

MINUTES OF THE HOUSE COMMITTEE ON AGRICULTURE AND LIVESTOCK

Held in Room 423-S, at the Statehouse at 9:00 a. m./~~p. m.~~ on March 24, 19 81.

All members were present except:

The next meeting of the Committee will be held at 9:00 a. m./~~p. m.~~ on March 25, 19 81.

These minutes of the meeting held on March 24, 19 81 were considered, corrected and approved.


Chairman

The conferees appearing before the Committee were:

Mrs. Lois Scheufler - Sterling, Kansas
Mr. Jim Yoxall, Attorney, Liberal, Kansas
Mr. Dee Likes - Kansas Livestock Association
Mr. Ivan Wyatt, President, Kansas Farmers Union
Father John Stites - Director, Catholic Rural Life
Mr. Keith Meyer, Law Professor, University of Kansas

Chairman Beezley called the meeting to order.

SB 298 - Agricultural land, relating to the acquisition and use thereof.

Mrs. Lois Scheufler, Sterling, KS. was the first conferee to speak. (See Attachment I). Mrs. Scheufler stated that she would like to see the bill amended so that the big corporations such as Cargill or Iowa Beef cannot gain control of the land.

The next conferee to speak was Mr. Jim Yoxall, an attorney from Liberal, KS. Mr. Yoxall stated that the bulk of his practice involves estate planning, probate, corporate and business law. Mr. Yoxall proposed several amendments to SB 298. (See Attachment IA)

Mr. Dee Likes, Kansas Livestock Association was next to give his testimony on SB 298. He stated that SB 298 was a good answer to the problems that this bill addresses and that with a few minor changes it will be a good piece of legislation for the State of Kansas. Mr. Likes submitted his amendments to the Committee (See Attachment II).

Mr. Ivan Wyatt, President, Kansas Farmers Union gave his testimony to the Committee. He said that the Senate Agriculture Committee have tried to develop a bill that would allow agriculture to remain in the hands of the family farmers without allowing corporate interests getting into it. He stated that his organization would recommend that SB 298 be held for further consideration and an interim study. (See Attachment III).

Father John Stitz, director of Catholic Rural Life in the Archdiocese of Kansas City in Kansas gave his testimony to the committee. Father Stitz stated that the Catholic Rural Life Conference has always supported family farm agriculture and the importance of family farmers owning and caring for farmland. He said that the problem they found was with the definition of feedlot in "e" of section 1. (See Attachment IV).

Last on the agenda was Mr. Keith Meyer, Professor of Law, Kansas University. Mr. Meyer spoke in support of SB 298. He passed out copies of his Statement in Support of SB 298, Some issues raised by K.S.A. 17-5901, Comments about SB 298. (See Attachment V).

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

The meeting was adjourned.

NAME	TOWN	REPRESENTING
Ken Caches	Topeka	KACI
Lois Schenfler	Sterling	self-farm wife
James R. Yopp	Liberal	self-attorney
John G. ...	Topeka	KAWC
John Stutz	R.I.	Catholic Rural Life
Keith Meyer	Lawrence	
Paul ...	Liberal	
John C. Miller	Topeka	Committee of the Farm Organizations
Thomas E. Berry	Topeka	Bd of Agri.
Wayne E. Hundley	Topeka	J. A. H.
W. ...	Topeka	Ka Seed Dev. ...
W. ...	Topeka	K.A.
Bill ...	Tulsa	Gulf Oil
Ed. Schaub	Topeka	Southern Bell Tel. Co.
Michael ...	Topeka	Kansas Railroad Assn.
James ...	Topeka	D. ...
Dora Wyatt	McPherson	Ka Farmers Union
Walter ...	Cherokee	Mid Cont Oil & Gas

Mr. Chairman and members of the committee:

I am Mrs. Lois Scheufler of Sterling Kansas - representing myself, a farm wife.

The Tri-Lateral Commission is a group of multi-millionaires whose aim is one-world government. Tri means Western Europe, Japan, and North America. There are about 200 members--about 71 in the United States. They are people in key positions; their power, immense. These people were hand-picked from the Council of Foreign Relations (CFR) by David Rockefeller in 1973. Some of their meetings are secret.

I will furnish you with a list of current members. You will note from the list that it ties together:

Brookings Institute (Which prints books & trains people in Government)
People in Government
International banks
Some of the largest corporations
The Federal Reserve Bank
Colleges with high technology
Some U.S. Senators and Representatives
5 Large Labor Unions
and the Environmental Protection Agency

How they are getting control:

- a) They buy into a corporation----JUST ENOUGH TO GET CONTROLLING INTEREST--
--then they get their men on the board of directors. Then they buy into another corporation----JUST ENOUGH TO GET CONTROLLING INTEREST---
THEN they get some of the SAME men on their board of directors. (There is a great big book called "Interlocking Boards of Directorates of Major United States Corporations". It was a Senate investigation)
- b) The graduation income tax laws were written by the Rockefeller lawyers. Why in the world would the people making the most money want a graduating income tax law? Because they knew the loopholes!!! It is worked through "Foundations".....which serves two purposes for them:
 1. They give to colleges--so much that they are dependent upon them; therefore they can demand certain required courses and certain required books...which advocate INTERDEPENDENCE & GLOBAL PERSPECTIVE; which takes away our patriotism for our country and the appreciation of INDEPENDENCE; and
 2. Moneys given to a foundation----although in the name of the foundation----can be managed to their own benefit---like I said before: to buy into corporations to get their people on the board of directors.
- c) Regional Government....which means the United States was divided into 10 regions, through which federal government agencies work. Basically, it means someone has PLANS FOR US, (instead of our having PLANS FOR OURSELVES) A few examples are:
 1. CED: Planning commissions
 2. FEMA: Federal Emergency Management Agency, Which basically says anytime the president declares an emergency, he has COMPLETE CONTROL of the nation.

3. HUD: Housing and Urban Development. Distributing Federal Funds---which carry with them FEDERAL CONTROL.
4. LEAA: Law Enforcement Assistance Agency.

The aim of the Tri-Lateral seems to be to control the money system, the fuel, and the food. In my opinion they do control money and most of the fuel. They are getting control of food by getting control of the processing of all food and fiber.

When I noticed in January of 1980 that Cargill---who is a member---bought MBPXL, the second largest beef packing company in the United States, I was alarmed!

Then I noticed Armour closed three big plants--then Swift--and Farmland Industries, and Cudahy and now Dubuque in Wichita.

The radio reports about Armour and Swift BOTH said they were having to pay \$14 an hour for labor, and they couldn't understand it, because other packing companies were paying \$6 or \$7 an hour.

I am giving you a copy from Farmland News about their decision to leave the beef packing industry. USDA said there were 174 beef packing companies closed in 1979!

It's difficult to know how many feedlots Cargill now owns in Western Kansas--- because they don't change the names of them. Cargill or Iowa Beef could own Western Kansas---to raise feed for their feedlots, or Weyerhaeuser could own Eastern Kansas--- to raise trees, & I don't see how this bill would stop them.

For the first time, & at my own expense, I left my family March 9th to go to Topeka. I testified once & listened to hearings all week. From that, I feel you legislators are in favor of "the little guy" & the farmer (because of low agricultural prices now), and that you do not like Federal Controls, and I sincerely thank you.

I beg of you to please amend this bill so big corporations cannot own our land! If you do not amend it, I feel the cattlemen of Kansas will end up like the chicken farmers----A LABORER FOR A TRI-LATERAL CORPORATION!!!!

This trip I brought you some information to put with my testimony.

THANK YOU VERY, VERY MUCH!!!!!!

- Lois

Mr. Chairman & Members of the Committee: Rt. 2, 67579
Sterling, Kas.
I am Mrs. Paul Scheufler of Sterling, Kansas.
I represent myself - I am a farm wife. (316) 257-27

I wholeheartedly support this bill, if it is professionally scrutinized to keep feedlots from leasing or owning the land to raise feed for their "agricultural operation". Following is my observation:

The Tri-Lateral Commission is a group of multi-millionaires who are leading our country towards one-world government. To do this, they think they need to control the money system, the fuel, & the food. They do control the money system, they control most of the fuel & are getting into food industry VERY FAST.

The "Tri" means West Germany, Japan & ~~the U.S.~~ ^{North America}. There are about 70 members in the U.S. - only 70 - but in VERY key positions. It is David Rockefeller's idea.

It will be 3 years in May since I heard a speech by J. C. Lewis of Guyman, Ok. He ~~has~~ has very good credentials including 20 years in the U.S. Air Force & a Master of Arts Degree in International Affairs from Geo. Washington University.

Since I heard this speech, the news has been making sense as to what they are doing.

Before the November election, at least 18 were appointed in the executive branch, besides Mr. Carter & Mr. Mondale, whom we elected - some are Cyrus Vance, Brzezinski, Harold Brown, Blumenthal, Sawhill, Calafano, & Andrew Young, & Henry Kissinger, (an advisor).

It seems to me this ties in the executive branch with Large Corporations, the Federal Reserve, colleges with high technology, 5 labor unions including AFL-CIO, a few senators & representatives.

They are getting control of the processing of food. If you control processing, you can control cost of raw materials from the farm & the price at the grocery store & they can break all of us.

Mr. Chairman, Gentlemen, Members of the Committee:

My name is James Yoxall. I am a practicing attorney. I have been practicing in Liberal, Kansas, now in my thirtieth year. The bulk of my practice involves estate planning, probate, corporate and business law.

My purpose for appearing here today is to address certain comments to the Senate Bill No. 298, more commonly known as the Anti-Corporate Farming Bill, which you presently have under consideration.

First, if I may call your attention to the use of the word "corporation". Gentlemen, this terminology is simply a means of ownership that can be in more than one person. I believe if you check with the Secretary of State, you will find that Kansas has authorized literally hundreds of thousands of corporations to do business in the State of Kansas. Some may be what we call domestic, some may be from other states. Gentlemen, if you will check further, I am sure that you will find that by far, the largest number, the greatest percentage and probably 80 to 85% of those corporations are very small. Most of them are far smaller than the average farm in Western Kansas, as far as value, gross receipts and so forth are concerned. It has been my experience that people use the corporation method for any variety of things. Some wish to limit their personal liability. For some, there are some tax savings. For others, it is a way of getting additional people involved on a limited basis, either liability-wise or otherwise. The laws that

you gentlemen have passed, particularly our Corporation Code, were designed to facilitate and make easier an operation under corporate structure. You have recognized that corporations are a way of life, even among the very small businessmen in the very small communities. Corporations have enabled people on a shoestring to get started in business that they might not otherwise have been able to do.

And yet, Gentlemen, the word "corporation" when applied to a farm or now under Senate Bill No. 298, when applied to any agriculture endeavor becomes a "Boogie Man", and because it becomes the "Boogie Man", the attempt is being made under Senate Bill No. 298 to make corporate ownership of agricultural lands so restrictive so as to almost prohibit most families from ever engaging in the farming enterprise under a corporate umbrella.

Gentlemen, I can honestly tell you that if the Senate Bill No. 298 is passed in its present form that I will probably never be able to recommend the organization of a corporation for the purpose of estate planning, business planning or any other plan of any nature.

Senate Bill 298 is designed to eliminate the use of the corporate entity as a tool in estate planning.

Take, for instance, a so called family farm corporation as defined on page 2 of Senate Bill 298; if a farm is put into corporate ownership by the time it gets to the great-grandchildren, they have to get rid of it. Whereas, if a great-grandfather left it in the family in individual ownership, they could still continue to own it, but not if he decided that a corporation was the best

route for retaining ownership.

Let us also look at another item under the family farm. Line 66 of page 2 requires that at least one of the stockholders reside on the farm or be actively engaged in the labor or management of the farming operation. Gentlemen, up until last week, I was discussing the possibility of corporate ownership as a means of estate planning for a man with one son and three daughters and he wants them to share equally. He wants the son to farm the land, none of the daughters live any where near here and let's see what happens if my client dies after having incorporated his own personal farm and then his son dies. Gentlemen, under Senate Bill 298 they don't have any choice but to divest themselves of their land, their father's family land. Since a member of the family doesn't live there, they have to sell it, get rid of it, divide it up, regardless of their desires or the wishes of their father.

That situation is not uncommon. We very frequently, at least in Western Kansas, have situations, where there may be only one son, or one grandson who wishes to farm the land, but they want the other members of the family to enjoy it in the same manner. The use of corporate ownership will be prohibited to them.

Another situation: Father and mother have raised their children who have all moved away. Father and mother moved to town and leased the farm to the neighbors. When they die they want their children to share it equally, but they realize that one of their children may try to force a partition and a forced sale of that

land is against the wishes of all of the other heirs. If it was placed in corporate ownership, there are ways of prohibiting the forced sale of the land and the family could continue to own it through the corporate entity, even though one person might want out. If it was in the corporate entity, Senate Bill 298 forces the sale of that land and a penalty of \$50,000.00 because nobody resides on the land and nobody is engaged in the actual labor or management of the farming operation.

Gentlemen, in Western Kansas, and I think all over the State of Kansas, many, many farms are being leased out to neighbors, but the people who own those farms want to retain that ownership in the family or in their heirs. They do not want the State to force them to sell, but if you pass this bill in its present form, you will force them to sell, if they ever consider the name "corporation". Why should they be forced to sell? Is it right for you in your capacity to tell them that they do not have the privilege of using the corporate ownership if they so desire? I would hope not. I would hope that you would attempt to resolve these so that we can continue to own this land even though we may own it in a corporate form, and we can continue to take advantage of some of the other laws, particularly the tax laws, and the laws of property. Gentlemen, passage of this Senate Bill 298 in its present form would penalize the citizens of this State for no real purpose.

I would like to propose to you some changes that will be minor, that will still permit you to use the "Boogie Man" approach, and yet will permit those of us who are engaged in the practice of

trying to protect our clients and help our clients pass on their properties to their heirs with a minimum of time and expense and in general, you will help the farming communities of the State of Kansas.

Proposed Amendment
I would like to propose the following changes: Page 2, line 61, I would propose that the words "within the third degree of relationship" be stricken so as to permit the farming under the corporate umbrella for a longer period of time or better yet, put the language back in that was stricken by the Senate Committee.

On line 68 of page 2, I would suggest that language similar to that which is on page 4 be used as follows:

No. 3, page 2, line 66 would read as follows:

Proposed Amendment
"At least one of the stockholders is a person residing on the farm or actively engaged in the labor or management of the farming operation, or in lieu thereof, the farm is leased to one or more natural persons, a family farm corporation, authorized farm corporation, family trust, authorized trust, or testamentary trust."

If only one stockholder is meeting the requirement of this provision, and such stockholder dies, the requirement of this provision does not apply for the period of time that the stockholder's estate is being administered in any District Court in Kansas."

Gentlemen, the obvious purpose of that is to permit the family to continue its ownership even though the members of the family are no longer actively engaged in farming. To do otherwise, as I have previously noted, would be to force them to dispose of their property because they have chosen another occupation.

I think No. 3 under J, on page 2, commencing at line 81 should have the same provision about leasing. I would recommend that it read as follows:

Proposed amendment

"No. 3. At least a majority of the stockholders are persons residing on the farm, or actively engaged in the labor or management of the farming operation, or in lieu of residing on the farm or of being actively engaged in the labor or management, that the corporation lease its land to one or more natural persons, a family corporation, authorized farm corporation, family trust, authorized trust or testamentary trust."

If only a simple majority of the stockholders are meeting the requirement of this provision and one of such stockholders dies, the requirement of this provision does not apply for the period of time that the stockholder's estate is being administered in any District Court in Kansas."

Gentlemen, one final comment pertains to the exception found on page 5 commencing on line 159, where it excepts from the Act, agricultural land held or leased by a corporation on the effective date of this act, if the corporation holding or leasing on such date was not, prior to the effective date of this act, directly or indirectly engaged in any agricultural or horticultural business in violation of the provisions of KSA 17-5901, prior to its repeal.

I have no quarrel with the admendment changing the date

from February 17, 1981, to the effective date of the Act. I do, however, believe the balance of the admendment, commencing at line 162 and continuing through 167 to be Superfluous and one which will create numerous lawsuits to determine whether or not any corporations now existing were in violation of the prior law. As you all know, the present Act, KSA 17-5901, has a number of very serious constitutional law questions, and if the Act is unconstitutional, then there can be no violation.

Proposed amendment
I would suggest that the words commencing on lines 161, "Continues to hold or lease agricultural land" be restored and that the balance which is the amendment commencing on line 162 be stricken through line 167. This will avoid considerable litigation and you are, in effect, saying under the grandfather clause, if you are already a farming corporation, fine, but no more.

This concludes my statements and if you have any questions, I will try to answer the same and I wish to thank you for the opportunity of appearing here.

LIKE'S

Line No.

after 129

(o) A stockholder who is an officer of any corporation referred to in this section shall be deemed to be actively engaged in the management of the farming operation.

0081

(3) at least one of the stockholders resides on the farm or is actively engaged in the labor or management of the farming operation.

0083

change "majority" to "one"

0136

including ownership agreements that are part of bona fide financing arrangements.

0159

(7) Agricultural land held or leased by a corporation or other legal entity on the effective date of this act, provided that such corporation or legal entity, unless it qualifies under other provisions of this act, shall not acquire, lease or operate, any greater acreage of agricultural land than it held on the effective date of this act.

0156

insert "individual"

after 176

(11) Agricultural land used to conduct scientific or experimental farms or the growing of crops for seed purposes.

(12) A corporate partnership or limited corporate partnership in which the persons associated therein are qualified, under this act, to engage in farming operations.

39

Feedlot delete "necessary"
Change "reasonably" to "reasonable"

STATEMENT

Attachment III

on
Senate Bill N. 298
Corporate Farm Bill
before
The House Agriculture and Livestock Committee
by
Ivan W. Wyatt, President
Kansas Farmers Union

Mr. Chairman, Members of the Committee:

I am Ivan Wyatt, President, Kansas Farmers Union.

The Kansas Farmers Union members have always been very concerned about the movement of corporate control into the American way of life.

This nation was built by, around, and in the belief of the individual.

Over the years, we've seen conglomerate corporate interests take over almost all aspects of business and enterprises that were formerly privately held.

Over the years, we've watched the encroachment of corporate control into all but a few areas of agriculture, to the detriment of the family farm.

However, I realize there is no way the Kansas Legislature alone can turn the tide.

I'm sure that a vast majority of people oppose the trend, but realize we have to deal with problems as they are.

Members of the Senate Agriculture committee tried to develop a bill that would allow family corporations, without allowing corporate interests into that part of agriculture still in the hands of the family farmers.

However, in their attempt to appease the non-family and non-farm interests, they inadvertently opened some gaping holes that would allow non-farm and non-family interests to form corporations that can slip through the proposed restrictions, and allow the further intrusion of vertically integrated corporations and tax loss corporate farming into Kansas agriculture.

First, if this is a bill to allow family farm corporations to be formed for the reasons most people give, why, then on line "56" and "57" is the word majority

used?

If you are using a family farm corporation as a means to transfer ownership of a family operation to other members of the family, you certainly wouldn't want non-family members in the corporation. To carry out the proposed purpose of SB-298, all stock in the family corporation should be held only by members of the family as defined in the bill.

As for the "authorized farm corporation," this section is a complete open door to corporation farming as there is no acre limitation. Fifteen or even five "Rockefellers" could probably own half of Kansas' agricultural land if they wished. Since "feedlot" corporations are exempted, this section has to be for only one purpose, that being so, non-family corporations can own agricultural land. The qualification that a majority of the stockholders have to be actively engaged, is no real restriction, each hired hand could be given one share of stock, as this restriction does not deal with the controlling ownership of the stock.

The complete and total elimination of control or restriction on corporate farming in Kansas lies in the exemption of agricultural land held by a corporation for use as a feedlot and the related definitions.

Section 2, beginning on line 130, that states the restrictions that do not apply, which includes the following on line "172", "agricultural land held or leased by a corporation for use as a feedlot".

On line "34", feedlot is defined as a lot, yard, corral or other area in which livestock fed for slaughter are confined. The term includes within its meaning "agricultural land", in such acreage as is reasonably necessary for the operation of the feedlot".

On line 40, agricultural land is defined as land suitable for "farming".

On line 42, farming is defined as the cultivation of land for the production of agricultural crops, the raising of poultry, the production of eggs, the production of milk, the production of fruit or other horticultural crops, the production of seed, including grass seed, grazing or the production of livestock, etc.

This language when all put together, completely eliminates any control over the corporate integration of the livestock industry, from the cow-calf operation through the feedlot to the packing plant because under SB-298, there is no acreage limitation.

Under present SB-298, here is what we would be allowing: A non-family feedlot corporation free to own "agricultural land", suitable for farming and the cultivation of all crops, including the grazing or the production of livestock, with no restrictions whatsoever.

This simply means a "Cargil" type corporation could be formed in Kansas that could extend from a cow-calf operation in eastern Kansas to a large irrigated grain farming operation in western Kansas tied to one of their giant feedlots on through to the packing plant, without any restrictions.

In the Senate Committee hearings, another less obvious loophole was pointed out by a K-State professor. On line "130", he stated that there was a need to prohibit all limited partnerships, not just limited "corporate" partnerships, if you wanted to prevent such things as the proposed "Ag-land Trusts" from obtaining land in Kansas.

I think SB-298 was an honest attempt to improve present law, but with its obvious loopholes and shortcomings, we would recommend that SB-298 be held over for further consideration and an interim study, because this will no doubt, be a law Kansas will have to live with for a long time to come.

Chairman William Beezley
House Committee on Agriculture and Small Business
From: John M. Stitz,
Director of Catholic Rural Life
Archdiocese of Kansas City in Ks.

Re: SB 298

My name is John Stitz, director of the Rural Life Office in the Catholic Archdiocese of Kansas City in Kansas. I am grateful for this opportunity to present our views on the issue of corporate farming.

The Catholic Rural Life Conference, nationally and locally, has always supported family farm agriculture and the importance of family farmers owning and caring for farmland. And recently the four Catholic bishops of Kansas along with forty other mid-western bishops signed a documentary statement on land issues, entitled, STRANGERS AND GUESTS. They state clearly that the focal issue concerning farmland ownership by corporations or individuals is the farm family, for the farm family is the heart of the rural community. And the issue is broader than economics, or economies of scale. As the bishops wrote, the farm family, "has played a key role as a way of life that preserves and promotes such values as faith, hope, perseverance, generosity, trustworthiness, honesty, and concern for the neighbor.The values which people have derived from their vocation as family farmers have helped promote the stability, harmony and prosperity of rural communities."

We see the activity of non-agricultural corporations in land ownership to be a threat to the family farm and to the rural community. The outmigration of farmers has already taken its toll across the state.

Whereas this bill does not solve farmers problems. For that, we need many things, especially parity prices. Yet, land ownership does influence the costs of production. Speculation has a long history in Kansas. But the bill does offer farmers and rural communities some protection. It does step toward the goal of preserving farmland for food production under the operation of people who live on the land.

Therefore we are encouraged by this bill although there are some problems. I am also a pastor of a rural parish, Mooney Creek, located in districts 47-48, stretching across Jefferson and Leavenworth counties. Our farmers have been following this bill through the Senate. Incidentally, I am proud to say that if any of you know our part of the state, those families of Mooney Creek, are an example of what I have been talking about. I firmly believe that farm land should be owned only by their kind, excluding absentee landowners, speculators and those seeking tax shelters. They have good families, are good farmers and take excellent care of the land. You are welcome to come visit us and see for yourself.

However, we have a problem with the definition of feedlot in "e" of section 1. We asked a Leavenworth attorney about the restrictive value of the words "reasonably necessary". He just laughed. We think this is an open gate and should be closed. By this bill, what is to prevent a large corporation investing in a feedlot located near Iowa Beef in Garden City, from purchasing unlimited amount of acres of farmland?

In closing I would like to personally thank you for your efforts to help our family farmers in one of their many problems. You might like to know that whenever I hear a legislator, say anything that is of value, support and help to the farmers, I quote you to the people on Sundays. For I think that is an important part of the gospel.

by
 Keith G. Meyer
 Professor of Law
 University of Kansas

- I. S.B. 298 would protect the "family farm" concept.
- II. It is a straight forward and clear approach to legislatively prohibiting large corporations and trusts from engaging in farming or owning farmland in Kansas.
- III. S.B. 292 is infinitely better than current K.S.A. §17-5901. Compare 17-5901 and S.B. 298
- IV. 17-5901
 - A. 17-5901 provides: "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, or the milking of cows for dairy purposes..." unless it is a domestic corporation and meets the following five requirements:
 1. There are no more than 10 shareholders.
 2. There are no corporate shareholders, except when the corporate fiduciary is serving individuals.
 3. All incorporators must be natural persons and residents of Kansas.
 4. The corporation cannot control, indirectly or directly, more than 5000 acres.
 5. No shareholder may own stock in another corporation, satisfying these requirements.
 - B. Does 17-5901 prohibit all corporations from farming in Kansas? No! Some illustrations are:
 1. Can General Motors purchase 1000 acres of land and raise soybeans on it? Yes.
 2. Can Iowa Beef Processors, Inc. buy 1000 acres of land and run a cow-calf operation? Probably yes.
 3. Can Iowa Beef Processors, Inc. buy 1000 acres of land and go into the feedlot business? Yes.
 4. Can General Motors purchase 1000 acres of land and let it stand idle and simply hold it for capital appreciation. Yes.
 5. Suppose you have a corporation incorporated in Iowa which is authorized to do business in Kansas and owns land in Kansas. A plant is built on part of the land and the other part, held for expansion purposes, is cash rented to local farmers. Does this violate the statute? No.
 6. May a domestic non-profit corporation own more than 5000 acres of farmland in Kansas? Suppose also that it is rented on a crop-share basis to farmers who raise only winter wheat and milo. What about cooperatives? Sec. 17-1603 K.S.A. Probably no.
 7. Suppose that you have an insurance company, incorporated in Delaware, wants to put \$2,000,000 as a limited partner in a partnership arrangement. The general partners are to be two Kansas farmers who are to provide the machinery, labor management, and a limited amount of land capital. The partnership would buy 5500 acres of land. Does this arrangement violate 17-5901? Probably no.
 8. Can an Illinois employee pension trust fund, qualified as a trust fund under Internal Revenue Code §400 et. seq. come to Kansas and buy farmland and hire local farmers to raise wheat on the land? Yes.

C. 17-5901 says nothing about penalties or remedies there is corporation in violation of the statute.

V. Senate Bill 298

A. SB 298 prohibits any corporation, trust, limited corporate partnership or corporate partnership, other than a family farm corporation, authorized farm corporation, family trust, authorized trust or testamentary trust from, either directly or indirectly acquiring, obtaining or leasing any agricultural land in Kansas. There are then certain exceptions to this prohibition found in Section 2(a)(1-10).

1. Sec. 1, the definition section, is the key to SB 298. Probably the most important definitions are 1(f) "agricultural land" and 1(g) "farming."

B. What corporations can own agriculture land under SB 298? Examine the situations discussed earlier.

1. Can General Motors purchase 1000 acres of land and raise soybeans on it? No. 2(a), 1(f) and 1(g).
2. Can Iowa Beef Processors, Inc. buy 1000 acres of land and run a cow-calf operation? No. 2(a), 1(f) and (g).
3. Can Iowa Beef Processors, Inc. buy 1000 acres of land and go into the feedlot business? Maybe. 2(10) and 1(e).
4. Can General Motors purchase 1000 acres of land and let it stand idle and simply hold it for capital appreciation. No. 2(a).
5. Suppose you have a corporation incorporated in Iowa which is authorized to do business in Kansas and own land in Kansas. A plant is built on part of the land and the other part, held for expansion purposes, is cash rented to local farmers. Does this violate SB 298? No, if it satisfies 2(a)(3).
6. May a domestic non-profit corporation own more than 5000 acres of farmland and raise wheat under SB 298? Yes. Sec. 2(a) if bona fide religious, educational or charitable nonprofit corporation.
7. Suppose that you have an insurance company, incorporated in Delaware, wants to put \$2,000,000 as a limited partner in a partnership arrangement. The general partners are to be two Kansas farmers who are to provide the machinery, labor management, and a limited amount of land capital. The partnership would buy 5500 acres of land. Does this arrangement violate S.B. 298. Yes. 2(a) and (1)(c).
8. Can an Illinois employee pension trust fund, qualified as a trust fund under Internal Revenue Code §400 et. seq. come to Kansas and buy farmland and hire local farmers to raise wheat on the land? No. 2(a) and 1(m)(3).

C. The so-called grandfather clause of sec. 2(7) of SB 298.

1. I support the provision. The purpose of SB 298 is to prohibit large nonfamily corporations from farming or owning farmland in Kansas. I do not think that the law should protect a corporation that was in violation of 17-5901 and cannot qualify under SB 298. Many farmers were not able to incorporate because of the limitations of 17-5901. Those people should not now be penalized.
2. I would suggest you consider amending sec. 2(7) to allow those corporations not qualifying under SB 298 to have one year to qualify or to dispose of the land. Otherwise, as of the effective date of the statute, non-qualifying corporations would be faced with a possible \$50,000 fine under sec. 2(b).

D. Limited Partnerships

1. The bill clearly covers any partnership that might have a corporation as a partner but there is no coverage of limited partnerships consisting of noncorporate members (individuals or partnerships for example).
2. It depends upon what evil you are really trying to legislate against. If you are concerned about keeping from farming an entity made up of a large number of people who are not actively involved in farming, this bill would not prevent a limited partnership from being formed to allow these people to invest in Kansas farmland.

VI. Committee alternatives

A. There are at least four possibilities

1. Can do nothing about SB 298.
 - a. This would make 17-5901 the only legislation dealing with corporate farming.
 - b. This law is limited in application and there are corporations in apparent violation of it. It would seem state money would have to be spent on enforcing the current law.
2. Suggest amendments to 17-5901.
 - a. This seems to be the worst approach.
 - b. The current law has many ambiguities and limited coverage.
3. Recommend 298. (I support this approach.)
4. Recommend repeal of 17-5901 and rejection of SB 298. In other words, there is no need for legislation in this area.

Presented to the Senate Agriculture & Livestock Committee

Keith G. Meyer
Professor of Law
University of Kansas

- I. What is the purpose of this type of legislation?
- A. Encourage family farm units? (what is a family farm unit today?)
 - B. Keep large nonfarm oriented corporations out of farming?
 - C. Prohibit large operations?
 - D. Control farm land ownership?
 - E. Control of an inherently evil business entity, the corporation.
 - F. Prevent absentee ownership?
- II. Why does the legislature want to control the type of business entity that farms?
- III. The Kansas limitation on who can farm is found in K.S.A. 17-5901 which deals only with corporations.
- IV. What corporations can farm in Kansas?
- A. 17-5901 provides: "No corporation shall directly or indirectly engage in the agricultural or horticultural business or producing, planting, raising, harvesting or gathering of wheat, corn, grain, sorghums, barley, oats, rye or potatoes, or the milking of cows for dairy purposes..." unless it is a domestic corporation and meets the following five requirements:
 - 1. There are no more than 10 shareholders.
 - 2. There are no corporate shareholders, except when the corporate fiduciary is serving individuals.
 - 3. All incorporators must be natural persons and residents of Kansas.
 - 4. The corporation cannot control, indirectly or directly more than 5000 acres.
 - 5. No shareholder may own stock in another corporation, satisfying these requirements.
 - B. Does this statute prohibit all corporations from farming in Kansas?
 - A. Can General Motors purchase 1000 acres of land and raise soybeans on it?
 - B. Can Iowa Beef Processors, Inc. buy 1000 acres of land and run a cow-calf operation?
 - C. Can Iowa Beef Processors, Inc. buy 100 acres of land and go into the feed lot business?
 - D. Can General Motors purchase 1000 acres of land and let it stand idle and simply hold it for capital appreciation.
 - E. Suppose you have a corporation incorporated in Iowa which is authorized to do business in Kansas and owns land in Kansas. A plant is built on part of the land and the other part, held for expansion purposes, is cash rented to local farmers. Does this violate the statute?
 - F. May a domestic non-profit corporation own more than 5000 acres of farmland in Kansas? Suppose also that it is rented on a crop-share basis to farmers who raise only winter wheat and milo. What about cooperatives? Sec. 17-1603 K.S.A.

- G. Suppose that you have an insurance company, incorporated in Delaware, wants to put \$2,000,000 as a limited partner in a partnership arrangement. The general partners are to be two Kansas farmers who are to provide the machinery, labor management, and a limited amount of land capital. The partnership would buy 5500 acres of land. Does this arrangement violate 17-5901?
 - H. Can an Illinois employee pension trust fund, qualified as a trust fund under Internal Revenue Code §400 et. seq. come to Kansas and buy farmland and hire local farmers to raise wheat on the land?
- V. What are the current remedies provided for under the statute if a corporation is found to be in violation of the statute?
- A. Statute silent
 - B. Revocation of corporate charter
 - C. Enjoin the corporation from farming. (what happens to the land?)

Comments about Senate Bill No. 298

by
Keith G. Meyer
Professor of Law
University of Kansas

I. Statement of Purpose

In a preamble or in a separate section of the bill you might want to include something like the Minnesota statute at Minn. Stat. Section 500.24 (subdivision 1) does. It states:

"Purpose. The legislature finds that it is in the interests of the state to encourage and protect the family farm as a basic economic unit, to insure it as the most socially desirable mode of agricultural production, and to enhance and promote the stability and well-being of rural society in Minnesota and the nuclear family."

II. Coverage

A. Cooperatives

This is probably going to be considered a corporation in Kansas if the issue ever came up but you might want to make sure of this point by including cooperatives in your definition of "Corporation" in Section 1(a).

B. Limited partnerships

1. The bill clearly covers any partnership that might have a corporation as a partner but there is no coverage of limited partnerships consisting of noncorporate members (individuals or partnerships for example).
2. It depends upon what evil you are really trying to legislate against. If you are concerned about keeping from farming an entity made up of a large number of people who are not actively involved in farming, this bill would not prevent a limited partnership from being formed to allow these people to invest in Kansas farm land.

C. The definition of "feedlot".

1. What does the second sentence of this definition mean? It states that "feedlot" includes within its meaning "land which is used for the raising of crops or other vegetation..." Does this mean that a corporation operating a feedlot can own and produce crops on "agricultural land" that will be fed to the animals being "fed out."
2. While on the feedlot issue, I assume that the exclusion found in section 2(a)(10) means that a processor of beef or pork is going to be treated as any other feedlot operator.

D. Exceptions to the Rule

1. Educational, religious or charitable nonprofit corporations. Section 2(a)(2)
 - a. This will probably have the effect of permanently taking the land out of circulation.
 - b. The definitions are so broad that they might make it possible for fringe operations to be able to hold farm land.
2. Agricultural land acquired by a corporation for immediate or planned use in nonfarming purposes. Section 2(a)(3)
 - a. To whom does this apply?
 - b. It would seem that there should be some requirement of documentable plans to use for nonfarming purposes and you might want to consider a time restriction.

c. You might also want to consider whether a corporation buying farm land should be required to lease the farm land to an individual farmer or authorized family farm corporation, etc.

d. I assume this would have no impact on local zoning.

3. Section 2(a)(10).

This subsection would appear not to be necessary in view of the definition of "farming" in section 1(g).

4. Section 2(b).

The use of the word "conviction" might cause a problem. It implies that the failure to comply with this statute would be a crime. If so, the criminal law would be relevant. I would think it would be wise to pursue the possibility of making this a straight civil action. I think the monetary damages is a good idea but it does raise some possible problems if it is treated as a criminal fine.

RESTRICTIONS ON AUTHORIZED FARM CORPORATIONS

	Shareholder Limit	Exceptions To Number Shareholders	Individuals	Incorporates	Acreage	Shareholder Classes	Shareholder Reside on Farm	Stock Obtained By Income	% Corp. Income From Farm	Interest Restricted	Members Holding Stock in other Farm Corp.	Foreign Shareholders
Nebraska										leasehold or greater		
Oklahoma	10	lineal descendants, relation by marriage, adoption	natural persons trustees for natural persons banks						max. 35% sources other than farming or minerals			
Wisconsin	15	lineal ancestors, descendants, aunts, etc. count as one shareholder	natural person			no more than two classes		DEVISE OR BEQUEST EXEMPTED		"own" acquire land or commence farming		
North Dakota							75% members or shareholders reside on farm					
Missouri	1/2 voting stock held by 1/2 stockholder members.	family within third degree by affinity or consanguinity	natural persons, estates, trusts				at least one member live on or operate	DEVISE OR BEQUEST EXEMPTED	2/3 net income from farming	land or an interest therein		
South Dakota	10 majority voting stock held by maj. of family	related to third degree	natural persons, estates			one class only	at least one member live on or operate	DEVISE OR BEQUEST EXEMPTED	max. 20% rental, royalties etc.	an interest, legal or otherwise in any title		
Minnesota	5 maj. voting stock held by maj. of stockholders	persons or spouses of persons related to third degree	natural persons, estates		2700 acres asparagus	one class only	at least one member live on or operate	DEVISE OR BEQUEST EXEMPTED	max. 20% rental royalties etc	includes leasehold		20% of holdings No non-US Corp
Iowa	maj. voting stock held by maj. of related stockholders	spouse, parent, grandparents, descendants of grandparents or spouses & lineal descendants, fiduciaries	natural persons, non-profit corporation, fiduciary for natural person				at least one member live on or operate		min. 60% from farming			

1	Restriction	CROPS Enumerated	Products Exempted	Other
Nebraska 76-152, 1503	Production of crops, raising or feeding of animals for production	Crops, fruit or horticulture livestock, poultry, poultry products, milk, dairy products.	X X X X X X X X X X	X X X X X X X X X X X X
Oklahoma 18-951 6-956	engaging in farming or ranching, or leasing land to be used in business of farming.	X X X X X X X X X X X X X X	Research feeding livestock & poultry forestry food processing	1, 2 partnerships
Wisconsin ch, 182	carrying on farming operations	cattle, hogs, sheep, wheat, corn, barley, rye, oats, rye, hay, pasture, soybeans, millet, sorghum dairy products	research, seed production processing dairy products	2,3,4,5*
North Dakota ch. 10-06	engaging in the business of farming agriculture	X X X X X X X X X X X X X X	X X X X X X X X X X X X X X	6,7 land exchanged for other land
Missouri 350.010 to .030	using or cultivating land for production	agricultural crops, livestock, poultry, poultry products, milk, dairy products, fruit	Research, seed production processing & distribution forestry, fish, poultry, mushrooms, pharmaceuticals, chemicals	2,3,4,8
South Dakota ch. 47.9A	Cultivation of land for production	agricultural crops livestock products poultry, poultry products, fruit	Research, seed production processing & distributing forest, timber, breeding stock, nursery plants, sod	2,3,4,8 nonfarm use* held for debts
Minnesota 500-22, .24	production of agricultural products	agricultural products livestock, milk products fruit	research processing & refining forest, timber poultry, spraying, harvesting	1a, 3*, 4, 6 necessary for manufacturing settlers, treaties, zoning utilities
Iowa 172C	cultivation of land for production	agricultural crops poultry eggs, milk, fruit, graising or producing livestock	research	1b, 2, 8 nonfarm use railroad, highway right of way 20 acres within cities

1. Charitable, eleemosynary corporations
- 1a. Educational, religious, and charitable nonprofit corporations
- 1b. Educational institutions, when used for research purposes
2. Land held at date statute enacted
3. Held as security-if divested within given time

4. Normal exparison and pollution control(20% in 5 years)
 5. Incidental to non-prohibited use
 6. Judicial process-operation of law
 7. Nortgage, lien
 8. Trusts
- *Indicates requirement of lease to farm corporation if used for farming

	Reporting	Enforcement	Penalty	Divestment	
Nebraska	corporations holding agricultural land farm corp. special requirements				
Oklahoma	Secretary of State reports to Board of Agriculture weekly	Board of Agriculture Revoke any license	civil criminal \$500 misdemeanor or	within reasonable time	
Wisconsin		County attorney	\$1,000 each day separate offense	within reasonable time	
North Dakota		County attorney		within 10 years farm in interum escheat to county	
Missouri	special reporting for corp. involved in farming Prerequisite to doing bus. in state	attorney general	\$500 to \$1,000 file with registrar	public sale within two years	
South Dakota	Special reports for farm corp not qualified to do business without report	attorney general	\$1,000 misdemeanor file	within 5 years, or Court ordered public sale	
Minnesota	Annual reports special farm corporations reporting	attorney general	public sale of land	public sale	
Iowa	corporations and limited partnerships	attorney general or county attorney	\$50,000 Reporting Violations-\$1,000	within 1 year	