

M I N U T E S

SPECIAL COMMITTEE ON AGRICULTURE AND LIVESTOCK

September 15, 1975

Members Present

Senator Leslie R. Droge, Chairman
Representative John 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

Staff Present

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

Conferees and Interested Parties

Sister Mary Noel Walter, Kansas Catholic Conference
Guy E. Gibson, Kansas Department of Agriculture
Father John Stitz, Rural Affairs (Kansas Catholic Conference)
Robert H. Guntert, Kansas Department of Agriculture
Bill Haw, President, National Alfalfa
Harvey Newlin, National Alfalfa
Virgil Huseman, K.L.A.
Debra Krajnak, Division of State Planning and Research
Robert D. O'Shea, Farmers Home Administration

Morning Session

Chairman Droge called the Committee to order and asked the representatives from National Alfalfa to make their presentation before the Committee. Mr. Bill Haw, President of National

Alfalga, presented the following remarks. He first told the Committee about the organization of the company, stating that National Alfalfa is solely engaged in agricultural production. The company is a two-division operation. There is an alfalfa dehydrating division which, in Kansas, operates in Independence, Leroy, Fredonia, Lawrence and Grantville. They cash lease 3,000 acres in those areas and purchase alfalfa from farmers in each location.

The other division of National Alfalfa owns approximately 12,000 acres in Kansas, of which 5,400 acres is privately farmed in row crops. This land is owned in the Lakin and Syracuse areas, and it is operated privately by a tenant. Mr. Haw stated that National Alfalfa is a publicly owned company, and that there is no way it can qualify as a family farm corporation. He stated that the company's goal in Kansas is to be able to farm the land which it owns with the same restrictions as any other large farmer or farm corporation. Mr. Haw said he felt the corporation is entitled to do that.

Mr. Haw stated that his corporation makes every attempt to abide by present Kansas law. In order to do that, they have hired a man to manage each of the Kansas farms; and to comply with the present law the crops planted on those farms are alfalfa and pinto beans.

Mr. Haw continued by stating reasons why he thinks his company should receive some consideration in the corporate farming law. The first reason he gave was an editorial from the Atkinson, Nebraska newspaper, where National Farm Products (one of the divisions of the company) farms 22,000 acres. This editorial concerned the attempted Family Farm and Ranch Act of 1975 in the State of Nebraska, and spoke against the act. It referred to a number of benefits derived from the location of National Farm Products in their community.

The second reason Mr. Haw gave for his company receiving consideration was that the corporate farm constitutes such a tiny minority of farming that it does not pose a threat. He added that 92% of farming corporations in the United States are family farms; but that, in spite of this, farm corporations are pointed to as being responsible for the dwindling number of family farms. He noted that most problems come from non-farmers, who do not understand the problem. He noted that those who object to corporate farming seem to object to commercial fertilizers, use of pesticides, free enterprise and hybrid corn. One thing they are in favor of is moving poor farmers to a quarter section of land and returning things to the way they once were.

The third reason Mr. Haw gave in favor of his corporation is that economic and industrial development are high priorities in the state. He stated that the company's Kansas farm was nothing but sand hills when they began developing it. Last year they

grew and sold to Kansas elevators 400,000 bushel of corn; they paid \$500,000 in salaries and bought fertilizer from Kansas merchants; they paid lease payments to Kansans, with no risk to them. Last week Mr. Haw stated that he had signed a check for \$26,000 to an equipment company for a new tractor. He added that his company intends to trade in the communities near their land.

The fourth reason given for consideration of National Alfalfa is that a law that discriminates against one form of ownership is unconstitutional and has been ruled so by the Attorneys General of several states.

The fifth reason given by Mr. Haw against corporate farming laws is that they do not accomplish what they set out to do. He said that North Dakota has a tough corporate farming law and has the most rapidly declining number of family farms.

Mr. Haw commented that he would like to see farm corporations promoted and sold locally the same way large feedlots were developed, by selling shares within the community. If the law is passed restricting the size of farms, he suggested it should let all citizens and companies be subject to the same rights and restrictions. He said that his company would support a law that would help family farms and rural communities, but that he wants equal treatment. He concluded by saying that he believes his company is a positive influence and that incorporation is not a reason for discrimination.

In answer to a question from the Chairman, Mr. Haw stated that his company operates in three states -- Nebraska, Kansas and Texas; and that they own land in those three states, consisting of about 40,000 acres. He was asked if a grandfather clause would be all right with his company -- his answer was positive that they do not plan to expand or own more land in Kansas. When asked how the land is bought, he answered that his company waits until the land it wants is ready for sale. Mr. Haw noted that the most recent purchase was in Texas, from cattle feeders who needed to generate cash.

There was discussion of stock promotion in the 1920's which was the basis for the present Kansas law -- some large corporations had moved into Kansas and sold stock and then sold out which disrupted small communities. Mr. Haws said he felt that such a situation as that should be controlled by the Kansas Corporation Commission and the S.E.C. -- because there are plenty of fraudulent stock promotions in every business. There was a further discussion of the Gates Rubber Company promotion in Colorado.

A staff member asked Mr. Haws about National Alfalfa's policy on the ground water reserve in Western Kansas. Mr. Haw stated that his company will abide by any restrictions placed upon them, and that their concern for this problem was one of the reasons they planted Pinto beans on half of the land. He stated that their

goals are no different from any family farm, because efficiency is the only way you can make a profit. He said that part of the way his company accomplishes these goals is to hire local farmers to take care of the land. They are glad to have an income of \$20,000 or \$25,000 a year to manage a farm, because it is a sure cash income.

In answer to further questioning concerning his company's compliance with present Kansas corporate farming laws, Mr. Haw said his company had tenant farmers on the land in Western Kansas. They were told that this put the company in compliance with the law, but he is now not so certain about National Alfalfa's compliance. Mr. Haw noted that there are more people living in an area after his company goes in and develops the land. He used Atkinson, Nebraska, as an example. The population there has been increasing and a new hospital is being built. Burlington Northern Railroad is upgrading its track because National Alfalfa uses it extensively.

In further discussion on soil conservation, Mr. Haw said that his company is very conscious of that, and if there were a possibility of insufficient water to irrigate, the land would be immediately planted in grass.

A member of the Committee then asked Mr. Haw about the origin of his company. He said it was founded as an alfalfa dehydrating company, and operated as such for 25 years. It merged five years ago with a large individual operator in Nebraska. Two years ago the company got into hard times in the cattle business and lost money. They quit feeding cattle and now have become a profitable business. The original capital came from an issue of stock to the public.

Senator Wilson asked Mr. Haw's feeling about a non-agricultural industry getting into the farming business. He answered that there is a potential problem; partly because of the high risks involved in agriculture, and partly because of vertical integration -- such as a fruit farmer owning the processing plant and even the retail store. He noted that one function of government is to control that type of thing. When asked how he would suggest preventing this from happening, he answered that it is a tough question -- but that perhaps anti-trust laws might be the best way to control it.

In answer to a question from a member of the staff, Mr. Haw said his company has 1,400 stockholders. He stated, in answer to further questioning, that he thinks there are more corporations getting out of farming than are getting into it, and that corporate farming is very limited in Kansas agriculture. When asked about tax advantages to the corporate farm, Mr. Haw said those advantages also accrue to the individual farmer. When asked about tax loss farming, Mr. Haw stated that there is no advantage to the corporation losing money.

Mr. Haw revealed that his company employs between 200 and 300 people, depending on the season. About 75 are employed in Kansas, and the headquarters of the company is in Kansas City, Missouri.

At this point, a member of the staff presented the bill draft of the corporate farming proposal to the Committee, section by section. A copy of this draft is appended as Attachment I. He presented Section 1, which is basically the definition section. He explained that it is taken from similar sections in laws of other states -- Minnesota and Missouri, primarily. In connection with subsection (a), another member of the staff asked the Committee if they would like to give further direction concerning the definition of "farming", since cultivation of land is not necessary for livestock production. There was some discussion concerning this question, during which the staff stated that the Missouri law reads "using or cultivating land". He was asked to note that there is a question concerning this section, and then to proceed.

The staff then made a general comment about the bill. He noted that the basic premise of the bill starts in Section 2, where it states "No corporation shall own farm land" but that some people are excepted. He explained that he had tried to include all exceptions he found in other states. He added that the definition section is taken from what other states have done, and that it gives the Committee opportunity to see most possibilities.

In connection with Section (1) (b), there was a discussion with respect to federal statutes -- particularly subsection s. The staff indicated that the farmers can choose between two alternatives set out in the proposed Kansas law.

As the staff proceeded through the bill draft, the Committee became aware of the problems involved in attempting to place limitations on ownership -- including that of feedlots and the meat packing industry, and the possibility of corporate farms becoming too large. No decisions were made at this time. The staff reminded the Committee that it had drafted the bill according to instructions from the Committee at its last meeting. The staff continued to explain sections of the bill. In Section 2 (j), Senator Christy, who had requested the wording, suggested that he was aware that it is unworkable. The staff agreed that there is no way of policing it. It was suggested that he make a notation on the draft that subsection 2 (j) is questionable.

Referring to Section 3, the staff said this was included in the directions from the Committee.

Section 4 replaced 17-5901 and 17-5902, present corporate farming laws, according to the staff.

Section 5 takes care of a problem under present law, where no requirement is made that violations be reported. This section requires that the Secretary of State report violations to the Attorney General, etc.

The reporting requirements in Section 6 are present law. It was explained that changes had been made on page 7.

Following the presentation of the bill draft, there was a lengthy discussion concerning what direction the Committee should take in relation to corporate farming. The staff suggested that maybe an alternative bill could be drafted to regulate corporations on the basis of what percentage of assets are strictly for farming.

Following this discussion the Chairman recessed the Committee for lunch to reconvene at 1:30 p.m.

Afternoon Session

Upon reconvening, the staff was directed to outline what had been accomplished concerning Proposal No. 3 - Consolidation of Rural Water Districts. The staff reminded the Committee that, at a previous meeting, they had directed the Farmers Home Administration, FmHA, to come up with some workable language to cover the financing of rural water districts upon consolidation. It was noted that the major problem discussed by the Committee at that time was consolidation of two water districts where one district owed more money in outstanding bonds than the other. The Committee thought it would be unfair for the one who owed less to take on responsibility for the other districts' indebtedness.

The staff explained that it had included in the Committee members' notebooks the Kansas statutes relating to organization and operation of rural water districts, and also Missouri and Nebraska statutes relating to consolidation of rural water districts and the language recommended by the FmHA to be inserted. Basically, the recommendation of the FmHA was to utilize Nebraska language as it relates to consolidation with a special sentence or two inserted that would provide for the problem of financial obligations of the consolidated districts.

At this point, the staff read from a letter written by Mr. Morgan Williams, of the Farmer's Home Administration, which related to the Committee request for information. The staff then referred to the Nebraska and Missouri statutes in the Committee notebooks. It was noted that in Nebraska the indebtedness of the consolidated districts would be indebtedness of the entire district. The staff proceeded to explain the Nebraska law and the requirements

for consolidation, adding that these requirements would fit easily into Kansas law. Committee members questioned the staff for clarification of the laws, including the present Kansas law.

One question which arose was that of whether a tenant could be a voting member of a water district. Mr. Gibson, of the Kansas Department of Agriculture, and Mr. O'Shea, of the FmHA, agreed that the tenants could put up the money for hooking into the water line, but that they could not vote. In connection with a meter for which the tenant had paid they said there should be an agreement between landlord and tenant concerning its disposition when the tenant's lease terminated.

It was illuminated, in the questioning of Mr. O'Shea and Mr. Gibson that if there is repair of a water line after consolidation, it should be to the benefit of the entire district, and should be paid for by the whole district. If there are new users added, the cost is covered by the fee charged those users for being included in the district. It was also explained that a Board of Directors runs the water district, and they make the decisions concerning expansion. They are not obligated to add new users. Any federal and state grant money goes only to new districts, and is not used for expansion. It was revealed that FmHA feels that anyone who requests water service should be allowed to join a water district.

Mr. O'Shea was asked if a rural water district could consolidate with a city of second or third class under the language in the Nebraska act. He answered in the negative, but added that he thought there was another law in Kansas which spoke to that problem.

In answer to a question from Chairman Droge, Mr. Gibson said that one rural water district can supply water to other rural water districts; and that cities can also supply water to rural water districts. It was noted that this is being done at the present time.

Mr. O'Shea commented, in answer to Committee questioning, that he feels the rate should be the same for every user in a consolidated water district. Although he noted that the debt payment will remain the same for each individual district. He added that he did not think an old water district with a low rate would consolidate with a newer district where the rate was considerably higher. He said that there will be no extension of notes to balance out the payments. In further conversation, Mr. O'Shea said there should be every effort made to maintain the same water bill over the entire consolidated district. He suggested that this is necessary so that the boards of directors can charge different rates within the district if it becomes necessary. He noted that when one part of the district is repaired -- a pumping station, for instance -- the logical procedure would be to spread the charge throughout the entire district.

There was a motion offered by Representative Vogel and a second by Representative Dempsey to amend the present Kansas law to allow similar consolidation features as are present in the Missouri legislation in addition to making it permissive, if desired by the districts undertaking a consolidation, for each individual water district within a consolidated district to maintain their same bond repayment schedules. The motion carried.

Following the discussion of Proposal No. 3, the staff distributed copies of 1975 H.B. 2560, with changes which were recommended by the Committee at a previous meeting. The changes made were discussed by the Committee, and a general motion offered by Senator Christy and seconded by Senator Williams resulted in the following changes: On page 1 of H.B. 2560, in line 10, the word "unmanipulated" will be included in the bill; on page 2, line 8, the wording of the sentence on the balloon will read as follows: "Unmanipulated manures" means the refuse of stables, barnyards or feedlots consisting of animal excreta including litter." The motion carried and no other changes were made.

Also in relation to Proposal 63, the staff distributed copies of a proposed bill which had been drafted upon Committee recommendation concerning agricultural liming materials. He explained that his pattern for the draft was a model agricultural liming materials act which he obtained from the Board of Agriculture. A copy of this draft legislation is appended as Attachment II.

The staff explained the bill to the Committee, taking each section in order. No questions were raised on the first five sections. There was discussion concerning the twenty cents per ton inspection fee set out in Section 6. A motion was offered by Representative Vogel and seconded by Senator Christy that the inspection fee be changed to five cents per ton. The motion carried.

In connection with Section 11, the Committee agreed to add, at the end of the second sentence the language "which fund is hereby created."

Representative Crowell said that he would like to talk to some liming people before the Committee approves the drafted liming legislation. He suggested that he could do that before the next meeting. Upon his request, action on this proposed legislation was rescheduled for the October meeting.

At the conclusion of the Committee's discussion of Proposal No. 63, its attention was again directed toward Proposal No. 1 - Corporate Farming. In relation to this proposal, the Committee directed the staff to draft an alternative bill to the one which had been presented. The staff was directed to draft a bill which limits farming by corporations which derive in excess of 25% of their incomes over a five year period from sources other than agriculture.

The Committee then decided that it should take no action in relation to Proposal No. 2 - Alien Ownership of Property Interests. It was decided that if action were needed in this area, such action would be possible during the legislative session through S.B. 500 which is in the Senate Committee on Agriculture and Livestock.

The Committee was then reminded that the next meeting would be on October 20, 1975 at 10:00 a.m. It was noted that at that meeting the Committee would consider Proposals No. 1, 3 and 63. The Chairman then adjourned the Committee.

Prepared by Donald L. Jacka, Jr.

Approved by Committee on:

9/15/75
(Date)

BILL NO. _____

By Special Committee on Agriculture and Livestock

AN ACT prohibiting the ownership of agricultural lands by certain corporations; providing for exceptions; requiring the filing of certain reports; providing penalties for violations; amending K. S. A. 1975 Supp. 17-7503, 17-7504 and 17-7505, and repealing the existing sections; also repealing K. S. A. 17-5901 and 17-5902.

Be it enacted by the Legislature of the State of Kansas:

New Section 1. As used in this act, the following words and phrases shall have the meanings respectively ascribed to them herein: (a) "Farming" means the cultivation of land for the production of (1) agricultural crops; (2) livestock or livestock products; (3) poultry or poultry products; (4) milk or dairy products; or (5) fruit or other horticultural products. Farming shall not include the production of timber or forest products; nor shall it include contracts whereby a processor or distributor of farm products or supplies provides spraying, harvesting or other farm services.

(b) "Family farm corporation" means either: (1) A corporation founded for the purpose of farming and/or the ownership of agricultural land and (A) which derived at least two-thirds (2/3) of its gross revenues over the last consecutive three-year period from farming, and (B) in which the majority of the voting stock is held by and the majority of the stockholders are persons or the spouses of persons related to each other within the third degree of consanguinity or affinity according to the laws of intestate succession, and (C) at least one of which is residing on or actively engaged in the operation of the farm, and (D) none of whose stockholders is a corporation: Provided, That any such corporation shall not cease to qualify as a family farm corpora-

tion hereunder by reason of any devise or bequest of shares of voting stock; or

(2) a corporation in which: (A) Shareholders do not exceed ten (10) in number; (B) all of its shareholders, other than any estate, are natural persons who are citizens of the United States; (C) there is not more than one class of shares; (D) at least two-thirds (2/3) of its gross revenues over the last consecutive three-year period were derived from farming; and (E) a majority of the shareholders reside on or actively engage in the operation of the farm.

(c) "Family farm" means an unincorporated farming unit owned by one or more individuals residing on the farm or actively engaged in farming.

(d) "Agricultural land" means land used for farming.

New Sec. 2. From and after the effective date of this act, no corporation not already engaged in farming shall engage in farming; nor shall any corporation directly or indirectly acquire, or otherwise obtain an interest, whether legal, beneficial or otherwise, in any title to agricultural land in this state. The restrictions set forth in this section shall not apply to the following:

(a) A bona fide encumbrance taken for the purpose of security;

(b) a family farm corporation as defined in section 1 of this act;

(c) agricultural land and land capable of being used for farming owned by a corporation as of the effective date of this act, including the normal expansion of such ownership at a rate not to exceed twenty percent (20%) of the land owned on the effective date of this act, measured in acres, in any five-year period, and the additional acreage reasonably necessary to meet the requirements of pollution control regulations;

(d) a farm operated wholly for research or experimental purposes, including seed research and experimentation and seed stock production for genetic improvements, as long as any commercial

sales from such farm are only incidental to the research or experimental objectives of the corporation;

(e) agricultural land operated by a corporation for the purposes of growing nursery plants, vegetables, grain or fruit used exclusively for brewing or wine making or distilling purposes and not for resale, for forest cropland or for the production of poultry, poultry products, fish or mushroom farming, production of registered breeding stock for sale to farmers to improve their breeding herds, for the production of raw materials for pharmaceutical manufacture, chemical processing, food additives and related products, and not for resale;

(f) agricultural land operated by a corporation for the purposes of alfalfa dehydration exclusively and only as to said lands lying within fifteen miles of a dehydrating plant, as long as said crops raised thereon shall be used only for further processing and not for resale in its original form;

(g) any interest, when acquired by an educational, religious or charitable not-for-profit corporation;

(h) agricultural land or any interest therein acquired by a corporation other than a family farm corporation as defined in section 1, for immediate or potential use in nonfarming purposes. A corporation may hold such agricultural land in such acreage as may be necessary to its nonfarm business operation, but pending the development of such agricultural land for nonfarm purposes, such land may not be used for farming except under lease to a family farm corporation or family farm unit, or except when controlled through ownership, options, leaseholds or other agreements by a corporation which has entered into an agreement with the United States of America pursuant to the New Community Act of 1968 (Title IV of the Housing and Urban Development Act of 1968, 42 U.S.C. 3901-3914) as amended, or a subsidiary or assign of such a corporation;

(i) agricultural lands acquired by a corporation by a process of law or voluntary conveyance in the collection of debts or by any procedure for the enforcement of a lien or claim thereon,

whether created by mortgage or otherwise, but no such corporation may hold real estate acquired in payment of debt, by foreclosure or otherwise for more than ten (10) years from the date of acquiring title thereto, and any land so acquired shall not be used for farming during said ten-year period except under a lease to a family farm corporation or family farm unit. The ten-year limitation period shall be deemed a covenant running with the title to the land against any corporate grantee or assignee or the successor of such corporation; or

(j) agricultural lands owned or hereafter acquired by a corporation which are leased to a family farm corporation or any person legally entitled to farm such land: Provided, That the lessor corporation takes no interest in any growing crops, livestock or other product of the farming operation and the amount of rent or any other payment to the lessor does not depend on revenues derived by the lessee from the farming operation.

New Sec. 3. No person shall own shares of stock in more than one (1) family farm corporation. For the purposes of this section, an individual owning shares in a family farm corporation whose spouse owns stock in another family farm corporation shall not be deemed in violation of this section regardless of whether any of said shares are held in joint tenancy, tenancy in common or in trust for the benefit of either or both of said individuals.

New Sec. 4. (a) Any corporation owning or leasing any agricultural land within this state shall provide the information required of such corporations in their annual reports pursuant to K. S. A. 1975 Supp. 17-7503, 17-7504 or 17-7505, as amended. For the purposes of this section, tracts of land of less than ten (10) acres shall not be deemed agricultural land.

(b) The annual report of a corporation seeking to qualify, or which has qualified hereunder, as a family farm corporation shall contain the following information: (1) The name, address and number of shares owned by each stockholder;

(2) the number of shares owned by persons residing on the

farm or actively engaged in farming;

(3) the name of each person or spouses of persons related to each other within the third degree of consanguinity or affinity; and

(4) a statement as to the percentage of the gross revenue of the corporation derived from sources other than the sale of farm products.

(c) Any person who shall knowingly submit, or who through the proper and due exercise of care and diligence should have known that any submission of information and statements required of corporations subject to the provisions of this section are false or materially misleading, or who fails or refuses to submit such information and statements shall be guilty of a class A misdemeanor.

(d) The secretary of state shall keep a separate index of all corporations subject to the provisions of this section.

New Sec. 5. The secretary of state shall report any apparent violations of this act to the attorney general. If the attorney general has reason to believe that a corporation has an interest in any agricultural land in violation of section 2 of this act, the attorney general, shall institute an action in the district court of any county in which agricultural lands relative to any such violation are located. If the court finds that the lands in question are being held or used in violation of this act, it shall enter an order so declaring. The court shall file for record such order with the register of deeds of each county in which any portion of such lands are located. Thereafter, the corporation owning the land shall comply with any orders of the court, which orders shall allow such corporation no longer than a five-year period from the date of such order to divest itself of such land. Such limitation period shall be a covenant running with the title to the land against any corporate grantee, assignee or successor to such corporation, except those corporations excluded under section 2 of this act.

Sec. 6. K. S. A. 1975 Supp. 17-7503 is hereby amended to

read as follows: 17-7503. (a) Every domestic corporation organized for profit shall make an annual report in writing to the secretary of state, showing the financial condition of the corporation at the close of business on the last day of its tax period next preceding the date of filing, but if a corporation's tax period is other than the calendar year, it shall give notice thereof to the secretary of state prior to December 31 of the year it commences such tax period. The reports shall be made on forms provided by the secretary of state and shall be filed at the time prescribed by law for filing the corporation's annual Kansas income tax return, except that if any such corporation shall apply for an extension of time for filing its annual income tax return under the internal revenue service or pursuant to subsection (c) of K. S. A. ~~1974~~ 1975 Supp. 79-3221, such corporation shall also apply (prior to the due date of its annual report) to the secretary of state for an extension of the time for filing the report hereunder and the same shall be extended a corresponding time to that under said 79-3221. Such application shall include a copy of the application to income tax authorities. The report shall contain the following information:

- (1) The name of the corporation;
- (2) The location of the principal office;
- (3) The names of the president, secretary, treasurer and members of the board of directors, with the post-office address and the residence address of each;
- (4) The amount of each class of authorized capital stock and the par value of each share, if any;
- (5) The date of the annual election of officers and directors;
- (6) The amount of capital stock issued and the amount of capital stock paid up;
- (7) The nature and kind of business in which the corporation is engaged and its place or places of business;
- (8) A complete and detailed statement of the assets, liabilities and net worth of the corporation; and

(9) A list of stockholders owning at least five percent (5%) of the capital stock of the corporation, with the post-office address of each and the number of shares held by each.

(b) Every corporation subject to the provisions of this section which owns or leases any agricultural land within this state ~~which--is--used--or--usable--for--farming--or--agricultural--or--horticultural--purposes~~ shall show the following additional information on the report:

(1) The acreage and location listed by section, range, township and county of each lot, tract or parcel of agricultural land in this state owned or leased by the corporation ~~and--used--or--usable--for--farming--or--agricultural--or--horticultural--purposes;~~

~~(2)--The--purposes--for--which--such--land--is--owned--or--leased;~~

~~(3)~~ (2) the value of the nonagricultural assets and the agricultural assets, stated separately, owned and controlled by the corporation both within and without the state of Kansas and where situated; and

~~(4)~~ (3) the total number of stockholders of the corporation.

(c) Such report shall be signed by the president, treasurer or secretary, sworn to before an officer duly authorized to administer oaths and forwarded to the secretary of state. At the time of filing such annual report it shall be the duty of each domestic corporation organized for profit to pay to the secretary of state an annual franchise tax in an amount equal to one dollar (\$1) for each one thousand dollars (\$1,000) of the corporation's shareholder's equity attributable to Kansas, except that no such tax shall be less than twenty dollars (\$20) nor more than two thousand five hundred dollars (\$2,500).

Sec. 7. K. S. A. 1975 Supp. 17-7504 is hereby amended to read as follows: 17-7504. (a) Every corporation organized not for profit shall make an annual report in writing to the secretary of state, showing the financial condition of the corporation at the close of business on the last day of its tax period next preceding the date of filing, but if a corporation's tax period

is other than the calendar year, it shall give notice thereof to the secretary of state prior to December 31 of the year it commences such tax period. The reports shall be made on forms provided by the secretary of state and shall be filed at the time prescribed by law for filing the corporation's annual Kansas income tax return, except that if any such corporation shall apply for an extension of time for filing its annual income tax return under the internal revenue service or pursuant to subsection (c) of K. S. A. ~~1974~~ 1975 Supp. 79-3221, such corporation shall also apply (prior to the due date of its annual report) to the secretary of state for an extension of the time for filing the report hereunder and the same shall be extended a corresponding time to that under said 79-3221. Such application shall include a copy of the application to income tax authorities. If any such corporation is not required to file a Kansas annual income tax return, the annual report and tax required by this section shall be due in the office of the secretary of state on or before April 15 of each year. The report shall contain the following information:

- (1) The name of the corporation;
- (2) The location of the principal office;
- (3) The names of the president, secretary and treasurer, and the members of the board of directors, with the post-office address and the residence address of each;
- (4) The amount of each class of authorized capital stock and the par value, if any, of each share;
- (5) The number of memberships issued or the amount of capital stock issued and the amount of capital stock paid up; and
- (6) A complete and detailed statement of the assets, liabilities and net worth of the corporation.

(b) Every corporation subject to the provisions of this section which owns or leases any agricultural land within this state ~~which is used or usable for farming or agricultural or horticultural purposes~~ shall show the following additional information on the report:

(1) The acreage and location listed by section, range, township and county of each lot, tract or parcel of agricultural land in this state owned or leased by the corporation, ~~and-used-or usable-for-farming-or-agricultural-or-horticultural-purposes;~~

~~(2)--The purposes for which such land is owned or leased;~~

~~(3)~~ (2) The value of the nonagricultural assets and the agricultural assets, stated separately, owned and controlled by the corporation both within and without the state of Kansas and where situated; and

~~(4)~~ (3) The total number of stockholders of the corporation.

(c) Such reports shall be signed by the president, treasurer or secretary of the corporation, sworn to before an officer duly authorized to administer oaths and forwarded to the secretary of state. At the time of filing such report, each nonprofit corporation shall pay an annual privilege fee of five dollars (\$5).

Sec. 8. K. S. A. 1975 Supp. 17-7505 is hereby amended to read as follows: 17-7505. (a) Every foreign corporation organized for profit, or organized under the cooperative type statutes of the state, territory, or foreign country of incorporation, now or hereafter doing business in this state, and owning or using a part or all of its capital in this state, and subject to compliance with the laws relating to the admission of foreign corporations to do business in Kansas, shall make an annual report in writing to the secretary of state, showing, in such form as the secretary of state may prescribe, the financial condition of the corporation at the close of business on the last day of its tax period next preceding the date of filing, but if a corporation operates on a fiscal year other than the calendar year it shall give written notice thereof to the secretary of state prior to the thirty-first day of December of the year of commencing such fiscal year. The report shall be made on a form provided by the secretary of state and shall be filed at the time prescribed by law for filing the corporation's annual Kansas income tax return,

except that if any such corporation shall apply for an extension of time for filing its annual income tax return under the internal revenue service or pursuant to subsection (c) of K. S. A. +974 1975 Supp. 79-3221, such corporation shall also apply (prior to the due date of its annual report) to the secretary of state for an extension of the time for filing the report hereunder and the same shall be extended a corresponding time to that under said 79-3221. Such application shall include a copy of the application to income tax authorities. The report shall contain the following facts:

(1) The name of the corporation and under the laws of what state or country organized;

(2) The location of its principal office;

(3) The names of the president, secretary, treasurer and members of the board of directors, with the post-office address and the residence address of each;

(4) The date of the annual election of officers and directors;

(5) The amount of each class of authorized capital stock, and the par value, if any, of each share;

(6) The amount of capital stock issued and the amount of capital stock paid up;

(7) The nature and kind of business in which the company is engaged and its place or places of business both within and without the state of Kansas;

(8) The name and location of its office or offices in Kansas, and the name and address of the officers or agents of the company in charge of its business in Kansas;

(9) The value of the property owned and used by the company in Kansas, where situated, and the value of the property owned and used outside of Kansas and where situated;

(10) The corporation's shareholder's equity attributable to Kansas; and

(11) A balance sheet showing the financial position of the corporation at the close of business on the last day of its

income tax fiscal year next preceding the date of filing.

(b) Every corporation subject to the provisions of this section which owns or leases any agricultural land within this state ~~which--is--used--or--usable--for--farming--or--agricultural--or--horticultural--purposes~~ shall show the following additional information on the report:

(1) The acreage and location listed by section, range, township and county of each lot, tract or parcel of agricultural land in this state owned or leased by the corporation ~~and--used--or--usable--for--farming--or--agricultural--or--horticultural--purposes~~†

~~(2) The purposes for which such land is owned or leased;†~~

~~(3)~~ (2) The value of the nonagricultural assets and the agricultural assets, stated separately, owned and controlled by the corporation both within and without the state of Kansas and where situated; and

~~(4)~~ (3) The total number of stockholders of the corporation.

(c) Such report shall be signed by the president, treasurer or secretary, sworn to before an officer duly authorized to administer oaths and forwarded to the secretary of state, together with the certificate of good standing required to be filed by a foreign corporation under the general corporation code. At the time of filing its annual report, each such foreign corporation shall pay to the secretary of state an annual franchise tax in an amount equal to one dollar (\$1) for each one thousand dollars (\$1,000) of the corporation's shareholder's equity attributable to Kansas, except that no such tax shall be less than twenty dollars (\$20) nor more than two thousand five hundred dollars (\$2,500).

(d) Whenever any foreign corporation shall file a certificate of good standing with the secretary of state, the secretary of state shall dispose of all papers, records and other documents of such corporation which are superseded by such certificate of good standing or which are no longer required by law to be filed with the secretary of state.

Sec. 9. K. S. A. 17-5901 and 17-5902 and K. S. A. 1975 Supp. 17-7503, 17-7504 and 17-7505 are hereby repealed.

Sec. 10. This act shall take effect and be in force from and after its publication in the statute book.

BILL NO. _____

By Special Committee on Agriculture and Livestock

AN ACT regulating the distribution, labeling and sale of agricultural liming materials; providing for registration and inspection; providing for payment and disposition of fees; and providing penalties for violations.

Be it enacted by the Legislature of the State of Kansas:

Section 1. This act shall be known and may be cited as "The Kansas Agricultural Liming Materials Act." The provisions of this act shall be administered by the secretary of the state board of agriculture, hereinafter referred to as the secretary.

Sec. 2. As used in this act, the following words and phrases shall have the meanings respectively ascribed to them herein:

(a) "Agricultural liming materials" means a product whose calcium and magnesium compounds are capable of neutralizing soil acidity;

(b) "limestone" means a material consisting essentially of calcium carbonate or a combination of calcium carbonate with magnesium carbonate, which is capable of neutralizing soil acidity;

(c) "burnt lime" means a material made from limestone which consists essentially of calcium oxide or a combination of calcium oxide with magnesium oxide;

(d) "hydrated lime" means a material made from burnt lime which consists essentially of calcium hydroxide or a combination of calcium hydroxide with magnesium oxide and/or magnesium hydroxide;

(e) "marl" means a granular or loosely consolidated earthy material composed largely of sea shell fragments and calcium carbonate;

(f) "industrial by-product" means any industrial waste or

by-product containing calcium or calcium and magnesium in forms that will neutralize soil acidity;

(g) "brand" means the term, designation, trademark, product name or other specific designation under which individual agricultural liming material is offered for sale;

(h) "fineness" means the percentage by weight of the material which will pass U. S. standard sieves of specified sizes;

(i) "label" means any written or printed matter on or attached to the package or on the delivery ticket which accompanies bulk shipments;

(j) "person" means an individual, partnership, association, firm or corporation; and

(k) "calcium carbonate equivalent" means the acid neutralizing capacity of an agricultural liming material expressed as weight percentage of calcium carbonate.

Sec. 3. (a) Every package or container of agricultural liming materials sold, offered or exposed for sale in this state shall have affixed to each package in a conspicuous manner on the outside thereof, a plainly printed, stamped or otherwise marked label, tag or statement, or in the case of bulk sales, a delivery slip, setting forth the following information: (1) The name and principal office address of the manufacturer or distributor;

(2) the brand or trade name of the material;

(3) the identification of the product as to type of agricultural liming material;

(4) the net weight of the agricultural liming material;

(5) the minimum percentage of calcium oxide and magnesium oxide and/or calcium carbonate and magnesium carbonate;

(6) the calcium carbonate equivalent as determined by methods prescribed by the Association of Official Analytical Chemists, and in minimum amounts as prescribed by rules and regulations of the secretary of the state board of agriculture; and

(7) the minimum percentage by weight passing through U. S. standard sieves, as prescribed by rules and regulations.

(b) No information or statement shall appear on any package,

label, delivery slip or advertising material which is false or misleading to the purchaser as to the quality, analysis, type or composition of the agricultural liming material.

(c) In the case of any material which has been adulterated subsequent to packaging, labeling or loading thereof but before delivery to the consumer, a plainly marked notice to that effect shall be affixed by the vendor to the package or delivery slip to identify the kind and degree of adulteration therein.

(d) At every site from which agricultural liming materials are delivered in bulk or orders for bulk deliveries are placed by consumers, there shall be conspicuously posted a statement setting forth the information required by subsection (a) of this section for each brand of material.

(e) When the secretary finds, after notice and hearing, that the requirements for expressing the calcium and magnesium in elemental form would not impose an economic hardship on distributors and users of agricultural liming materials by reason of conflicting labeling requirements among the states, the secretary may require, by rules and regulations, that the minimum percentage of calcium oxide and/or calcium carbonate and magnesium carbonate shall be expressed in the following form:

Total calcium (Ca) _____percent

Total magnesium (Mg) _____percent.

The effective date of any such rules and regulations shall be not less than six (6) months following issuance thereof, and for a period of two (2) years following the effective date of said rules and regulations, the equivalent of calcium and magnesium may also be shown in the form of calcium oxide and magnesium oxide and/or calcium carbonate and magnesium carbonate.

Sec. 4. No agricultural liming material shall be sold or offered for sale in this state if (a) it does not comply with the provisions of this act or rules and regulations adopted pursuant thereto, or (b) it contains toxic materials in quantities injurious to plants or animals.

Sec. 5. (a) Each separately identified agricultural liming

material product shall be registered before being distributed in this state. Application for registration shall be submitted to the secretary of the state board of agriculture on a form furnished by the secretary and shall be accompanied by a fee of five dollars (\$5) per product to be distributed. Upon approval by the secretary, a copy of the registration shall be furnished to the applicant. All registrations shall expire on June thirtieth of the year following registration or renewal thereof.

(b) No distributor of agricultural liming material products shall be required to register any brand of agricultural liming material which has been previously registered by the manufacturer thereof if the label does not differ in any respect.

Sec. 6. (a) Within thirty (30) days following expiration of registration, each registrant shall submit, on a form furnished by the secretary of the state board of agriculture, an annual statement setting forth the number of net tons of each agricultural liming material sold by such registrant for use within the state during the previous twelve-month period. Such statement shall be accompanied by payment of an inspection fee which shall be at the rate of twenty cents (20¢) per ton.

(b) The secretary is hereby authorized and empowered to reduce the inspection fee provided for in subsection (a) whenever it is determined that such fee is yielding more than is necessary for the purpose of administering the provisions of this act. The secretary is authorized and empowered to increase such inspection fee, or restore it, in full or in part, when it is necessary to produce sufficient revenues for the purposes of administering the provisions of this act, but not in excess of the fee hereinbefore stated.

Sec. 7. (a) It shall be the duty of the secretary or his duly authorized agent to sample, inspect, make analyses of and test agricultural liming materials distributed within this state as often as the secretary may deem necessary to determine whether such agricultural liming materials are in compliance with the provisions of this act. The secretary or his agent may enter

upon any public or private premises or carriers during regular business hours in order to have access to agricultural liming material subject to the provisions of this act, and to any records relating to their distribution.

(b) The methods of analysis and sampling shall be those approved by the secretary, and shall be guided by Association of Official Analytical Chemists procedures.

Sec. 8. The secretary may issue and enforce a written or printed "stop sale, use or removal" order to the owner or customer of any lot of agricultural liming materials and to hold such lot at a designated place when the secretary finds said agricultural liming material is being offered or exposed for sale in violation of any of the provisions of this act until the law has been complied with and said agricultural liming material is released in writing by the secretary, or said violation has been otherwise legally disposed of by written authority. The secretary shall release the agricultural liming materials so withdrawn when the requirements of this act have been complied with and all costs and expenses incurred in connection with the withdrawal have been paid.

Sec. 9. Any person convicted of violating any provision of this act or any rules and regulations promulgated thereunder shall be deemed guilty of a misdemeanor and upon conviction shall be fined not more than one hundred dollars (\$100) for the first violation and not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) for each subsequent violation. Nothing in this act shall be construed as requiring the secretary or his authorized agents to report violations of this act for prosecution or for the institution of seizure proceedings when he believes that the public interest will best be served by a suitable written warning.

The district courts of this state shall have jurisdiction to restrain violations of this act by injunction without any criminal proceeding being first initiated.

Sec. 10. The secretary is hereby authorized to promulgate

and adopt rules and regulations for the administration of the provisions of this act.

Sec. 11. The secretary shall remit all moneys received by or for him under this act to the state treasurer at least monthly. Upon receipt of any such remittance the state treasurer shall deposit the entire amount thereof in the state treasury and the same shall be credited to the agricultural liming materials fee fund. *which fund is hereby created* All expenditures from such fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of the state board of agriculture or by a person or persons designated by him.

Sec. 12. This act shall take effect and be in force from and after its publication in the statute book.