

FINAL REPORT

**LIVESTOCK PRODUCTION
STUDY COMMITTEE**

Presented to the Legislative Council
and the Iowa General Assembly
April 1996

Prepared by the Legislative Service Bureau



Legislative
Service
Bureau

FINAL REPORT

Livestock Production Study Committee

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MEMBERS

Senator Berl E. Priebe,
Co-chairperson
Senator Merlin E. Bartz
Senator Randal J. Giannetto
Senator John P. Kibbie
Senator Lyle E. Zieman

Representative James A. Meyer,
Co-chairperson
Representative Sandra H. Greiner
Representative Dolores M. Mertz
Representative Norman Mundie
Representative Bill Salton

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AUTHORIZATION AND APPOINTMENT

The Livestock Production Study Committee was established for the 1995 legislative interim by the Legislative Council and charged to "study the following issues: a. The increasing degree of vertical integration of the livestock market by packers and processors, including threats to economic competition, independent production, and consumer protection; and b. Market practices engaged in by packers, processors, or buyers which increasingly threaten open and fair markets by establishing arbitrary and inconsistent pricing without public disclosure or price discovery mechanisms, including price differences based on the time of delivery, and transaction." The Committee was required to report its findings to the Legislative Council. The Committee was originally provided two days in which to meet, and each member was allowed one day to attend public hearings. The Legislative Council extended the period for the Committee to meet and hold public hearings.



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1. Committee Proceedings.

The Study Committee held two meetings and three public hearings. The meetings were held at the State Capitol Building in Des Moines on November 29, 1995, and March 25, 1996. The Committee held public hearings at the ISU Extension Building in Audubon, Iowa, on December 14, 1995, the Brenton Bank in Grinnell, Iowa, on December 15, 1995, and at the STARC Armory in Johnston, Iowa, on February 26, 1996. Sites in Council Bluffs, Creston, Emmetsburg, Ida Grove, Marion, Sigourney, Waverly, and Webster City participated in the February 26 public hearing via television linkages through the Iowa Communications Network (ICN).

2. November 29, 1995, Meeting.

During the first meeting, the Committee heard testimony and had discussion relating to all of the following:

a. Perspectives and Trends. Dr. Marvin Hayenga, Professor of Economics, Iowa State University, discussed issues relating to vertical integration in the beef industry. He stated that the top four firms accounted for 82 percent of steer and heifer slaughter in 1994. He stated that studies show little negative price effect of captive supplies on spot market prices. Dr. Hayenga stated that it is not possible to compare marketing contracts with spot-market pricing. Dr. John Lawrence, Livestock Marketing Economist, Iowa State University, discussed the pork industry. He stated that the top 10 packers account for 75 percent of the nation's pork slaughter capacity. He noted that Iowa had excess packer capacity in 1994. Dr. Lawrence stated that producers are increasingly interested in securing long-term marketing contracts. He stated that according to a recent study, the larger the size of the producer, the less likely the producer sold on the spot market and the more likely that the producer sold according to contract. Dr. Lawrence noted that producers enjoy considerable market access in Iowa. He predicted producers will remain competitive, if they are efficient and sell more than 1,000 hogs per year. He stated that increasing producer profitability might be a higher priority than maintaining the state's position as the largest pork producer in the nation.

b. Perspectives From a Small Producer. Mr. Harlan Meyer, Family Farmer, Sac City, Iowa, presented a number of recommendations, including that prices paid by packers should be based on carcass merit rather than production methods such as volume, genetic characteristics, and feeding arrangements; that standards for distinguishing between carcass meats be made public; that a price reporting system be created for the discovery of all prices paid for livestock; that prohibitions against the discrimination in prices that packers pay be enacted; and that an exception be eliminated in Section 9H.2 of the Iowa Code which allows packers which are cooperative associations to contract for the care and feeding of swine.

c. Presentation by the Office of the Attorney General. Mr. Tim Benton, Assistant Attorney General, explained that after investigating an out-of-state processor (Smithfield) which was entering into contract feeding arrangements with Iowa

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swine producers, the Attorney General found that Iowa's corporate farming law (Chapter 9H) which restricts processors from entering into contracts for the care and feeding of swine could not be used to prevent Smithfield from contracting with producers. Mr. Eric Tabor, Assistant Attorney General, explained that the Iowa Attorney General's Office has established a check list for producers to use prior to entering into a contract with a packer.

d. Livestock Marketing and Contract Issues. Mr. Larry L. Reding, Vice President Agribusiness Finance Division, Farm Credit Services of the Midlands, made a number of recommendations including that the Iowa corporate farming law (Chapter 9H) be amended to allow groups of farms of more than 25 persons to pool their investment and production capabilities. He argued that Iowa's corporate farming laws discourage needed investment in agricultural operations. He stated that the General Assembly should not amend the livestock regulatory system established by 1995 Iowa Acts, Chapter 195 (House File 519), enacted during the 1995 legislative session, but should provide the law with an opportunity to work.

e. Perspectives From a Large Producer. Mr. Conley Nelson, Iowa Operations Manager, Murphy Family Farms, described marketing practices engaged in by the company. He stated that Murphy does not have any long-term contracts with packers, nor does Murphy Farms receive premium prices based on volume. He noted that losing packers in the state would severely impact Iowa producers. He stated that if producers make correct business decisions, they will fare well regardless of their size.

f. Perspectives From Producer Organizations.

◆ Mr. Jon Caspers, Past President of the Iowa Pork Producers Association, stated that issues involving access to competitive markets for hogs should be addressed at the federal level. He stated that the United States Department of Agriculture should conduct a comprehensive study of market access, price discovery, and effective market reporting. He discussed producer marketing practices, and noted that there has been a decline of sows in Iowa's breeding herds while at the same time North Carolina's breeding herds have increased.

◆ Mr. Tim Kampstra, Iowa Poultry Association, noted that the broiler industry has been vertically integrated for many years, that legislation should address poultry as a separate entity distinct from beef and pork, and that the General Assembly should amend the corporate farming law (Chapter 9H) to encourage broiler production in the state.

◆ Mr. Wythe Willey, President, Iowa Cattlemen's Association, stated that the beef industry is not vertically integrated and that concerns about the issue should be addressed at the federal level. He stated that marketing contracts are necessary for some producers to remain competitive, that price reporting is important to the beef industry, that the General Assembly should encourage the location of beef



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processing plants in the state, that any future legislation regarding environmental impacts of animal feeding operations should concern swine production, that the General Assembly should enact a pasture tax credit, and that the General Assembly should not reduce the competitiveness of the Iowa beef producers by amending provisions in Iowa's corporate farming law (Chapter 9H) which applies to vertical integration.

g. Livestock Marketing Regulation. Mr. Keith Kienow, Regional Supervisors, Omaha Office, Grain Inspection, Packers, and Stockyards Administration of the United States Department of Agriculture, discussed the agency and its purpose to assure the integrity of the livestock, meat, and poultry markets, and the agency's activities in administering the federal Packers and Stockyards Act.

3. Public Hearings.

During its public hearings, members of the Committee received oral and written testimony and discussed issues relating to vertical integration, marketing practices, the importance of the livestock industry to the state, livestock production, and legal restrictions affecting the livestock industry. Specifically, members received the following information and opinions:

a. Persons discussed the importance of the livestock industry to the state, and the essential role of independent producers.

b. A number of persons expressed confidence in the ability of smaller producers to compete in the market.

c. Persons noted that producers must become more efficient in order to compete.

d. Persons discussed the changing characteristics of livestock required by packers and consumers.

e. Several persons expressed support for a particular segment of livestock production.

f. Persons noted that poultry production has been vertically integrated for some time.

g. Persons stressed the need to encourage the beef and poultry industries, and discussed initiatives designed to assist producers.

h. Persons recommended that the state support the construction of new cattle packing facilities.

i. Persons also discussed 1995 Iowa Acts, Chapter 195 (House File 519), relating to the regulation of animal feeding operations. Some persons stated that the law should be provided with an opportunity to work.

j. Persons commented that future regulatory measures should be directed to swine production.

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k. A number of persons expressed concern regarding vertical integration and concentration of the market by a few packers. Persons stated that market access is critical to the success of independent producers.

l. Several persons supported federal investigations of the meat packing industry. Persons stated that vertical integration threatens Iowa's independent producers just as it threatened and destroyed independent producers in North Carolina. Persons commented that the issue should be addressed at the federal rather than the state level, and that the federal government should aggressively monitor and enforce antitrust laws pertaining to packer mergers, market concentration, and packer feeding. Other persons expressed support for state action, including the enactment of Senate File 2105, prohibiting price discrimination by packers and buyers.

m. Persons stated that Iowa's corporate farming law (Chapter 9H) should be amended. Persons stated that its provisions prevent independent producers in the state from effectively competing. Persons stated that Iowa should not maintain a set of regulations which discourages investment in agricultural operations. Other persons stated that the provisions should be amended to further restrict packers, including contract feeding by packers.

n. Several persons stated that contracting is necessary for many producers to remain competitive. It was also stated that there are legitimate reasons why a packer may discriminate in prices offered to producers. It was noted that there are not examples of contracts in which packers pay a premium to large producers based on volume, although a number of persons expressed concern that large producers are receiving preferential treatment based upon volume, and that the open market system is eroding. Several Committee members noted that it is difficult to obtain contracts from packers or producers in order to determine the terms of contracts.

o. There was discussion regarding a recent Attorney General's determination that Iowa law does not prevent an out-of-state processor from controlling the production of swine in this state.

p. Persons supported legislative proposals which would prohibit price discrimination by packers. Persons stated that price discrimination threatens to destroy independent producers, and pricing structures do not favor smaller producers.

q. Several persons commented that producers must be provided with an opportunity to network in order to more effectively compete and to have access to greater capital.

r. Persons stated that livestock producers should be encouraged to enter into cooperative relationships, and supported Senate File 2135. Other persons criticized



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the bill, stating that it would allow greater concentration and vertical integration by packers and large producers.

s. Persons also stated that cooperative associations should not compete without the participation of farmer members. Persons stated that Iowa must act in conjunction with other states on this issue.

t. A number of persons expressed concern regarding current price discovery mechanisms, stating that obtaining reliable pricing information is critical to the success of independent producers.

u. Several persons stated that Iowa should enact legislation to require price reporting by packers.

v. It was suggested that packers should report all forward-contracting five market days in advance, and that packers should be prohibited from forward-contracting their entire slaughter capacity.

w. Other persons stated that price reporting should be required at the federal rather than the state level. It was noted that the United States Department of Agriculture will no longer provide monthly reports regarding feedlots having a capacity of less than 1,000 cattle.

4. March 25, 1995, Meeting.

Committee Discussion and Recommendations. During the March 25 meeting, the Committee reviewed summaries prepared by the Legislative Service Bureau of the public hearings of the Committee. Members discussed issues relating to price reporting and price discrimination by livestock packers. Senator Kibbie moved that the Committee recommend the enactment of legislation to establish the creation of a price reporting system and measures prohibiting packers from discriminating in the prices that they offer to different producers. The motion failed to be approved by the Committee.

Co-chairperson Meyer moved that the Committee pass a resolution (LSB 2189IC) to urge the federal government to ensure fair and competitive market practices for the purchase of livestock from producers by packers and livestock buyers. The resolution was amended by motions of Co-chairperson Priebe and Senator Giannetto, and was approved by the Committee. The resolution is attached.

As part of the discussion related to the resolution, Senator Giannetto moved and the members of the Committee approved the following recommendation:

That interested members of the Iowa General Assembly, including members of the Legislative Council of the Iowa General Assembly, are encouraged to discuss issues relating to fair and competitive market practices by packers with legislative members representing other midwestern states, including supporting forums sponsored by the National Conference of State Legislatures and the Council of State Governments, in order to ensure a coordinated legislative response, if the federal government does not take action to ensure fair and competitive market

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practices during the 1996 calendar year; and that if the federal government does not take action to support a price reporting system that includes disclosure of prices paid for the purchase of livestock and prohibits packers from unjustly discriminating in the prices that they offer to different producers, the Iowa General Assembly shall consider these issues during the next regular session of the Seventy-seventh Iowa General Assembly.

5. Written Materials on File with the Legislative Service Bureau.

- a. Beef Industry. Submitted by Dr. Marvin Hayenga, Professor of Economics, Iowa State University.
- b. Hog Markets and Marketing Practices. Submitted by Dr. John Lawrence, Livestock Marketing Economist, Iowa State University.
- c. The Changing Hog Slaughter Industry and Buyer Competition in Iowa. Submitted by Dr. John Lawrence, Livestock Marketing Economist, Iowa State University.
- d. Long-Term Hog Marketing Agreements. Submitted by Dr. John Lawrence, Livestock Marketing Economist, Iowa State University.
- e. Market Hog Purchase Agreement Example. Submitted by Dr. John Lawrence, Livestock Marketing Economist, Iowa State University.
- f. Agriculture Hearing on Livestock Industry. Submitted by Mr. Harlan Meyer, Family Farmer, Sac City, Iowa.
- g. Letter of Testimony. Submitted by Mr. Jim Braun, Family Farmer, Latimer, Iowa.
- h. Corporate Farming Law Prohibition on Contract Feeding. Submitted by Mr. Doug Adkisson, Legal Counsel, Legislative Service Bureau.
- i. Letter to the Secretary of Agriculture. Submitted by Mr. Doug Adkisson, Legal Counsel, Legislative Service Bureau.
- j. From a Lender's Perspective - Inequalities in Livestock Production and Marketing in Iowa. Submitted by Mr. Larry L. Reding, Vice President Agribusiness Finance Division, Farm Credit Services of the Midlands.
- k. Remarks of Jon Caspers, Past President, Iowa Pork Producers Association. Submitted by Mr. Jon Caspers, Past President, Iowa Pork Producers Association.
- l. Testimony Outline. Submitted by Mr. Wythe Willey, President, Iowa Cattlemen's Association.



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m. Packers and Stockyards Explanatory Statement. Submitted by Mr. Keith Kienow, Regional Supervisor, Omaha Office, Grain Inspection, Packers and Stockyards Administration, USDA.

n. Testimony Outline. Submitted by Mr. Craig Lang, Iowa Farm Bureau Federation.

o. Testimony Outline. Submitted by Mr. Dean McWilliam, Iowa Cattlemen's Association.

p. Letter to Senator Charles Grassley. Submitted by Mr. Kelly Biensen, President, Friends of Rural America.

q. Vision Statement. Submitted by Friends of Rural America.

r. Market Access Survey Results. Prepared by Dr. John D. Lawrence, Livestock Marketing Economist, Iowa State University.

s. LSB 2189YH.

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1 an equal opportunity to sell livestock to packers and
2 buyers based on animal carcass value; and
3 WHEREAS, the practice of engaging in special
4 pricing arrangements which are not justifiable between
5 packers or buyers and producers erodes this nation's
6 system of open and fair markets, by establishing
7 arbitrary and inconsistent pricing without public
8 disclosure or price discovery, and which, if allowed
9 to replace the current system and distort market
10 forces, will create relationships which, in some
11 cases, will be unfair to producers and in other cases
12 will be unfair to packers and buyers; and
13 WHEREAS, the United States Congress enacted the
14 Packers and Stockyards Act of 1921 as amended, 21
15 U.S.C. § 181 et seq., to ensure fair and competitive
16 pricing practices between packers or buyers and
17 producers; NOW THEREFORE,
18 BE IT RESOLVED BY THE SENATE/HOUSE OF
19 REPRESENTATIVES, THE HOUSE OF REPRESENTATIVES/SENATE
20 CONCURRING, That the Congress of the United States;
21 the President of the United States; the Secretary of
22 Agriculture, United States Department of Agriculture;
23 and the Grain Inspection, Packers and Stockyards
24 Administration, United States Department of
25 Agriculture, support a price reporting system that
26 includes the disclosure of prices paid for the
27 purchase of livestock each week to be reported by the
28 United States Department of Agriculture; and
29 BE IT FURTHER RESOLVED, That pricing practices be
30 reviewed for purposes of developing and enforcing

1 standards and limitations regarding justifiable price
2 differences based on the time of delivery, carcass
3 value, and private pricing arrangements under
4 contract; and

5 BE IT FURTHER RESOLVED, That the Grain Inspection,
6 Packers and Stockyards Administration, United States
7 Department of Agriculture, complete or update ongoing
8 studies evaluating the effects of justifiable pricing
9 differences; and

10 BE IT FURTHER RESOLVED, That interested members of
11 the Iowa General Assembly, including members of the
12 Legislative Council of the Iowa General Assembly, are
13 encouraged to discuss these issues with legislative
14 members representing other midwestern states,
15 including supporting forums sponsored by the National
16 Conference of State Legislatures and the Council of
17 State Governments, in order to ensure a coordinated
18 legislative response to issues relating to ensuring
19 fair and competitive market practices, if the federal
20 government does not take action to ensure fair and
21 competitive market practices during the 1996 calendar
22 year; and

23 BE IT FURTHER RESOLVED, That if the federal
24 government does not take action to support a price
25 reporting system that includes disclosure of prices
26 paid for the purchase of livestock and prohibits
27 packers from unjustly discriminating in the prices
28 that they offer to different producers, the Iowa
29 General Assembly shall consider these issues during
30 the next regular session of the Seventy-seventh Iowa

1 General Assembly; and

2 BE IT FURTHER RESOLVED, That a copy of this
3 resolution be sent by the Secretary of the
4 Senate/Chief Clerk of the House of Representatives to
5 the National Conference of State Legislatures and the
6 Council of State Governments; and

7 BE IT FURTHER RESOLVED, That a copy of this
8 resolution be sent by the Secretary of the
9 Senate/Chief Clerk of the House of Representatives to
10 the President of the Senate of the United States; the
11 Speaker of the House of Representatives of the United
12 States; the chairman of the United States Senate
13 Committee on Agriculture, Nutrition, and Forestry; the
14 chairman of the United States House of Representatives
15 Committee on Agriculture; members of Iowa's
16 congressional delegation; the President of the United
17 States; the Secretary of Agriculture, United States
18 Department of Agriculture; and the Administrator of
19 the Grain Inspection, Packers and Stockyards
20 Administration, United States Department of
21 Agriculture.

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