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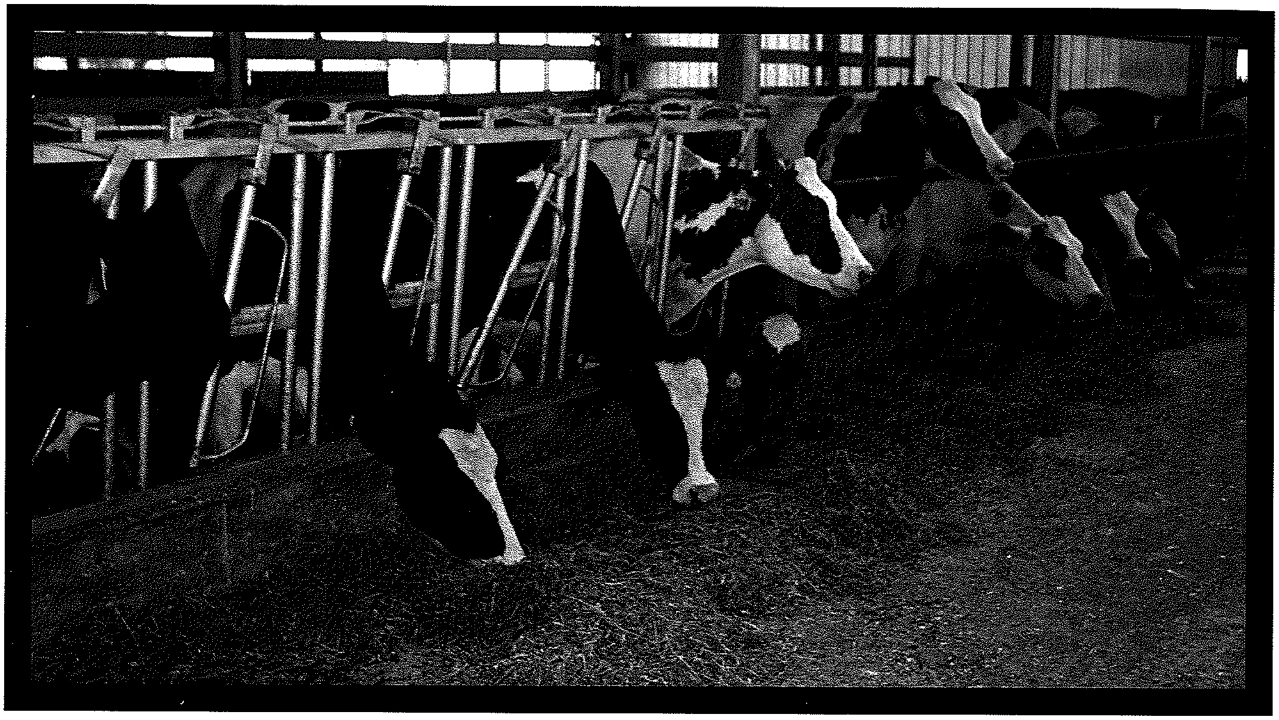
Milk Volume Production Loan Program

A STUDY OF FUNDING POSSIBILITIES



December 2006

MINNESOTA DEPARTMENT OF AGRICULTURE FROM THE FARM TO YOUR FAMILY

Minnesota Department of Agriculture
Agricultural Marketing Services

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Executive Summary

In 2006, the Minnesota Department of Agriculture (MDA) and the Department of Employment and Economic Development (DEED) were asked by the Minnesota Legislature to study the feasibility of a public and private partnership to fund a milk volume production loan program. The program would make low-interest loans to dairy producers of $500 per cow, up to 100 cows per producer, with the overall goal to increase milk production in Minnesota.

Several states have established programs to help their livestock industries. Wisconsin, South Dakota, and Missouri all currently have some form of loan program or interest reduction system in place in an effort to increase the capital available for purchasing livestock.

To determine interest in establishing such a program in Minnesota, lenders, agribusiness, Minnesota State College and University (MnSCU) farm business management instructors, University of Minnesota Extension Educators and producers were interviewed. While most felt there was a need for such a program, many respondents raised questions about how it might work and what effects it might have on the milk supply and on farm families.

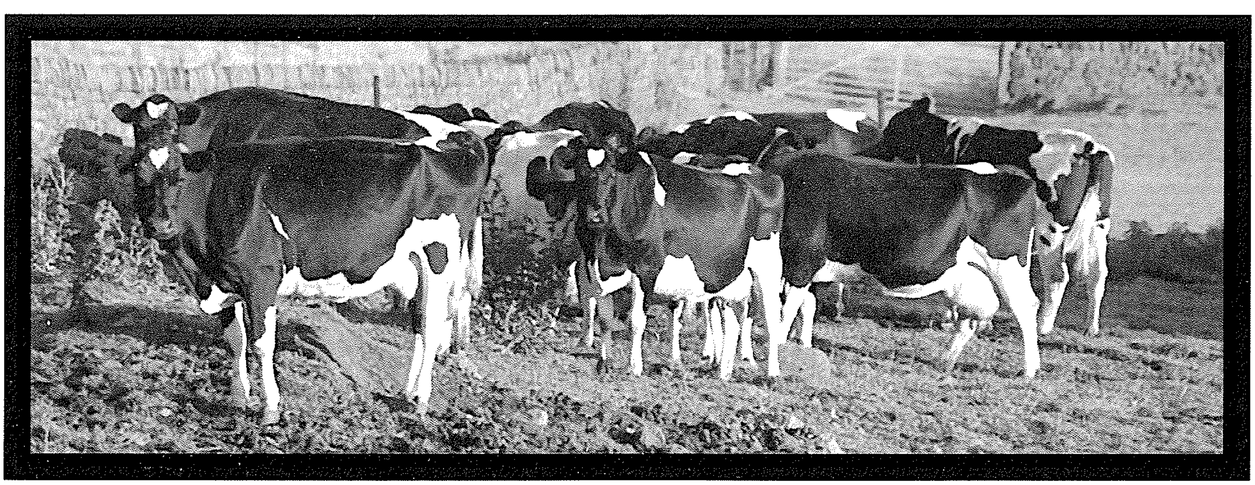
This report outlines three different scenarios that would provide additional capital towards the purchase of dairy cattle. Each scenario has different qualities but all are similar in that they minimize the payment the producer must make in the initial year when cash flow is the tightest for a beginning or expanding producer.

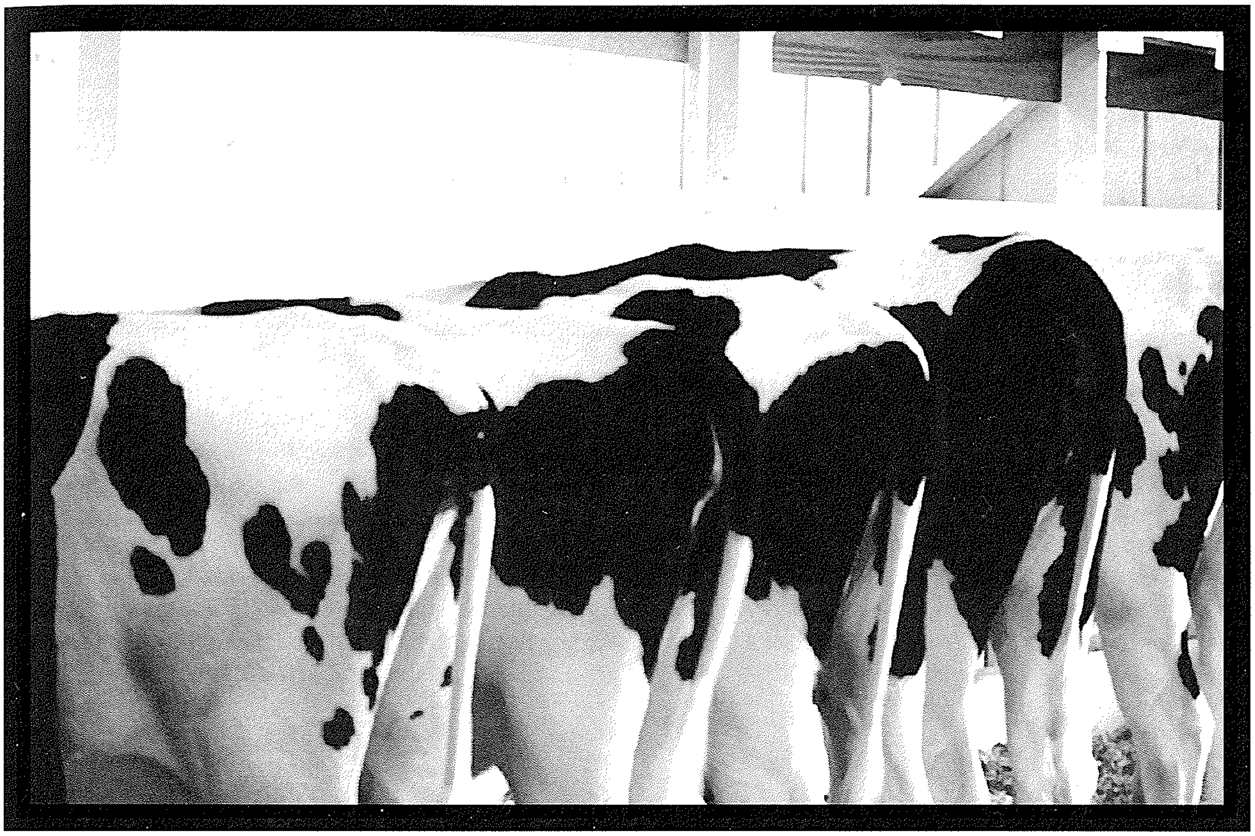
Scenarios A & B are dependent on the development of a Dairy Investment Fund that would have equal contributions of private and public funding support. Based on preliminary estimated need and interest, a revolving loan fund of $4 million would need to be established to support such a program. Although there was some interest in starting such a fund, it is questionable whether sufficient monies could be raised to establish it at that level.

Scenario C follows the pattern of the program run in Missouri in which a tax credit is issued to the lender in lieu of charging interest to the borrower for the first year of the loan.

Scenario A provides the greatest first year benefit to the producer, while Scenario B has the greatest overall economic benefit to the producer due to the longer loan rates. Scenario C would be the easiest to administer but has the lowest financial benefit to the producer.

Any program that offers assistance to producers will be a benefit whether they are just getting started, expanding their current operation, establishing a partnership, or repopulating their facilities after a catastrophic event. In turn, increased cattle numbers supports the infrastructure and market for processors and returns benefits to the state.





Introduction

In 2006, the commissioners of agriculture and employment and economic development were directed by the legislature to "study the feasibility of a public and private partnership to fund a milk volume production loan program that would make low-interest loans to dairy producers of $500 per cow, up to 100 cows per producer, as part of the producers' dairy capital improvement projects designed to increase milk production in Minnesota."

The goal of the study was to identify the level of interest from agricultural lenders, private agribusiness, and the dairy industry to establish a fund from private donations matched with currently existing public funds or additional legislative appropriations. The resulting report was to include recommendations on how to structure the program including administrative costs, loan terms and eligibility, and the amount necessary to establish a sustainable and effective revolving loan fund.

In order to accomplish this, the Minnesota Department of Agriculture (MDA) reviewed information available on dairy cow financing and existing financing options in the public and private sector. We spoke to personnel involved in administrating livestock finance programs in Wisconsin, South Dakota, and Missouri. We surveyed producers, agricultural lenders, processors, farm management consultants, extension educators, and economic development personnel in the ten Minnesota counties with the highest number of dairy cows. Whenever possible, we followed up with interviews in person or by telephone to gain further information and insights. What follows is a compilation of that information along with analyses of the economic impact of such a loan program on an individual producer.

Background

The most common option for building or expanding a dairy herd in Minnesota is to borrow from a conventional lender such as a bank or Farm Credit Services to purchase cows. In some cases, government-assisted programs may be utilized, such as a Farm Services Agency (FSA) guarantee, or an Aggie Bond. A less-commonly utilized option to build or expand a herd would be to rent dairy cows through a leasing agreement with the cows' owner.

Conventional Livestock Loans

Many banks will lend money for the purchase of livestock, as will Farm Credit Services, either to farmers starting out or to those expanding a herd. Application requirements vary widely by institution, but generally a producer will be expected to submit two or three years of tax returns, a balance sheet, cash flow projections, and production history if available.

Each institution performs a credit risk analysis to determine whether to lend to the producer, and if so, what the term and rate will be. Making loans on livestock is different from making loans to purchase land or buildings because livestock are mobile as well as perishable. Equity and collateral are key, and many institutions will require a blanket lien on all farm personal property (chattel). Financing levels tend to be in the range of 50-75%, with repayment terms amortized over 5-7 years on dairy cattle.

Dairy Cow Leasing

Renting cows to build or expand a herd may be an option for a farmer unable to raise the capital needed to purchase. Sometimes leasing cows helps a farmer reach the critical mass necessary to take advantage of efficiencies of scale, or may be considered when market price for cows is volatile. However, the disadvantages of leasing include limitations on how the cows can be used or managed, uncertainty of future leasing costs, and the loss of potential financial gains if the market price for dairy cows rises.

GOVERNMENT-ASSISTED PROGRAMS CURRENTLY AVAILABLE IN MINNESOTA

Minnesota's Aggie Bond Program

The Aggie Bond Loan Program is a federal bonding program administered by the State through its Rural Finance Authority (RFA). The program offers affordable financing for beginning farmers by securing reduced interest rates on loans applied for through traditional lenders or through private financing from an estate or an individual who is not a close relation.

Eligibility rules for the Aggie Bond program include a requirement that the farmer be a resident of Minnesota who intends to farm full-time. The farmer must have net worth of less than $373,000, and must never have owned more than 30% of the county median size farm where they reside or that had a market value any time in excess of $125,000.

Financing can be for real estate, or new or used equipment or breeding livestock. The total maximum loan amount is $250,000, but there is a limit of $62,500 for the purchase of used depreciable property.

The program works by creating a federal tax exemption for institutional lenders or a federal and state tax exemption for private sellers on interest income in exchange for offering below market interest rates to eligible beginning farmers.

Farm Service Agency (FSA) Loan Guarantees

FSA makes direct and guaranteed loans to family-size farmers who cannot obtain commercial credit from a traditional lender. FSA loans are often provided to beginning farmers who cannot qualify for conventional loans because they have insufficient financial resources. FSA also helps established farmers who have suffered financial setbacks from natural disasters, or whose resources are too limited to maintain profitable farming operations. FSA loans can be used to purchase land, livestock, equipment, feed, seed, and supplies.

The beginning farmer or rancher loan is available to individuals or entities who have not operated a farm or ranch for more than 10 years, and do not own a farm greater than 30 percent of the average size farm in the county. They must also meet other eligibility requirements and substantially participate in the operation. One drawback to this program that was cited by lenders is that the program cannot be used by a beginning farmer to join into a partnership with an established producer, such as when a son or daughter wishes to join the parents' operation.

The maximum amount for a direct loan from FSA is $200,000, and for an FSA-guaranteed loan for farm ownership or operating expenses is $852,000.

PROGRAMS IN OTHER STATES

A few states have developed programs specifically for the purchase of breeding livestock to meet the needs of special sectors. Wisconsin has a loan program for the purchase of dairy cows to help boost milk production, South Dakota has a loan participation program for livestock, and Missouri has a program aimed at assisting small farmers in the purchase of breeding livestock, whether to start or expand a herd.

Wisconsin's MVP Program

In 2001, Wisconsin established a Milk Volume Production (MVP) Program to support the state's dairy industry by providing loans to dairy producers as part of capital improvement projects. Initial funding for the program was $12 million of federal funds from the Community Development Block Grant for Economic Development, which was distributed to the Wisconsin Department of Commerce from the Department of Housing and Urban Development. Any producer located in, or relocating to Wisconsin is eligible to apply. However, the program is competitive and only projects that have a business plan demonstrating that they will have a long-term sustainable impact on Wisconsin's milk production are funded.

The MVP program allows producers to borrow $500 per cow, up to a maximum of $1 million. (The $1 million limit was not set specifically for this program, but is standard for Wisconsin Community Development Block Grant economic development projects.) The loan term is seven years at a fixed interest rate of 2%. However, repayment is deferred for the first year, and interest-only payments are made the second year. Equal monthly payments of principal and interest are made during years three through seven.

Underwriting decisions are made by the Department of Commerce based on many factors including the producer's financial situation, labor, waste, and production management experience, and the ability to secure the additional financing necessary to make the project successful. Commerce provides near-equity financing supported by personal guarantees and a blanket farm security agreement subordinate to the primary lender for the project.

The MVP program is a joint effort between the dairy producer, the Wisconsin Department of Commerce, and the local economic development office. The producer submits an application to Commerce along with a business plan, and Commerce makes a decision on whether or not to fund the project. Once a project is approved for funding, Commerce begins working with the local government unit for its application submission. All three parties sign off on the agreement after a federally-mandated public hearing on the project is held.

As a collaborator, the county economic development office receives a grant from Commerce which it then loans to the producer. Payments are made back to the municipality and those funds remain at the local level to establish or expand a revolving loan fund, which can then be used for other local economic development projects.

So far, Wisconsin's Department of Commerce has made 135 loans as part of this program, and an additional 15 loans have been made at the county level from revolving loan funds established or maintained from loan payments received. There has been only one default to date. There is a requirement for loans from Commerce that at least one full-time job is created for each $50,000 in loans received. Wisconsin's program is estimated to cost about $2.5 million per year, along with other initiatives to increase dairy production in the state, such as Dairy 2020.

As interest rates have risen, the state is looking to increase the rate on MVP loans, from 2% to 4%. However, the administrator of Wisconsin's program emphasized that it is not the rate that is most important to producers, but rather the terms. No payments the first year and only interest payments the second year are key, since the first years are the most challenging in terms of cash flow. This "patient capital" is unique, and has proved to make the program successful.

For further information on the Wisconsin MVP program, please see Appendix C.

South Dakota's Livestock Loan Participation Program

Since 1989, South Dakota's Department of Agriculture has had a program allowing them to participate up to 50% in a loan for livestock. Funding for this program comes from the Agricultural Development Fund which was established decades ago from federal rural rehabilitation money.

A loan for the purchase of livestock is obtained through a local lender who then approaches the state for loan participation. This program is most often utilized in situations where the producer has little equity or a bank is up against their lending limit. The maximum loan is $200,000 with a participation amount by the state of up to $100,000. The interest rate is fixed and the maximum term is 5 years. Currently the rate for this program is 7.5% (11-1-06).

The program is structured to keep administrative costs low because the producer is working directly with their lender. And although the lender may be willing to take on greater risk because of the state's participation, they are still assuming half the risk, and therefore will evaluate loans accordingly.

Although no exact amounts were given, a representative from the South Dakota Department of Agriculture reports that the program is well utilized. For further information, please see Appendix D.

Missouri's Family Farm Breeding Livestock Loan Program

In August of 2006, the Missouri Department of Agriculture announced a new program, the Family Farm Breeding Livestock Loan Program, to assist small farmers in increasing their herd size or making their first livestock purchase. The program is managed by the Missouri Agricultural and Small Business Development Authority (MASBDA), and is designed to reward lenders with a tax credit equal to 100% of the first year's interest on a qualified livestock loan.

An eligible "small farmer" is defined as a farmer who is a Missouri resident and who has less than $250,000 in gross annual agricultural sales. The loan cannot exceed 90% of the cost of purchasing the livestock, with the maximum loan amount for dairy cattle being $75,000. The producer applies to a traditional lender for the loan, upon approval by the lender, copies of the loan documents and a 1% review fee are submitted to MASBDA, who then reviews them and makes an approval decision.

Lenders may not charge interest on the loan in the first year. Instead, they submit a request for a tax credit within thirty days of the first anniversary of the loan, certifying the amount of interest waived for the first year. The maximum available tax credits for all eligible lenders in any fiscal year cannot exceed $150,000.

Money for the program is from a legislative appropriation and is expected to be renewed annually for $150,000 per year or more. One major goal of the program is to encourage and assist young people interested in getting started in farming. The focus is on small family farms, and it is structured to encourage development of the farmer-lender relationship rather than dependency on the government.

This program was just recently established, so no history is available yet. For further information on the Missouri Family Farm Breeding Livestock loan program, please see Appendix E.

Survey and Data Analysis

In order to ensure the information gathered was as relevant as possible to the State's dairy industry, we concentrated our research on the ten Minnesota counties containing the largest numbers of dairy cows:

COUNTIES WITH THE NUMBER OF DAIRY COWS - 2006

BENTON	11,700	STEARNS	62,000
FILLMORE	12,000	TODD	16,800
GOODHUE	19,900	WABASHA	17,500
MORRISON	25,300	WINONA	24,500
OTTER TAIL	22,800	WRIGHT	10,500

It would seem this topic is of great interest to lenders and those in the dairy industry as evidenced by the high survey response rates. Seventy-five surveys were sent to lenders, and thirty-five responded (a 47% response rate), all of whom currently make loans for the purchase of livestock. Surveys were sent to twenty-one extension educators and farm management consultants who are involved in the dairy industry in Minnesota. Of those, seventeen were returned, for a response rate of 81%. Surveys were also sent to twelve economic development professionals in the ten counties mentioned above, and seven responded (a 58% response rate).

Finally, input was solicited from producers and processors at the Minnesota State Fair and through a posting in the "Milk Minute", an electronic newsletter distributed by the Minnesota Milk Producers Association (MMPA). Although the number of responses from producers was very low (twelve), they provided a representative sample of farm sizes and experiences. Only 12 Agri-businesses responded to the surveys that were sent out to them (30% response rate) with similar responses of a recognized need for additional financing with limited interest in contributing to a fund that might facilitate the private/public loan pool necessary. Copies of the survey questions are located in Appendix B.

Need for increased Capital

82% of lenders felt there is a need for increased capital availability for the purchase of dairy cows, and most felt it should be available to all producers and potential producers.

On the question of whether $500 per cow for up to 100 cows is an appropriate level of financial support, two-thirds of lenders felt it was. However, some lenders raised the point that the trend is for larger herd sizes, and it is very difficult to dairy full-time these days with a smaller herd. From one lender:

> "This is hard to answer yes or no. If it needs to be answered that way, I am saying no, it is not the appropriate level. I think it begs the question, "What are we trying to accomplish?" If it is to

promote successful dairies in Minnesota and the continuance of them, you may want to look at supporting them to a minimum of 360 cows. This, in my experience, is a size where many of the double 8 parlors start to see some efficiency including full time shifts for employees and owners plus better utilization of the milking, cow housing, and manure system. Along this line, if one of the goals is for sustainability of dairy farms, the farm families need to be able to take adequate time off for normal living. Often it is a big (time & money) struggle between 50 to 360 or so cow size units due to some of these factors. Another factor to consider here is that the average household family living cost, investments & non-farm capital purchases averaged $59,351 per household in 2005, according to the farm business management-southeastern Minnesota report. The point is that farms need to be sized right (and managed well) to make adequate money so they are sustainable and pleasant to work at."

Fifteen out of seventeen farm management consultants felt there was a need for additional capital for purchasing dairy cows. However, a large percentage felt that the greatest need is for new farmers, or farmers who were considering expansion as a way to increase cash flow to meet family living expenses. One mentioned the irony of adding a program to promote an increase in dairy cow numbers in the state, when CWT (Coops Working Together) has a program to decrease production in order to stabilize milk prices.

The CWT Herd Retirement program gives farmers across the U.S. the opportunity to receive money for committing their entire herds to slaughter. 67 Minnesota farms participated in Round Three of this program in 2005, compared to only 35 producers in Wisconsin. The average herd size of participating farms in Minnesota was 55 cows, for an estimated reduction of 3700 head in the state's dairy cow population. This equaled about one quarter of the cows retired from the nine state Midwestern region, which includes IA, IL, IN, MI, MN, ND, OH, SD, & WI. It is important to note, however, that the program does not require the farmer to quit dairying, so it is possible to start over with a new herd in the future (took out again).

Dairymen Just Like You

A survey of participants in Herd Retirement Round Two shows the following:

- Herds retired ranged in size from 11 to 3,800 head;
- The average retired herd size was 157 cows;
- 97% of those who participated retired their only dairy operation;
- More than a third of those who retired a herd were above 60 years in age.
- The most often cited reason for participating was a wish to personally retire.

From the CWT website, September 2006

The majority of economic development professionals were unaware of financing programs available to producers in their area for the purchase of livestock. When asked the question of whether they see a need for increased financing for dairy cow purchases, many declined to answer. Of those who responded to the question, some answered yes and a few answered no.

Responses were also mixed to the question of whether they would expect interest from the dairy industry to establish a public/private partnership to provide financing. Three responded yes, one suggested that the processors should fund the loan program since "they are the ones who benefit", and one explained that they already have a revolving loan fund for dairy improvements that is not being utilized because it requires lender involvement, and applicants don't want to "share their financial information with yet another source for review."

Of the producers who responded, six have previously financed the purchase of cows and six had not. However, all twelve felt there is a need for increased capital availability for the purchase of cows, and the majority thought it should be available to all producers as well as and potential producers.

Target Producers

Although most respondents answered yes, there is a need for more capital, the best way to structure a program is not so easily answered. Missouri's program was focused on small family farms, because that is where political support for the program could be garnered. In the same way, many survey respondents suggested that they would support a similar program in Minnesota, if it was for beginning farmers, farmers who had suffered a catastrophic loss, or farmers who wanted to expand for the "purpose of making a reasonable living, …" according to one agricultural lender.

FSA and Aggie Bond programs already have the ability to help certain producers, and are doing so at higher monetary amounts than this program proposes (MVP: $500/cow for 100 cows = $50,000; FSA Direct Loans: Up to $200,000; Aggie Bond Program: Up to $62,500 for the purchase of "used" livestock.) However, although the interest rates may be low, they do not offer the "patient capital" which many cited as critical to the cash flow of a new dairy or herd expansion. Also, the FSA and Aggie Bond programs do not work well when cows owned by different people are commingled in one herd, as might be the case in a partnership, a family business, or in the midst of a business transition.

A program that addresses these issues to "fill the gap" could be well received by those in the industry with the resources to help establish a fund.

Possible Funding Structures

The goal of this study was to determine the feasibility of a public and private partnership to create an adequate and effective revolving loan fund to provide loans to dairy farmers to purchase dairy cows. There are several ways of structuring such a program, each with different requirements and potentially different outcomes.

The MDA recommends to the Legislature that any future program should incorporate the same eligibility criteria as the Rural Finance Authority Livestock Equipment Pilot Loan Program. Those criteria include:

- Be a resident of Minnesota or general partnership or a family farm corporation, authorized farm corporation, family farm partnership, or authorized farm partnership as defined in section 500.24, subdivision 2;
- Be the principal owner of the livestock
- Demonstrate an ability to repay the loan
- Hold an appropriate feedlot registration
- Preference is given to applicants who have farmed less than 10 years as evidenced by their filing of schedule F in their federal tax returns, or farms expanding in order to add a family member.

Under scenarios A & B below, a Dairy Investment Fund would be established to accept contributions from state and non-state sources. Businesses and individuals would be encouraged to make financial contributions to the Dairy Investment Fund.

Dairy Organizations (MMPA, dairy processors and dairy input suppliers) as well as other agricultural groups and organizations, the Minnesota Department of Agriculture as well as the Department of Employment and Economic Development would promote the program and identify economic development opportunities for communities and dairy operations.

Agricultural Lenders would be responsible for assessing the financial strength of loan applications and determining if a loan is financially feasible for the individual. The lender makes credit decisions, administers the loans, and collects payments from borrowers.

The Rural Finance Authority (RFA) would administer the funds and work with agricultural lenders through loan participations. The fund would receive state appropriations, transfer of funds from other services, and non-state funds. Repayments from the dairy farmer to the bank would be forwarded to the RFA and deposited into the revolving account to be used for future low interest loans.

Based on calculations, the fund would need to begin with $4 million from public, private, or a combination of the two types of funds, in order to continue a revolving loan program indefinitely. The estimated administration of a loan program would be $75,000 per year considering the assumed loan activity and volume. This would cover loan review and approval, clerical support, loan servicing, and accounting.

Scenario A

A Dairy Investment Fund would be established as above to accept contributions from state and non-state sources, and administration would be handled by RFA. Proceeds would be used for low interest loans for the purchase of dairy cows.

ELIGIBILITY

Any dairy producer located in, or relocating to, or person starting a dairy operation in Minnesota. However, any producer who had a herd slaughtered as part of the CWT program would be ineligible. Additional eligibility requirements would follow those set forth in the RFA Livestock Equipment Pilot Loan Program.

AMOUNT

Loan of $500 per cow, up to 100 cows.

RATE

Five-year term. Fixed interest rate of 4% for the life of the loan. Interest accrues the first year, but no payments are required. The loan is then amortized over the remaining four years.

Scenario B

A Dairy Investment Fund would be established as above to accept contributions from state and non-state sources, and administration would be handled by RFA. In this scenario, however, the fund would be utilized for down payment assistance.

As described earlier, traditional lending avenues are available for the purchase of dairy cows. Lenders surveyed generally would offer loans for 50-75% of the purchase price. However, that leaves 25-50% that the producer must contribute in cash. For many beginning producers, or those with small herds looking to fill their barn to capacity, this can be a significant obstacle. The amount of $50,000 was reached as a maximum by multiplying $500 x 100 cows. However, the maximum amount of $50,000 could be used to finance a fewer number of cows if a higher down payment was required.

Amount: Loan of up to $50,000 to be used as down payment for purchase of dairy cows.
Rate: Seven-year term. Fixed interest rate of 4% for the life of the loan. No payments for the first year. Amortized over years 2 through 7, with equal monthly payments of principal and interest.

ELIGIBILITY

Any dairy producer located in, or relocating to, or person starting a dairy operation in Minnesota. However, any producer who had a herd slaughtered as part of the CWT program would be ineligible. Additional eligibility requirements would follow those set forth in the RFA Livestock Equipment Pilot Loan Program.

AMOUNT

Loan of up to $50,000 to be used as down payment for purchase of dairy cows.

RATE

Seven-year term. Fixed interest rate of 4% for the life of the loan. No payments for the first year. Amortized over years 2 through 7, with equal monthly payments of principal and interest.

Scenario C

A tax credit would be offered to lenders who make loans to farmers for the purchase of dairy cows in the amount of the first year's interest earnings. In exchange, the lender does not charge interest to the producer for the first year of the loan. Administration for this program would be through the Department of Revenue. Funding would require a legislative appropriation from the General Fund.

ELIGIBILITY

Any dairy producer located in, or relocating to, or person starting a dairy operation in Minnesota. However, any producer who had a herd slaughtered as part of the CWT program would be ineligible. Additional eligibility requirements would follow those set forth in the RFA Livestock Equipment Pilot Loan Program.

AMOUNT

Lender would be eligible for a tax credit of 100% of the value of the interest that would have been charged for the first year on a qualified loan for the purchase of dairy cows.

MAXIMUM LOAN AMOUNT

Not to exceed $50,000.

RATE & TERM

Determined by the lender and borrower, but no interest may be charged for the first year of the loan.

	A	MARKET RATE	B	MARKET RATE	C	C (ALTERNATE)
ELIGIBLE	MN PRODUCER	NA	MN PRODUCER	NA	LENDER TAX CREDIT	LENDER TAX CREDIT
- INELIGIBLE	IF PREVIOUSLY PARTICIPATED IN CWT A BUYOUT	NA	IF PREVIOUSLY PARTICIPATED IN CWT A BUYOUT	NA	IF PREVIOUSLY PARTICIPATED IN CWT A BUYOUT	IF PREVIOUSLY PARTICIPATED IN CWT A BUYOUT
LOAN AMOUNTS	$500 PER COW MAX 100 COWS	NA	$50,000 MAXIMUM	NA	100% OF 1ST YRS INTEREST ON A $50,000 MAX. LOAN	100% OF 1ST YRS INTEREST ON A $50,000 MAX. LOAN
TERMS B	5 YR LOAN, NO PAYMENT 1ST YR., AMORTIZED OVER YRS 2-5	5 YEAR	7 YEAR LOAN, NO PAYMENT 1ST YR., AMORTIZED OVER YRS 2-7	7 YEAR	5 YEAR LOAN, PRINCIPLE ONLY 1ST YR	7 YEAR LOAN, PRINCIPLE ONLY 1ST YR
P + I/MO. C	$1174	$1035	$813	$802	$1035	$802
INTEREST RATE D	4 %	8.9 %	4%	8.9%	8.9%	8.9%
1ST YR CASH FLOW BENEFITS E	$11,050	$0	$8,201	$0	$4,116	$4,233
OVERALL VALUE/ SUBSIDY F	$6,592	$0	$8,441	$0	$4,116	$4,233
BREAK EVEN ACTIVITY G	2 LOANS/MO $100,000/MO	NA	1.6 LOANS/MO $81,000/MO	NA	NA	NA
ADMINISTRATION	RFA	NA	RFA	NA	DEPT. OF REVENUE	DEPT. OF REVENUE

A CWT (Coops Working Together) is a program to decrease production in order to stabilize milk prices. The CWT Herd Retirement program gives farmers across the US the opportunity to receive money for committing their entire herds to slaughter.

B The life span of the loan. Cattle are considered an intermediate asset and so the life of the loan is generally 5-7 years.

C Principal and interest payments over the life of the loan.

D The current market rate is 8.9% (11/01/06)

E This is equal to the first year's payments that were deferred because of this program.

F This is the benefit to the producer over the life of the loan.

G In order for the revolving loan program to continue indefinitely this would be the loan activity that could be supported without running out of funding. Based on similar programs in other states we anticipate potential loan activity levels to be approximately 30 applications each year.

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Summary

Scenarios A & B are dependent on the development of a $4 million Dairy Investment Fund that would have equal contributions of private and public funding support. The survey found that there is interest from agribusiness, lenders, and producers to participate in such a program. However, no firm commitments were received, so it is difficult to know whether $2 million in private funds could be collected to establish the fund, even if $2 million of public funds were appropriated. The benefit to the producer is the patient capital that allows producers to expand or establish their herds in Minnesota. No payment the first year allows producers to become established before payments on this portion of the loan is required. The remaining portion of the loan (through their local lender) would still be required only that portion that these programs cover is delayed payment. The estimated administration of a loan program would be $75,000 per year considering the assumed loan activity and volume. This would cover loan review and approval, clerical support, loan servicing, and accounting. Scenario A provides the greatest first year benefit to the producer, while Scenario B has the greatest overall economic benefit to the producer due to the longer loan rates.

Scenario C would be less costly and easier to administer, but does not offer the same level of benefit to the producer. Approximately $212,000 per year would need to be appropriated for tax credits, in addition to estimated administration costs of $35,000. Scenario C would be handled year by year, so establishing a revolving loan program is not necessary. This would mean that the interest savings (based on the first year interest accrued) would be passed onto the producer in the form of reduced payments over the life of the loan or within the first year when cash flow is the tightest. If the loan was for 5 years the total savings would be $4,116 vs. $4,233 for 7 year loan.

References

Cooperatives Working Together
http://www.cwt.coop/

Family Farm Breeding Livestock Loan Program
http://www.mda.mo.gov/Financial/familyfarm.htm

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"Dairy Cow Leasing"
Department of Agricultural Economics, University of Wisconsin – Madison.

South Dakota Livestock Loan Participation Program http
//www.state.sd.us/doa/ag_dev/pdf/LLPP%20summary.pdf

Wisconsin Milk Volume Production Loan Program
http://commerce.wi.gov/BDdocs/BD-FAX-0810.pdf

Statutory Language

H.F. No. 3366, 1st Engrossment - 84th Legislative Session (2005-2006)
Posted on Mar 28, 2006

A bill for an act

relating to agriculture; providing for a study and report on public and private funding of a milk volume production loan program.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. MILK VOLUME PRODUCTION LOAN PROGRAM FUNDING STUDY.

Subdivision 1. Study. The commissioners of agriculture and employment and economic development must study the feasibility of a public and private partnership to fund a milk volume production loan program that would make low-interest loans to dairy producers of $500 per cow, up to 100 cows per producer, as part of the producers' dairy capital improvement projects designed to increase milk production in Minnesota. The study must determine whether there is sufficient interest among agricultural lenders, private agribusiness, and the dairy industry to establish an adequate revolving loan fund for the program consisting of private donations matched by public funding from existing economic development funds, rural development funds, or additional legislative appropriations.

Subd. 2. Report. By January 2, 2007, the commissioners of agriculture and employment and economic development must report on the results of the study required in subdivision 1 to the chairs of the committees of the house of representatives and the senate with jurisdiction over agricultural policy. The report must include recommendations on the following items:

(1) estimated program administration costs;

(2) the terms of a milk volume production loan, including but not limited to amortization options and the rate of interest required only to cover program administration costs;

(3) producer loan eligibility criteria; and

(4) the amount of annual private contributions and public matching funds needed to establish a sustainable and effective revolving loan program for milk volume production loans.

Sec. 2. EFFECTIVE DATE.

Section 1 is effective the day following final enactment.

Appendix B

Surveys

1. LENDER SURVEY

1) Do you offering financing for the purchase of dairy cattle?
☐Yes ☐No (if no, please skip to Question 8)

2) Who is eligible?
☐New farmers ☐Experienced farmers planning to expand herd size
☐Any producer ☐Other ____________________________________

3) What supporting documentation do you require?

4) What are your underwriting criteria?

5) How are interest rates determined?

6) What are the repayment terms?

7) What security is required?

8) What level of financing do you see as appropriate for dairy cows?
☐ 25% of purchase price of one head
☐ 40% "
☐ 50% "
☐ 75% "
Other ___________

2. PRODUCER SURVEY

1) Have you ever financed the purchase of dairy cows?
☐Yes ☐No

2) If yes, through what type of lender?
☐ Traditional bank
☐ Farm Credit Services
☐ Co-op lending program
☐ Other ______________________________

3) Do you see a demand for dairy cow purchase financing?
☐Yes ☐No

4) If yes, under what circumstances?
☐ New farmers
☐ Experienced farmers planning to expand herd size
☐ Any producer
☐ Other ______________________________

5) On a scale of 1-5, how would you rate your interest in obtaining financing through a public/private

partnership for the purchase of dairy cows?
Low interest High interest
1 2 3 4 5

6) What is the size of your herd?
   - ☐ 1-49 head
   - ☐ 50-99 head
   - ☐ 100-199 head
   - ☐ 200-499 head
   - 500+ head

3. CO-OP/PROCESSOR/AGRIBUSINESS SURVEY

1) Do you currently participate in government-assisted loan programs?
   ☐ Yes ☐ No
   With which agency? ______________________________
   Has your experience with these programs been positive? Please explain.

2) Do you offering financing for the purchase of dairy cows?
   ☐ Yes ☐ No

3) Do you see a need for increased capital availability for purchasing dairy cows?
   ☐ Yes ☐ No Please explain.

4) If yes, for whom do you see the greatest need?
   - ☐ New farmers
   - ☐ Experienced farmers planning to expand herd size
   - ☐ Any producer
   - ☐ Other ____________________________________

5) This study must determine whether there is sufficient interest among agricultural lenders, private agribusiness, and the dairy industry to establish an adequate revolving loan fund for the program consisting of private donations matched by public funding. Do you think there would be interest within the dairy industry to establish a public/private partnership to provide this type of financing? Please explain.

4. EDUCATOR/FARM MANAGEMENT CONSULTANT SURVEY

1) Do you know of financing programs available in your area for the purchase of dairy cows?
   ☐ Yes ☐ No If yes, who offers them?
2) Do you see a need for increased financing of dairy cow purchases?
   ☐ Yes ☐ No
3) If so, for whom do you see the greatest need?
   ☐ New farmers ☐ Experienced farmers planning to expand herd size
   ☐ Any producer ☐ Other ____________________________________

4) What level of financing do you see as appropriate for dairy cows?
   - ☐ 25% of purchase price of one head
   - ☐ 40% "
   - ☐ 50% "
   - ☐ 75% "
   - ☐ Other __________
5) This study must determine whether there is sufficient interest among agricultural lenders, private

agribusiness, and the dairy industry to establish an adequate revolving loan fund for the program consisting of private donations matched by public funding. Do you think there would be interest within the dairy industry to establish a public/private partnership to provide this type of financing? Please explain.

5. ECONOMIC DEVELOPMENT PROFESSIONAL SURVEY

1) Do you currently participate in government-assisted loan programs?
☐ Yes ☐ No
With which agency? ______________________________
Has your experience with these programs been positive? Please explain.

2) Who evaluates the loan applications and makes underwriting decisions?
☐ Done in-house
☐ Local lender
☐ Combination of both
☐ Other ______________________________

3) Do you know of financing programs available in your area for the purchase of dairy cows?
☐ Yes ☐ No If yes, who offers them?

4) Do you see a need for increased financing of dairy cow purchases?
☐ Yes ☐ No

5) If so, for whom do you see the greatest need?
☐ New farmers ☐ Experienced farmers planning to expand herd size
☐ Any producer ☐ Other ______________________________

6) This study must determine whether there is sufficient interest among agricultural lenders, private agribusiness, and the dairy industry to establish an adequate revolving loan fund for the program consisting of private donations matched by public funding. Do you think there would be interest within the dairy industry to establish a public/private partnership to provide this type of financing? Please explain.

Appendix C

Wisconsin Department of Commerce MVP Program Information

MILK VOLUME PRODUCTION (MVP) PROGRAM

http://commerce.wi.gov/BDdocs/BD-FAX-0810.pdf

TELEPHONE
1-800-435-7287

FACT FORM # 810

REVISION DATE
7/20/06

The Milk Volume Production (MVP) program is designed to assist dairy producers that are undertaking capital improvement projects that will result in a significant increase in Wisconsin's milk production. This program was created to aggressively support Wisconsin's $20 billion dairy industry. The goal of the MVP program is to provide qualifying dairy producers with the type of financing necessary to fill the "equity gap" and to partner with local communities to increase dairy production in Wisconsin. It is important to note that the MVP application process is competitive and not all applications will be funded. Only those projects that have a comprehensive business plan and can demonstrate that they will have a long term sustainable impact upon Wisconsin's milk production will be successful.

ELIGIBILITY
All dairy producers that are, or will be located in Wisconsin and are planning capital investments that will result in significant long-term increases in Wisconsin's capacity to produce milk are invited to apply.

LEVEL OF PARTICIPATION
Commerce's participation is limited to no more than $500 for each cow added to the operation. The maximum award available under the MVP program is $1 million.

ELIGIBLE PROJECT COSTS
Eligible Project Costs are limited to the cost of acquiring cows.

FINANCE TERMS AND CONDITIONS
The loan term shall be seven (7) years with a fixed interest rate of 2% for the life of the loan. Repayment will be deferred for the first year followed by interest only payments in the second year. The loan will then be amortized during years three (3) through seven (7) with equal monthly payments of principal and interest.

COLLATERAL
The Department will provide near equity financing supported by a Farm Security Agreement that is subordinate to the project's primary lender. Personal guarantees will also be required.

UNDERWRITING CRITERIA
The actual amount of Commerce's participation, if any, is dependent upon a comprehensive evaluation of the project. Commerce will seek to maximize the program's impact by participating with dairy producers that can document

a need for near-equity financing and demonstrate the management skills necessary to make the project successful. Underwriting criteria will include factors such as the applicant's:

- Financial management skills: cost of production, debt per cow, return on assets, etc.
- Production management skills: milk production per cow, average somatic cell count, herd turnover rate, herd mortality rate, etc.
- Labor management experience.
- Environmental management skills. Previous experience implementing a nutrient management plan or managing waste storage and handling facilities is beneficial.
- Ability to secure private sector financing necessary to make the project successful.

THE APPLICATION PROCESS

The MVP program is collaboration between the applicant, Commerce and the local municipality (typically the county). In addition to providing benefits to the dairy producer, the MVP program also provides benefits to the municipality by enhancing local economic development capacity. The MVP program is unique in that loan repayments made by the applicant will go directly to the local municipality to help establish or expand a revolving loan fund (RLF). The municipality can then use the RLF to assist other local economic development projects.

THE MVP APPLICATION PROCESS IS AS FOLLOWS

1. Interested applicants must first contact the Dairy 2020 Program Executive Director, who will discuss the project with the applicant, provide a copy of the application (Prospect Data Sheet) as well as identify other programs that could potentially assist the applicant.

2. The applicant will submit the completed Prospect Data Sheet along with a comprehensive business plan that fully describes and evaluates the proposed project to Commerce.

   Note: If the applicant does not have a comprehensive business plan, the Dairy 2020 Early Planning Grant program may be able to provide funding to develop one.

3. Commerce's Finance Specialist will underwrite the project and make a funding recommendation to the Secretary's Office, which will either:

A. Deny the proposal, in which case the applicant will receive a letter outlining the reasons for denial.
OR

B. Make a positive funding decision, in which case the applicant will receive a preliminary commitment letter fully detailing the terms and conditions of Commerce's participation.

4. Once a commitment letter is issued, Commerce will begin working with the local municipality to facilitate its submission of an application.

   Note: Federal regulations require the local municipality to hold a public hearing on the project and submit the meeting minutes and other items to Commerce.

5. The applicant, Commerce and the local municipality will then enter into a written agreement detailing the terms and conditions of the award.

6. Commerce funds may be drawn after execution of the agreement by all parties. To learn more about Wisconsin's Milk Volume Production (MVP) program contact:

   Irv Possin, Executive Director,
   Dairy 2020 Program
   140 North Main Street, P.O. Box 1303, Fond du Lac, WI 54936-1303
   920/322-1888, Fax: 920/929-7126
   Email: ipossin@commerce.state.wi.us

Appendix D

South Dakota Livestock Loan Participation Program - General Information, Application Materials

http://www.state.sd.us/doa/ag_dev/pdf/LLPP%20summary.pdf

The LIVESTOCK LOAN PARTICIPATION PROGRAM is designed to enable farmers and ranchers of limited equity to procure livestock loans at rates and terms which the applicant can reasonably be expected to meet and thereby utilize available feed, facilities, labor, and management skills.
Below is a brief summary, closing procedure outline for the Livestock Loan Participation Program and sample copy of the Loan Participation Certificate and Agreement, South Dakota Disclaimer, sample Attorney Letter, and the Application.

I. ELIGIBILITY

A. Borrower – Farmer/Rancher who derives 60% of all gross income from production agriculture in the last tax year; or farm/ranch laborer, whose majority (60%) gross income is from farm/ranch labor, who:
   1. Is 18 years of age or older;
   2. Is a South Dakota resident prior to closing;
   3. Maintains a farming/ranching operation in South Dakota;
   4. Has available feed (sufficient for one year), facilities and management capabilities;
   5. Is unable to obtain a livestock purchase loan from own resources or from a commercial source at rates and terms which he/she can reasonably meet without a South Dakota Department of Agriculture Livestock Loan participation, and;

B. If the Borrower is a member of a corporation, partnership or other such entity which is directly engaged in the borrower's farming/ranching operation, such entity must:
   1. Be comprised of a majority membership of farmers/ranchers who meet the farm/ranch income criteria; and
   2. Be willing to subordinate or waive interest in the required feed, facilities and labor necessary for the success of the loan. (i.e. feed in exchange for contributed labor).

C. Lender - federal or state chartered bank, Federal Farm Credit System, Savings and Loan Association, Credit Union or an insurance company, that:
   1. Makes loans in or near the region or community where the financed project will be located;
   2. Has experience in making livestock loans; and
   3. Is subject to credit examination and supervision by an agency of the United States or the State of South Dakota.

II. ELIGIBLE LOAN ACTIVITIES

Purchase money for:

A. Livestock purchases only.

III. RESTRICTIONS

A. The Livestock Loan Participation Program (LLPP) cannot be used for a loan:
   1. Other than financing the "purchase price" for livestock;
   2. To refinance existing debt, and;
   3. To finance a line of credit (revolving loan).

B. Borrower may have more than one outstanding Livestock Loan Participation subject to the aggregate outstanding participations not to exceed $100,000.

IV. MATURITY AND INTEREST RATES

A. Terms of the loan will be in accordance with the selected livestock enterprise.
   The recommended terms shall be:
   1. Beef Cattle – maximum 5 years with minimum of annual payments;
   2. Dairy Cattle – maximum 5 years with minimum of monthly payments;
   3. Swine – maximum 3 years with minimum of semiannual payments;
   4. Sheep – maximum 3 years with minimum of annual payments;
   5. Feeder Livestock – not to exceed one year; and
   6. Other – in accordance with enterprise cash flow.

B. Interest Rates
   1. The interest rate for the Department of Agriculture's portion (50%) of the loan participation will be determined at the time of application and will be a fixed interest rate based on the current federal discount rate, and;
   2. The interest rate for the Lender portion (50%) cannot exceed 12.5% per annum at anytime during the term of the loan.

V. LOAN AMOUNTS

The Department of Agriculture participation amount will not exceed an aggregate outstanding balance of $100,000.

VI. FACTORS FOR CONSIDERATION OF APPROVAL

A. Character, experience and management record of the Borrower.
B. Capacity of the Borrower to repay the loan from the cash flow of the enterprise operation.
C. Net economic effect of increasing or stabilizing the Borrower's financial condition.
D. Purchase price per animal unit according to the current historical market standards.

VII. Lender Requirement/Agreement

A. Lender will service the loan in accordance with the Livestock Loan Participation Certificate and Agreement, which will include, but not be limited to:
   1. A minimum of at least one collateral inspection per annum or loan period, if less than one year;
   2. Annual financial statements submitted by Borrower to Lender; and
   3. Assurance that all purchased livestock is identified by brand, tattoos, ear tags, ear notches or other methods of identification.

VIII. BORROWER REQUIREMENTS

A. The Borrower will be encouraged to use and maintain accurate records. The Borrower will be required to submit annual financial statements and profit/loss analyses of the livestock enterprise to the Lender and the Lender will forward copies to the Department of Agriculture. Record keeping, financial planning and analysis and marketing are essential to the success of this program and the Borrower's business.

IX. DEPARTMENT OF AGRICULTURE REQUIREMENTS/AGREEMENT

A. The Department of Agriculture shall within thirty (30) days after receipt of a completed application, either approve the application as requested, disapprove the application for modification, approve the application contingent upon the realization of certain defined conditions or disapprove the application. If the application is disapproved or disapproved for modification, the reasons for the decision shall be conveyed to the Lender. The Lender who has had an application disapproved may submit another application that addresses the reason for disapproval.

B. The Department of Agriculture will abide by the terms and conditions set forth in the Livestock Loan Participation Certificate and Agreement.

X. APPLICATION/CLOSING PROCEDURES

A. Lender receives the application form.

B. Lender and Borrower execute the application documents.

C. Lender sends application and supporting information to the Department of Agriculture. Supporting information shall include, at minimum:

1. Borrower's current financial statement, signed and dated;
2. Borrower's most recent year 1040 and 1040F Federal Income Tax Return;
3. Twelve month cash flow projections on enterprise loan request and cash flow for borrower's entire operation;
4. South Dakota Department of Agriculture Disclaimer, signed and dated; and
5. If Borrower is entity other than an individual, an attorney's letter as described in the attached sample Attorney Letter.

D. Department of Agriculture reviews, approves/disapproves the application for Livestock Loan Participation and responds to Lender with Conditional Commitment to Participate or notice of disapproval.

E. If application is approved, within 30 days of the receipt of the Conditional Commitment to Participate (may extend an additional 30 days), the:

1. Lender executes the loan documentation, disburses the funds for the purchase of livestock and submits copies of the executed loan documentation to the Department of Agriculture; and
2. Borrower purchases the livestock.

F. Loan documentation shall include, at minimum, copies of:

1. Signed "Conditional Commitment to Participate";
2. Promissory note showing inception date, maturity date, principal amount, interest rate and note number;
3. Security agreement with sales receipt/bill of sale of purchases attached;
4. Copy of receipts of bill of sale(s) of livestock purchased;
5. UCC/Effective Financing Statement;
6. UCC/EFS search on Borrower; and
7. A signed and established dollar amount Loan Participation Certificate and Agreement.

XI. UPON RECEIVING THE ABOVE LISTED DOCUMENTS, THE DEPARTMENT OF AGRICULTURE WILL SEND THE LENDER AN AMOUNT EQUAL TO ITS PARTICIPATION SHARE OF THE LOAN WITH AN AMORTIZATION PAYMENT SCHEDULE.

NOTE: The provisions for loan servicing and, if necessary, default are specified in the copy of the Participation Certificate and Agreement. Please review this prior to the application process. If you have any questions concerning the application and closing procedures, please contact the South Dakota Department of Agriculture, Division of Ag Development at 773-5436, 1-800-228-5254 in state, or email Terri.LaBrieBaker@state.sd.us.

Revised: January 2002

SOUTH DAKOTA DEPARTMENT OF AGRICULTURE
LIVESTOCK LOAN PARTICIPATION
CERTIFICATE AND AGREEMENT

This Loan Participation Certificate and Agreement represents an agreement between the South Dakota Department of Agriculture, by and through its Agriculture Enterprise Program (hereinafter "Participant") to participate an amount of money not to exceed that which is set forth below, to the undersigned financial institution (hereinafter "Lender") under the terms and conditions numbered 1 through 14 included herein.

1. SALE

Lender ____________________ Participant ____________________ Borrower ______________________________

Name ______________________________ SD Department of Agriculture Name ______________________________

Address ____________________________ 523 E. Capitol Ave., Foss Building Address __________________________

City ______________________________ Pierre SD 57501 City ______________________________________

Date Note	Note Number	Principal Outstanding	Amount	Lender's Investment	Participant's Investment	Due Date	Lender's Interest Rate	Participant's Interest Rate

Lender has agreed to sell and assign and Participant has agreed to purchase, for the amount of Participant's investment shown above, which shall be paid by Participant upon written notification of loan closing from the Lender, an undivided interest in the principal amount outstanding of that certain promissory note (the "Note") of Borrower to Lender described above equal in amount to that percentage of the principal amount outstanding which Participant's investment is of the principal amount outstanding; and Lender certifies that upon the date of such payment by Participant, Participant will be the owner of such an interest in the Note and collateral and will be entitled, under the circumstances and to the extent provided in this agreement, to enforce and collect the Note. Notwithstanding any provision herein, sale of this participation is without recourse. For purposes of this agreement, the loan will be considered closed when all loan and security instruments have been duly executed, filed and recorded as by executed security agreements, guarantees, assignments, mortgages and/or financing statements in favor of Lender.

2. COLLECTIONS AND EXPENSES

Lender shall receive all Collections, as defined in Section 9, and apply them on the day of receipt as follows: Collections shall be applied first to interest which is due on the Note at the Lender interest rate and Lender shall remit to Participant, from the interest collected, an amount of interest computed at Participant's Interest Rate on the unpaid balance of Participant's investment. Collections in excess of Interest are "Principal Collected" and Lender shall remit to participant the Participant's percentage of Principal Collected, less Participant's percentage of Expenses, as indicated below, not previously paid by Participant. Participant's percentage of Principal Collected is:

A. Participant's share of collections.
Pro rata. _____% of Principal Collected, plus accrued interest to date at Participant's interest rate.

B. Participant's percentage of expenses.
Shared Expenses. ______% of expenses.

3. ADMINISTRATION AND SERVICING

Lender will at all times exercise the same degree of care and discretion in servicing the loan and collecting the payments as it would take in servicing and collecting the loan if the loan were held solely for the Lender's account. So long as Lender exercises such are in the servicing and management of the loan, it shall not be under any liability to participant with respect to anything it may do or refrain from doing in the exercise of its judgment or which may seem to Lender to be necessary or desirable in the servicing and management of the loan, except for its willful misconduct or gross negligence.

Lender may take any action determined by it in its sole discretion to be appropriate to enforce payment of the Note or to realize upon any collateral but it shall not, without the written consent of Participant, extend, renew, amend or change the Note or Agreements, or grant any consents, waivers, variances or releases thereunder or permit the release or substitution of any collateral therefore. Lender shall with reasonable promptness notify participant of any material default of Borrower of which it becomes aware and of any other matters which, in its judgment materially affect the interest of the parties in the loan. In the event of a default by the Borrower, it is hereby agreed that if either party to this agreement deems foreclosure a necessary remedy, foreclosure of both parties' interest in the loan will be required. In the event adequate funds are not available to meet regular installments of the loan herein described, the funds available will be apportioned to the parties hereto based upon their respective current installments of principal and interest due.

In the event of foreclosure, sale, or liquidation of the secured property, fixed assets or other obligations due to the parties hereto, from the Borrower, such sums received from foreclosure, sale, or liquidation shall be paid to each of the parties hereto in direct proportion to the original principal amounts advanced by the parties.

4. ADDITIONAL TERMS

This certificate and agreement includes the additional terms on the reverse side
Dated as of ____, 20______
Participant Lender

By:________________
Title: ______________
By: _______________
Title: ______________

ADDITIONAL TERMS

5. REPRESENTATIONS AND WARRANTIES OF LENDER. LENDER REPRESENTS AND WARRANTS THAT:

a. It has submitted true and complete copies of all relevant loan documents validly executed by Borrower (co-makers, guarantors, and/ or endorsers inclusive) and loan documents are valid and endorsable in accordance to their terms subject to the normal exceptions for bankruptcy and insolvency and enforcement of equitable remedies;

b. All liens, mortgages and security instruments have been properly perfected and Lender holds a first priority lien, mortgage and/or security interest as indicated by the loan documents;
c. It has unencumbered ownership in the loan, the requisite authority to sell the participation and any required consents from the Borrower have been obtained; and
d. It will continue to take whatever actions may be necessary and proper to maintain the perfection and priority of all liens, mortgages and/or security interest in loan collateral.

Lender makes no further or additional representations and warranties, express or implied, as to the ability to __ collect the loan; continued solvency of the Borrower; or as to the continued existence, sufficiency, or value of any collateral.

6. REPRESENTATIONS AND WARRANTIES OF PARTICIPANT.
PARTICIPANT REPRESENTS AND WARRANTS THAT:

a. Its execution of this Participation is not made in reliance upon any representations of the Lender not contained in this Certificate and Agreement;
b. It has received and examined prior to the execution of the Certificate and Agreement all information, documents, certificates and agreements which Participant deems necessary to make an informed, knowledgeable and sophisticated decision with respect to the participation; and
c. It is duly authorized to purchase the participation and has conducted its own independent evaluation of the Borrower's creditworthiness,

7. DOCUMENTATION:
Lender will retain for itself and Participant the Note, all possesory collateral securing the Note and all agreements, guarantees and other documents relative to or securing the Note (the "Agreement"). Lender will furnish to Participant copies of the Note and Agreements and all annual financial statements of Borrower received by Lender and will furnish to Participant, on request, copies of all notices and other financial statements of Borrower received by Lender. Participant may, upon request and at any time during banking hours, examine the financial records of Lender relating to the loan evidenced by the Note.

8. COLLATERAL:
The collateral, if any, for the loan shall be evidenced by executed security agreements, guaranties, assignments, mortgages, and/or financing statements in favor of the Lender. The parties hereto agree that their respective positions as secured creditors with reference to the loan herein described will be considered to be in a parity position as between the parties hereto. As used herein, parity shall mean equal rights with reference to the collateral which is the security for the loan, so that in the event of a default by the Borrower, each of the parties hereto will be affected on a proportionate basis.

9. COLLECTIONS:
"Collections" means all payments of principal and interest received by Lender on the Note, including payments by or on behalf of Borrower, payments received from guarantors of sureties, insurance proceeds, and payments received by means of set-off by Lender and net proceeds received from the sale or disposition of collateral for the Note. In the event any Collections remitted to Participant are not finally collected by Lender or are required to be repaid by Lender to or for the account of Borrower; Participant shall immediately return such Collections to Lender.

10. EXPENSES:
"Expenses" include, without limitation, out-of-pocket expenses incurred by Lender in collecting, enforcing, or protecting the Note or any collateral securing it. Lender shall submit an accounting of all expenses incurred.

11. OTHER LOANS:
Any amounts advanced or additional loans made to the Borrower in excess of the original amount of the loan as herein described will not be covered by the Agreement, unless prior written consent is obtained from the other party hereto; provided, however, that "protective advances" made by either party hereto, for the mutual protection of both

parties, shall receive first priority in the apportionment of funds as herein described. For the purposes of this agreement, the parties agree that "protective advances" are payments made by one of the parties hereto for the purpose of protection of the financial interests of the parties, which are added to the principal amounts due from the Borrower.

12. REMEDIES:
In the event of the insolvency of the Lender, or an assignment for the benefit of creditors, the appointment by any public authority of any person in charge of its assets, or a breach of this Participation Certificate by the Lender, or in the even of the involuntary sale of the loan described herein or any future advances made thereunder, it is agreed that the Participant shall automatically, in any such event, have the option to exercise all of the powers hereinabove granted to the Lender and an option to designate any person or firm, in its discretion, to exercise such powers. In the event either party hereto fails to promptly provide funds required to be paid hereunder by such party, the other party is authorized to supply or pay the same and it shall be reimbursed from the first funds available for the account of such defaulting party. The provisions of the paragraph shall not limit the exercise of any other remedy at law or in equity.

13. MISCELLANEOUS:

a. Participation shall not, without the prior written consent of Lender, sell, assign, pledge, subparticipate or otherwise transfer its rights in the Note. Lender will not transfer its interest in the Note without the prior written consent of the Participant.

b. All notices shall be sent by first class mail and addressed to the main office of the other party.

c. This Agreement binds and inure to the benefit of the successors and assigns of the parties hereto and is governed by the laws of the State of South Dakota. This agreement shall remain in full force and effect until such time as the loan herein described has been satisfied of record.

14. OTHER PROVISIONS:
Revised: January 2002

SOUTH DAKOTA DEPARTMENT OF AGRICULTURE
LOAN PARTICIPATION AGREEMENT AND
LOAN GUARANTEE AGREEMENT
DISCLAIMER
By entering into the loan participation agreement or loan guarantee agreement neither the State of South Dakota nor the Department of Agriculture warrants or agrees that the borrower is in compliance with environmental requirements, zoning requirements, corporate farming restrictions, or any other federal, state or local law for the project involved or for any other enterprise of the borrower.
Dated as of : ______________________________ ______________________
State of South Dakota
Lender Department of Agriculture
Foss Building
523 E. Capitol Ave.
Address Pierre SD 57501

____
City State Zip
BY: ______________________
Signature
BORROWER(S):
BY: ______________________
BY: ______________________

South Dakota Department of Agriculture
Foss Building
523 E. Capitol Ave.
Pierre SD 57501-3182
Re: ____________________________
Dear Ms. LaBrie Baker:
I am the attorney for ____________________________ (the "Borrower") in connection with Borrower's loan from ______________________________ Bank and Borrower's promissory note for the ______________ ______________ project (or use loan number or reasonably identify the loan), which loan is a participation loan with the South Dakota Department of Agriculture. All terms used in this opinion letter and not defined shall have the same meanings as given to them in the Loan Agreement.

Based on my review of the relevant proceedings and documents, I am of the opinion that:

1. The Borrower is a _________________________ (corporation, partnership, LL), other) duly organized and validly existing under the laws of the State of South Dakota.
2. I have reviewed SDCL ch. 47-9A and the South Dakota Constitution, Article XVIII and am of the opinion that borrower is in compliance with those provisions. (Specifically explain (a) whether the proceeds of the loan will be used for activity addressed within the corporate farming restrictions i.e. cultivation of farmland or keeping and feeding of livestock, and (b) the nature of any exemption claimed by borrower from the corporate farming restrictions and an explanation of the basis for such exemption).
3. The Borrower has the authority to undertake the project described in Borrower's loan application, to enter into the Loan Agreement, to issue the Promissory Note, and to perform its obligations under the Loan Agreement and the Promissory Note.
4. Borrower has acquired or will acquire the real property necessary for the construction of the Project, together with those rights-of-way, easements, permits and licenses necessary for the construction, operation and maintenance of the project; that the legal instruments evidencing that acquisition are in appropriate and due legal form and adequately confer upon the Borrower the necessary rights for the construction, operation and maintenance of the Project; that such omissions or defects as may exist will in no substantial way or manner endanger the value or operation of the project and its facilities and that those legal instruments have been duly and properly recorded in the appropriate public land records of each county in which any land affected thereby is situated.
5. ______________________________ is authorized to execute, perform and deliver the Loan Agreement and Promissory Note on behalf of Borrower, and the Loan Agreement and the Promissory Note are valid and legally binding obligations of the Borrower, enforceable in accordance with their respective terms, except to the extent that the enforceability thereof may be limited by laws relating to bankruptcy, insolvency or similar laws affecting creditors' rights generally, and general principles of equity.
6. The Loan Agreement creates a valid lien on the funds and property pledged by the Loan Agreement for the security of the Loan Agreement and the Promissory Note, and no other debt of the Borrower is secured by a superior lien on such collateral.
7. There is no action, suit proceeding, inquiry or investigation at law or in equity, by or before any judicial or administrative court, agency or body, pending or threatened against the Borrower or its Project, wherein an unfavorable decision, ruling, or finding would materially adversely affect the validity or enforceability of the Loan Documents, or would materially adversely affect the ability of the Borrower to comply with its obligations under the Loan Documents.

Sincerely,

____
Attorney for the Borrower

Appendix E

Missouri Family Farm Breeding Livestock Loan Program - General Information, Application Materials

MISSOURI DEPARTMENT OF AGRICULTURE TAX CREDITS

FAMILY FARM BREEDING LIVESTOCK LOAN PROGRAM

http://www.mda.mo.gov/Financial/familyfarm.htm

DESCRIPTION

The Missouri Agricultural and Small Business Development Authority provides Missouri tax credits to Missouri's lenders who make breeding livestock loans to small farmers

HOW DOES THE PROGRAM WORK?

To participate in the loan program, a small farmer shall first obtain approval for a family farm breeding livestock loan from an eligible lender. The small farmer shall not be charged interest by the lender for the first year of the qualified family farm livestock loan.

Upon approval of the family farm livestock loan by a lender the loan documents should include:

a. MISSOURI FORM F,
b. Lender's completed loan application, promissory note, amortization schedule, and security filings,
c. Small farmer's current financials (cannot be more than 6 months old),
d. Projected cash flow, post loan closing,
e. Description of livestock purchased and the purchase price, and
f. Review Fee = 1% of loan amount

These shall be submitted for approval by the Missouri Agricultural and Small Business Development Authority (MASBDA). MASBDA's approval process shall take into consideration:

a. The small farmer's ability to repay the family farm livestock loan,
b. The purchase price of the livestock must be appropriate for the type and quality of livestock purchased,
c. The general economic conditions of the area in which the small farmer is located,
d. The prospect of a financial return for the small farmer, and
e. Such other factors as the authority may establish based on individual loans characteristics.

WHO IS ELIGIBLE?

"Small Farmer": A farmer who is a Missouri resident and who has less than $250,000 in gross agricultural productsales per year.

"Lender": Any state or national bank, farm credit system, bank for cooperatives, federal or state chartered savings and loan association, federal or state building and loan association, or small business investment companies all of which must be subject to credit examination by an agency of the state or federal government.

LOAN AMOUNT AND TERMS

"Maximum eligible loan" cannot exceed 90% of the cost of purchasing breeding livestock. The maximum amount of loan for each type of livestock is:

a. Beef cattle - $75,000
b. Dairy cattle - $75,000
c. Sheep - $30,000
d. Goats - $30,000
e. Swine - $35,000

TAX CREDIT AMOUNT

The maximum amount of tax credits that may be issued to all eligible lenders in any fiscal year cannot exceed $150,000.

The tax credit is equal to 100% of the first year's interest waived on a qualified eligible loan.

RESTRICTIONS

Each small farmer shall be eligible for only one family farm livestock loan per immediate household family and only one type of livestock.

FEES

Review Fee = 1% of loan amount.

OTHER INFORMATION

MASBDA will issue the tax credit certificate after receiving a certification from the lender of the actual interest waived after the first year of the eligible loan. The interest due certification must be received no later than 30 days after the first year anniversary of the loan.