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The 2002 Farm Bill: One Small Step for Family Farmers, One Giant Leap Towards Corporate Production in Iowa

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I. INTRODUCTION

What role should the federal government play in financing the American farmer? Since the 1930s, the U.S. government has doled out billions of dollars in the form of subsidy payments to producers of various agricultural commodities.[1] Such policies may

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1. Allen H. Olson, *Federal Farm Programs—Past, Present and Future—Will We Learn From Our*

have made sense in the 1930s, since twenty-five percent of the population relied on farming as their primary source of income.[2] By contrast, only about two percent of the U.S. population currently engages in this occupation.[3] Hoping to remove government support from this portion of the population, Congress enacted The Federal Agriculture Improvement and Reform Act of 1996[4] ("FAIR").[5]

FAIR departed from traditional forms of government subsidy programs by primarily basing payments to farmers on the quantity of a given commodity the grower produces.[6] The Act left the Secretary of Agriculture with no mechanism to control the amount of a given commodity that a farmer can produce. Congress continued these policies by passing the Farm Security and Rural Investment Act of 2002[7] (the "Farm Bill"). The Farm Bill gives billions of dollars to support farmers as commodity prices continue to plummet.[8] Why did the legislature abandon its goal of creating independent American agricultural producers?

Instead of weaning farmers from government subsidies, the new policies provide large-scale agricultural producers with a disproportionate share of subsidy payments, stimulate overproduction thereby deflating market prices, and inflate the value of farmland.[9] These conditions encourage farmers to incorporate their respective enterprises to gain several advantages associated with such ownership. Some advantages associated with incorporating a farming operation include obtaining limited liability and increasing amounts of available capital.[10]

In contrast, the Iowa legislature made an effort to discourage corporate ownership of agricultural land by passing the Anticorporate Farm statute.[11] This statute generally prevents corporations from owning agricultural land.[12] Iowa lawmakers demonstrated their desire to protect the traditional family farmer from direct competition with corporate entities in passing such legislation.[13] However, the Iowa Anticorporate Farm statute

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Mistakes?, 6 GREAT PLAINS NAT. RESOURCES J. 1, 1-22 (2001).

2. Jeffrey A. Peterson, *The 1996 Farm Bill: What to Do in 2002*, 11 KAN. J.L. & PUB. POL'Y 65, 67 (2001).

3. *Id.*

4. Pub. L. No. 107-249, 110 Stat. 888 (1996) (codified as amended in scattered sections of 7, 16, 20-21 U.S.C.).

5. Peterson, *supra* note 2, at 71.

6. *See* Charles Grassley, *The Federal Agriculture Improvements and Reform Act of 1996, Reflections on the 1996 Farm Bill*, 1 DRAKE J. AGRIC. L. 1, 3 (1996) (explaining that relinquishing control of the supply side of agricultural production represented a drastic change from the traditional farm policy of limiting the production of commodities in an effort to drive prices up).

7. Pub. L. No. 107-171, 116 Stat. 134 (2002) (codified as amended in scattered sections of 7, 16 U.S.C.).

8. *See* Harish Damodaran, *US Farm Bill and Return of Swadeshi 'Yankee Style,'* BUS. LINE, June 17, 2002, at 2 (reporting the Farm Bill authorized $118.5 billion in spending while several crops are trading at their lowest prices in recent memory).

9. *See* Jake Thompson, *House Approves Farm Bill: The Senate is Expected to Vote Next Week*, OMAHA WORLD-HERALD, May 3, 2002, at 1A (reporting that critics believe the Farm Bill will "lure farmers to overproduce crops, artificially inflate land values, and blunt [crop] market prices").

10. *See* John C. Pietila, Note, *"[W]e're doing this to ourselves": South Dakota's Anticorporate Farming Amendment*, 27 J. CORP. L. 149, 154 (2001) (listing the advantages of corporate ownership).

11. IOWA CODE ANN. § 9H.4 (West 2001).

12. *See id.* (preventing "corporation[s], limited liability company[ies], or trust[s]" from obtaining agricultural land in Iowa).

13. *See* Richard F. Prim, *Saving the Family Farm: Is Minnesota's Anti-Corporate Farm Statute the*

provides exceptions that allow certain individuals to form corporations authorized to own farmland.[14] What is the relationship between Iowa's Anticorporate Farm statute and the Farm Bill? Are traditional family farmers in danger of being forced out of business by federal legislation that favors corporate ownership? This Note explores these questions and the implications of recent federal farm policies for farmers in Iowa.

Part II examines the history of farm subsidy programs in the United States. Part III explains the relevant sections of the Iowa Anticorporate Farm statute. Part IV explores how recent federal farm policies create disproportionate benefits for larger farmers while conflicting with the purpose of the Iowa Anticorporate Farm statute. Part V suggests some revisions for both the Farm Bill and the Iowa Anticorporate Farm statute that will protect the traditional family farmer. Finally, Part VI concludes that the state and federal legislatures must make changes in current agricultural policies if they truly wish to provide adequate protection for farmers in the United States.

II. THE HISTORY OF FARM SUBSIDY PROGRAMS IN THE UNITED STATES

A. The Early Years of Farm Subsidies: 1933 to 1995

Although American farmers flourished in the golden era between 1909 and 1914, agriculture entered the depression in 1920, nine years before the rest of the American economy.[15] Farmers suffered greatly as a result of poor prices and production during this Dust Bowl era.[16] The United States Government realized the need to actively involve itself in influencing farm commodity prices at the height of the depression.[17] Without such intervention, the future of American agriculture appeared bleak.

The federal legislature began channeling funds to growers of traditional crops in the 1930s in an effort to encourage rural development and security.[18] Although the Supreme Court partially struck down early attempts at establishing legislation[19] that would subsidize prices and increase rural stability as violating the Commerce Clause[20] of the Constitution,[21] Congress succeeded in passing the Agricultural Marketing Agreement Act of 1937,[22] which continues to regulate some portions of the farm subsidy program today.[23] The legislature had the purpose to empower the Secretary of Agriculture with

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Answer?, 14 HAMLINE J. PUB. L. & POL'Y 203, 204 (1993) (arguing that states pass anticorporate farm statutes to protect the family farmer from competition with corporate entities).

14. IOWA CODE ANN. § 9H.4 (West 2001).

15. Olson, *supra* note 1, at 7.

16. *Id.* at 3.

17. *Id.*

18. John Lancaster, *Democrats Pigeonhole Farm Bill Till 2002*, WASH. POST, Dec. 20, 2001, at A2; Olson, *supra* note 1, at 3.

19. The Agricultural Adjustments Act of 1933, Pub. L. No. 107-249, 48 Stat. 31 (1933) (codified as amended in scattered sections of 7 U.S.C.).

20. U.S. CONST. art. 1, § 8, cl. 3.

21. *See generally* United States v. Butler, 297 U.S. 1 (1936) (holding that Congress may not regulate agricultural production, since that power is reserved to the states and Congress does not have such authority under the Commerce Clause).

22. 7 U.S.C.A. §§ 671-74 (1999).

23. NEIL HARL, 9 AGRIC. LAW § 70.01[2] (2001).

the authority to create price stability and fair income for farmers in passing this Act.[24] Congress' creation of this legislation marked the beginning of an enduring attempt to keep commodity prices high enough to allow those who cultivated the land to earn a reasonable income.

Congress supplemented the 1937 Act with the Agricultural Adjustment Act of 1938,[25] which allowed the Secretary of Agriculture to establish a national marketing quota[26] and initiate active measures[27] designed to reach this goal.[28] The 1938 Act also created non-recourse loans[29] that allowed farmers to borrow money from the government by using their crops as collateral.[30] Furthermore, under the 1938 Act farmers received a parity[31] payment,[32] which served as the first form of subsidy payments to farmers.[33] Finally, the 1938 Act established a form of environmental protection program, where the government provided farmers who ceased producing soil-depleting crops and began growing soil-conserving crops with conservation payments.[34] The 1938 Act[35] serves as the origin of many modern farm subsidy programs.[36]

Congress took another major step in establishing stable commodity prices by passing the Commodity Credit Corporation Act of 1948,[37] giving the Commodity Credit Corporation ("CCC"), an agency directly controlled by the Secretary of Agriculture, the authority to support commodity prices and remove surpluses from the open market.[38] During the years following the creation of this Act, the Secretary of Agriculture had a direct influence on the supply side of production because he or she had authority to order

24. *Id.* § 70.01[2][a].

25. Pub. L. No. 107-249, 52 Stat. 301 (1938) (codified as amended in scattered sections of 7, 15 U.S.C.).

26. Such marketing quotas allowed the Secretary of Agriculture to call for a referendum if he or she believed farmers were producing too much of a given crop. Olson, *supra* note 1, at 6. If two-thirds of producers approved the referendum, the Secretary would impose quotas on production of that particular crop. *Id.*

27. Perhaps influenced by President Roosevelt's "court packing scheme," the Supreme Court upheld the Agricultural Adjustment Act of 1938. *See* Wickard v. Filburn, 317 U.S. 111 (1942) (holding that the Commerce Clause allowed Congress to regulate agricultural production because of its aggregate effect on national commerce).

28. NEIL HARL, 11 AGRIC. LAW § 91.02[1] (2001).

29. Non-recourse loans are those for which a farmer will forfeit his or her crop if he or she cannot repay the loan, but the government will not hold the farmer personally liable for the difference between the loan rate and the market price for the crop. Olson, *supra* note 1, at 22.

30. *Id.* at 6.

31. Legislators designed the parity price to give farmers the purchasing power they maintained during the golden age of agriculture that occurred between 1909 and 1914. *Id.* at 1.

32. A parity payment consisted of the difference between the actual amount a farmer received from selling his crop on the open market and an arbitrary parity price determined by the legislature. *Id.* at 6.

33. Olson, *supra* note 1, at 7.

34. *Id.*

35. Economists hoped that because so many people resided in rural areas at the time of the Depression, inflating commodity prices would have the desirable impact of improving a large percentage of the population's living conditions, thus preventing them from migrating to the city and joining the growing ranks of the unemployed. Peterson, *supra* note 2, at 66.

36. "After *Wickard*, the foundation for agricultural regulation and direct farm subsidies was firmly established as a constitutional matter." *Id.* at 68-69. Accordingly, future legislators are free to manipulate farm prices and programs as they see fit.

37. 15 U.S.C. § 713 (2002).

38. HARL, *supra* note 28, § 90.02[4].

supply limits on the quantity of crops a grower could produce.[39] Therefore, from 1937 until 1996, the federal government played a large role in influencing market prices and manipulating the types and quantities of crops that farmers produced.

B. Farm Subsidies Under the Federal Agriculture Improvement and Reform Act of 1996

Relatively successful government farm programs prevented crop surpluses from reaching the market from the early 1980s to 1996, causing prices to rise steadily.[40] It seemed the time was appropriate to lessen government involvement in agriculture and allow market forces to run their course.[41] Accordingly, the legislature passed FAIR. Congress created this Act to allow farmers more flexibility in planting crops, to decrease regulations, and reduce subsidy payments so the market would play a greater role in determining crop prices.[42] FAIR drastically altered the agricultural policy implemented by the U.S. government for the previous sixty years by abolishing target prices and supply management programs.[43] Such policies indicate that in 1996 Congress intended to consistently remove government influences from the agricultural market, until there was no longer a need for authorizing commodity payments for farmers.

FAIR attempted to wean farmers from subsidies by "suspend[ing] the traditional pattern of price and income support with respect to program crops . . . and phas[ing] out government payments to farmers with payments ending in 2002."[44] Under FAIR, the CCC entered into a contract with agricultural producers.[45] Farmers were eligible to receive government payments per unit of crop they produced, if they chose to enter a contract with the CCC and provided they complied with certain government conditions.[46]

To understand the Farm Bill, one must examine the method the government employed to fund farmers under FAIR. The 1996 Act generally doled out farm payments through non-recourse loans[47] and loan deficiency payments ("LDPs").[48] The legislation also offered incentives aimed at conserving the environment by allowing monetary rewards for taking highly erodable land or wetlands out of production in addition to the above-mentioned primary methods of payment.[49] Through these programs, the

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39. Jake Thompson, *Senate Gives Final OK to $182 Billion Ag Bill*, OMAHA WORLD-HERALD, May 9, 2002, at 1A.

40. PAUL C. WESTCOTT & J. MICHAEL PRICE, U.S. DEPARTMENT OF AGRICULTURE, ANALYSIS OF THE U.S. COMMODITY LOAN PROGRAM WITH MARKETING LOAN PROVISIONS, AGRIC. ECON. REP. NO. 801, at 6 (Apr. 2001).

41. *See* Olson, *supra* note 1, at 20 (explaining that Congress desired a farm economy driven by market forces, not government payments, and believed that the economic prosperity of the time provided a great opportunity for transition to such an economy).

42. 148 CONG. REC. S3979, at S4028-4029 (daily ed. May 8, 2002) (statement of Sen. Bunning).

43. Olson, *supra* note 1, at 20.

44. HARL, *supra* note 28, § 91A.01; *see also* Olson, *supra* note 1, at 20 (explaining that FAIR was an attempt by Congress to lessen government involvement supporting farmers); Peterson, *supra* note 2, at 71 (arguing Congress wanted to regulate farm prices less in passing FAIR).

45. 7 U.S.C. § 7212 (1996).

46. HARL, *supra* note 28, § 91A.01[1].

47. 7 U.S.C. § 7231.

48. *Id.* at § 7235.

49. 16 U.S.C. § 3812a (1996).

government provided income support for farmers without controlling production.[50] Such techniques were a departure from traditional crop subsidy programs.[51] As a result, farmers had the freedom to determine the types and quantities of crops to produce without government interference for the first time in nearly sixty years.[52]

To attain this freedom, farmers must first enter a flexibility contract.[53] Generally, one wishing to enter this type of contract[54] must comply with the environmental programs[55] and planting flexibility requirements,[56] as well as use the land for an agricultural activity.[57] FAIR also sets requirements on the types of owners and producers that could enter the flexibility contract; such individuals must have been owners who assumed the risk of producing all or part of the crop, sharecroppers, or cash renters.[58] Thus, most individuals who worked or owned farmland that produced the specified crops could receive supplemental farm payments.[59]

One basic FAIR government program provided economic support for farmers through the payment of non-recourse loans.[60] Hypothetically, the farmer should pay the loan back with interest so the CCC would not incur losses on such a program. However, under FAIR, farmers often did not have to repay the full amount of their loans or the interest that accrued on them, so these loans took the form of subsidy payments.[61]

The Secretary of Agriculture, from 1985 to 1996, would set a loan rate for a unit of a specified crop, which made certain funds available to farmers for a nine to ten month period of time based on the quantity they produced.[62] The producer would forfeit his or her crops to the CCC, which could withhold these crops from the open market, if he or she could not repay this loan, plus the interest that accrued on it.[63] However, FAIR[64] allowed the Secretary of Agriculture to implement marketing loans where producers had an opportunity to repay at a lower amount than they borrowed, thus pocketing the difference.[65] Therefore, farmers often "repay[ed] the loan at a lower repayment rate[66] at

50. *See* Grassley, *supra* note 6, at 3 (explaining that "for the first time, farmers will be allowed to make their own planting decisions, free from government regulation").

51. *Id.*

52. *Id.*

53. 7 U.S.C. § 7211 (1996).

54. One must enter a flexibility contract to receive government payments under FAIR.

55. 16 U.S.C. §§ 3811, 3821 (1996).

56. 7 U.S.C. § 7218 (1996).

57. *Id.* at § 7211.

58. *Id.*

59. Although this provision appears to be very liberal, FAIR limits the variety of crops for which the government would provide funds. *Id.* at § 7232. These crops were generally traditional crops, including wheat, corn, cotton, rice, and oilseeds (including soy beans). *Id.*

60. 7 U.S.C. §§ 7231-34 (1996).

61. *See* WESTCOTT & PRICE, *supra* note 40, at 2, 3 (explaining that FAIR allowed farmers to repay loans at lower repayment rates than what the farmer initially borrowed).

62. *Id.* at 2.

63. *Id.*

64. 7 U.S.C. § 7232 (1996). FAIR specifically allowed repayments at prices that fluctuated over the course of a year. *Id.* This price was generally 85% of the average market price for the previous five years, excluding the highest and lowest year. *Id.*

65. WESTCOTT & PRICE, *supra* note 40, at 2.

66. In addition to accepting less money than the CCC lent the producer, the CCC waived any accruing interest if the farmer repayed their loan when the current calculated repayment price was lower than the loan

any time during the loan period[67] that market prices [were] below the loan rate."[68] This system allowed farmers enrolled in flexibility contracts to receive subsidies,[69] in the form of forgiven loans, directly related to the quantity of a given crop produced.

Although the availability of non-recourse loans benefited some farmers, this program involved the inconvenient process of borrowing money from the CCC and paying it back at a later time when world market prices were lower.[70] However, FAIR eliminated this nuisance by allowing farmers to receive loan benefits through LDPs[71] without taking out a loan.[72] An efficient farmer could use this system as a tremendous supplement to the price they received for a given crop.

A simple example demonstrates how a farmer can benefit from LDPs. Crop prices tend to be lowest during harvest for any given year.[73] Thus, an individual enrolled in the government program could choose to accept the calculated payment under FAIR at that time,[74] and then sell their crops when prices rose.[75] This procedure allowed the farmer to reap the most benefits from the program, unless some factor significantly forced market prices down during the subsequent nine months.[76] Recently, many people involved in the farm program chose to utilize a two-step marketing strategy in which they received an LDP during harvest when prices were low, and sold when prices were higher due to seasonal conditions.[77]

FAIR also provided environmental subsidy payments in addition to providing subsidy payments based on production. As the U.S. Department of Agriculture ("USDA") points out, "[i]n a competitive economy, agricultural producers have few, if any, financial incentives to provide *environmental services* . . . without government involvement."[78] The United States Congress, through passing FAIR, seemed to embrace this concept as it provided incentive for farmers to preserve erodable land and wetlands.[79] Under these programs, farmers whose land qualified could take such land out of production and receive federal payments for doing so.[80]

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rate. *Id.* at 3.

67. *See* 7 U.S.C. § 7233 (1996) (providing that a non-recourse loan must be repaid within nine months from the day that it was made).

68. WESTCOTT & PRICE, *supra* note 40, at 3.

69. FAIR limited loan benefits to $75,000 per person, but loopholes allowed farmers to collect twice this amount. *Id.* at 6.

70. *See* 7 U.S.C. §§ 7232-33 (1996) (requiring farmers to repay non-recourse loans).

71. *Id.* at § 7235. FAIR calculated the loan deficiency payment as the difference between the loan payment rate (85% of the previous five years' average price, excluding the best and worst year) and the current world market price, times the number of units of the crop produced. *Id.*

72. WESTCOTT & PRICE, *supra* note 40, at 3.

73. *Id.* at 2.

74. By accepting the program benefit during harvest, when prices are low, the farmer hoped to maximize the difference between the prevailing five-year LDP price and market price. *Id.*

75. *Id.*

76. *Id.*

77. WESTCOTT & PRICE, *supra* note 40, at 7.

78. Roger Claasen & Richard Horan, *Environmental Payments to Farmers: Issues of Program Design*, AGRIC. OUTLOOK, at 15 (June-July 2000), *available at* http://www.ers.usda.gov/publicationsagoutlook/jun2000 /ao272g.pdf (last visited Oct. 31, 2003).

79. 16 U.S.C. §§ 3812a, 3839aa (1996).

80. *See* Olson, *supra* note 1, at 17 (explaining that the government pays rent to farmers who remove erodible land from production under the Conservation Reserve Program ("CRP")).

C. Farm Subsidy Payments Under the Farm Security and Rural Investment Act of 2002

Congress passed the Farm Bill and the President signed it into law in May 2002.[81] The Farm Bill is enormous in the number of provisions it contains. It calls for over $73 billion in additional farm spending to create a final price tag of approximately $170 billion over the next ten years.[82] Approximately $51 billion of the new cost will take the form of farm subsidy payments.[83] The Farm Bill seems to be an extended continuation of the policies contained in FAIR, which the legislature intended to end farm subsidy payments by the year 2002.[84] However, aside from the increase in spending, a few other important differences between FAIR and the Farm Bill are important to note.

First, while FAIR used a relatively complicated formula to calculate the amount of federal subsidies a farmer could receive,[85] the Farm Bill adopts a system of counter-cyclical payments.[86] The Farm Bill simply allows payment for the difference between a target price[87] for the given commodity[88] and the effective price.[89] By establishing a target price,[90] the legislature hopes to provide farmers with support when prices are poor, yet allow the market to prevail in economic upturns.[91]

As under FAIR, non-recourse loans are still available under the Farm Bill to provide short-term liquidity for farmers that need it.[92] Unlike FAIR, however, such loans are only available at a set price[93] for each given commodity.[94] Therefore, the Farm Bill eliminates the average price formula associated with taking a loan under FAIR, yet a farmer still has nine months from the time he or she takes out a loan to repay it under the Farm Bill.[95]

Finally, in addition to making direct payments based on the quantity of crops growers produce, the Farm Bill continues FAIR's environmental programs.[96] Under FAIR, the number of total acres enrolled in the Conservation Reserve Program could not

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81. Press Release, The White House, President Signs Farm Bill (May 13, 2002), *available at* http://www.whitehouse.gov/news/releases/2002/05/20020513-2.html (last visited Oct. 31, 2003).

82. Thompson, *supra* note 9.

83. Thompson, *supra* note 39.

84. *See* Olson, *supra* note 1, at 20 (explaining that FAIR was an attempt by Congress to lessen government involvement in supporting farmers).

85. 7 U.S.C. §§ 7231-34 (2000).

86. 7 U.S.C.A. § 7914 (2002). To be eligible for counter-cyclical payments, a farmer must comply with much of the same requirements as under FAIR, including following conservation demands, adhering to planting flexibility requirements, using the land for agricultural purposes, and controlling noxious weeds. *Id.* at § 7915(a)(1).

87. The target price is an arbitrary number set by the legislature and resembles a parity as established by the Agricultural Adjustments Act of 1938. *Id.* at § 7914.

88. The given commodities include wheat, corn, grain sorghum, barley, oats, upland cotton, rice, soybeans, and other oilseeds. *Id.*

89. The effective price is the higher of the national average market price, the national average loan rate under FAIR, or the direct payment rate listed in § 7913. *Id.*

90. The system of establishing a target price and counter-cyclical payments replaces the FAIR system of providing LDPs. 7 U.S.C. § 7235 (2000).

91. *See* Grassley, *supra* note 6, at 4-5 (arguing that farmers have the capacity to compete in an open market but the Farm Bill is a necessary protection against low commodity prices).

92. 7 U.S.C.A. § 7931 (2002).

93. § 7932 lists the set price. For example, the commodity price for corn is set at $1.98 per bushel. *Id.*

94. *Id.* at § 7931.

95. *Id.* at § 7933.

96. 16 U.S.C. §§ 3831, 3837, 3838 (2002).

exceed 36.4 million acres, but the Farm Bill increases this limit to 39.2 million acres.[97] Additionally, the Farm Bill increases the number of acres allotted to the wetlands reserve program from 975,000 acres under FAIR to 2,750,000.[98]

D. The Legislative Debate Surrounding the Farm Bill

The Congressional debate concerning passage of the Farm Bill reached its climax in May 2002. Since FAIR was about to expire, the legislature was under pressure to pass additional legislation aimed at supplementing the income of the American farmer. Thus, the Senate debated the proposed Farm Bill, providing examples of the benefits and drawbacks of the legislation.

Proponents of the Farm Bill maintained that rural communities across America rely on agriculture as their primary source of income.[99] The statements of Senator Hutchinson (R-Arizona) represent such beliefs. He argued that without governmental assistance, small towns across America, which rely on income from farming related activities, would dry up.[100] Therefore, the Farm Bill's marketing loans, fixed payments, and target price counter-cyclical payments would provide a sort of safety net and stability for agricultural producers.[101] Such arguments seem justified when "[c]ommodity prices are at all time lows."[102] However, critics of the Farm Bill view the legislation very differently.

Although most legislators agreed that the government must provide some assistance for farmers, the Farm Bill critics argued that this legislation would be too expensive. Senator Roberts (R-Kansas) argued that the bill would cost too much, as it would add over $73 billion in additional spending on agriculture over the next several years, and total more than $183 billion over the next ten years.[103] Senator Thompson (R-Tennessee) echoed Mr. Roberts point and expressed concern that federal payments to farmers exceeded $300 billion since 1978, accounting for ten percent of the federal deficit.[104]

III. THE IOWA ANTICORPORATE FARM STATUTE

Some states[105] have passed legislation aimed at prohibiting large-scale corporate ownership of agricultural land.[106] States pass such statutes because their representatives and voting population view the corporation as the enemy of the family farmer, and fear the political power of agricultural corporate giants.[107] Iowa passed legislation designed to prevent certain corporations from buying agricultural land within its borders to prevent

97. 148 CONG. REC. S3979 (daily ed. May 8, 2002) (statement of Sen. Cochran).

98. *Id.*

99. 148 CONG. REC. S3979 (daily ed. May 8, 2002) (statement of Sen. Hutchinson).

100. *Id.*

101. *Id.*

102. Olson, *supra* note 1, at 1.

103. 148 CONG. REC. S3979 (daily ed. May 8, 2002) (statement of Sen. Roberts).

104. 148 CONG. REC. S3979, S3990 (daily ed. May 8, 2002) (statement of Sen. Thompson).

105. These states include Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, Oklahoma, South Dakota, and Wisconsin. *See* Prim, *supra* note 13, at 203 n.2 (citing WINSTON SMART & ALLEN C. HOBERG, CORPORATE FARMING IN THE ANTI-CORPORATE FARMING STATES 4 (1989)).

106. Keith D. Haroldson, *Two Issues in Corporate Agriculture: Corporate Farming Statutes and Production Contracts*, 41 DRAKE L. REV. 393, 394 (1992).

107. Prim, *supra* note 13, at 204.

corporate giants from buying up large quantities of farm ground in the state.[108]

The legislative purpose section of the Iowa Anticorporate Farm statute explains the legislature's goals:

> It is the intent and purpose of this Act to preserve the traditional dispersed system of farm production and marketing in which agricultural production and marketing is dispersed among a relatively large number of small firms, prevent monopoly, protect consumers, and promote the economy of the state of Iowa by maintaining the family farm. The general assembly finds that the family farm is an efficient system for the production of food and fiber and provides the economic and social basis for community life in Iowa as well as insuring the continued existence of small business in rural communities. It further finds that the economy of Iowa could be threatened if nonfarm corporate interests and monopolistic entities are able to control food and fiber supplies.[109]

Although Iowa views large corporate ownership of agricultural land as a threat, it also recognizes the advantages associated with corporate ownership.[110] States with anticorporate farm legislation commonly allow some exceptions to these statutes because they recognize the advantages of incorporating.[111] Iowa allows certain forms of corporations to own agricultural land,[112] including family farm[113] and authorized farm corporations.[114] These exceptions to the anticorporate statute severely limit the statute's ability to discourage corporate ownership of agricultural land.[115] It seems the Iowa legislature is most interested in preventing foreign corporate giants from acquiring its land, while it seeks to provide smaller, local investors with an opportunity to receive the advantages of corporate ownership.[116] Thus, corporate ownership of land does exist in a limited form in Iowa.

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108. *See* IOWA CODE ANN. § 9H.4 (West 2001) (preventing "corporation[s], limited liability company[ies], or trust[s]" from obtaining agricultural land in Iowa).

109. H.F. 215, 66th Gen. Assem. (Iowa 1975).

110. These advantages include "increased business continuity, centralized management, simplified transfer of ownership, limited liability, more flexible financing options, and certain tax benefits." Pietila, *supra* note 10, at 154 n.36 (citing Matthew M. Harbur, *Anti-corporate, Agriculture Cooperative Laws and the Family Farm*, 4 DRAKE J. AGRIC. L. 385, 393 (1999)).

111. Haroldson, *supra* note 106, at 403.

112. Iowa defines agricultural land as "land suitable for use in farming." IOWA CODE ANN. § 9H.1(2) (West 2001).

113. Iowa defines a family farm corporation as a corporation "[f]ounded for the purpose of farming and the ownership of agricultural land in which the majority of the voting stock is held by and the majority of stockholders are persons related to each other" and from which "[s]ixty percent of the gross revenues of the corporation over the last consecutive three-year period comes from farming." *Id.* at § 9H.1(15)(a-c).

114. Iowa defines an authorized corporation as one with less than twenty-five shareholders; the shareholders need not be related in any way. *Id.* at § 9H.1(3)(a).

115. Haroldson, *supra* note 106, at 403; *see also* Steven C. Bahls, *Preservation of Family Farms—The Way Ahead*, 45 DRAKE L. REV. 311, 314 (1997) (arguing that if the government wants to protect wide open land from corporate exploit, it should create more narrowly tailored legislation than ineffective anticorporate farm statutes).

116. Haroldson, *supra* note 106, at 405.

IV. The Current Farm Bill and Its Implications

A. Farm Subsidy Programs Abandoned Efforts to Control the Supply of Commodities in Favor of Payments Based on Production and Conservation

Since their inception in the 1930s, American farm subsidy programs concentrated on the supply side of crop production.[117] Such programs required farmers to cease producing certain commodities if the Secretary of Agriculture felt there was going to be a surplus of that particular crop.[118] Because the Secretary prevented farmers from producing huge surpluses, there was less of a given commodity on the open market, which tended to drive prices higher. However, the modern legislature abandoned supply-side controls of commodities in 1996, by passing FAIR, and instituted a program that bases subsidy payments purely on the quantity of crops a given farmer produces,[119] regardless of market conditions.[120]

Currently, commodity prices[121] are at an all-time low.[122] Anyone familiar with the law of supply and demand can reason that recent farm policies are partially responsible for this occurrence. Since FAIR abandoned supply controls and rewarded farmers based on the raw quantity of a commodity they produce, growers tended to produce as much as possible, which resulted in great surpluses.[123] When the holders of such surpluses decide to sell, world market prices became greatly disrupted, generally sending prices on a downward spiral.[124] Therefore, farmers became dependent on farm subsidy payments because market prices did not provide adequate operating capital.[125] Those farmers who were not involved in subsidy programs, or who did not receive such payments, simply could not compete effectively with those who did.

Congress continued rewarding farmers for producing more by passing the Farm Bill. The new counter-cyclical payments[126] associated with the Farm Bill provide farmers with a set amount for every unit of crop they produce if market prices are below the established target price.[127] Such policy encourages farmers to continue to ignore the quantity of grain on the open market and produce as much as they possibly can. After all,

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117. Grassley, *supra* note 6, at 3.

118. Olson, *supra* note 1, at 5.

119. Payment provisions in FAIR provided subsidies to farmers based on the quantity of crops he or she produced. WESTCOTT & PRICE, *supra* note 40, at 2-3. These payment methods included non-recourse loans and LDPs. *Id.*

120. *See* Grassley, *supra* note 6, at 2 (noting the modern legislature abandoned its effort to control the supply side of agricultural production).

121. In 2000, soybean prices hit a 27-year low and corn prices hit a 14-year low. Damodaran, *supra* note 8.

122. Olson, *supra* note 1, at 1.

123. *See* Barbara Rippel, *Farm Bill Undermines Open Trade and Consumer Welfare*, CONSUMERS' RES. MAG., June 1, 2002, No. 6, Vol. 85, at 34 (arguing that the Farm Bill will stimulate overproduction).

124. *See id.* (arguing that US farm subsidy programs will disrupt world trade).

125. *See* 148 CONG. REC. S3979 (daily ed. May 8, 2002) (statement of Sen. Thompson) (arguing the Farm Bill causes farmers to become more dependent on subsidies by placing floors on crop prices).

126. The Farm Bill replaces LDPs with counter-cyclical payments. 7 U.S.C.A. § 7914 (2002). Such payments allow a farmer to receive, in the form of a subsidy payment, the difference between the set target price and the prevailing market price for each unit of a commodity they produce.

127. *Id.*

even if crop prices are low, those enrolled in the flexibility contracts will receive the difference between this lower market price and the target price.[128] Since FAIR and the Farm Bill base payments on the quantity of production, one would expect the largest farmers to receive the majority of farm subsidy payments under the current statutory framework.[129]

The Farm Bill offers environmental payments in addition to offering direct subsidy payments. Although the conservation program has been highly successful in promoting its environmental goals,[130] it favors those who own large quantities of land. To be eligible to receive environmental payments under the Farm Bill, one must enter a flexibility contract.[131] It is probable that, when faced with the transaction cost, many smaller farmers will not enter such agreements with the government and will not be eligible to join the conservation program. Further, most farms have a certain amount of land that is wet or highly erodable. Therefore, one can argue the larger operators that enter production contracts with the government receive payments for their lower quality ground, while smaller farmers do not receive such payments. Also, since large producers own more ground, they are likely to receive more payments through environmental programs because they have more land eligible for enrollment in the conservation program.

B. A Few Large Scale Farmers Receive a Disproportionate Share of Farm Subsidy Payments

The evidence supports the proposition that a few farmers receive the greatest share of government subsidy payments.[132] The Environmental Working Group ("EWG")[133] reports that from 1996 to 1998 (the first three years of FAIR), the government paid 61% of farm subsidies to 10% of producers.[134] Clearly nationally, the farmers that produce the most receive the majority of farm payments.

This trend also exists in Iowa, although in a slightly less drastic form. The top 10% of farm subsidy recipients received 45% of the payments from 1996 through 1998 in Iowa.[135] The top 10% of aid recipients received an average of $80,546[136] per entity.[137]

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128. *Id.*

129. One may venture to speculate that large farms receive the majority of subsidies in a scheme that bases payments on the quantity produced because 4% of farms in America produce 51% of gross sales, while 73% of farmers (generally smaller operators) produce only 10% of sales. Prim, *supra* note 13, at 204.

130. Grassley, *supra* note 6, at 4.

131. 16 U.S.C.A. §§ 3831, 3837, 3838 (2002).

132. *See* Olson, *supra* note 1, at 25 (stating that "[c]learly the biggest farmers are getting the lion's share of federal farm income support.").

133. The EWG compiled a large database of farm subsidy payments through examining over 30 million farm program checks. EWG, *Green Acre$: How Taxpayers are Subsidizing the Demise of the Family Farm, at* http://www.ewg.org/reports/greenacres/about-data.html (last visited Oct. 9, 2003). This organization obtained these records from the USDA by filing a Freedom of Information request. *Id.* The EWG study contains information from 1996 through 1998. *Id.*

134. EWG, *Green Acre$: How Taxpayers are Subsidizing the Demise of the Family Farm at* http://www.ewg.org/reports/greenacres/intro.html (last visited Oct. 9, 2003); *see also* Damodaran, *supra* note 8 (stating that the government paid 47.4% of subsidies to 8% of farms that held an average of 1500 acres).

135. *See* EWG, *Green Acre$: How Taxpayers are Subsidizing the Demise of the Family Farm, at* http://www.ewg.org/reports/greenacres/states/IA.pdf (last visited Oct. 9, 2003).

The data supports the hypothesis that recent farm subsidy programs paid a disproportionate sum to large producers, while leaving the vast majority of farmers collecting far less government payouts both nationally and in Iowa.

C. The Current Farm Bill Encourages Farmers to Expand, Thus Inflating Land Values

Since the government gives subsidy payments to farmers, one would speculate that such individuals have plenty of resources to purchase additional land and reap the subsidy benefits associated with large-scale production. However, this scenario does not occur for many farmers. Many producers are not eligible to receive farm subsidy payments because they did not sign a production flexibility contract or do not grow the proper crops.[138] For many who are eligible to receive farm payments, these subsidies are simply not large enough to acquire land at heavily inflated prices.[139] Since the government initiated FAIR in 1996, the price of farm land has been on the rise.[140]

The inflated price of agricultural land does not allow farmers who receive subsidy payments to keep all that the government provides them. Growers do not have an opportunity to pocket subsidy payments in an environment where they must constantly acquire new land to remain competitive. Those who own land and wish to sell reap many of the benefits of farm subsidy payments because they can demand higher prices in this situation. The dramatic appreciation in farmland since FAIR's inception illustrates this point.[141] Thus, to receive greater subsidy payments, a farmer must acquire more land, but recent and dramatic appreciation in agricultural real estate makes acquisition a proposition impossible for all but the most well-financed producers.

Larger farm operations that collect more subsidies have the best opportunity to pay the high prices associated with acquiring farmland on the open market.[142] Barnard et al. explain that "those who gain most from cropland value appreciation are likely the same as those that receive the largest commodity-related government payments."[143] Large-scale operators that own a lot of land can use this asset for collateral in purchasing additional ground.[144] Therefore, those who own more land can use it to secure loans for purchasing additional acres, thereby increasing production and receiving even greater farm subsidies.[145]

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136. The remaining 90% of Iowa farmers received a state average of $17,956 in 1996 through 1998. *Id.*

137. *Id.*

138. "In 2000, only about one-third of all farms (730,000 out of 2,136,865) received government payments through [primary government subsidy programs]." *See* Charles Barnard et al., *Higher Cropland Value from Farm Program Payments*, AGRIC. OUTLOOK 26 (Nov. 2001), *available at* http://www.ers.usda.gov/publications/agoutlook/nov2001/ao286h.pdf (arguing that urban investments and direct government payments cause extreme appreciation in agricultural land values) (last visited Oct. 9, 2003).

139. "An average US farmer in 1999 received $6,966 . . . in direct government payments . . . ." Damodoran, *supra* note 8.

140. *See* Barnard et al., *supra* note 138, at 26.

141. Farm subsidies account for 24% (or $40 billion) of the market value of agricultural ground in the Midwest. *See* Barnard et al., *supra* note 138, at 28.

142. *See* EWG, *supra* note 134 (arguing that large operators can use their greater subsidy payments to invest in additional farmland, giving them an advantage over smaller producers).

143. Barnard et al., *supra* note 138, at 30.

144. *See id.* (noting that farmland is a great source of collateral).

145. *See* EWG, *supra* note 134 (arguing that large farm entities can acquire land more easily than smaller

D. Current Farm Subsidy Policies Encourage Farmers to Create Larger Corporate Entities

FAIR and the Farm Bill implement policies that favor increased production. Agricultural producers are in a constant battle to expand their operations in the competitive environment that recent farm policies foster. As farms expand to meet the Farm Bill's demands, the competition will inevitably force some producers out of operation.[146] Those who remain must struggle to increase production if they wish to reap the benefits of the current subsidy programs. One of the most effective methods of increasing a farm operator's size is forming a corporation.

Prior to 1992, farmers generally refrained from making the transition to corporate[147] ownership.[148] However, as early as 1974, family members began forming farm corporations.[149] Farmers have more incentive to create a corporate form of ownership in a modern agricultural setting because it provides such advantages as "increased business continuity, centralized management, simplified transfer of ownership, limited liability, more flexible financing options, and certain tax benefits."[150] The ability to pool financial resources represents the most important of these many advantages.[151]

Corporate ownership offers limited liability to producers who may want to expand to their utmost capacity. Under such a scheme, producers who buy more ground than they can afford will not be forced into bankruptcy. Limited liability is a highly desirable attribute in a market where growers must constantly produce to their utmost capacity to receive maximum benefits. Hence, the Farm Bill encourages farmers to incorporate to protect their personal assets.

Corporate ownership more readily allows farmers to secure adequate financing from investors in addition to providing limited liability. Not only farmers, but also other individuals such as urban investors, have incentive to create agricultural corporate entities and devote their financial resources to them. Investing in farmland can be very profitable in an era when Wall Street is not producing the returns it did in the 1990s.[152] Under Iowa law, a limited number of such speculators may invest in a corporation that owns agricultural land.

The Iowa Code authorizes up to twenty-five individuals to form an authorized corporation capable of purchasing agricultural land.[153] Such a provision allows urban

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operations).

146. A Department of Agriculture census revealed that between 1992 and 1997, "the number of farms in Iowa fell from 96,543 in 1992 to 90,792 in 1997," while "the number of farms with more than 1000 acres increased from 4733 to 5887." Nathan Phelps, *Fewer, Larger Farms Reported in Iowa, County*, WATERLOO-CEDAR FALLS COURIER, Feb. 2, 1999, *available at* http://www.wcfcourier.com/metne99/990202fewer.html (last visited Oct. 31, 2003).

147. One must remember that the Iowa Code prevents corporations from owning agricultural land. IOWA CODE ANN. § 9H.4 (West 2001). However, it makes exception for family farms and authorized corporate farms that have less than twenty-five shareholders. *Id.*

148. *See* Douglas W. Allen, *The Nature of the Farm*, 41 J.L. & ECON. 343, 343 (1998) (arguing that agriculture has resisted a change to an incorporated form and remains a family business).

149. Pietila, *supra* note 10, at 154.

150. *Id.* at 172 n.36.

151. Prim, *supra* note 13, at 205.

152. *Id.* at 205 n.13 (explaining that investors gained returns of 8 to 10% on farm investments).

153. IOWA CODE ANN. §§ 9H.4, 9H.1(3)(A)-(B) (West 2001).

investors to invest in farm corporations.[154] These investors provide wonderful partners for farmers looking to expand and exploit the generous subsidy payments the Farm Bill offers.[155] Therefore, the Farm Bill provides rural farmers with incentive to incorporate and locate investors with the capital essential for their expansion.

E. The Farm Bill is Inconsistent with the Goals of Iowa's Anticorporate Farm Statute

One could argue that incorporation of agricultural production is inevitable because corporate ownership provides many benefits to society as a whole, due to its productions of scale.[156] By this argument, recent farm policy is simply facilitating an unavoidable outcome. However, Iowa, as well as eight other agricultural states,[157] chose to pass anticorporate statutes to protect the family farm.[158] FAIR and the Farm Bill conflict with this goal as they encourage large-scale ownership of land, thus facilitating the demise of the traditional family farm.

Genuine reasons for protecting the family farm exist even in the current economic climate:

> The first rationale states that family farming is a 'way of life' . . . worthy of protection in and of itself. The second rationale states that farming is a critical sector of our economy, and family farms serve that sector most efficiently. The third common rationale for preserving the family farm is that family farming preserves traditional rural areas and helps to ensure appropriate use of rural land.[159]

Judging by the legislative purpose of its Anticorporate Farm statute, Iowa stands behind the above rationales, which justify legislation aimed at preserving the small family farm.[160] The federal government should consider such state policy objectives before implementing agricultural aid based on production outputs. These federal policies provide incentive for farmers to create permitted farm corporations and engage in the monopolistic practices that jeopardize agricultural states' economies.

The Anticorporate Farm statute seeks to protect the family farmer in a smaller and more traditional form. However, this state legislation leaves loopholes for authorized corporations and family farm corporations. Thus, there is room for individuals to pool resources in corporate entities and force smaller producers out of business. Therefore, state and federal policies are inherently inconsistent regarding corporate ownership of

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154. *See* Brian O'Neill, *Uptown Doctor Reaps Federal Farm Subsidy Cash*, PITTSBURGH POST-GAZETTE, Jan. 6, 2002, at C-9 (reporting that many farm subsidy program payments go to urban investors, not family farmers).

155. *See id.* (reporting that a doctor living in urban Chatham Center, Pennsylvania has received over $1.5 million in farm subsidy payments from 1998 to 2002).

156. *See* Haroldson, *supra* note 106, at 401 (arguing that corporate ownership benefits society as a whole).

157. These states include Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, Oklahoma, South Dakota, and Wisconsin. *See* Prim, *supra* note 13, at 203 n.2.

158. *See* IOWA CODE ANN. § 9H.4 (West 2001) (preventing corporate ownership of agricultural land).

159. Steven C. Bahls, *Preservation of Family Farms—The Way Ahead*, 45 DRAKE L. REV. 311, 322-23 (1997).

160. *See* H.F. 215, 66th Gen. Assem. (Iowa 1975) ("It is the intent and purpose of this Act to preserve free and private enterprise, prevent monopoly, protect consumers, and promote the economy of the state of Iowa by maintaining the family farm.").

farmland. As a result, both Iowa and federal legislators should consider evaluating their priorities and producing laws that truly protect the independent family farmer.

V. RECOMMENDATIONS

Iowa chose to protect its family farmers through legislation that forbids many corporations from owning agricultural land. On the other hand, FAIR and the Farm Bill work against this legislative policy by encouraging farmers to form relatively large corporate operations that fit within the exceptions to the Iowa Anticorporate Farm statute, in an effort to maximize the benefits they receive under the federal programs. However, some revisions to both the federal and state laws could make the policies consistent in providing real security for traditional family farmers.

A. Revisions to the Farm Bill

The major flaw in the Farm Bill and FAIR is that these policies simply reward farmers based on the quantity of a crop they can produce. Such policy leads to surpluses, price deflation, and competition to attain more land at highly appreciated prices. These programs pressure farmers to incorporate to gain advantages associated with a corporate entity, thus ignoring the purpose of the Iowa Anticorporate Farm statute. Therefore, the federal government could decrease growers' incentive to incorporate by removing subsidy payments in the form of LDPs, counter-cyclical payments, and non-recourse loans from their proportional relationship to the quantity of a commodity that the farmer produces.[161]

Instead, the government should base the amount of federal aid it allows farmers on their need for such financing.[162] The current farm legislation should allow the Secretary of Agriculture to authorize payments for individual farmers based on a formula that considers a multitude of factors, including production costs, net sales, and total family income.[163] Such a system already exists in financial aid programs for college education. The USDA should borrow some aspects of the college financial aid program to make distributions to a greater number of farmers.[164]

This program should only be necessary for a limited period of time. If the government focuses on driving up market prices by eliminating surpluses and initiating active measures designed to limit production, the resulting market price increases would remove the need for financial assistance. After restoring market prices, the government could eliminate this need-based subsidy program. Such a plan would truly protect American farmers regardless of their size or form of ownership.

161. *See* Olson, *supra* note 1, at 27 (arguing that farm income support should not be related to production).

162. *Id.* at 28 (arguing the government should set a basic minimum income and pay the farmer the difference between this minimum and their actual income).

163. One could argue that the USDA would have to hire too much staff to administer such a program and read all of the applications. However, the Farm Bill requires the USDA to hire 1000 additional staff members to administer its new policies. *See USDA Streamlining CRP, EQIP Approvals*, DELTA FARM PRESS, July 12, 2002, at 28.

164. Under this type of financial need system, a farm bill would not have to limit its payments to growers of specific crops but could consider the need of all farmers that grow any type of commodity. *See* Olson, *supra* note 1, at 28.

The legislators should revise the Farm Bill to include a production control mechanism in addition to eliminating production-based subsidies in favor of a financial-need system. Such a mechanism need not be an absolute ban on producing a certain crop, but the government should offer certain incentives to produce, or refrain from producing, specific commodities. The USDA should build monetary incentives into its financial aid program. This system would allow the Secretary of Agriculture to have a limited influence on the type and quantity of crops farmers produce. Again, this production control need only be a temporary measure that keeps surpluses from reaching the market until prices rise to acceptable levels. Such an influence is essential to eliminating market surpluses and restoring market conditions.[165] Thus, any farm policy should include some sort of mechanism for limited production control of commodities.

B. Revisions to Iowa's Anticorporate Farm Statute

Not only should the federal legislature alter the Farm Bill, but the Iowa state legislature should also change its Anticorporate Farm statute to more effectively protect the family farmer. Currently, authorized corporations[166] can purchase agricultural land in Iowa.[167] Such an exception allows several individuals to invest in corporations that acquire farmland regardless of these individuals' familial ties or current occupation. By allowing twenty-five people to invest in an agricultural corporation, the Iowa legislature creates a huge loophole for those seeking to incorporate and exploit the Farm Bill subsidy payment scheme.

Instead of allowing this exception to persist in its current form, the Iowa legislature should limit the number of shareholders in an authorized corporation to three. Iowa would not be alone in imposing such a strict limitation. The Minnesota Anticorporate Farm statute limits the number of shareholders to five.[168] In fact Iowa, with a limit of twenty-five shareholders, currently allows the greatest number of authorized corporation shareholders of any state with anticorporate farm statutes.[169] Such a provision would make pooling significant resources to attain vast amounts of farmland much more difficult. Therefore, individuals that incorporate to acquire significantly larger portions of land would not possess as large of a financial advantage over the traditional family producers. However, up to three individuals could still attain the advantages associated with corporate ownership. Such a balance is essential since the Farm Bill provides great incentive for farmers to incorporate and expand.

The Iowa legislature should also modify the family farm corporation exception in addition to limiting the number of shareholders in an authorized corporation exception.[170] The legislature should redefine a family farm corporation to require the

165. Although a number of factors probably influenced the market prices at the time, government production control mechanisms contributed to the historically high commodity prices of 1996. *See* Peterson, *supra* note 2, at 65 (noting the historically high prices of 1996).

166. *See* IOWA CODE ANN. § 9H.1(3)(a) (West 2001) (defining authorized corporations as those with less than twenty-five shareholders).

167. *Id.* at § 9H.4.

168. Haroldson, *supra* note 106, at 403-04.

169. *Id.*

170. *See* IOWA CODE ANN. § 9H.1(15)(a-c) (West 2001) (defining family farm corporations as those in which a majority of the shareholders are related and 60% of its income results from farming).

family members who hold stock in such a corporation to actively participate in the agricultural activities.[171] Such a requirement is necessary because several farmers may have a great many relatives who do not work on the farm but wish to invest in the farming operation.[172] Allowing an unlimited number of relatives to invest in a farm corporation provides such shareholders with a tremendous advantage because of their ability to pool their resources. Therefore, the legislature must also limit such corporations to protect smaller family farmers.

VI. CONCLUSION

Current farm policies such as FAIR and the Farm Bill depart from traditional farm subsidy programs by making payments based strictly on the quantity of a specific commodity that a farmer produces while eliminating any means of governmental production control. These policies provide a small number of large producers with a disproportionate share of the subsidy payments, inflate land prices, and deflate market prices by creating surpluses of many commodities. Such circumstances provide farmers with incentive to maximize their subsidy payments by forming corporate entities that entail advantages such as limited liability and higher amounts of capital.

Simultaneously, Iowa seeks to limit corporate ownership of land through its Anticorporate Farm statute. The Iowa legislature demonstrated its desire to protect the traditional family farmer in passing such a statute. However, the Farm Bill encourages expansion of corporate farm ownership and is at odds with the purpose of the Iowa Anticorporate Farm statute. Accordingly, both the federal and Iowa legislatures must modify their programs if they wish to protect traditional farmers.

The federal government could more effectively benefit family farmers by cutting production-based subsidies, instituting a system of financial aid for farmers based on the federal financial aid for higher education program, and developing effective means of controlling agricultural production. Likewise, the state of Iowa should revise its Anticorporate Farm statute to more effectively limit the emergence of corporate ownership of agricultural ground. Iowa should limit authorized farm corporations to three shareholders and require all shareholders in a family corporate farm to actively participate in the farming operation. By making such changes, Iowa would send a clear message that it is not only concerned with preventing corporate giants from hoarding its land, but that it also wishes to preserve the occupation of family farming for generations to come.

171. If the family members did not participate in the farming operation, up to three relatives could still invest in a corporation owning farmland under the revised authorized corporation exception.

172. At the present time, "only seven percent of Iowa's work force is engaged in farming." Peterson, *supra* note 2, at 67.