

## MINUTES OF THE HOUSE AGRICULTURE & NATURAL RESOURCES COMMITTEE

The meeting was called to order by Chairman Larry Powell at 9:00 a.m. on March 15, 2012, in Room 783 in the Docking State Office Building.

All members were present except:

Representative Michael Peterson (Unexcused)

Committee Staff Present:

Randy Gilliland, Kansas Legislative Research Department

Sean Ostrow, Office of the Revisor of Statutes

Chris Sevedge, Kansas Legislative Research Department

Joyce Hladky, Committee Assistant

Conferees appearing before the committee:

Joyce Wolf, Audubon of Kansas

Ginny Moore, Executive Director, Kansas Land Trust

Stanley Rasmussen, Department of the Army

Rob Manes, Nature Conservancy

Mike Beam, Ranchland Trust of Kansas

Patty Reece, Landowner

Others attending:

See Attached List.

Chairman Powell welcomed the Committee and opened the floor for continuation of hearings on **HB2587 limiting duration of conservation easements.**

Joyce Wolf, Audubon of Kansas, presented testimony in opposition of **HB2587**. Ms. Wolf provided the history of **HB2587** and her involvement in the original bill. The groups involved in advocating for conservation easement bill were aware of several landowners who shared a common vision for the preservation of certain features of their property that they wanted to maintain forever. Bu at that time the mechanism was not available in Kansas. Thus the conservation easement bill was introduced and passed with bi-partisan efforts in both the Kansas Senate and House.

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Ms. Wolf shared the story of Mr. Thomas Aiken who was the first grantor of a conservation easement on his property in Kansas and dedicated it to his wife for her love of the land and her dedication to 4-H and local garden clubs. It was Mr. Aiken's desire to preserve the wildflowers that grew on his land as a perpetual monument to the memory of his wife. It was Mr. Aiken's intent to have this patch of native prairie remain intact and protected from development.

Ms. Wolf thanked the Committee and stood for questions. (Attachment 1)

Ms. Ginny Moore, Executive Director, Kansas Land Trust presented testimony in opposition to **HB2587**.

Kansas Land Trust is a private, nonprofit organization which has been in existence in Kansas for over 20 years. The mission of Kansas Land Trust is to partner with Kansas landowners who come to them, purely on a voluntary basis, to help them preserve their lifestyle and their heritage, by protecting the ecological, agricultural, recreational, scenic or historic qualities of their land forever. Most of the land owners who come to the Land Trust are farmers or ranchers, small business owners trying to preserve their Kansas livelihoods for the benefit of their children.

Kansas Land Trust uses a voluntary agreement as a tool to fulfill the landowner's wish for perpetual conservation easement. The agreement gives or sells to Kansas Land Trust the "bundle of rights" that come with the right to use the land as he or she has been using it and allows the landowner to see the land whenever and to whomever the landowner chooses. Kansas Land Trust received its first easement back in 1994. The easement is still held by Kansas Land Trust and they intend to keep it forever. To date, Kansas Land Trust has placed perpetual conservation easements on 45 properties in Kansas, preserving 1,600 acres of land.

Kansas Land Trust's members, staff, and Board of Directors are strong believers in private property rights. The organization believes the work they do helps property owners to be able to exercise those rights, one of which is to preserve the unique qualities of their land.

In addition to assisting landowners, perpetual conservation easements provide a number of important benefits to the state of Kansas and the public at large. Conservation easements protect important natural resources, such as high quality soils, native grazing lands and important water for the use and enjoyment of our children and grandchildren.

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Kansas landowners voluntarily place their land in perpetual conservation easements because they love their land. To restrict a landowner's right to preserve their labor of love for future generations to enjoy is unfair and unjust. (Attachment 2)

Ms. Moore answered questions of the Committee.

Mr. Stanley Rasmussen, Department of the Army, presented testimony in opposition to **HB2587**.

The military's need to train as we fight, employing modern weapons systems in live-fire training of soldiers, sailors, marines and airmen is critical to readiness and the Army's ability to execute our national security mission. Incompatible development jeopardizes our capacity to conduct realistic training within the boundaries of an installation – leaving far less land and air space open to training and testing. At some point this trend so severely limits the usefulness of a military base that the Department of Defense is forced to shutter the facility and move training and testing operations elsewhere.

It is important to note that K.S.A. 58-3810 through 58-3812 are based on Uniform Conservation Easement Act as published by the National Conference of Commissioners on Uniform State Laws (NCCUSL). With Kansas being one of the 21 states which have enacted the Uniform Act, modifications would be better addressed at the national level with NCCUSL.

While the Department of Defense is opposed to **HB2587**, the Department of the Army would welcome the opportunity to work with the Committee on this and any future matter that may affect Defense installations and agencies in the state of Kansas. (Attachment 3)

Mr. Rasmussen thanked the Committee and answered questions.

Mr. Rob Manes, presented testimony on behalf of The Nature Conservancy in opposition of **HB2587**.

Conservation easements are among the most important tools for conserving Kansas' key agricultural and ecological landscapes. They are voluntarily entered into and rely on partnerships between private landowners and private land trusts, guided by federal and state

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laws. Conservation easements like restrictive covenants (which have been used for many decades), allow landowners to protect important characteristics of their properties, as well as financial values those characteristics may entail. They provide significant public benefits by leveraging diverse resources through a process that is governed primarily by landowners' long-term goals.

The Nature Conservancy opposes **HB2587** because it would negate the public benefits and the private land owners' rights. Specifically, this bill presents the following significant liabilities:

1. It assumes the state's government is better positioned than the landowner to make long-term decisions about an individual's or family's land stewardship legacy.
2. It would deny Kansas access to one of the most powerful and cost-effective tools for protecting important natural resources.
3. It would deny private land owners the right to access legitimate values of their land.
4. It would deny private landowners the ability to generate important revenues.
5. It would drastically reduce or eliminate the land owner federal income tax benefits of donated or partially donated easements.
6. It would drastically reduce appraisal values of purchased easements; and could completely eliminate financial benefits to landowners.
7. Due to preceding events, it would prevent use of conservation easements in Kansas, thereby eliminating an important conservation tool that benefits all Kansans.
8. It would drastically reduce Kansans' access to long-standing and important federal agricultural program funding that is effectively leveraged with private funds to acquire conservation easements.

**HB2587** would extinguish the many private and public benefits of conservation easements, and it would deny private property owners' rights to steward their lands' most valued characteristics for future generations. (Attachment 4)

Mr. Manes thanked the Committee and answered questions.

Mike Beam, Director, Ranchland Trust of Kansas, presented testimony in opposition to **HB2587**.

The Ranchland Trust is opposed to **HB2587** because the bill would:

- a. Jeopardize opportunities for landowners to sell conservation easements in the future.
- b. Make Kansas conservation easement grantors (landowners) ineligible for the federal income tax deduction.

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- c. Rescind the fundamental benefit and value of the 1992 Kansas conservation easement act.
- d. Strip Kansas landowners of a property right that is available under current law.

The Kansas conservation easement statutes allow a grantor (landowner) to assign a conservation easement for a time period designated by the provisions of the conservation easement deed. The law does not prohibit a conservation easement from being less than perpetual in duration.

**HB2587** would limit conservation easements in Kansas to no more than 50 years or for the lifetime of the grantor. In addition the bill would allow a grantor to revoke the conservation easement at any time.

Ranchland Trust of Kansas urges the Committee to reject **HB2587**. In addition, we suggest the Kansas Legislature consider more positive measures such as a dedicated source of funds to help purchase conservation easements on our state's working landscapes. Such a move would be a benefit to families wanting to leverage the development value of their property. This alternative would help conserve one of our state's most treasured natural resources and assure there is considerable agricultural lands that will remain as such to provide a source of food to then world's increasing population. (Attachment 5)

Mr. Beam thanked the Committee and answered questions.

Ms. Patty Reece, Kansas landowner, presented testimony in opposition to **HB2587**.

If Kansas **HB2587** is passed it will take away the right to choose how to plan for our land's future. Individual property rights are a hot issue in any ranching community, particularly in the state of Kansas.

Pastures are leased to cattlemen who derive part of their income from running their cattle on our land. We have come to know these men and many other ranchers in the area. They love their lifestyle. It's not just a job to them but a lifestyle.

Easements enable ranchers to make important long-term decisions about their land. It often enables the family to pass the land to the next generation. Children who do not wish to continue ranching can be given their share from the easement cash, and the land can go to the children

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who want to continue ranching. The land doesn't have to be sold to "even everyone out." The land can remain in the family. (Attachment 6)

Patty thanked the Committee and answered questions.

Written Testimony:

Derrick Sontag, American's for Prosperity (Proponent) (Attachment 7)

Linda Highland, Wamego, Kansas (Proponent) (Attachment 8)

Rose and Kent Bacon, RK Cattle Company (Opponent) (Attachment 9)

Heather Huntington-Fuesz, Eureka, Kansas (Opponent) (Attachment 10)

Steve Sorenson, Kansas Wildlife Federation (Opponent) (Attachment 11)

There being no further informational testimony on **HB2587**, Chairman Powell closed the hearings.

Chairman Powell opened the floor for hearing on **HB2761 updating references and corresponding changes relating to Executive Reorganization Order No. 40 and the Kansas Department of Agriculture.**

Jackie McClaskey, Assistant Secretary of Agriculture, testified in favor of **HB2761**. This is the "trailer bill" that cleans up all statutory references to agencies and programs that came to the department through Executive Reorganization Order 40 in 2011.

The changes in the bill are technical in nature and will allow the Department to continue to move forward with the charges put forward by ERO 40. (Attachment 12)

Ms. McClaskey thanked the Committee and stood for questions.

There being no further conferees and no further questions Chairman Powell closed the hearing on **HB2761**.

*Representative Moxley offered a motion to favorably pass out **HB2761**. Representative Arpke seconded the motion. When called to a vote, motion carried.*

Meeting adjourned at 10:53 a.m.

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