

MINUTES OF THE HOUSE COMMITTEE ON AGRICULTURE.

The meeting was called to order by Chairperson Joann Flower at 9:00 a.m. on March 13, 1996, in Room 423-S of the Capitol.

All members were present except: Representative Crabb - Excused

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

Conferees appearing before the committee:  
Mike Jensen, Executive Vice President, Kansas Pork Producers Council

Others attending: See attached list

**Hearing on SB 641 - Agricultural corporations; defining family farm limited liability agricultural company; allowing family farm corporations and family farm limited liability agricultural companies to be part of authorized farm corporations and limited liability agricultural companies.**

Jill Wolters, Revisor of Statutes, briefed the committee on **SB 641**. She explained that this bill would add Family Farm Limited Liability Agricultural Companies to the list of entities which are permitted to own, acquire, or lease agricultural land in Kansas. The bill establishes a definition of a Family Farm Limited Liability Agricultural Company. In addition, the bill would modify the definition of an Authorized Farm Corporation. The bill would eliminate the requirement that at least 30 percent of the stockholders in an Authorized Farm Corporation be persons residing on the farm or actively engaged in the day to day management of the farming operation. The bill would also delete the portion of the definition of Authorized Farm Corporation which states that if more than one person receives stock from a deceased stockholder that they collectively are to be considered one stockholder, and a husband and wife and their estates are considered to be one stockholder. Also, the bill would modify the definition of a Limited Liability Agricultural Company. The bill would delete the requirement that at least one of the members of a Limited Liability Agricultural Company reside on the farm or actively engage in the management of the farming operation. Under this bill, stockholders of Authorized Farm Corporations and Limited Liability Agricultural Companies could include Family Farm Limited Liability Agricultural Companies and Family Farm Corporations, as well as natural persons.

Ms. Wolters stated that the only Senate amendment was a technical correction on page 2, lines 32-40, changing the plural "liabilities" to the singular "liability." Raney Gilliland, Legislative Research Department, drew the committee's attention to another technical change that needs to be made on page 4, line 32. The word "agriculture" should be changed to "agricultural."

Mike Jensen, Executive Vice-President of the Kansas Pork Producers Council, testified in support of **SB 641**. He stated that this bill would allow Family Farm Corporations and Family Farm Limited Liability Agricultural Companies to pool their financial resources with other producers to achieve an effective larger size in order to be more competitive. He stated that this bill would not expand the ability of any entity not currently able to own land in Kansas. He explained that the common link in all these changes revolves specifically around family operations. The changes proposed in **SB 641** are graphically explained in his accompanying testimony. He also included a reprint of a trade publication that outlines some of the business opportunities open to producers who want to pool their resources. Mr. Jensen stated that this bill would include all agricultural endeavors, but it is the swine producers that are needing it at this time to remain competitive in the industry. (Attachment 1)

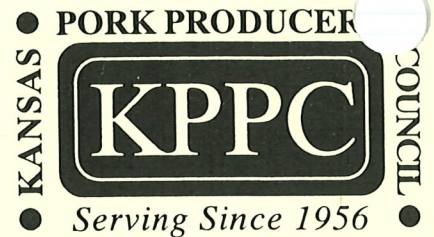
Chairperson Flower closed the hearing on **SB 641**.

The meeting adjourned at 9:55 a.m. The next meeting is scheduled for March 14, 1996.

# HOUSE AGRICULTURE COMMITTEE GUEST LIST

DATE: 3/13/96

NAME	REPRESENTING
Joe Lieber	KS Coop Council
Mary Jane Stallman	KS Dept of Ag
Brian Staats	Leadership Hays
Dan Nixon	" "
Rich McKee	KLA
John Andrus	KUMA
Kerri Ebert	KUMA / KS Dairy Assn.
Jim Alley	Steakboard
Debra Duncan	Animal Health



Senate Bill 641

presented by Mike Jensen

on behalf of the

Kansas Pork Producers Council

Mr. Chairman and members of the committee, I am Mike Jensen, Executive Vice-President of the Kansas Pork Producers Council. I am here today in support of SB 641.

Currently, Kansas family farmers who operate under Kansas statutes as "Family Farm Corporations" (FFC's) or "Limited Liability Agricultural Companies" (LLAC's) cannot pool their financial resources in business with others of the same.

The past decade has brought exponential technological changes to the swine industry. Our producers have attempted to utilize these changes to increase their profitability and competitiveness. However, in order to adopt some of these advances, producers find they need to operate a larger family farm than they currently have. One avenue they have is to pool their resources with other producers to achieve an effective "larger size". This bill would allow that opportunity. Specifically this bill does the following:

1. Establishes a new business entity of "Family Farm Limited Liability Agricultural Company" (FFLLAC). This is a Limited Liability Company that has the business restrictions of a Limited Liability Agricultural Company with the additional restrictions of family ownership as reflected in current Kansas statute as a Family Farm Corporation. This requires that the majority of both owners and ownership be related to common ancestry within the third degree.

*House Agriculture  
Attachment 1  
3-13-96*



2. Changes the definition of Limited Liability Agricultural Companies and Authorized Farm Corporations (AFC's) to allow either or both Family Farm Corporations and Family Farm Limited Liability Agricultural Companies to be owners. Current statute essentially allows only "natural persons", not any business entity from ownership.

3. Deletes the requirement that LLAC's or AFC's have a minimum number or percentage of owners "actively engaged in day to day labor or management of the farming operation". It retains this requirement on FFC's and FLLAC's.

This bill will not expand the ability of any entity, not currently able to own land in Kansas, from doing so. This bill will allow Kansas family farms to have the business choice of remaining competitive in our industry.

The deletion of the "active management" language is very important for our producers. Our overall goal is to produce a consistent, quality product for the consumer. As such, we are striving to reduce the usage of antibiotics on our farms. By utilizing production sites that are physically separated and restricting human traffic between them, our producers can actually eliminate antibiotic usage and even increase their production.

This deletion only impacts the AFC's and LLAC's. It would still be required of our own family operations. The net result is - if you want to pool your business resources with other family farmers, you would still have to meet current Kansas statutory requirements.

I have also included a reprint of a trade publication that briefly outlines some of the business opportunities open to producers who want to pool their resources.

## **Introduction**

The Kansas Pork Producers Council represents pork producers across the state. Since 1956, the organization has been involved in producer education programs, pork promotion and research initiatives. The producer membership has also charged the organization with monitoring regulatory and legislative issues affecting our industry.

## **Background**

The pork industry across the United States has experienced a phenomenal growth in the utilization of alliances and networking to enhance profitability. These alliances are often characterized by producers banding together in production ventures to own or control their own source of breeding stock, feed supplies and marketing.

Currently, Kansas law prohibits any family farm corporation or limited liability agricultural company from being involved as a stockholder in any of those same ventures. Producers in other states have experienced a revitalization of their own family farms when they were allowed to have the business tools to allow them to be competitive.

## **Goals**

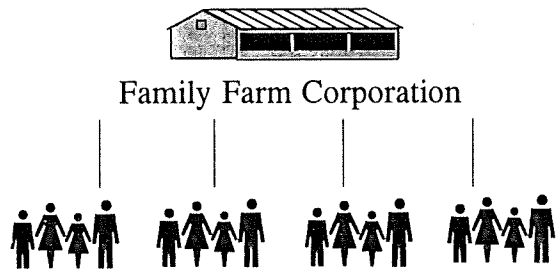
The law changes, as we propose, would expand the authority of Limited Liability Agricultural Companies and Authorized Farm Corporations to allow Family Farm Corporations and Family Farm Limited Liability Agricultural Companies to participate as business entities.

The common link in all these changes revolves specifically around family operations. The accompanying sheet graphically represents what the changes would allow. Also attached is specific legal language with the changes that we are seeking to accomplish.

# Multiple-ownership Business Structures Currently Available in Kansas

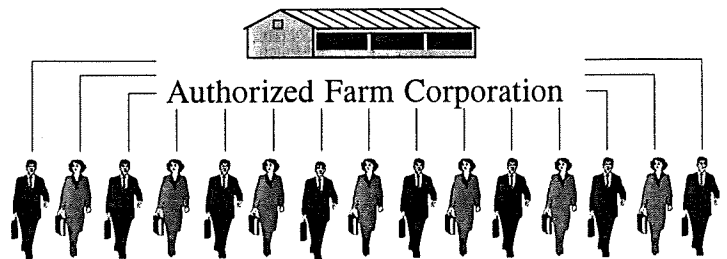
## Family Farm Corporation

1. The majority of stockholders must be related.
2. There is no limit on the number of stockholders.
3. All stockholders must be natural people.\*
4. At least 1 stockholder must be involved in daily management.



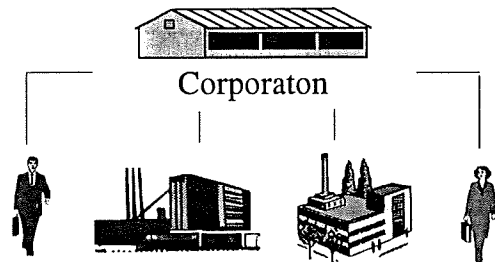
## Authorized Farm Corporation

1. The primary business is farming.
2. There are no more than 15 stockholders.
3. All stockholders must be natural people.
4. At least 1/3 of stockholders must be in daily management.



## Corporation

1. There is no limit on number of stockholders or type -- natural person, corporation, etc.
2. It is legal to raise hogs in Kansas only in approved counties.



## Limited Liability Company (Limited Liability Agricultural Company)

1. There are no more than 10 owners.
2. All owners must be natural people.
3. At least 1 owner must be involved in daily management.



\*A natural person is an individual, not any type of business -- partnership, corporation, or other.

# Proposed Business Structures

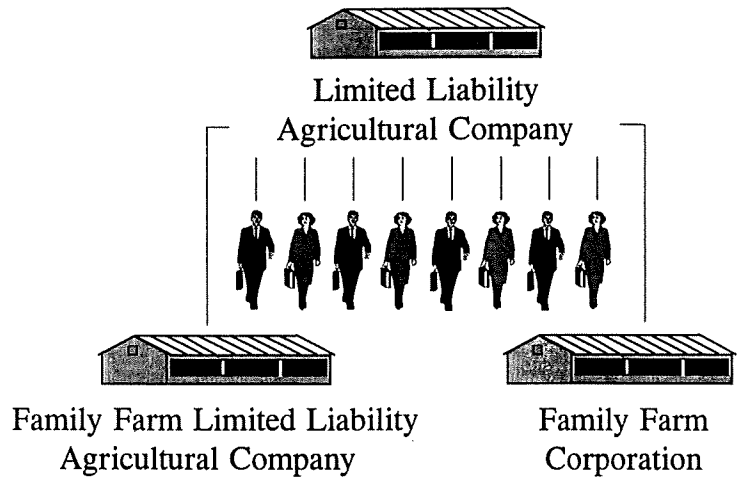
## Family Farm Limited Liability Agricultural Company

1. The majority of owners must be related.
2. There is no limit on the number of owners.
3. All owners must be natural people.\*
4. At least 1 owner must be involved in daily management.



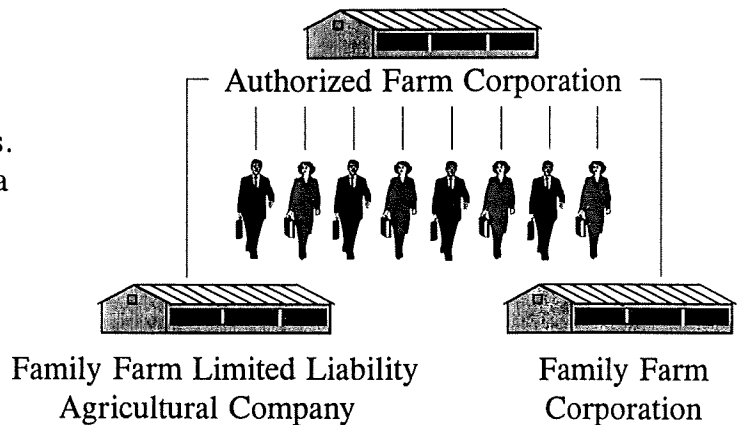
## Limited Liability Agricultural Company

1. There are no more than 10 owners.
2. Owners can be natural people, a Family Farm Corporation or a Family Farm Limited Liability Agricultural Company.



## Authorized Farm Corporation

1. The primary business is farming.
2. There are no more than 15 stockholders.
3. Stockholders may be natural people or a Family Farm Corporation or a Family Farm Limited Liability Agricultural Company



\*A natural person is an individual, not any type of business -- partnership, corporation, or other.

# EVALUTATING PRODUCER NETWORKS

A growing number of independent pork producers are looking to production alliances as a way to make their operations more competitive. The previous article looked at some of the important factors that should be considered before starting or joining a network.

The purpose and structure of production alliances is limited only by the imagination of the participants. Many of these alliances are designed to allow individual producers to specialize in the phase or phases of pork production for which their operation and talents are best suited. However, a cooperative production arrangement will work only if all parties have the same goal and share in the benefits.

Here are some examples of the most popular and successful production alliances being formed and operated today.

## Cooperative Farrowing

These are improved versions of the "feeder pig coops" that popped up in the 1970s. Few of those units enjoyed long-term success for a variety of reasons, but many feel the lessons learned then give this type of production network a greater opportunity to succeed today.

Why is cooperative farrowing working better now than 15 to 20 years ago? Those involved with successful groups say better facility design and management techniques for farrowing units are a huge plus. Even more important, participants now understand these units cannot be managed by committee. Owners are normally not involved in the day-to-day operation of successful farrowing cooperatives. It's usually best to hire an outside manager or management group to make all operational decisions.

The concept calls for a group of farmers to pool their resources and build a high-quality farrowing unit that will provide investors with a steady supply of pigs. Breeding and gestation units are also jointly-owned in most cases. Some cooperative farrowing groups also have nursery facilities, while others move young pigs to independently-owned nurseries at weaning to capture the benefits of segregated early weaning (SEW).

Who would be interested in this type of production alliance? Typically, members of a cooperative farrowing arrangement would fall into one of two categories:

(1) Pork producers who want to specialize in finishing hogs. These operations often have outdated farrowing houses. Some of these older buildings can be converted to either a high-quality nursery or additional finishing space.

(2) Grain farmers looking for a way to add value to corn production and have a more consistent cash flow. In addition to investing in the jointly-owned farrowing unit, most of these participants also invest in their own finishing and/or nursery facilities.

## Co-mingling Nurseries

This type of production alliance is designed to use segregated early weaning techniques to put together large groups of feeder pigs of similar health status. Feeder pig producers who don't raise large enough groups of pigs to command top prices are attracted to co-mingling nurseries. So are individuals who enjoy managing their own farrowing unit and want to concentrate on that phase of production.

Yet another candidate for this type of production network is a farrow-to-finish producer who needs to make a major capital investment to upgrade nursery facilities. A cooperative nursery can reduce the amount of capital needed to stay competitive.

Although successful in some situations, co-mingling nurseries have not worked as well as many veterinarians expected when SEW technology emerged a few years ago. Differences in the health status of the sow herds the pigs come out of can make health care in the co-owned nursery a constant challenge.

## Gilt Production Alliances

Jointly-owned gilt multiplier units are a production alliance that allows producers to capture the benefits of a terminal crossbreeding program at a more reasonable cost for replacement gilts. Another potential payoff of this type of arrangement is higher carcass premiums for market hogs, especially if it allows a farrow-to-finish operation to switch from a rotational to a terminal crossbreeding program.

The network's goal is to produce a consistent number of gilts of known health status and genetics. Gilts from most multiplier units are used to produce market hogs. In some cases, however, they're used to produce outstanding grandparent females to stock the members' gilt multiplier herds.

The role of gilt production coops is sometimes carried a step further to include a gilt breeding unit. Under this type of arrangement, gilts are not moved to members' farms until they're bred. Normally, these females are not returned to be rebred after weaning.

## Sow Pools

This is a concept that's very popular in Sweden and is starting to be utilized in the United States. Jointly-owned breeding centers are used during breeding and at least a portion of the gestation period. Bred females are moved to members' farms to farrow, then are returned to breeding units after weaning.

This strategy allows small and mid-sized operations to improve breeding performance, better utilize superior boars and make more rapid genetic progress. Because this is a highly specialized facility, heat detection and breeding management can be fine-tuned. Artificial insemination can be utilized with the members sharing the higher cost for facilities and management.

Because sows are moved to a different location immediately after weaning, some of the health advantages of SEW may be captured without having an off-site nursery. However, there are also health risks associated with a central breeding facility. Sows returning to the breeding center may carry diseases from participants' herds.

## Boar Studs

The growing popularity of artificial insemination to hasten genetic improvement has opened several networking possibilities, including joint ownership of a boar stud, semen collection and distribution center. By working with other operations, a producer can tap into the benefits of AI without investing in high-quality facilities. A cooperative approach can also reduce the cost of buying and maintaining superior boars.