

Approved: 1-27-94  
Date

## MINUTES OF THE SENATE COMMITTEE ON AGRICULTURE.

The meeting was called to order by Chairperson David Corbin at 10:00 a.m. on January 25, 1994 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  
Lila McClaflin, Committee Secretary

Conferees appearing before the committee:

Bob Binder, The Kansas Milk Producers  
Larry Woodson, Division of Weights, Kansas State Department of Agriculture  
Norbert Connor, National Farmers Organization, St. Joseph, Mo.  
Ivan Wyatt, Kansas Farmer's Union  
Dick Dunham, Extension Dairy Specialist, Kansas State University  
Ted Barlow, Anderson Erickson Dairy  
Cleve Lewis, Prairie Farmer's Dairy

Others attending: See attached list

The Chairperson called on Senator Karr. Senator Karr presented a bill request that the Governors' office would like to have introduced as a committee bill. The bill would provided for the Secretary of Agriculture to be appointed by the Governor. The Secretary of Agriculture would organize the Department of Agriculture in the manner deemed most efficient as long as the same is not in conflict with this act or with the provisions of law. A motion was made by Senator Karr to have the bill introduced. Senator Frahm seconded the motion. The motion carried.

The Chairperson opened the hearing on SB 72 - which would create the Dairy Marketing Advisory Board, within the Department of Agriculture. Staff distributed an outline of the bill and a balloon copy of the bill (Attachment 1 and 2).

Bob Binder, Independent Dairy Producers, testified in support of the bill. He stated the Federal Marketing Orders have not met the needs or will no meet the future needs of dairy production especially in Kansas (Attachment 3). He distributed written testimony supporting the bill from: Dwight Haddock (Attachment 4); Lyman L. Adams, Jr. (Attachment 5); Myron D. Schmidt (Attachment 6); and Sheila Leiker Page (Attachment 7). Pamela Baily (Attachment 8) Mr. Binder responded to questions.

Larry Woodson, Director, Division of Inspections, Kansas State Department of Agriculture, testified in support of the State Milk Marketing Order because his agency believes that it will help stabilize milk prices received by our Kansas farmers and thus slow down the attrition of dairy farms (Attachment 9).

Norbert Connor, National Farmers Organization, testified in support of the bill, and offered information concerning the pricing (Attachment 10)

Ivan Wyatt, supported the creation of the Dairy Marketing Advisory Board, as set forth in the bill, with the exception of the block voting set forth on page 2 (Attachment 11).

Dick Dunham, Kansas State University, testified he supported the legislation because Kansas needs a mechanism to stabilize milk prices to producers and consumers (Attachment 12).

Jane Byrnes-Bennett, Wichita, written testimony supporting the bill was distributed (Attachment 13)

Mark Reinhardt, Manager, Kansas City Division, Mid-America Dairymen, Inc., written testimony supporting the bill was distributed (Attachment 14).

## CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON AGRICULTURE, Room 423-S Statehouse, at 10:00 a.m. on January 25, 1994.

Representative Russell Mills, written testimony supporting the bill was distributed (Attachment 15).

The hearing for proponents of SB 72 was closed, and the hearing for opponents was opened.

Ted Barlow, Anderson Erickson Dairy testified in opposition to the legislation. He asked that the legislation be delayed until the Federal law suite is settled. He said we need constructive and thoughtful solutions to issues affecting the dairy industry, not proposals which merely promise results to producers and then fail to deliver because of obvious legal deficiencies (Attachment 16).

Cleve Lewis, Prairie Farms Dairy, Inc. appeared in opposition to the bill, and also presented a deposition from Donald L. Kullmann opposing the bill. Their testimony states they do not believe that state milk orders are the solution to the dairy problems (Attachment 17).

The Chairperson announced SB 72 would be worked Tuesday, February 1.

The meeting adjourned at 11:08 a.m.

The next meeting is scheduled for January 26, 1994.

# GUEST LIST

COMMITTEE: Senate Agriculture

DATE: 1-25-94

NAME	ADDRESS	ORGANIZATION
Melvin Bruce	Topeka	Ks Dept of Ag
Ivan W. Giffatt	McPherson	Kc Farmers Union
Bill Fuller	Manhattan	Kansas Farm Bureau
Bob Bruden	Hays	Kans Dairy
Dick Dunham	Call-Halt-KSH	Manhattan, KS
Byrnes-Bennett	Wichita	Dietitian
LARRY D. WOODSON	TOPEKA	Ks DEPT OF Ag
Arlan Holmes	Topeka	Division of Budget
Bill Henry	Topeka	Phil. p Morris
DONALD Snodgrass	Topeka	KFDA
Joe Lieber	Topeka	Ks. Co-op Council
Marty Vanier	Manhattan	KAA
Jeff Botheberg	Laurence	Botheberg & Assoc.
George Winger		Gov. Office
Cleve Lewis	SPRINGFIELD, MO.	PURVIS FARM DAIRY
Ted Barlows	Kansas City, Kansas	Anderson Erickson Dairy
Jim Allen	Topeka	Seaboard
Russ FREY	Topeka	KUMA
Steve Kelly	Topeka	KDOCKH
Kennerh M. Wilke	Topeka	Ks Dept of Ag.
Mark Reinhardt	K. C.	Mid-America Dairyman
Albert Knapp Jr	Bonner Springs	MID AM
Bill Rhodes	Mc South Ks	Mid am Dairyman

Section 1. a. Creates the dairy marketing advisory board, within the department of agriculture.

b. Members appointed by the governor, confirmed by the Senate. Board consists of 6 members (5 members in balloon amendment) as follows: 2 dairy farmers, 2 milk handlers (1 in balloon amendment), 1 consumer member and the acting secretary of agriculture.

c. Members will serve for three year terms, initial terms staggered. Three members establishes a quorum. Members may be removed for cause.

d. No compensation for members except expenses.

Section 2. a. The board may issue and amend milk marketing orders. The board may contract with existing federal milk order authorities and establish coadministrative arrangements with other states.

b. Establishes that milk marketing orders may cover all or parts of the state. Orders may also contain parts of existing federal orders.

Section 3. Within 30 days of receiving a proposed milk marketing order, the board shall conduct a public hearing to receive evidence of the need for an order. Within 60 days (30 days in the balloon amendment), The board will issue a decision concerning the order. If the order is recommended by the board, it is submitted to the producers for approval or disapproval. Co-ops can vote in blocks for producers. (This provision is stricken in the balloon amendment.) If a majority of producers approve, the order shall become effective the following month. The board may establish rules and regulations to conduct the elections.

Section 4. An order will be terminated whenever requested by a majority of producers.

Section 5. Orders shall contain the following terms:

a. Classify milk purchased by use; fix minimum prices for each use; establishing time frames in which to pay.

b. Establish a system to pay producers and co-ops.

c. Orders applicable to milk marketed in KS shall not prohibit or limit marketing of milk anywhere else.

d. Orders may contain provisions for pricing all class I packaged fluid milk distributed on routes in KS regardless of the location of the processing plant.

e. & f. Any term or condition incidental to and not inconsistent with the act are deemed necessary by the board.

Section 6. The board has the authority to:

a. Administer orders in KS in accordance with the terms and provisions.

b. Adopt rules and regulations.

c. Receive, investigate and report to the acting secretary violations of any order.

*Senate Ag Co*  
*1-25-94*  
*Attachment 1*

d. Make recommendations to the acting secretary on amendments to an order.

e. Employ personnel.

Section 7. a. Handlers may seek review of an order by filing a written request with the board. Board shall issue a decision which shall be final.

b. Regulated handlers may challenge the legality of any provision of the order, provided administrative review by the board first.

Section 8. In fixing the prices, the board shall consider the competitive prices of milk delivered on a regular basis from various sources to certain locations, the cost of production, general economics of the industry and the general economy of the state. After the initial establishment of orders, the board shall make necessary adjustments in prices to reflect changing market conditions to bring market stability.

Section 9. a. Handlers shall:

1. Make reports as established by the board;

2. Maintain records and make such records available to the board.

b. Information shall be confidential and not public record.

Section 10. Each order issued by the board shall require the handler to pay a pro rata share of the cost of administration. (The balloon amendment strikes that provision and provides that 4% of the funds collected would be credited to the WIC program and an annual percentage fee would pay for the costs to the state of administering and providing support staff for the program. Funds collected means the difference between the price established by the federal milk marketing order and the state milk marketing order.

Jill Wolters  
Assistant Revisor  
January 24, 1994

# SENATE BILL No. 72

By Committee on Agriculture

1-22

8 AN ACT creating the dairy marketing advisory board; relating to  
9 the powers, duties and functions thereof; relating to milk mar-  
10 keting orders.

11  
12 *Be it enacted by the Legislature of the State of Kansas:*

13 Section 1. (a) There is hereby created the dairy marketing ad-  
14 visory board. The board shall be within the state ~~board~~ of agriculture. department

15 (b) The members of the dairy marketing advisory board shall be  
16 appointed by the governor and subject to confirmation by the senate  
17 as provided in K.S.A. 75-4315b, and amendments thereto. The board five  
18 shall consist of ~~six~~ members, of such, two members shall be dairy one member  
19 farmers; ~~two members~~ shall represent the milk handlers of the state;  
20 ~~one of which shall represent milk cooperatives and processors~~; one  
21 member shall be a consumer of milk; and one member shall be the  
22 secretary of the state ~~board~~ of agriculture or the secretary's designee. acting

23 (c) Members of the board shall serve for three year terms, but  
24 of the first ~~six~~ members appointed, two shall serve for one year, department  
25 two shall serve for two years, and ~~two~~ shall serve for three years.  
26 ~~One-half of the~~ members shall constitute a quorum. Vacancies on five  
27 the board shall be filled in the same manner as original appointments  
28 are made. The board may remove any of the boards' members for one  
29 cause after hearing. Three

30 (d) Members of the board shall receive no compensation for such  
31 members' services, but may be reimbursed for actual and necessary  
32 expenses incurred by such members in the performance of such  
33 members' duties ~~from the state general fund~~.

34 Sec. 2. (a) The dairy marketing advisory board shall be respon-  
35 sible for the issuance and amendment of state milk marketing orders,  
36 and the general administration of such orders. In order to perform  
37 such duties the board may contract with existing federal milk order  
38 authorities and execute coadministrative arrangements with similar  
39 authorities in other states.

40 (b) Milk marketing orders issued by the state of Kansas may be  
41 made applicable to all or portions of the state and may contain  
42 provisions of existine federal milk orders then effective, and such

The Kansas dairy association may make nominations to the governor for consideration as appointments to the dairy marketing advisory board.

Senate Ag. Com  
1-25-94  
Attachment 2  
2-1

ATT 2

ditions in the dairy industry of this state.

Sec. 3. Within 30 days of the receipt of a proposed milk marketing order applicable to all or part of this state, the dairy marketing advisory board shall conduct a public hearing for the purpose of receiving evidence as to the necessity for such order or any specific provisions thereof. Within ~~60~~ days after the close of such hearing, the board shall issue a decision regarding the proposed state milk marketing order. If an order is recommended by the board, the order shall be submitted to producers residing in this state for such producers' approval or, disapproval. ~~[In assessing such approval or disapproval, cooperative associations may vote in blocks on behalf of such associations' members who are Kansas producers.]~~ If a majority of the producers approve issuance of the proposed order, the order shall become effective on the first of the month following the approval. The board may promulgate rules and regulations relating to the conduct and canvassing of such elections and procedures regarding proposed amendments. If a majority of the producers approve any amendment, such amendment shall become effective on the first of the month following the approval.

Sec. 4. A state milk marketing order shall be terminated whenever requested by a majority of the producers subject to the order. The procedure to terminate such order shall be established by rules and regulations.

Sec. 5. Milk marketing orders issued for Kansas shall contain one or more of the following terms and conditions:

(a) Classify milk purchased from producers or associations of producers in accordance with the form in which, or the purpose for which, such milk is used; by fixing minimum prices for each such use classification which all handlers shall pay; and by stating the time when such payments shall be made. Such prices shall be uniform as to all handlers subject only to adjustments for the market or area of distribution of packaged fluid milk products and the locations at which delivery of such milk is made to handlers. Milk classification and pricing may be accomplished on the basis of skim and butterfat or other components, provided such system is uniform among handlers;

(b) providing a system of payment to producers and cooperatives that reflects the market-wide usages of milk. Such payments shall be uniform among producers and cooperatives on behalf of such cooperatives' member producers, subject to plant locations of milk so received. Nothing contained in this section shall be construed to prevent a cooperative marketing association engaged in making collective sales or marketing of milk or milk products for member

1 producers, from blending the net proceeds of all of the associations'  
2 sales in all markets in all use classifications, and making distributions  
3 thereof to the associations' producers in accordance with the contract  
4 between the association and such associations producers. The asso-  
5 ciation shall not sell milk or milk products to any handler for use  
6 in any market at prices less than that fixed for handlers regulated  
7 in any market;

8 (c) marketing orders applicable to milk marketed in Kansas shall  
9 not prohibit or in any manner limit the marketing of milk or milk  
10 products which are produced in any other production area of the  
11 United States;

12 (d) Kansas milk marketing orders may contain provisions for pric-  
13 ing all class I packaged fluid milk distributed on routes in Kansas  
14 regardless of the location of the plant processing such milk. Such  
15 regulation shall be uniform in price among handlers as to various  
16 areas of competition, regardless of the location of the processing  
17 plants. Such orders shall provide for transferring the value of class  
18 I packaged fluid milk sales in Kansas that originate from out of state  
19 plants back to the raw milk suppliers of such plant. Failure of any  
20 out of state plant to furnish information to the dairy marketing ad-  
21 visory board in Kansas which is necessary to achieve such monetary  
22 transfer shall constitute a basis for including such funds in the Kansas  
23 producer price computation;

24 (e) Providing:

25 (1) Except as to producers for whom such marketing services are  
26 being rendered by a cooperative marketing association, for market  
27 information to producers and for the verification of weights, sampling,  
28 and testing of milk purchased from producers, and for making ap-  
29 propriate deductions therefor from payments to producers; and

30 (2) for assurance of, and security for, the payment by handlers  
31 for milk purchased from producers and cooperatives;

32 (f) any term or condition incidental to and not inconsistent with  
33 the aforementioned terms and conditions which are deemed nec-  
34 essary by the dairy marketing advisory board to effectuate the other  
35 provisions of each order.

36 Sec. 6. The dairy marketing advisory board shall have authority  
37 to:

38 (a) Administer any orders issued in Kansas in accordance with  
39 the terms and provisions;

40 (b) make rules and regulations necessary to effectuate the terms  
41 and provisions of each order;

42 (c) receive, investigate and report to the secretary of the state acting  
43 [board] of agriculture concerning violations of any order's provisions; department

2  
W



1 (d) make recommendations to the secretary of the state ~~board~~ of acting  
2 agriculture on amendments to any order; and department

3 (e) employ or contract with the appropriate personnel to carry  
4 out the board's responsibilities.

5 Sec. 7. (a) Handlers subject to regulation by any state milk order  
6 issued by the dairy marketing advisory board may seek review of  
7 such regulation by filing a written request with the board. The dairy  
8 marketing advisory board shall issue a decision on such request which  
9 shall be final, if issued in accordance with law.

10 (b) Regulated handlers may challenge the legality of any provision  
11 of a Kansas milk marketing order, provided administrative review  
12 has first been sought with the dairy marketing advisory board.

13 Sec. 8. In fixing the level of prices to be paid by handlers, the  
14 dairy marketing advisory board shall consider the competitive price  
15 of milk delivered on a regular and sustainable basis from various  
16 alternative sources to certain locations, the cost of milk production  
17 in Kansas, the general economic conditions within the dairy industry,  
18 and the general economy of the state. After the initial establishment  
19 of prices in Kansas' state milk orders, the dairy marketing advisory  
20 board shall make necessary adjustments in such prices to reflect  
21 changing market conditions which will bring more market stability  
22 and encourage development of an adequate supply of pure and  
23 wholesome milk for Kansas citizens.

24 Sec. 9. (a) All handlers subject to a milk marketing order issued  
25 by the dairy marketing advisory board shall:

26 (1) Make such reports in a manner prescribed by the dairy mar-  
27 keting advisory board which are necessary for administration of the  
28 order;

29 (2) maintain books and records regarding such handlers' dairy  
30 operations, and make available such books and records to the dairy  
31 marketing advisory board to allow verification of all receipts, usages  
32 and payments as required in administration of the milk marketing  
33 order.

34 (b) Notwithstanding any provision of law to the contrary, infor-  
35 mation obtained by the dairy marketing advisory board from regu-  
36 lated handlers shall be treated as confidential information and shall  
37 not be public records.

38 Sec. 10. ~~Each milk marketing order issued by the dairy mar-~~  
39 ~~keting advisory board shall contain a provision requiring each handler~~  
40 ~~to pay such handlers' pro rata share of the cost of the administration~~  
41 ~~of such order.~~

42 Sec. 11. This act shall take effect and be in force from and after

Sec. 10. (a) The amount equal to four percent of the funds collected shall be remitted to the state treasurer at least monthly. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount thereof in the state treasury and the same shall be credited to the federal women, infants and children health program fund for the purpose of supplementing finances for the federal women, infants and children health program. Of the amount credited to the federal women, infants and children health program fund pursuant to this section, no more than 25% of the funds shall be used by the department of health and environment to administer the federal women, infants and children health program.

(b) The board shall annually establish a percentage of the funds collected to be used to finance the operating expenses incurred by the state for implementing this act. The percentage established by the board shall be remitted to the state treasurer at least monthly. Upon receipt of any such remittance, the state treasurer shall deposit the entire amount thereof in the state treasury and the same shall be credited to the dairy marketing advisory board fund, which is hereby created, for the purpose of financing operating expense incurred by the state for implementing this act. All expenditures from the dairy marketing advisory board fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the acting secretary or by a person or persons designated by such acting secretary. The department of agriculture shall account for all state expenses financed from the fund on an annual basis. Any unencumbered balance remaining in this fund at the end of each fiscal year shall be paid to the dairy marketing advisory board.

(c) As used in this section, "funds collected" means the amount of money collected equal to the difference between the price established by the federal milk marketing order and the price established by the state milk marketing order.

2-4

STIMONY TO THE SENATE AG COMMITTEE

1994 - TOPEKA, KANSAS

THANK YOU MR. CHAIRMAN...I AM BOB BINDER, CHAIRMAN OF THE KANSAS DAIRY PRODUCERS LEGISLATIVE COMMITTEE. I AM HERE TODAY REPRESENTING KANSAS MILK PRODUCERS IN SUPPORT OF SENATE BILL NO. 72 AND ITS AMENDMENT. IN JANUARY OF 1986 WE HAD 2105 MILK PRODUCERS BOTH IN GRADE A AND GRADE B IN KANSAS. IN JANUARY OF 1988, WE WERE DOWN TO 1590 PRODUCERS AND IN JANUARY OF 1990 WE WERE DOWN AGAIN TO 1442 PRODUCERS. IN JANUARY OF 1993 WE HAD 1222 PRODUCERS AND AT THE END OF THAT SAME YEAR, WE HAD 1093 PRODUCERS OR 129 PRODUCERS LESS THAN WE HAD IN THE BEGINNING OF 1993. THAT MEANS WE LOST AN AVERAGE OF 10.5 PRODUCERS PER MONTH IN 1993 AND OVER 10 PERCENT PER YEAR. IT CERTAINLY DOESN'T TAKE A MATHEMATICIAN TO RECOGNIZE THAT DAIRY PRODUCERS SHOULD BE ON THE ENDANGERED SPECIES LIST IN KANSAS.

I AM NOT HERE TO SCARE YOU IN TO THINKING THAT EVENTUALLY KANSANS WILL NOT HAVE MILK OR MILK PRODUCTS AVAILABLE TO THEM. MILK TODAY IS BEING TRANSPORTED THOUSANDS OF MILES. TWO THINGS I CAN ASSURE YOU OF:

1. THE PRICE OF MILK TO THE CONSUMER WHEN TRANSPORTED FROM OUT OF STATE WILL INCREASE SUBSTANTIALLY.
2. THE KANSAS ECONOMY, THE KANSAS TAX BASE, AND THE STATE TREASURER WILL NOT REAP ANY BENEFITS FROM MILK TRANSPORTED INTO THE STATE BECAUSE AS MILK COMES IN, THE DOLLARS GO BACK OUT.

LAST YEAR 1993, THERE WAS 1.3 BILLION POUNDS OF MILK PRODUCED ON KANSAS FARMS. WITH A FARM VALUE OF OVER 160 MILLION DOLLARS. WHEN YOU USE A MULTIPLIER OF SIX (EVERY NEW DOLLAR TURNS OVER SIX TIMES) IT

*Senate Ag. Co*  
*1-25-94*  
*Attachment 3*  
*3-1*

IMPACTS THE STATES ECONOMY BY OVER 960 MILLION DOLLARS OR ALMOST 1 BILLION DOLLARS TO THE KANSAS ECONOMY. NOTE: FARM VALUE DIFFERENCE WOULD BE \$13,600,000 LESS FROM JANUARY 1, 1993 TO JANUARY 1, 1994. ALSO, AN IMPACT ON STATE ECONOMY OF \$82,000,000 LESS FROM JANUARY 1, 1993 TO JANUARY 1, 1994. I WON'T EVEN ATTEMPT TO GUESS HOW MANY TAX DOLLARS THAT MIGHT GENERATE OR HOW MANY JOBS ARE AFFECTED OR WHAT THAT WILL DO FOR OTHER SEGMENTS OF THE RURAL ECONOMY. MANY OF THOSE MILK PRODUCED DOLLARS GO DIRECTLY BACK INTO FEED, FERTILIZER, EQUIPMENT, AND OTHER AGRICULTURAL NEEDS.

PRESENTLY, THERE IS A THREE THOUSAND DOLLAR INVESTMENT PER COW ON 85 THOUSAND COWS IN KANSAS OR 225 MILLION DOLLARS OR 219 THOUSAND DOLLARS PER HERD. THIS HAS AN EFFECT ON THE LOCAL ECONOMY. FURTHER, IF ALL OR MOST OF THE MILK IS PRODUCED OUT OF STATE, THE LIKELYHOOD OF INSTATE PROCESSORS CLOSING THEIR PLANTS INCREASES CAUSING A LOSS OF JOBS. ALL PACKAGED MILK PRODUCTS INCLUDING BOTTLED MILK REVENUES WILL BE LEAVING THIS STATE. SENATE BILL NO. 72 WILL HELP PROTECT OUR KANSAS PRODUCERS, KANSAS HANDLERS, AND PROCESSORS AND THE CONSUMERS ALIKE. SENATE BILL NO. 72 WAS ALSO DESIGNED WITH THE AMENDMENT TO PAY FOR THE ADMINISTRATION AND ENFORCEMENT OF THIS ACT FROM REVENUES GENERATED FROM WITHIN THE ACT AND NOT FROM THE STATES TREASURER. SENATE BILL NO. 72 IS NOT DESIGNED TO PROVIDE A WINDFALL TO THE DAIRY INDUSTRY IN KANSAS BUT RATHER TO ACT AS A STABILIZER TO THAT INDUSTRY. SHOULD THE FEDERAL GOVERNMENT CHANGE OR DO AWAY WITH FEDERAL MARKET ORDERS AND WITH THE LIMITED INFLUENCE KANSAS WOULD HAVE ON ANY CHANGES AS COMPARED TO CALIFORNIA, TEXAS, OR NEW MEXICO, THE PASSAGE OF THIS ACT WOULD PROVIDE FOR AN ESTABLISHED SYSTEM IN KANSAS TO INSURE ORDERLY MARKETING OF MILK.

OTHER FEATURE OF THIS BILL IS THE ENHANCEMENT OF THE WOMEN, INFANT, AND CHILDREN PROGRAM OF OUR STATE. FOUR PERCENT OF ANY ADDITIONAL REVENUE TO A PRODUCER, BECAUSE OF THIS ACT, WILL GO TOWARD THE WIC PROGRAM. AGAIN, WITH PROVISIONS FOR ADMINISTRATIVE COSTS. THE WIC PROGRAM PROVIDES NUTRITIONAL VALUE TO NEEDY MOTHERS, BABIES, AND CHILDREN. THIS ACT, SENATE BILL NO. 72, IS NOT UNIQUE IN THE UNITED STATES. OTHER STATES, IN FACT, OTHER ENTIRE REGIONS OF OUR COUNTRY, ESPECIALLY THE NORTHEAST, HAVE ADOPTED SIMILAR TYPES OF LEGISLATION THAT PROVIDES PROTECTION TO THEIR DAIRY INDUSTRY AND TO THEIR CONSUMERS.

YOU HAVE HEARD TESTIMONY IN PAST YEARS THAT THIS ACT MAY NOT BE CONSTITUTIONAL. YET, IT HAS BEEN TRIED IN SEVERAL STATES AND FOUND BY THOSE STATE SUPREME COURTS TO BE CONSTITUTIONAL. THE PROCESSORS HAVE CHALLENGED THE MARKET ORDERS AND NOT THE ACT ITSELF. EVEN THAT CHALLENGE IS NOW IN THE U.S. SUPREME COURT. SOME STATES, AS A MATTER OF FACT, HAVE HAD A MARKET ORDER IN PLACE SINCE THE LATE 30'S. (PENN.) OUR ATTORNEY'S HAVE REVIEWED THE ACT AND HAVE FOUND NO LEGAL DISCREPANCIES. IT IS ALSO INTERESTING TO NOTE THAT STATES LIKE MAINE HAVE CIRCULATED PETITIONS SEEKING SIGNATURES FROM CONSUMERS, INDICATING THEIR REACTION TO LEGISLATION SIMILAR TO OURS AND HAVE GOTTEN OVERWHELMING SUPPORT.

I HAVE BEEN ASKED WHO MIGHT OPPOSE THIS BILL. THE ONLY OPPOSITION THAT MIGHT OCCUR WOULD BE PROCESSORS. THE PROCESSORS HISTORICALLY HAVE INCREASED THEIR PRICE TO THE CONSUMER MORE THAN REQUIRED BY AN INCREASE ON THE FARM, AND DECREASED PRICES TO THE CONSUMER LESS THAN PRICES DECREASED ON THE FARM. THEREBY, INCREASING THEIR MARGINS OVERTIME. I HAVE A GRAPH ATTACHED TO THIS TESTIMONY ILLUSTRATING THIS FACT. (READ SECTION FROM USDA REPORT)

THE FACT REMAINS THAT THE FEDERAL MARKETING ORDERS HAVE NOT MET THE NEEDS OR WILL THEY MEET THE FUTURE NEEDS OF DAIRY PRODUCTION ACROSS THIS NATION ESPECIALLY IN KANSAS. EACH STATE AND REGION WILL BE ADOPTING SOMETHING SIMILAR TO WHAT WE HAVE BEFORE US TODAY TO PROTECT THAT INDUSTRY WITHIN THEIR OWN STATE OR REGION. WE, IN FACT, ARE ENCOURAGING OTHER STATES IN OUR AREA (NEBRASKA, COLORADO, MISSOURI, AND OKLAHOMA), TO ADOPT SIMILAR LEGISLATION AND PROVIDE STABILITY IN THE ENTIRE REGION.

I THANK YOU VERY MUCH FOR ALLOWING US TO TESTIFY BEFORE YOU TODAY. IF YOU HAVE ANY QUESTIONS WE WILL TRY TO ANSWER THEM IF WE DON'T HAVE THE ANSWERS WE CERTAINLY WILL FIND THEM FOR YOU. THANK YOU.

FOCUS ON DAIRY  
ECONOMIC IMPACTS ON STATE & LOCAL COMMUNITIES

THE KANSAS DAIRY INDUSTRY - 1993

	2105 January, 1986
	1442 January, 1990
	1222 January, 1993
1. Dairy Farms .....	1093 January, 1994
2. Dairy Cows .....	80,000 (73 Cows/Herd)
	1,334,000,000 lbs January, 1993
3. Milk Produced in Kansas .....	1,200,000,000 lbs January, 1994
4. Milk Produced per cow .....	15,000 lbs
	\$160,000,000 January, 1993
5. Farm Value .....	\$146,400,000 January, 1994
	\$960,480,000 January, 1993
6. Impact - KS economy (x6) .....	\$878,400,000 January, 1994
7. Avg. Capital Investment/Cow .....	\$3,000
8. Avg. Investment/Herd .....	\$219,000 (Dairy only)

NOTE: Farm Value difference would be \$13,600,000 less from January 1, 1993 To January 1, 1994.

Also, impact on state economy of \$82,000,000 less from January 1, 1993 To January 1, 1994.

## CONSUMERS NOT BENEFITING FROM LOWER PRICES

SINCE our commentary on America's "cheap food policy" appeared in the May 25 issue (page 462), data from the Bureau of Labor Statistics gives solid support to our position, as illustrated in the chart.

AUG 10 1987

As a starting point, 1981 was used since it was April 1981 when the semiannual adjustment in the milk price support level was terminated. As shown, there have been three reductions of 50 cents per hundredweight in the milk price support level since late 1983, but look at the relationship between the farm price of milk and the retail price index for milk and dairy products.

The 7.6 percent increase in dairy product prices since 1981 is modest compared with a 17.2 percent jump in the Consumer Price Index during the same period. Farm milk prices, meanwhile, were down nearly 13 percent early last year and last December still were 5.6 percent below 1981.

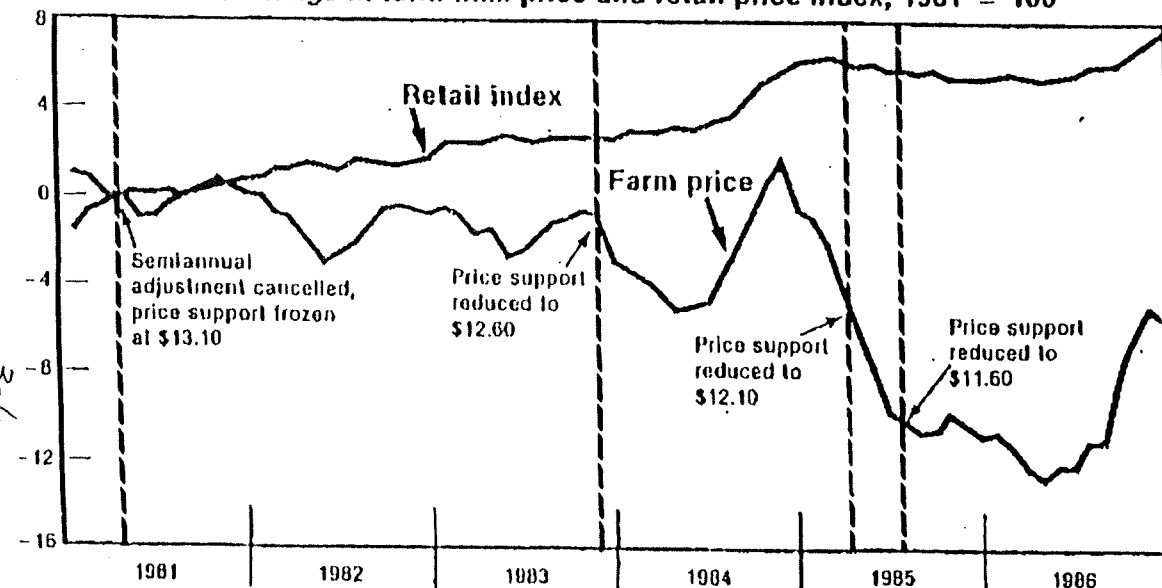
The message that again comes through loud and clear is that lower farm prices for milk do not benefit consumers.

If farm prices had changed at the same rate as consumer prices during the past six years, dairy farm income would have been more than \$7.5 billion higher. Putting this another way, price cuts since 1981 have reduced dairy farmer income \$7.5 billion without benefiting consumers through lower retail prices.

Dairy farmers continue to struggle financially. A 1985 USDA survey showed that 45 percent of the nation's dairy farmers had a negative cash income which means they were unable to meet all costs, plus family living expenses. The 1986 Dairy Farm Summary published by the Farm Credit Banks of Springfield, Mass., revealed that, for the fourth consecutive year, net earnings were negative for the average dairy farmer. See page 597.

Price cutting already has taken a heavy toll; yet many high-level policymakers say further cuts would translate into reduced consumer prices. As one dairy spokesman responded, "Those making that sound are beating a broken drum."

Percent change in farm milk price and retail price index, 1981 = 100



Source: USDA; Bureau of Labor Statistics, DOL

DEC 1989

## MILK STILL IS A BARGAIN DESPITE HIGHER STORE PRICES

HIGHER store prices of milk are receiving a lot of attention these days. The Wall Street Journal, New York Times, St. Louis Post-Dispatch and Wisconsin State Journal all have had headline articles about the climbing prices of milk and other dairy products and tight milk supplies. We presume similar articles have appeared in other newspapers.

All of the hullabaloo made us wonder just how outrageous milk prices had become and to what other beverages people were going to turn. We went to a popular supermarket in Fort Atkinson to do some comparison shopping. Here is what we found:

### Cost per 12-ounce serving

	cents
Frozen orange juice .....	42
Beer (12-pack) .....	42
Apple juice .....	40
Mineral water .....	30
Tomato juice .....	28
Pepsi (2-liter bottle) .....	25
Milk (whole, half-gal. carton) .....	22
Milk (whole, gal. jug) .....	21
Store-brand cola (2-liter bottle) .....	15

Only store-brand cola was less expensive than milk. The 2-liter bottle of cola was 83 cents. The half gallon of milk was \$1.20 and the gallon jug was \$2.37.

We realize that milk will be priced higher in some other parts of the country, but it still will be cheaper than most alternatives. When we add nutritional value to our comparisons, it is not even close. Milk has no equal.

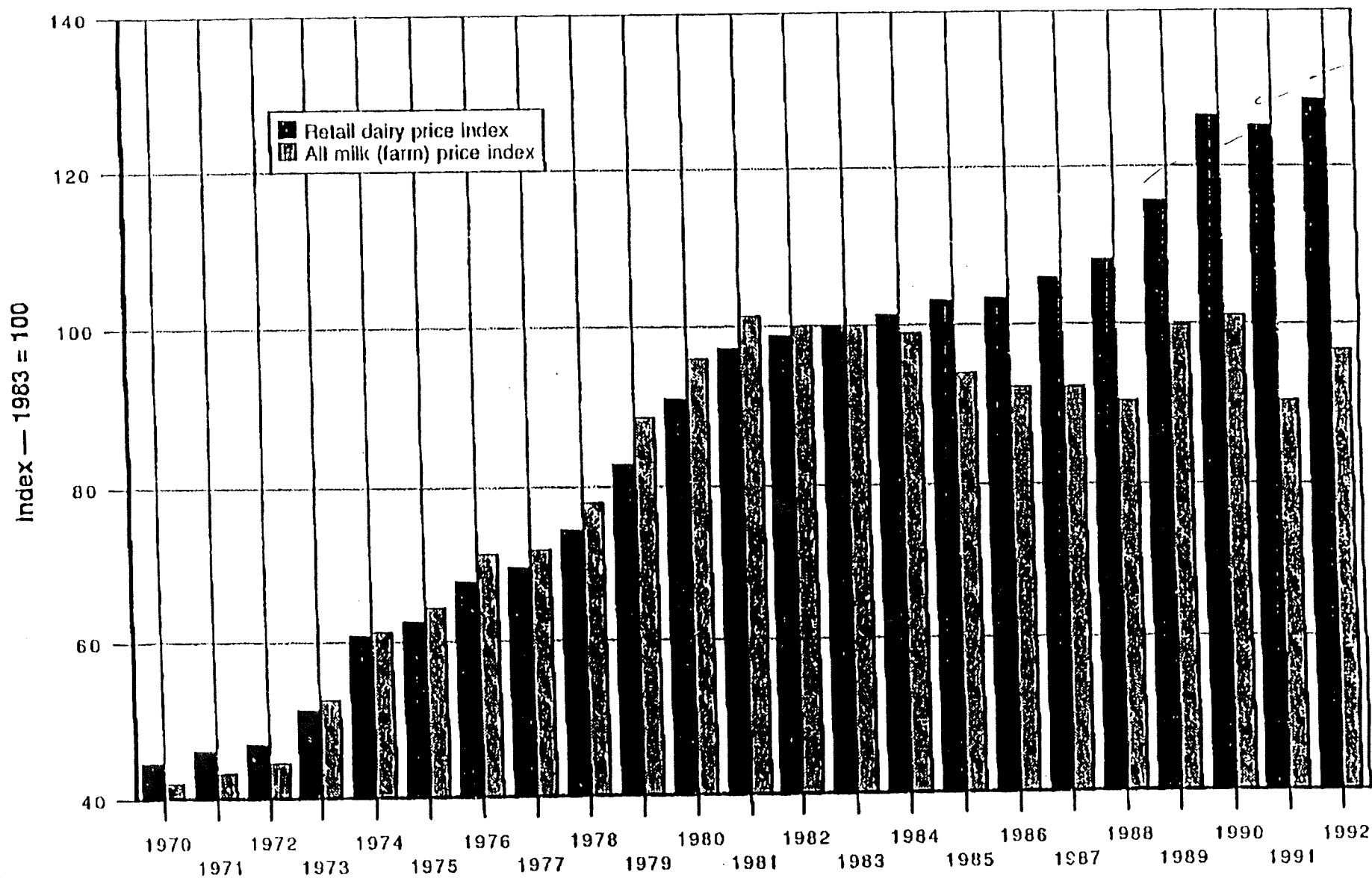
Yes, the price of milk in stores has gone up. And, finally, it has risen at a rate comparable to other foods. According to the Bureau of Labor Statistics, the index of retail dairy prices in October was up 7.6 percent from a year earlier. The overall Consumer Price Index for food went up 5.2 percent during the same period. As recently as July, milk in our area sold for less than it did 10 years ago.

With milk production in Wisconsin, Minnesota and other key dairy states in a slump, we can look for continued strong milk prices at farm mail boxes and in supermarkets. But, milk still is going to be a bargain. Consumers should rest assured of that, regardless of what they're reading.



# Retail prices surge ahead of farm prices

Milk price savings haven't been passed on to consumers



TESTIMONY of  
DWIGHT HADDOCK

on  
SENATE BILL 72

Senator Corbin and members of the Senate Agriculture Committee:

I would like to explain to you the need for a Dairy Marketing Bill in the State of Kansas. At the present, the Kansas Dairy Producers are controlled by Federal Market Orders. Until 1985, the Federal Market Orders served the Kansas Dairymen very well. However, in 1985 the Department of Agriculture made some fundamental changes in how the Market Order functioned.

In the name of efficiency the Department of Agriculture combined several smaller orders into one larger unit. In the process, the Kansas Farmers were placed in a unit called the Southwest Plains Market Order consisting of the Southern 2/3 of Kansas, all of Oklahoma, the Southwest corner of Missouri and the Northwest corner of Arkansas.

In the Missouri and Arkansas portions of this Market Order, there exists five large processing plants manufacturing Class 3 products only. By combining these areas into one Market Order, the type of utilization of these plants resulted in reducing the blend price paid the Kansas producers by a significant twenty (20) percent.

Establishing a Kansas Market Order would effectively help the family farms in Kansas to exist by increasing the blend price. This action will enable Kansas Producers to receive the actual value of milk produced within the State of Kansas. At the present time Kansas has a healthy balance in the utilization of all three classes of milk which would result in a stable blend price. With the present rate of decline, Kansas is losing from 5 to 10 percent of its dairy family farms on an annual basis. This last year we reduced not only the number of farms, but also the pounds of milk produced in Kansas and are currently at a critical decline in serving the total population of this State. Continued deterioration of Kansas production that is triggered by the low blend price paid for dairy production will not only injure the dairy industry comprised of the family units as we know them today, but eventually lead to consumer dissatisfaction over quality caused by time delays and delivery of imported raw milk to the Kansas processing plants. At the present time, there is already insufficient quantity of milk produced to supply the needs of the current handlers in Kansas.

There are several states that have State Orders and have been working to both the consumer and producers advantage for several years. By establishing a Kansas Order the

*Senate Ag. Co.  
1-25-94  
attachment 4  
4-1*

Senate Bill 72  
Dwight Haddock

Kansas Dairy Farmer will no longer be subsidizing producers from other states by receiving a lower blend price. The consumers price will not increase since money paid for Kansas milk from Kansas milk handlers, will be returned to Kansas producers.

The present bill gives the industry the tools it needs to help support rural development throughout our State. The Dairy Industry is a labor intense type of agriculture enterprise which helps support many satellite businesses throughout the small communities which are struggling to exist.

The Governor has been looking for ways to help flourish the rural areas of Kansas making them a viable part of our Kansas economy. With your help, we feel that this can be done through the development of the Kansas Marketing Order as the result would be a WIN-WIN situation for ALL Kansans.

During the past five years we have lost between eighty (80) and one-hundred and twenty (120) dairies per year with<sup>in</sup> Kansas. This in itself, should show the urgency of this legislation that would establish a stable blend price and assist the family dairy farm unit to continue to contribute quality products for consumption in this state.

We would sincerely appreciate your thoughtful consideration and positive vote on the crucially needed piece of Legislation.

## GLOSSARY OF TERMS

**Federal Market Order** - The Federal Market order was established in 1937 with the primary function of protecting the small dairy farmers throughout the United States from unethical companies taking advantage in net prices paid for fluid milk.

**Southwest Plains Market Order** - This is the Order that approximately 2/3 of the Kansas Producers sell their milk under. This Market Order consists of an area comprised of the Southern 2/3 of Kansas, all of Oklahoma, the Southwest corner of Missouri and Northwest Corner of Arkansas.

**Class 1 Milk** - Milk which is used in the "bottle". (Consumed in it's liquid state)

**Class 2 Milk** - Milk that is processed into products such as ice cream, cottage cheese and yogurt. (A product that is normally eaten with a spoon.)

**Class 3 Milk** - Milk that is further processed into products that can be stored for future utilization. Example: hard cheeses, powder milk, and butter.

**Handlers** - The term used in Senate Bill 72 referring to any plant which purchases fluid milk for further processing regardless as to class or combination of classes they manufacturer.

**Blend Prices** - The net price paid to dairy producers by various marketing organizations within the Southwest Plains Market Order region. Blend price is established by determining the percent used in each of the three Classes of milk (given above). Class 1 receives the highest price with net receipts lowering in descending order through Class 3. The average of all utilization, determines the Blend Price.

**Producer** - Those farmers that are actively engaged in the daily production of raw (unprocessed) milk.



P.O. BOX "P" • HILLSBORO, KS 67063

316/947-3917

January 22, 1994

## Testimony On The Importance of The Dairy Industry

To Whom it May Concern:

The Dairy Business is a vital part of the economy of many businesses and individuals in Marion County and in the State of Kansas. Many communities are highly dependant upon the survival and economic health of the Dairy Producer. Yet, the Dairy Industry is really struggling in today's world. Cooperative Grain and Supply has seen six dairies, operated by young producers, go out of business this past year. This is a trend that must be stopped.

In Marion County alone, approximately 40 dairies provide jobs and purchase inputs for their production and everyday living needs. Their existence is highly important to the viability of our communities.

More specifically, as a direct supplier of Feed, Fertilizer, and other inputs to approximately 85% of the Dairy Producers in the area, the success of our business and the 54 employees involved is linked to the survival and stability of our Dairy Producer customer.

In summary, the Dairy Industry is very important to the economy of many communities and it is vital to ensure their existence or we will lose them. I feel that the State of Kansas can not allow this to happen.

Sincerely,

*Lyman L. Adams, Jr.*  
Lyman L. Adams, Jr.  
General Manager

*Senate Ags.*  
1-25-94  
attachment 5

HILLSBORO • MARION • LEHIGH • CANTON • CANADA

5-1

LLA:mrs

Chairman Corbin, members of the Senate Ag Committee:

Due to an AMPI Board commitment, I am unable to attend the hearing today. However, I want to send a written statement of support for Senate Bill No. 72.

Some time ago, on display at the National Archives in Washington, D.C., a 70 year old poster quoted President Woodrow Wilson as saying "The National economy depends on the output of the miner and the farmer." Have 70 years changed that? Seventy years has changed a lot of things but it has not changed the basic requirement that people have to have food to eat in order to survive.

Because food is such a necessity there are more negative remarks made about the cost of it than anything else. Food purchased in the United States, however, requires less of the disposable dollar than anywhere in the world.

Dairy farm families have provided the U.S. consumer, day in and day out, in every city across the country, with a dependable supply of excellent quality milk and dairy products at a reasonable price. When we have market stability, dairy farmers have made continuous gains in productivity, holding milk and dairy product prices consistently below increases in the consumer price index and all other food indexes.

The typical U.S. worker today earns the money needed to make purchases like milk, butter and ice cream in less than half the time required 25 years ago. Over the past 25 years, increases in dairy product prices have stayed consistently below the general inflation rate and index for all foods.

Why do the people in this country have the benefit of the largest supply of food at the cheapest price, and the best quality anywhere in the world? The answer is simple. It is the farmer's pride, dedication and a work ethic that states "as long as I can pay my bills I will continue to farm."

The farmer is not concerned about the almighty dollar beyond cost of production. His main interest is in how many pounds of milk he can get per cow per year, or how many bushels of wheat will he get per acre, or the rate of gain on a steer. This productivity has become the consumer's gain today, but may be his loss tomorrow.

For more than 30 years, farmers have been told to increase the size of their farms and become more efficient. The average dairy farm in the U.S. has 70 cows which each average about 15,000 lbs. of milk per year. This means that the average farm is producing enough milk to supply 1,380 people with one quart of milk each day of the year.

Let's look at some statistics in Kansas. In January of 1986 there were 2,106 commercial dairies in Kansas. Today there are less than 1,100. Because of drastic unstable milk prices in the last eight years we lost 127 dairies per year in Kansas. These losses have contributed a great deal to the shut down of small grain elevators, banks, implement dealers and main street businesses in small town USA.

Sixty-five years ago, Secretary of Agriculture Henry Wallace made two points in his report to the President that are as valid today as they were then. The following was taken from the 1921 Yearbook of Agriculture, and I quote: "Any circumstances which depress agriculture, making it impossible to exchange products of the farm for products of the factory on a fairly normal basis, make for closed factories and unemployment in industries. The energy and the intelligence with which the farmer works, the number of hours he works, the cost he incurs in producing crops, none of these is considered in determining the price."

*Senate Ag Co*  
*1-25-94*  
*B.D.*  
*Attachment 6*

-2-

If farmers received prices which would give them an income equal to those of similar ability in the nonfarm sector, they would be able to hire more of the people who have only their labor to sell. They might hire them directly on their farms. They might hire them indirectly by purchasing the results of their labor, whether as a product or a service.

Although we have an abundance of food today, will this be true tomorrow? An abundance of food is no excuse to pay the farmer less than cost of production. The farmer needs to receive a fair price for his products, if the economy is to remain strong and people have jobs.

And so, I, in behalf of the AMPI dairy farmers in Kansas, strongly encourage you to endorse Senate Bill No. 72. You must answer these questions. Is the dairy farmer important in Kansas? Is food important to your children and their children? Is the dairy industry important in Kansas to create jobs and revitalize rural Kansas?

Today we have only four major milk processing plants in Kansas. AMPI Hillsboro, Mid-America Sabetha, Jackson in Hutchinson and Mid-America Steffens in Wichita. Food Barn in Kansas City, Kansas and Zarda Ice Cream in Kansas City, Kansas process about 117 million pounds of milk a month.

If your answer is NO to Senate Bill No. 72 you will severely jeopardize the stability of the dairy farmer and economic vitality in Kansas.

Very early in the history of the U.S. 90% of the people lived on small farms and were mostly self-sufficient at providing food for themselves. Today the numbers are more than reversed. Only 600,000 commercial farms supply 90% of the food needs for our population of 260 million. This means, therefore, that most of the population owns no land on which to grow their own food. This being the fact, will farmers in the U.S. provide the food or will it be imported, a dangerous situation for any country to face.

Even though I produced milk at below cost of production in the last few years it still gives me great satisfaction to know that I am providing 1,380 people one quart of milk every day for a year. I am asking you to show the dairymen of Kansas your appreciation for what they are doing for the economy of Kansas by passing Senate Bill No. 72.

Sincerely,

Myron D. Schmidt, a Kansas Dairy Farmer  
and Corporate Board Member of Associated Milk Producers, Inc.

6-2

TESTIMONY IN SUPPORT OF DAIRY LEGISLATION  
ESTABLISHING A KANSAS MARKET ORDER

MY NAME IS SHEILA LEIKER PAGE, AND I RESIDE ON A FARM FIVE AND ONE-HALF MILES SOUTH OF VICTORIA, IN ELLIS COUNTY. FOR THE PAST 17 YEARS I HAVE BEEN EMPLOYED AS A DAIRY SUPERVISOR FOR EAST PLAINS DAIRY HERD IMPROVEMENT ASSOCIATION. DHIA IS AN OPTIONAL COMPUTERIZED DAIRY MANAGEMENT PROGRAM OFFERED TO DAIRY FARMERS ACROSS THE STATE, WORKING IN COOPERATION WITH THE EXTENSION SERVICE AT KANSAS STATE UNIVERSITY. EAST PLAINS DHIA ENCOMPASSES DAIRY HERDS MAINLY IN THE COUNTIES OF ELLIS, ROOKS, RUSSELL RUSH, AND TREGO. I AM ALSO EMPLOYED BY THE STATE DHIA ASSOCIATION AND HAVE TRAVELED ACROSS THE STATE AS A CHECK TESTER AND HAVE ALSO TRAINED SUPERVISORS WHEN NEEDED, AND PRESENTLY SERVE AS PRESIDENT OF THE KS. DHIA SUPERVISORS ASSOCIATION. MY LATE HUSBAND AND I DID OWN AND OPERATE A DAIRY HERD IN ELLIS COUNTY UNTIL HIS DEATH IN 1979. AFTER DISPERSING OUR DAIRY HERD AT THAT TIME, I CONSIDERED MYSELF MOST FORTUNATE TO BE ABLE TO MAINTAIN THE SAME LIFESTYLE FOR MYSELF AND MY THREE CHILDREN. THE EXTRA INCOME EARNED FROM MY EMPLOYMENT AS A DAIRY SUPERVISOR MADE THIS POSSIBLE.

WHILE I ENJOY MY JOB AND THE CONTACT I'VE HAD WITH THE DAIRYMAN LOCALLY AND ACROSS THE STATE, I'VE ALSO SEEN FIRSTHAND THE

*Senate Ag Co*  
*1-25-94*  
*attachment 7*  
*7-1*



PAGE 2 - SUPPORT OF ESTABLISHING KS. MARKET ORDER - SLP

STRUGGLE TO MAINTAIN THEIR FAMILY DAIRY OPERATIONS. DAIRY FARMERS READILY ACCEPT THE 365 DAY ROUTINE AND THE INTENSIVE DEDICATED WORK SCHEDULE NEEDED TO MAKE A DAIRY OPERATION PROFITABLE, BUT THEY HAVE ALSO BEEN FACED WITH MILK PRICE FLUCTUATIONS BEYOND THEIR CONTROL WHICH HAS NARROWED THEIR MARGIN OF PROFIT CONSIDERABLY. THE PAST SEVERAL YEARS HAVE BEEN A CRITICAL PERIOD FOR THE DAIRY INDUSTRY IN OUR STATE. ONLY THE DEDICATED AND EFFICIENT MANAGERS HAVE BEEN ABLE TO MAINTAIN A MARGIN OF PROFIT.

AT THE PRESENT TIME OUR LOCAL ASSOCIATION CONSISTS OF 24 HERDS WITH AN APPROXIMATE TOTAL OF 1,400 COWS. IN THE PAST SEVERAL YEARS, WE HAVE LOST 8 HERDS, TOTALING 475 MILK COWS. WHILE THIS MAY NOT SEEM TO BE OF ANY GREAT SIGNIFICANCE TO THOSE NOT INVOLVED IN THE DAIRY INDUSTRY ON A DAILY BASIS, FACT AND FIGURES COMPILED BY ELLIS COUNTY EXTENSION AGENT, JOE WARY INDICATE WHY WE SHOULD ALL BE CONCERNED ABOUT THE DEMISE OF THE LOCAL DAIRY INDUSTRY IN THIS STATE. AND HOW DEEPLY IT AFFECTS THE OVERALL ECONOMY OF OUR LOCAL COMMUNITIES.

AN AVERAGE COW PRODUCES 17,000 POUNDS OF MILK EACH YEAR. WITH MILK PRICES AT 12 CENTS PER POUND, EACH COW CONTRIBUTES \$2,040 ANNUALLY TO OUR LOCAL ECONOMY FOR A TOTAL OF \$969,000. SINCE EACH AGRICULTURAL DOLLAR IS CIRCULATED AN AVERAGE OF SEVEN TIMES, OUR AREA HAS JUST EXPERIENCED THE EQUIVALENCE OF LOSING A

PAGE 3 - SUPPORT OF ESTABLISHING KS. MARKT ORDER - SLP

6.8 MILLION DOLLAR INDUSTRY. IF THE LOCAL REMAINING DAIRIES IN OUR RURAL COMMUNITIES ACROSS THE STATE ARE NOT ABLE TO MAINTAIN A MARGIN OF PROFIT THAT ALLOWS THEM TO STAY IN BUSINESS, THE NEGATIVE ECONOMIC IMPACT TO OUR RURAL COMMUNITIES WILL BE MUCH GREATER. WHILE THE ABOVE FACT AND FIGURES EFFECT OUR LOCAL COMMUNITY, THIS IS A TREND THAT IS STATEWIDE. DAVID SUKUP, EXEC. SECRETARY, KS. DHIA, MANHATTAN, KS., STATED THAT THE TOTAL NUMBER OF COWS ON TEST IN KANSAS IN 1988 TOTALED 50,010 COWS. TOTAL COWS ON TEST AT THE END OF 1992 TOTALED 45,685, OR A LOSS OF 4,325 COWS ON TEST.

WHEN A CROP FARMER LOSES HIS GROUND SOMEONE ELSE IS ALWAYS WAITING TO TAKE OVER THAT GROUND AND PRODUCE FROM IT. WHEN A DAIRY FARMER LOSES THEIR DAIRY, IN ALMOST ALL CASES, IT IS LOST FOREVER. THIS STATE'S DAIRY INDUSTRY IS A VITAL PART OF OUR AGRICULTURAL PRODUCTION AND OUR LOCAL ECONOMY.

FOR ALL OF THE ECONOMIC REASONS STATED ABOVE, THE DAIRY PRODUCERS REQUEST YOUR SUPPORT FOR UPCOMING DAIRY LEGISLATION ESTABLISHING A KANSAS MARKET ORDER. THE ECONOMY OF EVERY SMALL COMMUNITY DEPENDS ON THE STRENGTH OF AGRICULTURE FOR ITS SUPPORT AND EXISTENCE.

THANK YOU FOR YOUR ATTENTION TO THIS MATTER.

SUBMITTED BY:  
SHEILA LEIKER PAGE  
646A PFEIFER AVENUE  
VICTORIA, KANSAS 67671

Mr. Chairman and Senate Ag Committee Members:

Thank you for the opportunity to present written testimony regarding S.B. 72. My name is Pamela Bailey and I am an attorney in Wichita. My law firm has reviewed S.B. 72 and compared it with other states' milk marketing legislation.

Several states, including Massachusetts, Maine, and Pennsylvania, have state milk marketing orders. Some of these states have had state orders for over 50 years. S.B. 72 is enabling legislation allowing Kansas to create a dairy marketing advisory board which in turn would issue a state milk marketing order.

None of the other states reviewed have had their enabling statutes challenged in court. The State of Massachusetts has had its state milk pricing order contested in court on constitutional grounds. The Massachusetts Supreme Court held that the pricing orders were designed to help Massachusetts dairy producers and affected interstate commerce only incidentally. Therefore, the Massachusetts state pricing order was upheld.

Section 5 of S.B. 72 contains many of the same provisions found in the federal Agricultural Marketing Agreement Act, 7 U.S.C. §601, et seq. This federal act has withstood constitutional challenge in U.S. v. Rock Royal, 307 U.S. 533, 59 S.Ct. 993 (1993).

It is our legal opinion that S.B. 72 is legally sound and should be upheld by the courts in a constitutional challenge.

*Senate Ag Co*  
*1-25-94*  
*Attachment 8*

Senate Agriculture Committee  
Senate Bill 72  
January 25, 1994

Mr. Chairman, members of the Senate Agriculture Committee, my name is Larry D. Woodson, Director, Division of Inspections, Kansas State Department of Agriculture and I am here this morning to testify in support of Senate Bill No. 72.

We support the State Milk Marketing Order because we believe that it will help stabilize milk prices received by our Kansas Dairy farmers and thus slow down the attrition of dairy farms that we have seen in recent years.

We must consider the fact that milk is a perishable product and thus must be marketed in a timely and orderly manner. We must remember that milk and dairy products play an essential role in our diet.

In supporting this bill, we would respectfully request that the Committee address three areas of concern:

1. We would desire adequate funding of administrative costs to prevent diversion of funds from already stretched budgets and to assure a positive cash flow. This funding would be placed into a no limit designated fee fund.
2. We would further respectfully request that funds needed to initiate the State Milk Marketing Order be deposited into the aforementioned designated fee fund.

We are of the opinion that a significant portion of the cost of initiating the State Milk Marketing Order will occur within the first six to eight months of the program. It is during this time that a large portion of the administrative, clerical, and other related duties will occur while establishing necessary rules and regulations.

3. The final issue that we would raise for your consideration is an unlawful acts and appropriate penalty section for non-payment or tardy payment of administrative fees into the fee fund.

Mr. Chairman, members of the Senate Agriculture Committee, that concludes our testimony. If the committee has any questions, I or staff members of the Department will attempt to answer them.

Senate Ag. Co  
1-25-94  
attachment 9 9-1



# KANSAS

Joan Finney  
Governor

## DEPARTMENT OF COMMERCE & HOUSING

Bob Knight  
Secretary

### MEMORANDUM

TO: Don Jacka, Department of Ag

FROM: Cal Lantis, <sup>utb</sup> Director, Division of Existing Industry

DATE: January 24, 1994

RE: Senate Bill 72

The Department of Commerce & Housing supports SB 72.

If current trends continue in the dairy industry, the economy of many rural communities will see an accelerated decline. These communities are located in areas of concentrated dairy activity. Not only will individual operators be lost, but businesses that supply dairy inputs, i.e., feed, equipment, etc. will be adversely affected. While the impact on the overall state economy may be minimal, the impact on these communities will be severe.

SB 72 will increase the potential of the dairy producer to retain a profitable operation. Job retention in production and processing will be retained as a result. A stabilized dairy industry will help maintain the overall economy in the affected areas.

SOUTHWEST PLAINS MARKETING AREA  
DECEMBER 1993  
COMPUTATION OF UNIFORM PRICE

	POUNDS	PRICE AT 3.5%	VALUE
GROSS CLASS 1 UTILIZATION	132,336,231		
LESS - OTHER SOURCE	53,346		
LESS - OPENING INVENTORY	8,831,675		
LESS - OVERAGE	41		
<b>CLASS 1 PRODUCER MILK 40.39%</b>	<b>123,451,169</b>	<b>\$15.23</b>	<b>\$18,801,613.05</b>
GROSS CLASS 2 UTILIZATION	48,764,065		
LESS - OTHER SOURCE	5,550,004		
LESS - OPENING INVENTORY	1,237,430		
LESS - OVERAGE			
<b>CLASS 2 PRODUCER MILK 13.73%</b>	<b>41,976,631</b>	<b>\$12.95</b>	<b>\$ 5,435,973.72</b>
GROSS CLASS 3 UTILIZATION	130,362,972		
LESS - OTHER SOURCE	15,554,093		
LESS - OPENING INVENTORY	9,797,397		
LESS - OVERAGE	1,356		
<b>CLASS 3 PRODUCER MILK 34.36%</b>	<b>105,010,126</b>	<b>\$12.51</b>	<b>\$13,136,766.76</b>
GROSS CLASS 3A UTILIZATION	41,928,308		
LESS - OTHER SOURCE	6,683,704		
LESS - OPENING INVENTORY	33,871		
LESS - OVERAGE			
<b>CLASS 3A PRODUCER MILK 11.52%</b>	<b>35,210,733</b>	<b>\$10.73</b>	<b>\$3,778,111.65</b>
COMBINED VALUES OF ALL HANDLERS	305,648,659		\$41,152,465.18
ADD - VALUE OF OVERAGE			946.83
LESS - VALUE IN TRANSIT INVENTORY			1,147.30
ADD - RECLASSIFICATION CHARGE			4,114.93
ADD - VALUE NONFMP RECLASSIFIED			
ADD - VALUE APPLICABLE OTHER SOURCE			
TOTAL CLASSIFIED POUNDS & OVERALL VALUE	305,648,659		\$41,156,379.64
ADD - LOCATION ADJ. DIFF CL 1 & PROD			792,880.69
ADD - 1/2 PRODUCER SETTLEMENT FUND			148,718.95
TOTAL POUNDS OF MILK POOLED AND VALUE	305,648,659	\$13.773324	\$42,097,979.28
TOTAL POUNDS OF BUTTERFAT IN MILK POOLED	11,524,130		
	3.770 %		
LESS - PRODUCER SETTLEMENT FUND RESERVE		.043324	132,418.44
UNIFORM BLEND PRICE 3.5% . . .			
ZONE I		\$13.73	\$41,965,560.84
UNIFORM PRICES ARE SUBJECT TO LOCATION AND THE FOLLOWING ZONE PRICE ADJUSTMENTS			
ZONE I 0 (OKLAHOMA CITY, NORMAN, CHANDLER, TUTTLE, OK, FORT SMITH, AR)			
ZONE II + 23 CENTS			
ZONE III - 18 CENTS (TULSA, ENID, OK)			
ZONE IV - 47 CENTS (WICHITA, HUTCHINSON, KS)			
ZONE V - 27 CENTS			
ZONE VI - 22 CENTS (BENTONVILLE, FAYETTEVILLE, SILOAM SPRINGS, AR)			
ZONE VII - 58 CENTS (SPRINGFIELD, LEBANON, MO)			

New

*Senate Ag Co*  
*1-25-94*  
*Attachment 10*

*Robert Connor*  
*St Joseph, Springfield, Mo.*

STATEMENT  
OF  
IVAN W. WYATT, PRESIDENT  
KANSAS FARMERS UNION  
ON  
SENATE BILL 72  
(DAIRY MARKETING ADVISORY BOARD)  
BEFORE  
THE SENATE COMMITTEE ON AGRICULTURE  
JANUARY 25, 1994

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE:

I AM IVAN WYATT, PRESIDENT OF THE KANSAS FARMERS UNION. WE SUPPORT THE CREATION OF THE DAIRY MARKETING ADVISORY BOARD, AS SET FORTH IN SENATE BILL 72, WITH EXCEPTION OF THE BLOCK VOTING SET FORTH ON PAGE 2.

THE PRESENT FEDERAL MARKETING ORDERS GIVE A DISTINCT MARKETING ADVANTAGE TO PRODUCTION MOVING INTO KANSAS ESPECIALLY FROM THE SOUTHWEST AREAS OF THE COUNTRY.

THIS BILL DOES NOT IN ANY WAY LIMIT OR RESTRICT MILK IMPORTS INTO KANSAS, BUT SIMPLY IRONS OUT SOME OF THE MILK MARKETING INJUSTICES OF THE FEDERAL MARKETING ORDER.

THE SUPPORTERS ARE NOT ASKING ANY TAX BREAKS OR HANDOUTS. THIS BILL ESSENTIALLY IS AN ATTEMPT TO ASSIST IN RETAINING KANSAS INDEPENDENT DAIRY FARMS ACROSS THE STATE, SO KANSAS CONSUMERS CAN BE ASSURED OF ENOUGH PRODUCTION SO THAT KANSAS WILL NOT BECOME DEFICIENT ENOUGH IN ITS' DOMESTIC PRODUCTION THAT CONSUMERS FACE POSSIBLE SHORTAGES OF QUALITY MILK OR BECOME VICTIMS OF PRICE GOUGING.

THANK YOU

*Senate Ag Co  
1-25-94  
attachment 10*

TESTIMONY TO THE SENATE AG COMMITTEE

JANUARY 25, 1994

MR. CHAIRMAN...I AM DICK DUNHAM, EXTENSION DAIRY SPECIALIST AT KANSAS STATE UNIVERSITY. IN THIS POSITION, I HAVE WORKED CLOSELY WITH DAIRY FARMERS IN THE STATE SINCE 1969. MY WORK INVOLVES EXTENSION EDUCATION AND SERVICE PROGRAMS WHICH WILL IMPROVE DAIRY FARMERS' WELL-BEING. A MAJOR PORTION OF MY JOB IS TO WORK WITH THE DAIRY HERD IMPROVEMENT ASSOCIATIONS (DHIA) WHICH IS A PRODUCTION TESTING PROGRAM INVOLVING ABOUT 50% OF THE DAIRY HERDS IN KANSAS. MUCH OF THE DATA I WILL BE REFERRING TO ARE DHIA AVERAGES.

DAIRY FARMERS HAVE IMPROVED THEIR EFFICIENCY DURING THE LAST 25 YEARS, PROBABLY MORE SO THAN ANY OTHER AGRICULTURAL COMMODITY. AVERAGE PRODUCTION HAS INCREASED 36% (12,607 LBS. TO 17,209 LBS. IN DHIA HERDS). YET, DAIRY FARM PROFITABILITY DUE TO IMPROVED EFFICIENCY HAS NOT KEPT PACE WITH THE COST OF LIVING OR THE COST OF OPERATION. DURING THE LAST DECADE, INCOME ABOVE FEED COST, WHICH PAYS THE OTHER COSTS OF OPERATING A DAIRY, HAS ONLY INCREASED 6.8% (\$1028.00 VS \$1098.00).

DURING THE 70'S AND EARLY 80'S THE USDA PRICE SUPPORT PROGRAM HELPED STABILIZE MILK PRICES SO THAT INCREASED PRODUCTION EFFICIENCY ALLOWED DAIRY FARMERS TO REMAIN IN BUSINESS. HOWEVER, PRICE SUPPORTS WERE LOWERED, AND THE FARM PRICE OF MILK HAS BEEN ON A ROLLER COASTER.

AVERAGE MILK PRICES, LESS HAULING, REPORTED BY DHIA MEMBERS IN 1983 WAS \$12.50/CWT. COMPARED TO \$11.78/CWT. DURING 1993. HOWEVER, PRICES HAVE BEEN AS HIGH AS \$13.50/CWT. AND AS LOW AS \$11.50 DURING THIS PERIOD. UNFORTUNATELY, CONSUMER PRICES GO UP WITH INCREASED FARM PRICES, BUT NEVER DECLINE AT A CORRESPONDING RATE. HENCE, DAIRY

*Senate Ag Co  
1-25-94  
attachment 12*



PRODUCT PRICES TO CONSUMERS TEND TO RATCHET UPWARD. THEREFORE, DAIRY FARMERS AND CONSUMERS ARE VICTIMS OF UNSTABLE MILK PRICES.

KANSAS HAS LOST 492 DAIRY FARMS SINCE 1988. AT THE BEGINNING OF 1988 THERE WERE 1585 DAIRY FARMS IN KANSAS; THAT NUMBER DECREASED TO 1093 AT THE END OF 1993. THE TREND HAS BEEN MORE PRONOUNCED IN THE LAST TWO YEARS WITH A NET LOSS OF 81 AND 129 DAIRY FARMS IN 1992 AND 1993, RESPECTIVELY.

MANY DAIRY FARMERS HAVE LEFT THE BUSINESS DUE TO RETIREMENT. HOWEVER, MANY YOUNG DAIRY FARMERS HAVE BEEN FORCED OUT OF THE BUSINESS DUE TO UNSTABLE PRICES. IN TODAY'S DAIRY ECONOMY, IT IS ALMOST PROHIBITIVE FOR A YOUNG PERSON TO START DAIRYING. HENCE, THE NUMBER OF DAIRIES IS DECREASING AT AN ALARMING RATE.

COWS IN HERDS BEING SOLD ARE NOT BEING ABSORBED INTO THE REMAINING HERDS AS INDICATED BY AN AVERAGE HERD SIZE OF 72 COWS IN 1988 AND 1993. TOTAL MILK PRODUCTION IN KANSAS HAS DECREASED 250 MILLION POUNDS (\$31,250,000) YEARLY DURING THIS FIVE-YEAR PERIOD, AND KANSAS IS NOW IMPORTING MILK. WHEN MILK IS IMPORTED, HIGHER CONSUMER PRICES ARE REALIZED DUE TO TRANSPORTATION COSTS. IN ADDITION, THE CONSUMER CAN EXPECT SHORTER SHELF LIFE OF IMPORTED DAIRY PRODUCTS DUE TO THE PERISHABLE NATURE OF MILK. THEREFORE, CONSUMERS WILL HAVE LOWER-PRICED DAIRY PRODUCTS WITH A LONGER SHELF LIFE IF THEIR MILK IS PRODUCED IN KANSAS. YOU WILL HEAR TESTIMONY REGARDING THE IMPACT OF IMPORTING DAIRY PRODUCTS ON THE STATE'S ECONOMY, PLUS THE IMPACT OF FEWER DAIRIES ON LOCAL COMMUNITIES.

I BELIEVE KANSAS NEEDS A MECHANISM TO STABILIZE MILK PRICES TO PRODUCERS AND CONSUMERS. I HOPE YOU WILL CONSIDER SENATE BILL 72 FAVORABLY. THANK YOU FOR YOUR TIME.

Jane Byrnes-Bennett, Registered, Licensed Dietitian

339 N. Yale Wichita, KS 67208-3243 Phone (316) 682-5218

Senate Agriculture Committee  
Senate Bill 72 testimony, 1-25-94

Nutrition is my business. I've counseled patients for years and currently work for the food industry. I'm immediate past president of the KS Nutrition Council and for two years Distinguished Dietitian for the Wichita Dietetic Association. I know that the U.S. Surgeon General's Report was right when it said that 8 out of 10 health care conditions in America today are impacted by what we eat and drink.

Nevertheless it's hard to get people to eat what's good for them. And it's tough to document that good nutrition is cost-effective.

One program that does both is WIC--the Special Supplemental Food Program for Women Infants and Children. WIC has proven nationally that it saves \$3 in health care costs for every \$1 that it spends.

Since 1972 WIC has provided nutritious foods and nutrition education to pregnant, postpartum and breastfeeding women and children under the age of five. Attached is a Fact Sheet by the Kansas Department of Health and Welfare but let me add add some observations:

\* CLIENTS ARE IN NEED: Because WIC is not an entitlement program, each state prioritizes recipients to ensure that scarce resources are allocated to those at greatest nutritional risk.

\* FOODS ARE NUTRITITIOUS: The foods target nutrients lacking in the diets of low-income individuals (vitamins A & C, iron, calcium and protein). Women take the WIC vouchers for specific food to regular grocery stores. 80% of WIC funds must be spent on food benefits.

\* EDUCATION THAT WORKS: WIC is much more than a food bank. It also provides nutrition counseling to the moms, one-on-one and in groups.

\* TIMELY REFERRALS: WIC dietitians promote better health care by making referrals to medical or social programs for early intervention.

*Senate Ag Co  
1-25-94  
Attachment 13  
13-1*



All together these efforts produce, for example, higher average birth weights. Birthweight predicts subsequent short- and long-term health problems in newborns, such as respiratory and developmental difficulties. Babies born to WIC participants have lower death rates, longer gestations, and a greater probability of receiving adequate prenatal care. Children who receive WIC benefits grow better and have less anemia.

The Kansas WIC program reports even better achievements than the national numbers: fewer premature infants, less iron deficiency, and fewer under- and overweight children. In Kansas in 1992 for example, 58% of WIC infants were breastfed at hospital discharge. At six months 29% were still being breastfed. This is considerably higher than national rates of 35% at discharge and 17% at six months.

WIC cost-effectively gets good food into folks who need it and saves subsequent undernutrition and its expensive complications. The General Accounting Office finds that WIC saves \$3 for every dollar it gets. This dietitians recommends WIC as an extremely valuable program.



## Kansas Department of Health and Environment

*The Kansas  
WIC Program***Fact  
Sheet****WHAT IS WIC?**

WIC stands for the Special Supplemental Food Program for Women, Infants and Children. It's a USDA federally-funded program that provides food and nutrition education to income eligible pregnant, breastfeeding and postpartum women, and children under five years old.

**WIC ELIGIBILITY INCLUDES:**

- Income: Household income less than 185% of the poverty level (a household of four can earn up to \$25,808 per year and be income eligible).
- Automatic eligibility for participants in the Food Stamp Program, AFDC, Medicaid Program, the KAN-Be HEALTHY Program and the Reduced School Lunch Program.
- Residency: Must live in Kansas.
- Categorical: Must be pregnant, breastfeeding or postpartum woman, infant, or child up to five years old.
- Nutritional Risk: Must demonstrate nutritional risk as determined by a health professional.

**AUTHORIZED WIC FOODS INCLUDE:**

- For Infants: Iron-fortified Infant Formula, Infant Cereal, or Juice
- For Women & Children: Milk, Cereal, Eggs, Juice, Cheese, Dry Beans, or Peanut Butter
- A special food package is available for the homeless and children/women with special health needs.

**For more information concerning WIC,  
contact your local health department.**



# MID-AMERICA DAIRYMEN, INC.

KANSAS CITY DIVISION • 8600 N.W. 107TH TERRACE • KANSAS CITY, MISSOURI 64153 • AREA CODE 816-891-7424

January 25, 1994

The Honorable David Corbin, Chairperson  
Senate Agriculture Committee  
Kansas State Capitol  
Topeka, KS 66612

Dear Senator Corbin,

I am writing to you in support of Senate Bill number 72 on behalf of Mid-America Dairymen, a dairymen owned milk marketing cooperative.

As I testified last year, this enabling legislation would allow standby authority for a state marketing order. This order could then come into play if the federal order was cancelled, or rendered ineffective, to the interests of the Kansas dairy industry. By having interested parties from all facets of the dairy industry on the board, where all affected parties are allowed to testify, problems can be handled if they arise.

This proposal is very similar to the federal order system which has been working the last 50 years. This legislation just allows for standby authority for the interest of Kansas dairymen should the federal system be terminated or unresponsive to the needs of the Kansas dairy industry.

Thank you for your consideration.

Sincerely,

MID-AMERICA DAIRYMEN, INC.

Mark Reinhardt  
Manager, Kansas City Division

MR/kh

*Senate Ag Co*  
*1-25-94*  
*attachment 14*

FOCUS ON DAIRY  
ECONOMIC IMPACTS ON STATE & LOCAL COMMUNITIES

THE KANSAS DAIRY INDUSTRY - 1993

	2105 January, 1986
	1442 January, 1990
	1222 January, 1993
1. Dairy Farms .....	1093 January, 1994
2. Dairy Cows .....	80,000 (73 Cows/Herd)
	1,334,000,000 lbs January, 1993
3. Milk Produced in Kansas .....	1,200,000,000 lbs January, 1994
4. Milk Produced per cow .....	15,000 lbs
	\$160,000,000 January, 1993
5. Farm Value .....	\$146,400,000 January, 1994
	\$960,480,000 January, 1993
6. Impact - KS economy (x6) .....	\$878,400,000 January, 1994
7. Avg. Capital Investment/Cow .....	\$3,000
8. Avg. Investment/Herd .....	\$219,000 (Dairy only)

NOTE: Farm Value difference would be \$13,600,000 less from January 1, 1993 to January 1, 1994.

Also, impact on state economy of \$82,000,000 less from January 1, 1993 to January 1, 1994.

*Senote Ag Co*  
*1-25-94*  
*Rep Mills*  
*attachment 15 15-7*



THE BILL:

Senate Bill 72 will supercede the federal milk marketing order with a Kansas milk marketing order. It will:

- \* assure consumers of a fresh supply of dairy products
- \* help stabilize the price of milk
- \* add no tax burden to the state
- \* aid rural revitalization
- \* supplement the Kansas Women Infants and Children Program
- \* AND provide dairy producers the chance for a fair return on their labor and investment.

THE DETAILS:

KANSAS MILK ADVISORY BOARD: The members--2 dairy farmers, a consumer, a milk bottler, and the secretary of agriculture--will be appointed by the governor, confirmed by the senate, and receive no pay except actual expenses. The Board will administer the KS Market Order, making rules, supervising paid personnel, and reporting any violations to the Secretary of Ag.

THE KANSAS MILK MARKETING ORDER will:

- \* set the price of milk according to its end-use
- \* make the price consistent to all handlers (bottlers)
- \* will not block dairy products from other states
- \* may price all fluid milk distributed in Kansas regardless of where the milk is processed.

THE PRICE of MILK will be set considering:

- \* competitive price of milk
- \* cost of production in Kansas
- \* economy of Kansas and of the dairy industry

FUNDING: The Order will create new money: 4% will go--via the KS Legislature--to the Womens Infant and Children Program in Kansas; 2% will finance the administration of the Kansas Order; all other benefits will be rebated to Kansas producers.

CONTROL: A majority vote of Kansas dairy producers must approve the Order, and can terminate the Order. Bottlers will report confidentially to the board.

1/20/94



## ANDERSON ERICKSON DAIRY CO.

### Testimony on Behalf of Anderson Erickson Dairy

#### Regarding Senate Bill Number 72

This testimony is presented on behalf of Anderson Erickson Dairy Company (A-E) in opposition to Senate Bill No. 72. At the outset I note that I only heard about this hearing on January 21; my preparation has necessarily been limited by that short notice.

Senate Bill No. 72 is an effort by Associated Milk Producers, Inc. (AMPI) to legislate higher prices of milk. For the past two years, the industry was forced through series of state legislative hearings on similar revenue enhancing schemes hatched by Mid-America Dairymen, Inc. Those bills would have been unmanageable and would have caused severe economic dislocations for anyone involved in the dairy industry in Kansas. Fortunately those bills were defeated or withdrawn. Unfortunately we are back again today with more unmanageable and uncompetitive ideas. If implemented as we suspect, the bill most likely would violate the United States Constitutional protections for interstate commerce.

A-E is a family-owned dairy located in Des Moines, Iowa, which has engaged in the business of distributing packaged milk for 64 years. A-E regularly distributes milk into Kansas.

2420 E. UNIVERSITY AVE. • DES MOINES, IOWA 50317-6502 • 515/265-2521

*"Quality You Can Taste"*

*Senate Ag. Co.  
1-25-94*

*Attachment 15*



One thing is abundantly clear, A-E and others routinely sell packaged fluid milk into a number of different states. I also know that others from outside Kansas sell milk into Kansas. Similarly, Kansas processors can and do routinely sell significant quantities of milk into other states such as Iowa, Oklahoma and Missouri.

These facts are important because we already have a federal milk order system that sets minimum prices for dairy farmers' milk. These prices for fluid milk are, however, based upon an unregulated price for raw milk used to produce surplus dairy products such as cheese and butter. Fluid milk then has an add-on price, significantly about the surplus milk price. This federal minimum price can be, and usually is, only a starting point for the actual prices charged to processors by cooperatives and independent dairy farmers who are able to extract premiums for their milk, making the final price for raw milk used for fluid consumption higher than the minimum federal price. However, we deem the current system to be based upon market conditions, including supply and demand conditions. We also pay an administrative assessment to fund the federal program.

If Senate Bill 72 passes, we would be subject to yet another regulatory program including additional administrative assessments. Why? There is no reason to believe that federal orders are in jeopardy. In June of 1993, the United States Department of Agriculture issued a lengthy final regulatory decision reviewing the entire federal milk order system and reaffirming the validity,

purpose and operation of the federal orders. That decision followed 43 days of regulatory hearings, including 10,000 pages of transcript, over 200 voluminous exhibits, and thousands of pages of officially noticed documentation. There is no reason to believe that that decision can or will be reversed anytime soon.

We ask whether the purpose of the proposal, like those for the past two years, is to extract more money from fluid milk consumers in Kansas. If so, we believe that the law of supply and demand ought to govern, not the law of whatever price AMPI thinks it should be. Higher prices to consumers can result in less consumption and even lower prices to producers.

In addition, the federal program that the proposal is designed to emulate employs hundreds of employees in Washington, D.C., Kansas, Iowa and elsewhere. The regulatory program is frequently subject to administrative review and court challenge -- all of which costs the industry and taxpayers substantial sums of money. Another expensive layer of administrative personnel is unnecessary.

The proposed legislation also requires the consideration of Kansas costs of production data in establishing the price for fluid milk. The issue of costs of production was extensively aired during the 43 day federal order hearing which I mentioned earlier - all available cost of production data was made a part of that record. However, cost of production data currently collected is unreliable for considering milk price levels because the methods of collecting the data and reporting the data vary greatly. Indeed in

that 43 day hearing A-E challenged the validity of such data in setting the price for fluid milk. The United States Department of Agriculture formally agreed with A-E's position in its recently published final decision:

The AE [A-E], et al., exception urged that costs of production evidence should be declared unsuitable for use as a milk pricing factor. We agree, but only to the extent that the data provided in this record could not appropriately have been used to establish milk prices under the Federal order program.

One of the major problems identified with costs of production data is the existing interrelationship between costs and prices. Unchallenged studies show that higher costs of production follow higher prices and that lower costs follow lower prices.

Since the Kansas program would emulate the federal program and since the federal authorities could not, after extensive hearings, use costs of production data for pricing milk, Kansas should not second guess the federal authorities on this issue.

The proposed Bill also contains an inherent inconsistency in that lines 32-33 of page 2 permit prices to processors to vary based upon the plant location, but lines 15-17 of page 3 specifically prevent that adjustment which is inherent in the federal system.

The last problem that I want to discuss is also the biggest problem with state orders in general and the proposed Kansas statute. Unlike federal orders, state orders have major difficulty in regulating the price of milk in interstate commerce. It is not

clear that Kansas would attempt to regulate such prices, but if you do not attempt to regulate interstate shipments, Kansas processors will lose business to other states. However, if Kansas does attempt to regulate the price of milk from Iowa or elsewhere, I am convinced that those efforts are unconstitutional.

Federal courts in New York and Minnesota have in 1992 and 1993 held that such efforts to regulate interstate milk shipments are simply and clearly violative of the interstate commerce clause of the United States Constitution. Higher milk charges were also challenged where assessed by the state of Louisiana against instate and out of state processors of milk. The extra fee charged on out of state wholesalers bringing in packaged milk violated the interstate commerce clause. Louisiana Dairy Stabilization Board v. Dairy Fresh Corp., et al., 631 F.2d 67 (5th Cir. 1980), aff'd without opinion 454 U.S. 884 (1981). An important case from Massachusetts on similar issues is now pending before the United States Supreme Court and will be heard on March 2 with a decision expected by July. Why act now before the Supreme court rules?

Since the proposed law cannot work in the absence of an unconstitutional restriction on the movement of fluid milk, it should not be enacted at all. We need constructive and thoughtful solutions to issues affecting the entire dairy industry, not proposals which merely promise results to producers and then fail to deliver because of obvious legal deficiencies.

Thank you for your time and consideration.

My name is Cleve Lewis. I am a consultant for Prairie Farms Dairy, Inc. with Corporate Headquarters in Carlinville, IL.

This is the third consecutive year that we have appeared in opposition to a Bill for State Milk Orders in Kansas.

Since there was no action taken on last year's bill, we are submitting most of the information that we presented at that time.

In addition to the deposition from Mr. Kullmann, which I will read to you, you should be aware that neighboring states, such as Missouri, are holding any action in abeyance until the legal aspects of the Minnesota and Massachusetts State Orders are resolved.

*Senate Ag Co  
1-25-94  
attachment 17.*

KANSAS SENATE AGRICULTURE COMMITTEE HEARING

JANUARY 25, 1994

SENATE BILL NO. 72

STATEMENT IN OPPOSITION - PRAIRIE FARMS DAIRY, INC.

My name is Donald L. Kullmann. I am employed by Prairie Farms Dairy, Inc., whose corporate offices are in Carlinville, Illinois. Prairie Farms is a milk cooperative with producer members in several states.

We operate several dairy processing operations in Illinois, Indiana and Missouri. Included in these are fluid milk, ice cream, frozen novelties and cultured product plants.

In addition, we are equal partners in joint venture efforts with Mid-America Dairymen, Inc., with plants in Wichita, Kansas, Springfield and Kansas City, Missouri, two plants in Arkansas, two in Nebraska and two in Iowa.

Since we are a milk cooperative, we are deeply concerned for the welfare of all dairy farmers; however, we don't believe that state milk orders are the solution to the problem.

This is a total dairy industry concern and a proposal which contains many legal and administrative flaws is worse than no order. State Orders have a terrible track record.

I attended a meeting on January 15, 1993, at the Kansas Board of Agriculture Board Room and was impressed with the concern shown by the State of Kansas for their dairy farmers. I think it is important to review the STATEMENT OF CONDITIONS (see Appendix A) that prefaced Senate Bill No. 72. I wish to "highlight" several of them to discuss.

With respect to the decline in the number of producers in the state, it should be pointed out that most all states are experiencing the same problem. As far as instability in prices, most of this can be blamed on (1) reduced federal support pricing and (2) a tremendous surplus of milk.

State initiatives in the Midwest have the premise that Federal Milk Orders will be terminated. We do not envision a termination of the Federal Milk Order Program. It has been around for nearly sixty years and has served the industry fairly well.

With respect to a more favorable pricing system, it has been our experience that when prices go up, so does production. We anticipate the following if prices are raised to dairy farmers and the cost to processors: (1) Processors in Kansas cannot compete outside of Kansas, and (2) milk production will increase. When the production does increase (unless there are increases in Class I sales), the overall utilization will decline resulting in lower pay prices to dairy farmers due to the amount of milk going into the lower priced classes (Class II and Class III).

The attempt to establish state orders have run head on with court challenges. We have several examples, but the newest State Order to be attempted is in the State of Minnesota. (see Appendix B) This background pretty well makes our case for opposing Senate Bill No. 72. Kansas only needs to call their fellow Legislators and find out that State Orders are big mistakes. It is ironic that the same cooperatives that proposed the Minnesota State Order are the same coops that now are requesting that the Law be suspended. Some of these same coops are the ones that are proposing a similar order for Kansas.

To address some of the Legal and Interstate Commerce Concerns a State Order must have in place the costly administrative ability to track the following transactions:

1. Kansas producer milk to a Kansas processor with sales in and out of Kansas.
2. Out-of-state producer milk to a Kansas processor with sales in and out of Kansas.
3. Kansas producer milk to an out-of-state processor with sales in and out of Kansas.
4. Out-of-state producer milk to an out-of-state processor with sales in Kansas.

Needless to say - a costly and administrative nightmare. After six months, the proponents will be back to the Kansas Legislature to suspend the various provisions of the Law just as is happening in Minnesota as we speak.

In closing, Prairie Farms opposes Senate Bill No. 72 on the basis that such a law:

1. Will force costly legal challenges.
2. Will cost Kansas Dairy Farmer and Processors Class I sales to other states and thus lower income to Kansas dairy farmers.
3. Will cause high administrative costs to be passed onto consumers or taxpayers.
4. Will cause many public relation problems between dairy farmers and processors.

We thank you for this opportunity to voice our opposition to Senate Bill No. 72.

P.S. Appendix C attached for your review.



KANSAS STATE MILK MARKETING ACT OF 1993

STATEMENT OF CONDITIONS:

The Dairy Industry of Kansas includes two major elements: (1) Dairy farmers that produce raw milk and (2) Dairy processors (hereafter referred to as handlers) that receive milk from dairy farmers and process it into a multitude of dairy products for distribution to consumers.

In recent years, there has been a noticeable and alarming decline in the number of dairy farmers in the State of Kansas. Instability in milk prices to dairy farmers have contributed to their decline.

Currently most milk in Kansas is marketed under terms of the Federal Milk Marketing Order Program administered by the U. S. Department of Agriculture. For several reasons there is need to enact legislation in Kansas to provide for a possible alternative system of marketing milk.

(1) The Federal Order Program could be terminated by the U. S. Secretary of Agriculture at any time, leaving producers and handlers of a highly perishable product without the stabilizing effects provided by the milk orders that have operated in Kansas for many years; and

(2) There may be need to establish a more favorable pricing system applicable to milk sales in Kansas to create a more stable milk market and assure consumers of a steady and dependable supply of high quality dairy products; and

(3) Milk marketing conditions change frequently, giving rise to the need for expedited changes in milk marketing regulations applicable within the State.

Besides contributing greatly to the nutritional well being of the citizens of Kansas, the farm value of milk and cream in Kansas is estimated to be over \$150 million annually. The dairy industry employs thousands of people all along the production and marketing channel, involving farmers, haulers, milk processors and delivery personnel. Others in the feed, supply, chemical, fertilizer, equipment and packaging fields, etc., are employed to service the dairy industry. The total milk and related service payrolls are in the hundreds of millions of dollars annually.

Therefore, need exists for the Legislature to enact this legislation to maintain and improve the value of agricultural assets which assist the economic structure of communities throughout the State.

# UPPER MIDWEST



## MARKETING AGENCY

### PROPOSAL TO AMEND THE MINNESOTA MILK PRICING LAW

#### Background

1. The Minnesota milk pricing law passed last year was intended to levy a premium on all Grade A milk processed into Class I (fluid milk) products within the state. Several assumptions supported the adoption of the law:
  - a) The state mandated premium would apply to all out of state Grade A milk processed into Class I products in Minnesota.
  - b) Negotiated Class I premiums paid by fluid milk processors in surrounding states would be equal to or greater than the state mandated premium in Minnesota, thereby enabling Minnesota Class I processors to compete.
  - c) The state mandated premium would represent new money for Minnesota dairy farmers that could not be obtained any other way.
2. One by one these assumptions have proved to be faulty.
  - a) Minnesota Class I processors and a Wisconsin cooperative challenged the constitutionality of the Minnesota law as it applied to out of state milk and won. Now the state law applies only to Grade A milk originating in Minnesota and processed in Minnesota.
  - b) January 1993 was the first month for which a state mandated premium applied. The amount was a modest \$.16 per hundredweight of Class I milk. Negotiated premiums in surrounding states did not rise to reflect the state mandated premium.
  - c) There were two consequences of the above developments, neither of which was anticipated at the time the law was passed:
    - i) The competitive position of Minnesota Class I processors deteriorated by \$.16 per hundredweight relative to their competitors in surrounding states.

- ii) Out of state Grade A milk became a cheaper source of supply for Minnesota Class I processors, forcing them to seek more out of state milk and less Minnesota milk in order to remain competitive.
- d) The majority of cooperatives supplying Minnesota Class I processors formed the Upper Midwest Marketing Agency (UMMA), a marketing agency in common (authorized under the Capper Volstead Act 7 U.S.C. 291), last fall to jointly market Grade A milk in bulk. These cooperatives represent more than 65 percent of the Grade A milk produced in Minnesota.
- e) UMMA was successful in establishing Class I premiums that averaged \$1.09 per hundredweight in 1992. This is substantially more than the state law would have required in 1992 or will require in 1993.
- f) UMMA operates a "pool" or equalization fund that collects Class I premium dollars from member cooperatives and redistributes them on the basis of the volume of producer milk represented by each organization. Costs of servicing Class I processors is also recognized in the UMMA pool.
- g) Other suppliers in Minnesota, and suppliers in surrounding states, followed the UMMA over-order premiums up and down, so Minnesota Class I processors who were customers of UMMA, did not suffer a disadvantage relative to their in and out of state competitors.
- h) As a result of all suppliers in Minnesota and surrounding states charging higher over-order premiums on Class I milk, all Minnesota Grade A dairy farmers represented by these suppliers benefited from the extra revenue.
- i) The state mandated premium for February is \$.66 per hundredweight.
- j) Due to the disruption of the state program caused by the successful lawsuit and the consequent preference for out of state milk, UMMA decided to reduce its over-order premium on Minnesota milk sold to Class I processors in February to \$.56 compared to a premium of \$1.22 on out of state milk. In effect, the state mandated premium takes away the first \$.66 per hundredweight that would otherwise have been paid to UMMA. Thus, the state program no longer will represent any new money for Minnesota dairy farmers.

STATE ORDERS - LIFE STORY  
 Story Teller - Donald L. Kullmann

Once upon a time, there was this little State Order...

1. Dairy Coops and Dairy Farmers feel that the Federal Government is not giving them proper pricing.
2. Pressure is put on coops to do something locally.
3. Someone has a dream that individual states can make laws which can lead them into the promise land.
4. Various coops propose a State Order to appease their dairy farmers.
5. The dairy industry is made aware of the proposal and attempts to point out the problem of state orders:
  - a. unconstitutional,
  - b. can raise prices to consumers,
  - c. can cause lost Class I sales to state dairy farmers,
  - d. will reduce income to state dairy farmers,
  - e. administrative nightmare.
6. Coops find a sympathizing State Representative and Senator to sponsor bill--most do not understand how milk is priced and marketed.
7. Battles are fought within the legislative halls between farmers and processors.
8. If law is passed, court battles occur including injunctions.
9. After a few months dairy farmers and their coops find that the state order is not working as envisioned.
10. Coops go to the State Legislature and request that certain provisions be suspended.
11. The modified program becomes an administrative nightmare.
12. The coops go the State Legislature and request the state order be terminated.

Bottom Line!

1. Dairy farmers are worse off.
2. Many hours and dollars were expended.
3. Coops and processors were forced to be adversaries and relationships were forever tarnished.
4. No one lives happily every after.