Legislative Research Department July 30, 1975

M I N U T E S

SPECIAL COMMITTEE ON AGRICULTURE AND LIVESTOCK

Room 514 - State House

July 21 and 22, 1975

Committee Present

Senator Leslie A. Droge, Chairman
Representative John H. Vogel, Vice-Chairman
Senator Don Christy
Senator R. J. Williams
Senator Chuck Wilson
Representative R. E. Arbuthnot
Representative Clifford V. Campbell
Representative Rex Crowell
Representative Ambrose Dempsey
Representative Lee Hamm
Representative Jack Rodrock
Representative George Works

Staff Present

Donald L. Jacka, Jr., Legislative Research Department
Walter L. Smiley, Jr., Legislative Research Department
Alan Alderson, Revisor of Statutes Office

Conferees and Observers

Sister Mary Noel Walter, Kansas Catholic Conference
Edgar J. Haynie, Kansas Fertilizer and Chemical Institute
Roscoe Ellis, Jr., Kansas State University
Walter Shuman, Shuman's Consulting and High Plains Compost
Robert H. Guntert, Kansas Department of Agriculture
David Whitney, Kansas State University
Fletcher Smith, Compost Corporation
Perry Miller, Committee Farm Organizations, Topeka
Sister Janet Kennedy, Leavenworth, Kansas Catholic Conference
John M. Stitz, Rural Affairs, Archdiocese Kansas City, Kansas
Rosco Campbell, Hi Plains Compost
George Seacat, Hi Plains Compost
Virgil Huseman, Kansas Livestock Association
John K. Blythe, Kansas Farm Bureau
R. J. Seacat, Seacat Brothers Feed Yard
Bill Griffin, Chief of Consumer Protection, Attorney General's Office

July 21, 1975

Morning Session

The Chairman, Senator Droge, called the meeting to order, and asked the staff to proceed with an explanation of Proposal No. 63 - Soil Amendments. The Committee was reminded that H.B. 2560 was drafted in the last days before the deadline for introducing Committee bills. Consequently, there was not enough time to professionally draft it in a polished state. The House Committee had hearings on the bill and amended it extensively. It passed the House, and was sent to the Senate Committee on Agriculture and Livestock and that Committee felt that the bill needed more study.

The staff further explained that H.B. 2560 provides for the regulation of the distribution and sale of soil amendments or conditioners and that the Secretary of Agriculture would be charged with administration of the act. He then briefly reviewed the bill, section by section. It was revealed during discussion that the State Board of Agriculture had drafted the bill from a model act and had requested that it be introduced by the House Committee. The staff then read a letter from E. L. Vanmeter, County Extension Director for Douglas County, who had been invited but was unable to attend the meeting.

Dr. David Whitney, Associate Professor of Agronomy, KSU Extension, was then introduced to comment on the bill. He stated that the bill before the Committee has real merit. He explained that he is in charge of the state's soil testing service and that because of increases in prices during the last two or three years there has been an increase in questions concerning fertilizers. Dr. Whitney noted that his department knows very little about many of the products, so many of the Committee's specific questions cannot be answered. He continued that when KSU is consulted about a product on which no study has been performed, they simply suggested that farmers try the product on a small area. He added that if it were made uniform and mandatory as H.B. 2560 attempts to do the labeling would help to answer questions and would give some criteria for a judgment.

Dr. Whitney commented on the definition of "soil amendment" in Section 3 (a) of H.B. 2560, and the exclusion of "agricultural liming materials." His assumption was that this term includes ground limestone. He suggested that perhaps the wording should include slake lime or burned lime. In connection with unmanipulated animal and vegetable manures, Dr. Whitney noted that he assumed that this term meant manure in the barnyard or that manure which had not been treated. Dr. Whitney suggested that this definition would need to be clarified. Dr. Whitney further suggested that, on page 5, line 14 of H.B. 2560, the words "label or labeling" should be used.

Following Dr. Whitney's presentation, Dr. Roscoe Ellis, Professor of Agronomy, Kansas State University Extension Service, was called upon for his views on H.B. 2560. He noted that he supports the bill. He said that if the product can be purely labeled so the farmer can make a judgment on his own, this would accomplish the goal at which H.B. 2560 was directed. He added that if the products are labeled properly, concerning amount of certain ingredients, the farmer will be able to make a decision concerning what he is buying. In answer to an inquiry, Dr. Ellis stated that KSU cannot afford to test every product on the market.

Dr. Ellis was then asked if, in the area of research and testing of fertilizers, the fertilizer industry monetarily supported the testing. He answered that they do, and that under those circumstances the university can test the product. He noted that it did not make any difference who does the testing as long as it is accomplished independently. He commented further that unless the product is labeled it is impossible without testing to say whether a product is beneficial or not.

There was a question asked concerning how Kansas State University would test the soil amendment. Dr. Ellis answered that the law says the company has to state how the product is beneficial. The University then attempts to set up a test which would determine the reliability of such a statement of benefit.

The Chairman then asked Mr. Bob Guntert, Director, Control Division, Kansas State Board of Agriculture, to comment on H.B. 2560. Mr. Guntert stated that his Division has had many inquires concerning soil amendments during the past year. He noted that under the present fertilizer laws, soil amendments are not regulated, so it is impossible for the Board of Agriculture to control the movement of these products. He added that a number of states had passed legislation last year and that he feared that if no legislation is adopted Kansas may be a dumping ground for soil amendments. He indicated that on page 5, section 9, line 20, the word "any" should be stricken and the word "the" be inserted in its place.

Mr. Guntert was then asked if he felt it would be possible to include the regulation and control of soil amendments under the present Fertilizer and Chemical Act. He answered that this has been done in some states, but his personal preference would be for a soil amendment law, since some of the materials are excluded as fertilizers. To answer a further question, Mr. Guntert stated that, in the case where a soil amendment could meet the Board of Agriculture's regulation on micro-nutrients, it would have to be considered as a fertilizer. He noted that inspection and/or registration fees would come under one or the other category -- fertilizer or soil amendment -- not both. He noted that the Department of Agriculture feels there should be a definite distinction made between the two. Along the same lines as the previous questions, Mr. Guntert added that if part of the mixture is

restorative and part of it would change soil structure, it would be classified as a fertilizer because it meets the micro-nutrient requirement.

In discussion which followed, Mr. Guntert noted that the fertilizer inspection fee now charged is $10 per ton, and the soil amendment fee is projected to be $25. Mr. Guntert said there would be no objection to the same fee being charged for both, and he assumed the $25 figure was taken from the model act.

A question arose concerning the problem of difficulties in manipulated manure -- particularly a weed seed problem. Mr. Huseman of the Kansas Livestock Association, was asked to comment on this problem. He stated that he felt it would be a problem to define the difference between manipulated and non-manipulated manure. He noted that feedlot operators have just discovered that manure is an asset rather than a problem, and he questioned whether the legislature was going to pass a law which unnecessarily restricted the sale of animal manures from feed yards. He added that the product is now relatively cheap, and additional fees would add to its cost. In answer to a question from the Committee, Mr. Huseman stated that the weed seed in manure could be a problem, but that most manure generates enough heat to kill the weed seeds. He said a person cannot be sure that all seeds have been killed.

At this point, the Chairman asked if there were people present but not on the agenda, who would like to comment on Proposal No. 63. Mr. John Blythe, Kansas Farm Bureau, stated that his organization is in favor of passing some type of law that would provide for regulation and proper labeling of soil amendments. He expressed concern that agricultural liming materials and unmanipulated animal manures needing a defintion. He added that he feels the registration charge and tonnage fee should be comparable to fertilizer. He continued that the fertilizer statute states: "not to exceed 20¢ a ton" and that ten cents per ton is now being assessed by the Board of Agriculture.

Mr. Blythe continued by pointing out the wording on page 2, lines 6, 7 and 8, concerning advertising, etc., and noted that this might be an undue hardship because a person might change his advertising pitch. He observed that on page 3, line 25, the statement as to the purpose of the product might take care of that. Another suggestion made by Mr. Blythe was that a feed yard operator be charged tonnage fee only on the additives combined with manure, and not on the manure itself.

The agronomists from Kansas State University were then asked their opinion concerning the definition of liming materials. They suggested that the same definition as is used in the Kansas Chemical Fertilizer law would be good. There was then some discussion concerning the inclusion, in the law, of standards for liming materials. Mr. Guntert expressed the opinion that it should not be included in the proposed bill.

There was a lengthy discussion at this point about an Attorney General's opinion concerning liability of feed dealers for losses sustained by farmers if the seed does not produce exactly as suggested on the label. It was noted that a conferee from the Attorney General's Office was scheduled for the afternoon and that he could probably address the problem.

Mr. Edgar Haynie of the Kansas Fertilizer and Chemical Institute, then appeared in place of Mr. Bill Morand. He stated that the Institute instigated the bill, but not with the intention to keep people from helping the farmers. He urged that it be mandatory to label soil amendments. He noted that he knows one gentleman who bought sufficient soil amendments for three quarters of land and the results are not exciting. Mr. Haynie was asked if chemical companies provide grants to Kansas State University for testing their commodities, and he said many of them do so. It was suggested by a member of the Committee that this program could be followed by companies who sell soil amendments. Mr. Haynie further stated that some amendments are sold on a three year program, and that no results are to be expected for three years. By that time, some companies may not be in business to stand behind their claims.

Afternoon Session

Mr. Bill Griffin, Chief of Consumer Protection, Attorney General's Office, was the first conferee to appear after the meeting was reconvened. He noted that there are now laws on the books under the Consumer Protection Act that prohibits misbranding and mislabeling. The Attorney General's Office could remedy the misbranding or fraudulent claims in court without specific legislation. But he added that his office would need help from the Board of Agriculture to enforce the consumer protection measures in this area. At the present time that office goes to the county agent or to the State Board of Agriculture to find out what is "mislabeled".

Mr. Griffin observed that under the U.C.C. there is a provision that permits someone to disclaim liability for fitness for purpose and merchantability. This means that goods meet a standard common to the industry. (Seeds are a good example -- they usually grow.) Under 5639, which became effective January 1, 1974, you can no longer limit your liability nor disclaim liability. In every other state this disclaimer can be put on the bag, but it has no effect in court. There is a federal seed act which speaks partially to this issue.

Under present law, according to Mr. Griffin, there may be a certificate on the bag that shows it has been properly tested for germination, but if it does not germinate the company

is still liable. There was further discussion concerning the Consumer Protection Act as it relates to seed sold to farmers. The Federal Government has said the Kansas law is probably ahead of others, and that legislation was to be established in other states. The seed companies are upset because they think they are being singled out. All the Kansas law is doing is trying to get them to sell a product at a fair price. There was further discussion concerning the Consumer Protection Act. Mr. Griffin explained that under 5625 and 5626, the deceptive trade practices are listed. Mr. Alderson asked him if, under that act, it is deemed to be misbranding if there is no branding. He added that the bags containing soil amendments are sold with no labeling whatever, and the act under discussion would require them to label the contents. Mr. Griffin surmised that it would be easier to have the labeling requirements set forth by a specific law.

A member of the Committee asked Mr. Griffin a hypothetical question concerning sale of soil amendments -- if a dealer sells soil amendments and claims that fertilizer can be reduced by their use; the buyer uses it and fertilizes only part of his land; and there is less yield where fertilizer has not been applied, in spite of the soil amendments -- is the dealer liable? Mr. Griffin said that the company selling it would be liable and the dealer may be liable, also. Mr. Alderson observed that if judgment went against the dealer, he would have the right to judgment against the manufacturer.

In answer to further questioning, Mr. Griffin said his office has had no inquiries concerning soil amendments. He noted that the biggest farm problem is the sale of goods door-to-door to farmers -- especially metal buildings.

There was a discussion concerning penalties in H.B. 2580. Mr. Griffin said that the class C misdemeanor provision would be hard to enforce, and said that, in his opinion, a stronger penalty should be provided. He also suggested that there might be a provision to get "reasonable attorney's fees if the court should so decide." Mr. Griffin explained that a misdemeanor is of no value out-of-state. In answer to further questioning, he indicated that there should be a different penalty for the manufacturer outside the state than for the dealer living within the state.

There was discussion concerning the fairness of imposing the same penalty for mislabeling (or no labeling) against the farmer who sold a soil amendment to his neighbor as against the company from outside the state. Mr. Alderson noted that in the act under consideration the crime is not in the labeling but is established in section 8 as being the distribution of a mislabeled soil amendment. It is not aimed at the out-of-state manufacturer, but at the distributor. A member of the Committee asked Mr. Griffin if the sale of 100 bags of a non-labeled soil amendment is one or 100 violations. The Chairman said he felt each sale

should be one violation -- or each sale to each individual. Mr. Griffin said he would be glad to work with the Committee on the proposal before them.

Mr. Joe Hunter, distributor for Medina Agricultural Products Company, was scheduled to appear before the Committee, but was not heard from at this time. The Committee did receive a letter of testimony from Mr. Hunter. That letter is appended as Attachment I.

Mr. Fletcher Simms, from the Compost Corporation was the next conferee to testify before the Committee. He is a biologist and ecologist with 35 years experience. He explained that he is now in business in Texas, and that he has become concerned with what is happening to the organic content of the soil. He stated that he had seen little hope for the semi-arid area of the middle west, because the organic material content had been decreasing. This is the material, along with the clay, that gives the soil structure the ability to take and hold water. In his remarks he said that all the dams which have been built are not helping the floods because of the diminishing quality of the soil.

Mr. Simms continued by stating that there has been an increasing problem in the feed lot industry concerning the odor and amount of manure. Some people had suggested bulldozing it into deep pits, but his idea is that it needs to be returned to the soil where it can do some good. He said he has visited countries all over the world and that they are using compost to enhance the soil -- it is an age-old process used throughout Europe. He noted that an advantage of the composting process he uses is that he can now use one-tenth as much tonnage on an acre of land to get similar results that plain manure gets; and that this fact facilitates the shipping of the compost.

Mr. Simms referred to the problem of weed seed in the compost. He said it would be very difficult to guarantee that there is no weed seed in the finished product, even though every precaution is taken to get rid of it. He said that if too many regulations are imposed on the sale of the product it will be prohibitive in cost. On the east coast the product is selling for $100 a ton, and his company is selling it for $20 a ton. Mr. Simms was asked about the process used in composting. He said certain soil organisms are introduced that are designed to do certain things. There is a nitrogen fix so that it can enhance the nitrogen content of a nitrogen low material such as municipal sewage. Mr. Simms noted that his company has a controlled process of aging very similar to what has been done in piling up manure. It is not a lot different, but better controlled. The process is patented and it is a trade secret. He added that it would be difficult to label his product, because all of the substances in the manure will vary so much that it will make it virtually impossible to comply. He said he was not sure there

would be anyone at Kansas State University who could say what is in the product. He further stated that he did not think he could say what the minimum specifications are for his compost without compromising his trade secrets.

In further discussion, members of the Committee said they would like to know what is in any compost they might buy, and receive a certain guarantee that it will do the soil some good. They also asked Mr. Simms if he thought it fair to make certain requirements of the chemical and fertilizer people on the commodities they sell. Mr. Simms said they have only two or three things that they sell, and you do not need those things when you have a balanced soil. He noted that fertilizers could be exactly the same chemical analysis. He stressed that soil is a living organism. He said you need certain organic material to maintain the health of soil over a period of time.

Mr. Simms stated that the best test of his product is the application of the compost, and that most people are cautious enough that they will not apply it to a large area until they have tested it on a small area. He was asked if a scientist could buy some of his product and test it to find out the contents. He said it had been tried, but that nobody had been successful. He said he would also object to the paper work involved, as well as the fact that he would reveal trade secrets. He further revealed that the treatment of soil with compost is a recommended three year program, and that there is no guarantee that it will work.

When asked how his compost product is distributed, Mr. Seacat spoke for Mr. Simms, stating that it is sold to the feedlot operator. Most of these people put it on their own land first, because they would not recommend it until they have tested it. The feedlots have to spend $15 or $16 a ton when they use it on their own land. When asked if the people who buy compost from feedlots could, in turn, sell it to someone else, Mr. Seacat said that they could, but that it would not be practical.

Mr. Simms was asked why it would be a problem for him to make a determination of the percentage of phosphorous, nitrogen and potassium in his product, as is required of fertilizer, and put that on the label. He said that his company could comply with the fertilizer law, but not with the proposed bill. One member of the Committee concluded that essentially the feedlots are selling a manipulated manure, and Mr. Simms is selling the lots a process of treating the manure with a material that enhances its value.

Mr. Seacat and Mr. Shuman continued the discussion of composts. Mr. Seacat stated that there were a lot of problems caused in southwest Kansas this year by the people who instigated the bill before the Committee, and that this company has brought a gentleman into the community to provide the farmers a service to correct the problem. Mr. Shuman discussed technical problems concerning soil and soil amendments. During his discussion he

said the labeling of compost is not of very much value, because the thing that is done by adding bacteria to the manure is to speed action. When asked if he could vouch for results of the composting, Mr. Shuman said he finds good results and bad results. He said that composting comes under an entirely different set of rules than fertilizers and chemicals because basic producers are selling them. He said that he had offered some of the composts to universities for research and they would not guarantee anything.

The compost representatives were asked if they saw justice in labeling their product so that the buyer could be sure he was getting the same thing that his neighbor bought. Mr. Seacat said that "compost is compost" and you can label it feedlot manure and there is no injustice. He said there is no way to chemically analyze it.

Mr. Simms was asked if he had to have a machine before he could make compost. He said that it is not necessary, because the performance of the compost is dependent on biological processes. Composted land maintains its fertility about three years, according to Mr. Simms.

Mr. Huseman -- representing the Kansas Livestock Association -- stressed that the cattle people in Kansas sell the compost -- and that Mr. Simms' company provides the method of making it. He added that if the cattlemen cannot get some profits from their by-products they are going to be in more trouble than they are now. When asked why the compost product could not be labeled if it were a good product, Mr. Huseman said it could be labeled if all the people had exactly the same type of cattle. He noted that the material which is added to the compost cannot be described because it is a trade secret. He said it is a biocatylist, and some of it is enzymes.

Mr. Griffin, of the Attorney General's Office, asked Mr. Simms what he would do if he went to a gas station where there were three unlabeled pumps, thus indicating that he needs to have a product labeled to know what he should buy.

The Chairman revealed that he had calls from people who are handling soil amendments asking for laws to protect themselves. He told Mr. Huseman, Mr. Seacat and Mr. Simms that he mentioned this to let them know that some people who are selling these products want the law.

Mr. Simms was asked if it made a difference what condition the ground was in when compost was applied. He said he likes to apply it when the soil is being worked and there is some moisture. He added that the consumer is given instructions concerning this.

Mr. Simms stated that he knew of no other states where he operated, except Oklahoma, that had passed a law similar to

the bill being considered by this Committee. He said that he understood it was unconstitutional. He was then advised that Nebraska has a bill pending.

The Chairman expressed appreciation to all conferees for their contribution, and adjourned the meeting until 9:30 a.m., July 22, 1975.

July 22, 1975

Morning Session

Conferees and Observers

Bud Grant, Kansas Association of Commerce and Industry
Pat Boyer, Assistant Secretary, State Board of Agriculture
John Blythe, Kansas Farm Bureau
Perry Miller, Committee of Farm Organizations
Sister Mary Noel Walter, Kansas Catholic Conference
Scott Dillet, individual speaking for livestock people
Francis Gordon, Representative from Doniphan County
Steve Carter, Republican Party

Chairman Droge called the meeting to order and asked the staff to present the changes recommended by EPA for H.B. 2001 under Proposal No. 4. The staff then proceeded in a narrative of the comments of EPA. Appended as Attachment II are the comments made by the staff. During this discussion the Committee recommended a number of changes in H.B. 2001. These changes are appended as Attachment III.

A discussion then ensued as to the proper method of action which the Committee should proceed. The Chairman suggested and the Committee agreed that the interim Committee should submit its recommended changes to the Senate Committee on Agriculture and Livestock -- where the present bill is lodged -- and that Committee should amend H.B. 2001.

Appearing at a juncture in the discussion of H.B. 2001, Mr. Scott Dillet, discussed a topic unrelated to H.B. 2001. Mr. Dillet had requested Senator Simpson to request that he appear before this Committee to discuss a statewide mandatory brand inspection. Mr. Dillet was a livestock theft investigator for the Brand Commission for many years. He distributed the results of a survey sent to the 9,343 ranchers whose brands were renewed in 1974. This is appended as Attachment No. IV. He noted that a majority of the people who returned the questionnaire were in favor of compulsory brand inspection in Kansas. A member of the Committee commented that brand inspection is available in Kansas if the county in question approves a countywide inspection.

Mr. Dillet stated that the ranchers in the western part of the state want total inspection. He noted that market inspection costs fifteen cents a head and that it is self-supporting in the 18 markets which presently maintain these services. He noted that inspectors can take care of four markets on different days in a given area. This suggestion by Mr. Dillet includes only cattle sold at our markets. It does not include cattle moving through the state. A Committee member observed that, before there could be total brand inspection in the state there would have to be a mandatory branding law. Mr. Dillet answered that many states have brand inspection, but only New Mexico has a branding law. Another Committee member commented that there would be a lot of work for nothing if a lot of the cattle were not branded in the first place. Mr. Dillet suggested that the inspection cost would be the same for all cattle and that it might encourage branding.

In answer to a question, Mr. Dillet said that in counties where there is county-wide brand inspection, the feedlot owner gives the inspector notice before he loads his cattle. There was a suggestion that it would be a good idea to have a reciprocal agreement with other states to have brands move freely to other states. Mr. Dillet answered that this is already in effect with the State of Nebraska.

Complications of transferring brands on the bill of sale were then discussed, particularly in the case of a man who buys cattle of different brands and who does not have a brand of his own. Mr. Dillet was asked concerning the present law -- why people do not use it. He replied that it is not easy for people to do something voluntarily -- they need a mandatory provision in the law. He added that he is sure most people are in favor of compulsory brand inspection.

It was revealed that it takes very little time to find what brands are available when someone makes application for a brand. It was the general consensus of opinion that the people need to be educated further in order to be prepared for a branding law. Mr. Dillet said that there has been quite a lot of education on the subject in the past, and one-third of the owners now have brands. Mr. Dillet said about 20 states have compulsory brand inspection. Nebraska has total brand inspection in the range area; Colorado has it; Oklahoma and Missouri do not. He added that it would not present a problem in neighboring states if we had brand inspection.

Mr. Dillet completed his presentation, and the Chairman explained to him that the subject of brand inspection had not been given to the Committee for study, that there would not be time for such a study during this interim, but that they wanted to honor the interests of livestock people and hear Mr. Dillet's opinions on the subject.

Following Mr. Dillet's presentation the Committee resumed its discussion of H.B. 2001 and then recessed for lunch.

Afternoon Session

Upon reconvening at 1:30 p.m. a motion was made and seconded to approve the minutes of the previous meeting. The motion passed. The Committee then continued its discussion of H.B 2001.

Following the discussion of H.B. 2001 the Chairman asked the staff to discuss Proposal No. 2 - Alien Ownership of Property Interests. The staff then read from a statement which had been prepared concerning S.B. 500. It is appended as Attachment V. During the reading of the paper, a history of case law on the subject was also presented. The staff directed the Committee's attention to the booklet entitled "State and Federal Legal Regulation of Alien and Corporate Land Ownership and Farm Operation". The staff had concluded that people are totally opposed to each other on the subject. One person says regulation of aliens is proper and another says it cannot be done.

The staff stated that aliens have found many ways to get around state statutes that prevent alien ownership. They can set up trusts, partnerships, corporations, etc., and disguise the real ownership. There have been federal cases which would conclude that stock owned in a corporation invested in Kansas land would not be technically regarded as owning the land itself. A member of the staff noted that he felt that if we are going to prevent alien ownership of land we are going to have to look into our corporate law. He suggested the combination of studies on corporate farming -- Proposal No. 1 -- and alien ownership -- Proposal No. 2.

In connection with the staffs continued presentation there was discussion of resale of land by an innocent purchaser, residents who are citizens of another country, inheritance rights, and the need for strong laws if there are any at all in connection with alien ownership of property.

A member of the staff then pointed out some questionable language in S.B. 500. He first noted the stricken language in Section 1(a), and said this alone would make the bill wide open to loopholes. He also pointed out the stricken language in Section 2(a). In Section 2(b)(2) on page three he noted the words "business purpose" in line three, saying this might apply to agricultural uses. He said the bill needs to be clearer as to whether these are included. He then noted that it would be difficult to enforce subsection (3) on page three of the bill.

Certain questions arose concerning S.B. 500. If it is geared toward ownership of farm land, why not speak of agricultural land? Is the bill trying to prohibit corporate farming by aliens or just investment? Do we want aliens to own land? Do we want to restrict aliens from buying property in the State of Kansas?

There was discussion concerning the desire of Japanese and Arab interest buying farm land and elevators in which to store grain.

The staff reminded the Committee that they need to decide whether they are simply prohibiting ownership of farm land, or how far they want to go on the subject. The Chairman noted that S.B. 500 deals with all property and property interests in the State of Kansas.

In further discussion, it was revealed that there are seven states that regulate alien corporations and ten states that regulate ownership by all corporations. A staff member suggested that Kansas needs to take care of loopholes in the corporate farming laws, and perhaps the alien loopholes could be taken care of at the same time. He explained that there is some concern about aliens buying large blocks of land to set up corporations to produce food to ship back to their own countries. He added that maybe S.B. 500 recognizes the fact that we are not trying to prohibit aliens from coming in here to live and make money.

One Committee member commented that he did not think we want to restrict foreign interests from becoming involved in industry, such as the automobile industry, but we do want to restrict them from buying up farm land. There was a question of control of the grain industry by aliens.

The staff reminded the Committee that they need to decide whether they want to limit only agricultural land or all property interests. If they study anything other than corporate farming, they are getting into an area where there is nothing to prohibit an alien to come in to buy land as a sole proprieter. There would have to be companion legislation. The way the corporate farming bill is written, it says "land used for agricultural purposes."

The Chairman asked the staff to send a copy of the recommendations made by the Committee on H.B. 2001 and a balloon of H.B. 2001 to each member, and also to the members of the Senate Committee on Agriculture and Livestock. The staff suggested that after this was done, the Committee members could bring up items with which they disagreed at the next meeting.

The staff reminded the Committee that their next meeting was on August 18 and 19 at 10:00 a.m. and 9:00 a.m. respectively.

He said that, by that time, he will have compiled the data that has been researched from the Secretary of State's Office on the extent of corporate farming in Kansas.

There was then a discussion concerning soil amendments. Senator Wilson moved and Representative Rodrock seconded his motion to continue to consider manipulated manure in the bill on soil amendments. The motion carried, 7 yes, 5 no.

It was suggested that the next meeting dates include one day to study corporate farming. Other suggestions for the next meeting included hearing from some of the users of soil amendments, and to some dealers who want the soil amendments to be labeled. One-half day could be alloted to hearing these people. The Chairman asked that the last half day of the meeting would be on alien ownership, because basically, the two cannot be separated.

The meeting was then adjourned by the Chairman.

Prepared by Donald L. Jacka, Jr.

Approved by Committee on:

8/19/75
(Date)

ATTACHMENT I

MEDINA
AGRICULTURE
PRODUCTS CO. INC.
P.O. BOX 309
HONDO
TEXAS
78861
(512) 426-3011

July 17, 1975

Mr. Walt Smiley
Legislative Research Dept.
Topeka, Kansas 66603

Dear Mr. Smiley:

It is not possible for us be in attendance at your hearing on the Soil Ammendment Law, but I would like to express an oppinion concerning this.

While we are presently registered under the Kansas Fertilizer Law, it may be we will be required to register under the Soil Ammendment Law when it is passed, therefore I am very interested in seeing that the Soil Ammendment people get a fair law. There are three items that concern me:

1) Why should these products be taxed at a higher rate than fertilizer?

2) Why should every ingredient in these products be required to be listed on the label, when only those that are guaranteed are required of fertilizer companies? The same should be the requirement here. If a product contains some ingredient such as seaweed that has been determined by research to be helpful to the soil, yet the manufacturer does not want his formulation totally revealed, then this should not be required for labeling. Only those items which he guarantees should be required on the label.

3) It seems very unconstitutional that a person advertising a product other than fertilizer should be required to submit his advertising prior to labeling approval and that this advertising then becomes a part of the label. According to attorneys I have visited with this is not constitutional and I am sure it will be tested in court should it become part of the law.

Thank you for your consideration.

Best regards,

Jack Megason

Jack Megason,
Vice President Sales

JM:ef

Notes of EPA Comments to Kansas House Bill No. 2001

1. Section 1 Subsection (d)--EPA advises that this language fails to take account of the fact that there are two kinds of restricted use pesticides under FIFRA: Those restricted to use by certified applicators and those subjected to "other regulatory restrictions" imposed by the administrator on a case by case basis. With the definition in 2001, Kansas runs the risk of imposing a requirement for certification with respect to some pesticides which are classified for restricted use, but not restricted to use only by certified applicators. EPA suggests that it be changed to provide as follows "(d) certified applicator means any individual who is certified under this act to use or supervise the use of any restricted use pesticide restricted to use by a certified applicator." Basically what EPA is saying is that our definition would require certification to use pesticides for which the EPA does not require certification. EPA also suggests a similar change in the definition of certified private applicator.

2. Section 1 Subsection (i)--The Definition of General Use Pesticide. EPA first points out that the reference to "board" is confusing since it is not clear whether this means the board of agriculture or the advisory board created in Section 21. This is an erroneous statement by EPA since "board" is clearly defined in subsection (c) as meaning the board of agriculture. Also concerning this definition, EPA is concerned that there is an apparent dilution of authority of the secretary which results from requiring important reg-

ulatory initiatives to issue from the board rather than from the secretary himself. At the last committee meeting, suggestions were made to change all reference to the board or to the secretary where either of them appear by themselves so that they would be "secretary or the board" in each place. This is strictly a problem of inconsistency in the bill as it now stands. Later in their memo, the EPA suggests that the reference to "board" be done away with and leave the authority strictly with the secretary.

Subsection (q) of Section 1 is an area that needs to be changed one way or the other. As noted above the EPA would suggest the deletion of the words "or the board" and in the definition of general use pesticide so the authority would rest solely with the secretary.

3. Section 1 Subsection (p)--The Definition of Plant Regulator. EPA advises that the definition in our act must be modified to harmonize with the FIFRA definition. The suggestion is that on page 4 in line 3 after the word "destruction" a proviso ties that sentence to the one immediately following.

4. Section 1 Subsection (q)--Definition of Restricted Use Pesticide. EPA suggests again that the reference to "board" should be changed to "secretary".

5. Section 1 Subsection (s)--Definition of Under the Supervision of. EPA advises that the Kansas definition lacks an important qualification required by FIFRA that the definition given in this subsection shall apply unless otherwise

provided by the labeling of the pesticide product concerned. It is not obvious from the EPA comments why this change is necessary.

6. EPA advises that the definition of "land" from the AAPCO model bill should be included in section 1 to insure that the right of entry provision in section 25 has adequate scope. This definition is enumerated on page 6 of the EPA memo.

7. Section 2--General Powers of the Secretary. EPA points out that the section as it stands now only authorizes the secretary to make any additional changes in the classification of restricted use pesticides, but the act leaves open the question of who is to make the initial classification decisions. HB 2001 is also silent concerning the types of restrictions which can be applied and the standards which are to be applied in deciding whether to classify pesticide for restricted use. EPA also notes that some provision must be made, either in the act or the state plan, for incorporation of EPA restrictions into the Kansas regulatory scheme. Pursuant to section 24(a) of the federal act, Kansas may not permit any use prohibited pursuant to FIFRA. Accordingly, Kansas has no discretion in any event to reverse the administrators classification actions. Without some provision for incorporating EPA restricted pesticides into the Kansas Act, Kansas can not satisfy federal regulations which require that the state prohibit the use by uncertified unsupervised persons of pesticides restricted by the administrator.

Fourthly, EPA notes that section 2 as drafted now does not contain a broad grant of power to the secretary to promulgate regulations necessary to implement the act. A suggested change for section 2 is found in EPA Comments on pages 7, 8 and 9. I am in total agreement with the EPA suggestion that there needs to be some initial grant of authority to make initial classifications of pesticides in section 2.

7. EPA is still concerned with the fact that our private professionals are required to be licensed only if they are using restricted use pesticides on the land of another. Suggested language changes are found on page 10 of the EPA memo. In subsection (e) of section 3, EPA suggests some language change for the government agency registration. As the Kansas act now stands, government agency registration is hinged to whether or not the government agency, if it were a private person, would be required to be licensed. It may be more valid to hinge government agency registration to certification than to licensing. EPA also points out that Kansas is going to have some difficulty exacting fees from federal agencies.

9. Section 4--Commercial Applicator Certification. The Kansas act imposes no examination requirement on individual employees of a licensed business who use or supervise the use of general use pesticides. EPA suggests that such requirement is quite common in state programs and suggests appropriate language if Kansas wishes to adopt this idea. EPA objects to subsection (b) of section 4 which allows the

secretary to waive the requirements for certification within a category during an emergency for aerial applicators. EPA claims this provision is inconsistent with FIFRA requirements. They suggest that we insert language instead which would authorize someone certified within the category in which pesticide is being applied to meaningfully supervise the aerial applicator. To accomplish this, they suggest in line 14 on page 8 after the word "certified" that we insert the language ", under the supervision of an applicator certified in the category in question". In subsection 4(c) the language "as drugs or medication" must be inserted after the language "or physicians using pesticides" in line 16. Apparently this is necessary to satisfy federal requirements. EPA also suggests that it is unclear whether or not subsection (d) satisfies the requirement that certification be required for all except "laboratory-type" research. EPA suggests that in line 20 following the words "engaged in" that we insert the words "laboratory-type". In subsection (e), EPA suggests a language change which would reflect the fact that the government programs are not certification programs but rather a system to qualify certain federal agency employees for certification. In line with previous comments, EPA also suggests that the words "restricted to use by certified applicators" be inserted after the language "restricted use pesticide" in line 4 of page 8.

10. Section 5--Temporary Permits. The EPA makes only the note that under the temporary permit system, to satisfy FIFRA requirements, commercial applicators must equal or

exceed the federal standards for the category or categories concerned. I don't believe they are suggesting any change needs to be made in the bill.

11. Section 8--Private Applicators Certification. EPA suggests that "restricted to use by certified applicators" should be inserted after the word "pesticides" in line 6 of page 12. Again the reason is that under the federal regulation system, there will be two kinds of restricted use pesticides: Those restricted to use by certified applicators and those subjected to other regulatory restrictions imposed on a case by case basis. Also on section 8, EPA notes that Kansas does not allow a certified private applicator to supervise the application of restricted use pesticides which are restricted to use by certified applicators, by uncertified individuals. Basically what this means is that if we want to have uncertified individuals be able to apply restricted use pesticides under the supervision of certified private applicators, we need to insert appropriate language. On page 12 in line 11 EPA suggests that for clarity the language "agricultural commodities" be inserted after the word "producers". It is also pointed out that there is no machinery to authorize emergency or temporary permits for private applicators. EPA feels that there is more reason for a temporary or emergency permit procedure for private applicators than there is for commercial applicators.

12. Section 9--Renewals. EPA points out that this section easily satisfies federal requirements, but suggests that

the word "program" be substituted for the word "course" in line 14 of page 13. They feel this change would make it clearer that the secretary has authority to require more than attendance at a single training session over a three-year period as a condition for renewal of certification without an examination.

13. Section 12--Suspension, Revocation, etc. EPA suggests that a citation to the Kansas "Agricultural Chemical Act" should be added under subsection (a). Also in subsection (a) of section 12, EPA says that in order to satisfy federal requirements we should insert language in line 13 after the citation to the Kansas Pesticide Use Law that would also subject an individual's license, registration, permit or certificate to suspension or revocation, for a violation of section 14 of the Federal Insecticide, Fungicide and Rodenticide Act. In subsection (b) they also suggest that the board be able to suspend or revoke a license for violations of statutes as well as regulations. I'm not sure that this is necessary. Under subsection (b) it is pointed out that action is authorized if an individual is determined to have violated any rule or regulation adopted under the various statutes but not if the board determines that an individual has violated a prohibition contained in the statutes themselves. EPA refers to this as a defect and would suggest a modification of subsection (b) to provide that the board may also determine that an individual is in violation of any statutory provisions as well as rules

and regulations. I don't consider our failure to give the board the power to determine violations of statutory provisions to be a defect in our act. I feel it is more desireable to require a conviction upon any statutory violation rather than to give an administrative board the power to find violations upon which there should be a conviction. To give the board the power to revoke or suspend a license where they feel that there has been a violation but where no court has determined an individual to be in violation seems to fly in the face of due process.

14. Section 16--Unlawful Acts. EPA says the word "apply" in line 14 should be changed to "use". Apparently this is only a suggestion because there is no statutory cite in their memorandum.

15. Section 17--Unlawful Acts of Licensees, Certificate Holders, etc. In section 17 (b) EPA says the word "application" in line 26 must be changed to the word "use" to satisfy federal requirements. They also advise that the language "the directions for use shall not" in line 27 must be deleted. The reason given here is that the label of a pesticide product will contain prohibitions in sections of the label other than in that section addressed to directions for use. In order to satisfy federal law the state must prohibit the use of a pesticide inconsistent with the label generally and not solely the "directions for use" portion thereof. EPA also notes that unless the language in question is deleted, subsection (b) of section 17 will be inconsistent

with subsection (a) of section 16, which provides that it shall be unlawful for any person to apply pesticides in a manner which is inconsistent with such pesticide's label.

16. Section 18--Record Keeping of Business Licensees. EPA advises that federal law requires the state to impose a record-keeping requirement on all FIFRA commercial applicators. They accordingly suggest an additional subsection (e) be added to section 18, the text of which is set out on page 18 of the EPA memorandum. The gist of this subsection would be that the secretary shall require certified commercial applicators who are not employed by or otherwise acting for a business licensees to maintain records concerning applications of restricted use pesticides.

17. Section 21--Advisory Board. EPA notes that the act is very confusing concerning whether the frequent references to "board" refers to the "pesticide advisory board" established under this section or the Kansas Board of Agriculture. Again EPA is confused on this point because the word "board" is clearly defined in the act to mean the Kansas State Board of Agriculture.

18. Section 25--Right of Entry. EPA suggests adding the words "or sample" after the words "to inspect" in line 24 on page 25. In addition they also suggest adding an additional subsection (6) following line 28 on page 25 which would read "(6) to observe the use and application of a pesticide."

House Bill No. 2001--Changes Recommended by Special Committee on Agriculture and Livestock

1. On page 1, in line 11, following the word "any" by inserting "restricted use"; in line 12, preceding the period by inserting "to use by a certified applicator";

2. On page 4, in line 3, by striking the period and inserting in lieu thereof ": Provided, That";

3. On page 4, in line 8, preceding the word "board" by inserting "secretary of the";

4. On page 4, in line 11, following the word "means" by inserting ", unless otherwise provided by the labeling of a pesticide product,";

5. On page 4, in line 25, following the stricken material by inserting the following: "The secretary is authorized to promulgate rules and regulations designating certain pesticides as "restricted use pesticides," according to their uses.";

6. On page 4, in line 26, following the word "secretary" by inserting "for the board";

7. On page 6, in line 25, by striking all after "(e)"; by striking all of lines 26 through 29, inclusive, in line 30 by striking all before the period and inserting in lieu thereof "Subject to the provisions of subsection (d), from and after October 21, 1976, it shall be unlawful for any governmental agency which has not been issued a government agency registration to apply restricted use pesticides within this state";

8. On page 8, in line 4, following the word "pesticide" by inserting the following "restricted to use by a certified applicator";

9. On page 8, in line 14, following the word "certified" by inserting ", under the supervision of an applicator certified in the category in which the pesticide is being applied,";

10. On page 9, in line 10, by striking all after "obtain"; in line 12, by striking all after "certification"; in line 13, by striking all before "until"; in line 20, following the word "in" by inserting the word "either"; also in line 20, after the figure "4" by inserting "or section 8, as applicable";

11. On page 12, in line 6, following the word "pesticides" by inserting "which have been restricted to use by a certified applicator";

12. On page 12, in line 12, following the period by inserting the following: "No certification shall be required hereunder for individuals operating under the supervision of a certified private applicator.";

13. On page 12, in line 14, by striking "two dollars ($2)" and inserting "five dollars ($5)";

--. On page 12, in line 16, by striking "us" and inserting "use";

14. On page 18, in line 14, by striking "Apply" and inserting "Use"; in line 26, by striking "application" and inserting "use";

15. On page 18, in line 27, by striking "the directions for use shown on";

16. On page 20, in line 4, by striking "formulation" and inserting "kind and quantity of any carrying agent";

17. On page 21, in line 7, by striking all after "customer"; in line 8, by striking all before the colon and inserting in lieu thereof "at a time established by rules and regulations promulgated by the secretary or board";

18. On page 21, following line 30, by inserting a new subsection (e) to read as follows:

"(e) The secretary shall require certified commercial applicators who are not employed by or otherwise acting for a business licensee to maintain records concerning applications of restricted use pesticides. The secretary shall specify by rules and regulations the information to be contained in such records, which shall be maintained for three (3) years from the date of application of the pesticide concerned. Such records shall be open to inspection by the secretary or his authorized representative during normal business hours, and copies shall be furnished to his secretary or his authorized representative upon request."

19. On page 25, in line 24, following the word "inspect" by inserting "or sample"; in line 28, by striking all after the semicolon;

20. On page 25, in line 29, by striking the period and inserting "; or"; following line 29, by inserting a new paragraph to read as follows:

"(6) To observe the use and application of a pesticide."

9,343 brand owners on March 1, 1974. Enclosed with each renewal notice was the following form:

rder to better serve the owners of Kansas registered brands, the brand department would appreciate your completion of the following opinion survey form by putting an X in the box indicating your preference, and return with your brand registry renewal.

- ☐ 1. I am in favor of statewide brand inspection of all cattle moving in commerce. (All cattle sold.)
- ☐ 2. I am in favor of brand inspection to be performed only at all Kansas markets.
- ☐ 3. I am opposed to any form of brand inspection.
- ☐ 4. I have no preference.

A tabulation of the survey form by county follows:

Preference	1	2	3	4
Counties				
Allen	6	5	-	5
Anderson	12	7	-	2
Atchison	8	1	-	2
Barber	99	43	8	20
Barton	15	6	-	-
Bourbon	14	3	-	-
Brown	20	7	-	6
Butler	87	47	7	15
Chase	45	22	5	12
Chautauqua	47	11	3	4
Cherokee	8	1	-	-
Cheyenne	96	18	-	5
Clark	83	37	4	15
Clay	11	8	-	3
Cloud	14	7	-	5
Coffey	26	6	-	4
Comanche	91	45	4	10
Cowley	51	22	-	8
Crawford	6	1	-	-
Decatur	42	10	-	3
Dickinson	30	19	2	12
Doniphan	8	2	-	2
Douglas	1	1	-	2
Edwards	49	21	2	6
Elk	42	16	1	3
Ellis	32	7	2	4
Ellsworth	28	11	2	12
Finney	54	29	7	6
Ford	123	46	10	24
Franklin	10	4	-	-
[illegible]	7	3	-	-

Preference	1	2	3	4
Counties				
Montgomery	19	3	-	3
Morris	34	17	1	7
Morton	39	10	2	3
Nemaha	14	6	3	8
Neosho	10	3	-	3
Ness	93	42	5	13
Norton	25	25	1	4
Osage	23	8	-	3
Osborne	33	17	3	10
Ottawa	20	8	1	9
Pawnee	34	15	4	5
Phillips	38	12	-	3
Pottawatomie	42	11	1	7
Pratt	27	17	1	8
Rawlins	46	12	-	4
Reno	20	14	-	5
Republic	9	1	-	3
Rice	29	11	2	13
Riley	18	9	-	4
Rooks	31	18	-	2
Rush	40	13	-	4
Russell	33	14	-	14
Saline	34	12	1	10
Scott	64	35	3	18
Sedgwick	35	16	1	6
Seward	37	6	1	2
Shawnee	20	5	1	5
Sheridan	46	15	1	4
Sherman	57	16	2	2
Smith	28	10	1	5
Stafford	37	16	1	5

BACKGROUND OF ALIEN OWNERSHIP OF LAND

Although seven states have laws prohibiting alien investment in real estate and five other states have statutes which limit alien land holding so severely as to exclude any serious investment, no existing state statute can effectively exclude all alien investment. Through the use of corporations, partnerships and trust an alien investor may be able to avoid the impact of most state limitations. State laws are themselves subject to constitutional challenges under the Equal Protection Clause, the Foreign Relations Power and the supremacy clause of the United States Constitution. Treaty obligations of the United States further limit their effectiveness.

Twenty-one states have no restrictions on alien ownership. In all other states there are some such restrictions. Such restrictions fall into several general categories. The most common form of state restriction is a general prohibition on alien ownership of land. This restriction is found in seven states; Connecticut, Indiana, Kentucky, Mississippi, Nebraska, New Hampshire and Oklahoma. Each of such states have exceptions to their restrictions however. The effect of a general prohibition is generally to prohibit the individual alien investor living abroad from purchasing agricultural property in his own name. Some of the above name states however, permit resident aliens to own land. Residents may mean residents within the state or in some cases, residents anywhere in the United States. Others of these states permit aliens, who have declared their intention to become citizens, to own land.

Five other states have major restrictions on alien ownership. These states are Illinois, Iowa, Minnesota, Pennsylvania and Wisconsin. Their limitations fall into two categories. A number of states limit the acreage which a nonresident alien may own, commonly between 160 and 640 acres. Minnesota effectively limits ownership by nonresident aliens to about 2 acres. South Carolina, in contrast, permits an alien to own a half a million acres and therefore, South Carolina's is a very minor restriction. Severe acreage limitations effectively prevent any major and concentrated alien investment. Other restrictions limit the time during which an alien may hold the land. In many instances the maximum holding period is between five and eight years. This time period is usually chosen to give an alien who has acquired land through inheritance a reasonable time to dispose of it in a free land market and to permit an immigrant time to achieve citizenship. Such time limits may serve as a substantial barrier for foreign investors since they are thus effectively limited to leasehold interests and may not benefit from long term gains in property values. These limits, however, do not serve as a complete barrier since a continuous process of acquisition of new leaseholds or even a continuing rollover of freehold interests would appear permissible under these laws.

Several states have very limited restrictions in terms of practical importance. Some states exclude enemy aliens from land ownership and others require alien holders "to be friends". In either instance this requirement is of little importance

since today modern wars are commonly undeclared and opposing forces are not technically enemies. A few states require that a person be eligible for citizenship in order to hold land. This is a remnant of the anti-oriental discrimination. These types of restrictions are probably unconstitutional, but even if they are not, they have little effect because they have apparently never been interpreted to actually require an alien to be applying for citizenship or satisfy such formal requirements as literacy in English or residence in the United States.

Alien Corporate Investment. Only a few states have specified statutory provisions on alien ownership of land through the use of corporations. Several states however, have very substantial restrictions on corporate ownership of farmland. Most of these states also prohibit certain types of corporate entry into the farming business. Kansas law does not address itself specifically to alien ownership of farmland but does have a statutory restriction on the ownership of corporate farmland generally. Restriction on ownership by corporations incorporated outside the United States is probably the least successful restriction since the alien corporation or investor may simply incorporate a subsidiary somewhere in the United States. There is no meaningful restriction on formation of domestic subsidiaries by alien corporations or individuals. States excluding corporations with more than a specified percentage of alien ownership or with alien directors or managers have been successful in some instances but the establishment of intermediate corporate holding companies or nominees often

makes it difficult to discern the true identity and nationality of the owner.

Limitations on State Regulation. Enforcement of state laws restricting foreign investment in agricultural land is subject to three major challenges: 1. The statutes may violate federal constitutional rules and if so, courts will hold the statute void. 2. The statute may conflict with a treaty between the United States and some foreign nation. In this case also a state statute will be superseded by the treaty. 3. The state statute may be drawn in such a way that proper drafting of land conveyancing instruments may easily avoid the intended impact of the law. In addition, a state statute may be held unconstitutional if it violates the state constitution.

Discussion of: (1) constitutional limitations, including equal protection discussing the rational basis in compelling state interest tests (Case Citations) (2) federal power over foreign relations (3) contrary federal statutes (4) limitations imposed by treaties.

Practical Obstacles to State Enforcement. 1. Identification of alien owners and legal techniques by which state legislation can be avoided. Discussion of the problems brought about by trusts, brokers, corporations or partnerships formed to hold land. As an example, under a corporate form, individual shareholders do not have an interest in the land itself but only an interest in the assets of the corporation. The courts have been clear that this is not an interest in real

estate owned by the partnership or corporation. Therefore, the use of corporate or partnership devices would appear to legally avoid the effect of state prohibitions on alien investment unless there is some further special provision relating to such partnerships or corporate investment. 2. Sanctions imposed by state laws which include total forfeiture of the land without compensation probably deters the initiation of prosecution since it is felt to be too severe in the case of a purchaser who did not become aware of the state law until after he completed the purchase. Milder sanctions may be more advisable as a means of promoting compliance with the law.

Effectiveness of State Restrictions. 1. General prohibitions on alien ownership. The constitution seems to require equal treatment for resident aliens and citizens. To satisfy this requirement, state laws must exempt resident aliens from their operation. The general prohibitions will also be ineffective where there are overriding treaty rights. Even if the laws affect only nonresident alien investors they may conflict with federal foreign relations and foreign commerce powers if they become a burden on the international relations of the United States. Thus, general prohibition on alien ownership is probably not practically effective unless there is a parallel control on foreign corporations, partnerships and trusts. 2. Acreage and time restrictions will fall victim to the same failings as general restrictions on aliens since resident aliens must be given equivalent rights. Treaty rights again must also be respected. Here again, if the legislative pur-

pose of the restrictions on alien investment is to be effective, it must include adequate controls over indirect investments. 3. Most minor restrictions are virtually ineffectual. Exclusion of enemy aliens from property ownership is effective only in time of formally declared war. Restrictions phrased in terms of eligibility for citizenship are likewise ineffective since the criteria upon which these statutes were premised have now been repealed. Restrictions which specifically enumerate certain nations for special treatment are almost certainly in conflict with the United States Constitution. 4. Regulations affecting disposition of state property or state mineral interests are generally formulated in terms of one of the classifications mentioned above, and the same restrictions apply. 5. State restrictions on alien inheritance rights remain subject to constitutional challenge. Treaty power, foreign relations power of the federal government and possibly the equal protection clause of the United States Constitution may invalidate some of the more restrictive statutes. At any rate, inheritance restrictions are not likely to deter an alien investor. 6. Possibly the most effective control of alien investment, through the regulation of corporations, brokers and nominees, may be the key to controlling alien investment in farm real estate. Legislation based on the formalities of the place of incorporation, submission to the local jurisdiction and identity of directors or managers, but which fail to deal with the reality of the ownership and control, which is often difficult to determine, may always be easily avoided.

Notes on Senate Bill No. 500. 1. Why was the phrase "be the beneficiary of any trustee in land" eliminated from section 1(a) of the bill. 2. The same question is applicable to section 2(a). 3. Section 2(b)(2). "Business purpose" may well be defined to include agricultural farming. Subsection (b)3 of section 2 is probably going to be very difficult to enforce because it requires a determination of whether or not a corporation has fifteen percent of the outstanding shares of capital stock having voting rights, being owned or controlled by persons who are not citizens. Perhaps if this method is going to be used, the bill needs to encompass a much stricter corporation law in which the real owners of shares may be readily determined. Even then the updating of this practice is going to be extremely difficult. 4. If Senate Bill 500 is really geared towards prohibiting the ownership of farmland, why not speak in terms of agricultural land in the bill instead of stepping all around it, talking in terms of land in general?