

M I N U T E S

SPECIAL COMMITTEE ON AGRICULTURE AND LIVESTOCK

Room 514 - State House

October 20, 1975

Members 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 Campbell
Representative Rex Crowell
Representative Ambrose Dempsey
Representative Lee Hamm
Representative Jack Rodrock
Representative George H. Works

Staff Present

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

Conferees and Interested Parties

Sister M. Noel Walter, Kansas Catholic Conference
Bill Haw, National Alfalfa
John Blythe, Kansas Farm Bureau
Pat Boyer, Kansas Department of Agriculture
John Meetz, Kansas Livestock Association
Ruth Wilkin, State Representative
John Wicklund, Environmental Protection Agency
Don Ellison, Environmental Protection Agency

The Committee's attention was then directed toward Proposal No. 1 -- Corporate Farming. The staff was asked to explain the proposed draft of the corporate farming bill -- a copy of this bill is appended at Attachment II. It was explained that the draft before the Committee was not final. The staff member also explained that the Secretary of State's office raised some questions which the Committee would need to consider. The Committee was reminded that its directions were to draft a corporate farming bill which would require that corporations, in order to engage in farming or to own farmland, derive 75% of their gross revenue over a five-year period from farming. The only other direction was to clean-up the reporting requirements and keep the bill as simple as possible by amending existing law.

A member of the staff then proceeded to explain the proposed corporate farming bill. He stated that it simply amends existing corporate farming law. The amendments are to clarify the definition of farming (Section 1). He added that the additions are his own, based on what had been suggested by the Committee at previous meetings.

A member of the staff stated that he had talked to Jack Brier in the Secretary of State's office, that Mr. Brier had felt that there was a problem with the definition of farming. There was discussion of summer fallowing, pastured land, etc., but there was no direction given by the Committee in this respect. The staff continued by noting that the deletions in Section 1 are existing law. As the staff discussed the remainder of Section 1, it was noted that Mr. Brier is concerned about the concept of a five-year period and the basis of revenue received. There is no way for the Secretary of State's office to check revenue received from farming by a corporation. It was explained that an individual farmer must itemize where his farming income comes from, but that a corporation does not have the same requirements. Mr. Alderson stated that, after talking to the attorney in the Department of Revenue, he thought it would be possible to amend the income tax act to provide that a corporation would have to itemize farming income as does an individual. Staff noted the feeling that the concept is unworkable the way it is at the present time.

With further reference to the conversations with the Secretary of State's office, the staff stated that there is a problem with some corporations which fail to file reports with the Secretary of State. It was noted that it is very difficult to enforce the filing of reports. Foreign corporations and domestic subsidiaries can easily get around the requirement. It was noted that Mr. Brier was also of the opinion that it would be easy for a limited partnership to get around the requirement.

Other questions raised by the Secretary of State included whether the Committee intended to prevent alien ownership of land through the bill; and the question of what really constitutes "farming". It was noted that there are two particular areas of business which would be hurt by the proposed bill. First, there are a number of corporations that explore for oil and lease the land for farming until such time as they find oil. The construction industry is another which might be affected, if they have purchased land for future development. Finally, it was relayed that the Secretary of State's Office has reservations about the bill being any easier to enforce than present law. A member of the staff said he was not sure the bill prevents ownership of land -- only the engaging, directly or indirectly, in the business of agriculture.

Further Committee discussion revealed that it is possible to regulate use of land by corporations, but it was felt that legislation should not arbitrarily deny a corporation the right to own property. The staff stated that there is case law concerning a decision in the Supreme Court relative to a farm corporation in North Dakota. North Dakota's law which does not allow ownership of land by corporations was upheld in that decision. The staff suggested that nothing is being done in the proposed bill that is not being done in present law -- it is merely being done in a different manner.

A member of the staff then proceeded to explain the bill draft, section by section. There was no discussion until he explained New Section 6, which requires the Secretary of State to report apparent violations of the law to the Attorney General. It was noted that no penalties are involved except for false reporting, which carried a class A misdemeanor (page 3). The remedy for intentional violation of the law would be for the Attorney General to direct the divestiture by the Corporation of the land to bring them into compliance. When a Committee member noted that it would be difficult to prove intentional false reporting, the staff explained that it would be obvious -- if a corporation owned 10,000 acres and reported only 5,000 acres, that would be an obvious intentional violation. The staff noted that this has never been enforced, and that the new bill is attempting to define farming and who can farm so strictly that the Attorney General and Secretary of State will have basis in the future for bringing action.

A member of the staff stated that he feels the Committee needs to decide whether they want to use the revenue concept. He commented that the alternative, the acreage concept as in present law, is a workable concept if the reporting requirements were changed to make it enforceable by the Secretary of State. The staff added that one of the alternatives would be to draft a bill to clean-up loose ends but leave the concept the same as presently exists.

The Chairman asked for a consensus of opinion from the Committee members. The members of the Committee indicated the following feelings.

Senator Christy suggested leaving the law as it is unless there are specific ambiguities that have to be changed.

Representative Hamm agreed with Senator Christy. He suggested that the area of enforcement needs to be changed and that the matter of reporting needs to be strengthened, but that the law should basically remain the same as it is at present.

At this point there was a discussion concerning cancelling a corporation's charter because of violations of the law. It was agreed that if reports are not filed on time, a corporation is subject to having its charter cancelled. The staff suggested that it is difficult to determine, under present law, whether or not corporations are in compliance. It was added that present law could be tightened to allow the Secretary of State to determine whether a corporation is reporting accurately and if it is in compliance with the law. The staff stated that it is not a question of not being able to close down a corporation -- it is a question of which ones charter should be cancelled. The Committee member's opinions then continued.

Senator Williams suggested that the Committee does not have enough information, and that there should be more study. He added that there are a lot of people that have not been heard.

Representative Crowell noted that apparently there is some need to tighten up the reporting or to make it more meaningful. He felt that acreage is the only thing that is workable, and liked the suggestion about taking land usage out of the bill and making it a flat acreage restriction. He added that he had not heard any great outcry for changing the law, but that there may be concern -- not expressed -- because people are not aware of the law.

Representative Campbell stated that, in his conversations with his constituents, he finds that very few people feel that the 5,000 acre limitation is too restrictive. He added that he would like to continue with the acreage concept, but that there should be improvement in reporting.

Representative Arbuthnot stressed that the inadequacies of the present law are brought out very definitely by the fact that it is impossible to get correct reporting. He suggested that, at the present time, the foreign corporation law is being operated in Kansas on the basis of one attorney's opinion. Many corporations were formed on a different basis and are now having the problem of perhaps being illegal. He added that there are many flaws in the present law, and that -- politically -- a do-nothing attitude would be the easiest way out. He noted that he feels

the present law is inadequate in reporting. He noted that there is also the problem of family corporations. Representative Arbuthnot added that everyone has been heard by the Committee who is knowledgeable in the field of corporate farming.

Representative Vogel commented that many hearings were held concerning the bill as early as 1972. He noted that the present bill is workable to some extent in that it causes corporations to hesitate before they enter into agriculture production. He suggested that the Committee eliminate the clause which prohibits stockholders from holding in many corporations. The ambiguity of "use of land" needs to be clarified. He also noted the need for a stricter penalty clause and better reporting. He added that, because of the political and emotional aspects of the bill, it will be difficult to get anything done at this time. He added that the restriction against man and wife having ownership in other corporations should be eliminated.

Representative Dempsey noted that the family farm corporation would be the only area he is in favor of changing -- eliminating some obstacles and making it easier to transfer land. He agreed that the accuracy of reporting should also be improved.

Representative Works stated that there is not a corporation problem in Kansas, as far as he can see. He said that apparently the law is working to keep out big corporations, or economic factors are doing it. He agreed that there needs to be a few minor changes to decide whether to include pasture land, whether to lump corporations together, and some changes in reporting procedure. But he noted, there is no need for a new approach to restricting corporating farming.

Senator Wilson suggested several changes: (1) some changes in the field of reporting; (2) changes in the acreage totals when eastern and western Kansas are compared; (3) elimination of the "laundry list" in Section 1; (4) take a look at family corporations vs. non-family corporations; (5) look at derivation of income -- and how to decide how much income should be derived from agriculture. He added that he feels the Committee has the responsibility to look at the corporation problem in Kansas. If the present Committee does not feel that it has the expertise, perhaps a hand picked Committee from the House and Senate could be studying the problem during the session or the next interim.

Representative Rodrock added that he felt if the Committee does nothing more than take the present bill and make amendments to the reporting procedure, the subject area should not be left for another year. If actions are wrong, they can be corrected another year; and any inequities can be taken care of.

After a lengthy discussion of points brought out by members of the Committee, it was agreed that the present bill should be improved upon, and that definite conclusions would be made during the afternoon session. The meeting was recessed until 1:30 p.m.

Afternoon Session

The Chairman called the meeting to order and suggested that the Committee make decisions concerning changes in the bill draft related to Proposal No. 1. After considerable discussion as to proper wording, Representative Arbuthnot offered the following motion, which was seconded by Representative Works: That item No. (4) in Section 1, be included in the bill, and that it be changed to read as follows: "(4) such corporation does not own, control, manage or supervise in any one year, either directly or indirectly, a total of more than five thousand (5,000) acres of cultivated land on which crops are harvested." The motion included the general concept in which the Committee wished to regulate corporate farming. It was noted that the bill-drafting department can improve upon the language if it sees the necessity for such action. Upon vote by the Committee the motion carried.

Representative Rodrock suggested that if the above wording is not proper, perhaps the staff should have the alternative of using the wording "cropland in production". There was some discussion, but no definite decision was made concerning this suggestion.

There a motion offered by Senator Wilson and seconded by Senator Christy that the list of farm products be eliminated from Section 1, and that the words "cultivated farm crops" be inserted instead. The motion carried.

Representative Hamm offered a motion to reinsert "the milking of cows for dairy purposes" in Section 1. Senator Wilson seconded the motion, and after a short discussion, the motion carried.

The Committee approved the insertion of the words "or subsidiary to that corporation" after the words "No corporation" at the beginning of subsection (a) in Section 1, if the staff finds that it will be proper to do so.

There was discussion concerning certain changes pending in the Corporate Farming bill, including the possibility of eliminating the word "domestic" in the proviso in Section 1, but no decisions were made, and the Committee proceeded to the next item of business.

A member of the staff then directed the Committee's attention to Proposal No. 63 and made reference to the proposed bill concerning the subject of liming materials reminding the Committee that his instructions at the last meeting were to lower the inspection fee to five cents -- page 4 Section 6(a) -- and to correct Section 11 by adding "which fund is hereby created." A copy of this bill draft is appended as Attachment III.

There was a motion offered by Representative Vogel and seconded by Senator Wilson that the Committee recommend passage of the agricultural liming materials bill and that it be submitted to the proper committee at the next session of the legislature; and that it be prefiled and prepared as a committee bill. The motion carried.

Representative Vogel requested that the above bill be introduced in the House of Representatives, in spite of the fact that the Legislative Coordinating Council is reserving the right to make a recommendation as to where bills are introduced. Senator Wilson moved that it be introduced in the House and Representative Rodrock seconded the motion. The motion carried.

After a short discussion of the changes recommended by the Committee for H.B. 2560 -- appended as Attachment IV, a motion was offered by Representative Arbuthnot and seconded by Senator Wilson that the Committee's recommendations concerning H.B. 2560 be submitted to the proper Committee in the 1976 Session of the Legislature. The motion carried.

In relation to Proposal No. 3 -- Consolidation of Rural Water Districts -- a member of the staff stated that his directions were to amend Chapter 82a, Article 6 to provide the same features as are contained in the Nebraska law -- old districts pay their own obligations and consolidated districts assume all new costs with provision for consolidated districts to assume the entire debt obligations of all old districts if they so desire.

The bill -- which is appended as Attachment V -- was discussed, section by section. In Section 2, the Committee approved the following change: delete "acreage of land" in the next to last line, and insert instead "number of participating members".

In Section 3 of the proposed bill the Committee suggested that the following change be made: delete the words "present at a meeting held upon not less than ten (10) days' written notice to each member stating the purpose of the meeting" and insert instead "of each district". In a second sentence in Section 3, there was a suggestion that the reference to the board of county commissioners be clarified, perhaps by inserting the word "such" instead of "the". It was decided that a change would need to be made in subsection (3) of Section 3 on page 3 because of the motion previously made concerning a meeting of the members. The suggestion was to delete the words "vote" and "participating", and also the phrase "at a meeting held upon notice as required by this section".

Another reference to clarification of board of county commissioners was made regarding Section 4, line 4 -- suggesting that the word "such" might be inserted instead of the word "the".

It was agreed that the Rural Water District should send a copy of their consolidation order to the Division of Water Resources. In connection with this decision, there was a question as to whether the rural water districts have to be certified by the Secretary of State. A member of the staff stated that this question would be checked.

Referring to Section 6, the staff agreed to check to find if fees should be the same throughout the entire consolidated district.

The word "participating" should be left in Section 8, according to the Committee.

Senator Christy questioned the proviso in Section 6, asking why one or two bondholders could block consolidation. He suggested that perhaps one holder could assume the liabilities of those who would not participate. The staff explained that a bondholder cannot block consolidation, but that he can insist that bonds be paid only from the original district. He agreed to check the matter to be sure.

Senator Wilson offered a motion to introduce the Water District Consolidation bill as a Committee bill to the 1976 Session of the Legislature. Representative Vogel seconded the motion and it carried.

In reference to Proposal No. 4 -- Pesticide Use and Control Laws -- it was agreed by the Committee that because of the report made by Mr. Wicklund earlier in the meeting, no decision would be made concerning this bill until the next meeting.

The Committee then redirected its attention to Proposal No. 1 -- Corporate Farming and continued its discussion of this proposal with suggestions concerning family farms and stock held in joint tenancy by husband and wife. At the conclusion of the discussion, the staff suggested that, at the end of subsection (5) in Section 1, there be a proviso reading "for the purposes of this section an individual owning shares in a corporation authorized to engage in agricultural or horticultural business whose spouse owns stock in another corporation shall not be deemed to be in violation of this section", etc. It was also suggested that there should be a provision that shares held jointly (by husband and wife) be deemed only one stockholder. It was noted that this type of language would take care of intermarriage of stockholders. The Committee agreed that this language would be acceptable and should be incorporated within the draft.

The language in subsection (3) of Section 1 was questioned, but it was agreed that there is probably good reason to leave it in the bill. A member of the staff stated that he will change the language in subsection (4) and (5) and throughout the bill to comply with Committee's decision.

There was a lengthy discussion concerning foreign corporations now operating in Kansas, such as National Alfalfa, and whether or not they should be "grandfathered" into the law. It was decided that this would be very complicated, and could create many problems, because of the differences in age and size of corporations. There was then a motion offered by Representative Dempsey and seconded by Senator Wilson, to give foreign corporations five years to comply with the law or end their farming operations in Kansas. It was added that if they cannot comply they can come before the legislature at a later date. There was a short discussion before the vote concerning the problems of economic development if this provision were included in the law. A staff member reminded the Committee that these foreign corporations could incorporate under Kansas law if they wished to do so and that this would solve their problem. The motion carried.

Further discussion of the bill resulted in decisions to change certain sections as follows: On page 4, change the first part of subsection (b) to comply with Section 1; change subsection (b)(1) to comply, and perhaps clarify it to show whether land is leased by or from the corporation; change subsection (b)(a) to read "The use of such land"; and change subsection (b)(4) to read as the original bill was written.

There was a question concerning subsection (a)(8) on page 4 of the bill. A member of the staff said that the Committee seemed to feel that information was needed for the future. If this is the case it would be necessary to clarify certain portions of the reporting provisions. In connection with this discussion, there was a reference made to subsection (b)(3) on page 4, and a question concerning its necessity in the bill. A member of the Committee said that there is a law which requires a report on holdings in Kansas by sections and townships, so the subsection in the bill would be valueless. The staff noted that this section is in the original law. It was suggested that if, in the future, some Committee would want to use the income concept, they would need that kind of information; and it might also help to determine whether there is a problem with "fly-by-nights". It was decided that the staff would question Mr. Brier in the Secretary of State's Office to determine the necessity and workability of these subsections -- (a)(8) and (b)(3).

The Committee concluded its discussion and decisions on the proposed corporate farming bill, and instructed the staff to prepare a bill to incorporate changes in the present law which were recommended.

The Committee agreed to the content of a report on soil amendments. They noted that this report should include a note that there are faults in the present sale and distribution and because of the problems revealed in testimony before the Committee it would be well to regulate the industry -- making it sort of a consumer protection measure -- and that fertilizers and soil amendment should be treated on the same basis.

The Committee further agreed that their report on alien ownership of land state that they decided not to take any action now, but that S.B. 500 is a vehicle that could be used if the regular legislative committees want to take action.

The meeting was then adjourned, with the final meeting set for November 10 and 11.

Prepared by Donald L. Jacka, Jr.

Approved by Committee on:

10/20/75
(Date)

STATEMENT, KANSAS CATHOLIC CONFERENCE

October 20, 1975

To: Special Committee on Agriculture and Livestock
Re: Proposal 1

In presenting a statement on the corporate farming issue in Kansas, the Kansas Catholic Conference wishes to emphasize that its interests are not economic or political but social and moral. Land, particularly that land which produces food necessary for human life is a resource which by its very nature affects all human beings. This is especially true in our State of Kansas which prides itself on its role in both caring for the land and feeding the world.

It is this relationship between land, food, and the support of human life which constitutes the basis of the moral issue. The implications for increased concentration of land holdings by fewer individuals and groups in our country certainly deserves careful consideration. Not only is this a reversal of American tradition but it also signals a decisive change in the patterns of ownership and operation of American farms. In addition the effect upon the economic viability of rural communities and the quality of their way of life are inescapable problems which are also related to the basic moral issues.

We are aware of the great complexity of the corporate farming issue; but we urge the committee to be mindful not only of the political and economic factors but also of the moral dimension of this issue in its deliberations and ultimate recommendation.

PROPOSED BILL NO. _____

By Special Committee on Agriculture and Livestock

AN ACT concerning agricultural or horticultural corporations; prohibiting certain corporations from engaging in the agricultural or horticultural business; amending K. S. A. 17-5901 and 17-5902, and repealing the existing sections; also repealing K. S. A. 1975 Supp. 17-7503, 17-7504 and 17-7505.

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

Section 1. K. S. A. 17-5901 is hereby amended to read as follows: 17-5901. (a) No corporation shall directly or indirectly engage in the agricultural or horticultural business of producing, planting, raising, harvesting or gathering of wheat, corn, grain sorghums, barley, oats, rye, alfalfa, soybeans or potatoes or the milking of cows for dairy purposes or the raising or pasturing of livestock: Provided, however, That nothing herein contained shall prevent a domestic corporation from engaging in any agricultural or horticultural business of producing, planting, raising, harvesting or gathering of wheat, corn, grain sorghums, barley, oats, rye, alfalfa, soybeans or potatoes or the milking of cows for dairy purposes or the raising or pasturing of livestock if ~~(1) such corporation does not have more than ten~~ ~~(10) stockholders;~~ ~~(2) all of the stockholders of the corporation are individuals, trustees, natural or corporate, under trust instruments wherein individuals or classes of individuals are designated as primary or principal beneficiaries or guardians, conservators, executors or administrators of individuals;~~ ~~(3) all of the incorporators are natural persons residing in this state;~~ ~~(4) such corporation does not own, control, manage or supervise either directly or indirectly, a total of more than five thousand~~ ~~(5,000) acres of land;~~ and ~~(5) none of the stockholders own stock~~

~~in another corporation authorized to engage in any agricultural or horticultural business of producing, planting, raising, harvesting or gathering of wheat, corn, grain sorghums, barley, oats, rye or potatoes or the milking of cows for dairy purposes~~ derives seventy-five percent (75%) of its revenue over a consecutive five (5) year period from such agricultural or horticultural business; but nothing herein shall prevent any corporation, either domestic or foreign, organized for coal mining purposes from engaging in the agricultural or horticultural business on any tract of land owned by it which has been strip mined for coal.

(b) The provisions of the general corporation laws of this state, chapter 17 of the Kansas Statutes Annotated and acts amendatory thereof or supplemental thereto, and all powers and rights thereunder shall apply to farm corporations organized hereunder except where such provisions are in conflict with or inconsistent with the express provisions of this act.

Sec. 2. K. S. A. 17-5902 is hereby amended to read as follows: 17-5902. (a) All corporations which own or lease any land within this state which is used ~~or usable~~ for farming or agricultural or horticultural purposes shall provide the information required of such corporations in their annual reports pursuant to K. S. A. ~~1972~~ 1975 Supp. 17-7503, 17-7504 or 17-7505 as ~~such sections are~~ amended by this act: Provided, however, That (1) a tract of land of less than ten (10) acres, or (2) ~~contiguous contracts of land which in the aggregate are of less than ten (10) acres, or~~ (3) state accessed railroad operating property shall not be deemed land used ~~or usable~~ for farming or agricultural or horticultural purposes for informational reporting under this act.

(b) 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.

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

Sec. 3. 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 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 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) 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) The ~~total--number--of--stockholders-of-the-corporation~~ percentage of income or other revenue derived by the corporation over the last consecutive five (5) year period from sources other than the agricultural or horticultural business of producing, planting, raising, harvesting or gathering of wheat, corn, grain sorghums, barley, oats, rye, alfalfa, soybeans or potatoes or the milking of cows for dairy purposes or the raising or pasturing of livestock.

(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. 4. 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 land within this state which is used ~~or-useable~~ 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 land in this state owned or leased by the corporation and used ~~or--useable~~ for farming or agricultural or horticultural purposes;

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

(3) 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) The ~~total--number--of--stockholders--of--the--corporation~~ percentage of income or other revenue derived by the corporation over the last consecutive five (5) year period from sources other than the agricultural or horticultural business of producing, planting, raising, harvesting or gathering of wheat, corn, grain sorghums, barley, oats, rye, alfalfa, soybeans or potatoes or the milking of cows for dairy purposes or the raising or pasturing of livestock.

(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. 5. 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. ~~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 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 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 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) 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) The total-number-of--stockholders--of--the--corporation percentage of income or other revenue derived by the corporation over the last consecutive five (5) year period from sources other

than the agricultural or horticultural business of producing, planting, raising, harvesting or gathering of wheat, corn, grain sorghums, barley, oats, rye, alfalfa, soybeans or potatoes or the milking of cows for dairy purposes or the raising or pasturing of livestock.

(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.

New Sec. 6. 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 is engaging in any agricultural or horticultural business in violation 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.

Sec. 7. 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. 8. 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 five cents (5¢) 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.

House Bill No. 2560 (As Amended by House Committee)
Changes recommended by Special Committee on
Agriculture and Livestock

1. Page 1, in line 10, following "materials" by inserting "including ground lime and slaked lime".
2. In line 11, by striking "unmanipulated"; also in line 11, by striking "manures" where it last appears and insert "compost".
3. On page 2, in line 5, by striking all after "(f)"; also strike all of lines 6 to 8, inclusive, and insert in lieu thereof the following:
 4. "'Unmanipulated animal manures' means the refuse of stables, barnyards or feedlots consisting of animal excreta with or without litter."
5. On page 4, in line 4, by striking "twenty-five dollars (\$25)" and inserting "five dollars (\$5)"; in line 12, by striking "twenty-five cents (25¢)" and insert "twenty cents (20¢)"; in line 12, before the period, by inserting the following: "Provided, That in the case of manipulated animal manures, such fee shall only be assessed on the tonnage of ingredients added to the otherwise unmanipulated animal manures"; following line 27, by inserting a new subsection to read as follows:

"(c) The secretary is hereby authorized to reduce the inspection fee provided for in subsection (a) whenever he or she shall determine that such inspection 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 this act but not in excess of the fee herein before stated."

6. On page 5, in line 20, by striking "any" and insert "the".

PROPOSED BILL NO. _____

By Special Committee on Agriculture and Livestock

AN ACT authorizing the consolidation of rural water districts and providing the procedure therefor; amending K. S. A. 1975 Supp. 82a-619, and repealing the existing section.

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

Section 1. K. S. A. 1975 Supp. 82a-619 is hereby amended to read as follows: 82a-619. Every district incorporated under this act shall have perpetual succession, subject to dissolution ~~as provided by this act;~~ or consolidation pursuant to law; shall have the power of eminent domain and when exercising said power for the purpose of acquiring a site for a lake may condemn a fee simple title to the land necessary for such lake site; shall be empowered to sue and be sued; shall be capable of contracting and being contracted with; shall be authorized and empowered to hold such real and personal property as may come into its possession by will, gift, purchase, or otherwise, as authorized by law; shall have power to construct, install, maintain and operate such ponds, reservoirs, pipe lines, wells, check dams, pumping installations or other facilities for the storage, transportation or utilization of water and such appurtenant structures and equipment as may be necessary to carry out the purposes of its organization, and shall have power to cooperate with and enter into such agreements as deemed necessary with the secretary of the United States department of agriculture or his or her duly authorized representative, and shall have power to accept such financial or other aid which the secretary of agriculture of the United States department of agriculture is empowered to give pursuant to 16 U.S.C.A., secs. 590r, 590s, 590x-1, 590x-a and 590x-3, or amendments thereto, and shall have power to acquire loans for the financing of up to ninety-five percent (95%) of the

cost of the construction or purchase of any project or projects necessary to carry out the purposes for which such district was organized and to execute notes and mortgages in evidence thereof with interest, or combined interest and mortgage insurance charges, not to exceed six percent (6%): Provided, however, That any district shall have the same power to acquire loans for the refinancing of up to ninety-five percent (95%) of the original cost of any such project or projects. The balance of the cost of construction shall be acquired by subscription, donation, gift or otherwise than through the medium of loans, except that in the case of cooperative corporations and corporations not for profit being converted to water districts as provided for in K. S. A. 82a-631 to 82a-635, inclusive, the district may assume one hundred percent (100%) of the indebtedness of the corporation, providing the corporation originally raised at least ten percent (10%) of the construction cost by means otherwise than through the medium of loans.

Any such loan may be secured by any or all of the physical assets owned by the district, including easements and rights of way: Provided, No district organized under this act shall have any power or authority to levy any taxes whatsoever.

New Sec. 2. Any two or more contiguous rural water districts organized pursuant to K. S. A. 82a-612 et seq. may be consolidated by order of the board of county commissioners of the county in which the district with the largest ^{number of participating members} ~~acreage of land~~ was originally incorporated and organized.

New Sec. 3. The participating members of each district to be consolidated shall first authorize such consolidation by majority vote of the members ~~present at a meeting held upon not less than ten (10) days' written notice to each member stating the purpose of the meeting.~~ ^{of each district} A petition addressed to the board of county commissioners, ^{such(?)} executed by the chairman and secretary of each district seeking consolidation, and filed with the county clerk of such county shall: (1) Set forth the names of each district seeking consolidation; (2) be accompanied by a map showing

the boundaries of such districts; (3) state that the consolidation has been approved by a majority ~~vote~~ of the ~~participating~~ members of each district ~~at a meeting held upon notice as required by this section~~; (4) state whether or not the boards of the districts proposed to be consolidated have agreed to assume all existing liabilities of such districts as provided in section 6 of this act, and whether such agreement has been approved by the holders of all outstanding revenue bonds and promissory notes; and (5) state that the consolidated district will provide adequate water service within the area of the consolidated district.

New Sec. 4. Whenever a petition, as provided in section 3 of this act, is filed with the county clerk, such county clerk shall thereupon give notice to the board of county commissioners of the filing and pendency of such petition and ^{publ(?)} the board of county commissioners shall forthwith fix a place and time within thirty (30) days from the date of the filing of the petition for a hearing thereon, and the county clerk shall, at least seven (7) days before the date fixed for the hearing, give or send by registered or certified mail, written notice thereof to the chairman of each district seeking consolidation, and shall transmit one copy of the petition and notice of the hearing to the chief engineer of the division of water resources. At least seven (7) days prior to the date fixed for the hearing, the county clerk shall also cause a notice of the hearing to be published in a newspaper having general circulation within the county. Such published notice shall: (1) Identify by name the districts seeking consolidation; (2) state the time and place of the hearing; (3) state that all interested persons may appear and be heard; and (4) state that a consolidated water district shall have no power or authority to levy any taxes whatsoever.

New Sec. 5. If, at the time and place set for the hearing, the board of county commissioners shall find and determine that: (1) Notice of the hearing has been given as required by section 4 of this act; (2) the proposed consolidation has been approved by

a majority ~~vote~~ of the ~~participating~~ members of each district seeking consolidation as provided by section 3 of this act; (3) that the statements contained in the petition for consolidation are true, the board of county commissioners shall thereupon enter an order declaring the area within the boundaries of the rural water districts seeking consolidation to be incorporated as a consolidated rural water district under the name of "consolidated rural water district no. _____, _____ County, Kansas (inserting number in order of consolidation and name of county).

New Sec. 6. At the time of the effective date of the consolidation, all the property of the original districts shall be combined and administered as one unit, and the consolidated district shall thereupon be invested with all the property benefits, franchises and privileges of the districts consolidated by the order and shall have all the powers of rural water districts. All revenue bonds, promissory notes or other liabilities theretofore incurred by any of the districts consolidated by the order shall be paid in accordance with the terms, thereof, only from revenues derived from the services and facilities of the original district: Provided, however, That if, at a meeting held prior to the hearing provided for in section 4 of this act, a majority of the members of the boards of each district vote in favor of, and the holders of all outstanding revenue bonds, promissory notes or other obligations agree thereto, the consolidated district shall assume all such obligations as liabilities to be paid from revenues derived from services and facilities of the consolidated district.

New Sec. 7. Immediately following entry of the order of consolidation by the board of county commissioners, the members of the boards of the former rural water districts which were consolidated shall meet and elect from among themselves a chairman, vice-chairman, secretary and treasurer. The offices of secretary and treasurer may be held by one person. No more than two (2) of such offices may be held by persons from one (1) of such former rural water districts. The members of such boards shall adopt

the bylaws of one of the former districts with such changes and modifications as the directors shall deem necessary. The members of such boards of directors shall continue to serve as members of the board of directors of the consolidated district until the next annual meeting of the consolidated district as fixed in the bylaws, at which time a board of directors, not to exceed nine (9) in number, shall be elected in the same manner prescribed for the election of an original board under K. S. A. 82a-617.

New Sec. 8. Participating members of each district forming a consolidated district shall be deemed to be participating members of the consolidated district.

Sec. 9. K. S. A. 1975 Supp. 82a-619 is hereby repealed.

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