

Written Testimony in opposition to SB 405 for March 6, 2018

To: House Agriculture Committee, Chairman Kyle Hoffman and members of the committee

My name is Charlene Sims. I am here to testify about SB 405 and the damage it would cause for the people of Kansas, the people that you represent.

While I do not officially represent the Linn County, Kansas, Planning and Zoning Board, I am the current chair of that board and have served on it for over two decades. Through my involvement in both local and regional planning issues, I feel I am qualified to speak to the impact SB 405 would have on rural communities.

This bill would allow large chicken confined feeding facilities in Kansas counties without going through the process of local zoning hearings or conditional use permits. This takes away local control from the county and the residents in those counties.

When applicants go through the zoning and permitting process in a county, the planning board takes into consideration the infrastructure needed, the advantage or disadvantage to the county and its residents, concerns of people already living in the area, and the impact on the county's resources. This includes water availability, water pollution, air quality, housing availability and educational needs for increased population in the county – as well as many other factors.

Having been on the planning board in the county for 20 some years, I have seen considerable frustration from having the board's hands tied when it comes to regulating confinement facilities in the county.

Some examples of that are:

- A family who has lived on their family farm for more than 50 years who no longer count on enjoying being outside on their property – and sometimes inside their house – because a local farmer has set up a cattle feedlot 1/8 mile upwind from their property. There is no way to control this under current regulations. The family has been to KDHE because they feel that the contaminated runoff from the feedlot impacts area streams. But KDHE does not regulate this for feedlots under 300 units.
- In another case, a person has come into the western part of the county and set up a feedlot along a county highway. Our county is on the eastern side of the state where there are rolling hills that are – or at least used to be – as beautiful as the Flint Hills. Our strategic plan that was developed from the input from all residents who attended several meetings in the county, has as a main priority to keep the beauty of the county, limiting excessive small acreages and development along highways that interfere with this. This is one of the issues we look at in zoning. We require that salvage yards are screened but we cannot regulate anything that is agriculture related. The producer who has this feedlot on the west side of the county lives on the east side of the county and probably does not want this in his backyard.

- Many producers are skirting the feedlot-size issue by breaking their operations into smaller units on different lots that will fly under KDHE radar in terms of maximum size. However, because they may only be a half-mile apart, their impact on the neighbors is equal to a large feedlot. That impact is even more significant because the weather in eastern Kansas tends to be humid compared to the drier conditions in the western part of the state.

In many counties, particularly those within an hour's drive to metropolitan areas, agricultural tourism has blossomed over the last decade. Wineries, bed and breakfast inns, you-pick farms and other value-added enterprises, have added economic diversity to rural areas. These enterprises are often costly to develop, have a negligible effect on neighboring properties, and are covered by local zoning regulation. Without local zoning authority to control placement of a poultry facility, a "build-anywhere" statute could cost those business owners millions in lost property values and lost revenue.

By approving SB 405, you do more to protect the economic interests and bottom line of companies like Tyson than you do to protect the interests of residents of the state.

Zoning is a very difficult balancing act in any location, trying to take into consideration the concerns and rights of all people involved. But in an agricultural area it is even more difficult. If people and businesses were actually considerate of their neighbors, this would not be a concern. In fact, I believe that the legislators who took the power to make zoning decisions away from counties are good men who expected that others would be considerate of their neighbors.

Companies like Tyson that base their operations on high-volume, high-population production facilities, do not care whose lives they disrupt or make miserable. Tyson has a record of being a poor neighbor in other areas where they have poultry facilities. An example of these facilities are in Arkansas where there are many. A few years ago we stayed in a cabin in Eureka Springs, Arkansas, overlooking the valleys where many of these facilities were located. The smelly steam would rise up from the facilities permeating the air even miles away. Tyson says they now have a dry manure method that works better.

If after considering the benefits and costs of large confinement poultry facilities, the consensus of county residents is to allow such a facility to be built, they should be allowed to do so as long as adequate resources and water protection are part of the plan. But don't take away the ability of counties to control their destinies.

I ask that you put SB 405 aside and rethink the whole matter. This has been an issue for rural counties for many years. Instead of making it worse, I ask that you again look at the current statute that does not allow counties to regulate agriculture, specifically any kind of confined feeding facilities.