

MINUTES OF THE HOUSE COMMITTEE ON AGRICULTURE.

The meeting was called to order by Chairperson Joann Flower at 9:00 a.m. on February 19, 1998, in Room 423-S of the Capitol.

All members were present except: Representative Lloyd - excused

Committee staff present: Raney Gilliland, Legislative Research Department
Gordon Self, Revisor of Statutes
Kay Scarlett, Committee Secretary

Conferees appearing before the committee: Representative Susan Wagle

Others attending: See attached list

Hearing on HB 2967 - Confined feeding facilities for swine; restrictions; tax credits

Chairperson Flower opened the hearing on **HB 2967** and asked Raney Gilliland, Legislative Research Department, to brief the committee on the bill.

Mr Gilliland explained that the new definition for a lagoon or pond and new setback requirements in **HB 2967** are amendments to the current corporate farming law. He said that new Section 2 would place a one-year moratorium on the licensing of new or expansion of existing confined feeding facilities for swine with an animal capacity of 500 units or more in counties that have voted against allowing the establishment of swine production facilities; the bill does list some exceptions. The bill would change the maximum seepage requirement for lagoons from 1/4 inch per day to 1/32 inch per day. He explained that the bill also would require the Secretary of the Department of Health and Environment and Kansas State University to submit to the 1999 Legislature their recommendations concerning extension of the moratorium, setback requirements, lagoon standards, and assurance of financial responsibility for future contamination. He said that the bill provides for a tax credit for approved improvements to an animal waste system that is located in a county where the voters have not voted against allowing the establishment of swine production facilities; the bill also contains necessary amendments to sections of the tax law.

Representative Susan Wagle appeared in support of **HB 2967** which she introduced to address concerns associated with the expansion of corporate swine production facilities in Kansas. She acknowledged the positive economic impact of the corporate swine industry and its expansion in Kansas, but expressed the need for the Legislature to control expansion in such a way as to protect the quality of life and the quality of our natural resources. She said the most important part of her bill is the one-year moratorium to protect the voters in the counties that have rejected the establishment of swine production facilities. She said that her bill offers a plan that will allow the industry to grow in an environmentally responsible manner in areas where they are invited. Representative Wagle discussed the major components of her bill and provided a map depicting the counties in Kansas that have voted to allow the establishment of swine production facilities. (Attachment 1)

The hearing on **HB 2967** will be continued tomorrow when opponents will be heard.

The meeting adjourned at 10:10 a.m. The next meeting is scheduled for February 20, 1998.

HOUSE AGRICULTURE COMMITTEE GUEST LIST

DATE: February 19, 1998

NAME	REPRESENTING
Jimmie Clover Adams	Governor's Office
Steve Miller	Sunflower Elec Power Corp
George Teagarden	KAHD
Tom Bruno	Allen + Assoc
Sarah Heminger	Harris News
Mary Jane Stettin	KDA
Sharon D. Misk	KBSD TV - Dodge City
Julie Russell	KBSD-TV
Annette M. Witt	KOFA
GREG A. FOLEY	KDHE
Charles Benjamin	KNRC / KS Sierra Club
Billy Boyle	Speaker Pro Tem - Office
Mike Jensen	Ks Pork
Rich McKee	KLA
Bill Fuller	Kansas Farm Bureau
Leslie Kaufman	Ks Farm Bureau
Dor Ryan	Farmer Rancher
Jim Allen	Seaboard

State of Kansas
House of Representatives



Susan Wagle
Speaker Pro Tem

Testimony
February 19, 1998
H.B. 2967

Thank you Chairwoman Flower and members of the Agriculture Committee for offering me this opportunity to address you on an issue I believe will be the most important issue we debate in the 1998 legislature. Two days ago members of the House of Representatives spent many hours debating tax policy for Kansas. We weighed business and family interests and we considered tax cuts for all income levels; we worked together to assist overtaxed veterans' organizations, zoos, churches, and the Girl Scouts. By allowing the legislative process to work, I believe we developed a tax package which was an improvement to that offered by the Governor and that which passed the Senate. Debate was not stifled on proposals because they were either Republican or Democrat, urban or rural, corporate or individual, or concerned only with the wealthy or the impoverished. I am proud that this House has provided tax cuts which will benefit all citizens of Kansas and that many of those cuts were achieved without lobbyist influence. The tax package we compromised and agreed on will make Kansas a better place in which to live and work.

As we debate the corporate hog issue, I hope that the House will again weigh each proposal carefully whether it be rural or urban, business or family, and deliver a balanced bill which will be in the best interest of all Kansans. I know and appreciate the existence of the hog industry in Kansas and I realize that this industry will certainly expand. But the manner in which it expands, and how the legislature allows for that expansion, will influence the quality of our life and the quality of our natural resources for many years to come.

I am not ashamed to say that in the past year and a half, I have gained a new outlook on "quality of life" issues. As a cancer patient with a diagnosed "environmental" cancer, I have gained a new appreciation for a constituency whose geographic boundaries and whose concerns do not stop at my district lines.

Therefore, I was disappointed when Charles Benjamin, attorney for the Sierra Club, came to visit me on a Saturday morning before the beginning of the 1998 legislative session and told me he was having difficulty getting Republicans to listen

to his concerns. After he told me about the problems other states have encountered, and after, at a later date, personally touring southwest Kansas and the Oklahoma panhandle, I became intent on making sure Kansas did not become another victim of poor planning and lax environmental regulations.

As you are aware, I offer my legislative proposal with a background and a voting history in the Kansas House of Representatives that is one of the strongest pro-business and pro-agriculture records in the legislature. I take this proposal seriously and I hope you will give it strong consideration. As a business woman, I understand the burden that excessive government regulation creates for free enterprise. I, of all people, as a small business owner, would not come to you expressing a need for additional environmental regulation unless I believed it critical to the well-being of most Kansans. While some believe the two interests, business and environment, are in conflict with each other when it comes to large scale hog operations. I do not!

After visiting the DeKalb operations near Plains, Kansas, I learned about the positive economic impact corporate hogs have brought and could continue to bring to Kansas. I saw what an environmentally friendly operation, located far from homes and communities, can do for a dwindling tax base. I believe hogs can be very compatible with other western Kansas interests. There is grain, wide open arid spaces, a low water table and farmers who can use the income. It appears that we have a perfect match.

However, in communicating with individuals from western Kansas, it has become clear to me that elected officials, and may I stress the term 'elected', should take a uncompromising stand for the rights of voters in counties which have rejected corporate hog operations. I have spoken and met with these people. I believe that if this issue were taken to a vote in more counties, corporate operations would lose by even greater percentages than votes that have already taken place. Emotions are running high. And frankly, voters are feeling betrayed. They fear that this legislature has turned their backs on them. I ask you, members of the House Agriculture committee, what more do they have to do to be heard?

People say to me, "Susan, you didn't understand the bill in 1994 when we gave corporate operations a 'county option'." They tell me now that the so-called "county option vote" is full of loopholes and was never really intended to have any force or effect. However, I want to assure you, that is not how it was presented to me in 1994 when I voted for the bill, and I am sure the people who took the time out of their busy schedules to vote in a county election did not go to the polls to exercise their legs. Instead, they went there to exercise their right to vote. Furthermore, if I didn't understand the loopholes in 1994, and apparently neither did other legislators, how do we expect the voters in those counties to understand, today, that their vote has no meaning? We as legislators should not presume that we better know what is best for voters than what they expressed at the polls. We can't tell them now that the protest petitions they walked with from door to door

don't matter, or that the dollars spent by counties putting this issue on the ballot were wasted.

My bill provides an opportunity for legislators to honor the "no" votes of their constituents. It also offers a plan that will allow the industry to grow in an environmentally responsible manner in areas where they are invited. Don't be confused by the rhetoric coming from opposing sides on this issue. This is a common sense package that I believe appeals to the basic values of most Kansans. I ask that you give it serious consideration and that you work with me in creating public policy that addresses all sides of the issue.

With that introduction, I will explain the major points of my bill and stand for questions.

SPEAKER PRO TEM SUSAN WAGLE

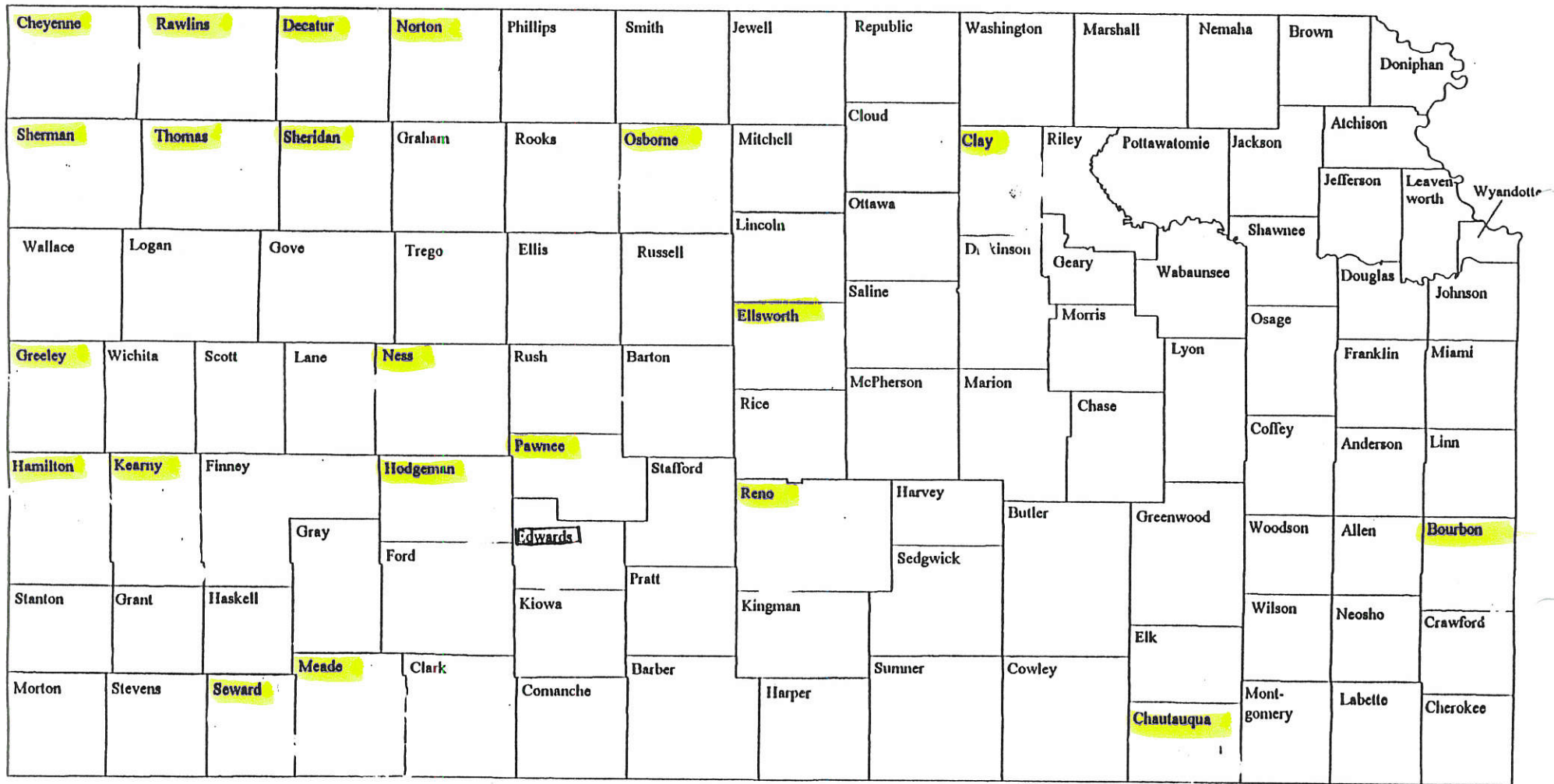
HOUSE BILL NO. 2967

An act concerning confined feeding facilities for swine:

1. Place a one year moratorium on the licensing of all new hog feeding facilities for animal units of 500 or more in counties that have voted against corporate hog operations. This would not prohibit:
 - a. Renewal of a water pollution control permit that was issued by the secretary before the effective date of this act
 - b. Issuance of a permit for:
 1. Construction to repair a component of an existing confined feeding facility for swine, waste retention lagoon or pond or animal waste management system.
 2. Construction to replace a component of an existing confined feeding facility for swine, waste retention lagoon or pond or animal waste management system, if the replacement does not result in an increase in swine population.
 3. Construction or expansion of an existing confined feeding facility for swine for the purpose of increasing the swine population to the projected population, or to the population that the animal waste management system serving the facility is designed to accomodate, as set forth in the facility's animal waste management plans approved by the department of health and environment before February 1, 1998.
 4. Construction or expansion of an existing confined feeding facility for swine, waste retention lagoon or pond or animal waste retention lagoon or pond or animal waste management system for the purpose of complying with applicable animal waste management rules and regulations and not for the purpose of increasing the swine population.
 5. Construction or expansion of a confined feeding facility for swine, waste retention lagoon or pond or animal waste management system, if the person undertaking the construction or expansion has, before February 1, 1998: (i) Laid a foundation for a component of such facility, lagoon, pond, or system; (ii) entered into a bona fide written contract for the construction or expansion of such facility, lagoon, pond or system; or (iii) been approved for a loan or line of credit.

6. Construction or expansion of an innovative animal waste management system that does not employ an anaerobic lagoon and that has been approved by the department of health and environment.
2. Require counties that have allowed corporate expansion, or have yet to vote on the matter, to meet a seepage rate on all new hog lagoons of 1/32nd inch or less per day as opposed to the 1/4th inch seepage rate in current KDHE regulations.
3. Require a setback of one mile from any habitable residence for placement of new hog lagoons and a three-mile setback from any community.
4. Offer a tax incentive of a 100% income tax credit to all swine operations in counties which have allowed corporate operations for environmentally friendly additions to lagoon systems. This credit can be applied to the cost of bentonite, synthetic liners, covers containing odor, or any processing costs to clean water or process wastes. This credit would be carried forward until the entire cost of the additions are met, and will also be applied to current lagoon systems where the owner wants to make improvements for existing swine operations.
 - a. Costs for these improvements incurred prior to January 1, 2004 may be applied against the tax liability of a taxpayer.
5. Provide low interest loans to municipalities for new waste water treatment systems and/or expansion of current waste water treatment systems from the "Kansas Water Pollution Control Revolving Fund" (KSA65-3321) for swine related operations (*i.e.*, packing or processing plants).
6. Require KDHE, in partnership with K-State scientists, after initial lagoon leakage results are analyzed, to address the following concerns and recommend to the 1999 legislature action or inaction on the following issues:
 - a. extension of the moratorium in counties that have rejected corporate operations;
 - b. permanent setback provisions;
 - c. permanent regulations for the construction of lagoons for confined hog feeding operations;

d. financial guarantees to insure any future ground water cleanup in the event of contamination.



= voted for corporate hog farms