MINUTES OF THE SENATE COMMITTEE ON AGRICULTURE & SMALL BUSINI

Held in Room 423-S, at the Statehouse at 10:00 a.m. a. m./p. m.,

on Tuesday, February 10, 1981, 19____.

All members were present except: Sen. Ross Doyen (Excused)
Sen. Gerald Karr (Excused)

The next meeting of the Committee will be held at 10:00 a.m. a. m./p. m.,

on Wednesday, February 11, 1981,19____.

These minutes of the meeting held on Tuesday, February 10, 1981, 19____ were considered, corrected and approved.

Fred A Kerr
Chairman

The conferees appearing before the Committee were:

Dr. Neil Harl, Dept. of Economics, Iowa State Univ., Ames
(Telephone hookup conversation)
(Dr. Harl had consented to answer the questions sent to him under date of February 4, 1981, by Raney Gilliland, Kansas Legislative Research Department--see copy of letter attached to original minutes.)

QUESTION ONE: Generally, how effective has the Iowa statute been, including your thoughts on how adaptable the Iowa statute might be to Kansas?

Dr. Harl: First of all, let me say that we have had now a number of years' experience with the Iowa law, enacted in 1975 and which has been amended a couple of times. In fact, it was amended in 1980 in rather a minor way which I will point out a little later on. The Iowa statute has been quite effective for the task that it was to fulfill.

In 1975 there was some sentiment in Iowa that there should be a very restrictive statute and the bill originally introduced in the Iowa legislature, which was House File 215, would have been quite a restrictive statute and would have impacted upon a number of family farm corporations. After a great deal of discussion and debate, the legislature decided not to go the route of a highly restrictive statute in terms of impacting family operations but to try to accomplish three or four major objectives.

One major objective was to place what was then a temporary moratorium on acquisition of agricultural land by corporations of more than 25 shareholders. That has now become a permanent band on acquisition of land with some exceptions with which I feel you are well aware.

A second objective was to generate more information than we then had available about what was happening with respect to the ownership of agricultural land and generate more information than we then had available about what was happening with respect to the ownership of agricultural land and the conduct of farming operations by firms in the state.

A third objective was to deal with the feed yard feedlot situation where packers were engaging or thought to be contemplating to be engaging in the feeding of particularly hogs and cattle.

So all three of those major objectives were dealt with. Now there was another one that was involved also at the same time and that had to do with non-resident aliens. Iowa, I believe, was the first state to enact legislation dealing with reporting of land ownership and acquisition by non-resident aliens and so that was added on at the same time. I might add also

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parenthetically that while we were doing that we were discussing the philosophic side of this type of policy, and I put out in a call to the Iowa Senate to a meeting in the spring of 1975 that really I was not completely convinced that the problem was a specific method of organization--that probably we were more concerned about publicly held entities. We were concerned about entity ownership; we were concerned about bigness, but I did not think we could isolate in a meaningful way a particular firm or organization as being necessarily our enemy.

So I suggested that we should at least include in the information sheet limited partnership because it had become almost the investment vehicle of preference for tax shelters. This is certainly true of the Texas high plains area. The Panhandle area for cattle feeding grew so very rapidly in the 1960's and 1970's. So it was added on then the limited partnership reporting. So the reporting side of it included corporations, non-resident aliens, limited partnership and there is a report in there also for the packers as well.

In 1977, some of you may recall, a phenomena which became rather well known as Ag Land 1. It was a proposal to channel pension and profit-sharing monies into the purchase of agricultural land. It lead to a great deal of concern, and, as a matter of fact, exactly four years ago this week it was on a Tuesday with a same comparable Tuesday in early February, a joint session of the House and Senate Agricultural Committees of our state legislature talked about this problem. As a result of that discussion and debate, Iowa added trusts to the target list of entities for which the limitation should apply.

I would say that the struggle in Iowa in recent years has been to try to draw a line to discourage the acquisition of agricultural land by firms regardless of how organized technically if those firms seemed to be of the publicly held variety, or to pose as unfair competitive edge for the family operator.

In the case of Ag Land 1 and the pension and profit-sharing monies, some of the work we have done indicated that they did, indeed, have a competitive edge because of the non-profit character of them and because of the tax deduction of the funds going in, but they could under certain defined circumstances afford to pay a higher price for land than could someone who was trying to pay for land in the course of a farming operation. So trusts were added because a number of those pension and profit-sharing plans are, indeed, organized as trusts.

I think there is a message here in that I believe if we are going to have limitations of the nature we are talking about generally today it is my feeling that we should try to make those limitations as broad as the innovative mind can conceive of some other way to organize. And that means, of course, the corporations, the limited partnership, the general partnership, the trusts, the joint venture which is a variety breed of partnership. So that I tend to feel that focusing solely upon the corporation may not really be setting us up with the type of policy that will accomplish what we want to accomplish because it is so easy for people who want to accomplish a result of land acquisition to just simply organize themselves in a different fashion.

I would say also that the largest remaining surrept of the type we are talking about here is individual ownership. And no state today, except with respect to non-resident aliens, has tried to really impose meaningful limitations on the acquisition of agricultural land or the conduct of farming operations by individuals where they acquire an individual ownership.

It has been my observation that some of the largest aggregations of land in the agricultural sector of this country has been by individuals acquiring land not by a corporation, not by a limited partnership, not by a trust, but by individual ownership. That is a very difficult ticket because it strikes at the heart of one of the things that we tend to hold rather dear and that is the right of an individual to invest in about wherever they care to as individuals.

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So there has been some discussion about the problems about absentee ownership and what to do about it, but there really hasn't been very much accomplished, and that is the way around some of the limitations. However, to impose limitations on the entities does, indeed, deal with a very problem .

But, in summary, I would say on Question 1 I think that the Iowa statute has worked rather well, and I feel that the groups on opposite sides of the issue when it was discussed rather heatedly in 1975, I think most feel that the Iowa statute has worked reasonably well. I think it is a good compromise position to accomplish the basic purposes that I think they eventually came to agree upon. Does the committee have questions, Senator, or would you like for me to go on?

Kerr: We would like for you to go ahead.

QUESTION TWO: What advantages are gained when a statute is passed which prohibits the ownership of agricultural land by certain entities as opposed to placing specified restrictions upon entities which may own or lease agricultural land?

Dr. Harl: I have had a little trouble with this question in terms as to what it means, but let me see if I can make some worthwhile comments.

Well, obviously, when you have a total band as Iowa does on any corporation with more than 25 shareholders, you are assuming that there is no significant possibility for a corporation falling into that target group of more than 25 shareholders in terms of redeeming social qualities if you would permit me to use that phraseology.

We are assuming if they have more than 25 that that is almost a per se situation and that the legislature was willing to simply exclude those. I think the question implicit in number two is the following: As you reduce the absolute bands of 25 shareholders down to 10, then I think you increase the necessity for a set of limitations based upon nature of entity. I felt rather comfortable with the more than 25 because I have yet to see a situation in this state where a family operation was severely impacted by that limitation. And that's really what I think the legislature seeks to protect.

Now we did have some operations with more than 25 shareholders. The most significant of these was the Amana Society which is around 25,000 acres. It was a communal society for a number of years. In the 1930's it went to a corporate type organizational structure. It is a very unique type agricultural arrangement and that one was excluded by special legislation so that we did have some above that level but in one way or another they were excluded or taken care of.

I guess I don't have too much trouble with the absolute but if you begin moving that absolute limit down, then I think I would have some trouble. The economist side of me tends to believe that you should have a fairly good policy reason if we are to restrict the free flow of capital. And I don't have too much trouble with that level but if you would move that down a ways, I think I would. That's about all I think I can really say about No. 2. I hope I've been somewhat helpful there.

Kerr: Yes, Dr. Harl, I think the question on No. 2 you answered somewhat, but I think the reason we put it in there was if we could be successful in limiting whatever it is we want to limit by not addressing the ownership question; in other words, just limiting only the various activities so that it would be a little easier law to administer, etc.

Kansas now only speaks to the activities but as you say the Iowa law has ownership--I think you used the word "acquiring" so that's kind of the gist of it. But I think you have answered it in that you feel the acquiring limitation should be in there--a rather broad type of limitation.

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QUESTION THREE: Why were no limits or restrictions placed upon partnerships or limited partnerships in the Iowa statute?

Dr. Harl: I think the short answer to that is that they were not perceived particularly as a threat at that point. In fact, the discussion had proceeded a couple or three notches when I raised the question about limited partnership in particular.

Still, I think there was not a great deal of concern about the limited partnership although there was sufficient interest to include it as part of the reporting requirement. I think that it was a matter that had it been viewed as much of a potential threat as the corporation I think they would have been included. I felt it was important at least to get a reading on a periodic basis about what activity was going on, especially on limited partnership.

I see the limited partnership in some ways as a more pernicious problem than even the corporation. Partly because of the tax shelter aspects. Now some of those were closed down in the 1976 Tax Reform Act at the federal level. There aren't quite as many problems with limited partnerships today because some of the tax shelter advantages have been taken out, but nonetheless I think the quick answer is that Iowa at that point didn't see it as a problem but reporting was added and I would say that with a very strong urging on my part because I felt it should be apart of the information sweep.

Sen. Kerr: Dr. Harl, has there been any indication the last year or so that perhaps limited partnerships should be now included in the limitations or not?

Dr. Harl: I don't think there is a ground swell of interest. We don't have in this state a tremendous amount of activity in agricultural resources by limited partnerships although it is increasing. And there is increased limited partnership by family operations and some by others but I have not detected a great ground swell. There is some continuing interest in the problem. It may come up again, but we don't believe it is particularly strong right now.

QUESTION FOUR: In the definition of what a "family farm corporation" means, Part C states that: "Sixty percent of the gross revenues of the corporation over the last consecutive three-year period comes from farming." Why was this required of a "family farm corporation" and not an "authorized farm corporation"? Why were "authorized farm corporations" included in the Iowa law?

Dr. Harl: Well, that's a good question. As I pointed out to the Senator yesterday when we were discussing this very briefly that I should not be duly responsible for the act but I was involved personally from time to time and this is one where you can sit and pause and perhaps chuckle a little bit because I don't think there is a particularly good reason except the following: Early in the legislative process in 1975, when the vehicle of discussion with House file 215, that was the quite tough bill proposed, there was a distinction drawn at that time between what the family farm corporation can do and what an authorized farm corporation can do.

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And a family farm corporation can do a number of things that an authorized farm corporation couldn't, so that there was then, I think, a reason why there were some limitations imposed on family operations that weren't imposed on others, simply because what authorized they could do were not quite as liberal in terms of opportunity as was available to family farm corporations, so that I think that is a vestige of the early legislative history that today doesn't have a great deal of meaning because essentially if you're family farm corporation or authorized farm corporation you are not going to face the ban on corporate ownership land. That is about all I can say on question 4.

QUESTION FIVE: In Kansas we have many farmers which hold royalties from oil and gas production. In regard to question 5, how should income from royalties be treated when considering that 60 percent of the gross revenues are required to be realized from farming.

Dr. Harl: Regarding question 5, and I think that probably means question 4. My feeling is that the oil and gas royalties are not income farming and I say that based on the way the royalties are generally handled. Unless they are defined as being either from farming or being eligible to be counted within the 60% that I doubt if they would. However, I think in a state where oil and gas is very important, as in Kansas, my suggestion would be that you simply make it very clear in the bill itself whether oil and gas income is to be counted in the 60%.

I think that becomes a matter as to how you view it in terms of magnitude, in terms as to whether it would create a wide loophole in the statute or whether it could be accommodated. I guess my only suggestion is that you make it very clear which it is so that no one has any doubt as to whether it is included in the 60% or not if you decide to impose a limitation like that.

Sen. Kerr: O.K., I think we understand your answer there. Our problem is, as you have perceived it correctly, that if oil and gas royalty income does not count as family farm income, then that 60% provision could be violated fairly easily if large holdings were found. . . .

Dr. Harl: Absolutely. You would probably be surprised for a lot of people for them to be in violation because they see themselves much like the neighbors except they're getting oil and gas royalties.

QUESTION SIX: Did Iowa Legislators give any consideration to restricting the number of acres a "family farm corporation" or "authorized farm corporation" or trust could acquire, own or lease? If they did, what was their rationale for not including size restrictions? Also, did Iowa Legislators give any consideration to prohibiting the ownership of stock in more than one "family farm corporation" or "authorized farm corporation"?

Dr. Harl: Well, let's look at the size question. There was not a great deal of discussion on the size issue. The paper I presented in March, 1975, to the Iowa Senate Agriculture Committee did spend quite a bit of time, and we devoted about a four-hour period discussing this subject, and I suspect we maybe devoted a quarter of that to the fact that size is implicit in a lot of our thinking about policies and theory. Many people are concerned about the size.

Size, of course, has many dimensions--size has an acreage dimension; (your statute of course has the 5,000 acre limitation) size also has a dimension of sale. You would have quite a large operation if you have confinement livestock on a fairly small land base--you could still have a lot of receipts in the course of a year???; you could have quite a large operation even just with a feed yard situation with a limited amount of land. So we talked about the various indicators of size and finally concluded that was a tough one to deal with and the Iowa legislature as a result

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did not devote very much time to actually debating it except as I recall in that one session. That was rather early in the process when we were looking at it philosophically as the basis for a policy limitation. Beyond that, I do not think there was too much discussion.

And to the second of question 6--Not too much discussion of that. There was a little discussion of linkages and some concern about the fact that could become quite a difficult issue but it wasn't perceived as a great threat at the time. That was one that was left without a great deal of discussion.

Sen. Kerr: Were either of those in that original introduction?

Dr. Harl: Not a size limitation, and I would have to go back and check. I don't believe there was one on attribution of ownership by more than one corporation. The basic thrust of that was to impose a divestiture provision for corporations and it was going to require some of them to get out of land ownership. I don't believe there was anything in 215 that dealt with either of those two issues. At least I don't remember that.

QUESTION SEVEN: In regard to Section 172C.4, and the list of exemptions, number four exempts the acquisition of agricultural land by a corporation for immediate or potential use in nonfarming purposes. How is it determined what amount of acreage is necessary for these types of corporations? Why were no limitations imposed on these corporations? What kind of proof must they offer to qualify for the exemption?

Dr. Harl: Well, there is no predetermined amount of land that would fall within that exception. I can recall from some discussion relative to the fact that each non-farm firm acquiring land for development or for non-farm purposes is somewhat unique in terms of why they are acquiring it, how much land is being acquired, and the belief was that it would be very difficult to try to specify some maximum amount because a power company might have quite a different situation than a manufacturing firm. Even different types and sizes of manufacturing firms would have different needs for land and so that just wasn't predetermined.

And terms of the proof. That is not specified in the statute. There really hasn't been too much discussion since about that particular provision as to what proof would be required. We have no litigation over it. In fact, I don't believe we've even had the serious question about that one. I am not involved on a day-to-day basis so I wouldn't want to say absolutely. I am aware that we've had some concern in that area. I certainly can understand why you would have a question about it. I think the problem I have in that area is trying to develop a set of rules if one were trying to legislate rules that would be workable and would not create a great number of problems. I'm not sure I could say much more than that.

Sen. Kerr: OK. I guess you are saying that the law has not unduly limited industries in Iowa who may want to acquire or buffer zones, or whatever. That your law has not presented a problem or you've not had litigation on that problem.

Dr. Harl: I'm not aware of any expressed feeling that it has infringed upon impacted industrial growth. I think there is a kind of rule of reason here that people have still applied, and there hasn't been what I would consider to be abuse of it. As a result, it hasn't been a high visibility item.

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Sen. Kerr: Do you know whether large public utilities or power plants where there might be several thousands of acres around the plant for a buffer zone were taken care of under the law?

Dr. Harl: I think they think they are. We have had a couple of instances where there was acquisition of fairly significant acreages for plants and public utility development purposes. There didn't seem to be any great worry that this statute would preclude them. In the one I'm thinking of, I believe they proceeded to a point of exercising options, although I would want to check that before I really gave you a definite answer on that point. It is my perception that this has not been viewed as a seriously constraining element for a bona fide business expansion or an industrial expansion including power companies.

Sen. Montgomery: Relative to excess land, can they rent it out?

Dr. Harl: I would be inclined to say (from my note) that there has been probably some cash leasing of the extra land and I wouldn't be too surprised if there was some crop-sharing too. But I suspect the predominant tenure relationship has been that of a cash-rent lease.

But as diverse as our state is and as diverse as industries are and as little understanding as some of them have of agriculture, I suspect that if we were to do a research study of that we would find various kinds of arrangements, but I would probably guess the cash-rent lease is more dominant because it gets them out of the management and most of them don't want to get into that anyway. So I suspect the cash-rent lease is the way that it is handled in terms of the land that is not needed solely for industrial purpose and could be continued in agricultural production.

What it says in point four here, this is a series of exceptions to the restriction on acquisition of agricultural land and one of those restrictions in sub-section 4 "Agricultural land acquired by a corporation for immediate or potential use in non-farming (is not farming) purposes". That's a two-line statement and implicit of that is that there is no question but what the corporation could acquire the land it needs for non-farming purposes.

Now also implicit in that is that if it turns out that the amount of land they need for non-farming purposes is less than what they acquired I think there is an assumption they will dispose of it.

The more significant question, I think, is that they can make a good case as to why they need to have the land, and it may be for buffering purposes, and I think often it is. If it's needed for buffering purposes, the question becomes that does sub-section 4 preclude that from agricultural pruposes. I have operated on the assumption that it did not because in effect it is the reason for it is a non-farming purpose.

There could be a question of fact as to whether their determination that it is needed for non-farming purposes is really correct. They may be drawing that line much too widely.. They may be including an extra 160 acres for buffering when a reasonable person might conclude they did not need that much. That, of course, is open for discussion and debate.

I have seen the right to hold some land as reasonably needed for purposes related to non-farming and they then could make appropriate use of that land. There does not appear in the statute any limitation on the kinds of arrangements they can enter into with respect to that land that is genuinely needed for the non-farming purposes, but needed for non-agricultural use is not inconsistent.

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I could understand a limitation that might require a cash-rent lease if it keeps them out of decision-making process. I guess I have been inclined to think that is the kind of a decision that perhaps unless it begins to be a huge amount of land it is best left to the firm and I think they will often go to a cash-rental lease because they do not know how to handle it unless they have a farm manager. Their leases often reflect that. They are not necessarily kept current in terms of rent levels, etc. These people are not in the business of farming. They are in a business producing something else. This is sort of a by-line product for them.

Dr. Harl: The exception for land owned by a charitable institution in Iowa that is dealt with in a couple of different provisions. If I am interpreting your question correctly, our sub-section 2 deals with first of all agricultural land acquired for research or experimental purposes. In these there is a fairly broad exception. In a couple of situations, if the commercial sales are just incidental, and there is a statement that sales are incidental, less than 25% of the gross sales of the primary product of research, we are concerned not so much about the charitable institutions or state universities as we were about the seed corn companies and others engaged in seed production so part of the language in our sub-section 2 was designed to deal with problems which were perceived in the movement of seed from the inbreed lines or through the reproduction stages in commercial production.

Now in the next sub-section 3, it deals with a non-profit corporation, Reading from that..."Agricultural land, this is an exception now, again to the ban on corporate acquisition beyond 25 shareholders. Agricultural land including leasehold interests acquired by a non-profit corporation organized under 504 and 504a, the statutes under which non-profit corporations are organized included land, for experimental or seed purposes in conjunction to a state university."

There are two things in that sub-section. One is there is an exception of agricultural land acquired by non-profit corporations. And then further there is a specific statement about land that is either operated by or for a state university. We have several foundations. Well, I shouldn't say several. I think there are three that own land where the land is used for experimental purposes in conjunction with Iowa State University. Partly because of the fact it is easier for land to be held that way rather than the state of Iowa...

These foundations own the land, and it is used for research purposes that are outlying farms. Those are included in this sub-section 3. Notice that the non-profit have to be organized under the Iowa non-profit corporation law. The only problems that I have known that have come up under this subsection is where an out-of-state non-profit corporation acquired by bequest by devise agricultural land and they discovered that they would have to qualify under 504 and 504a as an Iowa non-profit corporation which is not all that difficult--it's just an extra step they had to do. It does make it difficult, say, for a national charitable organization that isn't organized under the provisions of the state's non-profit corporation statute.

Sen. Kerr: I am glad you pointed out about your restriction no. 4. You are interpreting that a little more broadly than we would have thought. Perhaps that is a way to address this industrial expansion.

Dr. Harl: Keep in mind that you are listening to Harl today. There are lots of people who might very well disagree with that, but we just haven't had a great occasion to examine that in terms of judicial determinations. I don't believe there is a Churchill opinion dealing with that area. It leaves with any of us who have something to do with the bill to share with you our own perceptions, and I hope you take it in that fashion.

Sen. Kerr: OK. Fine. Since you have touched on the church question a little while ago, that has been one of the major problems concerning our law relative to inheritances churches receive of agriculture land. Now, did you say they come under this chapter 504 and 504a? Is that how they are excluded?

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Dr. Harl: Well, the land that is acquired by our non-profit corporations under those two chapters obviously is going to be within the exemption. That includes the YMCA's, etc. It does not include the local church that is not organized as a corporation. If it is not organized as a corporation, it doesn't fly in the fact of the limitation in 172C.4 so in the corporation it better be under 504 or 504a. If it isn't a corporation, and we have a lot of churches that aren't, particularly local churches not exceptional in nature, then they are probably an unincorporated association. If they are, there is no ban on the acquisition of agriculture land anyway.

Now you might want to address that question but would suspect that if you do that is a sticky wicket in terms of how you deal with it because these churches organize in every way I've found. Some of them are corporations, but a number of them aren't. In fact, they are not organized corporations and they do occasionally acquire land by devise. Now there is a rather interesting title problem involved. If it happens, there are some interesting questions as to how they can deal with it. That often chases them into corporations. If they do incorporate, we assume they would be incorporated under one of our non-profit corporation statutes.

QUESTION 8. Section 172C.2 makes it unlawful for certain entities to be involved in a feedlot in which hogs or cattle are fed for slaughter. Would feeder pigs and feeder cattle be included under this restriction or would those specified entities be prevented from these activities?

Sr. Harl: This deals with one of the objectives to do something about the feeding of cattle and hogs by processors of beef or pork. Now remember, in our statute, 172C.2, that this is a limitation that is imposed on those involved in processing of beef or pork. It is a fairly specific provision and it does reach the feeding of cattle or hogs for slaughter. Your question was would feeder cattle or hogs be included.

I think from the standpoint that if the processor of beef or pork is buying feeder pigs and feeding them out, or buying feeder cattle and feeding them out, yes, I think they would be.

Now if your question is would the production of feeder pigs and the production of feeder cattle come within this limitation, I would have to say that the operative language of 172C.2 is involving the ownership, control, operation of a feed lot in which hogs or cattle are fed for slaughter, and I think the question there becomes whether they are being fed for slaughter in the facility if the objective is the production of feeder pigs or the production of feeder cattle.

I would be inclined to think that it probably would not be included but remember the whole limitation is imposed on the processors of beef or pork, and for processors of beef or pork (what is it more than $10 million in sales or wholesale) to be involved in the production of feeder cattle, I don't think it is too likely to occur and if it were to occur in major ways then I suspect this would be amended to make it more specific.

QUESTION 9: How well are the reporting requirements working? Is there adequate information being provided? Does the requirement under Section 172C.12 work well as a check for the compliance of reporting requirements?

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Dr. Harl: Reporting is the last item. Let me say this about the reporting mechanism. It was a fairly new and different and somewhat of an innovative approach when it was enacted in 175; then amended a couple of times. One of the concerns was the underreporting phenomena. It is my judgment today, and I can also say that it is the sheer judgment of the person in Sec.of State's office who is in charge (and I might just for the record tell you that person is Alice Fisher and I am confident that although Alice is ill today I understand she would be quite willing to visit with you about this).

It is our general belief that the reporting system has really worked quite well. Early in the process there were a couple of holdouts. A couple of fairly large operations that really didn't like the idea of reporting even thought they were filing a corporation return that then required additional agricultural report some few took coverage up and they held out. The Attorney General sat down on them and as a result since that time in the words of the people facing these problems we have had splendid cooperation. I think that is probably right.

There are a couple of aspects though that I think you should note. One is there are a couple of useful cross-references of information that are received by the corporation section of the Secretary of State's office. One of the most useful is a report from our Department of Revenue that is received periodically of deeds filed by corporations, and that goes back to a statute that was enacted a couple of years ago requiring the mandatory recordation of deeds and other instruments of conveyance except leases not to exceed five years.

Now the reason for that mandatory recordation of deeds was as a part of the effort to get at the non-resident alien problem of land ownership because if you simply say that non-resident aliens cannot acquire land, then the easy out is to become indirect or beneficial owners of a trust or a limited partnership, or general partnership, and set up all kinds of trails around the country. Somebody from Route 2, Paris, France, could form a limited partnership in Florida, which becomes a general partner in Alabama, which forms a trust in Tennessee, which forma an incorporation in Illinois; which comes in Iowa by acquisition of agricultural land. By the time you blow apart all those different entities, you've grown tired of the task you still have to do.

And so the belief was that you couldn't get to first base with this problem unless you required the recordation of deeds or other instruments of onveyance. But the final out someone from a foreign country who didn't want to reveal the nature of the entity would be just to fail to file the deed. And just take the risk that they might be done in by the creditors at the ground floor. As a result, the Iowa legislature in 1979 enacted the provision made in 1978, became effective in 1979, requiring the recordation of deeds and other instruments of conveyance. This, incidentally, is in section 558.44 of the Iowa code and it is quite a lengthy section. But as a result of that, the counter recorder makes a report to the Department of Revenue and that comes across to the Secretary of State's office so it gives them good cross-check.

And there are some pretty hefty penalties if they don't record within six months. They've got a period of six months to record their deed or instrument of conveyance, and if there is a non-resident alien owning an ownership interest then that must be revealed in an affidavit filed with the instrument of conveyance, I might add. So that report or coming across the Department of Revenue is a useful cross-check for the people in the Secretary of State's office.

Also, there is an annual report from the county assessors. 1 are required to, I believe it is by October 1 of each year, send the Secretary of State a list of land tracts with owners held by corporations, non-resident aliens and trusts on the agricultural land in the county and that is shown by the assessment roll?.

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Now the Secretary of State's office believes that those reports are getting better each year. Several of our counties are getting computerized, and the reports are of better quality each succeeding year. They believe it is a worthwhile provision. It takes time to get the assessors attuned to it, but after they have been through with it a few times then they are really just adding on the marginal acquisitions and it becomes almost a routine matter. A little bit of grumbling in the beginning because after all they have lots of reports to do and they have lots of things to accomplish and here's another one on top of everything else. But after it gets routinized and after they have done it a few times, it does become another useful source of information. So at the present time it is our general belief that there isn't much under-reporting with respect to the Iowa statute.

Sen. Kerr: We have a few minutes left. Would you want to make a quick comment on anything that you think you would change or would need to be changed in Iowa? In general, you think it is working quite well?

Dr. Harl: I do believe it is. I think I would draft it to reach all kinds of entities, corporations, limited partnership, of course we've added trusts. I would be inclined to include all kinds of identifiable entities because I don't believe we can draw a meaningful line between, say, a limited partnership in a corporation or a limited partnership in a trust. I think that really we are looking beyond the form of organization to the nature of the acquiring entity. So I think I would probably broaden the scope of it in that degree, in that particular way.

Beyond that, I am not too sure. Oh, I would make some changes and tidy up inconsistencies, and we've already identified one of those today, but nothing really very serious. I think it's really worked quite well in light of the quite differing views strongly held, argued passionately at the time. I think it represented a good compromise and I think there is quite a bit of confidence in it today.

Sen. Kerr: We sincerely appreciate your help in this. Your information has been very pertinent. Thank you very much.

Dr. Harl: It was a privilege to have met with your committee and others in attendance. We are very, very pleased to have the chance, Senator.

Sen. Kerr: A couple of quick items. Have you had a chance to check the minutes? Sen. Arasmith moved, Sen. Warren second, that the minutes of February 5, 1981, be approved. Motion carried.

We will consider Senate Bill 31 tomorrow, Wednesday, February 11, 1981.

Meeting adjourned.

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STATE OF KANSAS

F. [illegible]D W. RYAN,
DIRECTOR
BEN F. BARRETT,
ASSOCIATE DIRECTOR
MARLIN L. REIN,
CHIEF FISCAL ANALYST

STAFF—
LEGISLATIVE COORDINATING COUNCIL
INTERIM COMMITTEES
STANDING COMMITTEES
LEGISLATIVE INQUIRIES

THE LEGISLATIVE RESEARCH DEPARTMENT
ROOM 545-N, STATEHOUSE
PHONE: (913) 296-3181
TOPEKA, KANSAS 66612

February 4, 1981

Dr. Neil Harl
Department of Economics
478 East Hall
Iowa State University
Ames, Iowa 50010

Dear Dr. Harl:

Enclosed you will find copies of the minutes of the Kansas Senate Committee on Agriculture and Small Business pertaining to the issue of corporate farming. We hope this will give you some background as to the discussion and testimony that the Committee has had to date.

Below you will find nine questions which the Committee has asked that you address specifically.

1. Generally, how effective has the Iowa statute been, including your thoughts on how adaptable the Iowa statute might be to Kansas?

2. What advantages are gained when a statute is passed which prohibits the ownership of agricultural land by certain entities as opposed to placing specified restrictions upon entities which may own or lease agricultural land?

3. Why were no limits or restrictions placed upon partnerships or limited partnerships in the Iowa statute?

4. In the definition of what a "family farm corporation" means, Part C states that "Sixty percent of the gross revenues of the corporation over the last consecutive three-year period comes from farming." Why was this required of a "family farm corporation" and not an "authorized farm corporation"? Why were "authorized farm corporations" included in the Iowa law?

5. In Kansas we have many farmers which hold royalties from oil and gas production. In regard to question 5, how should income from royalties be treated when considering that 60 percent of gross revenues are required to be realized from farming?

6. Did Iowa Legislators give any consideration to restricting the number of acres a "family farm corporation" or "authorized farm corporation" or trust could acquire, own, or lease? If they did, what was their rationale for not including size restrictions? Also, did Iowa Legislators give any consideration to prohibiting the ownership of stock in more than one "family farm corporation" or "authorized farm corporation"?

7. In regard to Section 172C.4, and the list of exemptions, number four exempts the acquisition of agricultural land by a corporation for immediate or potential use in nonfarming purposes. How is it determined what amount of acreage is necessary for these types of corporations? Why were no limitations imposed on these corporations? What kind of proof must they offer to qualify for the exemption?

8. Section 172C.2 makes it unlawful for certain entities to be involved in a feedlot in which hogs or cattle are fed for slaughter. Would feeder pigs and feeder cattle be included under this restriction or would those specified entities be prevented from these activities?

9. How well are the reporting requirements working? Is there adequate information being provided? Does the requirement under Section 172C.12 work well as a check for the compliance of reporting requirements?

If you have any questions, please feel free to contact me at (913)296-7879.

Sincerely,

Raney Gilliland
Research Assistant

RG/aem

cc: Senator Fred Kerr

Enclosures

SENATE

AGRICULTURE AND SMALL BUSINESS COMMITTEE

DATE February 10, 1981 PLACE Room 423-S TIME 10:00 am

GUEST LIST

NAME	ADDRESS	ORGANIZATION
John Ford	Topeka	KAWC
Pat Hubbell	Topeka	Kansas RR Assn
Jack Swartz	"	KACI
Roy Hughes	"	KACI
Brad Pike	Minneola	KLA
Craig Ottler	Junction City	KLA
Terry Kidd	Winona	KLA
Maurice Erickson	Eureka	KLA
Darrel D Bekner	Silver Lake	KLA
Kerry D. Trostle	LeRoy	KLA
Doug McCuba	Ness City	KLA
Nancy Kerr	Pratt	—
Leroy Jones	Overland Park	BLE
Dan O. Cain	Topeka	Self
Paul E. Fleener	Manhattan	Kansas Farm Bureau
Clint Birkenbaugh	Kingman	KLA
Gary S. Renick	Ingalls	Self
Dee Likes	Topeka	KLA
John O. Miller	Topeka	Committee of Ks. Farm Organizations
Jon Ott	Lawrence	KLA
Jeff Mills	Wichita	Chamber of Commerce
Mike Beam	Emporia	KLA
Charlie Hughes	Leawood	KLA
Jon C. Lofgreen	Norton	KLA
Bryce L. Palmer	Clyde	KLA
Geo T. [illegible]	Frankfort	KLA

Randy Evert	Republic	KLA
John Blythe	Manhattan	Ks Farm Bureau
D. WAYNE ZIMMERMAN	TOPEKA	THE ELECTRIC CO. ASSOC. OF KS.
Daniel F. Carter	Scott City	KLA
Mark E Smith	Tribune	KLA
James A. Davis	Council Grove	KLA
JON JOSSERAND	Topeka	Secretary of State
Harvey Moore Jr.	Burden, Ks.	K. L. A.
Richard O'Neil	Topeka	Kansas Beef Council
Mark A. Schwarm, DVM	Hutchinson, Ks.	KLA
Monte C Lawrence	Medicine Lodge	KLA