



Since 1894

Date: February 12, 2025

To: House Committee on Agriculture and Natural Resources  
Rep. Ken Rahjes, Chair

From: Aaron M. Popelka, V.P. of Legal and Governmental Affairs, Kansas Livestock Association

Re: **HB 2254 AN ACT concerning agriculture; relating to financial accounts used to hold and disburse milk producer funds; defining milk producer to include any cooperative association that sells or markets milk on behalf of members; requiring milk processors to hold payments in trust for milk producers until full payment is received, with funds in escrow considered held in trust; allowing milk producers to require escrow accounts for payments, with specific conditions for deposits and account management; specifying that funds in trust or escrow are the property of the milk producer; exempting milk processors from escrow or trust requirements if certain conditions are not met; prohibiting milk processors from purchasing raw milk without compliance with federal milk marketing orders and agreed provisions; holding milk processors liable for unpaid raw milk, including purchase price, interest and attorney fees.**

Position: Proponent, In-Person

*The Kansas Livestock Association (KLA), formed in 1894, is a trade association representing nearly 5,700 members on legislative and regulatory issues. KLA members are involved in many aspects of the livestock industry, including seed stock, cow-calf, and stocker cattle production; cattle feeding; dairy production; swine production; grazing land management; and diversified farming operations.*

Thank you, Chairman Rahjes and members of the House Agriculture Committee, for allowing the Kansas Livestock Association (KLA) the opportunity to share our support for HB 2254. If passed, HB 2254 would create a mechanism to help ensure that cash sellers of milk to a milk processor receive payment in the event of a default by the processor.

KLA policy “supports the creation of a milk marketing trust statute that gives unpaid cash sellers of milk first priority in the proceeds a dairy processor receives from the sale of milk or dairy products derived from the milk purchased from the seller.” KLA membership adopted this policy last November in response to a KLA member dairy who failed to receive payment for milk after the collapse of the Kansas Dairy Ingredients plant in Hugoton, Kansas early last year.

For those familiar with the beef industry, a trust is a legal mechanism that currently exists in federal law to ensure that cash sellers of livestock are paid first in the event of a default. In the beef industry, the Packers and Stockyards Act of 1921 created packer, market, and dealer trusts for ranchers selling livestock on a cash basis. However, no federal statutory trust exists to protect dairy farmers that make cash sales of milk to a milk processor. Some states, like Texas, have created a state level milk trust. HB 2254 is identical to the Texas milk trust law with one exception, the escrow procedures. The bill mirrors Texas law because some of the major milk processors operating in Kansas also operate in Texas. The goal is to create regulatory consistency across jurisdictions.

In essence, HB 2254 would direct milk processors to hold in trust the proceeds attributable to a purchase of raw milk from a milk producer. This essentially says to creditors that in the event of a default, such proceeds must go to pay the dairy farmer first because those funds belong to the farmer and are not subject to a lien or security interest of the creditor. An example of proceeds would be money received by a milk processor from the sale of pasteurized and bottled milk. Proceeds would also include unsold manufactured dairy products, like cheese or powdered milk, made from raw milk delivered to a milk processor by a milk producer.

HB 2254 does require the dairy farmer to make a written demand upon a milk processor within 30 days following a payment due date that requests the processor hold funds in trust. Failure to make such a demand would invalidate the statutory trust. This request can also demand the escrow of proceeds from milk products. Unlike Texas law, HB 2254 states that a milk producer cannot demand an escrow account until three days after a failure to pay by the payment due date. This provision was added to decrease the capital and accounting costs on milk processors, while still ensuring the establishment of the trust.

Finally, Section 4 clarifies that dairy cooperatives are not subject to the trust while acting as a marketing agent of its members. Instead, the bill deems a dairy cooperative in such situations to be a milk producer for purposes of the trust. If the dairy cooperative is processing milk, however, it would be subject to the trust provisions.

Thank you for the opportunity to submit KLA's views to the Committee. KLA asks the Committee to approve HB 2254 favorably for passage.