

FINAL REPORT

SWINE PRODUCTION INTERIM STUDY COMMITTEE

January 1993

AUTHORIZATION AND APPOINTMENT

The Swine Production Interim Study Committee was established by the Legislative Council, and was authorized to hold two days of meetings during the 1992 Legislative Interim.

STUDY COMMITTEE CHARGE

The charge of the Committee, as provided by the Legislative Council, is as follows:

- ♦ Review current practices for production, sale and slaughter of swine in Iowa. Specifically address restrictions, practices, and procedures relating to contracts for the care and feeding of swine, including the care and feeding done by cooperative associations.

COMMITTEE MEMBERS

Members serving on the Committee included the following:

Senator Berl Priebe, Co-chairperson
Representative Daniel Fogarty, Co-chairperson
Senator Emil Husak
Senator John Kibbie
Senator Derryl McLaren
Senator John Soorholtz
Representative Russell Eddie
Representative Robert Johnson
Representative Deo Koenigs
Representative Louis Muhlbauer
Ms. Kathleen Deal
Ms. Margaret Ledger
Mr. John Priest
Mr. Harold Trask

BACKGROUND

Chapter 9H (formerly chapter 172C) places restrictions upon the practices of processors. As used in the chapter, a processor includes a person which controls the manufacturing, processing, or preparation for sale of beef or pork products having a total annual wholesale value of \$10 million or more. A processor also includes a person with a 10 percent or greater interest in another entity involved in processing. Processors are prohibited from owning, controlling, or operating a feedlot in Iowa in which hogs or cattle are fed for slaughter. In addition a processor is prohibited from controlling the manufacturing, processing, or preparation for sale of pork products derived from swine if the processor contracted for the care and feeding of the swine in Iowa. However, this prohibition does not apply to a cooperative association which contracts with a member who is actively engaged in farming. It also does not apply to an association which contracts with a member of the cooperative association also organized as a cooperative association which contracts with a member who is actively engaged in farming.

COMMITTEE PROCEEDINGS

The Committee held meetings on November 30, 1992, and December 10, 1992, in the State Capitol Building, Des Moines. The Committee considered testimony from a number of persons presenting information to the members.

MEETING -- November 30, 1992

The first meeting of the Committee was held on November 30, 1992, in Room 118 of the State Capitol. Presentations were made by a number of interested persons.

The Committee heard testimony from swine producers and members of cooperative associations, including: Mr. Ray Powell, owner of Positive Farming Assistance; Mr. Tim Naig, a pork producer from Cylinder; and Mr. Reuben Skow, Vice President, K&H Oil Company, Wesley. The presenters offered several perspectives relating to the care and feeding of livestock under contracts in which a processor is a party. The presenters specifically discussed the prohibition in section 9H.2 (formerly section 172C.2) against processors of swine entering into contracts and the exemption in the section that allows cooperative associations to contract with members for the care and feeding of swine. The focus of the presentations concerned contracts in which Farmland Industries is a party. Several persons expressed concerns regarding the terms of the contracts, the threat of vertical integration, the closing of competitive markets to independent producers, and the need for greater participation by the membership of cooperative associations in making decisions to contract for the care and feeding of swine. Other persons expressed caution regarding proposals to restrict the ability of cooperative associations to contract with its members for the care and feeding of swine. In addition, persons expressed concerns that the proposals to change the law are protectionist,

threaten to destroy alternative financing arrangements enjoyed by new producers, and threaten to erode traditional governing structures of cooperative associations.

Professor Neil Hamilton, Director of the Agricultural Law Center, Drake University, discussed legislation in a number of states restricting processors from entering into contracts for the care and feeding of swine and legal interpretation of the provisions in section 9H.2 (formerly section 172C.2) generally restricting processors, other than cooperative associations, from entering into care and feeding contracts. Professor Hamilton discussed the financial and legal structure of cooperative associations and their traditional role as a provider of services to producers in order to achieve goals which producers are unable to accomplish without a larger organization. He also discussed how this traditional view may be challenged by decisions based upon return on investment.

Professor Roger Ginder, Department of Economics, Iowa State University, discussed the role of cooperative associations, their democratic structure, and inherent limitations caused by their structure that reduces their flexibility and competitiveness. Professor Ginder discussed the increasing level of efficiency in the livestock sector and threats to individual producers who are unable to improve the profitability of their operations. Professor Ginder also discussed vertical integration, noting that Farmland's involvement in the market does not pose a threat to the industry.

Ms. Gina Bowman-Morrill, Government Relations Manager, Farmland Industries, and Mr. Wayne Snyder, Director of Livestock Productions, Farmland Industries, discussed the role of their cooperative association in the process of producing swine, and processing and marketing pork products. Mr. Snyder discussed the increasing level of integration and the need for enhanced cooperation, Farmland's use of contracts to provide a risk umbrella to producers, and the need to provide new producers with financing alternatives. He also stated that Farmland Industries plans to use contracts only as a method to ensure a reliable supply to its facilities.

Mr. Jerry Becker, President of the Iowa Pork Producers Association, discussed the changing nature of pork production and the growing threat to producers from large entities dominating the market. He expressed support for Senate File 2244 as passed last session by the Senate, and amendments to the Code that would require greater participation by member-producers before a local cooperative association could enter into a contract for the care and feeding of swine.

Mr. John Peterson, Board Member of the Iowa Institute of Cooperatives, discussed the democratic structure of cooperative associations, and the willingness of the Institute to find a compromise to differences separating the organization and the Iowa Pork Producers Association. He discussed a resolution adopted by member-cooperatives that contemplates notification to and participation by cooperative members in the decision-making process originating with a cooperative's board of directors.

A number of persons attending the meeting were afforded an opportunity to present comments, including Mr. Leroy Stoltenberg, Mr. Linus J. Solberg, and Mr. Douglas Roederer, all of whom expressed reservations regarding the involvement of Farmland Industries in contracting with local cooperatives for the care and feeding of swine.

MEETING -- December 10, 1992

The second meeting of the Committee was held on December 10, 1992, in Room 116 of the State Capitol. Presentations were made by a number of interested persons.

Mr. Merlin Plagge, President, Iowa Farm Bureau Federation, discussed a resolution adopted by delegates at the most recent Farm Bureau Federation convention, which provides in part that any meat packer or food processor should be able to contract with livestock producers for the care and feeding of livestock. Mr. Plagge stated that the Federation believes that contracting can provide an important opportunity for livestock producers. He also stated that the Federation maintains a concern that equitable markets be maintained for independent producers. Co-chairperson Priebe requested that the Federation submit to the Legislative Service Bureau language regarding a bill draft based on its position.

Mr. Gary Lamb, Past President, Iowa Farmers Union, expressed a view that large corporate contractors and vertical integration in the market represent the greatest threats to the welfare of independent producers. He expressed support for the prohibitions in chapter 9H and discussed the need for greater participation by producers who are members of cooperative associations before local associations enter into contracts with members for the care and feeding of swine.

A number of producers and members of associations presented testimony regarding their perspectives, including Mr. Chuck Bjustrom, Past President, Iowa Pork Producers Association; Mr. Jerel Kerber, board director of a cooperative association in Cylinder; Mr. Hubert Hagemann, pork producer; Mr. Baxter Ankerstjerne, Chairman, Marathon Farmers Cooperative Association; Mr. Leroy Stoltenberg, a member of the board of directors, Iowa Pork Producers Association; Mr. Linus Solberg, pork producer; and Mr. Lyle Scheelhaase, Director of the Middle America Network. The presenters offered several perspectives relating to the care and feeding of livestock under contracts in which a processor is a party. The presenters specifically discussed the prohibition in section 9H.2 against processors of swine entering into contracts and the exemption in the section which allows cooperative associations to contract with members for the care and feeding of swine. The focus of the presentations concerned contracts in which Farmland Industries is a party.

Mr. Gene Leman, Executive Vice President, IBP, expressed support for the Iowa pork industry and the state's swine producers, but noted that increasing management efficiency among producers is required in order to ensure that the state remains competitive. He stated that there is an excess slaughter capacity available in Iowa and stressed the need to increase the

low-cost production of swine. Mr. Leman opposed any restrictions on processors to contract for the care and feeding of swine, but noted that IBP currently has no plans to enter into contractual relationships involving contract feeding. He opposed the exemption in section 9H.2, allowing cooperative associations to contract for the care and feeding of swine.

COMMITTEE ACTION

The Committee did not forward recommendations. The Committee considered a number of motions, including the following:

1. Amend section 9H.2 to eliminate the exemption allowing cooperative associations which are processors to contract for the care and feeding of swine.

2. Amend section 9H.2 to remove all limitations on the contracting for the care and feeding of swine by processors, conditioned upon the retention of restrictions upon processors being unable to own facilities used in the production of swine, and assuring market access for individual swine producers.

3. Amend section 9H.2 to provide that, after a local board of directors representing a cooperative association votes to approve entering into a contract with another cooperative association which is a processor, a petition by the membership may be presented to the board requiring a majority vote of members appearing at a public meeting before the board action may proceed.

4. That various bill drafts be prepared which reflect positions along the spectrum, including bills which would do the following: eliminate the exemption for cooperatives; require that a vote of the members of the cooperative association be taken before a local cooperative association may enter into a contract with a processor involving a contract for the care and feeding of swine; allow members to petition the board of directors to call for a vote at a public meeting before the association may enter into a contract with a processor involving a contract for the care and feeding of swine; and require that all limitations on contract feeding be removed, conditioned upon the guarantee of equitable markets for producers.

The Committee failed to approve any of the motions.