

MINUTES OF THE HOUSE COMMITTEE ON AGRICULTURE.

The meeting was called to order by Chairman Dan Johnson at 3:30 p.m. on February 24, 2003, in Room 423-S of the Capitol.

All members were present except:

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

Conferees appearing before the committee:

Don Teske, President, Kansas Farmers Union
Malcolm Moore, Director, R-CALF
Mike Schultz, Executive Director, Kansas Cattlemen's Association
David Pfrang, Goff, Kansas
Steve Cady, Executive Director, Organization for Competitive Markets
Mike Beam, Senior Vice President, Kansas Livestock Association
Larry Jones, President, Kansas Livestock Association (written only)
Tracy Brunner, Ramona, Kansas
Patrick Hubbell, Tyson Foods, Inc. (IBP)
Leslie Kaufman, State Director, Governmental Relations, Kansas Farm Bureau

Others attending: See attached list

Minutes of the February 17 and 18 meetings were distributed. Members were asked to notify the committee secretary of any corrections or additions prior to 5:00 p.m. February 26, or the minutes will be considered approved as presented.

Discussion and action on HB 2168 - Preservation of historic property consistent with farming and ranching operations.

Chairman Johnson opened discussion on **HB 2168**. Raney Gilliland explained that the language in the original bill would exempt persons proposing changes to land within 500 feet of a historic property if those changes are consistent with generally accepted agricultural practices. The committee was reminded that a **Proposed Substitute for HB 2168** was discussed at the hearing that would remove all environs language and codify the practice of the Historical Society that no property is placed on the state register without the support and approval of the landowner.

A **second Proposed Substitute for HB 2168** was distributed. In addition to the changes proposed in the first substitute proposal, this version would remove the requirement that the State Historical Society maintain a listing of historic places on the national register of historic places and would delete the term "encroach upon" from the language of the bill. (Attachment 1)

Representative Dahl moved to recommend the second Proposed Substitute for HB 2168 favorable for passage. The motion was seconded by Representative Ostmeyer. Committee discussion ensued.

Representative Thimesch moved to table HB 2168. Seconded by Representative Showalter, the motion carried.

Hearing on HB 2167 - Prohibiting ownership of livestock by packers.

Chairman Johnson opened the hearing on **HB 2167**. Raney Gilliland explained that this bill would prohibit a packer from directly or indirectly owning livestock for the production of livestock or livestock products, except that temporary ownership would be allowed for 14 days prior to slaughter. The bill defines livestock as live cattle or swine and a packer as someone engaged in the business of slaughtering livestock in Kansas

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in excess of 1.0 million animal units per year. The bill would also impose limitations on the pricing of livestock. Violations would be handled by the Attorney General or county or district attorney.

Don Teske, President, Kansas Farmers Union, spoke in support of **HB 2167** to ban packer ownership of livestock. Kansas Farmers Union believes prohibiting packer ownership of livestock is important in restoring competitive and healthy agricultural markets. Although this is a national issue, he said that sometimes federal policy shifts have to be directed by state mandates. ([Attachment 2](#))

Malcolm Moore, Director, R-CALF, testified in support of **HB 2167**. He reported that five other states currently have bans on packer ownership and that the U.S. Senate passed a ban on packer ownership that was stripped in conference committee last year. Neither Kansas Senator voted for the ban when it passed the full Senate. ([Attachment 3](#))

Mike Schultz, Executive Director, Kansas Cattlemen's Association, appeared in support of **HB 2167**. Copies of a Beef Study dated July 29, 2002, conducted by a research firm in Dodge City is included with his testimony. ([Attachment 4](#)) An article on *The 2002 Senate Farm Bill: The Ban on Packer Ownership of Livestock* written by agricultural lawyers, Associate Professor Dr. Roger McEowen from Kansas State University, Dr. Peter Carstensen from the University of Wisconsin, and Dr. Neil Harl from the University of Iowa, published in the Drake Journal of Agriculture Law was also provided.

David Pfrang, Goff, Kansas, testified in support of **HB 2167** to provide an open and competitive marketplace, free from undue influences by the packing sector. ([Attachment 5](#))

Steve Cady, Executive Director, Organization for Competitive Markets, appeared in support of **HB 2167**. OCM works on issues of market power, market structure and market conduct. The written testimony of Michael C. Stumo, legal counsel for the Organization for Competitive Markets, presented to the U. S. Senate Committee on Agriculture, Nutrition and Forestry on July 16, 2002, is included with his testimony. ([Attachment 6](#))

Mike Beam, Senior Vice President, Kansas Livestock Association, appeared in opposition to **HB 2167**. KLA is opposed to **HB 2167** because the bill (1) would restrict and/or prohibit marketing arrangements currently used by their members; (2) would impose state marketing guidelines that would be inconsistent with, and in contrast to, existing federal rules governed by USDA; and (3) likely would violate the Commerce Clause of the United States Constitution. ([Attachment 7](#))

Larry Jones, President, Kansas Livestock Association, submitted written testimony in opposition to **HB 2167**. He reported that it was the consensus of a Four-State Working Group, including KLA, Texas Cattle Feeders Association, Colorado Livestock Association, Nebraska Cattlemen's Association and the Kansas Cattlemen's Association, that getting the government involved in deciding who can own cattle was not the answer. He reported that South Dakota and Missouri have tried similar legislation with disastrous effects on producers. He noted that a federal court recently ruled an Iowa law banning pork processors from directly or indirectly owning, operating, or controlling pork production unconstitutional in violation of the Commerce Clause of the United States Constitution. ([Attachment 8](#))

Tracy Brunner, Ramona, Kansas, appeared as an opponent to **HB 2167**. He believes that any law beyond what is currently in effect at the federal level will stymie innovation and limit future marketing opportunities. ([Attachment 9](#))

Patrick Hubbell, representing Tyson Foods, Inc. (IBP), testified in opposition to **HB 2167** stating that it would violate the Interstate Commerce Clause of the U.S. Constitution as similar legislation did in Iowa. He said that prohibiting packer ownership could cause financial detriments to those independent producers who raise livestock for packers under contract and have financed their operations based on those contracts. He noted that almost all contracts that Tyson/IBP enters into with producers are requested by producers. Forced liquidity of livestock and livestock operations by the packers could also have negative impacts. He thought that such a law would be more appropriate at the federal level in order to avoid violations of ICC or to put producers in one state at a disadvantage over other states. ([Attachment 10](#))

Leslie Kaufman, State Director, Governmental Relations, Kansas Farm Bureau, discussed **HB 2167** and American Farm Bureau Federation policy concerning packer ownership of cattle and swine and base pricing

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in formula and grid pricing arrangements. In January 2003, AFBF removed policy language to prohibit packer ownership of livestock for more than 14 day prior to slaughter. Thus, Kansas Farm Bureau does not support a ban on packer ownership of livestock. AFBF did approve language that contracts and marketing agreements should specify a negotiated base price before commitment to delivery. Therefore, Kansas Farm Bureau does partially support this concept—the significant difference is that AFBF policy is permissive and the bill is mandatory. KFB likes the fact that enforcement is vested in the court system and not administrative procedures. (Attachment 11)

The hearing on **HB 2167** was closed.

The Chairman announced that the House Committee on Agriculture will be meeting informally at noon on Wednesday, March 5, in Room 423-S. Dr. Ralph Richardson, Dean of the College of Veterinary Medicine will provide an update on the veterinary program at Kansas State University.

The meeting adjourned at 5:30 p.m. The next regular meeting is scheduled for March 5, 2003 at 3:30 p.m. in Room 423-S.