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Dale A. Rodman, Secretary

Sam Brownback, Governor

Testimony on SB 191
to
The Senate Committee on Natural Resources
By Chad Bontrager
Kansas Department of Agriculture
March 7, 2013

Good morning, Chairman Powell and members of the committee. I am Chad Bontrager, agribusiness development coordinator and economist, with the Kansas Department of Agriculture. I am here to express KDA's support for SB 191, which will help grow Kansas agriculture.

Secretary Rodman discussed the benefits of and need for SB 191 and the repeal of the corporate farming restrictions. I would like to take few minutes to walk you through the facts and numbers behind why we feel this is the right thing to do and address some of the concerns that folks may have about the bill as well. I will spend most of my time referencing material that is included in the attachment to my testimony titled Kansas Agricultural Growth and Rural Investment Initiative.

First, let's talk a little about rural economies. Agriculture is the largest industry in Kansas and lifeblood of the state's economy, particularly in rural areas. Agriculture employs 250,000 Kansans and contributes $21 billion directly to the state's economy. Another 178,000 jobs are supported by agriculture activity and an additional $13 billion in economic activity occurs because of Kansas agriculture. For our rural communities, this means that local residents are employed at the grain elevator, feed mill, implement dealership, bank, irrigation service, sale barn and hardware store that sell products and services to local farmers and ranchers. These are the individuals doing business with the local restaurant, hospital, grocery store, attorney and auto store. The local school is attended by the children of all these residents who are connected to agriculture and these are the folks who run for county commission, sit on the school board, volunteer with the Rotary Club and so on. Regardless of the small town in Kansas, the foundation of the community's economic vitality and its existence as a community rests upon the strength of agriculture.

As agriculture consolidates to take advantage of the economies of scale in order to be profitable in a narrow-margin business, there are fewer local farmers and ranchers to drive the local economy. Community leaders wonder how they can keep the school open, repair main street and keep local businesses occupied. The best possible solution allows the community to utilize its natural advantages- wide open spaces, good climate, abundant feed and forage, an agrarian-based economy. One hundred fifteen dairy cows equal one job and $345,000 in capital investment. Two hundred fifty hogs equal one job and $85,500 in capital investment.

So what does this mean for the Kansas economy? Today in Kansas, approximately $55 million is invested annually in expanding beef feedlots, dairies and hog operations in Kansas. That capital investment leads to 588 direct jobs and 483 indirect and induced jobs in the Kansas economy each year in addition to those folks already employed in animal agriculture. With the adoption of the Kansas Agriculture Growth and Rural Investment Initiative, all indications are that Kansas will see significant growth in these numbers. I would draw your attention to the table on page 7 of the attached white paper under the heading Potential Economic Impact

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of the Kansas Agriculture Growth and Rural Investment Initiative. What you see in the table are some results in 2013 dollars of what the impact will be if we grow hogs and dairy by 10 percent. A 10 percent increase means we add 189,000 hogs and 12,300 dairy cows. These numbers express only the growth and do not include what is already being done today. As you can see we are talking about 1,500 direct jobs created in working directly on the farm, 400 indirect jobs added providing inputs and services to the farm and 550 induced jobs that are sustained in rural communities. This growth also leads to an estimated $183 million of additional value added to the Kansas economy.

This is not only good for folks in animal agriculture; this is also good for Kansas grain farmers as well. In addition to the impact on jobs, income and output described above, Kansas will gain the ability to add value to our grain commodities through dairy and pork as we have been doing with beef for years. Further opening Kansas to animal agriculture creates additional demand for the crops farmers grow and an opportunity to generate more return to the bottom line. A good example to look at is the cost of grain delivery. The average cost to haul feed grain 50 miles in Kansas would be approximately $.80 per bushel, according to the Kansas Custom Rates Survey conducted by the National Agriculture Statistics Service. If the grain delivery could be made to a local dairy or swine farm within 25 miles, the cost would drop to $.34 per bushel.

Now that we have gone over the economics of why it makes sense to repeal these restrictive laws let us take a look at what it means to Kansas farm families. Farm families spend lifetimes building and maintaining their farms with hopes of one day passing them on to a family member who will continue the same proud traditions. As those farms grow and prosper, families must make sure that they first are set up to manage them appropriately and second that they are prepared to hand them off effectively to the next generation of owners. In order to manage the farms, many families establish a business structure of some kind, such as a partnership, LLC, or s-corporation, with members of the family as owners. When it comes time to pass the family farm on to the next generation, the first hurdle many families face is the estate tax and income tax concerns from the federal level. In Kansas, the second hurdle they face is making sure they are in compliance with the requirements of a family farm corporation.

The Kansas corporate farming law spells out an extensive list of requirements to qualify as a family farm corporation. Complying with these is important because if the family does not qualify, they cannot own the land. As life takes its natural course, families grow and life takes them to different places. The time can easily come when a family does not meet the requirements of a majority of the farm stock being held by family members within three degrees of relationship and at least one of them actively engaged in the management of the farm. These families should still be able to own the land and hire professional management to run the farm if that is their choice. I would like to reference the family tree illustration on page 6 of the attachment under the heading Family Farm Succession Planning. Members of the committee can see the three degrees of relationship on the right side of the page. The green boxes depict those family members who would be eligible owners in each generational row of the tree. The red boxes show those members of the family who would be ineligible owners under current Kansas law. Kansas has been a state for 152 years and folks have been in Kansas longer than that. We have farm families that have reached the point where existing law is interfering with their ability to own land as they see fit.

We can see why it makes sense to from an economic standpoint to move forward with this repeal and we can see why it makes sense from a family farm ownership standpoint, so let us spend a little time understanding our situation as it stands today. Kansas is not the only state with laws prohibiting or restricting corporate agriculture. Nine states have laws that prohibit or limit corporate farming: South Dakota, North Dakota, Oklahoma, Iowa, Minnesota, Wisconsin, Nebraska, Missouri and Kansas. United States Court of Appeals for the Eighth Circuit has struck down the Nebraska, South Dakota and Iowa laws based on the dormant commerce clause, due to "differential treatment of in-state and out-of-state economic interests that benefits the former and burdens the latter." Kansas is in the Tenth Circuit; so while these cases are persuasive, they are not controlling. Upon request by the Kansas Department of Agriculture, Kansas Attorney General Derek Schmidt did not comment on the constitutionality of the entire law, but did indicate his initial belief that that certain exceptions relating to authorized corporations are likely unconstitutional under Dormant Commerce Clause because it discriminates between Kansas corporations and out-of-state corporations. This tells us that not only do we have laws on the books that restrict growth and development in agriculture in Kansas and restrict the ability of families to make their own decisions on farm ownership, but we have a law that likely would not stand up in court if challenged.

We have been over the facts and numbers behind why this repeal is the right thing to do. Now let us turn our attention to some of the concerns which have led to some of the myths about the perceived impact of this repeal. Myth number one: repealing the corporate farming laws will cause further increase in land values in Kansas. Not true. The fact is that land value increases cannot be correlated with the presence or absence of corporate farming restrictions. I would ask you to take a look at the table on page 3 of the attachment that shows land value increases for the last couple of years based on data from the Federal Reserve for 15 states. The states with asterisks have corporate farming restrictions in place. As you can see the three states from the group that had the largest land value increases in the most recent measurement all have corporate restrictions in place. Clearly factors other than corporate ownership of farms are driving land values.

Myth number two: repealing the corporate farming laws will put small family farms out of business. Not true. I would like to share with the committee three pieces of information to show this not the case. First, please turn to page 4 of the attachment to see the table on farm structure. In this table Kansas is compared with eight states that do not have corporate farming restrictions. We have used this same set of eight comparison states throughout our analysis in order to provide the best possible frame of reference. It would not make sense to compare to states that have corporate restrictions, so we had to look for states that shared attributes of Kansas or have attributes that may come to Kansas with this repeal. We chose Illinois and Indiana because they are major commodity grain producing states. We chose Texas because of the wheat, sorghum and cattle sectors. We chose New Mexico for dairy and North Carolina for hogs. Alabama, Arkansas and Georgia were chosen for poultry and as other agriculture states in the southeast. What you can see is data from the 2007 Census of Agriculture showing farm organizational structures. I would highlight the third line from the bottom of the table that refers to the percentage of non-family owned corporations. Kansas is in the middle of the pack at 0.4 percent in states that range from 0.3 to 0.7 percent. This data does not support the idea that small family farms will be put out of business.

Second, also on page 4 of the attachment, you will see a table showing the average farm size of Kansas compared with the other eight states. Kansas is the second largest of the group at 707 acres and ranks 11th largest out of all 50 states. Third, on page 5 of the attachment you will find a table showing the growth of farms in size categories based on dollars of sales. This is growth calculated on the change between the 2002 Census of Agriculture and the 2007 Census of Agriculture. What this shows is that on average the eight comparison states that do not have corporate farming restrictions are seeing more growth in the smallest sector at 5.24 percent than Kansas is at 0.35 percent. Repealing the corporate farming restrictions will not put the small Kansas farmer out of business.

Myth number three: corporate farming operations will operate with an unhealthy disregard for the natural resources of Kansas creating offensive odors, polluting water, and in general, farming for the short term profit rather than long term. Farms choosing to do business in Kansas will still have to comply with the many established state and federal regulations. In Kansas there are statutory requirements related to separation distance between certain animal agriculture entities and neighboring homes and businesses. In addition, confined animal feeding operations must have permits from Kansas Department of Health and Environment that require emergency response plans, operator certification, lagoon operation procedures, inspection schedules, odor control processes and nutrient utilization procedures just to list a few.

The facts and numbers tell the story. Repealing the corporate farming restrictions makes sense based on economics and impact to farm families. Growing agriculture in Kansas is growing the Kansas economy. Growing agriculture in our rural communities helps keep them alive and thriving.

Thank you for the opportunity to speak with you today. I will stand for questions at the appropriate time.

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Kansas Agricultural Growth and Rural Investment Initiative

Growing agriculture will grow the Kansas economy. In the past, Kansas has shut the door on growth in agriculture by prohibiting or restricting certain farms from operating in the state. Kansas is one of just nine states in the country that prohibit or restrict certain farms from doing business inside its borders. Notably, the courts have struck down the corporate farming restrictions in three of those states.

Over the years, agribusinesses, hog, dairy and poultry producers in particular, have approached Kansas about the possibility of locating in our state but they are concerned with the Kansas corporate farming laws. By enacting the Kansas Agricultural Growth and Rural Investment Initiative, we can open Kansas up to the economic development these operations bring and become more competitive with other states. These industries are now modern, efficient and excellent corporate citizens.

Summary of Facts

- Today, K.S.A 2012 Supp. 17-5904 lists 18 exemptions that allow corporations to engage in production agriculture in Kansas.
- Kansas is one of nine states in the United States that have laws restricting corporations from engaging in farming and ranching.
- Land values from 15 states were compared including states with and without corporate farming restrictions. Land value increases cannot be correlated with the presence or absence of corporate farming restrictions.
- Farm organizational structures in eight states without corporate farming restrictions were compared with Kansas. In no case did the percentage of non-family corporations exceed 0.7 percent. In this analysis Kansas was in the middle of the group with 0.4 percent non-family corporations operating farms.
- The size of farms in Kansas was compared to eight states without corporate farming restrictions. Kansas ranked second largest average farm size at 702 acres.
- A comparison of growth of number of farms in categories divided based on dollars of sales was completed between Kansas and eight states without corporate farming restrictions. The average growth in the number of smallest farms in the eight states was 5.24 percent and 0.35 percent in Kansas. The average growth in the number of farms in the largest category for the eight states was 55 percent and 110 percent in Kansas.
- There is a correlation of higher farm wages with states that have lower unemployment percentages and a corresponding correlation of lower farm wages with states that have higher unemployment percentages. Kansas has the highest farm wages and fifth lowest level of unemployment in the group of states reviewed.
- K.S.A 2012 Supp. 17-5903 spells out how family members must be related and where they must live in order to qualify as a family farm corporation and thereby be eligible to own a farm in Kansas. As the farm is passed through generations it becomes increasingly difficult for all family members to remain eligible owners.
- Animal agriculture is highly regulated in Kansas by state and federal government.
- Agriculture is the largest sector and foundation of the Kansas economy especially in rural areas. If there are not enough people working in agriculture in these rural areas, the local community will struggle to survive.
- The potential economic impact of investment in agriculture in terms of job creation, capital investment, and expansion of the tax base is tremendous with as low as ten percent growth in dairy and swine farms in Kansas resulting $183 million in value added to the economy.

History of Kansas Corporate Farming Laws

The original law prohibiting certain types of corporate farming in Kansas was passed in 1931. It prohibited corporate farming for the purpose of growing wheat, corn, barley, oats, rye, potatoes and the milking of cows. Since 1931, the Kansas legislature has amended the act to add commodities to the list of prohibited agricultural practices but also specifically exempted certain practices.

The 1981 legislature passed SB 298, which is the basis of the current law, which prohibits corporations, trusts, limited liability companies, limited partnerships or corporate partnerships other than family farm corporations, authorized farm corporations, limited liability agricultural companies, limited agricultural partnerships, family trusts, authorized trusts or testamentary trusts from either directly or indirectly owning, acquiring or otherwise obtaining or leasing any agricultural land in Kansas. The 1981 bill included 13 specific exemptions from the restrictions, among which included an exemption for crop production for research purposes, alfalfa production for alfalfa seed, land for use as a feedlot, a poultry confinement facility or a rabbit confinement facility and more.

The law was amended in 1994 to permit the acquisition of agricultural land by corporations for the purposes of developing either swine production facilities or dairy production facilities under specific actions by voters and boards of county commissioners.

In 2012, the Kansas Legislature passed House Bill 2502 to change the process for counties to allow corporate hog farms to mirror the dairy process. The swine section of the law was changed to match the dairy section which made it possible for the county commissioners to approve a swine facility without a county vote unless a valid petition for a vote was submitted. Prior to this change the swine facilities required a vote whereas dairy could be approved by county commissioners. The change in 2012 to mirror the swine process to that of dairies makes it quicker for dairies and hog farms to locate in Kansas.

Corporate Farming Laws Around the United States

Kansas is not the only state with laws prohibiting or restricting corporate agriculture. Nine states have laws that prohibit or limit corporate farming: South Dakota, North Dakota, Oklahoma, Iowa, Minnesota, Wisconsin, Nebraska, Missouri and Kansas.

United States Court of Appeals for the Eighth Circuit has struck down the Nebraska, South Dakota and Iowa laws based on the dormant commerce clause, due to "differential treatment of in-state and out-of-state economic interests that benefits the former and burdens the latter." Kansas is in the Tenth Circuit; so while these cases are persuasive, they are not controlling.

Upon request by the Kansas Department of Agriculture, Kansas Attorney General Derek Schmidt did not comment on the constitutionality of the entire law, but did indicate his initial belief that that certain exceptions relating to authorized corporations are likely unconstitutional under Dormant Commerce Clause because it discriminates between Kansas corporations and out-of-state corporations.

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Land Value Changes in States with Corporate Farming Restrictions Compared to Those That Do Not

Land values across much of the Midwestern United States have seen significant increases in recent years. The claim has been made that repealing restrictive corporate farming laws will cause further increase in land values. The reality is that multiple factors had led to the increase in land values, including but not limited to high crop prices and the fact that land is a safe, sound investment option.

According to the information below, based on Federal Reserve figures, states in the Midwest region that have laws restricting corporate agricultural entities have seen, on average, higher increase in land values in recent years.

State	2010-2011	2011-2012
*Nebraska	17.1 percent	33.5 percent
*Iowa	24.4 percent	22.8 percent
*Kansas	13.6 percent	19.2 percent
Illinois	16.3 percent	17.5 percent
Indiana	11.6 percent	17.0 percent
*Missouri	7.7 percent	13.7 percent
New Mexico	4.2 percent	12.0 percent
*Oklahoma	7.3 percent	11.3 percent
Arkansas	4 percent	9.6 percent
Colorado	1.9 percent	6.4 percent
Wyoming	3.8 percent	3.7 percent
Texas	4.8 percent	2.9 percent
North Carolina	6.4 percent	0.0 percent
Alabama	-2.4 percent	-2.4 percent
Georgia	-2.6 percent	-7.9 percent

*States with corporate farming restrictions

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Farm Structure in States with Corporate Farming Restrictions Compared to Those That Do Not

The table below is based on information gathered in the 2007 USDA Census of Agriculture. There are some who claim that repealing restrictive corporate farming laws will drive family farms out of business. The data below shows that the percentage of family-owned or held farming operations is similar in states with corporate restrictions compared to those without the anti-growth laws.

Passing the Kansas Agricultural Growth and Rural Investment Initiative will open the door for agricultural growth without hindering the success of family-owned farms and ranches in Kansas.

	NC	IL	AR	GA	KS	TX	IN	AL	NM
Individuals/family, sole proprietorship (farms)	45,766	65,748	42,470	41,703	55,706	218,126	52,553	45,014	18,185
Individuals/family, sole proprietorship (percent of total farms)	86.5	85.5	86.1	87.2	85	88.2	86.2	92.3	86.9
Family-held corporations (farms)	2,241	3,055	1,622	1,691	2,531	4,956	2,769	894	780
Family-held corporations (percent of total farms)	4.2	4.0	3.3	3.5	3.9	2.0	4.5	1.8	3.7
Partnerships (farms)	4,246	6,509	4,667	3,850	5,549	20,657	4,614	2,377	1,456
Partnerships (percent of total farms)	8	8.5	9.5	8	8.5	8.3	7.6	4.9	7
Non-family corporations (farms)	384	378	232	218	243	750	209	123	59
Non-family corporations (percent of total farms)	0.7	0.5	0.5	0.5	0.4	0.3	0.3	0.3	0.3
Others - cooperatives, estate or trust, institutional, etc. (farms)	276	1,170	355	384	1,502	2,948	793	345	450
Others - cooperatives, estate or trust, institutional, etc. (percent)	0.5	1.5	0.7	0.8	2.3	1.2	1.3	0.7	2.2

Average Farm Size in States with Corporate Farming Restrictions Compared to Those That Do Not

The table below is based on information gathered in the 2007 USDA Census of Agriculture. While some claim that repealing restrictive corporate farming laws in Kansas will push smaller, family-owned farms out of business, the data shows that Kansas has the second highest average farm size in the group of selected agricultural states. Kansas ranks 11th in the United States in average farm size.

Passing the Kansas Agricultural Growth and Rural Investment Initiative will not drive family farming operations out of business.

	NM	KS	TX	IL	AR	IN	GA	AL	NC
Average farm size (acres)	2,066	707	527	348	281	242	212	185	160

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Agricultural Growth in States with Corporate Farming Restrictions Compared to Those That Do Not

The table below is based on information gathered in the 2002 and 2007 USDA Census of Agriculture and shows the percentage change in the number of farms in each category of sales between 2002 and 2007. The table compares eight states that have no corporate restrictions with Kansas. The data shows that states that do not prohibit corporate agriculture are experiencing more growth on small farming operations than Kansas.

	$1,000-$9,999	$10,000-$99,999	$100,000-$249,999	$250,000-$499,999	$500,000 & Over
AR	4.53%	14.53%	-50.00%	-40.63%	62.07%
TX	4.33%	16.25%	-5.00%	0.00%	85.71%
IL	24.81%	-21.14%	-17.27%	-1.37%	141.94%
IN	3.23%	-11.11%	-7.14%	20.69%	115.00%
NM	6.73%	-8.59%	-18.37%	-27.03%	-16.13%
NC	3.28%	-6.25%	-12.50%	-4.55%	0.00%
GA	-2.31%	2.03%	-3.13%	-7.79%	40.00%
AL	-2.67%	17.09%	-7.14%	-18.33%	11.63%
Avg.	5.24%	0.35%	-15.07%	-9.88%	55.03%
KS	**0.35%**	**-9.27%**	**-1.49%**	**39.29%**	**110.00%**

Employment Data

USDA NASS reports farm wage data by region for the United States. The table below shows the average farm worker wage per hour in selected states for 2012 along with U.S. Department of Labor data for state unemployment rates in December 2012.

State	2012 Wage/Hr	Unemployment Dec 2012
Nebraska	$12.86	3.70%
Iowa	$11.85	4.90%
Wyoming	$10.45	4.90%
Oklahoma	$10.81	5.10%
Kansas	$12.86	5.40%
Texas	$10.81	6.10%
New Mexico	$10.52	6.40%
Missouri	$11.85	6.70%
Alabama	$10.31	7.10%
Arkansas	$9.99	7.10%
Colorado	$11.26	7.60%
Indiana	$12.48	8.20%
Georgia	$10.31	8.60%
Illinois	$12.48	8.70%
North Carolina	$10.10	9.20%

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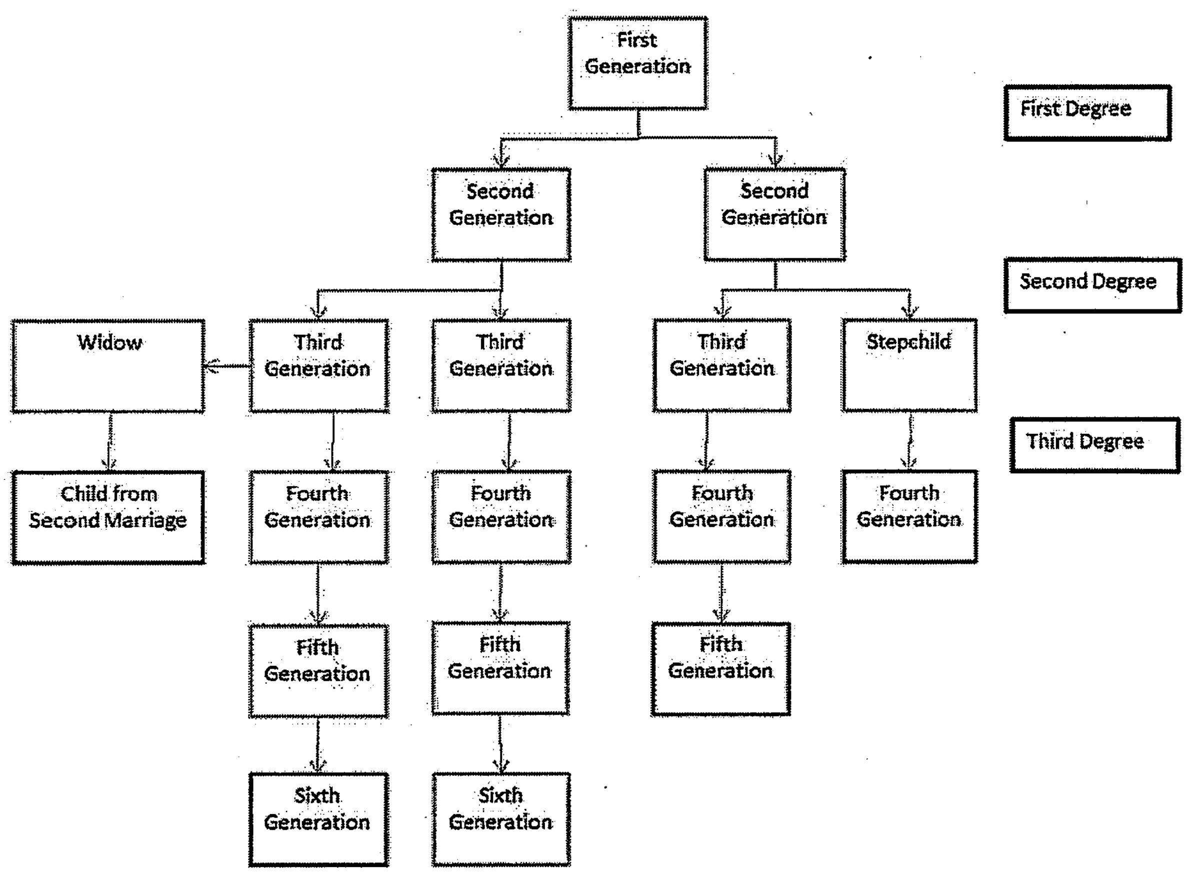
Family Farm Succession Planning

Farm families spend lifetimes building and maintaining their farms with hopes of one day passing them on to a family member that will continue the same proud traditions. As those farms grow and prosper families must make sure that they first are set up to manage them appropriately and second that they are prepared to hand them off effectively to the next generation of owners.

In order to manage the farms, many families establish a business structure of some kind such as a partnership, LLC, or s-corporation with members of the family as owners. When it comes time to pass the family farm on to the next generation, the first hurdle many families face is the estate tax and income tax concerns from the federal level. In Kansas, the second hurdle they face is making sure they are in compliance with the requirements of a family farm corporation.

The Kansas corporate farming law spells out an extensive list of requirement to qualify as a family farm corporation and complying with these is important because if the family does not qualify they cannot own the land. As life takes its natural course, families grow and develop life and career paths that take them different places. The time can easily come when a family does not meet the requirements of a majority of the farm stock being held by family members within three degrees of relationship and at least one of them actively engaged in the management of the farm. These families should still be able to own the land and hire professional management to run the farm.

The chart below illustrates the dilema that many farm families are facing today or have the potential to face in the near future. When the ownership of the family farm corporation passes to the fourth tier of the family tree the family members highlighted with red boxes are not eligible to be owners of the family farms based on Kansas law that requires all stockholders to be related by blood, adoption, or marriage to a common ancestor within the third degree of relationship and more family members become ineligible in the fifth and sixth tiers.



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Animal Agriculture: A Highly Regulated Sector

Farmers and ranchers are the first and best stewards of the land. They invest in voluntary conservation efforts and comply with many rules and regulations aimed to protecting and conserving the land and its resources. If swine, dairy, poultry or other farms choose to relocate to Kansas, they will still have to comply with the many established state and federal regulations. In Kansas there are statutory requirements related to separation distance between certain animal agriculture entities and neighboring homes and businesses. In addition, confined animal feeding operations must have permits from Kansas Department of Health and Environment that require emergency response plans, operator certification, lagoon operation procedures, inspection schedules, odor control processes and nutrient utilization procedures just to list a few.

Rural Economies

Agriculture is the largest industry in Kansas and lifeblood of the state's economy, particularly in rural areas. Agriculture employs 250,000 Kansans and contributes $21 billion directly to the state's economy. Another 178,000 jobs are supported by agriculture activity and an additional $13 billion in economic activity occurs because of Kansas agriculture. For our rural communities this means that local residents are employed at the grain elevator, feed mill, implement dealership, bank, irrigation service, sale barn and hardware store that sell products and services to local farmers and ranchers. These are the individuals doing business with the local restaurant, hospital, grocery store, attorney and auto store. The local school is attended by the children of all these residents who are connected to agriculture and these are the folks who run for county commission, sit on the school board, volunteer with the Rotary Club and so on. Regardless of the small town in Kansas, the foundation of the community's economic vitality and its existence as a community rests upon the strength of agriculture.

As agriculture consolidates to take advantage of the economies of scale in order to be profitable in a narrow-margin business, there are fewer local farmers and ranchers to drive the local economy. Community leaders wonder how they can keep the school open, repair main street and keep local businesses occupied. The best possible solution allows the community to utilize its natural advantages- wide open spaces, good climate, abundant feed and forage, an agrarian-based economy. One hundred fifteen dairy cows equal one job and $345,000 in capital investment. Two hundred fifty hogs equal one job and $85,500 in capital investment.

Potential Economic Impact of the Kansas Agriculture Growth and Rural Investment Initiative

Today in Kansas, approximately $55 million is invested annually in expanding beef feedlots, dairies and hog operations in Kansas. That capital investment leads to 588 direct jobs and 483 indirect and induced jobs in the Kansas economy each year in addition to those folks already employed in animal agriculture. With the adoption of the Kansas Agriculture Growth and Rural Investment Initiative, all indications are that Kansas will see significant growth in these numbers. Below are some results in 2013 dollars of what the impact will be if we grow hogs and dairy by 10 percent. These numbers express only the growth and do not include what is already being done today.

Impact Type	Jobs Created with 10 percent Growth	Labor Income	Total Value Added	Output
Direct Effect	1,567	$62,308,609	$111,675,069	$210,043,160
Indirect Effect	418	$20,317,918	$34,485,813	$69,699,929
Induced Effect	552	$20,131,125	$37,072,945	$60,632,734
Total Effect	2,538	$102,757,652	$183,233,826	$340,375,824

While it is impossible to predict the immediate outcome of enacting the Kansas Agricultural Growth and Rural Investment Initiative, some Kansas counties have experienced the economic benefits of large-scale animal agriculture. In one western Kansas county, a swine farm made the decision that Kansas was the best choice for its new location. They worked with the state and county on the new facility and created six jobs. Greeley County has seen its tax revenue increase by $60,000 per year because of the swine farm. That revenue can be used to fix a road or bridge or to invest in a local school district.

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In addition to the impact on jobs, income and output described above, Kansas gains the ability to add value to our grain commodities through dairy and pork as we have been doing with beef for years. Further opening Kansas to animal agriculture creates additional demand for the crops farmers grow and an opportunity to generate more return to the bottom line. The average cost to haul feed grain 50 miles in Kansas would be approximately $.80 per bushel. If the grain delivery could be made to a local dairy or swine farm within 25 miles the cost would drop to $.34 per bushel.

Enacting the Kansas Agricultural Growth and Rural Investment Initiative will send a loud and clear message that Kansas is open for business. It will create jobs and spur economic activity in rural communities that have been struggling and searching for growth. It will further solidify Kansas as a recognized and trusted leader in agriculture.

For more information contact Chad Bontrager at Chad.Bontrager@kda.ks.gov or (785) 368-6493.

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Addendum to Testimony on SB 191
to
The Senate Natural Resources Committee
By Chad Bontrager
Kansas Department of Agriculture
March 8, 2013

During testimony on SB 191 on Thursday, March 7, 2013, the committee heard a lot about confined animal feeding facilities (CAFOs) and the Revisor was asked to look into the impact of SB 191 on county commissioner authority in the establishment of farms. The purpose of this addendum is to provide some further information on these two areas for the committee.

It is important to note that SB 191 is not about CAFOs and animal agriculture. SB 191 is about the repeal of corporate farming restrictions and the resulting positive impact to Kansas agriculture. CAFOs exist in Kansas today with corporate farming restrictions in place. In some cases, they are owned by an individual farmer. While in other cases, they are owned by a family farm corporation, and they can be owned by corporations that are not eligible entities under the existing corporate farming laws because there are exemptions in the existing law for different types of animal agriculture. The committee has heard primarily about odor and water management through testimony. Regardless of whether SB 191 is enacted, CAFOs in Kansas will still be regulated by the Kansas Department of Health and Environment. This list of regulations for these entities is extensive, but below is an excerpt from the law dealing with separation distance.

Excerpt from K.S.A. 65-171d
h) (1) Any new construction or new expansion of a confined feeding facility, other than a confined feeding facility for swine, shall meet or exceed the following requirements in separation distances from any habitable structure in existence when the application for a permit is submitted:
(A) 1,320 feet for facilities with an animal unit capacity of 300 to 999; and
(B) 4,000 feet for facilities with an animal unit capacity of 1,000 or more.
(2) A confined feeding facility for swine shall meet or exceed the following requirements in separation distances from any habitable structure or city, county, state or federal park in existence when the application for a permit is submitted:
(A) 1,320 feet for facilities with an animal unit capacity of 300 to 999;
(B) 4,000 feet for facilities with an animal unit capacity of 1,000 to 3,724;
(C) 4,000 feet for expansion of existing facilities to an animal unit capacity of 3,725 or more if such expansion is within the perimeter from which separation distances are determined pursuant to subsection (k) for the existing facility; and
(D) 5,000 feet for: (i) Construction of new facilities with an animal unit capacity of 3,725 or more; or (ii) expansion of existing facilities to an animal unit capacity of 3,725 or more if such expansion extends outside the perimeter from which separation distances are determined pursuant to subsection (k) for the existing facility.
(3) Any construction of new confined feeding facilities for swine shall meet or exceed the following requirements in separation distances from any wildlife refuge:
(A) 10,000 feet for facilities with an animal unit capacity of 1,000 to 3,724; and
(B) 16,000 feet for facilities with an animal unit capacity of 3,725 or more.

As can be seen, Kansas law balances the rights of property owners with the need for animal agriculture. This balance is not changed with SB 191.

The Revisor was asked to report back to the Committee on the impact to the authority of county commissioners in the establishment of farms. Today, K.S.A 17-5907 and 17-5908 give commissioners the ability to decide who can own a dairy farm or swine farm in the county. This directly relates to the question of constitutionality of the corporate farming restrictions as they pertain to the Commerce Clause.

Currently, an individual farmer, family farm corporation, or authorized farm corporation can establish a dairy or swine farm without approval from the county commissioners, but a corporation, limited liability company, or limited partnership cannot. The county does not have the authority to allow or prohibit CAFOs. The county only has the authority to decide who the owner of them can be and only then when the CAFO is a dairy or swine farm. Attorney General Derek Schmidt indicated in his January 2, 2013, letter to Secretary Rodman that his initial belief is that certain exceptions relating to authorized corporations are likely unconstitutional under Dormant Commerce Clause because they discriminate between Kansas corporations and out-of-state corporations.