

MINUTES OF THE SENATE ASSESSMENT AND TAXATION COMMITTEE.

The meeting was called to order by Chairperson David Corbin at 10:45 a.m. on February 11, 2002, in Room 519-S of the Capitol.

All members were present except: Senators Allen and Pugh

Committee staff present: Chris Courtwright, Legislative Research Department
April Holman, Legislative Research Department
Don Hayward, Revisor of Statutes Office
Shirley Higgins, Committee Secretary

Conferees appearing before the committee: Janet McPherson, Kansas Farm Bureau
Todd Johnson, Kansas Livestock Association
Charles Benjamin, Sierra Club

Others attending: See attached list.

The minutes of the February 6, 2002, meeting were approved.

SB 404—Tax credits for required improvements for confined feeding facilities

Janet McPherson, Kansas Farm Bureau, testified in support of **SB 404**, which would allow livestock producers to qualify for a tax credit of up to \$10,000 of costs incurred for required improvements to a confined feeding facility to comply with natural resource protection regulations. She noted that a tax credit would offset expenses of such required improvements and assist the state's agricultural producers in their stewardship of natural resources. (Attachment 1)

Todd Johnson, Kansas Livestock Association, testified in support of **SB 404**, noting that the concept of tax credits for producers with confined feeding facilities was also used in 1998 in **HB 2950**, which dealt with improvements to a qualified swine facility. He discussed the livestock industry's economic impact on the state, noting that cattle represented 62.6 percent of the 2000 Kansas agricultural cash receipts and that Kansas had 1.52 million beef cows and 36,000 farms with cattle and calves as of January 1, 2001. He pointed out that producers of beef cows and stocker cattle would benefit significantly from the bill because their feeding facilities are the type that are impacted by state regulations. He emphasized that farmers and ranchers support protecting the environment; however, they are challenged in meeting the costs of complying with increased regulations. In his opinion, it would be in the best interest of the state to help keep livestock producers in business by offering financial assistance with meeting required standards. (Attachment 2)

Senator Goodwin noted that, to date, no one has qualified for the 1998 tax credits passed for swine facilities. She asked Mr. Johnson for an estimate of the number of persons in the livestock industry who would qualify for the tax credits under **SB 404**. Mr. Johnson responded that the language in **SB 404** is less restrictive, but he had no information on the exact number of livestock producers who would qualify. He noted that there are currently 2,000 permitted facilities in the state, several of which have made required improvements prior to the effective date of the bill. He felt that the manner in which the bill was drafted would allow more producers to come under compliance.

With regard to the fiscal note on **SB 404**, Senator Lee questioned Richard Cram, Kansas Department of Revenue, regarding the need for another Department employee to approve tax credits under **SB 404** if the Department already has an employee designated to review tax credits for swine facilities under the 1998 legislation for which no one has qualified. Mr. Cram indicated that the Department anticipates increased activity based on the more liberal language in **SB 404** as opposed to the swine facility credit.

CONTINUATION SHEET

MINUTES OF THE SENATE ASSESSMENT AND TAXATION COMMITTEE at 10:45 a.m. on February 11, 2002, in Room 519-S of the Capitol.

Senator Donovan commented that it was likely that **SB 404** would apply to swine facilities. Mr. Johnson noted that **SB 404** is capped at \$10,000 for general confined feeding facilities whereas the provisions in **HB 2950** went up to 50 percent of the construction costs and only applied to qualified swine facilities, which restricts it to smaller sized operations.

Charles Benjamin, representing the Sierra Club, testified in support of **SB 404** as a means to allow small farmers to comply with the Kansas Department of Health and Environment's requirements. He said that the Sierra Club's support of the bill is consistent its policy with regard to tax credits for landowners who provide habitats for Kansas' endangered species and with regard to the use of buffer strips to prevent runoff of agricultural chemicals into nearby streams. He noted that the Sierra Club has become concerned with the increase in the size of confined animal feeding operations and the use of lagoons. He emphasized the Sierra Club has a bias toward small farmers and would have a problem with supporting tax credits for large operations who most likely could afford to make required improvements. He acknowledged that the bill has no provision regarding the size of the facility, but it offers a solution not currently available.*

There being no others wishing to testify, the hearing on **SB 404** was closed.

The meeting was adjourned at 11:00 a.m.

The next meeting is scheduled for February 12, 2002.

*Mr. Benjamin submitted written testimony on February 12. (Attachment 3)

SENATE ASSESSMENT AND TAXATION COMMITTEE GUEST LIST

DATE: February 11, 2002

NAME	REPRESENTING
Janet H. Peterson	Kansas Farm Bureau
Richard Gram	KDOR
Kyle Kessler	DAB
Judd Johnson	KS Livestock Assn.
Helen Pedigo	Governor's office
GARY DAVENPORT	KS MOTOR CARRIERS ASSN
Deann Williams	KS Motor Carriers Assoc.
Sh. Harsch	KDHE
David Wyson	citizen
Joe Fund	KDHE
Tom Bryno	GBBA
Chad Kelso	KTN
John C. Botenberg	Ks. Park Assoc.
Kevin Barone	Hein Law Firm
Bill Brady	KS Gov + Consulting
MIKE REECHT	KS Gov's CONSULTING



Kansas Farm Bureau

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PUBLIC POLICY STATEMENT

SENATE COMMITTEE ON ASSESSMENT & TAXATION

RE: SB 404 – Relating to tax credits for required improvements for confined feeding facilities.

**February 11, 2002
Topeka, Kansas**

**Presented by:
Janet McPherson, Assistant Director
Public Policy Division**

Chairperson Corbin and members of the Senate Assessment and Taxation Committee, thank you for the opportunity to appear today in support of SB 404. My name is Janet McPherson, and I serve the members of Kansas Farm Bureau as Assistant Director of Public Policy.

Senate Bill 404 would allow livestock producers to qualify for a tax credit of up to \$10,000 of costs incurred for required improvements to a confined feeding facility. Natural resource protection is important to the members of Kansas Farm Bureau. Our members accept reasonable regulation and are concerned about groundwater and surface water. Kansas Farm Bureau policy states:

Since the protection of natural resources is vital to all Kansans, and important for future generations of Kansans, we support creating a dedicated source of funding, expanding cost-share programs, creating tax incentives and establishing a state revolving loan-fund for resource protection. A program that would provide additional support to protect and enhance natural resources must ensure farmers, ranchers and rural residents are treated fairly and that property rights are protected.

There must be adequate funding to assist landowners with projects like implementing the Total Maximum Daily Load (TMDL) requirements, installing stream buffers, constructing livestock waste management facilities, developing crop and livestock best management

*Senate Assessment & Taxation
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Attachment 1*

practices, treating highly erodible lands, plugging abandoned wells and upgrading rural septic systems.

--- Kansas Farm Bureau supports the proposition of tax credits for agricultural producers who must make improvements to their livestock operations to comply with regulations. We recognize that the funding needs for such enhancements far surpass the limited resources available today. Therefore, a tax credit would offset expenses of required improvements and assist the state's agricultural producers in their stewardship of natural resources. Kansas Farm Bureau respectfully requests the committee act favorably on SB 404.

Thank you.

Kansas Farm Bureau represents grassroots agriculture. Established in 1919, this non-profit advocacy organization supports farm families who earn their living in a changing industry.



Since 1894

To: Senate Assessment and Taxation Committee
Senator David Corbin, Chairman

From: Todd Johnson, Kansas Livestock Association Governmental Affairs Staff

Re: Support of **SB 404** – An act concerning taxation; relating to tax credits for required improvements for confined feeding facilities.

Date: February 11, 2002

Thank you for the opportunity to appear before your committee and offer support for SB 404. This bill, if passed, would provide an income tax credit for farmers and ranchers who make improvements, as required by the Kansas Department of Health and Environment, to their confined feeding facilities. The tax credit would be capped at \$10,000.

Tax credits for producers with confined feeding facilities are not a new concept and were used in HB 2950 in 1998. The provision in KSA 79-32,204, item 3(b) offers an income tax credit up to 50% of costs incurred by the taxpayer for required improvements to a qualified swine facility. (A copy of the statute is attached.) Passage of SB 404 would offer a similar provision for owners of other confined feeding facilities.

Let me begin by stating it would be irresponsible to appear before your committee and request legislation providing financial benefits to our producer members without acknowledging our state's current economic status. I hope my comments can provide a greater awareness of the economic impact the livestock industry has on our economy; thus why this legislation warrants your consideration. Attached to my testimony is a summary of the livestock industry's economic impact. I would like to touch briefly on the information highlighted below:

- Cattle represented 62.6% of the 2000 Kansas agricultural cash receipts. (*Kansas Ag Statistics*)
- Cattle generated \$4.95 billion in cash receipts during 2000, more than double that generated by the state's second largest ag commodity, wheat. (*Kansas Ag Statistics*)
- Kansas beef industry statistics:
 - 8.21 million head processed - 2000
 - ✓ **1.5 million stockers grazed annually**
 - ✓ **1.5 million stockers backgrounded annually**
 - ✓ **1.52 million beef cows on Jan. 1, 2001**
- Kansas ranked seventh nationally in beef cow numbers as of January 1, 2001, with 1.52 million head. (*Kansas Ag Statistics*)
- Kansas has **36,000 farms with cattle and calves** as of January 1, 2001. (*Kansas Ag Statistics*)

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Attachment 2

The bolded items, relating to beef cows and stocker cattle, indicate the type of producer who would benefit significantly from this legislation because they have the feeding facilities impacted by state regulations. Smaller producers have limited ability to capitalize increased overhead costs for environmental compliance.

Livestock production in Kansas has changed significantly from when my grandfather fed cattle on our farm over 60 years ago. Innovation has allowed us to make greater use of natural resources, experience improved performance, and ultimately produce a better product for the consumer. However, the biggest change facing our industry is dealing with increased environmental regulations.

Farmers and ranchers support protecting the environment and go to great lengths to do so. However, producers are challenged to meet the costs of complying with increased regulations. These costs are difficult, if not impossible, for a cow-calf or stocker operator to absorb. In many cases, the only option producers have to comply with regulations is to relocate their feeding facilities or shut down completely. The result of either option damages the financial viability of the farm or ranch.

The issue of environmental compliance for livestock feeding facilities is of high priority to our members. I believe the same holds true for many legislators, as this topic was included on the agenda at field hearings hosted by the Special Committee on Agriculture last fall. SB 404 was drafted as a result of requests made during those hearings.

If a facility closes, the livestock industry's significant impact on the state's economy begins to deteriorate. Would it be in the best interests of our state to offer those producers, who are meeting required standards, financial assistance to help keep them in business? Would the short-term financial investment of this legislation, via a controlled tax credit, provide greater long-term returns to our state via a healthy livestock industry, rather than closed businesses that stand no chance of generating tax revenue?

Thank you. I would be happy to answer questions or provide further information at the appropriate time.



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79-32,204

Chapter 79.—TAXATION Article 32.—INCOME TAX

79-32,204. Tax credit for required improvements to qualified swine facility. (a) As used in this section:

(1) Terms have the meanings provided by K.S.A. 2000 Supp. 65-1,178 and amendments thereto.

(2) "Qualified swine facility" means a swine facility that: (A) Is owned and operated by a sole proprietorship or partnership or by a family farm corporation, authorized farm corporation, limited liability agricultural company, family farm limited liability agricultural company, limited agricultural partnership, family trust, authorized trust or testamentary trust, as defined by K.S.A. 17-5903 and amendments thereto; and (B) is utilizing its swine waste management system on January 1, 1998.

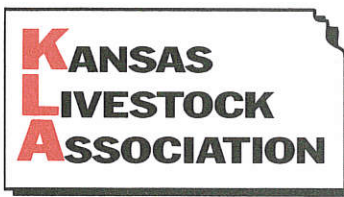
(3) "Required improvements to a qualified swine facility" means capital improvements that the secretary of health and environment certifies to the director of taxation: (A) Are required for a qualified swine facility to comply with the standards and requirements established pursuant to K.S.A. 2000 Supp. 65-1,178 through 65-1,198 or pursuant to the amendments made by this act to K.S.A. 65-171d; and (B) are not required because of expansion for which a permit has not been issued or applied for before the effective date of this act.

(b) There shall be allowed as a credit against the tax liability of a taxpayer imposed under the Kansas income tax act an amount equal to not more than 50% of the costs incurred by the taxpayer for required improvements to a qualified swine facility. The tax credit allowed by this subsection shall be deducted from the taxpayer's income tax liability for the taxable year in which the expenditures are made by the taxpayer. If the amount of such tax credit exceeds the taxpayer's income tax liability for such taxable year, the taxpayer may carry over the amount thereof that exceeds such tax liability for deduction from the taxpayer's income tax liability in the next succeeding taxable year or years until the total amount of the tax credit has been deducted from tax liability, except that no such tax credit shall be carried over for deduction after the fourth taxable year succeeding the year in which the costs are incurred.

(c) The provisions of this section shall be applicable to all taxable years commencing after December 31, 1997.

(d) On or before the first day of the 1999, 2000 and 2001 regular legislative sessions, the secretary of revenue shall submit to the senate standing committee on energy and natural resources, the house standing committee on environment, the senate standing committee on assessment and taxation and the house standing committee on taxation a report of the number of taxpayers claiming the credit allowed by this section and the total amount of such credits claimed by all taxpayers.

History: L. 1998, ch. 143, § 28; May 7.



Since 1894

Kansas Beef Facts

Kansas ranks first in the number of commercial cattle processed with 8.21 million head (2000).

Kansas ranks second in the value of live animals and meat exported to other countries at \$969.7 million (2000).

Kansas ranks second in the nation in the value of hides exported to other countries at \$286.7 million (2000).

Meat packing and prepared meat products manufacturing provide employment for over 18,700 employees in Kansas. These groups make up the largest share of the food processing industry in Kansas, which is the states second largest industry, exceeded only by transportation manufacturing.

Kansas ranked second in fed cattle marketings with 5.37 million head (2000). That represents 22.3% of all cattle fed in the United States.

Kansas ranks second in total red meat production at 6.34 billion pounds (2000).

Kansas ranks seventh in the nation in the number of beef cows. There are 1.52 million head of beef cows on Kansas farms and ranches (2001).

Cowley County has the most beef cows in Kansas, with Greenwood County second. Phillips, Bourbon and Ellis counties round out the top five beef cow counties in the state (January 1, 2000).

Scott County has the most cattle on feed in Kansas, with Haskell County second, followed by Finney, Gray and Ford (January 1, 2000).

Kansas has 36,000 farms with cattle and calves (2001).

Cattle are the ideal mechanism for efficiently utilizing grasses and plants growing on the 17.8 million acres of Kansas pasture and rangeland (1997 census). These acres are not suited for the production of cultivated crops and would be wasted if it were not for ruminants, such as cattle, turning these resources into essential protein and nutrients for human use.

The Kansas cattle industry generated nearly \$4.95 billion in cash receipts (2000). Kansas is often referred to as the "Wheat State"; however cash receipts for wheat total less than half those of beef.

Revised 1/2002

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February 11, 2002

Testimony before the Senate Assessment and Taxation Committee
In favor of Senate Bill No. 404

On Behalf of the Kansas Chapter of the Sierra Club

I am presenting this testimony today on behalf of the Kansas Chapter of the Sierra Club. The Sierra Club is the largest grass roots environmental organization in the world with over 700,000 members, including 4,000 members in the Kansas Chapter. The mission of the Sierra Club is: To explore, enjoy, and protect the wild places of the earth; to practice and promote the responsible use of the earth's ecosystems and resources; to educate and enlist humanity to protect and restore the quality of the natural and human environment; and to use all lawful means to carry out these objectives. The public policies that the Sierra Club supports can be found at the web site for the national Sierra Club at www.sierraclub.org and the web site of the Kansas Chapter at www.kssierra.org.

The Kansas Chapter of the Sierra Club is in favor of Senate Bill No. 404 that would provide tax credits in an amount not greater than \$10,000 for any taxpayer who makes required improvements to a confined animal feeding facility.

The Sierra Club in Kansas and throughout the United States has been concerned for the past decade about the growth in size of confined animal feeding operations for chickens, swine and cattle and the use of anaerobic earthen lagoons and spray field technology to dispose of swine and cattle feces and urine. Research done at Kansas State University on anaerobic earthen lagoons for the storage of swine waste (funded by the taxpayers of Kansas) shows that ammonia builds up at the bottom of these lagoons. This research shows that this ammonia does not migrate or cause harm so long as the bottom of the lagoon does not dry up and expose the ammonia to oxygen. When that happens, the ammonia turns to nitrate and can migrate very rapidly into groundwater. This is precisely what happens when a lagoon is closed and no liquids are added. Since the Kansas legislature has failed to pass legislation requiring the owners of these lagoons to clean them up after closure or to post bonds for post closure clean up, these polluted lagoons could end up costing the taxpayers of the state millions of dollars in post closure clean up. It is therefore critical that these lagoons be constructed properly when they are sited. In addition, anaerobic earthen lagoons cause odors and toxic gases that can be harmful to anyone exposed to such odors and gases.

The Kansas Chapter of the Sierra Club has supported legislation in recent years that provides tax credits to landowners who provide habitat to Kansas threatened and endangered species and tax credits to riparian landowners who plant trees and grasses to create "buffer strips" in order to prevent agricultural runoff, the greatest source of impairments to Kansas rivers and streams. Similarly, the Kansas Chapter of the Sierra Club supports this proposed legislation.

The Sierra Club promotes policies that promote the concept of "polluter pays." That means that polluters should pay for their pollution and not pass those costs on to others. The Sierra Club also supports incentives to polluters to prevent pollution. Pollution prevention is always preferable to pollution cleanup. For these reasons we wish to join the Kansas Farm Bureau and Kansas Livestock Association in support of SB 404. Thank you for your time and attention.

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Attachment 3