp. 17-7602, and amendments thereto.

(v)

37 (u) ~~(t)~~ "Limited liability agricultural company" means a limited  
38 liability company founded for the purpose of farming and ownership  
39 of agricultural land in which:

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

1 ships formed under the laws of the state of Kansas; and

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

8 Sec. 2. K.S.A. 1992 Supp. 17-5904 is hereby amended to read  
9 as follows: 17-5904. (a) No corporation, trust, limited liability com-  
10 pany, limited partnership or corporate partnership, other than a  
11 family farm corporation, authorized farm corporation, limited liability  
12 agricultural company, limited agricultural partnership, family trust,  
13 authorized trust or testamentary trust shall, either directly or in-  
14 directly, own, acquire or otherwise obtain or lease any agricultural  
15 land in this state. The restrictions provided in this section do not  
16 apply to the following:

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

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

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

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

38 (5) A municipal corporation.

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

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

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

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

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

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

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

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

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

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

42 (b) ~~Except as provided for in K.S.A. 17-5905, and amend-~~  
43 ~~ments thereto,~~ Production contracts entered into by a corporation,

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1 trust, limited liability company, limited partnership or corporate  
2 partnership and a person engaged in farming for the production of  
3 agricultural products shall not be construed to mean the ownership,  
4 acquisition, obtainment or lease, either directly or indirectly, of any  
5 agricultural land in this state.

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

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

22 Sec. 3. K.S.A. 79-250 is hereby amended to read as follows: 79-  
23 250. No city or county may grant any exemption from ad valorem  
24 taxation under section 13 of article 11 of the Constitution of the state  
25 of Kansas for all or any portion of the appraised valuation of all or  
26 any part of the buildings, improvements, tangible personal property  
27 and land of any poultry confinement facility; or rabbit confinement  
28 facility or ~~swine confinement facility~~ which is on agricultural land  
29 and which is owned or operated by a corporation. As used in this  
30 section, "corporation," "agricultural land," "poultry confinement fa-  
31 cility;" and "rabbit confinement facility" and "~~swine confinement~~  
32 ~~facility~~" have the meanings respectively ascribed thereto by K.S.A.  
33 17-5903, and amendments thereto.

34 Sec. 4. K.S.A. 1992 Supp. 79-32,154 is hereby amended to read  
35 as follows: 79-32,154. As used in this act, the following words and  
36 phrases shall have the meanings respectively ascribed to them herein:  
37 (a) "Facility" shall mean any factory, mill, plant, refinery, warehouse,  
38 feedlot, building or complex of buildings located within the state,  
39 including the land on which such facility is located and all machinery,  
40 equipment and other real and tangible personal property located at  
41 or within such facility used in connection with the operation of such  
42 facility. The word "building" shall include only structures within  
43 which individuals are customarily employed or which are customarily

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1 used to house machinery, equipment or other property.

2 (b) "Qualified business facility" shall mean a facility which satisfies  
3 the requirements of paragraphs (1) and (2) of this subsection.

4 (1) Such facility is employed by the taxpayer in the operation of  
5 a revenue producing enterprise, as defined in subsection (c). Such  
6 facility shall not be considered a qualified business facility in the  
7 hands of the taxpayer if the taxpayer's only activity with respect to  
8 such facility is to lease it to another person or persons. If the taxpayer  
9 employs only a portion of such facility in the operation of a revenue  
10 producing enterprise, and leases another portion of such facility to  
11 another person or persons or does not otherwise use such other  
12 portions in the operation of a revenue producing enterprise, the  
13 portion employed by the taxpayer in the operation of a revenue  
14 producing enterprise shall be considered a qualified business facility,  
15 if the requirements of paragraph (2) of this subsection are satisfied.

16 (2) If such facility was acquired by the taxpayer from another  
17 person or persons, such facility was not employed, immediately prior  
18 to the transfer of title to such facility to the taxpayer, or to the  
19 commencement of the term of the lease of such facility to the tax-  
20 payer, by any other person or persons in the operation of a revenue  
21 producing enterprise and the taxpayer continues the operation of the  
22 same or substantially identical revenue producing enterprise, as de-  
23 fined in subsection (i), at such facility.

24 (c) "Revenue producing enterprise" shall mean: (1) The assembly,  
25 fabrication, manufacture or processing of any agricultural, mineral  
26 or manufactured product;

27 (2) the storage, warehousing, distribution or sale of any products  
28 of agriculture, aquaculture, mining or manufacturing;

29 (3) the feeding of livestock at a feedlot;

30 (4) the operation of laboratories or other facilities for scientific,  
31 agricultural, aquacultural, animal husbandry or industrial research,  
32 development or testing;

33 (5) the performance of services of any type;

34 (6) the feeding of aquatic plants and animals at an aquaculture  
35 operation;

36 (7) the administrative management of any of the foregoing activ-  
37 ities; or

38 (8) any combination of any of the foregoing activities.

39 "Revenue producing enterprise" shall not mean a swine con-  
40 finement facility as defined in K.S.A. 17-5903, and amendments  
41 thereto.

42 (d) "Qualified business facility employee" shall mean a person  
43 employed by the taxpayer in the operation of a qualified business

1 facility during the taxable year for which the credit allowed by K.S.A.  
2 79-32,153, and amendments thereto, is claimed. A person shall be  
3 deemed to be so engaged if such person performs duties in con-  
4 nection with the operation of the qualified business facility on: (1)  
5 A regular, full-time basis; (2) a part-time basis, provided such person  
6 is customarily performing such duties at least 20 hours per week  
7 throughout the taxable year; or (3) a seasonal basis, provided such  
8 person performs such duties for substantially all of the season cus-  
9 tomary for the position in which such person is employed. The  
10 number of qualified business facility employees during any taxable  
11 year shall be determined by dividing by 12 the sum of the number  
12 of qualified business facility employees on the last business day of  
13 each month of such taxable year. If the qualified business facility is  
14 in operation for less than the entire taxable year, the number of  
15 qualified business facility employees shall be determined by dividing  
16 the sum of the number of qualified business facility employees on  
17 the last business day of each full calendar month during the portion  
18 of such taxable year during which the qualified business facility was  
19 in operation by the number of full calendar months during such  
20 period. Notwithstanding the provisions of this subsection, for the  
21 purpose of computing the credit allowed by K.S.A. 79-32,153, and  
22 amendments thereto, in the case of an investment in a qualified  
23 business facility, which facility existed and was operated by the  
24 taxpayer or related taxpayer prior to such investment, the number  
25 of qualified business facility employees employed in the operation  
26 of such facility shall be reduced by the average number, computed  
27 as provided in this subsection, of individuals employed in the op-  
28 eration of the facility during the taxable year preceding the taxable  
29 year in which the qualified business facility investment was made at  
30 the facility.

31 (e) "Qualified business facility investment" shall mean the value  
32 of the real and tangible personal property, except inventory or prop-  
33 erty held for sale to customers in the ordinary course of the taxpayer's  
34 business, which constitutes the qualified business facility, or which  
35 is used by the taxpayer in the operation of the qualified business  
36 facility, during the taxable year for which the credit allowed by  
37 K.S.A. 79-32,153, and amendments thereto, is claimed. The value  
38 of such property during such taxable year shall be: (1) Its original  
39 cost if owned by the taxpayer; or (2) eight times the net annual  
40 rental rate, if leased by the taxpayer. The net annual rental rate  
41 shall be the annual rental rate paid by the taxpayer less any annual  
42 rental rate received by the taxpayer from subrentals. The qualified  
43 business facility investment shall be determined by dividing by 12

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1 the sum of the total value of such property on the last business day  
2 of each calendar month of the taxable year. If the qualified business  
3 facility is in operation for less than an entire taxable year, the qual-  
4 ified business facility investment shall be determined by dividing  
5 the sum of the total value of such property on the last business day  
6 of each full calendar month during the portion of such taxable year  
7 during which the qualified business facility was in operation by the  
8 number of full calendar months during such period. Notwithstanding  
9 the provisions of this subsection, for the purpose of computing the  
10 credit allowed by K.S.A. 79-32,153, and amendments thereto, in the  
11 case of an investment in a qualified business facility, which facility  
12 existed and was operated by the taxpayer or related taxpayer prior  
13 to such investment the amount of the taxpayer's qualified business  
14 facility investment in such facility shall be reduced by the average  
15 amount, computed as provided in this subsection, of the investment  
16 of the taxpayer or a related taxpayer in the facility for the taxable  
17 year preceding the taxable year in which the qualified business fa-  
18 cility investment was made at the facility.

19 (f) "Commencement of commercial operations" shall be deemed  
20 to occur during the first taxable year for which the qualified business  
21 facility is first available for use by the taxpayer, or first capable of  
22 being used by the taxpayer, in the revenue producing enterprise in  
23 which the taxpayer intends to use the qualified business facility.

24 (g) "Qualified business facility income" shall mean the Kansas  
25 taxable income, as defined in article 32 of chapter 79 of the Kansas  
26 Statutes Annotated and amendments thereto, derived by the taxpayer  
27 from the operation of the qualified business facility. If a taxpayer  
28 has income derived from the operation of a qualified business facility  
29 as well as from other activities conducted within this state, the Kansas  
30 taxable income derived by the taxpayer from the operation of the  
31 qualified business facility shall be determined by multiplying the  
32 taxpayer's Kansas taxable income, computed in accordance with ar-  
33 ticle 32 of chapter 79 of the Kansas Statutes Annotated and amend-  
34 ments thereto, by a fraction, the numerator of which is the property  
35 factor, as defined in paragraph (1), plus the payroll factor, as defined  
36 in paragraph (2), and the denominator of which is two.

37 (1) The property factor is a fraction, the numerator of which is  
38 the average value of the taxpayer's real and tangible personal prop-  
39 erty owned or rented and used in connection with the operation of  
40 the qualified business facility during the tax period, and the denom-  
41 inator of which is the average value of all the taxpayer's real and  
42 tangible personal property owned or rented and used in this state  
43 during the tax period. The average value of all such property shall

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1 be determined as provided in K.S.A. 79-3281 and 79-3282, and  
2 amendments thereto.

3 (2) The payroll factor is a fraction, the numerator of which is the  
4 total amount paid during the tax period by the taxpayer for com-  
5 pensation to persons qualifying as qualified business facility em-  
6 ployees, as determined under subsection (d), at the qualified business  
7 facility, and the denominator of which is the total amount paid in  
8 this state during the tax period by the taxpayer for compensation.  
The compensation paid in this state shall be determined as provided  
in K.S.A. 79-3283, and amendments thereto.

11 The formula set forth in this subsection (g) shall not be used for  
12 any purpose other than determining the qualified business facility  
13 income attributable to a qualified business facility.

14 (h) "Related taxpayer" shall mean (1) a corporation, partnership,  
15 trust or association controlled by the taxpayer; (2) an individual,  
16 corporation, partnership, trust or association in control of the tax-  
17 payer, or (3) a corporation, partnership, trust or association controlled  
18 by an individual, corporation, partnership, trust or association in  
19 control of the taxpayer. For the purposes of this act, "control of a  
20 corporation" shall mean ownership, directly or indirectly, of stock  
21 possessing at least 80% of the total combined voting power of all  
22 classes of stock entitled to vote and at least 80% of all other classes  
23 of stock of the corporation, "control of a partnership or association"  
24 shall mean ownership of at least 80% of the capital or profits interest  
25 in such partnership or association; and "control of a trust" shall mean  
26 ownership, directly or indirectly, of at least 80% of the beneficial  
interest in the principal or income of such trust.

(i) "Same or substantially identical revenue producing enterprise"  
29 shall mean a revenue producing enterprise in which the products  
30 produced or sold, services performed or activities conducted are the  
31 same in character and use, are produced, sold, performed or con-  
32 ducted in the same manner and to or for the same type of customers  
33 as the products, services or activities produced, sold, performed or  
34 conducted in another revenue producing enterprise.

New Sec. 5. (a) It shall be unlawful for any processor to have an ownership interest in more than 50% of the hogs such facility manufacturers, processes or prepares in any calendar year.  
(b) This section shall be part of and supplemental to the provisions of K.S.A. 17-5902 through 17-5904, and amendments thereto.

35 ~~Sec. [5] K.S.A. 12-1749b, 17-5905, 17-5906 and 79-250 and~~  
36 ~~K.S.A. 1992 Supp. 17-5903, 17-5904 and 79-32,154 are hereby~~  
37 ~~repealed.~~

6  
7

38 Sec. [6] This act shall take effect and be in force from and after its publication in the statute book.

HOUSE BILL No. 2069

By Committee on Agriculture

1-20

BALLOON #3

HOUSE AGRICULTURE  
2-24-93  
ATTACHMENT #3

8 AN ACT concerning agricultural corporations; relating to swine pro-  
9 duction facilities; amending K.S.A. 79-250 and K.S.A. 1992 Supp.  
10 17-5903, 17-5904 and 79-32,154 and repealing the existing sec-  
11 tions; also repealing K.S.A. 12-1749b, 17-5905 and 17-5906.  
12

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

14 Section 1. K.S.A. 1992 Supp. 17-5903 is hereby amended to read  
15 as follows: 17-5903. As used in this act:

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

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

21 (c) "Limited partnership" has the meaning provided by K.S.A.  
22 56-1a01, and amendments thereto.

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

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

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

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

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

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

1 operation of the feedlot.

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

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

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

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

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

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

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

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

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

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

42 (3) at least 30% of the stockholders are persons residing on the  
43 farm or actively engaged in the day-to-day labor or management of

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

35 (t) (s) "Limited liability company" has the meaning provided by  
36 K.S.A. 1992 Supp. 17-7602, and amendments thereto.

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

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

41 (2) the members are all natural persons, persons acting in a  
42 fiduciary capacity for the benefit of natural persons or nonprofit  
43 corporations, or general partnerships other than corporate partner-

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1 ships formed under the laws of the state of Kansas; and

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

8 Sec. 2. K.S.A. 1992 Supp. 17-5904 is hereby amended to read  
9 as follows: 17-5904. (a) No corporation, trust, limited liability com-  
10 pany, limited partnership or corporate partnership, other than a  
11 family farm corporation, authorized farm corporation, limited liability  
12 agricultural company, limited agricultural partnership, family trust,  
13 authorized trust or testamentary trust shall, either directly or in-  
14 directly, own, acquire or otherwise obtain or lease any agricultural  
15 land in this state. The restrictions provided in this section do not  
16 apply to the following:

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

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

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

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

38 (5) A municipal corporation.

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

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

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

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

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

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

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

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

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

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

42 ~~(b) Except as provided for in K.S.A. 17-5905, and amend-~~  
 43 ~~ments thereto, Production contracts entered into by a corporation,~~

(15) Agricultural land held or leased by  
 a corporation or a limited liability company  
 for use as a swine production facility in any  
 county which has voted favorably pursuant to  
 section 5.

1 trust, limited liability company, limited partnership or corporate  
2 partnership and a person engaged in farming for the production of  
3 agricultural products shall not be construed to mean the ownership,  
4 acquisition, obtainment or lease, either directly or indirectly, of any  
5 agricultural land in this state.

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

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

22 Sec. 3. K.S.A. 79-250 is hereby amended to read as follows: 79-  
23 250. No city or county may grant any exemption from ad valorem  
24 taxation under section 13 of article 11 of the Constitution of the state  
25 of Kansas for all or any portion of the appraised valuation of all or  
26 any part of the buildings, improvements, tangible personal property  
27 and land of any poultry confinement facility; *or* rabbit confinement  
28 facility ~~or swine confinement facility~~ which is on agricultural land  
29 and which is owned or operated by a corporation. As used in this  
30 section, "corporation," "agricultural land," "poultry confinement fa-  
31 cility," *and* "rabbit confinement facility" ~~and "swine confinement~~  
32 ~~facility"~~ have the meanings respectively ascribed thereto by K.S.A.  
33 17-5903, and amendments thereto.

34 Sec. 4. K.S.A. 1992 Supp. 79-32,154 is hereby amended to read  
35 as follows: 79-32,154. As used in this act, the following words and  
36 phrases shall have the meanings respectively ascribed to them herein:  
37 (a) "Facility" shall mean any factory, mill, plant, refinery, warehouse,  
38 feedlot, building or complex of buildings located within the state,  
39 including the land on which such facility is located and all machinery,  
40 equipment and other real and tangible personal property located at  
41 or within such facility used in connection with the operation of such  
42 facility. The word "building" shall include only structures within  
43 which individuals are customarily employed or which are customarily

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1 used to house machinery, equipment or other property.

2 (b) "Qualified business facility" shall mean a facility which satisfies  
3 the requirements of paragraphs (1) and (2) of this subsection.

4 (1) Such facility is employed by the taxpayer in the operation of  
5 a revenue producing enterprise, as defined in subsection (c). Such  
6 facility shall not be considered a qualified business facility in the  
7 hands of the taxpayer if the taxpayer's only activity with respect to  
8 such facility is to lease it to another person or persons. If the taxpayer  
9 employs only a portion of such facility in the operation of a revenue  
10 producing enterprise, and leases another portion of such facility to  
11 another person or persons or does not otherwise use such other  
12 portions in the operation of a revenue producing enterprise, the  
13 portion employed by the taxpayer in the operation of a revenue  
14 producing enterprise shall be considered a qualified business facility,  
15 if the requirements of paragraph (2) of this subsection are satisfied.

16 (2) If such facility was acquired by the taxpayer from another  
17 person or persons, such facility was not employed, immediately prior  
18 to the transfer of title to such facility to the taxpayer, or to the  
19 commencement of the term of the lease of such facility to the tax-  
20 payer, by any other person or persons in the operation of a revenue  
21 producing enterprise and the taxpayer continues the operation of the  
22 same or substantially identical revenue producing enterprise, as de-  
23 fined in subsection (i), at such facility.

24 (c) "Revenue producing enterprise" shall mean: (1) The assembly,  
25 fabrication, manufacture or processing of any agricultural, mineral  
26 or manufactured product;

27 (2) the storage, warehousing, distribution or sale of any products  
28 of agriculture, aquaculture, mining or manufacturing;

29 (3) the feeding of livestock at a feedlot;

30 (4) the operation of laboratories or other facilities for scientific,  
31 agricultural, aquacultural, animal husbandry or industrial research,  
32 development or testing;

33 (5) the performance of services of any type;

34 (6) the feeding of aquatic plants and animals at an aquaculture  
35 operation;

36 (7) the administrative management of any of the foregoing activ-  
37 ities; or

38 (8) any combination of any of the foregoing activities.

39 "~~Revenue producing enterprise~~" shall not mean a swine con-  
40 finement facility as defined in K.S.A. 17-5903, and amendments  
41 thereto.

42 (d) "Qualified business facility employee" shall mean a person  
43 employed by the taxpayer in the operation of a qualified business

1 facility during the taxable year for which the credit allowed by K.S.A.  
2 79-32,153, and amendments thereto, is claimed. A person shall be  
3 deemed to be so engaged if such person performs duties in con-  
4 nection with the operation of the qualified business facility on: (1)  
5 A regular, full-time basis; (2) a part-time basis, provided such person  
6 is customarily performing such duties at least 20 hours per week  
7 throughout the taxable year; or (3) a seasonal basis, provided such  
8 person performs such duties for substantially all of the season cus-  
9 tomary for the position in which such person is employed. The  
10 number of qualified business facility employees during any taxable  
11 year shall be determined by dividing by 12 the sum of the number  
12 of qualified business facility employees on the last business day of  
13 each month of such taxable year. If the qualified business facility is  
14 in operation for less than the entire taxable year, the number of  
15 qualified business facility employees shall be determined by dividing  
16 the sum of the number of qualified business facility employees on  
17 the last business day of each full calendar month during the portion  
18 of such taxable year during which the qualified business facility was  
19 in operation by the number of full calendar months during such  
20 period. Notwithstanding the provisions of this subsection, for the  
21 purpose of computing the credit allowed by K.S.A. 79-32,153, and  
22 amendments thereto, in the case of an investment in a qualified  
23 business facility, which facility existed and was operated by the  
24 taxpayer or related taxpayer prior to such investment, the number  
25 of qualified business facility employees employed in the operation  
26 of such facility shall be reduced by the average number, computed  
27 as provided in this subsection, of individuals employed in the op-  
28 eration of the facility during the taxable year preceding the taxable  
29 year in which the qualified business facility investment was made at  
30 the facility.

31 (e) "Qualified business facility investment" shall mean the value  
32 of the real and tangible personal property, except inventory or prop-  
33 erty held for sale to customers in the ordinary course of the taxpayer's  
34 business, which constitutes the qualified business facility, or which  
35 is used by the taxpayer in the operation of the qualified business  
36 facility, during the taxable year for which the credit allowed by  
37 K.S.A. 79-32,153, and amendments thereto, is claimed. The value  
38 of such property during such taxable year shall be: (1) Its original  
39 cost if owned by the taxpayer; or (2) eight times the net annual  
40 rental rate, if leased by the taxpayer. The net annual rental rate  
41 shall be the annual rental rate paid by the taxpayer less any annual  
42 rental rate received by the taxpayer from subrentals. The qualified  
43 business facility investment shall be determined by dividing by 12

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1 the sum of the total value of such property on the last business day  
2 of each calendar month of the taxable year. If the qualified business  
3 facility is in operation for less than an entire taxable year, the qual-  
4 ified business facility investment shall be determined by dividing  
5 the sum of the total value of such property on the last business day  
6 of each full calendar month during the portion of such taxable year  
7 during which the qualified business facility was in operation by the  
8 number of full calendar months during such period. Notwithstanding  
9 the provisions of this subsection, for the purpose of computing the  
10 credit allowed by K.S.A. 79-32,153, and amendments thereto, in the  
11 case of an investment in a qualified business facility, which facility  
12 existed and was operated by the taxpayer or related taxpayer prior  
13 to such investment the amount of the taxpayer's qualified business  
14 facility investment in such facility shall be reduced by the average  
15 amount, computed as provided in this subsection, of the investment  
16 of the taxpayer or a related taxpayer in the facility for the taxable  
17 year preceding the taxable year in which the qualified business fa-  
18 cility investment was made at the facility.

19 (f) "Commencement of commercial operations" shall be deemed  
20 to occur during the first taxable year for which the qualified business  
21 facility is first available for use by the taxpayer, or first capable of  
22 being used by the taxpayer, in the revenue producing enterprise in  
23 which the taxpayer intends to use the qualified business facility.

24 (g) "Qualified business facility income" shall mean the Kansas  
25 taxable income, as defined in article 32 of chapter 79 of the Kansas  
26 Statutes Annotated and amendments thereto, derived by the taxpayer  
27 from the operation of the qualified business facility. If a taxpayer  
28 has income derived from the operation of a qualified business facility  
29 as well as from other activities conducted within this state, the Kansas  
30 taxable income derived by the taxpayer from the operation of the  
31 qualified business facility shall be determined by multiplying the  
32 taxpayer's Kansas taxable income, computed in accordance with ar-  
33 ticle 32 of chapter 79 of the Kansas Statutes Annotated and amend-  
34 ments thereto, by a fraction, the numerator of which is the property  
35 factor, as defined in paragraph (1), plus the payroll factor, as defined  
36 in paragraph (2), and the denominator of which is two.

37 (1) The property factor is a fraction, the numerator of which is  
38 the average value of the taxpayer's real and tangible personal prop-  
39 erty owned or rented and used in connection with the operation of  
40 the qualified business facility during the tax period, and the denom-  
41 inator of which is the average value of all the taxpayer's real and  
42 tangible personal property owned or rented and used in this state  
43 during the tax period. The average value of all such property shall

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1 be determined as provided in K.S.A. 79-3281 and 79-3282, and  
2 amendments thereto.

3 (2) The payroll factor is a fraction, the numerator of which is the  
4 total amount paid during the tax period by the taxpayer for com-  
5 pensation to persons qualifying as qualified business facility em-  
6 ployees, as determined under subsection (d), at the qualified business  
7 facility, and the denominator of which is the total amount paid in  
8 this state during the tax period by the taxpayer for compensation.  
9 The compensation paid in this state shall be determined as provided  
10 in K.S.A. 79-3283, and amendments thereto.

11 The formula set forth in this subsection (g) shall not be used for  
12 any purpose other than determining the qualified business facility  
13 income attributable to a qualified business facility.

14 (h) "Related taxpayer" shall mean (1) a corporation, partnership,  
15 trust or association controlled by the taxpayer; (2) an individual,  
16 corporation, partnership, trust or association in control of the tax-  
17 payer; or (3) a corporation, partnership, trust or association controlled  
18 by an individual, corporation, partnership, trust or association in  
19 control of the taxpayer. For the purposes of this act, "control of a  
20 corporation" shall mean ownership, directly or indirectly, of stock  
21 possessing at least 80% of the total combined voting power of all  
22 classes of stock entitled to vote and at least 80% of all other classes  
23 of stock of the corporation; "control of a partnership or association"  
24 shall mean ownership of at least 80% of the capital or profits interest  
25 in such partnership or association; and "control of a trust" shall mean  
26 ownership, directly or indirectly, of at least 80% of the beneficial  
27 interest in the principal or income of such trust.

28 (i) "Same or substantially identical revenue producing enterprise"  
29 shall mean a revenue producing enterprise in which the products  
30 produced or sold, services performed or activities conducted are the  
31 same in character and use, are produced, sold, performed or con-  
32 ducted in the same manner and to or for the same type of customers  
33 as the products, services or activities produced, sold, performed or  
34 conducted in another revenue producing enterprise.

35 Sec. 5. K.S.A. 12-1749b, 17-5905, 17-5906 and 79-250 and  
36 K.S.A. 1992 Supp. 17-5903, 17-5904 and 79-32,154 are hereby  
37 repealed.

38 Sec. 6. This act shall take effect and be in force from and after  
39 its publication in the statute book.

Insert New Sec. 5 attached

Renumber remaining sections

New Sec. 5. (a) The board of county commissioners may, by resolution, or shall, upon a petition filed in accordance with subsection (b), submit to the qualified electors of the county at any state general election a proposition to permit a swine production facility, as defined in K.S.A. 17-5903, and amendments thereto, to be established within the county.

(b) A petition to submit a proposition to the qualified voters of a county pursuant to this section shall be filed with the county election officer. The petition shall be signed by qualified electors of the county equal in number to not less than 10% of the electors of the county who voted for the office of secretary of state at the last preceding general election at which such office was elected. The following shall appear on the petition:

"We request an election to determine whether a swine production facility shall be allowed to be established in \_\_\_\_\_ county."

(c) Upon the adoption of a resolution or the submission of a valid petition calling for an election pursuant to this section, the county election officer shall cause the following proposition to be placed on the ballot at the next succeeding state general election which occurs more than 90 days after the resolution is adopted or the petition is filed with the county election officer:

"Shall a swine production facility be allowed to be

established in \_\_\_\_\_ county?"

(d) If a majority of the votes cast and counted is in favor of the proposition, the county election officer shall transmit a copy of the results to the secretary of state who shall publish in the Kansas register the result of such election and that swine production facilities are allowed to be established in such county.

(e) The election provided for by this section shall be conducted, and the votes counted and canvassed, in the manner provided by law for question submitted elections of the county.

HOUSE BILL No. 2069

By Committee on Agriculture

1-20

8 AN ACT concerning agricultural corporations; relating to swine pro-  
9 duction facilities; amending K.S.A. 79-250 and K.S.A. 1992 Supp.  
10 17-5903, 17-5904 and 79-32,154 and repealing the existing sec-  
11 tions; also repealing K.S.A. 12-1749b, 17-5905 and 17-5906.  
12

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

14 Section 1. K.S.A. 1992 Supp. 17-5903 is hereby amended to read  
15 as follows: 17-5903. As used in this act:

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

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

21 (c) "Limited partnership" has the meaning provided by K.S.A.  
22 56-1a01, and amendments thereto.

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

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

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

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

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

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

BALLOON #4

HOUSE AGRICULTURE  
2-24-93  
ATTACHMENT #4

1 operation of the feedlot.

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

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

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

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

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

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

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

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

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

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

42 (3) at least 30% of the stockholders are persons residing on the  
43 farm or actively engaged in the day-to-day labor or management of

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

35 (t) (s) "Limited liability company" has the meaning provided by  
36 K.S.A. 1992 Supp. 17-7602, and amendments thereto.

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

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

41 (2) the members are all natural persons, persons acting in a  
42 fiduciary capacity for the benefit of natural persons or nonprofit  
43 corporations, or general partnerships other than corporate partner-

1 ships formed under the laws of the state of Kansas; and

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

8 Sec. 2. K.S.A. 1992 Supp. 17-5904 is hereby amended to read  
9 as follows: 17-5904. (a) No corporation, trust, limited liability com-  
10 pany, limited partnership or corporate partnership, other than a  
11 family farm corporation, authorized farm corporation, limited liability  
12 agricultural company, limited agricultural partnership, family trust,  
13 authorized trust or testamentary trust shall, either directly or in-  
14 directly, own, acquire or otherwise obtain or lease any agricultural  
15 land in this state. The restrictions provided in this section do not  
16 apply to the following:

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

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

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

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

38 (5) A municipal corporation.

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

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

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(u) "Producer" means a person, firm, corporation, limited liability company or limited partnership, which alone or in conjunction with others, directly or indirectly owns swine.

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

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

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

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

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

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

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

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

42 (b) ~~Except as provided for in K.S.A. 17-5905, and amend-~~  
 43 ~~ments thereto,~~ Production contracts entered into by a corporation,

1 trust, limited liability company, limited partnership or corporate  
2 partnership and a person engaged in farming for the production of  
3 agricultural products shall not be construed to mean the ownership,  
4 acquisition, obtainment or lease, either directly or indirectly, of any  
5 agricultural land in this state.

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

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

22 Sec. 3. K.S.A. 79-250 is hereby amended to read as follows: 79-  
23 250. No city or county may grant any exemption from ad valorem  
24 taxation under section 13 of article 11 of the Constitution of the state  
25 of Kansas for all or any portion of the appraised valuation of all or  
26 any part of the buildings, improvements, tangible personal property  
27 and land of any poultry confinement facility; *or* rabbit confinement  
28 facility ~~or swine confinement facility~~ which is on agricultural land  
29 and which is owned or operated by a corporation. As used in this  
30 section, "corporation," "agricultural land," "poultry confinement fa-  
31 cility;" *and* "rabbit confinement facility" ~~and "swine confinement~~  
32 ~~facility"~~ have the meanings respectively ascribed thereto by K.S.A.  
33 17-5903, and amendments thereto.

34 Sec. 4. K.S.A. 1992 Supp. 79-32,154 is hereby amended to read  
35 as follows: 79-32,154. As used in this act, the following words and  
36 phrases shall have the meanings respectively ascribed to them herein:  
37 (a) "Facility" shall mean any factory, mill, plant, refinery, warehouse,  
38 feedlot, building or complex of buildings located within the state,  
39 including the land on which such facility is located and all machinery,  
40 equipment and other real and tangible personal property located at  
41 or within such facility used in connection with the operation of such  
42 facility. The word "building" shall include only structures within  
43 which individuals are customarily employed or which are customarily

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1 used to house machinery, equipment or other property.

2 (b) "Qualified business facility" shall mean a facility which satisfies  
3 the requirements of paragraphs (1) and (2) of this subsection.

4 (1) Such facility is employed by the taxpayer in the operation of  
5 a revenue producing enterprise, as defined in subsection (c). Such  
6 facility shall not be considered a qualified business facility in the  
7 hands of the taxpayer if the taxpayer's only activity with respect to  
8 such facility is to lease it to another person or persons. If the taxpayer  
9 employs only a portion of such facility in the operation of a revenue  
10 producing enterprise, and leases another portion of such facility to  
11 another person or persons or does not otherwise use such other  
12 portions in the operation of a revenue producing enterprise, the  
13 portion employed by the taxpayer in the operation of a revenue  
14 producing enterprise shall be considered a qualified business facility,  
15 if the requirements of paragraph (2) of this subsection are satisfied.

16 (2) If such facility was acquired by the taxpayer from another  
17 person or persons, such facility was not employed, immediately prior  
18 to the transfer of title to such facility to the taxpayer, or to the  
19 commencement of the term of the lease of such facility to the tax-  
20 payer, by any other person or persons in the operation of a revenue  
21 producing enterprise and the taxpayer continues the operation of the  
22 same or substantially identical revenue producing enterprise, as de-  
23 fined in subsection (i), at such facility.

24 (c) "Revenue producing enterprise" shall mean: (1) The assembly,  
25 fabrication, manufacture or processing of any agricultural, mineral  
26 or manufactured product;

27 (2) the storage, warehousing, distribution or sale of any products  
28 of agriculture, aquaculture, mining or manufacturing;

29 (3) the feeding of livestock at a feedlot;

30 (4) the operation of laboratories or other facilities for scientific,  
31 agricultural, aquacultural, animal husbandry or industrial research,  
32 development or testing;

33 (5) the performance of services of any type;

34 (6) the feeding of aquatic plants and animals at an aquaculture  
35 operation;

36 (7) the administrative management of any of the foregoing activ-  
37 ities; or

38 (8) any combination of any of the foregoing activities.

39 "~~Revenue producing enterprise~~" shall not mean a swine con-  
40 finement facility as defined in K.S.A. 17-5903, and amendments  
41 thereto.

42 (d) "Qualified business facility employee" shall mean a person  
43 employed by the taxpayer in the operation of a qualified business

1 facility during the taxable year for which the credit allowed by K.S.A.  
2 79-32,153, and amendments thereto, is claimed. A person shall be  
3 deemed to be so engaged if such person performs duties in con-  
4 nection with the operation of the qualified business facility on: (1)  
5 A regular, full-time basis; (2) a part-time basis, provided such person  
6 is customarily performing such duties at least 20 hours per week  
7 throughout the taxable year; or (3) a seasonal basis, provided such  
8 person performs such duties for substantially all of the season cus-  
9 tomary for the position in which such person is employed. The  
10 number of qualified business facility employees during any taxable  
11 year shall be determined by dividing by 12 the sum of the number  
12 of qualified business facility employees on the last business day of  
13 each month of such taxable year. If the qualified business facility is  
14 in operation for less than the entire taxable year, the number of  
15 qualified business facility employees shall be determined by dividing  
16 the sum of the number of qualified business facility employees on  
17 the last business day of each full calendar month during the portion  
18 of such taxable year during which the qualified business facility was  
19 in operation by the number of full calendar months during such  
20 period. Notwithstanding the provisions of this subsection, for the  
21 purpose of computing the credit allowed by K.S.A. 79-32,153, and  
22 amendments thereto, in the case of an investment in a qualified  
23 business facility, which facility existed and was operated by the  
24 taxpayer or related taxpayer prior to such investment, the number  
25 of qualified business facility employees employed in the operation  
26 of such facility shall be reduced by the average number, computed  
27 as provided in this subsection, of individuals employed in the op-  
28 eration of the facility during the taxable year preceding the taxable  
29 year in which the qualified business facility investment was made at  
30 the facility.

31 (e) "Qualified business facility investment" shall mean the value  
32 of the real and tangible personal property, except inventory or prop-  
33 erty held for sale to customers in the ordinary course of the taxpayer's  
34 business, which constitutes the qualified business facility, or which  
35 is used by the taxpayer in the operation of the qualified business  
36 facility, during the taxable year for which the credit allowed by  
37 K.S.A. 79-32,153, and amendments thereto, is claimed. The value  
38 of such property during such taxable year shall be: (1) Its original  
39 cost if owned by the taxpayer; or (2) eight times the net annual  
40 rental rate, if leased by the taxpayer. The net annual rental rate  
41 shall be the annual rental rate paid by the taxpayer less any annual  
42 rental rate received by the taxpayer from subrentals. The qualified  
43 business facility investment shall be determined by dividing by 12

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1 the sum of the total value of such property on the last business day  
2 of each calendar month of the taxable year. If the qualified business  
3 facility is in operation for less than an entire taxable year, the qual-  
4 ified business facility investment shall be determined by dividing  
5 the sum of the total value of such property on the last business day  
6 of each full calendar month during the portion of such taxable year  
7 during which the qualified business facility was in operation by the  
8 number of full calendar months during such period. Notwithstanding  
9 the provisions of this subsection, for the purpose of computing the  
10 credit allowed by K.S.A. 79-32,153, and amendments thereto, in the  
11 case of an investment in a qualified business facility, which facility  
12 existed and was operated by the taxpayer or related taxpayer prior  
13 to such investment the amount of the taxpayer's qualified business  
14 facility investment in such facility shall be reduced by the average  
15 amount, computed as provided in this subsection, of the investment  
16 of the taxpayer or a related taxpayer in the facility for the taxable  
17 year preceding the taxable year in which the qualified business fa-  
18 cility investment was made at the facility.

19 (f) "Commencement of commercial operations" shall be deemed  
20 to occur during the first taxable year for which the qualified business  
21 facility is first available for use by the taxpayer, or first capable of  
22 being used by the taxpayer, in the revenue producing enterprise in  
23 which the taxpayer intends to use the qualified business facility.

24 (g) "Qualified business facility income" shall mean the Kansas  
25 taxable income, as defined in article 32 of chapter 79 of the Kansas  
26 Statutes Annotated and amendments thereto, derived by the taxpayer  
27 from the operation of the qualified business facility. If a taxpayer  
28 has income derived from the operation of a qualified business facility  
29 as well as from other activities conducted within this state, the Kansas  
30 taxable income derived by the taxpayer from the operation of the  
31 qualified business facility shall be determined by multiplying the  
32 taxpayer's Kansas taxable income, computed in accordance with ar-  
33 ticle 32 of chapter 79 of the Kansas Statutes Annotated and amend-  
34 ments thereto, by a fraction, the numerator of which is the property  
35 factor, as defined in paragraph (1), plus the payroll factor, as defined  
36 in paragraph (2), and the denominator of which is two.

37 (1) The property factor is a fraction, the numerator of which is  
38 the average value of the taxpayer's real and tangible personal prop-  
39 erty owned or rented and used in connection with the operation of  
40 the qualified business facility during the tax period, and the denom-  
41 inator of which is the average value of all the taxpayer's real and  
42 tangible personal property owned or rented and used in this state  
43 during the tax period. The average value of all such property shall



1 be determined as provided in K.S.A. 79-3281 and 79-3282, and  
2 amendments thereto.

3 (2) The payroll factor is a fraction, the numerator of which is the  
4 total amount paid during the tax period by the taxpayer for com-  
5 pensation to persons qualifying as qualified business facility em-  
6 ployees, as determined under subsection (d), at the qualified business  
7 facility, and the denominator of which is the total amount paid in  
8 this state during the tax period by the taxpayer for compensation.  
9 The compensation paid in this state shall be determined as provided  
10 in K.S.A. 79-3283, and amendments thereto.

11 The formula set forth in this subsection (g) shall not be used for  
12 any purpose other than determining the qualified business facility  
13 income attributable to a qualified business facility.

14 (h) "Related taxpayer" shall mean (1) a corporation, partnership,  
15 trust or association controlled by the taxpayer; (2) an individual,  
16 corporation, partnership, trust or association in control of the tax-  
17 payer; or (3) a corporation, partnership, trust or association controlled  
18 by an individual, corporation, partnership, trust or association in  
19 control of the taxpayer. For the purposes of this act, "control of a  
20 corporation" shall mean ownership, directly or indirectly, of stock  
21 possessing at least 80% of the total combined voting power of all  
22 classes of stock entitled to vote and at least 80% of all other classes  
23 of stock of the corporation; "control of a partnership or association"  
24 shall mean ownership of at least 80% of the capital or profits interest  
25 in such partnership or association; and "control of a trust" shall mean  
26 ownership, directly or indirectly, of at least 80% of the beneficial  
27 interest in the principal or income of such trust.

28 (i) "Same or substantially identical revenue producing enterprise"  
29 shall mean a revenue producing enterprise in which the products  
30 produced or sold, services performed or activities conducted are the  
31 same in character and use, are produced, sold, performed or con-  
32 ducted in the same manner and to or for the same type of customers  
33 as the products, services or activities produced, sold, performed or  
34 conducted in another revenue producing enterprise.

35 Sec. 5. K.S.A. 12-1749b, 17-5905, 17-5906 and 79-250 and  
36 K.S.A. 1992 Supp. 17-5903, 17-5904 and 79-32,154 are hereby  
37 repealed.

38 Sec. 6. This act shall take effect and be in force from and after  
39 its publication in the statute book.

4-11

New Sec. 5. Except when such producer owns swine for 30 days before such swine are manufactured, processed or prepared for sale as pork products, no producer, as defined in K.S.A. 17-5903, and amendments thereto, shall directly or indirectly own or contract for more than 12% of the total number of swine in the state as determined by the secretary of the state board of agriculture on the basis of the most recent statistics available.

And by renumbering sections accordingly

Session of 1993

## HOUSE BILL No. 2069

By Committee on Agriculture

1-20

8 AN ACT concerning agricultural corporations; relating to swine pro-  
 9 duction facilities; amending K.S.A. 79-250 and K.S.A. 1992 Supp.  
 10 17-5903, 17-5904 and 79-32,154 and repealing the existing sec-  
 11 tions; also repealing K.S.A. 12-1749b, 17-5905 and 17-5906.

12  
 13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. K.S.A. 1992 Supp. 17-5903 is hereby amended to read  
 15 as follows: 17-5903. As used in this act:

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

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

21 (c) "Limited partnership" has the meaning provided by K.S.A.  
 22 56-1a01, and amendments thereto.

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

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

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

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

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

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

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5-2

1 be determined as provided in K.S.A. 79-3281 and 79-3282, and  
 2 amendments thereto.

3 (2) The payroll factor is a fraction, the numerator of which is the  
 4 total amount paid during the tax period by the taxpayer for com-  
 5 pensation to persons qualifying as qualified business facility em-  
 6 ployees, as determined under subsection (d), at the qualified business  
 7 facility, and the denominator of which is the total amount paid in  
 8 this state during the tax period by the taxpayer for compensation.  
 9 The compensation paid in this state shall be determined as provided  
 10 in K.S.A. 79-3283, and amendments thereto.

11 The formula set forth in this subsection (g) shall not be used for  
 12 any purpose other than determining the qualified business facility  
 13 income attributable to a qualified business facility.

14 (h) "Related taxpayer" shall mean (1) a corporation, partnership,  
 15 trust or association controlled by the taxpayer; (2) an individual,  
 16 corporation, partnership, trust or association in control of the tax-  
 17 payer; or (3) a corporation, partnership, trust or association controlled  
 18 by an individual, corporation, partnership, trust or association in  
 19 control of the taxpayer. For the purposes of this act, "control of a  
 20 corporation" shall mean ownership, directly or indirectly, of stock  
 21 possessing at least 80% of the total combined voting power of all  
 22 classes of stock entitled to vote and at least 80% of all other classes  
 23 of stock of the corporation; "control of a partnership or association"  
 24 shall mean ownership of at least 80% of the capital or profits interest  
 25 in such partnership or association; and "control of a trust" shall mean  
 26 ownership, directly or indirectly, of at least 80% of the beneficial  
 27 interest in the principal or income of such trust.

28 (i) "Same or substantially identical revenue producing enterprise"  
 29 shall mean a revenue producing enterprise in which the products  
 30 produced or sold, services performed or activities conducted are the  
 31 same in character and use, are produced, sold, performed or con-  
 32 ducted in the same manner and to or for the same type of customers  
 33 as the products, services or activities produced, sold, performed or  
 34 conducted in another revenue producing enterprise.

6 35 ~~Sec. 5.~~ K.S.A. 12-1749b, 17-5905, 17-5906 and 79-250 and  
 36 K.S.A. 1992 Supp. 17-5903, 17-5904 and 79-32,154 are hereby  
 37 repealed.

7 38 Sec. 6 This act shall take effect and be in force from and after  
 39 its publication in the statute book.

New Sec. 5 (see attached)

New Sec. 5 (a) The marketing division of the state board of agriculture shall develop and establish models of alternative marketing concepts and strategies for live hogs produced by independent hog producers. Marketing concepts and strategies shall include, but not be limited to, marketing contracts, group marketing, informal pooling, cooperative marketing, carcass merit pricing and electronic marketing.

(b) Subject to appropriations, grants may be made to applicants who submit proposals for the development of accepted models of alternative marketing concepts and strategies. Such grants shall not exceed \$8,000 for each approved grant. The secretary of the state board of agriculture shall make the final approval of the grants.

(c) The secretary of the state board of agriculture shall accept funds and grants to develop and establish models of alternative marketing concepts and strategies.

(d) There is hereby created in the state treasury the hog marketing strategies fund. All moneys credited to the hog marketing strategies fund shall be expended in the administration of this section.

(e) All expenditures from the hog marketing strategies fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of the state board of agriculture or by a person or persons designated by the secretary.

(f) The secretary of the state board of agriculture shall adopt rules and regulations to implement this act.

## PROPOSAL

### ALTERNATIVE MARKETING CONCEPTS LIVE HOGS

#### I. Introduction

The Marketing Division of the Kansas State Board of Agriculture is requesting funding for the purpose of establishing models of alternative marketing concepts for live hogs produced by independent Kansas hog producers. This project will assist the Kansas producer in developing marketing strategies for sale of live hogs.

Traditionally, the central or terminal markets have been the primary source of hog market sales. However, the changing structure of the industry has resulted in a great decrease in the number of marketings through the terminal markets, limiting the opportunities for independent Kansas hog producers. In conjunction with this marketing shift, slaughter production of hogs in Kansas has dwindled to small independent slaughter facilities with no major facilities left in operation. With this change has come a decrease in the number of hog producers and hogs produced in Kansas.

#### II. Background

According to the findings reported in the Kansas Swine Industry study, the marketing of hogs has undergone a fundamental change from competitive selling through terminal markets, local auctions and commission houses, to private, direct sale to out-of-state slaughter plants. As of the study date, only about 6% of the hogs pass through terminal markets. Today, that figure has decreased by another 20%, leaving less than 5% sold through terminal markets.

With this change in marketing opportunities, prices paid to producers has lagged behind the national average. The study indicated Kansas producers received over \$.50 less per hundred weight than the national average and approximately \$.93 per hundred weight than producers in the neighboring states of Nebraska, Missouri, and Iowa.

For a number of years, producers and buyers have been searching for marketing systems that would be both more efficient and equitable for all concerned. Among the alternative marketing concepts considered are marketing contracts, group marketing, informal pooling, cooperative marketing, carcass merit pricing, and various forms of electronic marketing. One of the key factors in the retention and expansion of the independent Kansas hog producer will be the availability of competitive and profitable hog markets.

#### III. Proposal

In order to accomplish the objectives described above, the following components are proposed:

- A. Provide sufficient funding to establish models to be utilized by independent producers to develop marketing concepts. This funding would be utilized to make grants to groups (5 individuals or more) of producers to develop these models. These models should be in the areas

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described above such as group marketing, cooperative marketing, etc.

- B. Provide funding to hire contractual assistance to review grant proposals, monitor grant implementation, report grant results, assist with marketing technical information delivery, and liaison with independent producers.

IV. Budget

Contract Hog Market Liaison	\$ 15,000
Operating Expenditures (travel, communications, etc.)	\$ 3,000
Grants to Model developers*	\$ 50,000
TOTAL BUDGET	<u>\$ 68,000</u>

\* Grants would be made to groups of at least 5 individual producers who submit proposals for the development of accepted models that can be utilized by other Kansas producers. Individual grants would be a minimum of \$4,000 to a maximum of \$8,000 per approved grant proposal.

# 580 RADIO WIBW

BOX 119 TOPEKA, KANSAS 66601 (913) 272-3456

2/11/93 FOR IMMEDIATE RELEASE

RESULTS OF A VOLUNTARY SURVEY CONDUCTED THIS WEEK BY WIBW RADIO INDICATE THAT 80% OF EASTERN KANSAS FARMERS POLLED ARE OPPOSED TO ANY CHANGES IN THE CURRENT STRUCTURE OF THE STATE BOARD OF AGRICULTURE. THE SURVEY, CONDUCTED DURING THE WIBW RADIO FARM PROFIT CONFERENCE IN TOPEKA ON WEDNESDAY, ALSO SHOWS THE MAJORITY OF PRODUCERS (54%) ARE OPPOSED TO A BILL THAT WOULD RELAX CURRENT STATE RESTRICTIONS ON CORPORATE SWINE PRODUCTION WHILE 32% FAVOR THE BILL.

ON NATIONAL ISSUES, 71% OF THE PRODUCERS RESPONDING TO THE POLL SAID THAT IF THE U-S-D-A BUDGET MUST BE CUT BY THE CLINTON ADMINISTRATION THOSE CUTS SHOULD BE MADE IN OFFICES AND SERVICES. ONLY 13% FAVORED A CUT IN FARM PRICE SUPPORTS.

OTHER HIGHLIGHTS OF THE SURVEY.....61% OF THE FARMERS AND RANCHERS RESPONDING SAID THEY FEEL THE CONSERVATION RESERVE PROGRAM (C-R-P) SHOULD BE EXTENDED BEYOND THE CURRENT CONTRACT PERIOD.....25% WERE OPPOSED TO AN EXTENSION OF THE C-R-P.

ON THE SUBJECT OF THE PROPOSED NORTH AMERICA FREE TRADE AGREEMENT BETWEEN THE U.S., CANADA AND MEXICO, 47% OF THE PRODUCERS SURVEYED SAID THEY WERE IN FAVOR OF THE AGREEMENT BASED ON WHAT THEY KNOW ABOUT THE PROPOSAL....34% WERE OPPOSED AND 19% WERE UNDECIDED. MANY OF THOSE WHO SAID THEY WERE IN FAVOR OF N-A-F-T-A QUALIFIED THEIR SUPPORT ON THE CONDITION SUCH AN AGREEMENT WOULD INCLUDE SAFEGUARDS TO PROTECT AMERICAN CONSUMERS AND THE ENVIRONMENT.

APPROXIMATELY 200 OF THE NEARLY 450 PEOPLE ATTENDING THE FARM PROFIT '93 CONFERENCE PARTICIPATED IN THE VOLUNTARY SURVEY. ALL OF THE RESPONDENTS WERE DIRECTLY INVOLVED IN AGRICULTURAL PRODUCTION.

(NOTE: CREDIT AS WIBW RADIO FARM SURVEY)

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To	Don Rezac	From Kathy Patton
Co.		Co. WIBW / KAN
Dept.		Phone # 272-3456
Fax #	296-0042	Fax # 272-0117

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