

MINUTES OF THE MEETING
AGRICULTURE, LIVESTOCK AND IRRIGATION
MONTANA STATE SENATE

February 4, 1983

The Agriculture, Livestock and Irrigation Committee meeting was called to order on the above date, in Room 415 of the State Capitol Building, at 1:00 p.m., by Chairman Galt.

ROLL CALL: All members were present except Senator Lee who was excused.

SENATE BILL 296: Senator Conover, District No. 36, introduced the bill. He passed out several information sheets in support of the bill. Please see Exhibit No. 1.

PROPOSERS: Jack Gunderson, Montana Department of Agriculture, read a statement from Keith Kelly, Director of the Department of Agriculture, in support of the bill. Please see Exhibit 2.

Jo Brunner of the Women Involved in Farm Economics organization supported the bill and stated that the WIFE organization has long been concerned with our agriculture lands going to other owners than agricultural people and into large stockholdings. Please see exhibit No. 3.

Ms. Brunner handed the committee a statement from Fred R. Brown of the National Farmer's Organization who was also in support of the bill. Please see exhibit No. 4.

Robert VanDerVere, representing himself, was in support of the bill. He commented that a lot of acreage was purchased several years ago by Russell Stover Candy Company near White Sulphur Springs. This land is not being used for farming and is closed to hunting and fishing as well.

Sandra Ekberg, Montana Farmers Union, spoke in favor of the bill and stated that the Montana Farmers' Union has had a long standing policy to keep farms in the hands of farmers and ranchers. This bill would put some control on activities of large corporations. In regard to the lowering of land prices, the states that have had this law for several years see no difference in the price of land due to passage of this bill in their states. Senate Bill 296 is needed.

Bill Gillin from Rosebud county was in favor of the bill and stated that Rosebud county has more corporation owned land than in any other county. It won't be long and the whole county will be owned by corporations. He added that corporations don't die and, therefore, do not pay inheritance tax. A bill of this nature is badly needed to help out the farmers in this state.

Helen Waller, a farmer from Circle, was in favor of the bill and stated that if action was not taken soon we are facing serious consequences to our farmers and ranchers. Few young people are able to enter agriculture now and they cannot compete with corporations that only hold agriculture land for the tax write-off. My belief is that farmers and ranchers are responsible stewards of the land and will take care of the land. Our land is too important and too fragile to take chances with. We must protect our land.

Bill McKay from Roscoe spoke in favor of the bill. He stated that he was a member of the family that owned the Lazy E L Ranch and felt that there should always be a member of the family living on the ranch.

Their being no further proponents, Cliff Christian of the Secretary of State's office stated that they have some concerns with SB 296 and if action is taken on the bill they would like them to know that the fiscal note calls for 4 people and \$200,000.00 for recording and etc. Please see Exhibit No. 5.

OPPONENTS: Roy Rose, President of Big Sky Management Inc., a farm and ranch management company which manages in excess of 40,000 acres of land in Montana spoke in opposition to the bill. Please see Exhibit No. 6.

Mike Zimmerman, Attorney for the Montana Power Company, stated that his opposition is primarily directed to Section 4. Please see Exhibit No. 7.

Linus Tumbelson, representing Glacier Park Company, stated that one of the targets of the legislation is the corporations that are buying land to farm themselves. Glacier Park does not fit that criteria. The land we own is leased to farmers and ranchers and in some cases has been passed on for 4 generations.

Senator Galt: Where do you live?

Mr. Tumbelson: Presently, I live in Seattle.

Senator Galt: What is the Glacier Park Company?

Mr. Tumbelson: We are the managing company of Burlington Northern.

James Mockler, Executive Treasurer of Montana Coal Council. The effect of this bill is we cannot reclaim the land.

There were no further opponents at this time.

Senator Aklestad: Senator Conover, has the farm population increased or decreased from 1979 to 1983?

Senator Conover: Senator, I never checked into that. I couldn't give you that figure.

Mr. Gunderson: From Mr. Kelly's testimony it's gone from 78 in the 1974 census to 93 in the 1978 census - in a four-year period.

Senator Kolstad: Say I have a daughter who marries a foreigner - does that preclude him from being a stockholder in my particular outfit?

Senator Conover: No.

Dave Cogley: If I understand it, there would be a preclusion.

Senator Boylan: Senator Conover, have you got any record of big outfits going broke as well as the little outfits.

Senator Conover: This outfit that bought all this land - he wouldn't be able to buy your land because your land is too good and too high priced. As soon as he gets enough acres he turns it into farm lands.

Senator Boylan: He's not going to be a threat if he goes broke then?

Senator Galt: Are you sure this individual is not a Montana resident?

Senator Conover: He is.

Senator Galt: How would it affect him?

Senator Conover: He doesn't live on there and all it is - is a tax write-off.

Senator Galt: Is he incorporated?

Senator Conover: Oh, yes, he's incorporated.

Senator Kolstad: Senator Conover, would you have any objection to put all business in this bill.

Senator Conover: I guess you see a different light on it.

Senator Kolstad: What's fair for one is fair for another.

Senator Aklestad: The corporation has the chance that they might go broke and their land is out of circulation.

Senator Graham: The bill is not clear on its explanation of foreign corporations.

Dave Cogley: I am not here to support or oppose this bill. I am here to answer technical questions. The bill does not address foreign corporations as such. It addresses all corporations equally.

At this time the Hearing on SB 296 was closed.

DISPOSITION OF SB 265: Senator Graham moved SB 265 be amended on Page 2, Line 15 and Page 2, Line 19, by striking "7" and inserting "30". Motion carried.

Senator Graham made motion that SB 265 AS AMENDED DO PASS. Motion carried unanimously. Senator Graham will carry the bill on the floor.

At this time, Senator Aklestad suggested that Senator Conover work on his amendments to SB 296 and report to the next meeting.

Meeting was adjourned at 2:00 p.m.



JACK E. GALT, CHAIRMAN

ROLL CALL

AGRICULTURE COMMITTEE

48th LEGISLATIVE SESSION - - 19 83

Date 2-4-83

NAME	PRESENT	ABSENT	EXCUSED
GALT, Jack E.	✓		
KOLSTAD, Allen C.	✓		
AKLESTAD, Gary C.	✓		
OCHSNER, J. Donald	✓		
GRAHAM, Carroll	✓		
BOYLAN, Paul F.	✓		
CONOVER, Max	✓		
LANE, Leo	✓		
LEE, Gary			✓

Each day attach to minutes.

DATE

COMMITTEE ON

Agriculture

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Grace M. Edwards	NPRC	296	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Bobbie Packer	APA PLCA SCPA	296	<input type="checkbox"/>	<input type="checkbox"/>
BILL ASHER	APA - PLCA - SCPA	296	<input type="checkbox"/>	<input type="checkbox"/>
Mike Zingerman	MPCO	296	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Op Brunner	W.I.F.E.	296	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Jack Henderson	Mont Dept of Ag	296	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Will Brooke	Wt Woodworker / Stockgrower	296	<input type="checkbox"/>	<input type="checkbox"/>
John Butler	Reporter WAM Kamin	296	<input type="checkbox"/>	<input type="checkbox"/>
R. H. Ellis	Haleena Valley	296	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Janna Ekberg	Montana Farm Journal	296	<input type="checkbox"/>	<input type="checkbox"/>
Bill Gillin		296	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Helen Waller	self	296	<input checked="" type="checkbox"/>	<input type="checkbox"/>
W R Mackey Jr	self	296	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Elbara Ludman	self	296	<input checked="" type="checkbox"/>	<input type="checkbox"/>

(Please leave prepared statement with Secretary)

VISITORS' REGISTER

NAME (PLEASE PRINT)	REPRESENTING	BILL #	Check One	
			Support	Oppose
MIKE CRAV	MAPP	296		
Jim Mockler	Mt. Coal Council	296		✓
H.G. Longobardi	Lazy W Ranch	296		✓
Roy R. Rowe	Big Sky Management	296		✓

(Please leave prepared statement with Secretary)

Exhibit 1

MAX CONOVER

NEW SECTION SECTION 1 MAY BE CITED AS THE "MONTANA FARM PRESERVATION ACT".

THIS ACT IS DESIGNED TO PROTECT THE FAMILY FARM, THE FAMILY CORPORATE FARM, AND ALL FARMING BUSINESSES AND ORGANIZATIONS WHO EARN PROFIT FROM AGRICULTURAL DEVELOPMENT. THIS ACT TARGETS CERTAIN CORPORATIONS, EITHER FOREIGN OR DOMESTIC THAT PURCHASE AGRICULTURAL FARM LAND, AND DEVELOP IT FOR PROFIT MOTIVES NOT ASSOCIATED WITH AGRICULTURAL DEVELOPMENT.

NEW SECTION SECTION 2. PURPOSE. IT IS THE PURPOSE OF SECTIONS 1 THROUGH 8 TO PRESERVE FREE PRIVATE ENTERPRISE, TO PROTECT SMALL BUSINESS AND PREVENT MONOPOLY, TO PROTECT OPPORTUNITIES FOR FAMILY FARMERS IN THE STATE, AND TO PROTECT CONSUMERS. SPECIFICALLY IT IS THE PURPOSE OF (SECTIONS 1 THROUGH 8) TO PRESERVE COMPETITION IN THE AGRICULTURAL INDUSTRY AND TO PROVIDE FOR THE CONTINUANCE OF THE FAMILY FARM.

THE FAMILY FARM IS A HIGHLY IMPORTANT ASSET TO THE MONTANA ECONOMY. FAMILY FARMS PRODUCE THE MAJORITY OF CROPS GROWN WITHIN THE STATE AND SENT TO MARKET WITHIN THE STATE, IN OTHER STATES, AND OTHER COUNTRIES. FAMILY FARMS AND FAMILY CORPORATE FARMS COMPETE IN THE AGRICULTURAL MARKET AS EACH COMPETITOR SEEKS TO PRODUCE THE BEST QUALITY PRODUCT AT THE LOWEST POSSIBLE PRICE. TO COMPETE AT THIS RATE, FARMERS AND RANCHERS UTILIZE THEIR BUSINESS-AGRICULTURAL EXPERIENCE TO PRODUCE CROPS ECONOMICALLY. THESE FARMERS KNOW THEIR LAND, HOW TO MANAGE IT, AND HOW TO GET THE MOST OUT OF IT. THEY ARE WELL AWARE OF STANDARD AGRICULTURAL PRACTICES AND HAVE BEEN PUTTING THEM TO USE FOR MANY YEARS.

PRESERVATION OF THE FAMILY FARM DEPENDS UPON THE STATE'S RESISTANCE TO MONOPOLIES. CORPORATIONS WHO PURCHASE, CULTIVATE, AND PRODUCE FROM LAND FOR THE SOLE REASON OF TAX DEDUCTION, STAND TO GAIN SOLELY FROM THE TAX DEDUCTIONS ACHIEVED FROM THEIR LAND INVESTMENTS. BECAUSE THESE CORPORATIONS DO NOT DEAL ALONG THE SAME ECONOMIC GUIDELINES AS DO THE FAMILY FARM CORPORATIONS, THE CORPORATIONS ENJOY AN UNFAIR ADVANTAGE. WHILE FAMILY FARM CORPORATIONS MUST EARN THEIR INCOME FROM FARM PRODUCTION, CORPORATIONS, AS DEFINED IN SB 296, SECTION 3, EARN THEIR INCOME FROM TAX "WRITE-OFFS". AS A RESULT, FAMILY FARM CORPORATIONS CANNOT COMPETE WITH THE LOW PRICES SET BY CORPORATE PRODUCERS, WHO ONLY SEEK THE TAX DEDUCTION. THUS, UNFAIR COMPETITION OCCURS. BECAUSE OF THIS UNFAIR COMPETITION, A DEFINITE THREAT IS POSED AGAINST THE FAMILY FARM CORPORATIONS OF THIS STATE.

NEW SECTION SECTION 3. DEFINITIONS. AS USED IN (SECTIONS 1 THROUGH 8). SEE TEXT FOR SPECIFIC WORDS.

THE DEFINITIONS SECTION OF THIS BILL CLEARLY SEPARATE "CORPORATIONS" FROM FAMILY FARM CORPORATIONS. ALTHOUGH MANY FAMILY-OWNED FARMS ARE INCORPORATED, THIS BILL IS DESIGNED TO PROTECT AND NOT TO TARGET THEM. THIS BILL IS DESIGNED TO PROTECT BUSINESSES AND CORPORATIONS THAT EARN THEIR PROFITS DIRECTLY FROM AGRICULTURAL PRODUCTION. SECTION 3 ALSO CLEARLY DEFINES THE 2 OTHER MAIN TERMS OF THE BILL: AGRICULTURAL ACTIVITY, AND AGRICULTURAL LAND.

NEW SECTION SECTION 4. RESTRICTION ON CORPORATE LAND OWNERSHIP AND AGRICULTURAL ACTIVITY. EXCEPT AS PROVIDED IN (SECTION 5), NO CORPORATION MAY ACQUIRE OR OWN AGRICULTURAL LAND IN THIS STATE OR ENGAGE IN ANY AGRICULTURAL ACTIVITY.

IN ORDER TO PRESERVE FAMILY FARMS AND FAMILY FARM CORPORATIONS, THIS BILL TAKES THE ACTION OF PROHIBITING CORPORATE OWNERSHIP AND ACTIVITY OF AND UPON AGRICULTURAL LAND. THIS BILL IS MODELED AFTER SIMILAR EXCLUSIONARY LEGISLATION PASSED INTO LAW IN THE STATES OF NORTH DAKOTA, WISCONSIN, AND MOST RECENTLY NEBRASKA THAT HAVE BANNED CORPORATION FROM OWNING AGRICULTURAL LAND AND ENGAGING IN AGRICULTURAL ACTIVITY.

NEW SECTION SECTION 5. EXEMPTIONS.

THIS BILL DOES NOT PROHIBIT ALL CORPORATIONS FROM OWNING AND OPERATING AGRICULTURAL LAND. THE 9 EXEMPTIONS STATED IN SECTION 5 ARE EXCLUDED FROM THE PROVISIONS OF THIS LAW. THIS BILL SPECIFICALLY TARGETS CORPORATIONS SEEKING PROFIT FROM THE TAX DEDUCTION BENEFITS OF AGRICULTURAL LAND.

NEW SECTION SECTION 6. DISPOSAL OF LAND.

(1) THIS BILL PROVIDES CORPORATIONS FIVE YEARS TIME TO DISPOSE OF AGRICULTURAL LAND HOLDINGS. THE BILL SETS THE DEADLINE FOR THIS DISPOSAL ON JANUARY 1, 1988.

THE PROVISIONS OF THIS BILL PROHIBIT CORPORATIONS FROM USING THE LAND AT ANY TIME BETWEEN ITS PASSAGE INTO LAW AND ITS DEADLINE DATE.

IF THE CORPORATION IS NOT INCLUDED AS ONE OF THE EXEMPTIONS, IT MUST FOLLOW THE PROVISIONS OF THE LAW, AND THEREFORE DISPOSE OF ITS OWNERSHIP WITHIN 5 YEARS.

NEW SECTION SECTION 7 ENFORCEMENT.

CORPORATE LAND PURCHASES ARE TO BE MONITORED AND CONTROLLED BY THE OFFICE OF THE SECRETARY OF STATE. THE SECRETARY OF STATE IS REQUIRED BY THIS ACT TO WORK IN COOPERATION WITH THE APPROPRIATE

COUNTY ATTORNEY TO NOTIFY HIM OF VIOLATIONS. FROM THERE, THE COUNTY ATTORNEY WILL TAKE JUDICIAL ACTION IN DISTRICT COURT. IF LAND IS HELD IN VIOLATION, IT MUST BE DISPOSED OF IN TWO YEARS, OTHERWISE THE LAND ESCHEATS TO THE STATE OF MONTANA.

SECTION 8. PENALTY. A CORPORATION VIOLATING (SECTION 4) OR AN INJUNCTION OR ORDER ISSUED UNDER (SECTION 7) MUST BE FINED NOT MORE THAN \$1,000 FOR EACH DAY OF VIOLATION.

SECTIONS 9 - 11. AMENDS THE MCA TO ACCOMMODATE THE LANGUAGE OF THIS BILL.

SECTION 12. SEVERABILITY.

FROM: STATE AND FEDERAL LEGAL REGULATION
OF ALIEN AND CORPORATE LAND
OWNERSHIP AND FARM OPERATION

ECONOMIC RESEARCH SERVICE
U.S. DEPT. OF AGRICULTURE
AGRIC. REPORT NO. 284

Limitations on State Regulation of Corporations

Constitutional Limitations

The constitutional limitations discussed in chapter II apply to State efforts to exclude corporate farming. The result in the case of corporate farming is, however, much clearer. In making a determination that an individual or partnership should be a landholder or operator of a farm, the legislature is making an economic decision. Since this question deals with economic rights, and not basic human rights, the Supreme Court has been much more willing to accept local legislative judgments.

Corporations, like individuals, are entitled to equal protection of the laws, once they are licensed to do business in a State.¹²⁷ But a statutory classification excluding corporations from a certain business will be judged by the more lenient "rational basis" test since no fundamental rights are involved.¹²⁸ Using this test, the legislative judgment will almost certainly be upheld. Even the discriminations among corporations, permitting small corporations to hold land but excluding agricultural giants, and permitting existing corporations to continue to hold land, can probably be justified as a maintenance of the existing system of agricultural holding.¹²⁹ When such economic questions arise, the courts are very unwilling to substitute their economic judgment for that of a legislature.

Corporations as well as individuals are entitled to due process of law. But in interpreting the due process clause, as in interpreting the equal protection clause, the courts have refused to overturn the decision of a legislature. The North Dakota law prohibiting corporate ownership of land has been upheld by the U.S. Supreme Court in face of such a challenge.¹³⁰ A recent State case reaffirms this position.¹³¹ Only last year the U.S. Supreme Court upheld another North Dakota statute which excluded corporations from owning pharmacies.¹³²

EQUAL PROTECTION DISCUSSION

Constitutional Limitations

Equal protection.--The most comprehensive restriction on State power in this field is contained in the equal protection clause of the Fourteenth Amendment. The relevant portion provides: "... nor shall any state ... deny to any person within its jurisdiction the equal protection of the laws."³² California and Oregon courts used this clause to invalidate the racially discriminatory alien land laws.³³ Although the equal protection clause is commonly thought of as the primary constitutional doctrine in attacks on racial discrimination, its scope of operation is far broader. It protects against all forms of discrimination by States or their agencies.

Although the amendment is, by its own terms, applicable only to restrict State action, the Supreme Court has repeatedly construed other constitutional doctrines to apply equivalent limitations to the Federal Government and its agencies.³⁴ Thus, the same rules would apply in the District of Columbia and in Federal territories and reservations.

The important feature of the constitutional language is that equal protection of the laws applies to any person--citizen or alien--within the State's jurisdiction. Recent case law has been uniform in indicating that aliens are protected, but it has not totally clarified the position of nonresident aliens. Most of the cases have involved efforts to protect resident aliens, rather than nonresident alien investors, against discriminatory legislation. The judges have commonly spoken of "resident aliens," rather than of "aliens," although occasionally they have used the more general term.

It might seem that an alien investor, living and working in Germany or Switzerland or Saudi Arabia or Japan, is not "within the jurisdiction," and thus not protected by the language of the constitutional provision.³⁵ Such a view may, however, be misleading. At least for some purposes, such as the service of civil process, the law may treat a person as constructively within any jurisdiction in which his property is located.³⁶ To hang the validity of a substantive exclusion of alien ownership on an argument as technical as this may be to invite invalidity. The equal protection clause has been used with increasing frequency and decreasing technicality during the past decade to eliminate official discrimination.³⁷ Purely technical arguments have not received much credence.

Equal protection does not, of course, require absolute equality of treatment in all respects. It requires not only the equal protection of the laws, but also "the protection of equal laws."³⁸ A law may, however, classify persons and apply different rules to different classes. The question then arises: Is discrimination against aliens (or against some aliens) constitutionally justified?

The Supreme Court has enunciated two tests for determining whether a classification is constitutionally valid, the "rational basis" test and the "compelling State interest" test. The validity of restrictions on alien ownership will depend on which of these two tests is used.

The usual test is the rational basis test. When it applies, the classification in a statute can be justified if there is a "rational relationship to a legitimate State interest." In a number of cases, the Supreme Court, as well as other Federal and State courts, has repeatedly held that its function is not to judge the social or political wisdom of the legislative decisions, but only the narrow one of determining whether any rational argument can be made for the classification and whether the State has an interest in the end result.³⁹ Clearly there is a direct relationship between the statutes and the States' purpose, the exclusion of aliens from investment in the State. Whether a State has any legitimate interest in excluding alien investment or whether this is an area in which only the Federal Government may properly act will be addressed in the next section.

Under the other test, the Supreme Court has required the existence of a compelling State interest to justify a classification. The Supreme Court has required this kind of justification when a State used a "suspect" characteristic as the basis for its classification. Classifications based on status, such as race⁴⁰ or wealth,⁴¹ have been subjected to this more stringent standard. It has also been applied in cases in which a government discriminated in the protection of fundamental rights. Three times in recent years the Supreme Court has found classifications which excluded aliens to be such "suspect" categories and held the State law invalid.

KANSAS

Purpose: Prohibits domestic and foreign corporations from engaging in agricultural or horticultural business.

Effective date: 1972.

Farming defined: Agricultural or horticultural business includes "producing, planting, raising, harvesting or gathering of wheat, corn, grain sorghums, barley, oats, rye, or potatoes or the milking of dairy cows".

Exemptions: Corporations are permitted that have

1. no more than 10 stockholders.
2. all of the stockholders as individuals or trustees (corporate or as persons) in which they serve as beneficiaries, executors, etc.
3. all of the incorporators are natural persons.
4. no more than 5,000 acres of land.
5. none of the stockholders serving as stockholders in another agricultural corporation.

MINNESOTA

Purpose: Prohibits corporations from directly or indirectly owning, acquiring, or obtaining an interest whether legal or beneficial title to real estate used or usable for farming.

Effective date: May 20, 1973.

Farming defined: Farming defined as cultivation of land for the production of

1. agricultural crops.
2. livestock or its products.
3. poultry and its products.
4. milk and its products.
5. fruit or other horticultural products.

Not included is timber nor contracts for spraying, harvesting, or other farm services.

Corporations defined: Two types of corporations are defined - family farm corporation (based on familiar relationships) and authorized farm corporations limited to

1. no more than 10 shareholders.
2. shareholders as persons.
3. one class of shares.
4. 20% of its gross receipts from rent, royalties, dividends, interest, and annuities.

Exemptions: The restrictions do not apply in the following cases:

1. Qualified family farm corporations and authorized farm corporations are not subject to the restrictions.
2. Any corporation may take an encumbrance on farm real estate for security purposes.
3. Corporations engaged in farming and owning or leasing farm real estate prior to May 20, 1973, are permitted to continue operating.
4. Any corporation may operate a farm that is chiefly for research or experimental purposes.

5. The restrictions do not apply to corporations engaged in raising breeding stock for resale to farmers or engaged in growing seed, wild rice, nursery plants, or sod.
6. The restrictions do not apply to educational, religious, or charitable nonprofit corporations that are given future interests in farm real estate.
7. Any corporation may acquire agricultural land for immediate or future use for nonfarm purposes.
8. Any corporation may acquire agricultural land in the process of debt collection or enforcement of a lien or claim on agricultural land.

Acquisition of land: Corporations existing at the effective date are limited to no more than a 20% increase in acreage every 5 years. Additional acreage may be acquired to meet pollution control requirements.

Filing and reports: New farm corporations are required to file with the commissioner of agriculture to certify that it meets provisions of the law. All existing corporations are required to file an annual report with the commissioner. The reports list owners and acreages, but not finances.

Penalty: Failure to file the required report is a gross misdemeanor.

NORTH DAKOTA

Purpose: Prohibits foreign and domestic corporations from engaging in farming or agriculture.

Effective: 1932.

Farming defined: No.

Exemptions: Co-operative corporations are allowed in which 75% of the members or stockholders are farmers.

Provisions: The act required corporations, "except such as reasonable necessary in the conduct of their business", to dispose of their agricultural holdings within 10 years. Title to real estate taken before March 7, 1935, was held valid.

Penalty: Violations of the act result in the title to corporate real estate escheats to the county to be sold in one year.

Exhibit #

OKLAHOMA

Purpose: Prohibits the licensing of foreign and domestic corporations for the purpose of engaging in farming or ranching or for the purpose of owning or leasing any interest in land to be used in farming or ranching.

Effective date: June 24, 1971.

Farming defined: No.

Exemptions: Corporations are permitted in which

1. There are no shareholders except natural persons, estates, or trustees of trusts if the trustees are persons or banks operating in Oklahoma.
2. Not more than 20% of the corporation's annual receipts come from farming or ranching or allowing others to extract minerals from the corporate lands.
3. There are not more than 10 shareholders unless those in excess of 10 are related by blood, marriage, or adoption.
4. Also exempted are charitable corporations and in some cases those involved in research or feeding of livestock or poultry. The act also does not apply to corporations in food canning, food or frozen food processing to the extent that the corporations raise food for such purposes.

Provisions: After June 1, 1971 any license given to a foreign or domestic corporation to engage in farming and ranching shall be revoked in 5 years for foreign corporations and in the same period for domestic corporations unless they can meet the four previously discussed exemptions. The act does not require any corporation to dispose of property acquired before June 1, 1971.

The law also allows an individual to bring suit against any corporation which he believes violates the law.

Penalty: Persistent violations result in the vacancy of the corporate franchise.

§172C.1, CORPORATE OR PARTNERSHIP FARMING

partnership, limited partnership, corporation or trust. [C77, 79, §172C.1; 68GA, ch 1048, §1]

Referred to in §172C.5, 175.2, 428A.1, 467A.42, 568.48

172C.2 Prohibited operations. In order to preserve free and private enterprise, prevent monopoly, and protect consumers, it is unlawful for any processor of beef or pork or limited partnership in which a processor holds partnership shares as a general partner or partnership shares as a limited partner, to own, control or operate a feedlot in Iowa in which hogs or cattle are fed for slaughter. However, this section shall not preclude a processor or limited partnership from contracting for the purchase or feeding of hogs or cattle, provided that where the contract sets a date for delivery which is more than twenty days after the making of the contract it shall:

1. Specify a calendar day for delivery of the livestock; or

2. Specify the month for the delivery, and shall allow the farmer to set the week for the delivery within such month and the processor or limited partnership to set the date for delivery within such week. This section shall not prevent processors or educational institutions from carrying on legitimate research, educational, or demonstration activities, nor shall it prevent processors from owning and operating facilities to provide normal care and feeding of animals for a period not to exceed ten days immediately prior to slaughter, or for a longer period in an emergency. Any processor or limited partnership which owns, controls, or operates a feedlot on August 15, 1975 shall have until July 1, 1985 to dispose of the property. [C77, 79, §172C.2]

Referred to in §172C.3

172C.3 Penalties for prohibited operation—injunctive relief. Any processor violating the provisions of section 172C.2 shall, upon conviction, be punished by a fine of not more than fifty thousand dollars. The courts of this state may prevent and restrain violations of this chapter through the issuance of an injunction. The attorney general or a county attorney shall institute suits on behalf of the state to prevent and restrain violations of this chapter. [C77, 79, §172C.3]

172C.4 Restriction on increase of holdings. No corporation or trust, other than a family farm corporation, authorized farm corporation, family trust, authorized trust or testamentary trust shall, either directly or indirectly, acquire or otherwise obtain or lease any agricultural land in this state. However, the restrictions provided in this section shall not apply to the following:

1. A bona fide encumbrance taken for purposes of security.

2. Agricultural land acquired by a corporation for research or experimental purposes, if the commercial sales from such agricultural land are incidental to the research or experimental objectives of the corporation, and agricultural land acquired for the purpose of testing, developing or producing seeds, animals, or plants for sale or resale to farmers or for purposes incidental to those purposes.

Commercial sales are incidental to the research or experimental objectives of the corporation when they

are less than twenty-five percent of the gross sale of the primary product of the research. The limitations provided in this subsection shall not apply to corporations referred to in subsection 3.

3. Agricultural land, including leasehold interest acquired by a nonprofit corporation organized under the provisions of chapters 504 and 504A including land acquired and operated by or for a state university for research, experimental, demonstration, foundation seed increase or test purposes and land acquired and operated by or for nonprofit corporation organized specifically for research, experimental demonstration, foundation seed increase or test purposes in support of or in conjunction with a state university.

4. Agricultural land acquired by a corporation for immediate or potential use in nonfarming purpose

5. Agricultural land acquired by a corporation in process of law in the collection of debts, or pursuant to a contract for deed executed prior to August 1975, or by any procedure for the enforcement of a lien or claim thereon, whether created by mortgage or otherwise.

6. A municipal corporation.

7. Agricultural land which is acquired by a trust company or bank in a fiduciary capacity or as trustee for a family trust, authorized trust or testamentary trust or for nonprofit corporations.

8. A corporation or its subsidiary organized under chapter 491 and to which section 312.8 is applicable

9. Agricultural land held or leased by a corporation on July 1, 1975, as long as the corporation holding or leasing the land on this date continues to hold or lease such agricultural land.

10. Agricultural land held or leased by a trust on July 1, 1977, as long as the trust holding or leasing such land on this date continues to hold or lease such agricultural land.

11. Agricultural land acquired by a trust for immediate use in nonfarming purposes.

12. Any corporation or trust, other than a family farm corporation, authorized farm corporation, family trust, authorized trust or testamentary trust, violating the provisions of this section shall upon conviction, be punished by a fine of not more than fifty thousand dollars and shall divest itself of any land acquired in violation of this section within one year after conviction. The courts of this state may prevent and restrain violations of this section through the issuance of an injunction. The attorney general or a county attorney shall institute suits on behalf of the state to prevent and restrain violations of this section. [C77, 79, §172C.4; 68GA, ch 47, §1]

Referred to in §567.3

172C.5 Reports by corporations. All corporations which own or lease agricultural land in the state of Iowa, or which own or lease any land on which poultry or livestock are confined for feeding or other purposes for ten days or more, or which contract for the keeping and feeding poultry or livestock, or which contract for the growing of agricultural crops, fruits or other horticultural products in the state of Iowa shall file with their annual report, on forms approved pursuant to the provisions of chapter 17A and

by the secretary of state, the following information, unless otherwise provided:

1. Declaration of the type of agricultural activity engaged in by the reporting corporation and the name, address and title of the agent or person in charge of the corporation's daily operations.
2. The acreage and location listed by township and county, or legally described urban plat of each lot or parcel of agricultural land in this state owned or leased by the corporation at the end of the preceding fiscal or calendar year.
3. The approximate number and kind of poultry or livestock owned, contracted for, fed or kept by the corporation during the preceding calendar or fiscal year.
4. The approximate number of acres used for each agricultural crop, fruit or other horticultural product grown or contracted for during the preceding calendar or fiscal year.
5. The number of acres owned and operated by the corporation, the number of acres leased by the corporation, and the number of acres leased to the corporation. If a livestock or crop-share lease, the corporation shall disclose the share of the livestock or the crop to which the corporation is entitled under the lease.

In the case of a corporation holding agricultural land for immediate or potential use in nonfarming purposes, a statement specifying for what purpose such land is being held.

The names and addresses of, and the number of shares of stock by class held by, all shareholders owning ten percent or more of any class of stock of the corporation.

The name, address, residence, citizenship of, and number of shares of each class held by any nonresident alien shareholder holding five percent or more of any class of stock of the corporation.

Whether the corporation is a family farm corporation as defined in section 172C.1. If a family farm corporation, the number of shares held by persons residing on or actively engaged in farming.

Whether the corporation is an authorized family farm corporation as defined in section 172C.1. If an authorized family farm corporation, the number of shares held by persons residing on or actively engaged in farming.

This section shall not apply to land held for the purpose of railroad or highway rights of way, nor shall it apply to lots within city limits which are smaller than twenty acres.

The annual report from any corporation owning agricultural land in Iowa used for research, testing or experimental purposes or held for the potential expansion of its physical facilities shall include only the information required by subsections 1 to 6.

Corporations organized under chapter 504, shall file only the additional report required by this section. [C77, 79, §172C.5]

Referred to in §172C.8

172C.6 Reporting by limited partnerships. Each limited partnership owning or leasing agricultural land or engaged in farming shall file with the secretary of state on or before March 31 of each year an annual report approved pursuant to the provisions of chapter

17A and supplied by the secretary of state an annual report setting forth the following:

1. The name of the limited partnership, and the term for which the partnership is to exist.

2. Declaration of the type of agricultural activity engaged in by the reporting limited partnership and the name, address and title of the agent or person in charge of the limited partnership's daily operations.

3. The acreage and location listed by township and county, or legally described urban plat, of each lot or parcel of agricultural land in this state owned or leased by the limited partnership at the end of the preceding calendar or fiscal year.

4. The approximate number and kind of poultry or livestock owned, contracted for, fed or kept by the limited partnership during the preceding calendar or fiscal year.

5. The approximate number of acres used for each agricultural crop, fruit or other horticultural product grown or contracted for during the preceding calendar or fiscal year.

6. The number of acres owned and operated by the limited partnership, the number of acres leased by the limited partnership, and the number of acres leased to the limited partnership. If a livestock or crop-share lease, the limited partnership shall disclose the share of the livestock or the crop to which the limited partnership is entitled under the lease.

7. The name and place of residence and principal occupation of each member of the limited partnership, general and limited partners being respectively designated and, if a nonresident alien partner, his or her citizenship.

8. The amount of cash and a description of and the agreed value of the other property contributed by each limited partner.

9. The share of the profits or the other compensation by way of income which each limited partner shall receive by reason of the limited partner's contribution.

10. The amount of cash and a description of and the agreed value of the other property contributed by each limited partner during the preceding fiscal or calendar year. [C77, 79, §172C.6]

Referred to in §172C.8

172C.7 Reports by fiduciaries. Every person acting in a fiduciary capacity or as a trustee on behalf of any corporation, limited partnership or nonresident alien, who holds agricultural land in this state outside the corporate limits of any city, shall file with the secretary of state on or before January 31 of each year a report as follows:

1. If acting in a fiduciary capacity or as a trustee for a corporation:

- a. The name and address of the corporation.
- b. The name and address of the corporation's registered agent or agents, if any, in this state.
- c. The acreage and location of the land owned in such fiduciary or trustee capacity listed by township and county on December 31 of the year reported.

2. If acting in a fiduciary capacity or as a trustee for a limited partnership:

- a. The name and address of the partnership.

§172C.7, CORPORATE OR PARTNERSHIP FARMING

b. The name and place of residence of each member, general and limited partners being respectively designated.

c. The acreage and location of the land owned in such fiduciary or trustee capacity listed by township and county on December 31 of the year reported.

3. If acting in a fiduciary capacity or as a trustee for a nonresident alien:

a. The name, address, residence and citizenship of the nonresident alien.

b. The acreage and location of the land owned in such fiduciary or trustee capacity listed by township and county on December 31 of the year reported.

[C77, 79, §172C.7; 68GA, ch 47, §2]

Referred to in §172C.8

172C.8 Reports by beneficiaries.

1. Any corporation identified as a beneficiary in a report filed with the secretary of state pursuant to section 172C.7, subsection 1, shall file with the secretary of state on or before March 31 of each year, on forms supplied by the secretary of state, a report containing the information set forth in section 172C.5, with respect to land owned by a fiduciary or trustee on behalf of the corporation.

2. Any limited partnership identified as a beneficiary in a report filed with the secretary of state pursuant to section 172C.7, subsection 2, shall file with the secretary of state on or before March 31 of each year, on forms supplied by the secretary of state, a report containing the information set forth in section 172C.6, with respect to land owned by a fiduciary or trustee on behalf of the limited partnership.

3. Any nonresident alien identified as a beneficiary in a report filed with the secretary of state pursuant to section 172C.7, subsection 3, shall file with the secretary of state on or before March 31 of each year on forms supplied by the secretary of state, a report containing the information set forth in section 567.9*, with respect to land owned by a fiduciary or trustee on behalf of the nonresident alien. [C77, 79, §172C.8]

*Repealed by 68GA, ch 133, §1

172C.9 Report by processors. Any processor of beef or pork in this state shall file with the secretary of state on or before March 31 of each year, a report setting forth:

1. The number of hogs and the number of cattle owned and fed more than thirty days by the processor in Iowa during the preceding calendar or fiscal year.

2. The total number of hogs and the total number of cattle owned and fed more than thirty days by the processor during the preceding calendar year.

3. The number of hogs and the number of cattle slaughtered in Iowa by the processor during the preceding calendar or fiscal year.

4. The total number of hogs and the total number of cattle slaughtered by the processor during the preceding calendar or fiscal year. [C77, 79, §172C.9]

Referred to in §172C.14

172C.10 Signing reports. Reports by corporations shall be signed by the president or other officer or authorized representative. Reports by limited partnerships shall be signed by the president or other authorized representative of the partnership. Reports by

individuals shall be signed by the individual or authorized representative. [C77, 79, §172C.10]

172C.11 Penalties—reports. Failure to file a report or the filing of false information is punishable by a civil penalty not to exceed one thousand dollars.

For purposes of this section a report is timely if the report is filed prior to May 1 of the year in which it is required to be filed.

The secretary of state shall notify a person if the secretary has reason to believe a report is required to be filed and who has not filed a timely report, that the person may be in violation of this section. After thirty days from receipt of notice, any person required to report under this section who has not filed, shall be assessed a civil penalty of one hundred dollars for each day in which the report is not filed. The secretary of state shall include in the notice, a statement of the penalty which will be assessed if the report is required and is not filed within thirty days. This penalty shall be in addition to any other penalty under this chapter. The secretary of state shall notify the state attorney general if the secretary of state has reason to believe a violation of this chapter has occurred. [C77, 79, §68GA, ch 47, §3]

172C.12 County assessor's report. The county assessor shall forward to the secretary of state on or before October 1 of each year, the name and address of each corporation, nonresident alien and trust owner of cultural land in the county as shown by the assessment rolls of the county. [C77, 79, §172C.12]

172C.13 County recorder's report. The county recorder shall forward to the secretary of state on or before December 1 of each year, the names and addresses of each limited partnership owning agricultural land engaged in farming in the county as shown by the records. [C77, 79, §172C.13]

172C.14 Duties of secretary of state—use. The secretary of state shall do all that is necessary to implement this chapter. It is the intent of this section that information shall be made available to members of the general assembly and any committees of the general assembly in order to determine the extent of farming being carried on in this state by corporations and other business entities. The effect of such farming practices upon the economy of this state. The reports of processors of beef or pork in section 172C.9 shall be confidential reports as to the general assembly and appropriate committees of the general assembly whose membership receipt of such reports treat such information as confidential and to the attorney general for any appropriate action when necessary. The secretary of state shall assist any committee of the general assembly existing or established for the purposes of this chapter and the practice of this chapter seeks to study and regulate farming. [C77, 79, §172C.14]

172C.15 Additional information. The secretary of state shall request additional information if necessary or appropriate to enable the secretary of state to administer this chapter. [C77, 79, §172C.15]

partnership, limited partnership, corporation or trust. [C77, 79, §172C.1; 68GA, ch 1048, §1]

Referred to in 172C.1, 172C.2, 172C.3, 172C.4, 172C.5, 172C.6, 172C.7

172C.2 Prohibited operations. In order to preserve free and private enterprise, prevent monopoly, and protect consumers, it is unlawful for any processor of beef or pork or limited partnership in which a processor holds partnership shares as a general partner or partnership shares as a limited partner, to own, control or operate a feedlot in Iowa in which hogs or cattle are fed for slaughter. However, this section shall not preclude a processor or limited partnership from contracting for the purchase or feeding of hogs or cattle, provided that where the contract sets a date for delivery which is more than twenty days after the making of the contract it shall:

1. Specify a calendar day for delivery of the livestock; or
2. Specify the month for the delivery, and shall allow the farmer to set the week for the delivery within such month and the processor or limited partnership to set the date for delivery within such week. This section shall not prevent processors or educational institutions from carrying on legitimate research, educational, or demonstration activities, nor shall it prevent processors from owning and operating facilities to provide normal care and feeding of animals for a period not to exceed ten days immediately prior to slaughter, or for a longer period in an emergency. Any processor or limited partnership which owns, controls, or operates a feedlot on August 15, 1975 shall have until July 1, 1985 to dispose of the property. [C77, 79, §172C.2]

Referred to in 172C.2

172C.3 Penalties for prohibited operation—Injunctive relief. Any processor violating the provisions of section 172C.2 shall, upon conviction, be punished by a fine of not more than fifty thousand dollars. The courts of this state may prevent and restrain violations of this chapter through the issuance of an injunction. The attorney general or a county attorney shall institute suits on behalf of the state to prevent and restrain violations of this chapter. [C77, 79, §172C.3]

172C.4 Restriction on increase of holdings. No corporation or trust, other than a family farm corporation, authorized farm corporation, family trust, authorized trust or testamentary trust shall, either directly or indirectly, acquire or otherwise obtain or lease any agricultural land in this state. However, the restrictions provided in this section shall not apply to the following:

1. A bona fide encumbrance taken for purposes of security.
 2. Agricultural land acquired by a corporation for research or experimental purposes, if the commercial sales from such agricultural land are incidental to the research or experimental objectives of the corporation, and agricultural land acquired for the purpose of testing, developing or producing seeds, animals, or plants for sale or resale to farmers or for purposes incidental to those purposes.
- Commercial sales are incidental to the research or experimental objectives of the corporation when they

are less than twenty-five percent of the gross sales of the primary product of the research. The limitations provided in this subsection shall not apply to corporations referred to in subsection 3.

3. Agricultural land, including leasehold interests, acquired by a nonprofit corporation organized under the provisions of chapters 504 and 504A including land acquired and operated by or for a state university for research, experimental, demonstration, foundation seed increase or test purposes and land acquired and operated by or for nonprofit corporations organized specifically for research, experimental demonstration, foundation seed increase or test purposes in support of or in conjunction with a state university.

4. Agricultural land acquired by a corporation for immediate or potential use in nonfarming purposes.

5. Agricultural land acquired by a corporation by process of law in the collection of debt, or pursuant to a contract for deed executed prior to August 15, 1975, or by any procedure for the enforcement of a lien or claim thereon, whether created by mortgagor or otherwise.

6. A municipal corporation.

7. Agricultural land which is acquired by a trust company or bank in a fiduciary capacity or as trustee for a family trust, authorized trust or testamentary trust or for nonprofit corporations.

8. A corporation or its subsidiary organized under chapter 491 and to which section 312.8 is applicable.

9. Agricultural land held or leased by a corporation on July 1, 1975, as long as the corporation is holding or leasing the land on this date continues to hold or lease such agricultural land.

10. Agricultural land held or leased by a trust or July 1, 1977, as long as the trust holding or leasing such land on this date continues to hold or lease such agricultural land.

11. Agricultural land acquired by a trust for immediate or potential use in nonfarming purposes.

12. Any corporation or trust, other than a family farm corporation, authorized farm corporation, family trust, authorized trust or testamentary trust, violating the provisions of this section shall upon conviction, be punished by a fine of not more than fifty thousand dollars and shall divest itself of any land acquired in violation of this section within one year after conviction. The courts of this state may prevent and restrain violations of this section through the issuance of an injunction. The attorney general or a county attorney shall institute suits on behalf of the state to prevent and restrain violations of this section. [C77, 79, §172C.4; 68GA, ch 47, §1]

Referred to in 1947.3

172C.5 Reports by corporations. All corporations which own or lease agricultural land in the state of Iowa, or which own or lease any land on which poultry or livestock are confined for feeding or other purposes for ten days or more, or which contract for keeping and feeding poultry or livestock, or which contract for the growing of agricultural crops, fruits or other horticultural products in the state of Iowa, shall file with their annual report, on forms approved pursuant to the provisions of chapter 17A and sup-

plied by the secretary of state, the following information, unless otherwise provided:

1. Declaration of the type of agricultural activity carried in by the reporting corporation and the name, address and title of the agent or person in charge of the corporation's daily operations.

2. The acreage and location listed by township and county, or legally described urban plat of each lot or parcel of agricultural land in this state owned or leased by the corporation at the end of the preceding calendar year.

3. The approximate number and kind of poultry or livestock owned, contracted for, fed or kept by the corporation during the preceding calendar or fiscal year.

4. The approximate number of acres used for agricultural crop, fruit or other horticultural product grown or contracted for during the preceding calendar or fiscal year.

5. The number of acres owned and operated by the corporation, and the number of acres leased to the corporation, and the number of acres leased to the corporation. If a livestock or crop-share lease, the corporation shall disclose the share of the livestock or crop to which the corporation is entitled under the lease.

6. In the case of a corporation holding agricultural land for immediate or potential use in nonfarming purposes, a statement specifying for what purpose such land is being held.

7. The names and addresses of, and the number of shares of stock by class held by, all shareholders owning ten percent or more of any class of stock of the corporation.

8. The name, address, residence, citizenship of, and number of shares of each class held by any nonresident alien shareholder holding five percent or more of any class of stock of the corporation.

9. Whether the corporation is a family farm corporation as defined in section 172C.1. If a family farm corporation, the number of shares held by persons residing on or actively engaged in farming.

10. Whether the corporation is an authorized farm corporation, the number of shares held by persons residing on or actively engaged in farming.

11. Whether the corporation is an authorized farm corporation, the number of shares held by persons residing on or actively engaged in farming.

12. This section shall not apply to land held for the purpose of railroad or highway rights of way, nor shall it apply to lots within city limits which are smaller than ten acres.

The annual report from any corporation owning agricultural land in Iowa used for research, testing or experimental purposes or held for the potential expansion of its physical facilities shall include only the information required by subsections 1 to 6.

Corporations organized under chapter 504, shall file only the additional report required by this section. [C77, 79, §172C.5]

Referred to in 172C.5

172C.6 Reporting by limited partnerships. Each limited partnership owning or leasing agricultural land or engaged in farming shall file with the secretary of state on or before March 31 of each year on forms approved pursuant to the provisions of chapter

17A and supplied by the secretary of state an annual report setting forth the following:

1. The name of the limited partnership, and the term for which the partnership is to exist.

2. Declaration of the type of agricultural activity engaged in by the reporting limited partnership and the name, address and title of the agent or person in charge of the limited partnership's daily operations.

3. The acreage and location listed by township and county, or legally described urban plat, of each lot or parcel of agricultural land in this state owned or leased by the limited partnership at the end of the preceding calendar or fiscal year.

4. The approximate number and kind of poultry or livestock owned, contracted for, fed or kept by the limited partnership during the preceding calendar or fiscal year.

5. The approximate number of acres used for each agricultural crop, fruit or other horticultural product grown or contracted for during the preceding calendar or fiscal year.

6. The number of acres owned and operated by the limited partnership, the number of acres leased to the limited partnership, and the number of acres leased to the limited partnership. If a livestock or crop-share lease, the limited partnership shall disclose the share of the livestock or the crop to which the limited partnership is entitled under the lease.

7. The name and place of residence and principal occupation of each member of the limited partnership, general and limited partners being respectively designated and, if a nonresident alien partner, his or her citizenship.

8. The amount of cash and a description of and the agreed value of the other property contributed by each limited partner.

9. The share of the profits or the other compensation by way of income which each limited partner shall receive by reason of the limited partner's contribution.

10. The amount of cash and a description of and the agreed value of the other property contributed by each limited partner during the preceding fiscal or calendar year. [C77, 79, §172C.6]

Referred to in 172C.6

172C.7 Reports by fiduciaries. Every person acting in a fiduciary capacity or as a trustee on behalf of any corporation, limited partnership or nonresident alien, who holds agricultural land in this state outside the corporate limits of any city, shall file with the secretary of state on or before January 31 of each year a report as follows:

1. If acting in a fiduciary capacity or as a trustee for a corporation:

- a. The name and address of the corporation.
 - b. The name and address of the corporation's registered agent or agents, if any, in this state.
 - c. The acreage and location of the land owned in such fiduciary or trustee capacity listed by township and county on December 31 of the year reported.
2. If acting in a fiduciary capacity or as a trustee for a limited partnership:
- a. The name and address of the partnership.

winner of 1st!

TODAY in the West

Corporations: Keep out! That's the message Nebraska voters gave to insurance companies and other large farmland investors who have plowed up highly erodible Sandhills land and put on circle irrigation systems. At the Nov. 2 election, 56% of the voters, and that had to include a lot of city folks, adopted a new Family Farm Amendment with provisions that farm family corporations must be 51% owned by farmers and kin no further removed than second cousins. Prudential Insurance Company's investment firm and other large corporations spent nearly half a million dollars to kill the measure. Some ranching areas in northwest Nebraska voted against the amendment, but other farm areas favored it by as much as four to one.

Sugar beets coming back? "Sugar can be produced and processed in the U.S. as cheaply as anywhere in the world," says Crawford Jones, who with other Grant County, Wash., farmers and businessmen is attempting to reopen the huge Moses Lake U & I sugar plant that was closed in 1979. "Not many people realize that we have high production and relatively lower costs than some other areas still producing sugar. The Agricultural Acts of 1977 and 1981 give us some of the advantages of the old Sugar Act. The Secretary of Agriculture can set quotas, and there are provisions for tariffs on incoming sugar to protect prices for another three years. We believe that we can get financing to reopen the plant in time to contract 25,000 acres next spring."

It cost \$228,533 to squash each bug in the California battle against the Mediterranean fruit fly. The cost: \$173 million to come up with 757 dead Medflies. Department of Agriculture officials estimated that they could have cleaned up the limited infestation in Santa Clara County for \$748,000 in December 1980. But California Gov. Jerry Brown refused to permit use of aerial sprays, and the malathion approved by Health Services Department officials could not be used when it could have stopped the infestation.

Sending your child to college will cost more in 1983. Tuition jumps range from 4% in California, Oregon and South Dakota to 20% in Kansas, 23% in Utah, 38% in Wyoming, 39% in Texas, 41% in Montana and 47% in Oklahoma. Lowest increase is 1% in Missouri. To spend top dollar, buy your son or daughter a parka and a pair of snowshoes. Alaska tuition rates are up 79%. Facing a 14% tuition increase, University of Nebraska students suggested an alternative: a special 3% tax on alcoholic beverages.

"Our grain surplus problem is the worst since the Depression of the 1930s," says Don Loeslie, Marshall County, Minn., who will succeed Wayne Nelson, Tripp County, S.D., as president of the National Association of Wheat Growers in 1983. "Wheat growers are worse off than at any time since then. We are subsidizing the Soviets and other buyers with cheap grain. They are getting the advantage of our improved efficiency because we and other exporting nations are pricing ourselves out of business. Certainly, we have the right to stand up and demand a price that will help us survive."

Do you want futures trading for white wheat? That is the question asked by the Commodity Futures Trading Commission. Those favoring the idea say that soft white wheat could be hedged more safely and that local cash markets might be strengthened. What do you think? Send your comments to: Jane Stuckey, Commodity Futures Trading Commission, 2033 K Street N.W., Washington, D.C. 20501.

WESTERN REGIONAL EDITOR: Glenn Loring

LEGAL NOTICE
OF MEASURE
TO BE VOTED UPON
NOVEMBER 2, 1982
BALLOT TITLE
AND TEXT OF AN
INITIATIVE
PETITION.

INITIATIVE
ORDERED
BY PETITION
OF THE PEOPLE
#300

A vote "For" will create a constitutional prohibition against further purchase of Nebraska farm and ranch lands by any corporation or syndicate other than a Nebraska family farm corporation. A vote "Against" will reject such a constitutional restriction on ownership of Nebraska farm and ranch land.

"Shall a constitutional prohibition be created prohibiting ownership of Nebraska farm or ranch land by any corporation, domestic or foreign, which is not a Nebraska family farm corporation, or by any syndicate as defined, with certain exceptions? A family corporation would be defined in part as a corporation in which the majority of the voting stock is held by members of a family related to one another within the fourth degree of kindred or their spouses and where at least one member of the family resides on the land and where none of the family members are nonresident aliens.

- For
 Against

TEXT
OF CONSTITUTIONAL
AMENDMENT
BEING REFERRED BY
INITIATIVE PETITION

Be it enacted by the people of the State of Nebraska,

That Article XII of the Constitution of the State of Nebraska be amended by adding a new section numbered 8 and sub-sections as numbered, notwithstanding any other provisions of this Constitution.

Sec. 8 (1) No corporation or syndicate shall acquire, or otherwise obtain an interest, whether legal, beneficial, or otherwise, in any title to real estate used for farming or ranching in this state, or engage in farming or ranching.

Corporation shall mean any corporation organized under the laws of any state of the United States or any country or any partnership of which such corporation is a partner.

Farming or ranching shall mean (i) the cultivation of land for the production of agricultural crops, fruit, or

other horticultural products, or (ii) the ownership, keeping or feeding of animals for the production of livestock or livestock products.

Syndicate shall mean any limited partnership organized under the laws of any state of the United States or any country, other than limited partnerships in which the partners are members of a family, or a trust created for the benefit of a member of that family, related to one another within the fourth degree of kindred according to the rules of civil law, or their spouses, at least one of whom is a person residing on or actively engaged in the day to day labor and management of the farm or ranch, and none of whom are nonresident aliens. This shall not include general partnerships.

These restrictions shall not apply to:

(A) A family farm or ranch corporation. Family farm or ranch corporation shall mean a corporation engaged in farming or ranching or the ownership of agricultural land, in which the majority of the voting stock is held by members of a family, or a trust created for the benefit of a member of that family, related to one another within the fourth degree of kindred according to the rules of civil law, or their spouses, at least one of whom is a person residing on or actively engaged in the day to day labor and management of the farm or ranch and none of whose stockholders are non-resident aliens and none of whose stockholders are corporations or partnerships, unless all of the stockholders or partners of such entities are persons related within the fourth degree of kindred to the majority of stockholders in the family farm corporation.

These restrictions shall not apply to:

(B) Non-profit corporations.

These restrictions shall not apply to:

(C) Nebraska Indian tribal corporations.

These restrictions shall not apply to:

(D) Agricultural land, which, as of the effective date of this Act, is being farmed or ranched, or which is owned or leased, or in which there is a legal or beneficial interest in title directly or indirectly owned, acquired, or obtained by a corporation or syndicate, so long as such land or other interest in title shall be held in continuous ownership or under continuous lease by the same such corporation or syndicate, and including

such additional ownership or leasehold as is reasonably necessary to meet the requirements of pollution control regulations. For the purposes of this exemption, land purchased on a contract signed as of the effective date of this amendment, shall be considered as owned on the effective date of this amendment.

These restrictions shall not apply to:

(E) A farm or ranch operated for research or experimental purposes, if any commercial sales from such farm or ranch are only incidental to the research or experimental objectives of the corporation or syndicate.

These restrictions shall not apply to:

(F) Agricultural land operated by a corporation for the purpose of raising poultry.

These restrictions shall not apply to:

(G) Land leased by alfalfa processors for the production of alfalfa.

These restrictions shall not apply to:

(H) Agricultural land operated for the purpose of growing seed, nursery plants, or sod.

These restrictions shall not apply to:

(I) Mineral rights on agricultural land.

These restrictions shall not apply to:

(J) Agricultural land acquired or leased by a corporation or syndicate for immediate or potential use for nonfarming or nonranching purposes. A corporation or syndicate may hold such agricultural land in such acreage as may be necessary to its nonfarm or nonranch business operation, but pending the development of such agricultural land for nonfarm or nonranch purposes, not to exceed a period of five years, such land may not be used for farming or ranching except under lease to a family farm or ranch corporation or a non-syndicate and non-corporate farm or ranch.

These restrictions shall not apply to:

(K) Agricultural lands or livestock acquired by a corporation or syndicate by process of law in the collection of debts, or by any procedures for the enforcement of a lien, encumbrance, or claim thereon, whether created by mortgage or otherwise. Any lands so acquired shall be disposed of within a period of five years and shall not be used for farming or ranching prior to being disposed of, except under a lease to a family farm or ranch corporation or

a non-syndicate and non-corporate farm or ranch.

These restrictions shall not apply to:

(L) A bona fide encumbrance taken for purposes of security.

These restrictions shall not apply to:

(M) Custom spraying, fertilizing, or harvesting.

These restrictions shall not apply to:

(N) Livestock futures contracts, livestock purchased for slaughter, or livestock purchased and resold within two weeks.

If a family farm corporation, which has qualified under all the requirements of a family farm or ranch corporation, ceases to meet the defined criteria, it shall have fifty years, if the ownership of the majority of the stock of such corporation continues to be held by persons related to one another within the fourth degree of kindred or their spouses, and their landholdings are not increased, to either re-qualify as a family farm corporation or dissolve and return to personal ownership.

The Secretary of State shall monitor corporate and syndicate agricultural land purchases and corporate and syndicate farming and ranching operations, and notify the Attorney General of any possible violations. If the Attorney General has reason to believe that a corporation or syndicate is violating this amendment, he or she shall commence an action in district court to enjoin any pending illegal land purchase, or livestock operation, or to force divestiture of land held in violation of this amendment. The court shall order any land held in violation of this amendment to be divested within two years. If land so ordered by the court has not been divested within two years, the court shall declare the land escheated to the State of Nebraska.

If the Secretary of State or Attorney General fails to perform his or her duties as directed by this amendment, Nebraska citizens and entities shall have standing in district court to seek enforcement.

The Nebraska Legislature may enact, by general law, further restrictions prohibiting certain agricultural operations that the legislature deems contrary to the intent of this section.

Respectfully submitted,

ALLEN J. BEERMANN

Secretary of State

(Publish three times, weeks of October 10, 17 and 24, 1982.)

Testimony of Keith Kelly, Director
Montana Department of Agriculture

on

Senate Bill 296 - The Montana Farm Preservation Act
before the Senate Committee on Agriculture

February 4, 1983

For the record my name is Keith Kelly. I am the Director of the Montana Department of Agriculture. I maintain offices in the Agriculture/Livestock Building at 6th and Roberts Streets in Helena.

The family farm has been a way of life in Montana since Territorial days.

An extremely productive unit, it now produces sufficient food to feed the farmer and 77 other people in the United States and around the world.

Since 1950 the number of farms in Montana and the rest of the U. S. has declined significantly. In Montana alone the number of farms has dropped by 35.5 percent from 37,200 to 24,000. But, during this same thirty-year period, the size of the average farm has increased 48 percent. Obviously, farms are becoming larger, which is an indication that the opportunity for corporate expansion in agriculture is increasing.

The 1974 Census of Agriculture showed a total agricultural land acreage held by other than family farm corporations of 499,725 acres. The number of these farms was 78.

Census data from 1978 show the number of corporate farms at 93, but the acreage under corporate control increased from 499,725 acres to 887,310 acres.

At this point I should stress that while these figures are the only official numbers available, they do not necessarily present a true picture.

As an example, Iowa, prior to the passage of corporate reporting legislation, showed 621 corporations owning farms. After the act was passed this number jumped to 2,923.

Numbers don't tell all.

There are several major reasons to preserve the family farm.

- A. Corporate interests in agriculture are not the same as interests in the best farming practices. Further, the corporation does not have the same interest in achieving equitable prices as the family farm, since the primary profit motive of the corporation is in other areas. Basically, the interest in agricultural land may be in the form of a tax write-off.
- B. Corporate holdings in agricultural land allow the money from farming/ranching to flow out of state, at no real benefit to the state's economy.
- C. Large corporate holdings can have significant impacts on small rural communities, by tending to derive their farm inputs from regional retailers or out-of-state wholesale outlets.
- D. Corporations base their management decisions primarily on accounting or bottom line profits. The family farmer is also interested in profits, but he keys his management decisions to efficient use of resources, looking at the long-term benefits of the farm/ranch as a food and fiber producing unit. he is willing to realize less or take a loss to still be able to farm.

E. The efficiency of family farms as a unit is competitive with the corporate enterprise in every aspect except capital availability.

As an example, consider working hours. A corporate worker works 8-5. What happens during the calving season? The corporation hires an extra man. The family farmer/rancher gets up at 4:00 a.m. to tend the cow having the calf. The family farmer works the extra hours during harvest to run his combines where the corporation shuts down for the day at 5:00 p.m.

THE ANALYSIS OF LANDHOLDINGS

<u>TYPE</u>	<u># OF FARMS</u>	<u>ACREAGE</u>
1) FAMILY FARM CORPORATIONS	. 21,820	.48,526,309
2) CORPORATIONS	. 93	.887,310
3) OTHER (CO-OP, TRUST)	. 93	.232,369

THESE FIGURES WERE SUPPLIED BY THE DEPARTMENT OF AGRICULTURE. THE NUMBERS OF THIS SURVEY WERE ARRIVED AT FROM A 1978 DEPARTMENT OF AGRICULTURE CENSUS. THE CENSUS IS TAKEN EVERY FIVE YEARS AND THE NEW FIGURES FOR 1983 WILL NOT BE RELEASED UNTIL OCTOBER OR NOVEMBER.

IN PREPARING FOR THIS BILL, WE WERE NOT GIVEN AMPLE TIME TO CALL EVERY COUNTY OFFICE IN THE STATE FOR A SURVEY. THE FIGURES I HAVE JUST GIVEN YOU ARE NOT AS SPECIFIC AND PRECISE AS I WOULD LIKE THEM TO BE. HOWEVER, THE HANDWRITING IS ON THE WALL. THE LEGISLATURE OF THE STATE OF MONTANA MUST HAVE THE FORESIGHT TO PROTECT A RESOURCE THAT IS SO IMPORTANT TO ITS ECONOMIC GROWTH...ITS FAMILY FARMS.

Exhibit 3



WIFE Women Involved In Farm Economics

NAME JO BRUNNER BILL NO. SB ~~295~~ 296
 ADDRESS 563 3rd ST HELENA DATE Feb. 4/1983
 REPRESENT WOMEN INVOLVED IN FARM ECONOMICS
 SUPPORT X OPPOSE _____ AMEND _____

COMMENTS:

Mr. Chairman, members of the committee, my name is Jo Brunner and I represent the members of the Women Involved in Farm Economics organization.

W.I.F.E. has long been concerned with our agriculture lands going to other owners than agriculture people, and into large stockholdings. We have looked over the last few years for some kind of legislation that would ensure ---or at least begin the process of ensuring-----a method of this continuation for our family farms.

In the past one of our problems with any proposed legislation was that ~~it was~~ most of them would have caused problems with our neighbors to the north. Many of our members have farms that reach across the Canadian border and Canadian farmers are in the same position. We felt that if we passed a law that would prohibit ownership in Montana by Canadians, that it would only seem fair that they would reciprocate. We believe that this bill takes care of that situation.

We are concerned with the portion of the bill, paragraph 3, page 2, lines 16-19 where at least one member of the family owning the corporation must live on the premises. We are of two minds on this problem. It would certainly be harmful to any of our people who had to retire for health problems or those who wished to retire and move south, or to town. If it were eliminated all together it would open the door for the very situations we are working to correct. It is our hope that it will be taken care of so that we might support the bill as a whole.

With that concern in mind, W.I.F.E. requests a do passon SB ~~295~~ 296.
 Thank you.

NAME: FRED R. Browal DATE: 1/4/83ADDRESS: P.O. Box 477 Whitehall, Mont 59759PHONE: Whitehall-2875662 - Helena-442-3091REPRESENTING WHOM? National Farmer's OrganizationAPPEARING ON WHICH PROPOSAL: SB 296DO YOU: SUPPORT? XX AMEND? _____ OPPOSE? _____

COMMENTS: The NFO, an organization, of family farmers striving to preserve the American way of life in agriculture of family farms producing for the nation's families. Support This bill designed to aid in preserving the family Montana's agriculture land for family farmers.

If we do not pass this bill and enforce it, soon most all of our lands will be locked up in large corporate or foreign ownership. When our sons and daughters reach the age that they too wish to operate a family farm, the opportunity to do so will be nonexistent.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

The NFO is pleased to join with all supporters of this act in vigorous support thereof.

Exhibit 5

DATE: RECEIVED 1/31/83 PM

DISTRIBUTED _____

RETURNED 2/1/83 PM

H.B. - S.B.
H.R. - S.R.
H.J.R. - S.J.R.

296

SUMMARY OF AFFECT TO YOUR BUREAU

{We need all positives and negatives from your point of view}

Comments on Senate Bill 296 by Allen D. Robertson, Legal Council
Secretary of State's Office.

Amend Annual Report for statement that either are not engaged in ag functions or are a Family Farm Corp. - If family farm corp must annually - show whole stockholders and family relationships.

Amend so applies to Non Profits (Religious Groups) too - other than charitable.

Amend duties of C & B to forward copies of ag. land transactions to our office.

Give us invest. authority - something like the interogatory provisions of the MBCA which have never been adopted in Montana.

Give us 4 more people.

Amend grazing association statutes to require an annual report listing members and residence of each and statement that all members are MT residents.

Amend grazing association statutes to require all MT residents.

Provide new section for procedures for applying and being granted a Certificate of Authority for Agricultural activity by a Corporation - as well as procedures for revoking such certificate. Allow exempted corps to apply for - and a statement of change for any sale of stock or change in membership.

Prohibit any C & R from filing any deed which transfers land to a Corp. unless Corp files with the deed an original of the Certificate of Authority issued by our office.

Unsure of intent of Section 11 - If also intends to prohibit L.P's Those sections would need work too. I don't think there's enough

Signed _____

Bureau.

DATE: RECEIVED 1-31-83 (8:00)
(1-28 at 5:00)

H.B. - S.B.
H.R. - S.R.
H.J.R. - S.J.R.

DISTRIBUTED _____

RETURNED 1-31-83 (10:00)

296

SUMMARY OF AFFECT TO YOUR BUREAU

{We need all positives and negatives from your point of view}

Comments by Florence Armagost on Senate Bill 296

Since we don't have record of stockholders - how can we enforce any of new section 3-4-(b) (ii)

How is new section 6 ever going to be administered?

For us to determine which corps are involved and to make sure they comply would require many more bodies and money!

Section 7 states we will enforce these new sections by monitoring land purchase - and corporate activities. We don't have enough people as is. This would be impossible.

Concept great - but a nightmare for us!

Signed _____

_____ Bureau.

February 4, 1983

Exhibit 6

Testimony Senate Bill 296

Senate Agriculture Committee

Roy Rose, President of Big Sky Management Inc.

(A Farm and Ranch Management Company which manages in excess of 40,000 acres of land in Montana of which 8800 acres is farm land and the remainder is timber and range land.)

Vice President of Park County Legislative Association.

(A group of Farmers and Ranchers interested in preserving agriculture as it is today.)

When one reads the title of this bill one might believe that this is an attempt to help small farmers and ranchers. However there are several points I would like to make. I believe this bill would have the effect of lowering the value of agriculture lands in the state and would reduce the financing available to the family farm.

The removal of Corporations and Limited Partnerships as owners and as potential buyers of farm land will have a negative effect upon the value of farm land. This will then effect all the owners of farm land by reducing the amount of capital they can borrow, against their land, in lean years which allows them to continue operating. Lending institutions will be unlikely to lend money to Farm Ranch operations because of the possibility of having the land confiscated by the state if they are forced to foreclose on an agriculture property and then are unable to divest themselves of the property. With corporations and Limited partnerships removed as potential buyers and in a severely depressed economy as we have today when Farmers and Ranchers are unable to carry the debt load to expand their operations, this Bill, if enacted, could trigger a collapse of land values.

The second point I would like to make is, if enacted, this bill could prohibit agricultural land adjacent to a city or anywhere in the state from being purchased by a corporation or limited partnership^{even} if the land is to be used for expansion of housing or to be used as an industrial sites.

The third point is that corporations and limited partnerships contribute to our tax bases yet they will be restricted while allowing in Section 5 entities, which either do not contribute to our tax base or contribute very little to our tax base, to be in direct competition with our family owned farms. Also Section 5 part 4 is unworkable because some grazing associations may have lands that adjoin in border areas of neighboring states.

Finally I suspect the state would be unable to defend this bill when it is challenged on constitutional grounds.

NAME: Mike Zimmerman DATE: 2/4/83

ADDRESS: 40 E Broadway Butte mt

PHONE: 723-5421

REPRESENTING WHOM? MPCo

APPEARING ON WHICH PROPOSAL: SB 296

DO YOU: SUPPORT? AMEND? OPPOSE? X

COMMENTS: SB 296 is bad for ^{agriculture} industry +

the state of Montana. It is bad for Agriculture because

① will restrict sources of capital that agriculture
may access. Since a ^{non-family} corporation can not be formed
to acquire or own agricultural land or participate in
agricultural activity, a farm operator will not be able
to access ~~investor~~ capital except loans from banks,
government or family.

② ~~It~~ It is bad for industry because most projects
require land - land that may be agricultural land.
MPC, for instance, has purchased land for the Salmon
Project which the bill prohibits the Company to own. WECO
could not purchase ranches to exchange for land needed
in its mining program. It could not therefore, relocate

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

these displaced agricultural operations. Nor could WECO

~~It is bad for Montana~~ engage in reclamation
of its mined land because growing grass, harvesting it
for hay, and grazing cattle on reclaimed land is "agricultural"
activity.
(over.)

STANDING COMMITTEE REPORT

February 4 19 88

MR. PRESIDENT

We, your committee on AGRICULTURE, LIVESTOCK AND IRRIGATION

having had under consideration SENATE Bill No. 265

(Graham)

Respectfully report as follows: That SENATE Bill No. 265

introduced bill, be amended as follows:

- 1. Page 2, line 15.
Strike: "7"
Insert: "30"
- 2. Page 2, line 19.
Strike: "7"
Insert: "30"

AND, as so amended,

DO PASS

J.C.