

Approved: February 20, 2001
Date

MINUTES OF THE SENATE AGRICULTURE COMMITTEE.

The meeting was called to order by the Vice Chairperson, Tim Huelskamp, at 8:30 a.m. on February 13, 2001 in Room 423-S of the Capitol.

All members were present except:

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

Conferees appearing before the committee:

Gary Reser, Executive Director, Kansas Veterinary Medical Association
Dirk Hanson, Executive Director, Kansas Board of Veterinary Examiners
Elroy Heim, St. Francis, Kansas
Mike Schultz, Brewster, Kansas
Representative Dennis McKinney
Donn Teske, Kansas Farmers Union
Senator Tim Huelskamp

Others attending: See attached List

Upon motion by Senator Tyson, seconded by Senator Downey, the Minutes of the February 6th and February 7th meetings were unanimously approved.

SB 162 - Kansas veterinary practice act; license fee increase, application for exam, definition of veterinary prescription drugs

Gary Reser, Executive Director, Kansas Veterinary Medical Association (KVMA), testified in support of **SB 162**, stating the legislation was reviewed and approved by the Legislative Committee and Executive Board of the KVMA. (Attachment 1)

Dirk Hanson, Executive Director, Board of Veterinary Examiners, testified in support of **SB 162**, stating the legislation amends Kansas statute to comply with the USC by moving paragraph "c" to paragraph "f"; provides for one computerized test, the North American Veterinary Licensing Exam (NAVLE) rather than two exams as previously required; and enlarges the time to submit an application for the taking of the test from 45 days to 60. Dr. Hanson stated the computerized test could be taken in any state, and all states are reciprocal in licensure. The legislation also increases the maximum fee for each examination for licensure from \$250 to \$500. The fiscal impact is negligible on revenues to or expenditures from the agency's fee fund. (Attachment 2)

There being no additional conferees to be heard, the hearing was concluded.

A copy of the International Association of Assessing Officers (IAAO) Technical Assistance Project concerning agricultural use values in the State of Kansas, and distributed through the Kansas Department of Revenue, Division of Property Valuation, was distributed to the members of the Committee. (A copy of the Technical Assistance Project Agriculture Use Value Study Kansas Department of Revenue, is on file in the Office of Legislative Research)

SB 223 - Enacting the competitive livestock market act

Elroy Heim, St. Francis, Kansas, testified in support of **SB 223**, stating that independent cattle feeders continue to be driven out of business due to the abusive market power of meat packers. The meat packers are supposed to be regulated and prevented from monopolizing and abusing markets. Mr. Heim stated he manages the Callicrate Feedyard at St. Francis, Kansas, and previously operated CY Feedyard at Gove, Kansas which was forced to close its doors as it was denied market access and unable to market either their cattle or their customer's cattle.

CONTINUATION SHEET

The Callicrate feedyard was retaliated against and blackballed by major packers. Currently Callicrate is involved in a Packers and Stockyards (P&S) suit against Farmland for discriminatory practices. The litigation process is slow, time consuming and expensive, particularly when there is no provision under current P&S law for recovery of damages. Mr. Heim stated **SB 223** should allow for treble damages, fines and payment of attorneys fees.

Mr. Heim further stated there continues to be bogus arguments resulting from flawed studies on captive supplies. Price leader, IBP, continually bids a low price, not to buy, and the other cooperating packers continue to follow IBP's leadership. The percent of captive supplies and other non-negotiated sources of cattle continues to crush markets. USDA reports captive supplies at less than 40%, however, the manner in which the packers are using the non-cash, non-negotiated supplies, impacts the market as if they were 100% of available supplies. As long as packers find it easier to buy cattle cheaper than to sell meat higher due to anti-competitive practices and a lack of P&S law enforcement, packers will continue to record unfair profits and hand the retailer very high and unfair margins. (Attachment 3)

Upon questioning, Mr. Heim denied that the legislation should allow for treble damages.

Senator Tim Huelskamp, testified in support of **SB 223**, stating the bill places certain key provisions of the federal Packers & Stockyards Act and places them in state law. Such action allows the Kansas Attorney General and county attorneys to enforce the same legal principles passed by Congress in 1921. **SB 223** provides state-level actions to protect independent farmers and ranchers against market manipulations such as: 1) engaging in unjust discriminatory or deceptive practices; 2) giving unreasonable advantage/prejudice to any person; 3) preventing sale from any dealer for the purpose of restraining commerce; 4) preventing transfer/sales for the purpose of creating a monopoly or restraining commerce; and 5) engaging in business with the intention/effect of manipulating or controlling prices.

Senator Huelskamp acknowledged that the United States Department of Agriculture presently has enforcement responsibility of the Packers & Stockyards Act, however, enforcement of the act is questionable. The National Cattleman's Beef Association (NCBA) recently approved a national convention policy supporting legislation to establish a commission or make a request of the agriculture secretary to appoint a commission to review the Packers and Stockyards Administration's study of livestock marketing, price discovery and packer concentration. The NCBA has also asked the Federal Government to monitor more closely mergers and acquisitions in the packing and processing industries because of increased potential for anti-trust violations. The impending buyout of IBP by Tyson Chicken, gives impetus to this legislation. Passage of **SB 223** will provide much needed, state-level protection of a competitive, open marketplace. (Attachment 4)

Questions were raised regarding the definition section and the disparity between Section 4, giving the attorney general, county or district attorney discretion in bringing suit, while in Section 7, the language states the attorney general *shall* be responsible for enforcement.

Representative Dennis McKinney, testified in support of **SB 223**. He stated there has been a contention that the Packers and Stockyards Act is one of the most aggressive anti-trust laws on the books. However, both former USDA Secretary Glickman and Under Secretary Mike Dunn have made statements, recently confirmed by the General Accounting Office, that the Packers and Stockyards Administration lacks the funding or staff to vigorously enforce the Act. Former Senator Bob Kerrey of Nebraska recently reported that the head of the Packers and Stockyards Administration told a Senate Committee that he saw no problem with vertical integration in the cattle industry as it had been good for the chicken industry in Arkansas. Such a remark leads one to suspect that the Packers and Stockyards Administration may lack the will as well as the money to enforce the act.

SB 223 includes key portions of the Packers and Stockyards Act and places them in Kansas law, thereby allowing the attorney general to enforce the same legal principles designed to preserve competition and discourage abuse of market power. Representative McKinney stated the first evidence that a few packers have a large share of market power is the fact that some commercial feedlot manager have said they are afraid to speak out for fear of packer retaliation; and secondly, as a beef producer, I have heard stories from feed yard managers, cattle buyers, truck drivers, and others of anti-competitive practices by packers. These are the people who feel there is no one to turn to for help - they never consider the federal government as a source of help.

CONTINUATION SHEET

Representative McKinney recommends that Section 3(b) on Page 1, lines 30-33, be amended so as not to apply to any producer owned cooperative. This change prevents problems which would keep producers from working together to create competition and add value to their own products. (Attachment 5)

Members of the Committee who had other Committee obligations were excused. The hearing continued.

Mike Schultz, Chairman of the Kansas Cattlemen's Association, Brewster, Kansas, testified in support of **SB 223**, stating the legislation protects producers from the monopolistic powers of the packing industry. Legislation would not be necessary if the federal government enforced the Packers and Stockyards Act of 1921. **SB 223** eliminates the abusive power that the packers have on producers and the cattle market. Mr. Schultz presented examples of the selling of packer owned cattle (captive cattle) from one packer to another and the impact on cattle prices. Producers and legislators together need to put strict enforcement of the laws and profit back into rural Kansas. The passage of **SB 223** would do that. (Attachment 6)

Donn Teske, Kansas Farmers Union, submitted written testimony in support of **SB 223**. (Attachment 7)

Written testimony of John J. VanSickle, Professor and Director of International Trade and Development, University of Florida, Gainesville, Florida, supporting **SB 223** was distributed. (Attachment 8)

The hearing was concluded.

The meeting adjourned at 9:45 a.m.

The next meeting is scheduled for February 14, 2001.

SENATE AGRICULTURE COMMITTEE GUEST LIST

DATE: Feb 13, 2001

NAME	REPRESENTING
Mike Jensen	Ks Pork Assoc.
Walt Libbe	KLA
David Miller	DOB
TOM TUNNELL	KGFA
Tom Bruno	Allied Assoc.
Pat Helber	TBP
Ray Hannestad	KDactl
Rebecca Reed	KDA
Top Lieber	Ks. Coop Council
Sustin Holshin	KS Coop Council.
Eloy Heim	KCA
Don Rye	KCA
Mike Schmitz	KCA
Roger Gleeson	KCA
Bill Fuller	Kansas Farm Bureau
Leslie Kaufman	KFB
MIRK HANSON DVM	Ks Bd of Vet Examiners
Gary Reser	Ks. VETERINARY MED. ASSN.



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Testimony
Senate Agriculture Committee
8:30 a.m. Tuesday, Feb. 13
Room 423 South
State Capitol Building

Senator Schmidt and members of the Senate Agriculture Committee, my name is Gary Reser. I am executive director of the Kansas Veterinary Medical Association (KVMA), a professional association representing the veterinary profession through legislative, regulatory, education, and public awareness programs.

The Association has approximately 750 members in Kansas and about 400 in all other states.

The KVMA appears today in support of S.B. 162.

The amendments to the Kansas Veterinary Practice Act found in **S.B. 162** have been reviewed and approved for support by the KVMA Legislative Committee and Executive Board.

The KVMA respectfully requests that the Senate Agriculture Committee approves **S.B. 162** favorably for passage.

Thank you very much for allowing me to be here today and for considering this request.

Senate Agriculture Committee

Date *2-13-01*

Attachment # *1*

State of Kansas



Board of Veterinary Examiners

DIRK HANSON, D.V.M.

Executive Director

1003 Lincoln

PO Box 242

Wamego, Kansas 66547-0242

(785) 456-8781 FAX 456-8782

E-mail: hansonda@wamego.net

Date: February 13, 2001

To: Members of the Senate Agriculture Committee

Good morning. My name is Dirk Hanson. I serve as the Executive Director of the Kansas Board of Veterinary Examiners. I am here to testify in support of **Senate Bill Number 162**.

This bill allows for some simple, but necessary changes to the statutes commonly known as the Veterinary Practice Act. The statutory language changes proposed, and the reasons for the proposed changes are outlined on the following page.

There is no significant economic impact that would result from these changes for either the members of the profession or the members of the public.

There is no significant impact to licensees or to license applicants that would result from these changes. These changes have been presented to the professional association's legislative committee, and their executive board so that they would be aware of the changes proposed.

Senate Agriculture Committee

Date *2-13-01*

Attachment # *2-1 thru 2-3*

Senate Bill No. 162

K.S.A 47-816. Definitions. As used in the Kansas veterinary practice act:

(p) "Veterinary prescription drugs" means such prescription items as defined by subsection (e) (f) of [2000] 21 U.S.C. Sec. 353 and amendments thereto.

Reason for amendment: The USC was amended, moving paragraph "c" to paragraph "f". The proposed language will allow further modifications to the USC to move the Kansas Statutory reference appropriately.

47-822. Fees for examinations, registrations, inspections, licenses and renewals.

(c) The fee for each examination for licensure as required by K.S.A. 47-825, and amendments thereto, shall not be less than \$50 nor more than ~~\$250~~ 500.

Reason for amendment: To date, two examinations were required for licensure. One was the National Board. The other was the Clinical Competency. A new computerized test, the North American Veterinary Licensing Exam (NAVLE), has been developed that combines the two prior exams. The NAVLE will be the only exam required for licensure. The new test fee is less than the prior two test fees when combined, but still exceeds the statutory limit for the "each examination" language.

47-825. Examinations; rules and regulations; notice of results; recordation and issuance of license. (a) The board shall provide for at least one examination during each year and may provide for such additional examinations as are necessary. A person desiring to take an examination shall make application at least ~~45~~ 60 days before taking the examination.

Reason for amendment: With development of the computerized NAVLE, applications must be submitted further in advance so as to coordinate dates for the exams to be offered at computerized testing centers throughout the US and Canada.

Testimony of Elroy Heim
Before the Kansas Senate Agriculture Committee
February 13, 2001

Mr. Chairman and members of the committee. Thank you for the opportunity to speak to you today. My name is Elroy Heim. I have been in the cattle business for more than twenty years. It is discouraging to me to reflect back on the developments in the cattle industry. Many of my friends and family and associates have been forced out of the cattle business for no other reason than the abusive market power of meat packers.

Today, low cost and efficient independent cattle feeders continue to be driven out of business in Kansas and around the country by the abusive market power of meat packers; meat packers that are supposed to be regulated and prevented from monopolizing and abusing our markets. I manage the Callicrate Feedyard at St. Francis, Kansas. Prior to managing the Callicrate Feedyard I operated CY Feedyard at Gove, Kansas. CY was forced to close it's doors for no other reason than we were denied market access and were unable to market ours and our customers cattle.

Since I have taken over the management of the Callicrate feedyard we have been retaliated against and blackballed by the major packers. There is currently an ongoing Packers and Stockyards (P&S) suit against Farmland for discriminatory practices against our feedyard.

The process is slow, time consuming and expensive. It is very discouraging when you consider we are fighting and working for nothing because there is no provision under the current P&S law for recovery of damages to us, the injured party. As a deterrent to the packer and for compensation to the injured party, I would encourage this legislation to allow for treble damages, fines and payment of attorneys fees.

We all continue to hear the bogus arguments and results from the flawed studies on captive supplies. I deal with the anti-competitive practices of the meat packers every week and know what a lie the packer arguments are. Price leader, IBP continually bids a low price, not to buy, and the other cooperating packers continue to follow IBP's leadership.

Percent of captive supplies and other non-negotiated sources of cattle continue to crush our markets. USDA reports captive supplies, also known as "other

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Attachment # 3-1 thru 3-3

disappearance,” at less than 40%. This may not seem like much, but the way the packers are using these non-cash, non-negotiated supplies impacts the market as if they were 100% of available supplies.

Week after week on Monday, Tuesday, Wednesday, Thursday and sometimes Friday, the packers have virtually 100% captive supplies. They pound us, demoralize us, threaten us and intimidate us to accept lower prices as they continue to roll their kill chains with cattle they acquire outside of the competitive market. Finally after being shut out of a realistic market all week while the packers search the country for weakest seller, which then causes a flood selling, the rest of us who sell in the cash market are given five minutes to puke our finished cattle at the low, take it or leave it, price.

Meanwhile, the packer aligned feedyards receiving preferential treatment and thanks from the meat packers for providing the market wrecking captive supplies are gloating because they sold their lower quality cattle at a higher prices, on time, resulting in better conversions and costs of gain, with fewer to no discounts.

Auburn agricultural economist, Robert Taylor, states, “The increasing gap between retail food prices and farm prices in the 1990’s is due largely to exploitation of market power, and not to extra services provided by processors and retailers.” USDA data shows producers have lost more than twenty one percent or \$300 per head of their share of the consumer beef dollar at the same time meat packers have consolidated and exerted their abusive market power.

Each year that the packer is allowed to practice anti-competitive behavior including cooperating rather than competing, and each year that packer continues to use captive supplies to leverage the price lower cattle producers will lose valuable income to the packer monopoly and the powerful retail sector. Independent producers will continue to fail along with the communities they support.

As long as packers find it easier to buy cattle cheaper than to sell meat higher, because of anti-competitive practices and a lack on P&S law enforcement, they will continue to record unfair profits and hand the retailer very high and unfair margins. The packer may not be retaining all that they steal, but that doesn’t mean they aren’t responsible for the theft.

The following is what each packer owes the cattle industry based on their percentage share of steer and heifer slaughter for each year that the cattle producer's loss of the consumer retail dollar is 21%:

IBP	- \$3.2 billion
Cargill	- \$1.88 billion
ConAgra	- \$1.8 billion
Farmland	- \$600 million

I encourage you to pass Senate Bill 223. This very important legislation will help restore a fair level of income to independent cattle producers.

Thank you,

Elroy Heim



TOPEKA

SENATE CHAMBER

Committee Assignments

AGRICULTURE, VICE CHAIRMAN
 ELECTIONS & LOCAL GOVERNMENT
 INFORMATION TECH., VICE CHAIRMAN
 NATURAL RESOURCES
 REAPPORTIONMENT
 WAYS & MEANS

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SENATE AGRICULTURE COMMITTEE

Testimony on Senate Bill 223
 by Senator Tim Huelskamp

February 13, 2001

Mr. Chairman and members of the Senate Agriculture Committee: It is a pleasure to be here this morning to begin the testimony on SB 223.

This bill is really very simple. As other states have chosen to do, SB 223 takes key provisions of the federal Packers & Stockyards Act and places them in our state law. Such action would allow the Kansas Attorney General and county attorneys to enforce the same legal principles, passed in Washington back in 1921, designed to preserve competition and discourage abuse of market power. SB 223 will then provide state-level actions to protect our independent farmers and ranchers against the following market manipulations:

- Engaging in unjustly discriminatory or deceptive practices
- Giving unreasonable advantage/prejudice to any person
- Preventing sale from any dealer for the purpose of restraining commerce
- Preventing transfer/sales for the purpose of creating a monopoly or restraining commerce
- Engaging in business with the intention/effect of manipulating or controlling prices

I recognize that some will testify in favor of protections against these abuses, but others will likely testify in opposition to this bill. They will claim this is an unnecessary bill, because the United States Department of Agriculture has enforcement responsibility. However, I think there is abundant

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Date 2-13-01

Attachment # 4-1 thru 4-2

evidence to argue that the USDA has not been enforcing their laws adequately. Indeed, the National Cattleman's Beef Association (NCBA), the largest beef association in the country, recently approved a national convention policy supporting legislation to establish a commission or request the agriculture secretary appoint a commission to review the Packers and Stockyards Administration's study of livestock marketing, price discovery and packer concentration. The NCBA has also repeatedly asked the Federal Government to monitor more closely mergers and acquisitions in the packing and processing industries because of increased potential for anti-trust violations.

With a new Administration in Washington, we could just await and hope for their action. **However, we cannot wait on Washington.** With the impending buyout of IBP by Tyson Chicken, we may see significant changes in the beef production system in Kansas, few of them beneficial to the independent, free market system. **And we need not wait on Washington.** Our Attorney General in Kansas has been quite successful in pursuing actions to enforce our state laws against market manipulation and price-fixing in many other areas. Here are a few examples of recent **price-fixing cases** and/or **anti-trust actions** our Attorney General has won or will soon win:

- Nine West Group, Inc. (shoe manufacturer) – March 2000
- America Online – May 1998
- Johnson & Johnson, Bausch & Lomb, or CIBA Vision – November 2000
- Toys R Us – May 1999
- Hoffmann-LaRoche, Inc. and five other vitamin manufacturers – February 2001

In conclusion, I ask that this committee pass SB 223. Let's not wait on Washington. Let's give our Attorney General the opportunity **now** to enforce state-level statutes protecting our independent farmer and ranchers. I agree with the NCBA: "Public policy should be oriented toward a competitive, private enterprise market." And the passage of a state Packers & Stockyards Act will provide much-needed state-level protection of a competitive, open marketplace. This, in turn, will help to protect our independent farmers and ranchers from the increasing concentration in agriculture. The end result will be the continued expansion of the private enterprise of agriculture in Kansas.

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TOPEKA
 HOUSE OF
 REPRESENTATIVES

ASSISTANT MINORITY LEADER
 COMMITTEE ASSIGNMENTS
 MEMBER: TRANSPORTATION
 ENVIRONMENT
 INTERSTATE COOPERATION
 CALENDAR AND PRINTING

February 13, 2001

Senate Agriculture Committee
 Testimony in Support of SB 223

Thank you for the opportunity to testify in support of Senate Bill 223.

Some commentators contend that one of the most aggressive anti-trust laws is already on the books: The Packers and Stockyards Act. However, in the past both former USDA Secretary Glickman and Under Secretary Mike Dunn have made public statements that the Packers and Stockyards Administration lacks funding and staff to vigorously enforce the Packers and Stockyards Act. This past summer the General Accounting office submitted a report backing up these statements.

In addition, at a meeting I attended, former U.S. Senator Robert Kerry of Nebraska reported that the head of the Packers and Stockyards Administration had told a Senate Committee that he saw no problem with vertical integration in the cattle industry as it had been good for the chicken industry in Arkansas. This leads one to suspect that the Packers and Stockyards Administration may lack the will as well as the money needed to enforce the Act.

Therefore, S.B. 223 takes key portions of the Packers and Stockyards Act and places them in Kansas Law. Such action would allow the Kansas Attorney General to enforce the same legal principles designed to preserve competition and discourage abuse of market power.

The first evidence that a few packers have a large share of market power is the fact that some commercial feedlot managers have said they are afraid to speak out for fear of packer retaliation. The feed yard managers must have major packer buyers show up and give credible bids every week. If they do not, the feed yard has trouble selling cattle and loses customers. In a highly competitive market the feed yard manager can speak without fear as buyers will be available.

Secondly, as a beef producer I have heard stories from feed yard managers, cattle buyers, truck drivers, and others of anti-competitive practices by packers. But these people usually feel there is no one to turn to for help. They do not see the federal government as a source of help.

Senate Agriculture Committee

Date *2-13-01*

Attachment #

5-1 thru 5-2

Representative McKinney
Testimony on SB 223

The Packers and Stockyards Act was enacted in 1921 to address “the big five” meat packers who reportedly dominated 60% of the market. Today, we are looking at four meat packers controlling nearly 80% of the market.

I do recommend that Section 3(b) on p.1, lines 30-33, be amended so as not to apply to any producer owned cooperative. This change should prevent problems which would keep producers from working together to create competition and add value to their own products.

For historical perspective, it is good to remember that the Packers and Stockyards Act was adopted in 1921. About the same time the Kansas Livestock Association was created by cattlemen who wanted fairer trading conditions with meat packers and railroads. And this was about the same time that progressive Kansas leaders such as William Allen White and Arthur Capper were shaping policies to protect Kansas citizens from corporate abuses of market power.

The best summary of this law is taken from the U.S. Code Annotation (Title 7, p.8):

“One purpose of this act was to insure that farmers and ranchers received true market value for their livestock and to protect consumers from unfair practices in marketing of meat products”. Solomon Valley Feedlot, Inc. v. Butz, Kansas, 1977.

Senate Agriculture Committee
Testimony from Mike Schultz
Chairman of the
Kansas Cattlemen's Association
February 13, 2001
Senate Bill 223

Mr. Chairman and members of the committee,

My name is Mike Schultz. I am from Brewster, Ks. Today is a very important day for the cattle producers. I am a Registered Angus and commercial cow/calf producer in northwest Kansas and **Chairman of the Kansas Cattlemen's Association**. This association continues to grow every day. Why, might you ask? Because there has been something WRONG with the representation in the past in the livestock industry.

Senate Bill #223 that you are hearing today is to protect producers from what is happening to them by the monopolistic powers of the packing industry that exist today. This bill would not need to be considered if the federal government would enforce the Packers and Stockyards act of 1921. This bill will eliminate the abusive power that the packers have on producers and our market today and I will give you examples to back this up.

In 1998 R-CALF (Ranchers and Cattlemen's Action Legal Fund) filed a investigation into the unfair trade practices with the imports of Canadian and Mexican Live Cattle with the United States International Trade Commission or USITC. The case was only to investigate unfair trade practices. At this time IBP controlled over 60% of Canada's production and still imports into the U.S.A.. Information that came out during the case from the commissioners include:

Commissioner Carol T. Crawford stated: "Although there is no concentration within the domestic cattle industry, there is considerable concentration in the packing industry, which is the purchaser of cattle. Therefore, the purchasing power of the buyers is concentrated in the packing industry, which can and does exert significant influence over prices for cattle". In fact, petitioner acknowledges that the domestic producers are "price takers" that thus have a limited ability to affect prices.

Commissioner Thelma J. Askey stated: "My review of the record indicates that the comparative difference between the levels of concentration in the beef packing industry and the feedlot operators leads to unequal bargaining positions between the two groups. This disparity in bargaining positions enables to beef packers to influence price levels in the slaughter market to a significant degree. Accordingly, the feedlot industry are price takers in the market, due to the level of concentration in the beef packing industry and the diffuse nature of the cattle industry".

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Attachment # 6-1 thru 6-5

Commissioner and Chairman Lynn M. Bragg stated: "I therefore find that the significant volume of undersold subject imports caused price suppression and depression among domestic live cattle prices to a significant degree. Furthermore the concentration of packers increases the packers' leverage relative to cattle producers, thus providing packers the ability to use imports to reduce domestic live cattle prices and/or prevent price increases".

If producers had more competition and the packers were not allowed to own cattle for more than 10 days prior to slaughter this would not happen.

Another example is the selling of packer owned cattle (captive cattle) from one packer to another. The cash cattle market is supply sensitive. When packers have captive supplies as KCA has shown that they do force the cash market lower. (See the Charts below) This is a very corrupt and abusive form of the packer monopolies market control.

As for the current cattle prices of feeders, producers like myself are concerned about the current spread between calf prices and the fat market. Yes, calf prices are higher right now but remember that corn and milo are at very low prices and producers are forced to run the grain through the cattle to try and make a profit. With today's prices for fats this is very risky with the cash market. Might the packers who buy feeder cattle be setting the stage for a collapse like the wreck that ruined the independent hog producer in 1998?

It is time for the producers and legislators together to put strict enforcement of the laws and profit back into rural Kansas. The passage of this bill will do just that. **We will not build a so-called wall around Kansas but we will restore a competitive and fair marketing system beneficial for all producers.** Please consider all of the information. This is a very serious hearing for independent cattle producers all over.

Thank you,

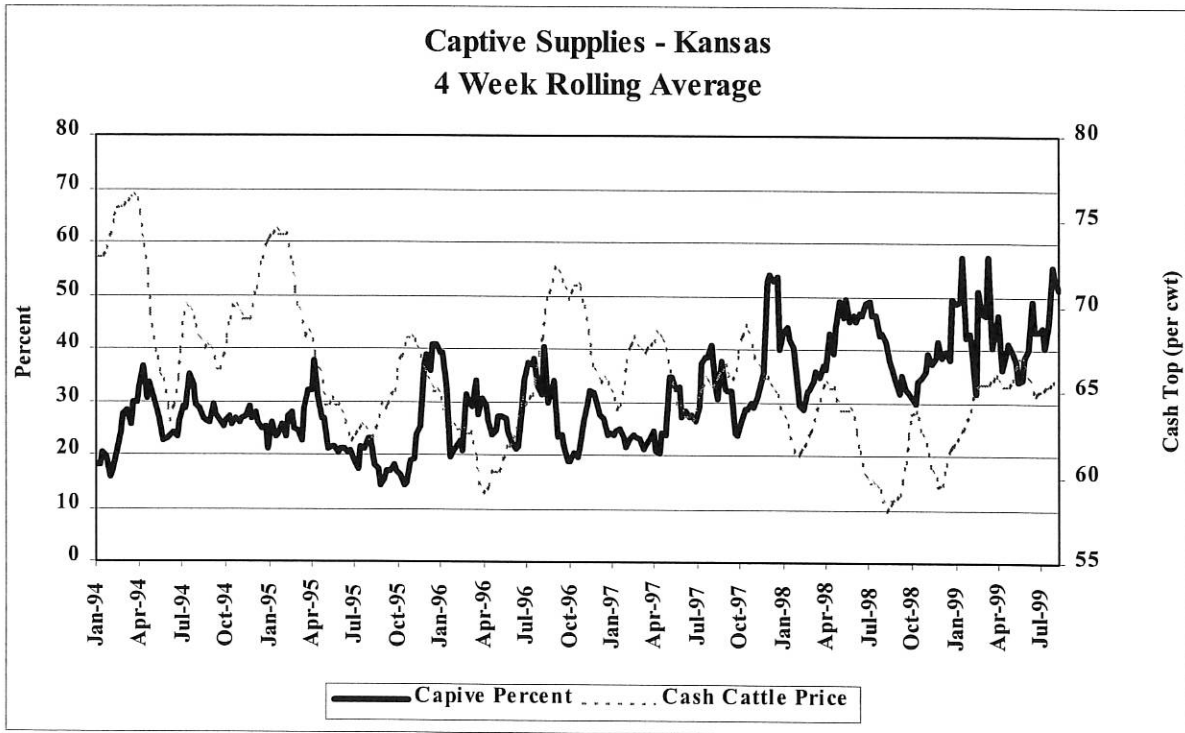
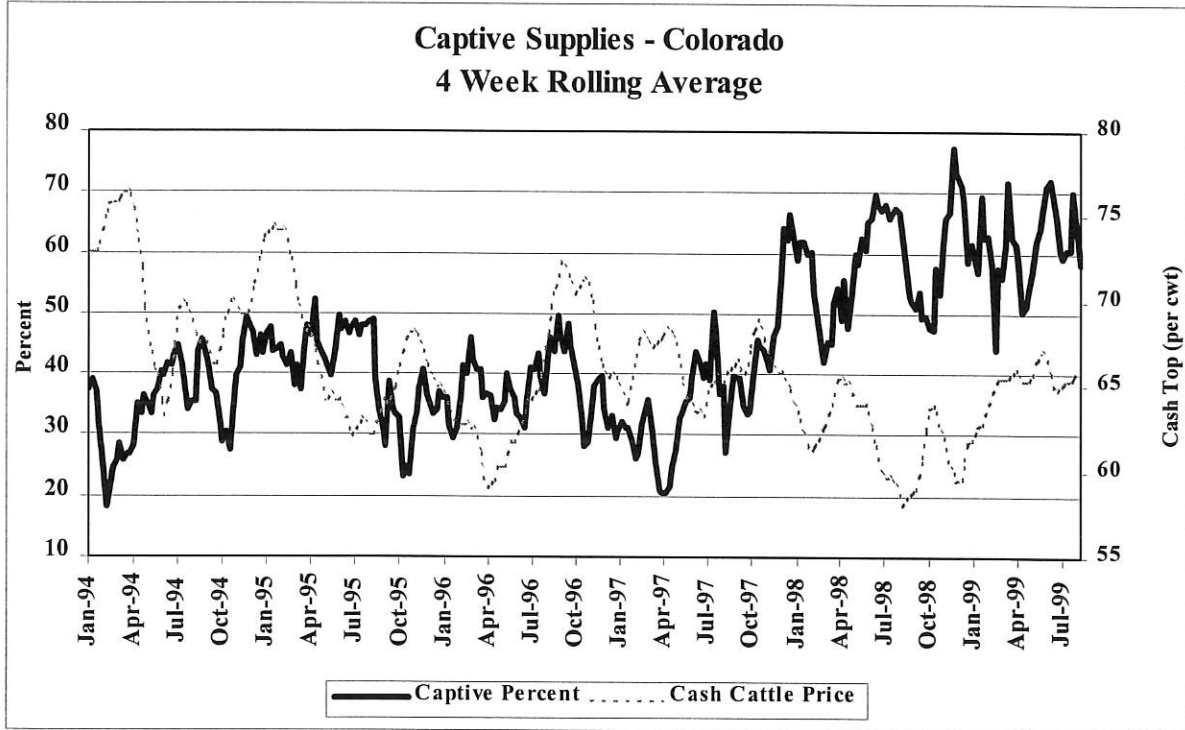
Mike Schultz Chairman

Kansas Cattlemen's Association

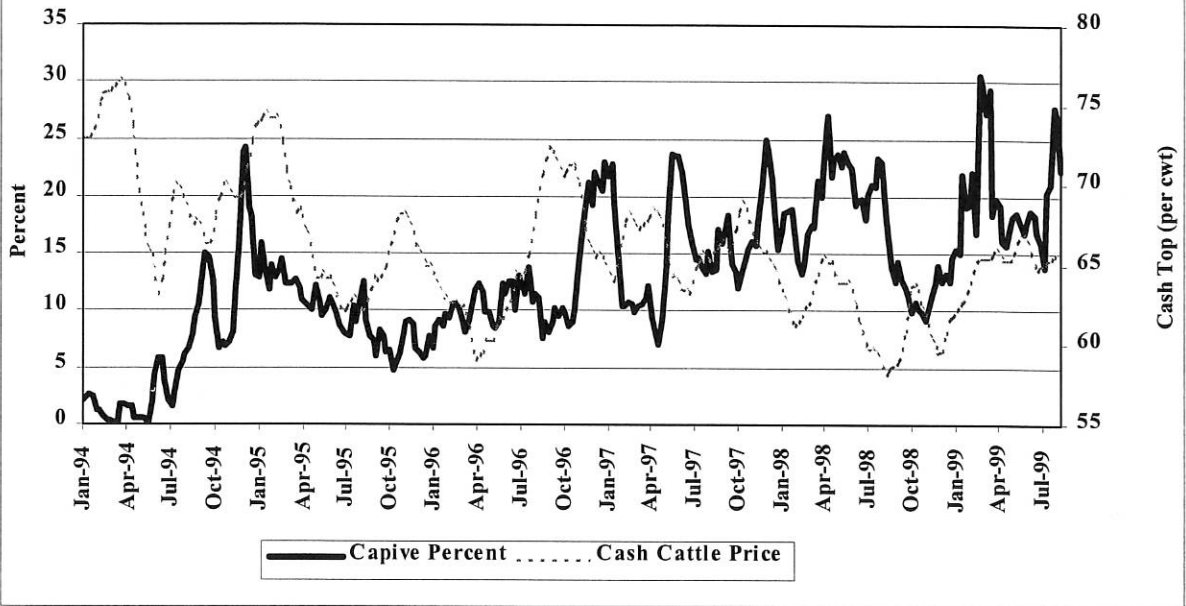
Captive Supplies – A Different View

● . Year	Cattle		Hogs	
	Pub	NonPub	Pub	Non-Pub
● 1976		32.4 67.6	28.8	71.2
● 1980		22.9 77.1	23.3	76.7
● 1985		19.9 80.1	15.8	84.2
● 1990		16.5 83.5	10.0	90.0
● 1995		13.8 86.2	6.1	93.9

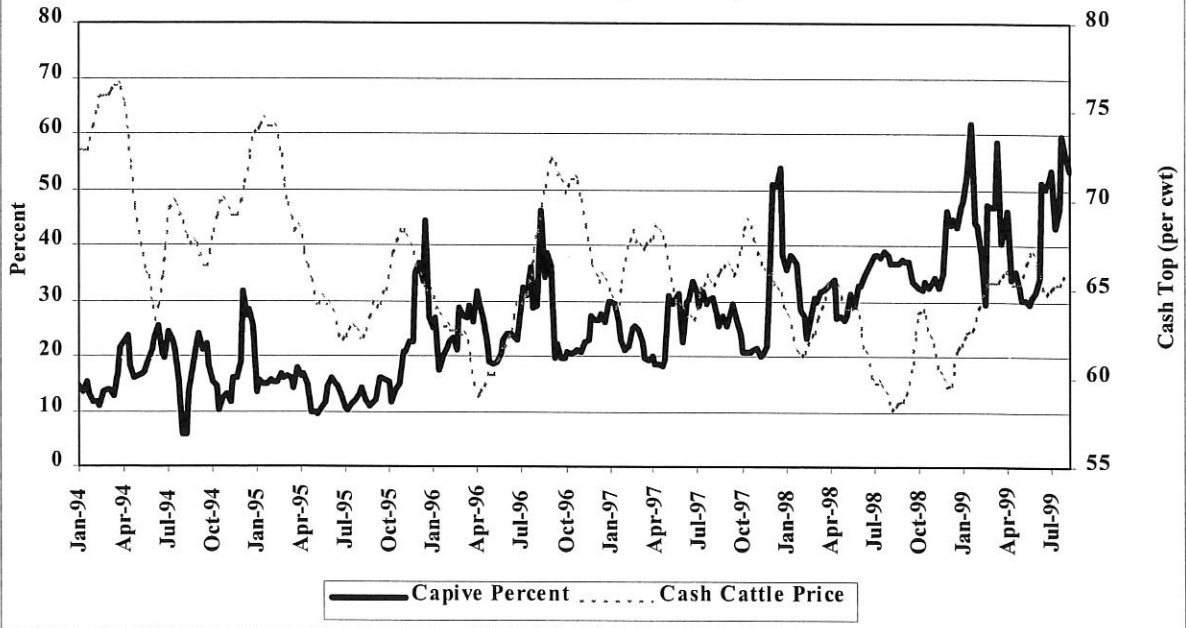
● 1996	14.6	85.4	4.3	95.7
● 1997	14.5	85.5	3.8	96.2
● 1998	13.8	86.2	3.2	96.8



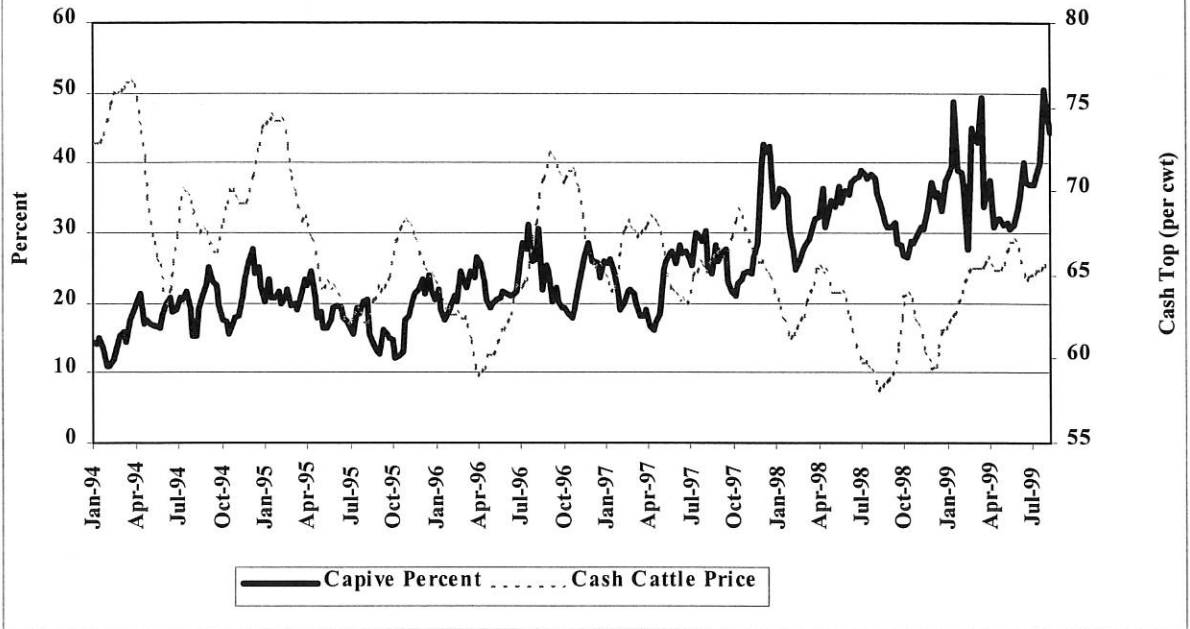
Captive Supplies - Nebraska 4 Week Rolling Average



Captive Supplies - Texas 4 Week Rolling Average



Captive Supplies - Total 4 Week Rolling Average



Kansas Farmers Union
Testimony
SB 223
2-13-00
Donn Teske

My name is Donn Teske and I am representing Kansas Farmers Union today in support of Senate Bill 223. Kansas policy is a little more vague than I would like, however under Corporate Vertical and Horizontal Integration it states "We encourage the continuation of National Farmers Union and others efforts in the investigation of the concentration of power in pricing and vertical integration in the meat packing industry." This tells me that Kansas supports NFU policy on this issue. National Farmers Union released an issue paper on 2-9-01 that states, "NFU supports banning packer-ownership of livestock, as an important first step in restoring open and competitive markets." National Farmers Union was very involved and supportive of Senate Bill 142 introduced into the 107 congress by bipartisan support of Tim Johnson, D-S.D., Chuck Grassley, R-Iowa, Craig Thomas, R-Wyo., and Tom Daschle, D-S.D. on January 22,2001. Senate Bill 142 moves to amend the Packers and Stockyards Act of 1921, to "make it unlawful for a packer to own, feed, or control livestock intended for slaughter. "

In comparison to S.B. 223, S.B. 142 addresses producer cooperative ventures as exempt and also producer controlled entities if they slaughter less than 2% of the head of that type slaughtered in the United States. This would not limit producer ventures and could be a good addition to S.B. 223.

Kansas Farmers Union supports the adoption of Senate Bill No. 223.

Senate Agriculture Committee

Date 2-13-01

Attachment # 17

Submitted Testimony Related to Kansas Senate Bill 223

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I have watched with interest the developments in the livestock industry over the last several years. Having been raised on an Iowa farm and working with the livestock industry in various capacities over my 20 plus year career, I have become concerned about the direction that structure within agriculture has been taking. I have worked diligently with the produce industry as they have faced similar constraints on competition, but no agricultural industry faces the loss of competition as severely as the livestock industry.

The meat packing industry has seen significant consolidation over the last two decades. The 4 firm concentration ratio for meat packers indicates that the largest four firms slaughter 70 percent of the cattle produced in the U.S. and 81 percent of the steers and heifers. These concentration ratios are significantly higher than the 28 percent for cattle and 36 percent for steers and heifers that was estimated in 1980. The Herfindahl Hirshman Index (HHI) is used by the U.S. Department of Justice as a tool for judging whether concentration is a concern in merger activity. An HHI of more than 1,800 is considered to be indicative of a highly concentrated industry that merits close scrutiny. The HHI for steer and heifer slaughter was 1,921 in 1998. The HHI for boxed fed beef production was 2,145. Clearly, the meat packing industry is a highly concentrated industry with opportunities to exercise power in the purchasing of livestock from producers.

Compounding this problem is the fact that captive supplies are significant in the meat packing industry. Captive supplies are those animals that packers control for more than 2 weeks in advance of slaughter, either by ownership or by forward contracting. USDA has concluded that a one percent increase in captive supplies can lower cattle prices 3-5 cents per hundredweight in the cash market. USDA reports that the 4 largest meat packers had captive supplies totaling 22.4 percent of their total purchases in 1998. Captive supplies have been reported for some weeks in some areas as high as 70 percent of the market, indicating that captive supplies can impact prices as much as \$3.50 per hundredweight, or \$50 per head.

An added factor that impacts the balance of competition in the market place is that much of the livestock purchased by meat packers is purchased in non-public markets where prices are not publicly available. In 1998, more than 87 percent of the cattle and 96 percent of the hogs were sold in non-public markets where prices are not readily available to other producers for guidance in negotiating the sale of their animals in the market place. This activity places information into the hands of buyers v

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opportunity to capitalize on that same market information.

The meat packing industry has become highly concentrated over the last 20 years and while certain efficiencies may have been gained from this consolidation in packing, the increase in concentration has given packers opportunities to exercise market power in the buying of livestock from producers. Senate Bill 223 could give producers opportunities to counter some of that market power. Packers have access to all of the best information on supply and demand because they serve as the primary processor of livestock. The highly concentrated nature of the industry allows packers to gain an advantage in market knowledge and to then exercise that advantage in the market place in buying livestock from producers. As I read the intent of Senate Bill 223, it is to provide some balance of market power within the livestock industry and to give producers a chance to receive a fair market value for their animals. It also gives the Kansas Attorney General the authority to investigate unfair practices and requires that proper records be maintained by packers so that those investigations can be facilitated. This law could provide leadership to our nation in monitoring the behavior of highly concentrated industries to insure that undue market power is not exercised at the expense of producers and consumers.