Testimony of Joe Logan, President, Ohio Farmers Union
Ohio Senate Committee on Agriculture
Substitute H.B. 490
December 3, 2014

Chairman Hite, Vice Chairman Balderson, Ranking Member Gentile and members of the Committee:

I am Joe Logan, a family farmer from Trumbull County and president of the Ohio Farmers Union. OFU represents 4,500 farming families and consumers around Ohio who are committed to preserving and growing opportunities for family-sized, independent farmers and local and regional food systems in Ohio.

We appreciate the opportunity to present testimony on Substitute H.B.490. As a broad ranging, omnibus bill, this important legislation deals with many issues in many ways. It defies easy characterization. Therefore, we present today’s testimony as an Interested Party.

As with many complex, broad ranging pieces of legislation, we can support some aspects of the bill, while strongly opposing others. One of the most onerous changes that have found their way into the House-passed version was the inclusion of a telecommunications issue that is critically important to our members in rural communities all across Ohio.

The proposed changes to ORC Section 4927.10 would allow traditional telecommunications providers to abandon their long-standing obligation to provide basic local exchange communications services to rural communities. These services have been and continue to be critically important to many Ohio citizens, especially those elderly citizens in rural communities, where cellular service is unavailable or unreliable.

While we understand the telco’s desire to adjust their own infrastructure to more modern means, as rural residents we have been promised for years more reliable cellular coverage and broadband Internet service. For too many in rural Ohio, these are promises unfulfilled. In fact, many rural Ohioans still do not have Internet access.

This provision seems to be a generous gift to the telecom industry, at the expense of rural citizens. It has only a peripheral relationship to the many other agriculture and natural resources issues in the bill. We urge the Senate to remove these provisions and preserve the long-standing guarantee of reliable, affordable telephone service that has provided security and convenience to rural communities for decades.
OFU is supportive of many of the proposals that increase transparency and accountability of actions and operations associated with the growing oil and gas drilling industry in Ohio. We are pleased to see that penalties for intentional acts of water pollution would be increased under this bill. We believe that providing the ability for Ohio’s county prosecutors to bring felony charges against those who knowingly pollute our land, streams and rivers can be a powerful deterrent to potential polluters.

OFU is also supportive of increased penalties under the bill for the improper disposal of brine created from fracking. There is a growing concern among our membership over the disposal of brine in injection wells. The fact that Ohio is not only a dumping ground for its own waste – but millions of gallons of waste from neighboring states - heightens OFU’s concerns. Additionally, we support provisions in H.B. 490 that are geared toward the tighter regulation of the transportation of brine.

The OFU had welcomed the ODNR proposal for an online database accessible 24-hours a day by first responders. This database would house information about ingredients of fracking fluid and brine waste from shale gas production and waste disposal facilities. We are very disappointed that the ODNR proposal has been replaced in the House passed version by a far more complex third party arrangement. We Urge the Senate to incorporate the ODNR proposed 24-hour online data base into HB490.

OFU is essentially neutral on H.B. 490’s transfer of authority over the Agricultural Pollution Abatement Program from the Ohio Dept. of Natural Resources (ODNR) Division of Soil and Water to the Ohio Dept. of Agriculture (ODAg). We are, however, seriously concerned that Soil and Water Conservation Districts (SWCDs) have expressed their opposition to the move. Local SWCDs have long-standing and very functional relationships with local farmers and with the ODNR. We share the anxiety expressed by many in the conservation community about the potential for a rough transition from SWCDs being a cooperative conservation agency to becoming an Ag pollution cop on the beat.

That issue aside, The OFU is supportive of the initiatives included in HB490 that will prohibit the surface application of chemical fertilizer and manure on frozen, saturated or snow covered ground or when significant precipitation is anticipated. Such prohibitions are consistent with sound, replicated scientific research and with long-standing recommendations by USEPA, NRCS and state agencies.

Although these measures may not be a silver bullet for Ohio’s water quality issues, they do provide a good basis upon which to build a strong set of protective measures for Ohio’s surface water concerns and to foster better public policy with regard to Ohio’s growing nutrient pollution in watersheds such as Lake Erie.
The OFU has long counseled Ohio legislative and agency leaders that, if they were to decide to adopt a regulatory system to address agricultural pollution, they should do so according to a targeted and limited system. We appreciate that fertilizer and manure application restrictions only in the Western Lake Erie Basin certainly qualify as targeted, but add the caveat that the enormous Western Lake Erie Basin (nearly 4.5 million acres), provides many opportunities for more precise targeting to the many sub watersheds. More precise targeting, predicated upon monitoring, would make the most effective use of the resources of the state in addressing Ohio’s water quality issues.

We Urge the Directors of ODAg, OEPA and ODNR to work with federal agencies to coordinate a system of water quality monitoring that can serve as a platform for more efficient and effective targeting of resources.

We would also like to suggest the following measures to strengthen Ohio’s Ag Pollution Abatement and CAFO permitting programs:

1. Establish procedures for all owners or operators of animal feeding operations and Certified Livestock Managers (CLMs) to report the amount of manure delivered to other persons, the location to which it is delivered, soil tests for the receiving locations and the rate at which it was applied.
2. Establish procedures by which aggregated data or information included within nutrient management plans might be accessed by agency officials for the purpose of developing regional or watershed pollution abatement strategies or the Mass Balance Study Authorized in HB490. We hastened to add that every precaution should be taken to prevent disclosure of proprietary or sensitive information.
3. Strengthen Ohio’s nutrient management effectiveness by including manure in the definition of fertilizer to be covered by the certification program established in SB 150. This will assure that applications of nutrients are done under the oversight of a knowledgeable operator.

Chairman Hite, Vice Chairman Balderson, Ranking Member Gentile, thank you for the opportunity to provide this written testimony on Substitute H.B. 490.

Respectfully Submitted,
Joe Logan
President, Ohio Farmers Union