

M I N U T E S

SPECIAL COMMITTEE ON AGRICULTURE AND LIVESTOCK

November 10, 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 Clifford Campbell  
Representative Rex Crowell  
Representative Ambrose Dempsey  
Representative Lee Hamm  
Representative George H. Works

Staff Present

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

Interested Parties

Sister Mary Noel Walter, Kansas Catholic Conference  
Verne Faulchauser, Kansas Farmers Union  
Ivan W. Wyatt, Kansas Farmers Union  
LeRoy Bower, National Farmers Organization of Kansas  
Guy E. Gibson, Kansas Department of Agriculture,  
Water Resources Division  
John Blythe, Kansas Farm Bureau  
Perry Miller  
Pat Boyer, Kansas Department of Agriculture  
Representative Tom Slattery

Morning Session

In the temporary absence of the Chairman, and there being a quorum present, Vice-Chairman Vogel called the meeting to order. He asked the staff to review the draft of corporate farming legislation -- Proposal No. 1. In connection with this review, changes in a previous draft were brought to the Committee's attention. A copy of this bill draft is appended as Attachment I. The first change was in Section 1, where the list of crops was stricken and the words "cultivated farm crops" inserted. This has been done in two places in Section 1. It was noted that the Secretary of State's Office is somewhat concerned about this generality.

Section 1(a)(4) had been changed to add "in any one year". Here it was noted that the Secretary of State's Office felt it should read "in such corporation's taxable year". A member of the Committee suggested that an even more important point from the standpoint of agriculture is "farm production year". There was a short discussion concerning this wording, but nothing was decided at that time.

The next change noted in the bill draft was the striking of subsection (5) in Section 1(a). Sections 1(b) and 1(c) are new. Subsection (b) is a provision from a previous draft of the bill; and subsection (c) provides that husband and wife are considered one stockholder for the purposes of the act.

Section 2 of the draft was clarified by striking the word "lease" and inserting "have a leasehold interest". On page 3, some ambiguous wording had been stricken from the proviso at the top of the page. Section 2(c) had added language to require the Secretary of State to report violations to the Attorney General. This also provided that foreign corporations must come into compliance with the law in five years. These corporations would be allowed to set up a domestic subsidiary -- it wouldn't force anyone out of business.

A staff member noted that there are a number of non-profit corporations in existence now that hold land which they lease for farming. Examples are the Kansas University Alumni Association and the Kansas State University Alumni Association. These, however, should be affected by the present law. The problem is that, if there is an exception made within the law for these corporations, it would allow domestic "for profit" corporations to set up as "not for profit" in order to benefit from the exception. It was revealed that the Secretary of State's Office considers this a real problem, but had not been able to come up with any way to take care of it. The Secretary of State has given a list of corporations in violation of present law to the Attorney General.

At this point the Staff mentioned that the Secretary of State thought there might be a problem in determining the crops which are "cultivated farm crops".

Upon a continuation of the explanation of the bill draft, the Staff stated that there are three reporting sections in the corporation statute, and they are identical to subsection (b) on page 5. In the draft being presented, the words "owns or leases" had been stricken and replaced with "is the owner or lessee of". There is more language in the subsection to clarify the word "lessee". Subsection (b) (3) had been stricken because it wasn't giving the Secretary of State anything that could be used any more. This completed the list of changes which had been made in the proposed bill.

There was a lengthy discussion concerning the deletion of subsection (b) (3) -- concerning reporting requirements. The Staff explained that there is a requirement elsewhere in Kansas law for corporations to show the value of total assets. It was also explained that it is very difficult for corporations to break down the difference between agricultural and other assets. It was agreed by the Committee that subsection (b) (3) on page 5 of the proposed draft be re-inserted, except for wording: "the nonagricultural assets and".

One member of the Committee expressed concern about trusts being prevented from operating more than 5,000 acres of farm land. Because of the wording in Section 1(a)(4) which states "Own, control, manage or supervise", this might happen. It was suggested that this language be changed to "own or lease" or that the Committee allow the staff to find out if that is the proper language to exempt bank trusts. Later in the meeting, Representative Vogel offered a motion to leave the section as now written. Senator Wilson seconded his motion and it carried.

A motion was offered by Representative Vogel and seconded by Representative Crowell to stipulate that in no event shall a corporation own or lease more than 10,000 acres (including the 5,000 acres of cultivated land on which crops are harvested.) This language would be inserted at the bottom of page 1 of the bill draft. There was discussion concerning this motion, most of it centered on the premise that a limit on acreage owned would be unfair to people in certain parts of the state, particularly with regard to pasture land, since it is possible, on a comparable area of grassland, to graze more cattle in Eastern Kansas than in Western Kansas. During the discussion, it was suggested that perhaps a dollar value would be a better criteria than acreage. Upon vote by the Committee, the motion failed, by a vote of four "yes" and five "no".

The topic of discussion reverted to the problem of trusts managing land under the proposed bill, and the Committee asked the staff to try to find out before the afternoon session if there is proper language to allow trusts to manage more than restricted acreage without affecting other corporations.

Representative Hamm moved to add a provision in subsection (c) on page 3 of the bill to have the Secretary of State keep a separate index of all corporations by name of corporation and by county. The motion was seconded by Representative Dempsey, and it carried. The purpose of this provision is to keep corporations from separately reporting several tracts of 5,000 acres in different counties. The provision will allow a cross reference so that this can be checked.

Following further discussion of the bill draft, Senator Wilson moved that the bill be introduced as a Committee bill in the next session of the legislature. The motion was seconded by Senator Christy, but it lost, with three "yes" votes and five "no". Another motion offered by Senator Wilson and seconded by Representative Vogel was to introduce the bill in the coming Session of the Legislature without recommendation. This motion also lost by a vote of 5 to 3.

Because of the lack of agreement on the bill, the Chairman asked for a concensus of Committee members to decide what should be done in relation to Proposal No. 1.

Senator Wilson stated that something must be done to preserve the family farm, and to allow land to be passed from generation to generation without the burden of inheritance taxes. He also stated that it is necessary to protect the family farm from corporations who come into the state and sell stock for capital. He noted that the bill before the Committee is not perfect, but it is better than present law.

Representative Works stated that the Committee hasn't touched on what the Federal Government will do in increasing inheritance tax. He also noted that he didn't think a limit should be placed on individual enterprise. He added that income taxes will tend to hold down personal farm expansions.

Representative Dempsey said he felt it is difficult to write a law which will be accepted in all of Kansas, because of the difference in the present size of farming operations in different areas. He said he would like to improve reporting aspects of the law and make it easier to transfer land from one generation to the next.

Senator Droge and Representative Vogel made no further comments.



Representative Campbell stated that he did not believe the bill should be thrown out, because the Committee has made several steps forward. The only point of disagreement is whether or not to limit pasture acreage. He suggested there should be a restriction on evaluation, as well as acreage, but he wasn't certain it could be worked out.

Representative Crowell stated that, in spite of all the drawbacks of acreage limitation, it is the only restriction that will work when you consider all the complications involved. He added that he knew of nothing else that would be workable. He said the big difference of opinion and the big problem is the two types of economy in eastern and western Kansas.

Senator Williams stressed that agriculture and livestock is the state's most important product, with three different sections of Kansas involved -- eastern, western and central. He agreed that it is difficult to have a law which is fair to all people in the state.

Representative Hamm stated that it would be wise to introduce the bill, leaving the acreage as it was in the old law. He noted that the Committee has made some good changes which are needed.

Senator Christy also noted the differences in size of farms in different sections of Kansas as a big problem in getting an effective law. He noted that meat production and meat processing are major industries in Kansas, and the meat industry is now having problems because of pollution control laws. He added that there is a problem of transfer of property and property rights, including the inheritance tax problem. He said the Committee had solved a lot of problems, but the big problem is the understanding of the difference between the areas of the state. He concluded that the law is not too bad.

The Chairman asked the members of the Committee to consider their action in light of the comments made. He noted that they would reconsider their action following their noon break.

A member of the Staff then presented the proposed Committee Report on Proposal No. 2 -- Alien Ownership of Property Interests, appended as Attachment II. On motion by Senator Christy and seconded by Representative Vogel, the Committee Report was accepted and approved by the Committee.

The proposed Committee Report on Proposal No. 63 -- Soil Amendments, appended as Attachment III, was presented by a Staff member. Senator Christy moved and Representative Hamm seconded the motion to approve the report, and the motion carried.

The meeting was recessed until 1:30 p.m.

Afternoon Session

The Committee turned its attention to Proposal No. 4 -- Pesticide Use and Control Law. A member of the Staff presented the proposed Committee Report, appended as Attachment IV. There was a lengthy discussion concerning the effect of pending federal amendments to the Federal Environmental Pesticide Control Act of 1972; and also questions by the Committee to clarify their understanding of both the proposed Kansas law and the proposed federal law. Upon motion by Senator Christy and seconded by Representative Crowell, the Committee voted to approve the report as presented to them.

Proposal No. 1 -- Corporate Farming, was then reconsidered by the Committee. Upon motion by Senator Wilson and seconded by Senator Christy, the Committee voted to reconsider previous action on the proposal for the purpose of re-evaluation. Representative Vogel moved to retain present language in Section 1(a)(4) as far as acreage is concerned, and to make other changes necessary to comply with that motion. Representative Dempsey seconded the motion and it carried, with Senator Christy voting "No".

The Staff reported on a question brought up earlier in the day concerning banks, etc., who serve as trustees, and their problems under this law. It was reported that the trustee who is managing some farm assets is not an owner, but if the wording "control, manage or supervise" is left in the bill, the trustee would be included in the law. This language has been in the law previously -- it was not inserted by this Committee. Representative Vogel moved that the words "control, manage or supervise" be eliminated from (1) (a) (4) and that the words "or lease" be inserted instead. Representative Dempsey seconded the motion, and it carried, with Senator Christy voting "No".

Upon motion offered by Representative Crowell and seconded by Senator Wilson, the Committee voted in favor of recommending the bill, as amended at this meeting, to the 1976 Session of the Legislature favorable for passage. The motion carried, with Senator Christy voting "No".

The Committee directed its attention to the proposed Committee Report on Proposal No. 1 - Corporate Farming, appended as Attachment V. As a member of the staff reviewed the report, with a number of changes being made.

Representative Vogel suggested the addition of a paragraph pointing out that, since the interim committee could come to no agreement as to acreage control of corporate farming, it

felt that the acreage restriction should remain as it is presently. He suggested that this be inserted in place of the language deleted on page 9 of the report. Representative Vogel then moved that the Committee report on Proposal No. 1 be accepted on a tentative basis. Representative Hamm seconded the motion, and it carried. Senator Christy requested and received permission to submit a minority report. It was noted that the staff will prepare the corrected report and send it to each of the Committee members for their approval.

Proposal No. 3 -- Consolidation of Rural Water Districts, was the next subject presented to the Committee. The staff pointed out changes which had been made in the proposed bill because of decisions made by the Committee at the previous meeting. This bill is appended as Attachment VI. The Committee had requested the staff to find out about the proviso in Section 6 of the proposed bill concerning whether the consent of all bondholders is necessary for consolidation purposes. The conclusion was that it isn't necessary to have revenue bondholders consent as long as their security position has not been diminished. Therefore, it might be possible to eliminate that reference on page 4 of the bill draft. There was considerable discussion concerning this issue. Senator Christy then moved that the words in the proviso on page 4 of the bill draft, beginning with the word "and" and ending with the word "thereto", be eliminated. Representative Vogel seconded his motion, and it carried.

Upon motion offered by Senator Wilson and seconded by Representative Vogel, the Committee voted that the bill draft as amended and as corrected at this meeting be introduced to the next Session of the Legislature, and that it be recommended favorably for passage. The motion carried.

Representative Vogel moved that the Chairman be given authority to recommend the bills considered by the Committee to the proper initial chamber of the 1976 Legislature. Senator Wilson seconded the motion and it carried.

Upon motion by Senator Christy and seconded by Representative Hamm, the Committee Report on Proposal No. 3 was approved. This report is appended as Attachment VII.

Upon motion by Representative Hamm and seconded by Senator Wilson, the Committee voted to give tentative approval to the minutes of the last meeting, to be confirmed by mail.

This being the last meeting of this interim committee, the Chairman expressed his thanks to the staff and committee members for their diligence and cooperation. The meeting was then adjourned.

Prepared by Don Jacka

Approved by Committee on:

\_\_\_\_\_  
Date

Not Proofed

## ATTACHMENT I

PROPOSED BILL NO. \_\_\_\_\_

By Special Committee on Agriculture and Livestock

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

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 or potatoes~~ cultivated farm crops or the milking of cows for dairy purposes: 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 or potatoes~~ cultivated farm crops or the milking of cows for dairy purposes 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; and (4) such corporation does not own, <sup>or lease</sup> control, manage or supervise, either directly or indirectly, ~~in any one year,~~ a total of more than five thousand (5,000) acres of (cultivated) land; ~~and (5) none of the stockholders own stock in another corporation authorized to engage in any agricultural or horticultural business of pro-~~



~~ducing, planting, raising, harvesting or gathering of wheat, corn, grain sorghums, barley, oats, rye or potatoes or the milking of cows for dairy purposes~~ but on which crops are harvested.

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) No person shall own stock in more than one (1) corporation authorized by this section to engage in any agricultural or horticultural business. For the purposes of this section, an individual owning stock in any such corporation whose spouse owns stock in another such corporation shall not be deemed in violation of this subsection regardless of whether any of said stock is held in joint tenancy, tenancy in common or in trust for the benefit of either or both of said individuals.

(c) For the purposes of subsection (a)(1) of this section, a husband and wife owning stock in a corporation authorized by this section to engage in any agricultural or horticultural business shall be counted as one (1) stockholder regardless of whether any of said stock is held individually, in joint tenancy, tenancy in common or in trust for the benefit of either or both of said individuals.

(d) 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~~ have a leasehold interest in 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~~ ~~useble~~ 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.

*Motion has*

(c) The secretary of state shall keep a separate index of all corporations subject to the provisions of this section and 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 land is held in apparent violation of this act. If the court finds that the land in question is being held 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, any corporation having an interest in such 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 come into compliance with this act. Such limitation period shall be a covenant running with the title to the land against any corporate grantee, assignee or successor to such corporation. If the court finds that the land being held in violation of this act is owned or otherwise held or controlled by a foreign corporation, the order of the court shall specify that such corporation shall divest itself of all interest in any such

land on or before July 1, 1981.

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. 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~~ is the owner or lessee of 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~~ of which the corporation is the owner or lessee and which is used ~~or useable~~ for farming or agricultural or horticultural purposes;

(2) The ~~purposes for which~~ corporations's use of such land ~~is owned or leased;~~

*delete*  
~~(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)~~(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. 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 secre-

tary 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. 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~~ is the owner or lessee of 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~~ of which the corporation is the owner or lessee and which is used ~~or-usable~~ for farming or agricultural or horticultural purposes;

(2) The ~~purposes--for-which~~ corporation's use of 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)~~(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. 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. 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~~ is the owner or lessee of 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~~ of which the corporation is the owner or lessee and which is used or usable for farming or agricultural or horticultural purposes;

(2) The ~~purposes for which~~ corporation's use of 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)~~ (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 certif-

icate 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. 6. 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. 7. This act shall take effect and be in force from and after its publication in the statute book.



Indiana, Kentucky, Mississippi, Nebraska, New Hampshire and Oklahoma. Each of such states have exceptions to their restrictions however. The effect of a general prohibition is generally to prohibit the individual alien investor living abroad from purchasing agricultural property in his own name. Some of the above named states however, permit resident aliens to own land. Residents may mean residents within the state or in some cases, residents anywhere in the United States. Others of these states permit aliens, who have declared their intention to become citizens, to own land.

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



do not serve as a complete barrier since a continuous process of acquisition of new leaseholds or even a continuing rollover of freehold interests would appear permissible under these laws.

Several states have very limited restrictions in terms of practical importance. Some states exclude enemy aliens from land ownership and others require alien holders "to be friends". In either instance this requirement is of little importance since today modern wars are commonly undeclared and opposing forces are not technically enemies. A few states require that a person be eligible for citizenship in order to hold land. This is a remnant of the anti-oriental discrimination. These types of restrictions are probably unconstitutional, but even if they are not, they have little effect because they have apparently never been interpreted to actually require an alien to be applying for citizenship or satisfy such formal requirements as literacy in English or residence in the United States.

Only a few states have specified statutory provisions on alien ownership of land through the use of corporations. Several states however, have very substantial restrictions on corporate ownership of farmland. Most of these states also prohibit certain types of corporate entry into the farming business. Kansas law does not address itself specifically to alien ownership of farmland but does have a statutory restriction on corporate ownership of farmland. Restrictions on ownership by corporations incorporated outside the United States is probably the least successful restriction since the alien corporation or investor may simply incorporate a subsidiary somewhere in the United States. There is no

meaningful restriction on formation of domestic subsidiaries by alien corporations or individuals. States excluding corporations with more than a specified percentage of alien ownership or with alien directors or managers have been successful in some instances but the establishment of intermediate corporate holding companies or nominees often make it difficult to discern the true identity and nationality of the owner.

Committee Deliberations and  
Recommendations

The 1975 Legislature's action on S.B. 500 was the impetus for a study concerning the alien ownership of property interests. Following its passage from the 1975 Senate Committee on Agriculture and Livestock, the bill went to the Senate Committee of the Whole. S.B. 500 was re-referred to the Senate Committee on Agriculture and Livestock for further study. To implement the legislature's recommended further study on S.B. 500, Proposal No. 2 was assigned to the Special Committee on Agriculture and Livestock for interim study.

Proceeding with S.B. 500 as a basis for study, the Committee reviewed the many ways in which other states restrict alien ownership of property interests and the obstacles inherent in such restrictions. In their initial discussion of Proposal No. 2, the Committee realized the interrelationship inherent between the alien ownership of land and the topic of their study of Proposal No. 1 - Corporate Farming. Since it was felt that a law which would restrict the alien ownership of property interests would also have to restrict similar ownership through corporations formed by such aliens, the Committee decided to study Proposals No. 1 and 2 in conjunction.

In their study of Proposal No. 2 the Committee considered not only the effect that a ban on alien ownership of property interests would have on agricultural production of the state, but also the effects of such prohibition on the commerce and industry of the state. In its determination of the advisability of prohibiting the alien ownership of property interests in Kansas, the Committee received testimony from the Kansas Department of Economic Development (KDED). In testimony before the Committee, the representative of KDED made reference to 25 present industries in the state which are owned by aliens and cautioned that, for the State of Kansas' economy, the Committee should not recommend legislation which would be too restrictive on alien investments. In relation specifically to S.B. 500, the representative of KDED felt that the acreage limitation on the ownership of land by an alien corporation was too restrictive. It was noted that a limitation of 640 acres would be more reasonable to prospective alien corporations considering location within Kansas.

From its study conducted on Proposal No. 2, the Committee realizes the need for regulating the ownership of agricultural land by alien investors. The Committee also realizes the difference between the investment by aliens in land to be used for agricultural production and land to be used for industrial sites. Because of its inability to determine the extent of alien ownership of land for agricultural production -- through corporations, trusts, etc., -- and because it does not want to obstruct the economic development of Kansas, the Special Committee on Agriculture and Livestock recommends no legislation in relation to Proposal No. 2. However,

the Committee notes that if the 1976 Legislature feels that the regulation of alien property interests in the state would be of the best interest to Kansas, S.B. 500 -- which is now held in the Senate Committee on Agriculture and Livestock -- would provide the necessary vehicle for the enactment of such legislation.

## MEMORANDUM

TO: Special Committee on Agriculture and Livestock October 31, 1975  
FROM: Legislative Research Department  
RE: Rough Draft of Committee Report on Proposal No. 63 - Soil  
Amendments

The Special Committee on Agriculture and Livestock was charged by Proposal No. 63 with a "study to determine the desirability and consequences of the state licensing and regulating soil amendments". During the course of their study, the Committee received testimony from various representatives of the State Extension Service; the Office of Attorney General, Consumer Protection Division; and the Soil Amendments Industry.

Background

Because of the high costs of fertilizers in recent years, more and more farmers are attempting to substitute soil amendments for fertilizers in efforts to economize. As a result of this increased usage, individuals and groups throughout the state have urged the regulation and control of soil amendments. Soil amendments or conditioners differ from fertilizers in that they are applied to the soil to improve its quality and not necessarily to improve its ability to sustain growth of vegetation. For this reason soil amendments are not regulated by the present Kansas Commercial Fertilizer Act (KSA 2-1201 et seq.). The study of Proposal No. 63 stems from and is based on H.B. 2560 of the 1975 Legislative Session. H.B. 2560 proposed the licensing and regulation of soil amendments in Kansas. H.B. 2560 failed to pass out



of the Senate Committee on Agriculture and Livestock and will be carried over to the 1976 Session of the Legislature.

#### Committee Deliberations and Conclusions

Working from H.B. 2560 the Committee first needed to determine if such legislation was necessary. Through discussion with various conferees, the Committee concluded that although there are many soil amendments which are adequately labeled and perform the function promoted by the product, there is opportunity for many other products to defraud the public through adulteration or mislabeling. In discussion with a representative of the Consumer Protection Division of the Office of Attorney General, the Committee was informed that the present Kansas Consumer Protection Act prohibits misbranding and mislabeling of products. In further discussion it was noted that although the Attorney General's office could remedy the misbranding or fraudulent claims of a soil amendment in court without specific legislation, such a task would be facilitated by the enactment of legislation such as H.B. 2560. Through discussions with various representatives of the Soil Amendments Industry, the Committee concluded that the industry, in general, supports legislation such as proposed by H.B. 2560, as long as the regulation of soil amendments is not more stringent than the regulation of fertilizers. With the desire to establish regulations similar to those provisions of the Kansas Commercial Fertilizer Act, the Committee has proposed various amendments which it will recommend to the Senate Committee on Agriculture and Livestock for their consideration in review of H.B. 2560 during the 1976 Legislative Session. These recommendations are as follows:

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".

In their discussion of soil amendments, the Committee agreed that agricultural liming materials including ground lime and slaked lime -- which are not regulated by the Kansas Commercial Fertilizer Act -- should not be categorized with products of a different nature in legislation which regulates soil amendments. Because agricultural liming materials should be considered

independently, the Committee has recommended the introduction of \_\_\_\_\_ Bill \_\_\_\_\_ to the 1976 Legislature. This bill would regulate the distribution, labeling, registration and inspection of agricultural liming materials.

Through the acceptance of the proposed amendments to H.B. 2560 and \_\_\_\_\_ Bill \_\_\_\_\_, the Committee feels that the user of soil amendments and agricultural liming materials will become more aware of what is being purchased and will be able to more intelligently construct an accurate program of application. For this reason, the Special Committee on Agriculture and Livestock recommends \_\_\_\_\_ Bill \_\_\_\_\_ and the proposed amendments to H.B. 2560 to the 1976 Legislature.

## COMMITTEE REPORT

FROM: Special Committee on Agriculture and Livestock  
TO: Legislative Coordinating Council  
RE: Proposal No. 4 - Kansas Pesticide Use and Control Law

Proposal No. 4 directed the Special Committee on Agricultural and Livestock to conduct a study relating to the formulation of Kansas legislation to comply with the Federal Environmental Pesticide Control Act of 1972. During the course of their study of Proposal No. 4, the Committee received testimony from representatives of the U.S. Environmental Protection Agency, the State Board of Agriculture, and the Kansas State Extension Service.

#### Background

The Federal Environmental Pesticide Control Act of 1972 (FEPCA) was instituted to extend federal controls to the actual application of pesticides by the user and to regulate intrastate, as well as interstate, marketing of pesticide products. FEPCA requires that the various states submit complimentary programs of compliance for review by the Environmental Protection Agency (EPA) before October 21, 1975. This state plan must then be reviewed and accepted by EPA and the applicators in the state must be trained and qualified before restricted-use chemicals can be sold and applied. All provisions of the Federal Environmental Pesticide Control Act become effective on October 21, 1976.

The formulation of a Kansas program of compliance and complimentary state legislation has been the topic of two previous interim studies. During the 1973 interim, the Special Committee on

Agriculture and Livestock conducted a study in this subject area and recommended that compliance with FEPCA be initiated to enable the education, training and regulatory programs to be formulated and instituted by the date of compliance -- October 21, 1976. To initiate Kansas' compliance, the Committee requested that the Governor designate a state agency to be responsible for the formulation of the Kansas plan for compliance with the Federal Environmental Pesticide Control Act of 1972. As a result of the initial interim study in this subject area, the State Board of Agriculture was designated as the agency responsible for the formulation of a state plan for compliance.

The 1974 Special Committee on Agriculture and Livestock again studied an interim proposal concerning the compliance with the 1972 federal legislation. As a result of that study a bill was drafted and submitted to the 1975 Legislature. This legislation, H.B. 2001, set forth a Kansas plan of compliance with the Federal Environmental Pesticide Control Act of 1972.

During the 1975 Legislative Session, H.B. 2001 was initially directed to the House Committee on Agriculture and Livestock where it received various amendments and was recommended favorably for passage. H.B. 2001 was again amended by the House Committee of the Whole and passed to the Senate. The Senate Committee on Agriculture and Livestock received the bill and again it was amended. Following its amendments, the Senate Committee favorably recommended H.B. 2001 to the Senate Committee of the Whole. The Committee of the Whole reviewed H.B. 2001 and re-referred it to the Senate Committee on Agriculture and Livestock for further study.



As a result of that re-referral, the present interim study was assigned to the Special Committee on Agriculture and Livestock.

#### Committee Deliberation

At the onset of their deliberations on Proposal No. 4, the Committee received testimony from the State Board of Agriculture in relation to the Kansas State Plan of compliance with FEPCA. It was noted that this state plan is to be submitted to the EPA accompanying the complimentary state legislation. Following a review of the state plan, the Committee received testimony from representatives of the EPA concerning Kansas' compliance with the Federal Environmental Pesticide Control Act of 1972.

In their presentation before the Committee, the representatives of EPA explained to the Committee their doubts at the successes of the various amendments to FEPCA which were before Congress. In that discussion it was noted specifically that the effective dates of the Act would most likely not be changed and that compliance with FEPCA would be mandatory on October 21, 1976. In relation to the effective dates of the Act, the Committee was reminded that the state plan and the state legislation which would bring Kansas into compliance with FEPCA were to be submitted to EPA for review by October 21, 1975. It was then noted that although the legislation, H.B. 2001 -- which would accompany the state plan and provide for Kansas' compliance with FEPCA -- would not have legislative approval on October 21, 1975, there was provision for

a contingency approval of the state plan while the legislation is pending. It was concluded that this would most likely be the approach taken by Kansas.

In a discussion concerning the compliance by other states with FEPCA, the representatives of EPA noted that at that time 33 states had passed or already had adequate legislation for compliance. It was then explained that of the states in this region, Iowa and Missouri already have legislation and Kansas and Nebraska have yet to enact complimentary legislation.

The conferees from the Environmental Protection Agency then involved the Committee in a discussion of the present Kansas laws responsible for the regulation of the application, distribution, and registration of pesticides. In the area of regulating pesticide application, it was noted that the present Kansas Pesticide Use Law and the Pest Control Act have been combined to result in a bill -- H.B. 2001 -- to satisfy the regulations instituted by FEPCA. It was then noted that a third of the present Kansas pesticide laws, the Kansas Agricultural Chemical Act -- concerned with the registration of pesticides -- also needed an update in the future. Although it was noted that the Kansas Agricultural Chemical Act was adequate for compliance with FEPCA, an updated piece of legislation would enable Kansas to register minor uses of pesticides under Section 24(c) of FEPCA, a function which cannot be performed presently under the Kansas Agricultural Chemical Act.

The EPA's presentation was then directed toward the specifics of H.B. 2001. Preceding their discussion with the qualification that H.B. 2001 was a good basis from which to comply

with FEPCA, the EPA representatives presented a number of amendments which they recommended upon their review of the bill. From those amendments which were recommended and also from a variety of amendments proposed by various Committee members, the Committee undertook a review of H.B. 2001.

#### Conclusions and Recommendations

At the conclusion of their study of Proposal No. 4, the Special Committee on Agriculture and Livestock compiled a number of amendments to H.B. 2001, which they felt would result in a more effective and applicable bill. Since H.B. 2001 is being heldover in the Senate Committee on Agriculture and Livestock from the last legislative session to the upcoming, 1976 Session, the present interim committee is not able to amend it directly. Instead, the Committee has opted to offer their recommended amendments for consideration by the Senate Agriculture and Livestock Committee of the 1976 Legislative Session. The changes to H.B. 2001 which are recommended by the 1975 Special Committee on Agriculture and Livestock are as follows.

1. On page 1, in line 11, following the word "any" by inserting "restricted use"; in line 12, preceding the period by inserting "to use by a certified applicator";
2. On page 4, in line 3, by striking the period and inserting in lieu thereof ": Provided, that";
3. On page 4, in line 8, preceding the word "board" by inserting "secretary of the";
4. On page 4, in line 11, following the word "means" by inserting ", unless otherwise provided by the labeling of a pesticide product,";

5. On page 4, in line 25, following the stricken material by inserting the following: "The secretary is authorized to promulgate rules and regulations; designating certain pesticides as "restricted use pesticides," according to their uses.";
6. On page 4, in line 26, following the word "secretary" by inserting "for the board";
7. On page 6, in line 25, by striking all after "(e)"; by striking all of lines 26 through 29, inclusive, in line 30 by striking all before the period and inserting in lieu thereof "Subject to the provisions of subsection (d), from and after October 21, 1976, it shall be unlawful for any governmental agency which has not been issued a government agency registration to apply restricted use pesticides within this state";
8. On page 8, in line 4, following the word "pesticide" by inserting the following "restricted to use by a certified applicator";
9. On page 8, in line 14, following the word "certified" by inserting ", under the supervision of an applicator certified in the category in which the pesticide is being applied,";
10. On page 9, in line 10, by striking all after "obtain"; in line 12, by striking all after "certification"; in line 13, by striking all before "until"; in line 20, following the word "in" by inserting the word "either"; also in line 20, after the figure "4" by inserting "or section 8, as applicable";
11. On page 12, in line 6, following the word "pesticides" by inserting "which have been restricted to use by a certified applicator";
12. On page 12, in line 12, following the period by inserting the following: "No certification shall be required hereunder for individuals operating under the supervision of a certified private applicator.";
13. On page 12, in line 14, by striking "two dollars (\$2)" and inserting "five dollars (\$5)";  
On page 12, in line 16, by striking "us" and inserting "use";
14. On page 18, in line 14, by striking "Apply" and inserting "Use"; in line 26, by striking "application" and inserting "use";

15. On page 18, in line 27, by striking "the directions for use shown on";
16. On page 20, in line 4, by striking "formulation" and inserting "kind and quantity of any carrying agent";
17. On page 21, in line 7, by striking all after "customer"; in line 8, by striking all before the colon and inserting in lieu thereof "at a time established by rules and regulations promulgated by the secretary or board";
18. On page 21, following line 30, by inserting a new subsection (e) to read as follows: "(e) The secretary shall require certified commercial applicators who are not employed by or otherwise acting for a business licensee to maintain records concerning applications of restricted use pesticides. The secretary shall specify by rules and regulations the information to be contained in such records, which shall be maintained for three (3) years from the date of application of the pesticide concerned. Such records shall be open to inspection by the secretary or his authorized representative during normal business hours, and copies shall be furnished to the secretary or his authorized representative upon request."
19. On page 25, in line 24, following the word "inspect" by inserting "or sample"; in line 28, by striking all after the semicolon;
20. On page 25, in line 29, by striking the period and inserting "; or"; following line 29, by inserting a new paragraph to read as follows: "(6) To observe the use and application of a pesticide."

In addition to the amendments to H.B. 2001, the Committee also recommended a revision, in the near future, of the Kansas Agricultural Chemical Act. The Committee feels that such a revision would enable Kansas to implement an important portion of the Federal Environmental Pesticide Control Act of 1972 -- that of state registration of minor pesticide uses.



It is felt by the Committee that the knowledgeable and proper use of pesticides can greatly enhance the agricultural production of Kansas. The Committee feels that through the recommendations proposed as a result of their study of Proposal No. 4, a more comprehensive and effective regulation of pesticide application, registration and education program can be realized. For these reasons, the Committee recommends the amendment, as outlined above, and the passage of H.B. 2001 during the 1976 Legislative Session.

\_\_\_\_\_, 1975

Respectfully submitted,

Senator Leslie A. Droge, Chairman  
Special Committee on Agriculture  
and Livestock

## MEMORANDUM

TO: Special Committee on Agriculture and Livestock October 30, 1975  
FROM: Legislative Research Department  
RE: Rough Draft of Committee Report on Proposal No. 1 - Corporate Farming

The Special Committee on Agriculture and Livestock was charged, by Proposal No. 1, with a study relating to the "agricultural and socio-economic effects of horticultural and agricultural corporation laws in Kansas with emphasis on the clarification and revision of such laws".

Background

Kansas has had laws restricting corporate farming since 1932 -- longer than any other state. In comparison with the eight other states which have laws regulating corporate farming -- Oklahoma, Minnesota, Wisconsin, South Dakota, Iowa, Nebraska, Missouri, and North Dakota -- Kansas is considered to have some of the most restrictive legislation. Prior to such legislation in Kansas, the Wheat Farming Company had incorporated in 1927 to show, by experimentation and demonstration, how grain farming could be made profitable. In the process, the firm acquired ownership of 64,000 acres in seven counties, and went public, selling more than \$2.7 million in stock to some 1,200 stockholders. Apparently as a direct response to this and other examples of corporate business in the state, the 1931 Kansas Legislature passed a bill prohibiting corporations from organizing for the purpose of farming. In 1933, the State Supreme Court used the law to revoke the Wheat Farming Company's corporate charter.

Present Kansas law prohibits corporations from engaging in certain specified agricultural activities. In essence, the law allows domestic corporations -- but not foreign corporations -- to engage: "In an 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" (K.S.A. 17-5901).

Further, the law states that a domestic corporation may engage in those activities only if: it has ten or fewer stockholders, all of whom are natural or corporate individuals or are certain kinds of trustees; all of the incorporators are Kansas residents and natural persons; none of the stockholders own stock in another such corporation; and such corporation does not own, control, manage, or supervise, either directly or indirectly, a total of more than 5,000 acres. Kansas thus allows only those domestic corporations with "closely-held" characteristics to farm a specific list of crops on 5,000 or fewer acres of land. Any domestic corporation not meeting these criteria may not engage in the business of farming, according to Kansas law. Apparently foreign corporations may engage in farming if they avoid the statutorily-listed activities. The only statutorily declared exemption allows any corporation organized for coal mining purposes to engage in "the agricultural or horticultural business" on its own land, and then only if that land has been strip mined for coal.

In addition to the limitations set out above which restrict corporate ownership and control of agricultural land, additional legislation for corporations in agriculture was passed in 1973. A Special Committee on Agriculture and Livestock in the

1972 interim studying Proposal No. 15 was charged with studying the "advantages and disadvantages of increasing or decreasing restrictions on corporate farming in Kansas".

The 1972 Special Committee on Agriculture and Livestock studied the corporate farming laws in Kansas and found these laws to be "among the most restrictive in the nation". Testimony before that Committee indicated that there were several problems with the corporate farming statutes. However, at the time of their study the Committee found little readily available data about the extent of corporate farming in Kansas. Finding such information necessary for the review and possible amendment of corporate farming legislation, the Committee proposed a bill -- passed by the 1973 Legislature -- which required corporations to include in their Annual Reports to the Secretary of State a list of their land interests in Kansas. (The bill, 1973 H.B. 1013, became Chapter 99 of the 1973 Session Laws of Kansas.)

Specifically, the bill passed in 1973 requires domestic corporations organized for profit, foreign corporations -- those incorporated in another state -- organized for profit and non-profit corporations which involve themselves in farming or other agricultural or horticultural activities to show the following additional information on their Annual Reports:

1. The acreage and location 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 purpose for which such land is owned or leased;
3. The value of the non-agricultural assets and the agricultural assets, stated separately, owned and controlled by the corporation both within and without the State of Kansas; and

4. The total number of stockholders of the corporation.

Since 1973, corporations which own or lease agricultural land have been required to detail their holdings in their annual reports to the Secretary of State. While there are penalties for failing to file such report, and for filing false or misleading information, there are no penalties specified for domestic corporate ownership of more than 5,000 acres, or for farming any of the restricted crops.

Committee Deliberations

Anticipating a study of the subject of Proposal No. 1, prior to the interim the staff initiated a study of the nature and extent of corporate farming in Kansas. The study, based upon FY 1974 Annual Reports of agricultural corporations on file with the Secretary of State, was completed and presented to the Committee during the interim.

In a discussion of Kansas corporate control of agricultural land on a statewide basis it was noted that in FY 1974 there were 1,037 corporations reporting control of agricultural land in Kansas. Although 13 firms failed to report the acreage under their control, the remaining 1,024 firms reported control of 1,248,935 acres. This figure represents 2.4% of the total land area of the state and 2.5% of the total Kansas land area in farms. Of the acreage under corporate control, 10% was leased and 82% was owned by the firms. The average parcel of land under corporate control was 1,212 acres, nearly double the 609 acres considered the average farm size in Kansas during the time period studied.



As might be expected, the extent of corporate control of Kansas land varies from county-to-county and from one region of the state to another. A glance at Map 1 -- which displays the total acreage controlled by corporations in Kansas collapsed in five acreage classes -- leads to several generalizations: relatively little acreage in the eastern-most counties of the state was controlled by corporations, and most of the counties in the western one-half of the state had a larger amount of land controlled by corporations. It would appear that the amounts of acreage controlled within the counties varied roughly with the type of farming conducted in the area. The incidence of irrigated crops in the southwestern counties and the higher level of capital-involvement in farming in those counties may help account for the larger acreages controlled by corporations in those counties. Also, the prevalence of large cattle grazing operations in the Flint Hills counties -- located in east central Kansas -- may help to explain the higher acreage totals of those counties.

From the data which was presented to the Committee, various tendencies in relation to the nature of the corporations involved in agriculture were noted by the Committee:

1. Such firms tended to consider themselves "agricultural" in nature, and controlled relatively small parcels of land for broadly agricultural purposes;
2. these firms tended to be small in terms of total assets, and they have not substantially diversified their assets between the agricultural and non-agricultural sectors; and
3. land assets tended to be a relatively small proportion of the firm's total assets.



The Committee concluded that at the county level, the extent of corporate involvement in agriculture, as measured by corporate control of agricultural land, appears to be localized, and may be associated with type of farming. Corporations control a significant amount of land in some counties, although several counties have virtually no such corporate activity.

At the state level, the Committee found there was a relatively small proportion of corporations who reported control of agricultural land, and less than 2% of the total land in farms was controlled by such firms. From the data presented, it appeared to the Committee that corporate involvement in agriculture exists in Kansas on a limited basis.

Committee Recommendations

The Committee feels, even though corporate farming seems to be limited in Kansas at the present time, that restrictions should not be removed from corporations involving themselves in agricultural production. Although the Committee realizes the need for certain restrictions on corporate activities in agricultural production, they are of the opinion that the present method of restriction is inadequately based. [The Committee feels that the state should not restrict a corporation on the amount of land owned but instead, restrictions should be placed on the utilization of the land owned.]

In the discussion of present Kansas corporate farming laws, the Committee's attention was directed at the reporting features of the present legislation. The Committee noted the many ambiguities of the present areas on which the corporations report

*note changes in boundary lines of crop land*  
*restriction on farming*  
*change after today*

their agricultural activities. In a discussion of these reporting features of the present law, the Committee found need for their perpetuation -- so that a data base of information can be maintained concerning corporate farming activities in Kansas. In relation to this data base, the Committee feels that the present legislation relating to the annual reports filed by corporations which ~~control or manage~~ <sup>own or lease</sup> agricultural land should be amended to resolve the many present ambiguities of present law, so in the future more accurate studies of the nature and extent of corporate farming in Kansas can be conducted.

The final deficiency which the Committee became aware of concerns the enforcement of the present laws and the penalties for violation of those present corporate farming statutes. In relation to the enforcement of the present restrictions placed on corporate farming, the Committee found that many corporations were in violation of both the reporting procedures and the restrictions on ownership and control of agricultural land. The Committee also found that the present law, as it relates to the violations of the farming restrictions on corporations, does not contain penalty provisions. In relation to these two problem areas, it is the Committee's conviction that by providing for a method of enforcing the present corporate farming statutes, both of these problems will be alleviated.

To cure the above noted ills in the present corporate farming statutes, the Committee recommends \_\_\_\_\_ Bill \_\_\_\_\_ favorably to the 1976 Legislature. This bill not only is directed at the restrictions on corporate <sup>OK change</sup> use of land, but also addresses the problems of ambiguities in reporting and enforcement of the provisions of the present corporate farming statutes.

Instead of restricting the ownership of land by corporations which farm certain restricted crops -- as is the present method of restricting corporate farming activities -- \_\_\_\_\_ Bill

\_\_\_\_\_ places a restriction ~~not~~ on the ownership of land ~~but on~~ ~~not~~ <sup>regardless of the use of such land by the corporation.</sup> [ The attached bill, \_\_\_\_\_ Bill \_\_\_\_\_, prohibits any corporation from <sup>owning</sup> ~~cultivating and harvesting~~ more than 5,000 <sup>Ac</sup> acres each year -- there are no restrictions on the amount of land owned by such corporation. The proposed restriction would exempt the grazing and feeding of cattle from the 5,000 acre limitation. Through this method of restriction the Committee feels that any problems caused by corporate farming -- in relation to the socio-economic composition of rural Kansas or the agricultural production of the state -- can be minimized. ]

\_\_\_\_\_ Bill \_\_\_\_\_ also amends various ambiguities which are present in the annual reports filed by corporations owning or <sup>leasing</sup> ~~controlling~~ agricultural land. Through the amendments offered to alleviate these ambiguities, the Committee expects more accurate reporting of corporate activities in the agricultural production of Kansas.

Incorporated within \_\_\_\_\_ Bill \_\_\_\_\_ are provisions for the enforcement of the corporate farming statutes. This bill provides for notice of violation to be given by the Secretary of State -- holder of the annual corporate reports -- to the Attorney General. It also directs the Attorney General to proceed with an investigation of such violations and enforcement of the act. The Committee feels that the enforcement provisions included within \_\_\_\_\_ Bill \_\_\_\_\_ will reduce the numbers of corporations in violation of the corporate farming statutes.

To institute the above changes in the present corporate farming statutes, and to result in a more effective method of regulating corporate farming in Kansas, the Special Committee on Agriculture and Livestock favorably recommends \_\_\_\_\_ Bill \_\_\_\_\_ to the 1976 Legislature.



## 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 was originally incorporated and organized.

New Sec. 3. A majority of the participating members of each district to be consolidated shall first authorize the consolidation of such districts. A petition addressed to the board of county commissioners of the county with the largest number of participating members, 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 consoli-

dation has been approved by a majority of the members of each district; (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 is filed with the county clerk of the county having the largest number of participating members, as provided in section 3 of this act, such county clerk shall thereupon give notice to the board of county commissioners of such county of the filing and pendency of such petition and 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 of the 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). The county clerk shall thereupon send a copy of such order to the chief engineer of the division of water resources and the secretary of state.

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 therefore 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.

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per  
Chris  
motion*

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.





The past growth of rural water districts has taken place in areas where wells supply only a small quantity of water suitable for domestic and livestock uses and have a history of going dry during prolonged periods of deficient precipitation. Relatively few rural water districts in Kansas are located outside the eastern third of the state. Most rural water districts have been formed in those areas of the state where groundwater resources are limited.

In 1967 there were 47 counties with a total of 135 rural water districts. Prior to that time the growth of rural water districts was relatively constant, with about 12 districts per year commencing operations -- from 1959 to 1966. Since 1967 the number of districts have continued to increase at a rate similar to that before 1966. Presently there are 217 rural water districts distributed among 67 counties.

#### Committee Deliberations and Recommendations

The Committee received testimony from various rural water districts throughout the state. Of major concern to many of those that testified was the vast duplication of services which are conducted by each rural water district. The inability of smaller rural water districts to individually pumped water from nearby sources efficiently is a problem encountered by rural water districts in Kansas. It was noted that the equipping of each individual rural water district with pumping facilities and a separate network of waterlines in addition to the dedication of

a water source for each individual district costs each district a great deal. The Committee was told that in Kansas there are a number of instances where the waterlines of one district end and another district's lines begin in a very close proximity. An additional duplication which was noted by the conferees concerned an increasing need for the services provided by a professional rural water district manager or supervisor. From testimony by a rural water district manager, the Committee was told that the cost of such personnel to each individual district separately is great. It was further noted that the services provided by a district manager could much more efficiently be utilized by more than one district. The conferees who testified noted that the ability to consolidate rural water districts would enable the rural water districts which cannot secure an economic supply of quality water and those which cannot afford the professional services of a water district manager to consolidate with other districts to alleviate these problems.

In their consideration of possible legislation to enable and facilitate the consolidation of rural water districts within the state, the Committee reviewed legislation of various other states. Legislation enabling consolidation of rural water districts in both Missouri and Nebraska seemed to accomplish the desired method of consolidation -- that is, allowing the members of the districts to opt for such consolidation.

Through a combination of various aspects of the Missouri and Nebraska statutes and various provisions desired by the

Committee, \_\_\_\_\_ Bill \_\_\_\_\_ was drafted to enable rural water districts to consolidate if they so desire. \_\_\_\_\_ Bill \_\_\_\_\_, -- which is attached to this report -- is unique in that it allows the individual districts involved in the consolidation the option of either repaying their obligations and liabilities individually -- as assessed to each district -- or as part of a total consolidated liability -- the payment on the combined liabilities of all the districts consolidated. The Committee feels that the inclusion of this repayment option is necessary to facilitate the consolidation of newly formed districts with high, outstanding liabilities and older districts which have repayed most of their obligations.

Through \_\_\_\_\_ Bill \_\_\_\_\_ the Committee feels that the duplication of services by small rural water districts can be reduced and that a higher quality of water services can be provided to the rural areas of Kansas. For these reasons the Special Committee on Agriculture and Livestock favorably recommends \_\_\_\_\_ Bill \_\_\_\_\_ for consideration by the 1976 Legislature.