



Dairy Director's Leadership Conference

Challenges to Cooperatives and
The Capper-Volstead Act

Eau Claire, Wisconsin

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Topics . . .

- Antitrust Law Basics
- Elements of Capper-Volstead Act
- Challenges to Cooperatives and Capper-Volstead
- Continued Value and Relevancy of Cooperatives



Antitrust Law Basics

- Antitrust laws prohibit agreements or other collective actions among competitors relating to: price; customers; territories; and refusals to transact business with either suppliers or customers.
- Violations of antitrust laws can result in governmental fines to cooperatives/companies up to \$100,000,000.00 per violation and triple actual damages in private actions and individual fines of up to \$1,000,000.00 plus up to ten years in jail for involved individuals.



Capper-Volstead Limited Antitrust Exemption

[P]ersons engaged in the production of agricultural products as farmers, planters, ranchmen, dairymen, nut or fruit growers may act together in associations, corporate or otherwise, with or without capital stock, in collectively processing, preparing for market, handling, and marketing . . . [the products of its members]. Such associations may have marketing agencies in common [with other Capper-Volstead associations].

Capper-Volstead Requirements



- **Membership**
 - Who are members
 - Effect of non-member involvement
- **Operates for mutual benefit of the membership**
- **One member/one vote or annual dividends of 8 percent or less**
- **May not deal in products of non-members greater than members.**



Activities Exempted by Capper-Volstead

- **Processing, preparing for market, handling or marketing the products of members.**
- **Courts have interpreted this language to allow collective pricing**
- **Capper-Volstead cooperatives can engage in these activities with other Capper-Volstead cooperatives provided that such activities are through a marketing agency in common.**
- **Voluntary supply management?**



Activities Not Expressly Exempted by Capper-
Volstead or Court Cases Interpreting
Capper-Volstead

- **Collective action relating to milk procurement**
- **Collective action relating to mandatory supply management**
- **Collective action/agreements relating to supply of agricultural inputs**



Challenges to Cooperatives and Capper-Volstead

- **Antitrust Modernization Commission**
- **Christine Varney,**
Assistant Attorney General, Antitrust
Division
“Cooperatives might have outgrown
[the Capper-Volstead limited antitrust]
exemption.”



Value and Relevancy of Cooperatives

Do cooperatives add value to today's marketplace?

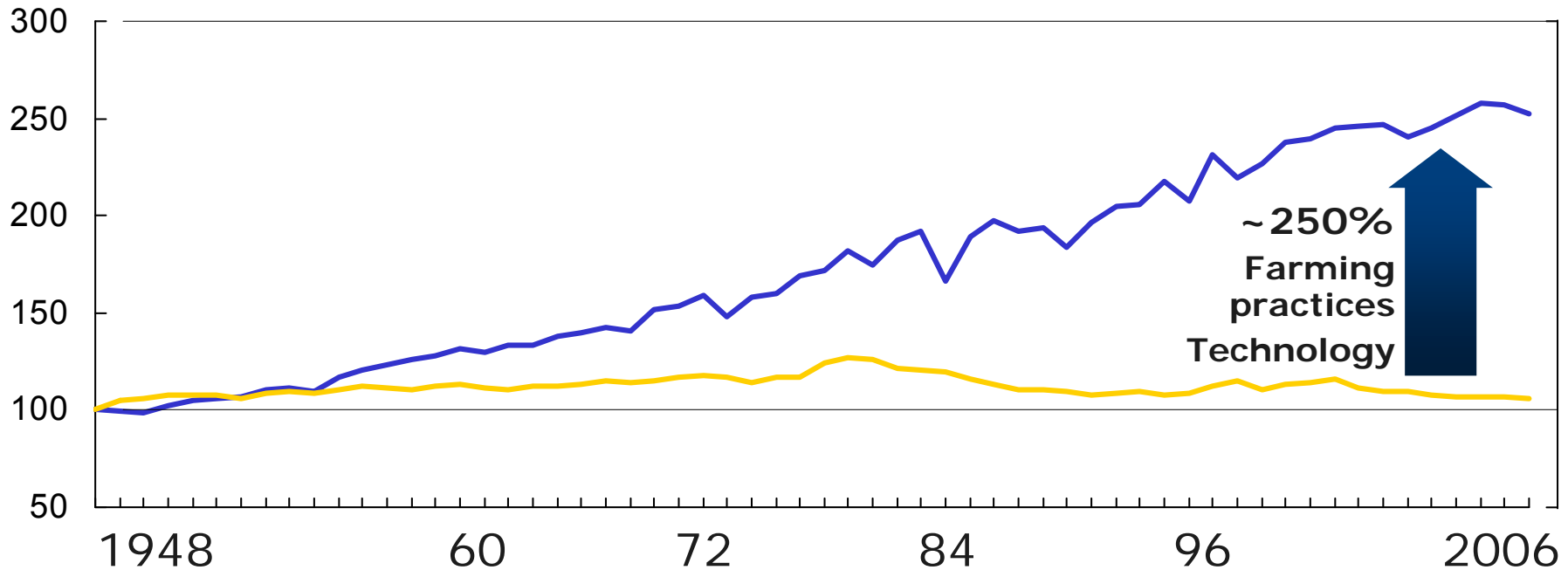
Are cooperatives and the Capper-Volstead Act still relevant to the 21st Century?

Productivity Has Increased

Changes in U.S. agricultural output / inputs, since 1948

Index 1948 = 100

— Total output ¹ — Total inputs²



- In 1930, one farmer fed **10 people**
- Today, one farmer feeds **155 people**

- In 1930, agriculture employed **22% of the US workforce**
- Today, it employs **2%**

- In 1930, % of income spent on food was **25%**
- Today, % of income spent on food is **10%**³

1 Total output is an aggregation of crop and livestock commodities and related services

2 Total input is an aggregation of land, labor, capital and intermediate inputs like fertilizer, feed and seed

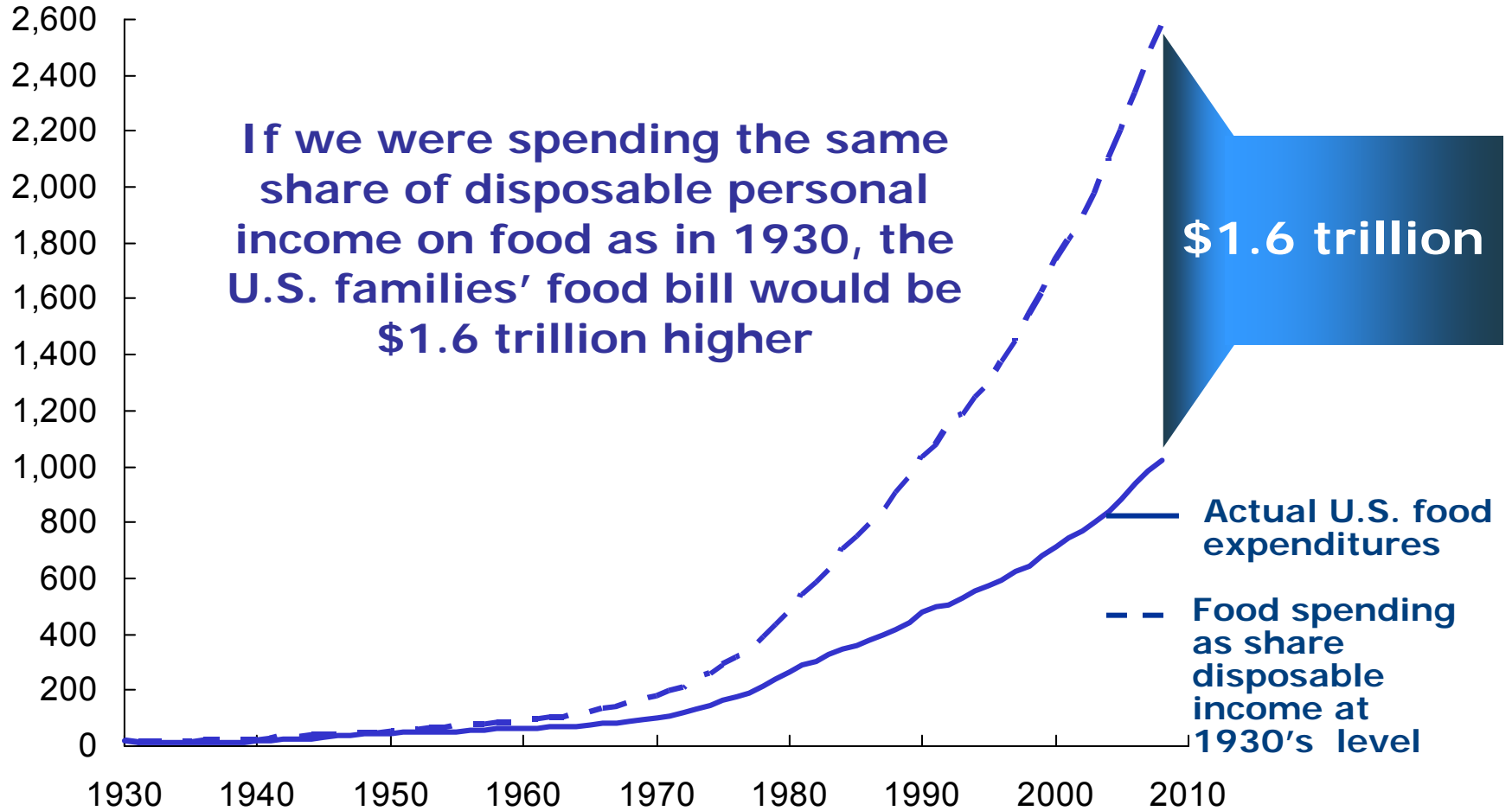
3 Disposable income spent on all food-related purchases, in and out of the home. This number falls to <6% when only home consumption is considered.

SOURCE: Productivity Growth in US Agriculture, USDA (2007); Economic Research Service, American Farm Bureau Federation

Increase In Productivity Created Broader Value

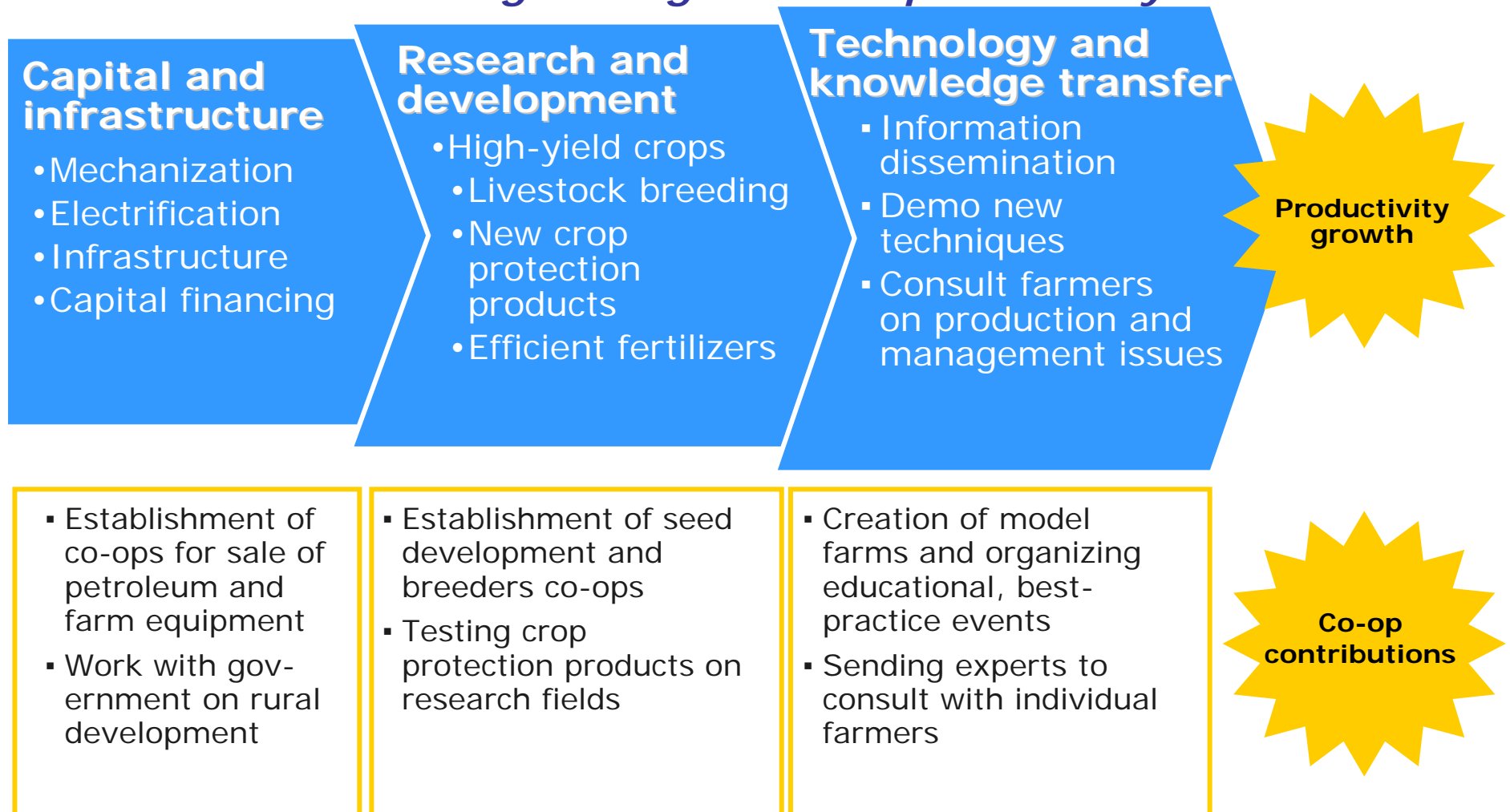
Food expenditures as a share of disposable personal income

Billion dollars



Farmer Co-ops Played An Important Role In Productivity Growth

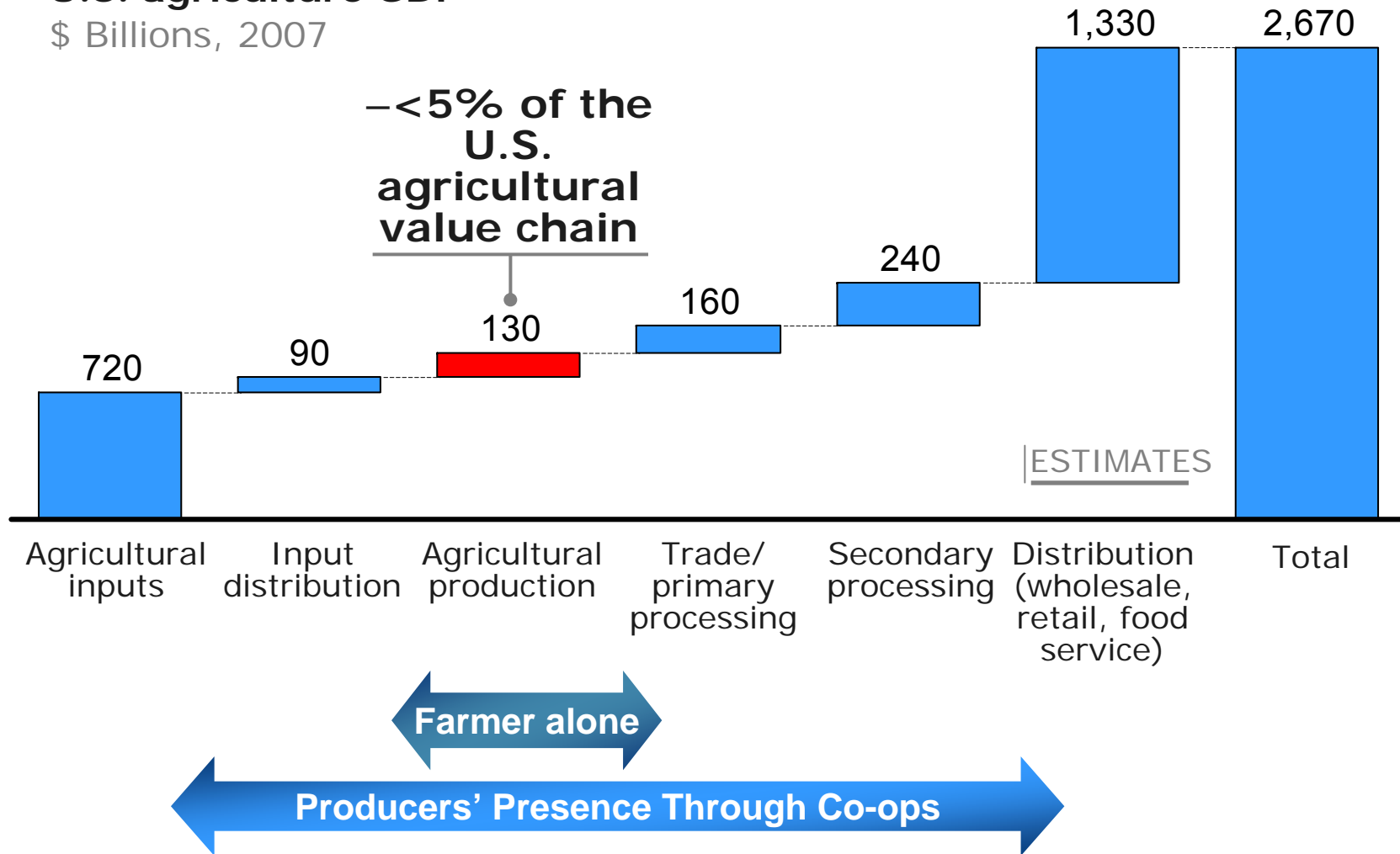
Factors driving U.S. agricultural productivity



Co-ops Enable Producers To Capture Greater Value Across The Value Chain

U.S. agriculture GDP

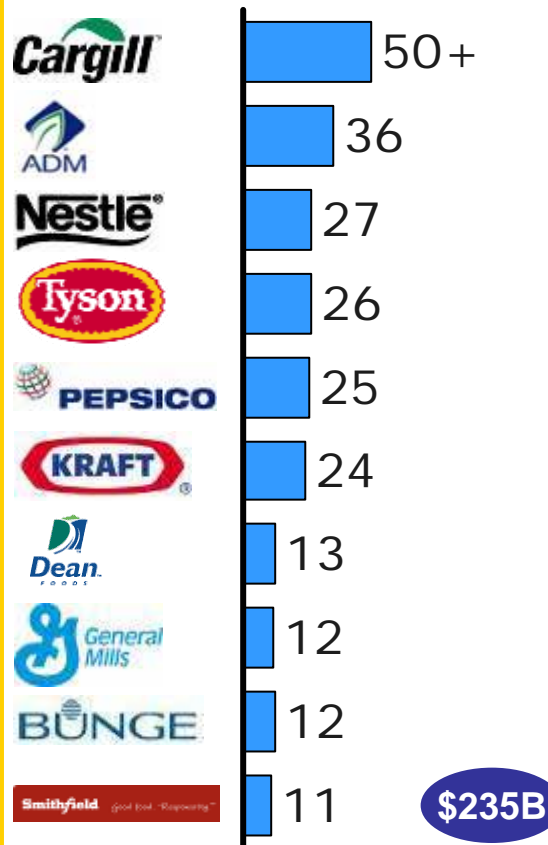
\$ Billions, 2007



Co-ops Are Smaller Than Related Players (Domestic)

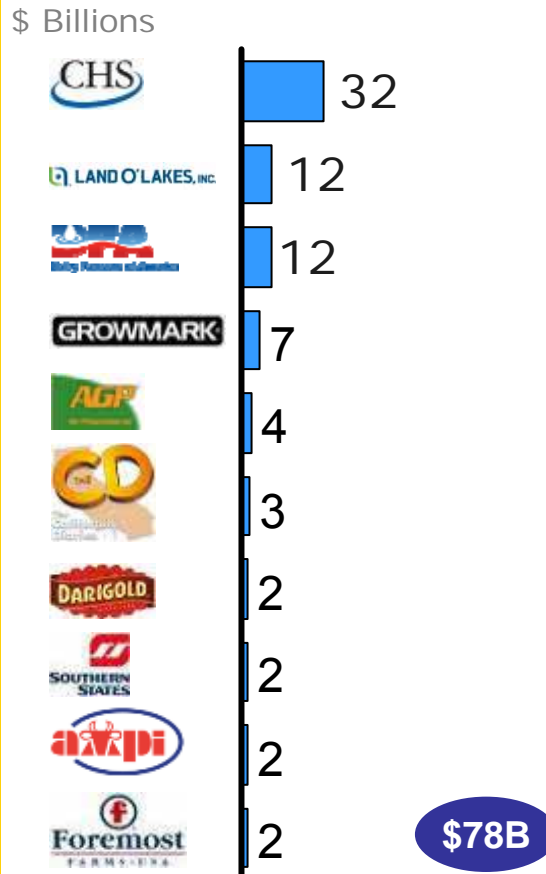
Agriculture & Food

Top 10 by US revenue, 2008
\$ Billions



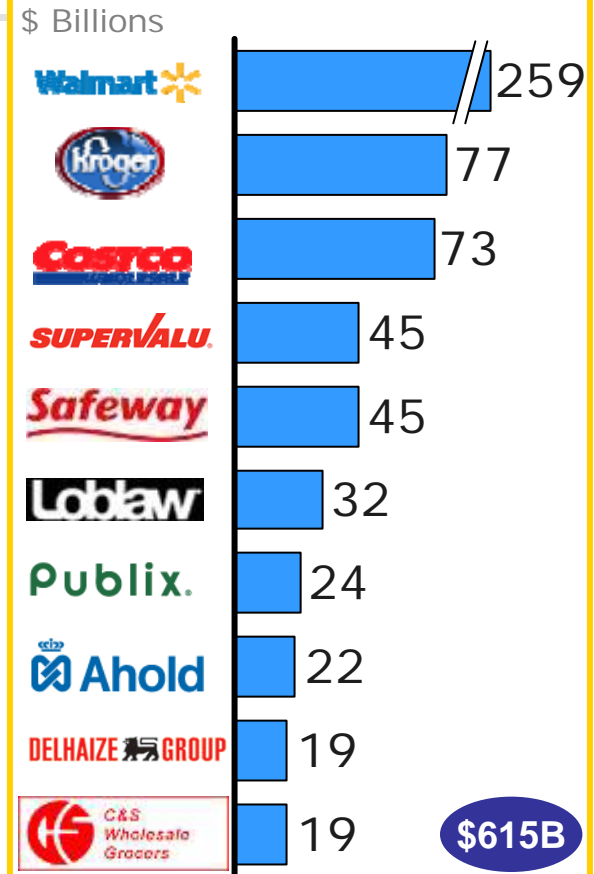
Co-ops

Top 10 US co-ops by total revenue, 2008
\$ Billions



Food Retail

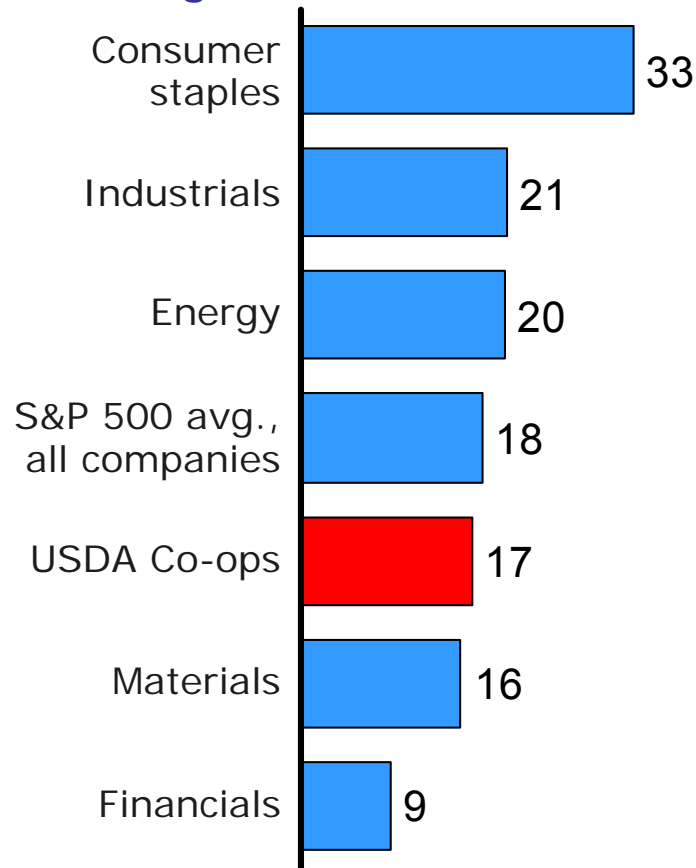
Top 10 by North American revenue, 2008
\$ Billions



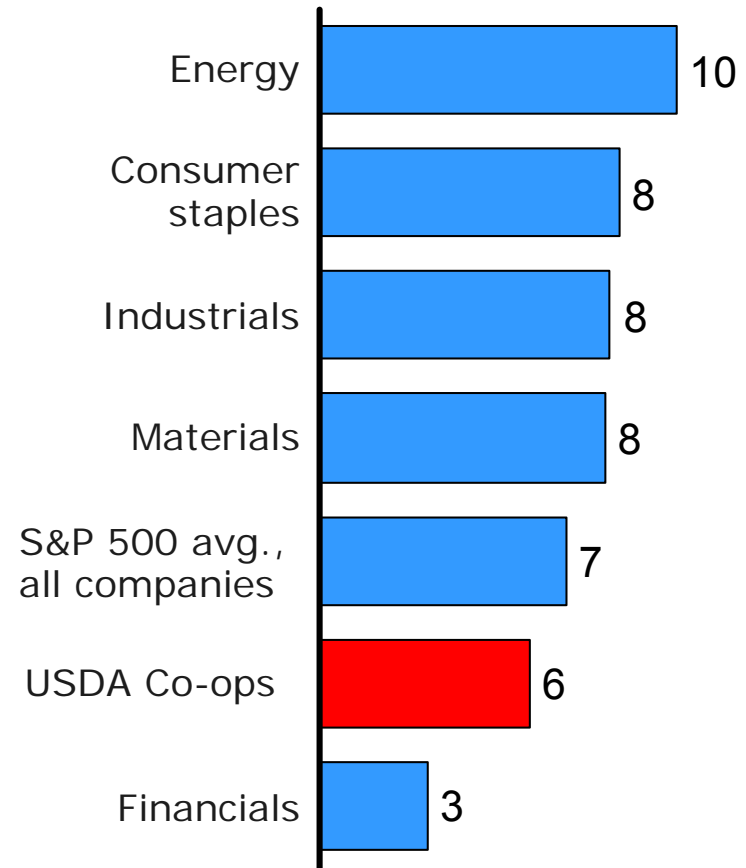
U.S. Ag Co-op Performance Is Comparable To Non Co-ops

Comparison: S&P companies v. co-ops

Average ROE 2005-2008



Average ROA 2005-2008



- ROA – After-tax net income / total assets -- tax shield from interest expense not included given lack of available data on effective tax rates
- ROE – After-tax net income / total equity
- Co-ops tracked by USDA with revenues of >\$500 million were used since these are most comparable to the S&P 500
- SOURCE: USDA; team analysis

Publicly Held Firms Not Immune To Failure

Bailed out



CHRYSLER



Gone through bankruptcy



CONSECO



No longer in operation

BEAR STEARNS



Of the companies on the 1980 Fortune 500 list, only 111 still appeared on the list in 2009

Co-ops Create Value For Consumers, Local Communities And Farmers

Trusted,
high-quality
consumer
brands



Local market
productivity

Co-ops generate incremental tax revenue and local economy stimulus

– Folsom (2003) in *Measuring the Economic Impact of Cooperatives in Minnesota*

Employment and income for middle America

Five Imperatives For Cooperative Success

1 Grow scale



2 Develop tailored value propositions



5 Continue to advocate for members



3 Adopt performance mindsets and processes



4 Use technology to drive productivity





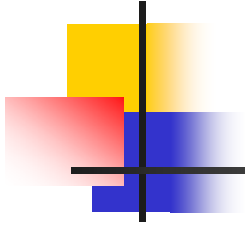
The Facts

- **Cooperatives have played a vital role in the U.S. agriculture productivity story**
 - Delivering value to the industry: the economy
 - Delivering value to members
- **Cooperative are not too big**
- **Cooperatives can match the performance of investor-owned firms**



In Conclusion . . .

- **Co-ops will need to continue to drive productivity to feed a hungry world**
 - +3 billion people and +70% increase in food demand by 2050
 - Only 5% more land is expected to be cultivated by 2050
 - Demand projected to outstrip water supply by 40% in 2030



**Cooperatives and U.S. agriculture
have an essential role to play in
feeding a hungry world.**

We must get this right.