

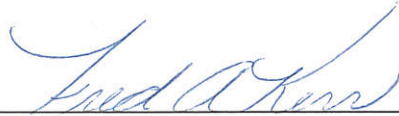
MINUTES OF THE SENATE COMMITTEE ON AGRICULTURE & SMALL BUSINESS

Held in Room 423-S, at the Statehouse at 10:00 a.m. a. m./p. m.,
on Tuesday, February 24, 1981, 19 .

All members were present except: Senator Ross Doyen (Excused)

The next meeting of the Committee will be held at 10:00 a.m. a. m./p. m.,
on Wednesday, February 25, 1981, 19 .

These minutes of the meeting held on Tuesday, February 24, 1981, 19 were
considered, corrected and approved.



Chairman

The conferees appearing before the Committee were:

Ivan W. Wyatt, President
Kansas Farmers Union

Dee Likes
Kansas Livestock Association

Keith G. Meyer
Professor of Law
University of Kansas

Senator Kerr called the meeting to order. Senator Allen moved, seconded by Senator Arasmith, that the minutes of the February 23, 1981 meeting be approved. Motion carried.

Ron Gaches distributed a proposed amendment to Senate Bill 298 as prepared by KACI. It was a revision of the amendment he suggested at the last meeting. (See Attachment "A" to original minutes.)

Ivan Wyatt read his statement (See Attachment "B" to original minutes) emphasizing "We have some concern about the 'Authorized Farm Corporation...'; 'We see a very serious problem in subsection 9 under Section 2, that exempts 'agricultural land held or leased by a corporation for use as a feedlot.'...."; and "Therefore, we would urge the committee to limit the definition of 'feedlot' to, 'a lot, yard, corral, or other area in which livestock fed for slaughter are confined.'...." Otherwise, Mr. Wyatt expressed general support for the bill.

Professor Keith Meyer explained his comments as they had been distributed to committee members. (Note Attachment "C" to the original minutes). He stated a limited partnership is a potential loophole. He felt once land is given to an institution it would probably never sell it. He questioned if there should be some time limit to the development of the land. He referred the committee to the Uniform Consumer Credit Code relative to a penalty. Senator Arasmith felt the banking code would clarify some of the questions posed.

Dee Likes, Kansas Livestock Association, read the Association's position which had been presented in years past. He did enumerate several items relative to Senate Bill 298:

(MORE)

CONTINUATION SHEET

Minutes of the SENATE AG Committee on Tuesday, Feb. 24, 1981, 19

1. Leave the grandfather clause intact.
2. Leave feedlots exempt.
3. Take out the provision beginning on line 0061--
it is not practical or logical.
4. On line 0067 change 5 to 20 or 25 (the number of
stockholders in an authorized farm corporation).
5. Take out provision beginning on line 0071
"...majority of stockholders are persons residing
on the farm..."
6. Not opposed to KACI's amendment. Individual rights
should not be lost.

Meeting adjourned.

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February 24, 1981

PROPOSED AMENDMENT TO SB 298

Prepared by

Kansas Association of Commerce and Industry

(Amended Subsection 3)

Agricultural land owned or held by a corporation reasonably necessary to the conduct of its non-farming business, provided that any such lands remaining in farming shall be leased to persons or entities otherwise not prohibited from engaging in such activity, and also, that the corporation shall not participate in the agricultural operation or receive any direct financial benefit, other than rent.

STATEMENT

on

Corporate Farm Bill

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. Corporation's rights today are placed on a level almost equal with those rights of the individual spelled out in the Bill of Rights, except the right to vote. But even in that case, corporations now may virtually buy votes by spending vast amounts of money with the electronic media.

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 they have to deal with problems as they are.

I want to commend the members of the committee for the work they've put into this bill. I think you've tried to develop a bill that will allow family corporations, without allowing corporate interests into that part of agriculture still in the hands of the family farmer.

—We would oppose any effort to water down or weaken this bill.

—We have some concern about the "Authorized Farm Corporation"; however, if the limit of stockholders is held to five, if they have to be natural persons, and at least a majority of the stockholders are persons residing on the farm or actively engaged in the farming

operation, then it is fairly well limited to a owner-operator oriented operation. However again, I would stress we oppose any relaxation of this section, and believe this is an improvement over the Iowa law,

The prohibiting of limited partnership is a vital part of the bill. Studies indicate that "limited partnership" corporations would allow large amounts of non-farm investments to move into agriculture through such schemes as the "Ag Land Trust."

I question the section that exempts agricultural land acquired by a corporation for immediate or planned use in non-farming purposes. It seems this is vague in determining the amount of land needed and the length of time land can be held as for a "planned use."

We see a very serious problem in sub-section 9 under Section 2, that exempts "agricultural land held or leased by a corporation for use as a feedlot." If this exempted only the physical site of the "feedlot", there would be no problem. However, when this section is tied to sub-section "e" of Section 1 defining "feedlot" as "land which is used for the raising of crops or other vegetation and land upon which livestock fed for slaughter are allowed to graze or feed", we see a very serious loophole that would affect the entire livestock industry, from the cow-calf operator to the packing plant and consumer. This section would also allow a conglomerate corporation to go into the business of raising grains, hay and silage.

All livestock are fed for eventual slaughter, whether they are grazing or in a feedlot.

These two sections could be a loophole big enough for a "Cargil" to build a closed livestock corporate farm, from the pasture lands of the Flint Hills to a giant feedlot in western Kansas that would include giant grain farms made up of thousands of acres of irrigated grains and silage, with the final end at their own packing plant.

Therefore, we would urge the committee to limit the definition of "feedlot" to, "a lot, yard, corral, or other area in which livestock fed for slaughter are confined."

Secondly, I would urge you to take another look at agricultural land acquired by a corporation for expansion, with the thought of some limitations.

In conclusion, I would commend the committee members again for the effort put into the drafting of this bill.

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.

line 132

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)(4) dealing with corporations obtaining agriculture land by process of law.

a. This takes away all flexibility of the lender in disposing of the land. Certainly the lenders might want to take this into account when taking real estate as collateral. It would seem that you should consider allowing a nonqualified corporation with a debt to be able to hold the land for a limited time. If this were to be done, again it could be provided that the land must be leased to an individual farmer or an authorized corporation.

4. Section 2(a)(10).

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

5. 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.

*Covered in
banking
code?*

*Some
time
given*

SENATE

AGRICULTURE AND SMALL BUSINESS COMMITTEE

DATE Tues, Feb. 24, 1981

PLACE Room 423-S

TIME 10:00 am

GUEST LIST

<u>NAME</u>	<u>ADDRESS</u>	<u>ORGANIZATION</u>
<i>Kenneth Madril</i>	<i>Alexander, Ks.</i>	<i>S.O.E.</i>
<i>Janet Stubbs</i>	<i>Topeka</i>	<i>NBAK</i>
<i>DWAYNE ZIMMERMAN</i>	<i>TOPEKA</i>	<i>THE ELECTRIC CO. ASSOC. OF KS.</i>
<i>Lynnda Ryan</i>	<i>Topeka</i>	<i>Am. Agriculture Movement</i>
<i>Pat Hubbell</i>	<i>Topeka</i>	<i>Kansas Railroad Assn.</i>
<i>Mark Muttler</i>	<i>Topeka</i>	<i>Kansas Bankers Ass'n.</i>
<i>Mark Decker</i>	<i>Topeka</i>	<i>Bank Bankers Ass'n.</i>
<i>Don Horton</i>	<i>Topeka</i>	<i>Trust Division - Kansas Bankers</i>
<i>Chris Walker</i>	<i>Mayetta</i>	<i>NFO</i>
<i>Anne L. Baker</i>	<i>Topeka</i>	<i>EXPH - Dupont</i>
<i>J. Lynn Goe</i>	<i>"</i>	<i>DuPont</i>
<i>Bess Gould</i>	<i>Lawrence</i>	<i>Atty Gen's office</i>
<i>Tom Gaches</i>	<i>TOPEKA</i>	<i>KACT</i>
<i>Keith Meyer</i>	<i>Lawrence, Ks</i>	
<i>Ivan Wyatt</i>	<i>M'Pherson, Ks</i>	<i>Ks Farmers Union</i>
<i>Don Bump</i>	<i>Topeka</i>	<i>KLA</i>
<i>Bill Lake</i>	<i>Topeka</i>	<i>KWT</i>
<i>George C. Lemon</i>	<i>Pratt Ks</i>	