Approved March 13, 2000
Date

MINUTES OF THE SENATE JUDICIARY COMMITTEE.

The meeting was called to order by Chairperson Emert at 10:12 a.m. on March 9, 2000 in Room 123-S of the Capitol.

All members were present except: Senator Petty (excused)

Committee staff present:
Gordon Self, Revisor
Mike Heim, Research
Jerry Donaldson, Research
Mary Blair, Secretary

Conferees appearing before the committee:
Alan Hess, President, Kansas Livestock Association
Steve Hunt, CEO, U.S. Premium Beef, Kansas City
Warren Weibert, Decatur County Feed Yard, Oberlin
Henry Gardner, Gardner Angus Ranch, Ashland
Ken Bull, Excel Corporation, Wichita
Andrew Murphy, Great Bend Feeding, Inc.
Jan Lyons, Lyons Angus Ranch, Manhattan
Ken Conway, Angus Gene Net
Bill Fuller, Kansas Farm Bureau
Mike Jensen, Kansas Pork Producers Council

Others attending: see attached list

The minutes of the March 7th meeting were approved on a motion by Senator Bond, seconded by Senator Goodwin. Carried.

SB 590–concerning livestock; regarding ownership of such livestock

The following conferees were all opponents of **SB 590**:

Conferee Hess highlighted facts and economic data from market analysts and livestock economists regarding the marketing of fed cattle. His well documented data appears to refute claims made by some supporters of **SB 590** that packers practice price manipulation and are possibly violating anti-trust laws. (attachment 1)

Conferee Hunt commented on the structure of the beef industry and the economic issues effecting it. He stated that his company is the first large scale beef marketing cooperative in the United States and he summarized the results of it's two year operation. He asked the Committee to continue to allow freedom to develop creative new marketing strategies that will add value for producers while improving the beef product for consumers. (attachment 2)

Conferee Weibert presented an overview of his feed yard business which he stated has profited through the use of contracts in alliances with major packers. He stated that if **SB 590** were enacted he and others like him would lose their freedom to form partnerships or new ventures to link cattlemen directly to consumers. (attachment 3)

Conferee Gardiner briefly reviewed his ranching business, cited statistical data relating to the beef industry over the years, and discussed the importance of value based pricing to meet consumer demands. He stated that if **SB 590** passes it will devastate the beef industry. (attachment 4)

Conferee Bull presented an outline of several of his corporation's alliances and summarized five ways in which **SB 590** harms producers and processors. (attachment 5)

Conferee Murray discussed the various methods producers are free to choose from when marketing their cattle and he stated that **SB 590** would "freeze how we market cattle." He pled for the freedom to market beef in new ways to move the industry forward and respond to changing consumer demand without interference from the government.(attachment 6)

Conferee Lyons briefly reviewed her family's business as beef ranchers. She affirmed that the beef industry is in a state of transition and stated that beef producers survival depends on being able to creatively form new arrangements for marketing without legislation like **SB 590** which would impose unnecessary restrictions on producers to market their product. (attachment 7)

Conferee Conway stated that **SB 590** would put his "producer driven alliance" out of business. He discussed his business and the success of it's marketing techniques and stated that he was opposed to any government intervention to regulate cattle marketing. (attachment 8)

Conferee Fuller reviewed **SB 590**. He presented an overview of the development of Farm Bureau's public policy and discussed conflicts between the bill and Farm Bureau policy. He stated Farm Bureau will be conducting an in-depth study of packer ownership of livestock, the results of which will be available in 2001. He also discussed the enactment of a federal law on mandatory price reporting and the USDA's development of rules and regulations to implement this law stating that this new program needs to be given time to work.(attachment 9)

Conferee Jensen briefly reviewed the pork producers history regarding legislation prohibiting packer ownership and discussed their stance on this issue today. He stated that while initially they approved of the prohibition they have now reversed that stance and he explained why. He called for freedom to make informed choices without government intervention. (attachment 10)

The meeting adjourned at 11:00 a.m. The next scheduled meeting is March 13, 2000.

SENATE JUDICIARY COMMITTEE GUEST LIST

DATE: March 9, 2000

NAME	REPRESENTING
Patricia J. Bartee	farmer
Malcolm Moore	farmer
[illegible]	Office of the Governor
[illegible]	KLA
Todd Domer	KLA
Brad Harrelson	KLA
Jim Allen	Seaboard
Susan Bechard	KCDAA
Don Reyer	KCA
Bob Domer	KLA
[illegible]	KLA
[illegible]	KLA
Craig [illegible]	KLA
[illegible]	KLA
Charles Imthurn	KLA
Mike Callicrate	KCA
[illegible]	leg.
Elroy Heim	KCA
Max Deets	KLA

SENATE JUDICIARY COMMITTEE GUEST LIST

DATE: Mar 9 2000

NAME	REPRESENTING
Jerry Eggleston	Mi Co farmers
Ivan W. Wyatt	Ks Farmers Union
Lewis Webster	farmer
Elizabeth Webster	farmer
David R Cross	Rancher
Kathy Patten	Speaker's Office
[illegible]	IBP
John [illegible]	FBO
[illegible]	KLA
Mark Knight	KLA
John [illegible]	KDA
Bill Fuller	Kansas Farm Bureau
[illegible] Cole	Sen. Tyson - Office
Mike Collinge	KLA
[illegible] Allen	Caprock Ind.
Ken Bonn	EXCEL Corp
[illegible] Brunnel	Cow Camp Inc.
[illegible]	KLA
Rich McKee	KLA

SENATE JUDICIARY COMMITTEE GUEST LIST

DATE: Mar 9 2000

NAME	REPRESENTING
Dan Johnson	KS House
Joann Flower	" "

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KANSAS LIVESTOCK ASSOCIATION

Since 1894

Testimony

Presented by

Alan Hess
President

Regarding

Senate Bill 590

Before the

Senate Judiciary Committee

March 9, 2000

The Kansas Livestock Association (KLA), formed in 1894, is a trade association representing over 7,000 members on legislative and regulatory issues. KLA members are involved in all segments of the livestock industry, including cow-calf, feedlot, seedstock, swine, dairy and sheep. In 1998, cash receipts from agriculture products totaled over $7.8 billion, with over fifty-five percent of that coming from the sale of livestock. Cattle represent the largest share of cash receipts, representing ninety percent of the livestock and poultry marketings.

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6031 SW 37th Street ◆ Topeka, KS 66614-5129 ◆ (785) 273-5115 ◆ Fax (785) 273-3399 ◆ E-mail: kla@kla.org ◆ www.kla.org

Concerns and fears about the changes occurring in the beef industry – especially how fed cattle are marketed – have been debated more than any other issue in KLA the past 6 years. This is a very emotional topic and there are many contrasting perceptions and opinions. We respect the rights and opinions of everyone in the industry and especially our members – including those views that did not prevail during our policy debates where each of them has one vote. KLA has tried very hard to sort the emotion from the facts and look objectively at those facts and economic data from the most credible sources available among market analysts and prominent livestock economists.

Allow me to highlight several of those findings:

1. The low prices of the recent "cattle cycle" have been deemed by virtually every economic analysis to have been consistent with what would reasonably be expected from several consecutive years of the highest beef supplies in the history of our industry.

2. Numerous studies by prominent livestock economists and investigations by the Packers and Stockyards Division of USDA (the findings of which were peer reviewed by other independent economists) have not found evidence of illegal price manipulation by packers. Specific investigations were done into fed cattle marketings in both Texas and Kansas and no wrongdoing was found.

3. KLA, along with our national association, requested the Justice Department look at the packing industry for evidence of monopolistic effects or violations of antitrust laws. To date, they have found no evidence worthy of further action.

4. Some cattlemen misperceive forward contracting as a coercive manipulation by packers. Actually, in many cases, it's cattle producers who initiate this form of selling. This is done for two main reasons:

    a. To have a predictable outlet for the huge amount of tonnage which must be sold each week because processors only have capacity for so much product.

    b. Some cattle producers use this method of selling as a way to seek new and better methods of satisfying consumers while hoping to also participate in the profits upstream in the marketing channels. New producer alliances are being formed with the goal of recapturing some of the market share beef has lost to pork and poultry the past two decades.

The beef industry has begun to realign and respond to the realities of the consumer marketplace. Those changes naturally cause great confusion and concern within an industry that has been doing business in the same basic way for decades. We acknowledge and respect those opinions and concerns. However, a large majority of our members has said to us very clearly over the past six years that they do not want government laws or regulations to determine who can own cattle or how they should be marketed. KLA neither supports nor opposes any marketing method over another. Our members' policy is to oppose having their freedom of choice to market; to adapt, or to innovate narrowed by either Congress or the state legislature. They do not want the beef industry in Kansas put at a competitive disadvantage with other states or with competing meats. We respectfully request that Senate Bill 590 <u>not</u> be considered favorably for passage.

Thank you.

MARKETING

PENDING LEGISLATION

SB 590 - Points included in the bill:

- Would prohibit packers from directly or indirectly owning cattle or swine more than 10 days prior to processing.
- Any packer owning livestock in Kansas would have to divest ownership before January 1, 2003.
- Would make it illegal to sell fed cattle on a contract using a formula or grid pricing mechanism without negotiating a base price prior to the cattle being committed.
- Would exempt the poultry industry from the bill.
- The Kansas attorney general or county or district attorneys would be responsible for enforcing the bill.
- Would allow lawsuits and triple damages.

KLA OPPOSES SB 590 because:

1. It would directly interfere with the marketing of cattle. KLA opposes attempts to limit individual producers' right to market cattle as they choose.
2. This bill would make it illegal for producers to sell feeder cattle or feeder pigs to packers.
3. It would make alliances, such as U.S. Premium Beef, illegal.
4. It could eliminate forward contracting.

Investigations of Livestock Marketing Related Issues

Numerous investigations and studies of livestock marketing issues have been conducted during the last several years. None of these investigations found any substantial violation of the Packers and Stockyards Act or anti-trust laws. Below is a summary of those investigations and studies.

June 1994 - The Commodity Futures Trading Commission (CFTC) investigates allegations that meat packers manipulated the livestock futures market. CFTC reports that no evidence of manipulative trading activity was found. In addition, CFTC found that during the period of greatest price decline (April 25 to May 25) packers were net buyers of Live Cattle contracts. Also, CFTC found packers were net buyers of the Live Cattle contract on all-futures-combined basis on six of the eight days when the June futures closed $1.00 or more lower.

October 1994 - CFTC completes a second and more in-depth investigation of allegations that meat packers manipulate the Live Cattle contract through intra-day trading. CFTC reports their investigation found no manipulation of the contract.

February 1995 - The Grain Inspection, Packers and Stockyards Administration (GIPSA) launches an investigation in Kansas into the buying practices of the four major beef packers.

April 1995 - Live Cattle contracts trade sharply lower. Commodity Funds are blamed but CFTC reports that Commodity Funds were responsible for less than 1% of contracts sold on that day.

August 1995 - GIPSA investigates and charges IBP with violating the Packers and Stockyards Act (section 202b) for giving undue preference to a small group of central Kansas feedlots. IBP uses a formula to buy fed cattle from those particular feedyards.

September 1995 - GIPSA receives complaints that some feedyards are selling "higher quality" cattle on the condition the packer buy a pen of "lower quality" cattle at the same price.

February 1996 - USDA releases the results of an investigation of concentration in the meat industry. The study began in October 1991. Six different projects were funded by congress. No illegal practices were found.

February 1996 - USDA Secretary of Agriculture Dan Glickman announces the formation of a USDA Advisory Committee on Agricultural Concentration. The committee is charged with investigating concentration in virtually every segment of the agriculture economy.

April 1996 - GIPSA releases the results of the investigation of packer procurement practices in Kansas. The time frame investigated included February, March, April and May of 1995. Data was obtained on over 15,000 transactions that included over 2 million cattle. In addition, GIPSA obtained cellular phone bills to determine if cattle buyers from the respective six plants had any communication between the buyers of the different packing plants. Over 10,000 cellular calls were analyzed. No violations were found.

ends USDA's pursuit of a 1995 complaint against the packing firm. USDA had charged IBP with giving undue preference to a small group of Kansas feedlots known as the Beef Marketing Group. An administrative law judge initially dismissed the USDA complaint in 1997, finding no evidence IBP violated terms of the Packers & Stockyards Act. USDA appealed and the ruling was upheld, except for the provision on right of first refusal. IBP then took the case to the U.S. Circuit Court of Appeals in St. Louis.

November 1999 – The GIPSA investigation of the Texas fed cattle procurement investigation that began in 1996 is completed. The investigation studied a 16-month period and included over 37,000 purchase transactions involving 6.2 million head of cattle. GIPSA found no violations. GIPSA announces they will now fund a peer review analysis of the investigation.

December 1999 - GIPSA releases the results of the peer review analysis of the Texas fed cattle procurement investigation. The reviewers found that method of the investigation was solid and they found no evidence of behavior that would constitute a violation of the P&S Act.

December 1999 – GIPSA announces it has entered into five agreements with public researchers to cooperatively study competition and other issues in the livestock and poultry markets.

1. Texas A&M will further analyze effects of captive supply. This research will be a follow-up study to an earlier study conducted at Iowa State University and the University of Nebraska to determine if captive supply resulted in lower cash market prices. This research is expected to be completed in nine months at a cost of $13,750.
2. GIPSA also contracted ($33,423) with Utah State University to assess beef packers use of market power. This research is scheduled to be completed in October 2001.
3. GIPSA also issued a contract ($24,995) to the University of Wyoming to study the bidding behavior in auction markets to evaluate possible collusive behavior. This study is scheduled to be completed in September of 2000.
4. GIPSA issued a contract ($64,756) to North Carolina State University to analyze the economic effects of alternative compensation methods on contracts growers
5. GIPSA contracted ($67,460) with Texas A&M University to assess markets for chicken grower services and integrator use of the contracts. The project is scheduled to be completed in 2001.

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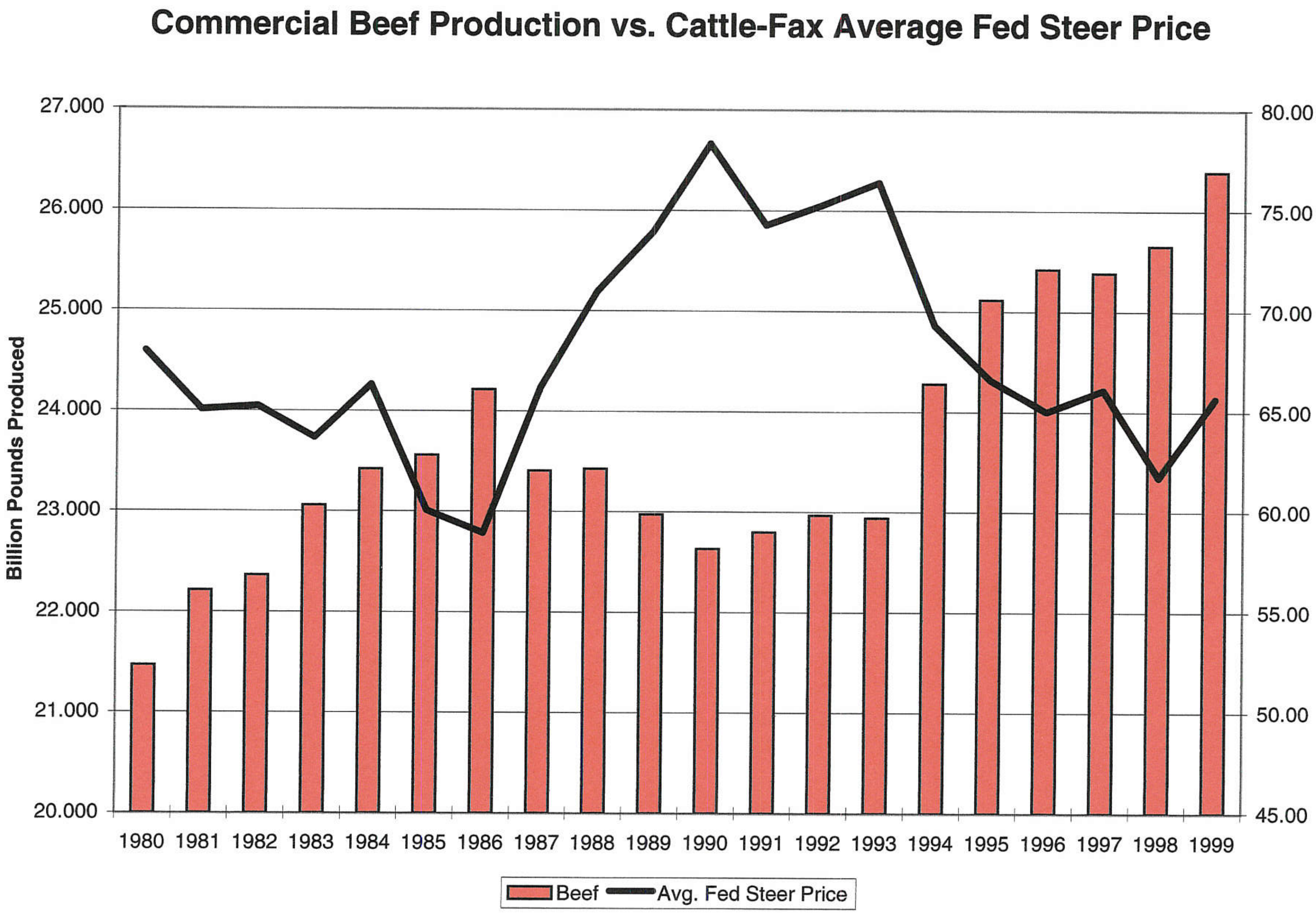
Commercial Beef Production vs. Cattle-Fax Average Fed Steer Price
Billion Pounds Produced
27.000
26.000
25.000
24.000
23.000
22.000
21.000
20.000
$/Cwt.
80.00
75.00
70.00
65.00
60.00
55.00
50.00
45.00
1980 1981 1982 1983 1984 1985 1986 1987 1988 1989 1990 1991 1992 1993 1994 1995 1996 1997 1998 1999
Beef
Avg. Fed Steer Price

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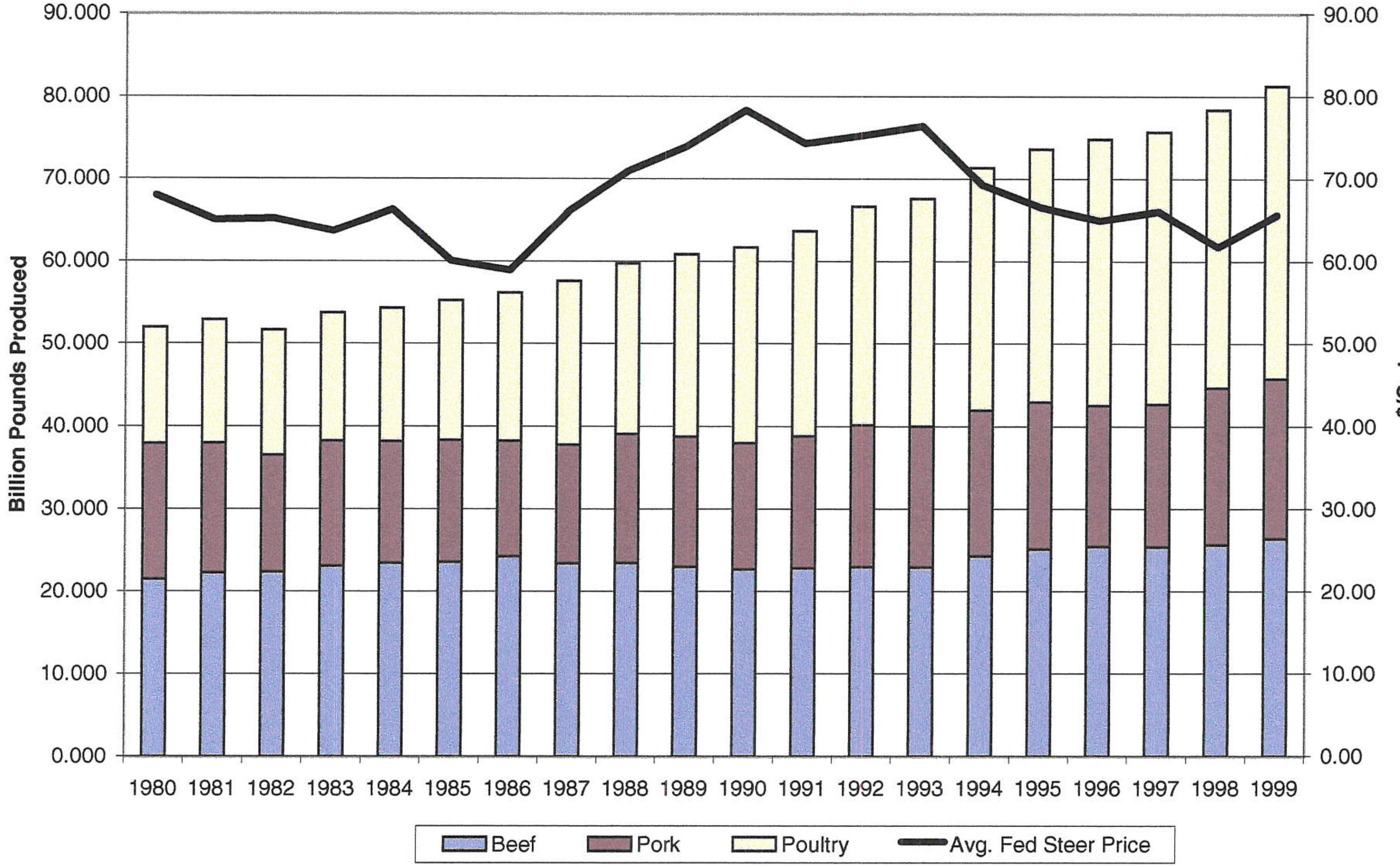
Total Meat Production vs. Cattle-Fax Average Fed Steer Price



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Non-Cash Fed Cattle Marketing

Prepared by
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Kansas State University
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February 29, 2000

Forward contracts and marketing agreements (popularly referred to as "captive supplies") are non-cash marketing methods commonly used by cattle feeders and beef packers. For cattle feeders these relationships offer numerous advantages including enhanced price risk management opportunities, reduced time and resources spent selling cattle, and increased opportunities to market cattle in a value-based pricing system. For beef packers, captive supplies provide a readily available source of cattle to improve slaughter plant scheduling and reduce resources necessary for cattle procurement thereby reducing beef-packer operating costs by increasing packing plant utilization. Use of captive supplies also enhance beef packer price risk management opportunities and help them secure cattle having desired quality attributes. Use of captive supply agreements has become popular because both parties involved in the transaction benefit.

To date no definitive formal studies have been completed to determine the long-run impact of captive supplies on cattle markets. However, economists possessing cattle market expertise (gained through substantial research in the industry) agree that in the long run the use of captive supplies likely results in fed cattle prices that are greater than they would be in the absence of such marketing methods. This is because at least part of the reduced beef packing plant costs associated with the use of captive supply are bid into higher fed cattle prices. Captive supplies also benefit the industry through improved coordination between beef packers and cattle producers. Improved coordination sends clearer market signals to producers enhancing their ability to respond appropriately and profitably to market signals.

Despite likely long-run benefits, several studies of short run prices, including the most recently completed USDA study,[1] have found statistically significant negative correlation between weekly cash market fed cattle prices and use of captive supply. For example, the USDA study finds "If a typical plant's non-cash cattle supply proportion of near-term future slaughter were to increase by ten percentage points relative to its rivals' degree of reliance on non-cash supply sources, then we would expect the spot market prices paid by that plant, for cattle of given quality, to fall somewhere between 0.02 \$/cwt and 0.04 \$/cwt. (on a live-weight basis) relative to regional average prices" (pp. 5-6) (underline for

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[1] Schroeter, J.R. and A. Azzam; "Econometric Analysis of Fed Cattle Procurement in the Texas Panhandle." USDA, Grain Inspection, Packers and Stockyards Administration. November 1999. http://www.usda.gov/gipsa.

emphasis added). This suggests a relatively small economic correlation with short run prices. At the market level, for the four plants included the USDA study, if captive supply use were to increase by about 7,730 head (one-standard deviation of the average level of 26,400 head), or by about 30%, "...taken at face value, imply that the other-factors-held-fixed impact of this change would be a decrease in the spot price by $0.69/cwt. (on a live-weight basis)" (p. 6). However, the challenge is this *correlation* result does not imply *causation.* As the authors discuss at length in the USDA report, the reason this result does not indicate wrong-doing on the part of beef packers is a timing issue. If packers expect cash prices to decline next week (and since they have a wealth of short-run information, they are likely quite accurate week-to-week price forecasters), they will use captive supply cattle for next week's deliveries and procure cash-market cattle next week when prices are "low" for delivery the following week. Alternatively, if cash prices next week are expected to increase, the packers will be more inclined to hold captive supply inventories until later weeks to substitute for higher cash price cattle later. This inventory management would create the inverse relation between cash market fed cattle prices and captive supply deliveries found in the recent USDA and other past studies.

The authors of the USDA study conclude, "In light of our results, we recommend that the agency should not rely on the statistical finding of a negative correlation between deliveries of cattle procured by non-cash methods and spot market prices as evidence of intent by packers to depress cattle prices through the use of non-cash supply sources, or as evidence of the unintentional consequence of lower prices as a result of non-cash supply use" (p. 72). The key point here is that even if cash market fed cattle price movements were completely unrelated to captive supply deliveries, incentives influencing captive supply delivery scheduling would result in the observed negative correlation between cash market prices and captive supply deliveries.

There are numerous benefits to cattle producers, beef packers, and the entire beef industry of having the ability to use captive supplies in fed cattle marketing. Elimination of these additional marketing options would be detrimental to the fed-cattle market. Further, the short-run negative correlation often observed between fed-cattle cash prices and captive supply deliveries are likely a result of cattle delivery scheduling incentives by packers and not indicative of manipulation of market prices.

KANSAS LIVESTOCK ASSOCIATION

KLA Policy Adopted by the Membership

19. MARKETING (1999)

WHEREAS, the livestock industry is facing a changing marketing situation and many recognize the negative effects of non-negotiated sales, captive supply and cash selling on averages as evidence that the current fed cattle marketing system has broken down, and

WHEREAS, many in the industry see the practice of selling all cattle for one money without regard to carcass merit as a major impediment in the value discovery process, and

WHEREAS, too many consumer beef eating experiences today are unsatisfactory, and the beef cattle industry must move toward the production of a more consistent, higher quality beef product in order to recapture market share.

THEREFORE, BE IT RESOLVED, the Kansas Livestock Association supports changes to the current marketing system that improve the value discovery process.

BE IT FURTHER RESOLVED, the Kansas Livestock Association supports a marketing system free from government regulations.

BE IT FURTHER RESOLVED, the Kansas Livestock Association suggests to its members they consider the benefits of selling on a negotiated carcass merit basis, but shall continue to guard its members' freedom of choice to conduct their own business and utilize their own marketing program as they see fit.

20. KLA STATEMENT OF OPERATING PRINCIPLES (2000)

WHEREAS, the Kansas Livestock Association believes the livestock industry is best served by the process of free enterprise and free trade, and

WHEREAS, even with its imperfections, free trade is relatively more equitable than regulated and subsidized markets which retard innovation and distort production and market signals, and

WHEREAS, regulated and subsidized markets disadvantage some producers in favor of others, and

WHEREAS, recent proposals of federal non-natural disaster direct government payments and federal livestock insurance are two examples of long-term negative precedents for the livestock industry.

THEREFORE, BE IT RESOLVED, the Kansas Livestock Association reaffirms its opposition to the imposition of political solutions to the livestock industry's economic problems or attempts to narrow the business options or limit the individual freedom of livestock producers to innovate in the management and marketing of their production unfettered by additional government regulations.

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Statement of Steven D. Hunt
Chief Executive Officer
U. S. Premium Beef, Ltd.

Testimony before Senate Judiciary Committee
in Opposition to SB 590

March 9, 2000

Mr. Chairman and members of the Committee, I appreciate the opportunity to appear before you and discuss solutions to the challenges that are facing the beef industry today. As a fourth generation cattle producer and the CEO of U. S. Premium Beef, the first large scale beef marketing cooperative in the United States, I am proud of the history of independence and perseverance that is a stalwart of the beef industry. Historically, it has been these traits that have enabled us to survive and prosper. Today and in the future it will be our cooperative efforts through strategically aligning ourselves between our many segments that will ensure survival. And, when referencing segments, I am referring to all participants up and down the food chain from the ranch to the consumer.

We will look back on this time as a watershed moment for both cattle producers and other segments of the Beef Industry. The issues and factors effecting our industry are complex. You have heard much testimony concerning issues of cattle and beef marketing. I am not here to defend the packers or producers that have entered into controversial marketing agreements. Frankly, I don't have the facts to make those judgements. However, it is my intent today to come before you in an uncommon role. As both a producer and a packer, U. S. Premium Beef is in a unique position to cut through the rhetoric and mis-information that is gripping our industry today, and make informed observations and introduce logical solutions to the challenges we are facing.

My initial comments today will focus on much of the industry structural and economic issues that served as the imputes for the formation of USPB. This will be followed by a description of our company and the results after our first two years of operations. In the essence of time, I will condense my

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comments. I would encourage you to review my full written material including supporting data at your convenience.

Who is making the money?

In our capitalistic society, competition can create the aura of winners and losers. "Who got out traded?" is a common question in the cattle trade. But where would our nation be today without this competitive drive and fostering an atmosphere where the innovative, the hardworking and successful are rewarded. The facts I am about to share were arrived at as a result of a combination of the due diligence process during the formation of USPB and knowledge we have gained as an owner of a beef processing company.

As we look at the historical movement in live cattle prices, wholesale cutout prices and retail prices, as referenced on exhibit A, we will observe the cyclical nature of the beef industry. Especially noteworthy is the parallel nature of live price to cutout.

There has been much discussion within the industry over the past two years concerning the profit margins within the meatpacking sector. The fact is that when this issue began re-surfacing in August of 1998, the previous 12 months represented the worst packer margin index in five years as referenced on exhibit B and C. In contrast, the earnings reported beginning in August represented the seasonably higher earnings that normally occur during the summer months. While the months of August and September of 1998 represent above the five-year average earnings level, as is apparent in exhibit D, the balance of the year reveals below normal earnings. Quite simply, because beef packing margins are so highly seasonable, you can not look at one point in time and draw conclusions without looking at the year as a whole.

Since 1994, however, we have seen a more stable retail price as compared to live and cutout thus causing high farm to retail beef price spreads. This would lead some to believe that the retailer is gaining an unfair advantage. To direct energies toward reducing beef prices therefore reducing retailer margins would be a mistake. It is in best interest of our entire industry that we maintain as high of level of value in our products. The key is that as producers, we must move up the value-added food chain and reap these rewards. This, as I will discuss, can only be achieved through more coordinated efforts.

As our industry continues to evolve, advancements in technology, genetic improvements and sophisticated marketing practices provide for increased opportunities. The ability of small independent producers to compete with large conglomerates is difficult. However, much of our ability to succeed will not be tied to size alone. A producer's ability to adapt to change and the utilization of the latest technologies and other management tools, including creative marketing strategies, are just as critical.

Much has been said regarding the consolidation of the meat packing industry. However, consolidation within our industry is not limited to meatpacking. As referenced in exhibit E, since 1974 we have approximately 25% fewer beef farms, 50% fewer feedlots and 65% fewer beef processing plants. All sectors of the industry including producers and packers are dealing with the challenges of changing competitive factors implicit in beef's declining market share. For our industry to reverse the trends of fewer players and reduced market share, we must work toward coordinated efforts between sectors verses building greater barriers and increased regulation.

Simply put, how far do we role the clock back on industrialization and technological progress to satisfy the proponents of this bill. At one time, the horse drawn plow limited the size of a farm and placed a farmer on every 50-acre section of farm ground. Technology gave us the 100 horsepower tractor and enabled the innovative progressive efficient farmer to buy his neighbor's farm and cover 300 acres. Why are many industries including agriculture consolidating? It is technology today that allows a producer to farm vast acres and grow thousands of cattle and beef processors to slaughter millions of cattle at great economies of scale. Breaking farms back up to 300 acre plots, feedlots to 500 cattle and beef processors to one million carcasses will reduce efficiencies, drive up costs and ultimately result in higher food prices to consumers.

Why are prices Low?

Once again, producers find themselves asking, Why are prices so low? Is it because the packer has gained leverage over the producer? According to USDA numbers, over the last five years the gross packer margin (the value of beef cutouts vs. live cattle price) has dropped over $20 per head. If through forward pricing of cattle or so called captive supply arrangements, it was the intention of the packer to create wider margins, then they failed miserably. 1998 will be known for a year of beef processing business closures. The sixth largest beef processor, BeefAmerica closed in the fall of 1998 and in March, IBP's Luverne, MN beef slaughter plant was closed permanently as well as Hermando Boneless Beef Co. and there are more.

The cause of lower cattle prices is simple. Production of meat proteins has reached record levels. Beef production alone in 1998 reached record levels of nearly 26 billion pounds (see Exhibit F). This is an increase of over 3 billion pounds annually or 13% in five years. During the same time period, however, beef continues to lose market share to both pork and poultry. In the last 20 years, per capita consumption of beef has dropped over 30% (see Exhibit G).

As revealed in exhibit H, a stark inverse relationship between supply of beef and average fed steer price has existed for years. This chart provides the clearest evidence of the fundamental reasons behind low cattle prices. How can anyone viewing this chart not come to the logical conclusion that our price is driven substantially by economic factors?

As one reviews the facts, there certainly exist today efforts by both producers and packers to enter marketing arrangements that take cattle off of the weekly spot market. Some estimates are that at times this could be as much as 40% of the cattle on a weekly basis. Structural change within our industry will continue and accelerate as producer's decline in number and grow in size. Does this provide for an unfair advantage to the participants and remove the competitive forces of the live cattle market? Week to week certainly it is reasonable to assume that there could be a negative impact on price. However, looking at a year as a whole or even historically, there is little evidence that so called captive supplies have played a role in depressed live cattle prices. This is a view shared by many very credible sources.

As we look at the shear economic factors, as producers, the thought of limiting production to raise price is not one easily embraced. The key to producers of any size to remaining competitive is to respond to consumer's quality needs, increasing productivity, and lowering costs. Market development is key for the cattle and beef industry as we as we look toward reversing the trend of eroding market share to competing proteins. Reliance on antiquated marketing practices that inhibit value based marketing; stifle communication and breed mistrust between sectors will only lead to further loss of market share. It was and is our conclusion that these disturbing trends can only be reversed through creative marketing systems that provide:

1. True Value based carcass merit pricing (price based on meat quality)
2. Transfer of carcass data back to producer (earned through shared risk)
3. Ownership in value-added processing through vertical integration

Background of U. S. Premium Beef, Ltd.

As early as the fall of 1995, Midwestern producers from all segments of the cattle industry, seed-stock, cow/calf, farmer feeder and feedlots, began meeting to discuss solutions to the problems plaguing the current cattle marketing system; These include:

1.A system that promotes mediocrity by the gathering of cattle in large numbers, primarily entire feedlot showlists, and establishing one average price without regard for quality or value differences.

2.A system that has provided incentives only for production efficiencies (i.e.: faster weight gain and lower feed costs) and little or no regard for carcass or meat quality thus lowering the overall quality of beef and consumer demand.

3.A system that provides large producers the advantages of the efficiencies of economies of scale and the leverage to negotiate private marketing agreements with little opportunity for the independent family rancher or feeder to enter agreements that reward for producing a more valuable animal.

After much research by a group of cattlemen, frustrated with the rhetoric of problems and finger pointing, and committed to taking control of their own destiny, U.S. Premium Beef, Ltd. was formed. Founded on July 1, 1996, U.S. Premium Beef was structured as new generation marketing cooperative, the first and only in the United States. Shortly thereafter a business plan was established and a mission statement was adopted. This mission reads:

"To increase the quality of beef and the long-term profitability of cattle producers by creating a fully integrated producer-owned beef processing system that is a global supplier of high quality value-added beef products responsive to consumer desires."

From there, more than 675 producers from 24 states committed both cattle production and capital to seek out the most economically feasible inroad into further processing and value added products. After extensive research into the different alternatives of acquisition, building or joint venture, it became evident that the only viable avenue for producers to enter further processing was through joint venture.

As producers, what we bring to the table is the ability, through known genetics and cattle management, to design supply cattle tailored to consumer demands and delivered in a systematic way that will provide a year around supply of cattle to plants. As producers, we provide little expertise in processing and marketing and are ill equipped to compete in a mature beef packing industry that is highly competitive.

In July of 1997, we announced that U. S. Premium Beef had signed an agreement to enter a partnership with Farmland Industries, the nations largest farmer owned cooperative, to purchase up to 50% of Farmland National Beef Packing Company. Farmland National Beef is the fourth largest beef processing company and an international leader in value-added branded products.

During the fall of 1997, USPB mounted a stock offering drive throughout the United States. By December 1, 1997 our efforts were successful. We had commitments for close to 700,000 cattle annually and over $72 million of capital raised. The following week, USPB began operations, buying more than 10,000 member cattle on an individual animal basis over a progressive carcass value based grid.

Current USPB Operations

To date, USPB and its members have marketed over one million cattle through its plants and beef company. Membership totals over 1000 producers from all segments in 28 states. While still in its infancy, over the last two years, USPB has paid out over $14.5 million dollars in grid premiums over the cash live cattle market, earned over $16 million in company earnings and realized over $17 million in stock appreciation. This represents an average return on the initial $55 per share investment of over 125%.

Additionally ever producer member is insured a competitive carcass merit grid pricing, carcass data on individual animals, transportation credit up to 110 miles and livestock and meat consulting, all at no charge.

The results of our first two years of operations are very encouraging. As is apparent in exhibit I, the level of premiums have steadily increased over the past year. This has occurred in great part due to the utilization of carcass data and the financial incentives in place through grid pricing. Any producer armed with the correct tools can achieve these results.

Conclusion

For years the cattle industry has talked about problems. For years we have witnessed devastating erosion of market share and loss of independent cattlemen and women. U. S. Premium Beef is a solution, created as an effort to respond in a proactive way to challenges of our industry. You will hear testimony from those who would like you to take action that would limit our cattle marketing options.

While we have great empathy for those positions, we feel that our successes reinforce the need for producers to move on. Three years ago, the founding members of USPB shared many of the same concerns surrounding captive supply issues. It wasn't until we took a step back and began looking at the facts objectively that we as producers realized the solutions lied in coordination vs. isolation.

We appreciate the assistance members of this committee have provided in the past and ask for your continued support through allowing producers the freedom to develop creative new marketing strategies, such as U. S. Premium Beef. Strategies that will add value for producers while improving our product and winning back consumers to beef.

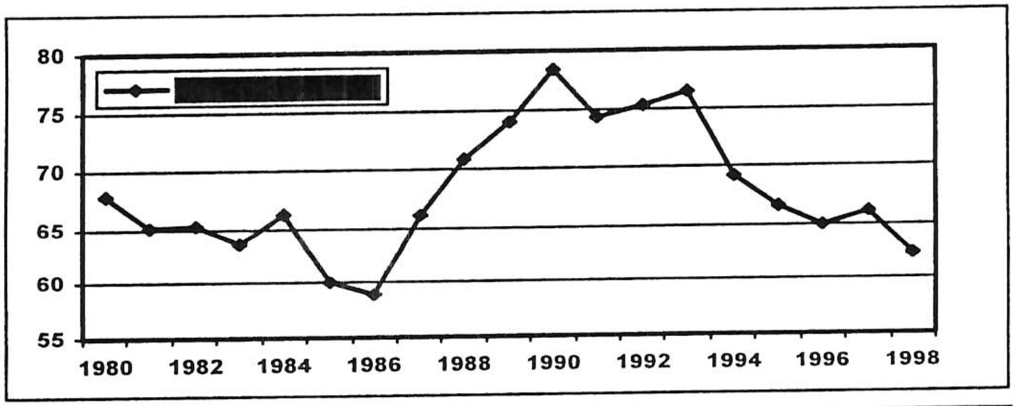
Thank you for this opportunity to provide testimony today. I will be happy to respond to questions.

EXHIBIT A

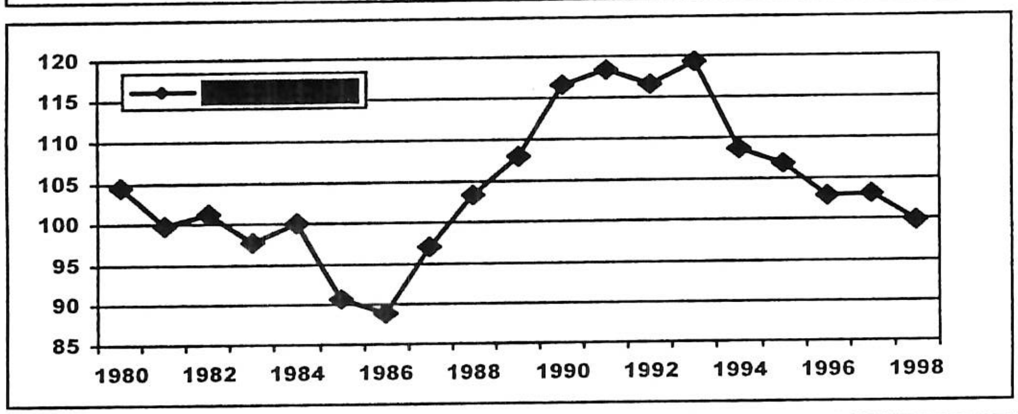
2-9

Who is making the money?

LIVE →



BOX →



RETAIL →

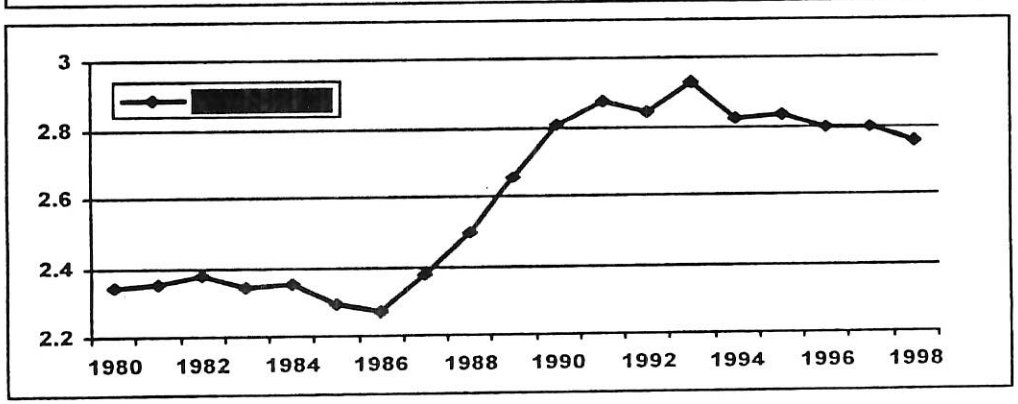


Exhibit 8

2-10

Cutout + Drop Vs. Cattle Price

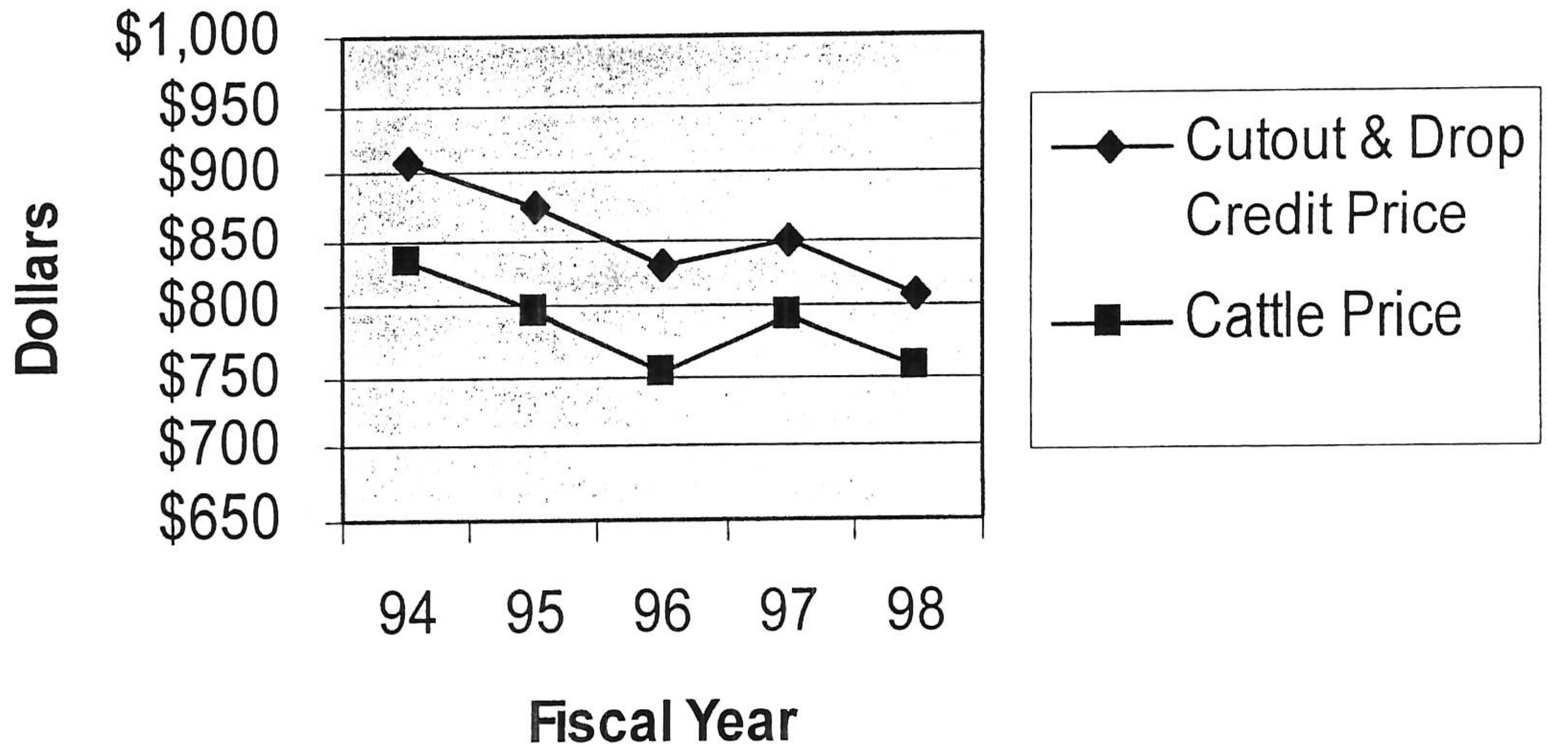


Exhibit C

11-2

USDA Gross Packer Margins

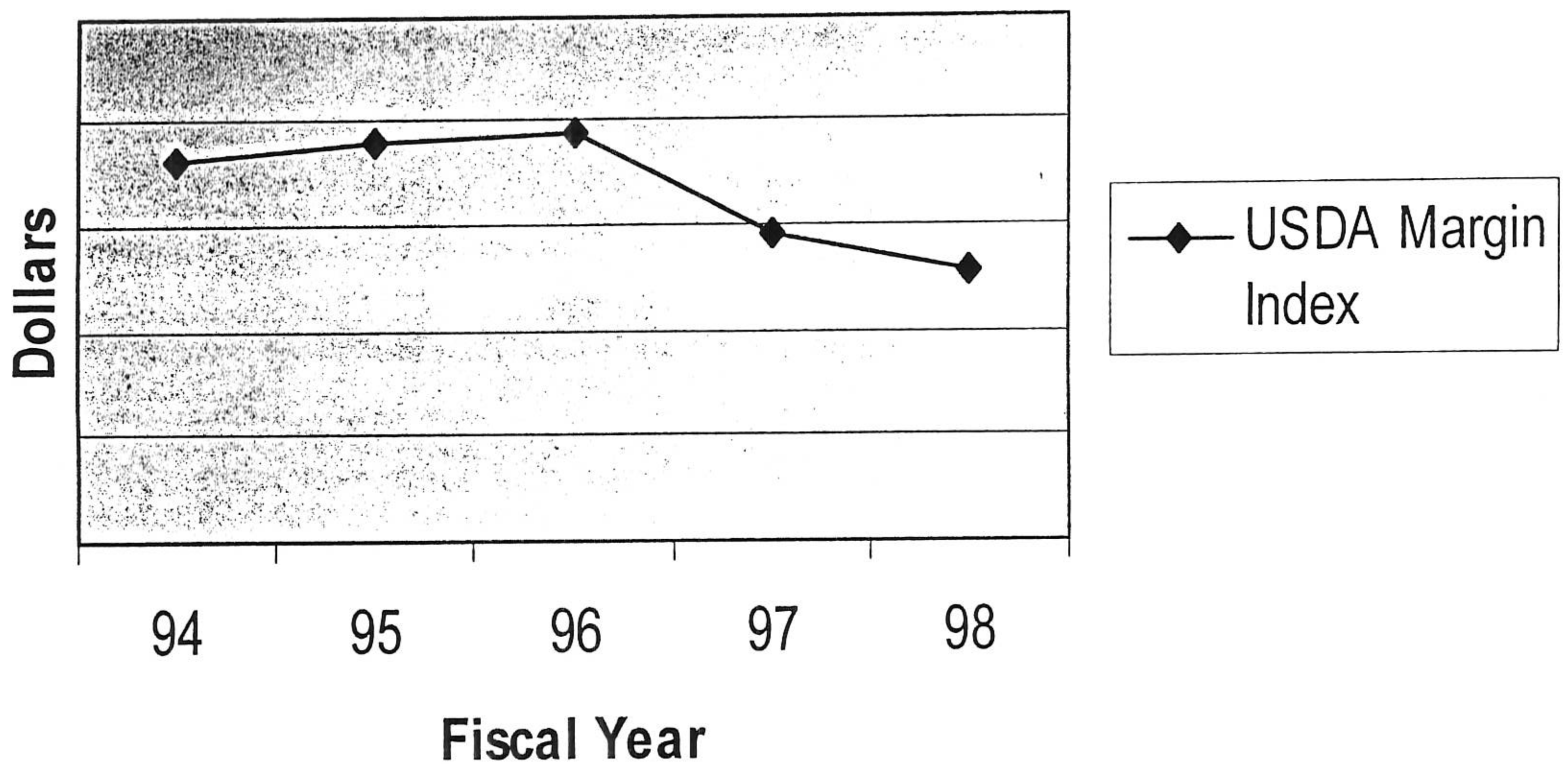


Exhibit D

2-2

USDA Weekly Packer Margin Index

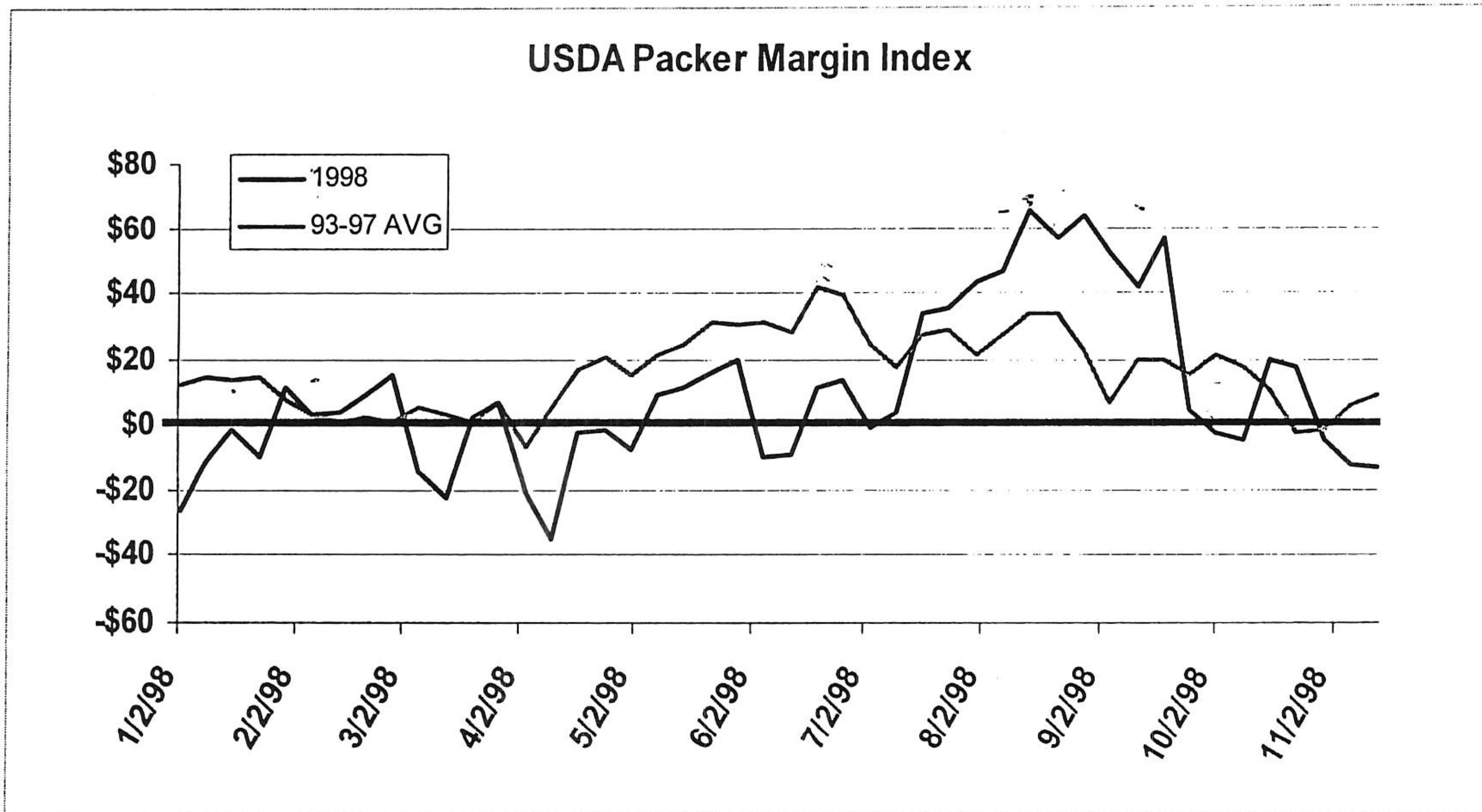
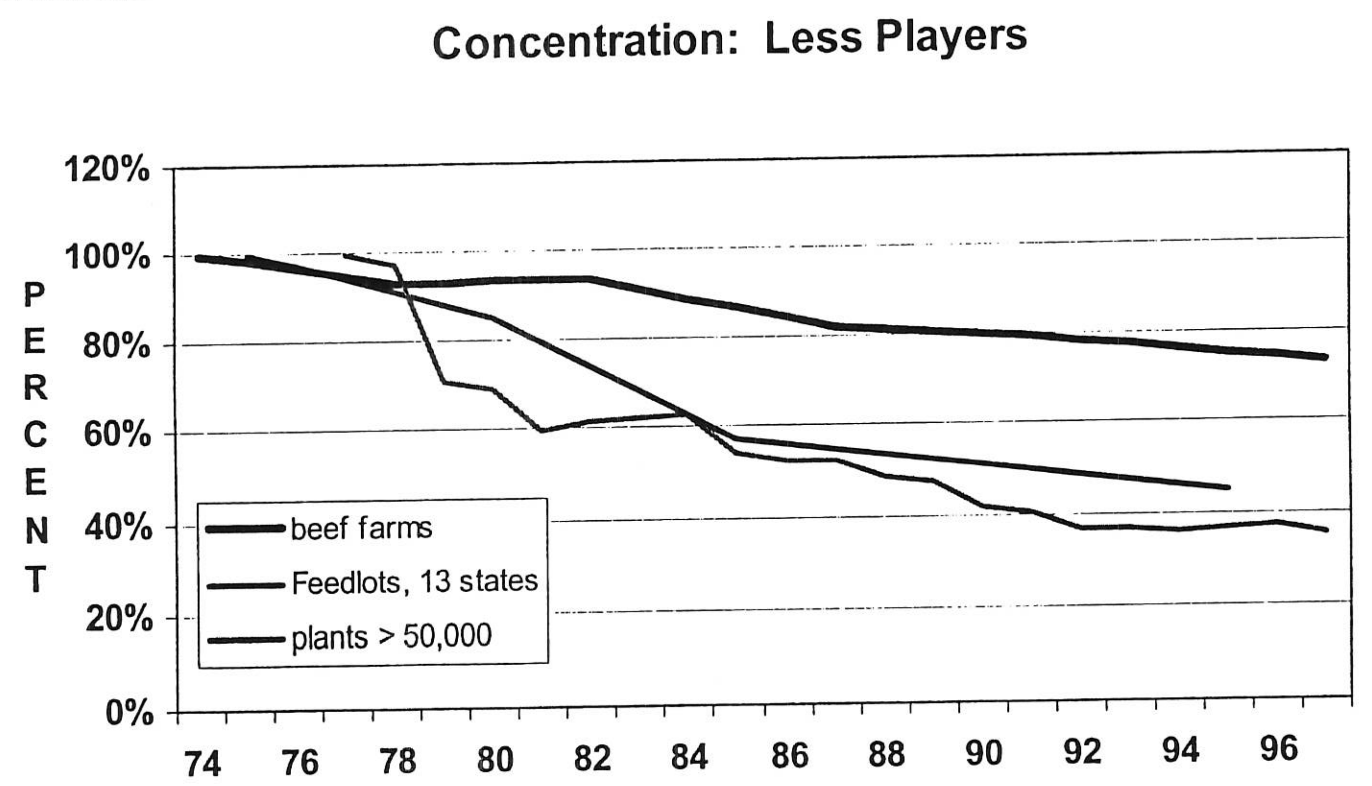


Exhibit E

2-13

Industry Concentration

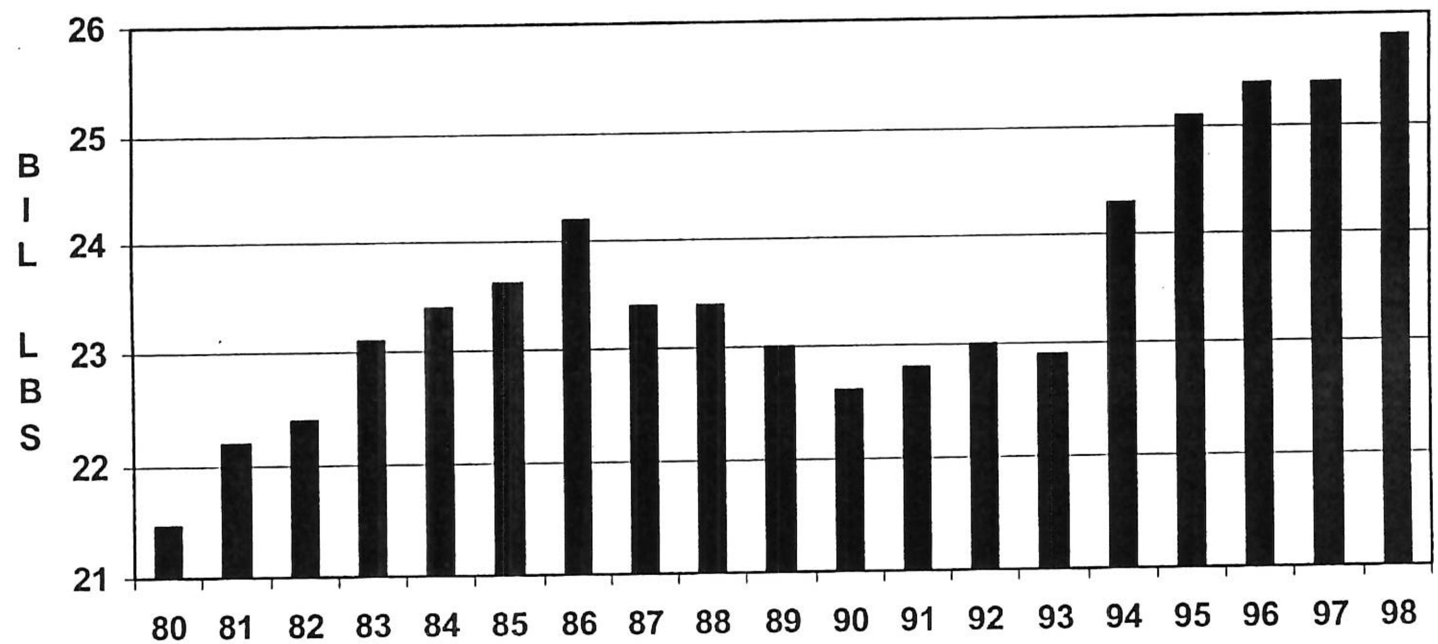


Sources: USDA & Census of Ag

Exhibit F

2-14

Beef Production



*Projected 1998
Source: USDA

Exhibit 6

Consumption

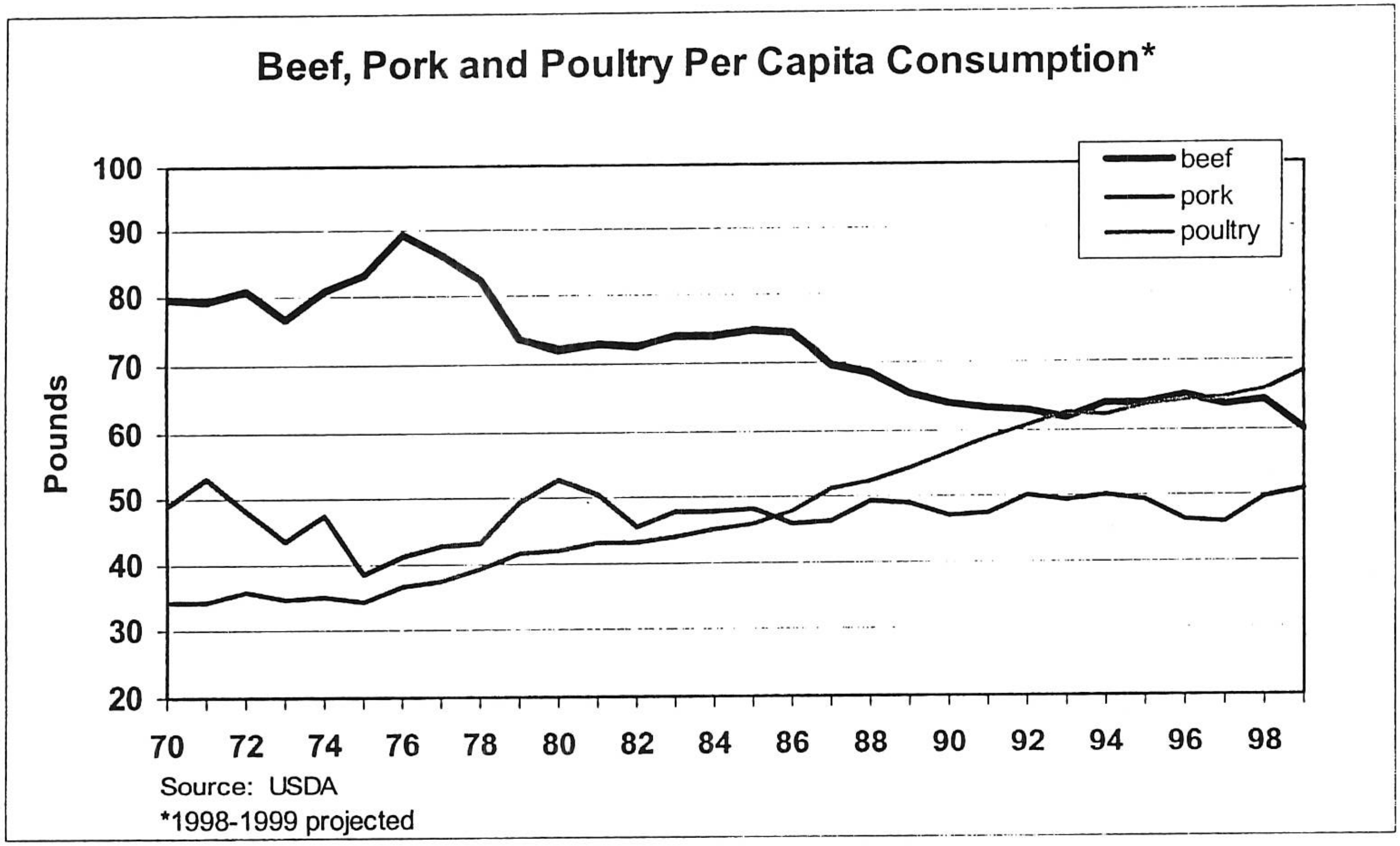


EXHIBIT H

2-16

Production vs. Price

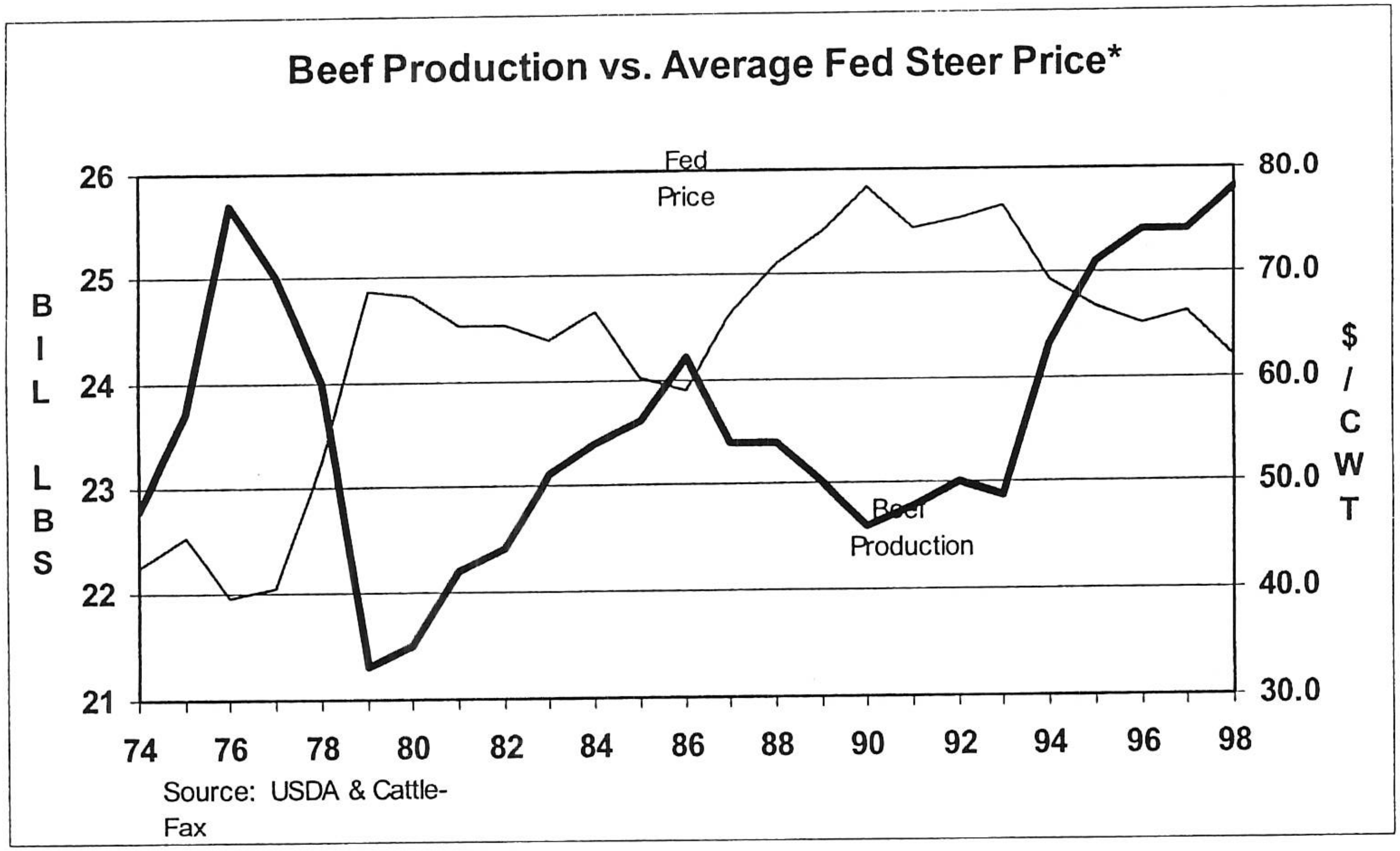
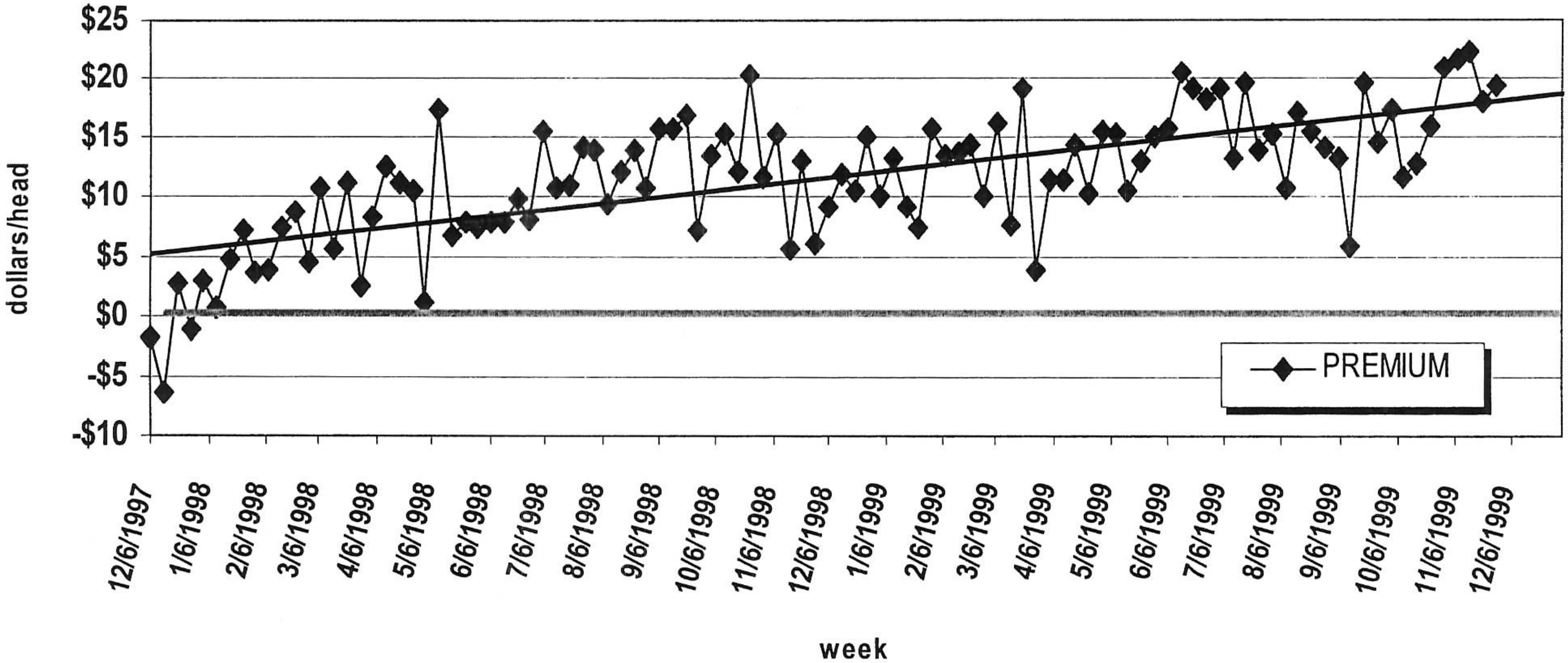


Exhibit I

2-17

USPB Grid Premium History



U.S. PREMIUM BEEF LTD.

5 Jud 3-9 3

Rural Route 3, Box 9 • Oberlin, Kansas • 67749 • 785.475.2212

March 9, 2000

To: Senate Judiciary Committee

From: Warren Weibert, Decatur County Feed Yard, Oberlin

Subject: Senate Bill 590

My name is Warren Weibert. I own and manage Decatur County Feed Yard, a 38,000 head commercial cattle feeding operation near Oberlin, Kansas. Since the early 1980's our feedyard has specialized in feeding calves for cow ranchers who retain ownership through feeding all the way to slaughter.

Until the last two years, we typically also had a few customers who bought lower quality cattle through auctions and sent them to us to feed.

When the ranchers realized their high quality ranch raised calves were being valued by the cash-on-the-hoof-market at the same price as the lower quality cattle, they were not pleased. In the non-contracted cash market, as we have known it over the past several years, one price fits all cattle, regardless of quality.

Therefore, to please our customers, we began in 1992, trying to get paid true value for the retained ownership ranch calves we feed by using contracts in an alliance with two different major packers.

At the present time, we are working with over 100 different ranches ranging from Hawaii to Virginia to Florida and many states in between. Thirty-six Kansas ranchers are presently involved in our alliance. Large ranchers and small ranchers alike are attracted to our program. They consistently are making more net profit on their cattle in our program than by selling them on average cash price and are very happy about it as evidenced by the fact that our Decatur Beef Alliance has grown from 8,300 head in 1995 to over 40,000 head in 2000.

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The demand for beef has dropped continually since 1980, with a small rebound in 1999. There are probably several reasons for the loss of demand, but we believe that part of the loss is due to lack of quality and consistency of the beef product being consumed. The consumer doesn't believe they are getting value for the money spent. Our alliance is trying to develop a more standardized beef product. We are partnering with ranchers, market cattle to hit a set target of specifications with a specific packer, getting paid premiums and discounts around the target, and communicating with each other. We have been working for years to better our rancher customers, the beef product, and ourselves.

In the future, we want the opportunity and the legal freedom to form partnerships or new ventures to link cattlemen directly to consumers and possibly involve a producer owned packing plant or a retail partner, if we so choose. This bill, if enacted, would block us from pursuing this specific concept that, along with other cattle producers, we are currently considering. We have always believed in the free enterprise system and don't want the government to dictate how I will conduct my business or to whom I can sell cattle or beef.

The sponsors of SB 590 might be well intentioned, but this bill is bad for the beef industry. If this bill passes, it will speed up the demise of Kansas ranchers rather than improve their viability. I respectfully urge the defeat of SB 590.

GARDINER
ANGUS RANCH
Rural Route 1, Box 290 • Ashland, Kansas 67831 • 316.635.2932 • Fax 316.635.2930 • www.GardinerAngus.com
Henry: 316.635.2932 • Greg: 316.635.2752 • Mark: 316.635.2760 • Garth: 316.635.2361

I am Henry Gardiner from Ashland, Kansas. My wife and I and our three sons and their wives operate Gardiner Angus Ranch. We are the third and fourth generation ranchers to ranch in Clark County. My grandfather Henry Clay Gardiner homesteaded in Clark County in 1885. All four families live on our ranch. Over 90% of our ranch's income is derived for the sale of registered and commercial Angus cattle.

I am speaking today to oppose any legislation that will prevent clear economic signals from being sent to the beef cattle industry. Beef demand decreased every year from 1977 to 1998. During this 21-year decline, in beef demand, poultry, pork, and fish took 20% of the market share away form beef. In 1977 the U.S. ate 95# of beef per person. Over the next 21-years consumption of beef has declined over 1# per year per person. In 1998, consumption was about 30# per person less than in 1977. This is a 30% decrease in consumption per person in a 21-year period. No industry can survive over the long haul with this continual decline in demand.

In 1999, the demand for beef showed a slight improvement for the first time in 22 years. To continue the improvement in beef demand for beef, we need to have more convenience and more consistently good beef products. Bernie Hanson and other convenience beef product experts of the U.S. are working on more user-friendly beef products. We as cattle breeders and cattle feeders have the tools available to produce a much better carcass, but only if the pricing system allowed us to measure the demand for various types of cattle that consumers want.

For many years fed cattle have been sold all at one price. The good, the bad, and the ugly have all brought about the same price per pound on any given day. Now there are different grids that pay more for cattle that have more valuable carcasses, and pay less for cattle of lesser value. SB 590, if passed, will be a major setback and limit critical future progress in VALUE based pricing. If we are going to increase demand for beef, then it is imperative that the market be allowed to reflect the wide variation in value between cattle. The Soviet Union had a strict price controlled economy, which was a disaster for them. The capitalistic system has served this country very well in the past. I see know reason to change now. Rigid price controls on beef will be a disaster for the beef industry.
Packing plants in Kansas process about 7 million cattle per year. The wholesale value of this production is about 5 billion dollars. Packers handle lots of dollars, but historically, their profit margin on total sales is only 1%-2% annually. In a recent year wheat accounted for only 17% of the 7.5 billion dollars that Kansas ranchers and farmers received for their ag products. In comparison, cattle contributed 56% of the total cash received. Any economic mistake that involves over 9 billion dollars in the Kansas economy could have a devastating effect on Kansas, Kansans, and the whole U.S. beef industry.

Please, please, please, do not put our industry and our families, in an economic strait jacket that will prevent the beef industry from being able to compete in the market place.

Since 1885

The Brand of Quality in Quantity

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Testimony of Ken Bull
Vice President, Cattle Procurement
Excel Corporation
On
Senate Bill 590
Before the Kansas Senate Agriculture Committee

Mr. Chairman and members of the Committee, I appreciate the opportunity to appear before you today as you consider Senate bill 590.

This legislation is virtually identical to bills we have seen introduced in South Dakota, Nebraska and Missouri. If enacted, this bill would prevent our firm and others from working with ranchers and cattle feeders to create unique marketing opportunities that work best for the individual producer. Let's be clear about this: contrary to what you may have heard from proponents of this legislation, grids and formula arrangements are a producers' option. No one can force a producer into such an arrangement.

Proponents of this bill have represented that other states have enacted similar legislation. For the record, we know of no other state that has done what this legislation does. It is true that some states ban certain marketing practices, but no state has gone this far. Dozens of studies undertaken by the USDA, the GAO, universities and the private sector demonstrate that these kinds of agreements do not have a negative bias in price determination.

The provisions of the legislation are far reaching, and I don't know that the bill's supporters fully recognize the implications for the beef industry. Specifically, as currently drafted, the bill would make unlawful a number of alliances that Excel and cattle producers have created and are in operation in Kansas today. Let me outline several of them for the committee today:

1. Excel has a marketing initiative called BeefWorks through which producers enroll their feeder cattle in nutrition programs designed to produce top quality animals, for which value creation is rewarded. Because animals are enrolled in the program as much as 150 days prior to slaughter, it is impossible to establish a base price this far out. Instead, producers agree that the base price will be, for instance, the average Kansas price during the week of slaughter. Producers are very comfortable with this level of price risk because of the probably premiums. This kind of venture takes substantial investment by producers – an investment that would be virtually worthless through this bill. Under SB 590 BeefWorks will be made illegal in Kansas, taking away an innovative marketing tool for Kansas cattle producers.
2. Another program we have is called Ranchers' Renaissance. Through this program, producers are paid on a formula that hinges on the price we are able to secure for the sales of boxed beef. Producers share a higher degree of risk, but they receive a far greater share of the total value of their livestock,

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because they are much closer to the consumer. If this bill passes, Ranchers' Renaissance will be unavailable to Kansas producers.

3. As you may know, Excel is working with the Iowa Cattlemen's Association to site a plant in that state. Our venture is somewhat similar to the one one of our competitors has here in Kansas. Cattle feeding has been declining in Iowa over the past several years, and Iowa producers see this as a way to bring production back – directly benefiting cattlemen. This same can be true for Kansas producers. Under this legislation this, cattlemen will be ineligible to become partners in this kind of plant because participation entails committal of cattle without a pre-established base price.
4. Excel has other programs with Kansas producers that I haven't named today. These too involve substantial investment of time and money by producers. Under this bill, these programs and these producers will be harmed ireparably.

To put this all more simply, this bill harms producers and processors in five very important ways:

1. It places producers in Kansas, the number two beef state, at a competitive disadvantage;
2. It prevents producers from entering into marketing agreements that reward innovation and value creation;
3. It limits producers' ability to manage price risk, hurting the producer's ability to obtain credit.
4. This clearly gets government in the business of dictating marketing practices for farmers, ranchers and cattle feeders.
5. The bill will inhibit the beef industry's ability to deliver consistency and quality, the traits that our consumers most desire.

I appreciate the opportunity to appear again before this committee, and can answer any questions you might have.

GREAT BEND FEEDING, INC.

(316) 792-2508 • R.R. 5, Box 150, Great Bend, KS 67530 • Fax: (316) 792-5047

March 9, 2000

TO: Senate Judiciary Committee

FROM: Andrew Murphy, Great Bend Feeding, Inc.

SUBJECT: Senate Bill 590

In an ever changing cattle industry, many new challenges will appear and cause turmoil and confusion in our industry. Marketing is one of the biggest challenges we will have in the next several years. The question on everyone's mind is, what can we do to best market the beef we produce today? Is it forward contracting? Is it formula or grid pricing? Is it a true value-based system where each animal is valued individually? Is it a cash market where both low quality and high quality animals are sold together for an average price? The answer is not a simple yes or no to any of the previous questions. The answer lies in the basic freedom to be able to make that particular decision based on your own opinions and experiences. We must have the freedom to market beef in new ways in order to move our industry forward and respond to changing consumer demand. This bill would attempt to freeze how we market cattle. How we do that should be up to the people involved in the industry, not state government. Things must change to improve and move forward. Progress is made through trial and error. It is a painful process that must occur to move into a new and thriving future.

I believe good people, with good intentions, proposed this legislation; however, I think the people whom it's meant to help are the very ones who likely will suffer the most. I do not think we can allow this to happen. As a younger producer, I did not enter the business to do things the same way they have always been done. I should be allowed the basic right of individual freedom to build on the accomplishments of the past and to move into the future. Progress will be made if the few who are unwilling to change are not successful at bringing the rest of us back to their level.

Thank you

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att 6

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att 7

Lyons Ranch

JAN and FRANK LYONS and FAMILY
2481 McDowell Creek, Manhattan, KS 66502
Phone: (785)537–7226 • Fax: (785)776–4005 • Email: LYONSRANCH@aol.com

March 9, 2000

To: Senate Judiciary Committee

From: Jan Lyons, Manhattan

Re: Senate Bill 590

My family and I own and manage an Angus purebred cow/calf ranch in the Flint Hills south of Manhattan, Kansas. Our whole family, including grandchildren, is involved and plays a vital role in making such a family business successful.

We feel fortunate to be able to work closely with the land and the resources in a business of providing food for the world. Like most of the people you have heard from regarding this bill, we work long hours to care for our animals and the environment. Like most of the good people you have heard from regarding this bill, we too can be characterized as fiercely independent, respectful of the government, and both optimistic and fearful of the future for the beef industry. And like most of the ranchers and farmers you have heard from on both sides of this issue, we want to survive in this business and to have an opportunity for our children and grandchildren to continue in this business if they so desire.

But where I differ with some is in how this can be achieved. Rather than asking for legislation to restrict livestock ownership or marketing options, I believe that our survival depends on being able to creatively form new arrangements for marketing our product.

Our industry is in a state of transition. We cannot and SHOULD NOT legislate to stop change from occurring. We have long been production oriented. In order to survive we must be able to provide the consumer a consistent, convenient product to prepare. It's exciting to see the new array of convenient beef products in the grocery stores. These are being provided to the consumer through many of the new marketing relationships from the retail through packing sectors and back to the cow/ calf level. These can only flourish if an environment exists that is flexible enough to allow economic marketing signals to work.

SB 590 would impose unnecessary restrictions on my right as a producer to market my product.

You know, rather than respond by passing out of committee a bill that is not <u>really</u> in the long term best interests of the total industry, sometimes the most courageous and wisest thing a legislator can do is take no action at all. That's what I ask you to do.

Thank you.

Sn Jud
3-9-00
att 7

Angus GeneNet™
"A genetic network of high quality beef"

508 S. Plainville Ave.
Plainville, KS 67663
Office: 785-434-2299
Fax: 785-434-2332
e-mail: genenet@ruraltel.net

TO: Senate Judiciary Committee

FROM: Dr. Ken Conway, President and Owner of Angus GeneNet, Inc.

DATE: March 9, 2000

RE: Senate Bill 590

We are against the Bill 590 because it would basically put a producer driven alliance like ours out of business in Kansas. Our alliance is made up of over a 1000 cattle producers and feeders that produce and feed high quality cattle. As our numbers grow we will have more power to get more for our high quality product. The average pricing approach that the majority of the cattle industry is in today does nothing but reward low quality cattle and discount high quality cattle. If the cattle industry is going to increase market share it needs to produce a higher quality product but until that product returns more money there is no incentive to produce those kinds of cattle.

Our alliance has been in business for only eighteen months and our members have sold over 53,000 head of finished cattle. These 53,000 head of cattle have averaged $17 per head above what they would have brought if they had sold for the average live price. That means that our producers have earned over $900,000 from ConAgra Beef Co. by selling on our carcass merit formula that has a set base price and not a negotiated base price. There are several advantages to having a set base price. One is that any producer can sell his cattle exactly the time he would like to and not at the packers convenience. The time you sell your cattle is very important when selling cattle on a carcass merit formula. If you are selling cattle live or negotiating a base price there is a very narrow window when cattle are traded, usually it is only an hour or less each week. So if you are a small producer or small cattle feeder and you are not able to get into the trading window you will need to wait another week or take a lower price because the packer has purchased all the cattle he needs for the week. All of our members are very happy with the formula we have and how the base price is determined.

We feel it is very important to keep as many marketing options open as possible and to oppose any government intervention to regulate cattle marketing. We would ask that you please not pass Bill 590 because it would almost certainly retard innovation and alliances such as ours that are helping producers of a superior product get a premium above the average price.

Thank you very much.

Sn Jud
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PUBLIC POLICY STATEMENT

SENATE COMMITTEE ON JUDICIARY

RE: SB 590 – Establishes restrictions and conditions on packer ownership of livestock.

March 9, 2000
Topeka, Kansas

Prepared by:
Bill R. Fuller, Associate Director
Public Policy Division
Kansas Farm Bureau

Chairman Emert and members of the Senate Judiciary Committee, my name is Bill Fuller. I serve as the Associate Director of the Public Policy Division for Kansas Farm Bureau. We certainly appreciate this opportunity to express the concerns of Farm Bureau members relating to SB 590.

Since Farm Bureau policy was challenged by a proponent of SB 590 during the hearing last week even before our statement was presented, it is important to emphasize that our remarks are based upon member-adopted policy. The more than 43,000 farm and ranch members develop and adopt Kansas Farm Bureau resolutions on public policy issues. Farm Bureau policy is not determined by the board of directors, a committee or the staff! Rather, policy development is a year-around process directed by the grassroots, dues-paying membership. We encourage you to examine the "Overview of the Policy Development Process" that is attached to our statement today.

SB 590 relates to the packer ownership of livestock and includes these main provisions:

- Prohibits large Kansas packers from owning livestock, except temporary ownership of no more than 10 days prior to slaughter.

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att 9

- Prohibits packers from entering into contracts to purchase cattle for slaughter using a formula or grid pricing mechanism if the packer fails to negotiate a base price prior to the livestock being committed or scheduled for slaughter.
- Allows any person who suffers a financial loss as a result of a violation of this act to recover treble damages.

The Kansas delegates to the recent American Farm Bureau Federation convention in Houston, Texas were leaders in shaping policy relating to livestock marketing. Policy adopted by the 385 representatives of the 50 state and Puerto Rico Farm Bureaus focused on the issues of packer ownership and enforcement of the Packers and Stockyards Act. AFBF policy now includes these provisions:

- USDA, in conjunction with the Department of Justice, should closely investigate all mergers, ownership changes or other trends in the meat packing industry for actions that limit the availability of a competitive market for livestock producers.
- Beef packers who process more than 1,000 head per day should be monitored so they cannot manipulate the market through forward contracting. The current threshold for reporting such purchases should be lowered from two weeks to five market days.
- From a regulatory standpoint, captive supplies should be defined as all cattle owned by, or controlled by, or obligated to a packer seven or more days prior to slaughter.
- The Packers and Stockyards Act should be amended to provide producer restitution when a case is successfully prosecuted.

Conflicts between SB 590 and Farm Bureau policy illustrate specific reasons why Farm Bureau opposes the proposed legislation:

1. Page 1, Section 2 (b) (1) in lines 31 to 34 of SB 590 states:

   "It shall be unlawful for a packer to enter into a contract to purchase cattle for slaughter using a formula or grid pricing mechanism; if the packer fails to negotiate a base price prior to the livestock being committed or scheduled for slaughter."

   Farm Bureau member-adopted policy states:

   "We support rights of producers and packers to enter into formula pricing, grid pricing and other marketing arrangements and contract relationships. Such contracts and pricing arrangements should not be used to manipulate the market to the detriment of producers."

2. Page 1, Section 3, line 43 and page 2, lines 1 and 2 of SB 590 states:
   "Any person who suffers a financial loss as a result of a violation of this act may bring a civil action against any packer to recover treble damages sustained by reason of such violation."

Farm Bureau policy calls for damages more in line with actual losses, rather than the treble damages called for in the bill:
   "The Packers and Stockyards Act should be amended to provide producer restitution when a case is successfully prosecuted."

Kansas Farm Bureau advanced, and the delegates at the AFBF convention approved, a recommendation calling for an in-depth study of packer ownership of livestock. This study will examine contractual obligations and the economic impact on producers if a ban on packer ownership of livestock were to be implemented. The study is being conducted and the report will be forwarded to the voting delegates representing the state Farm Bureaus and will be considered in adopting AFBF policy for 2001. Any support for SB 590 by Kansas Farm Bureau would be premature at this time since the AFBF study has not been completed. The report may cause Kansas Farm Bureau to determine SB 590 is not needed.

Farm Bureau, both on the state and national levels, worked with the U.S. Congress to win passage of mandatory price reporting. The USDA is currently developing rules and regulations to implement this new law. This new program needs to be given some time to work. This is another reason why we suggest SB 590 should not be approved at this time.

Passage of SB 590 could very well have an adverse impact on some livestock producers. What would be the impact on producers who are working to develop market alliances and new-generation cooperatives?

While we believe the sponsors of SB 590 are well intended, we suggest there will be unintended consequences that will reduce the market opportunities for livestock producers. Additionally, we have noted a number of reasons why we believe positive consideration of this bill at this time is premature. Kansas Farm Bureau respectfully encourages the Senate Judiciary Committee to not advance SB 590.

KANSAS FARM BUREAU
OVERVIEW OF THE POLICY DEVELOPMENT PROCESS

Farm Bureau policy is developed and approved by voting members. One must be engaged in production agriculture to qualify as a voting member. The local County Farm Bureau makes the determination whether a member is a voting member or a non-voting associate member.

The State Resolutions Committee oversees the policy development process. The committee is comprised of one voting member representative from each of the state's ten Farm Bureau Districts, the Vice Chair of Kansas Farm Bureau Women and the elected Vice President of Kansas Farm Bureau. The elected Vice President of KFB serves as chair of the Resolutions Committee.

Each November, the more than 440 farmers and ranchers selected by the 105 county Farm Bureaus serving as voting delegates enact policy for the upcoming year. That policy is in effect until the next annual meeting the following November. During the intervening months, Issue Surfacing Meetings are held in each district and policy concerns are identified and discussed. The Resolutions Committee members bring these grassroots concerns to the full Resolutions Committee and they use these concerns to identify areas for study and information gathering for subsequent meetings. Additionally, the Committee follows legislative activities, noting areas that might need review due to legislative action or inaction.

Direct input from farm and ranch members is sought throughout the year. The 43,000 voting members are encouraged each summer to comment and return Policy Development Questionnaire (PDQ). Results from the questionnaire are used by the Committee to draft tentative resolutions. These draft resolutions are submitted to the county Farm Bureaus for review and comment. Again, district Listening Post Meetings are held where members openly discuss the proposals. The Resolutions Committee members bring suggestions from their respective districts back to the full committee. There is discussion, further revision if necessary, then the final draft is submitted to the voting delegates for action at the Kansas Farm Bureau Annual Meeting.

Any member has the opportunity to discuss the proposals during an open comment session prior to the start of the business session at the Kansas Farm Bureau Annual Meeting. Voting Delegates have the opportunity to discuss, amend or delete any resolution during the official delegate session. Each resolution is reviewed and voted on individually. Then the entire resolution package is again reviewed and finally approved.

att 10

KANSAS PORK PRODUCERS COUNCIL

KPPC

Serving Since 1956

Testimony in opposition to SB 590

Presented on behalf of the Kansas Pork Producers Council

Chairman, members of the committee, I am Mike Jensen and serve as the Executive Vice-President of the Kansas Pork Producers Council. Our members produce nearly all the pork produced in Kansas.

Our association has a long history in the "packer ownership" of livestock debate. In fact, we joined Iowa in 1988 as being the second of only two states in the nation to adopt pork specific prohibitions against packer ownership. After several years our delegates approved without dissent, a policy platform to repeal that same provision. We succeeded legislatively with that agenda in 1994. In those intervening years, two major processors "looked and left" at Kansas for a potential site for a slaughter facility. For nearly thirty years Kansas has been a slaughter deficit pork state. Essentially that means that with the lack of geographically close packers, we are a state that is relegated to merely filling a "residual" capacity of plants.

In very plain economic language, that means a majority of our producers receive **less money** than their counterparts in other areas of the country. There is also a free enterprise component to this debate. Thirty years ago, hardly any swine operation had the capability to grind and mix feed on the farm. A few operations had small tractor operated tub grinders, but almost all relied on other sources for the grinding, mixing and delivery of their feed. Today, conservatively, well over 200 million bushels of grain is now stored, ground, mixed and delivered on site by the swine producer.

The local COOP's, feed dealers and commercial mills in Kansas did not run to the legislature for protection from this "vertical integration"! That leads into the explanation for our memberships stance on packer ownership. While most outside our industry might assume that the first consideration we would have would be to prohibit packers from owning and producing the same product as ourselves, in fact the opposite has occurred.

Our producers are actively involved in entering into the packing industry themselves. It is very important to note that our producers feel that philosophically, they cannot say we don't want packers to own hogs when they themselves want to be packers!

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An immediate response by some is that this bill would exempt "producer owned" facilities etc. I would challenge you that there is not a definition written of a producer or a packer that would satisfy the proponents of this bill that would not impose an insurmountable hurdle to our own producers to control their own destiny.

Our association's comments today are based on our own Kansas producers policies, however since we have had the opportunity to hear from others from other states as to what Kansas should adopt I have included for your reference, the policy adopted by our national organization (Nation Pork Producers Council) just last week:

2000 Resolution: PP#6A, Packer Ownership - Adopted as amended

MOTION:
A. That NPPC recognizes a packers right to own swine and opposes any current legislation that restricts or limits alliances, cooperatives, ownership or joint ventures.
B. That NPPC opposes any legislation that differentiates the pork industry from other protein species with regard to alliances, cooperatives, ownership or joint ventures.

This policy was adopted by delegates from 44 member states. This delegates are representative of what anyone consider to be "Pork Producers" and their clear message was "No thank you Government". There debate pivoted on the central theme of free enterprise. In a discussion with an economist there, one delegate said: "Give me the opportunity and I will control my destiny, government protection.......then they will, ...but I would prefer to take my chances on myself".

Please do not infer from our testimony that our producers do not have fears of packers taking over the market. That discussion is ever present. However, that discussion always centers back on what business decisions can be made to remain viable, not what governmental protection can be afforded. Thank you for your consideration of our position.