

Co-op Day at the Capitol 2010

Help Protect the Capper Volstead Act

Ask legislators to sign on to the letter (being circulated/authored by Representative Al Juhnke and Senator Jim Vickerman) to Minnesota's Congressional Delegation conveying the importance of the Capper-Volstead Act to agricultural cooperatives in Minnesota. Remind legislators that Minnesota is the leading cooperative state in the nation and is home to more than 1,000 cooperative businesses that serve 3.4 million Minnesota citizens in communities all around the state. Although Minnesota's state legislature does not have jurisdiction over the Capper-Volstead Act, hundreds of cooperatives create jobs and economic development in the legislative district of Minnesota's state legislators, so it is important for them to help call on Congress to maintain Capper-Volstead as federal law.

Background

Often called the "Magna Carta of Cooperatives," the primary purpose of the Capper-Volstead Act is to empower farmers and agricultural producers to join together to market, price and sell their products through cooperatives. The Capper-Volstead Act provides a limited exemption for cooperatives from certain provisions of the Sherman Antitrust Act which prohibits companies from joining together in monopolies to prevent competition. In order to qualify for Capper-Volstead protections, farmer cooperatives must meet several requirements:

- The cooperative's voting members must be agricultural producers.
- The cooperative must choose to either operate on a one-member/one-vote basis, or must limit distributions on dividends to eight percent.
- The cooperative must conduct more than half of its business with members.

The U.S. Department of Justice's review of our nation's antitrust laws has created some confusion regarding the antitrust protections provided by the Capper-Volstead Act to cooperatives. Protecting the Capper-Volstead Act and the other laws that gives Minnesota farmers the ability to form cooperatives is essential. Without Capper-Volstead, many farmer cooperatives would cease to exist and the farmers and communities they serve would suffer irreparable harm. This is as true today as it was in 1922 when Minnesota U.S. Representative Andrew Volstead co-authored the Capper-Volstead Act. We hope members of Congress will keep these thoughts in mind during any review of our nation's antitrust laws.

February 18, 2010

To: Minnesota Congressional Delegation,

We write on behalf of the more than 3.4 million Minnesotans who are member-owners of more than 1,000 Minnesota cooperatives that make Minnesota the number one cooperative state in the nation. Credit unions, dairy, electric utility, farm supply and fuel, sugar processing, healthcare, senior housing, grocery, consumer, and telecommunication cooperatives, along with mutual insurance companies, are just a few examples of cooperatives in Minnesota. We ask you to support Minnesota's cooperative community by maintaining the Capper-Volstead exemption to the Sherman Antitrust Law for agricultural cooperatives as the federal government explores broader changes to our nation's competition laws.

As you know, cooperatives have been featured prominently in the news lately, both as a potential vehicle for health care insurance programs and as a subject of antitrust inquiry. In order to prevent confusion regarding the role of farmer cooperatives, we would like to offer some background information that may be useful.

Farmer cooperatives came into being more than 100 years ago because individual farmers were too small and too numerous to deal effectively with larger agribusinesses. Farmers joined forces to form cooperative associations to market their products and purchase farm-related supplies and services. The challenges experienced by farmers 100 years ago exist today, as producers and their cooperatives are selling into markets increasingly dominated by fewer, larger buyers.

Farmer cooperatives play a vital role in agriculture and in the economic and social life of rural communities across Minnesota. Cooperatives provide Minnesota farmers with an advantage in the marketplace in several ways. By pooling the buying power of hundreds or thousands of individual producers, farmer cooperatives are able to supply their members' at a competitive price' with nearly every input necessary to run a successful farming operation, including access to a dependable source of credit. Recently cooperatives have been working to help Minnesota farmers with health care and health insurance issues.

Farmer cooperatives also market a wide range of agricultural commodities, and many engage in value-added processing to produce products that meet changing consumer demand. Minnesota's dairy cooperatives and ethanol cooperatives add value to the raw products produced by Minnesota farmers. In addition, many cooperatives are major exporters, allowing individual producers to compete in the global marketplace in a way that would be impossible to replicate as individual producers. Profits from these activities are returned to the cooperative's members, helping to boost income from beyond the farm gate and providing additional capital for farming operations. Farmers' income then flows through to local communities, aiding the rural economy.

Farmer cooperatives are also playing an important role as dairy farmers across Minnesota face an unprecedented and sustained decline in the price of fluid milk. Many dairy cooperatives have taken a number of steps' from speeding up milk payments to increasing the amount of profits returned directly to members to provide needed dollars in these hard economic times. Minnesota

is justifiably proud that our state's dairy industry is owned by family farmers and that our dairy processing industry is owned by a diverse number of farmer-owned cooperatives.

A renewed focus on antitrust enforcement has resulted in some confusion regarding the antitrust protections provided to farmer cooperatives. The Capper-Volstead Act gives farmer cooperatives limited antitrust immunity. To qualify for these limited antitrust protections, farmer cooperatives must meet several requirements. These include that the cooperative's voting members must be producers, and that the cooperative must choose to either operate on a one member/one vote basis, or must limit distributions on dividends to eight percent. Without the limited antitrust immunity provided by the Act, farmers who work together to process and market their products would be subject to criminal prosecution for violation of the Sherman Antitrust Law.

Moreover, as a protection against potential monopolistic activity, the Capper-Volstead Act gives the Secretary of Agriculture authority to prevent cooperatives from using their market power to unduly enhance the price of the products they market.

Our Minnesota agricultural cooperative community, while vibrant and diverse, is dwarfed by the non-cooperative agribusiness community. In short, our cooperatives create, rather than restrict, competition and it is in the interest of our state that they flourish.

Protecting the Capper-Volstead Act and the other laws that gives Minnesota farmers the ability to form cooperatives is essential—without Capper-Volstead, many farmer cooperatives would cease to exist and the farmers and communities they serve would suffer irreparable harm. This is as true today as it was in 1922 when Minnesota Congressman Andrew Volstead co-authored the Capper-Volstead Act. We hope you will keep these thoughts in mind during any review of our nation's antitrust laws.

Sincerely,