

Approved March 20, 1989
Date

MINUTES OF THE HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES

The meeting was called to order by Representative Dennis Spaniol at
Chairperson

3:30 ~~xxx~~/p.m. on February 28, 1989 in room 526-S of the Capitol.

All members were present except:

Committee staff present:

Raney Gilliland, Legislative Research
Mary Torrence, Revisor of Statutes' Office
Betty Ellison, Committee Secretary

Conferees appearing before the committee:

Representative Don Rezac
Spencer Tomb, Conservation Vice President, Kansas Wildlife Federation
William H. Stewart, Wamego, Kansas
Darrel Montei, Legislative Liaison, Department of Wildlife and Parks
Rob Manes, Hunter Education Coordinator, Dept. of Wildlife and Parks
Representative Jeff Freeman
Robert Manske, Southeast Kansas Tourism Region, Inc., Yates Center, KS
Richard D. Pankratz, Director, Historic Preservation Department,
Kansas Historical Society
Ramon Powers, Executive Director, Kansas Historical Society
John Woodman, Kansas City Power and Light
M. S. Mitchell, Legislative Chairman, Home Builders Assoc. of Kansas

Chairman Dennis Spaniol called the meeting to order. The first bill taken up was House Bill 2173 - Requiring pheasant and quail hunters to wear orange during deer and elk firearm season.

Representative Rezac, sponsor, explained the bill, noting that the name of this legislation is safety. He advised that the new language in the bill was on line 124 where "pheasant or quail" would be added. Attachments 1 and 1a.

Spencer Tomb, representing the Kansas Wildlife Federation, testified in support of House Bill 2173. In addition to his written testimony, he submitted copies of a resolution passed by the Wildlife Federation at the annual meeting on October 30, 1988. Mr. Tomb noted that the requirement of wearing orange failed to receive a majority vote at the annual meeting because most members felt that this requirement would restrict some mixed bag hunting opportunity and would be difficult to enforce. He urged that removal of the 14 year old age restriction for wild turkey hunting be included in this bill. Attachments 2 and 2a.

William H. Stewart of Wamego, Kansas spoke in favor of House Bill 2173, recounting personal close calls with quail hunters while he was deer hunting. Attachment 3.

Darrel Montei made brief remarks on behalf of the Department of Wildlife and Parks in opposition to House Bill 2173. He introduced Rob Manes who presented the Department's testimony. It was the feeling of the Department that this legislation was unnecessary because of the low rate of hunting accidents and difficulty of enforcement. The low rate of hunting accidents in Kansas was attributed to the Hunter Education Program and intensification of this program was recommended rather than the requirement of wearing blaze orange. Attachment 4.

Committee discussion followed.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES,
room 526-S Statehouse, at 3:30 ~~xxx~~/p.m. on February 28, 1989

House bill 2351 - Conservation easements for preservation of historical and other property.

Representative Freeman, sponsor, explained the reason for this bill, commenting that it would do the same thing as Senate Bill 122, a conservation easement bill, which was introduced in 1987. Following passage of that bill, Bob and Brenda Manske of Yates Center had requested that historic properties be included in that statute. This bill was requested because of a site in Woodson County approximately three miles from Yates Center, Kansas. This site was the township of Kalida which was the old county seat and is presently an old abandoned townsite. The owner of the historic buildings there wants to donate them to the county government, but under present law, the county is unable to accept them.

Representative Freeman suggested an amendment to the bill on page 2, to strike lines 69 through 74 which includes "501(c)(3)", so it would only apply to the section on lines 47 through 49. During discussion, Representative Freeman commented that this would only apply to cities and counties. In this case, the sandstone buildings need to be repaired before they fully collapse, but the county needs to have the easement granted before doing any work on them.

Robert Manske spoke on behalf of Southeast Kansas Tourism Region, Inc., testifying in support of House Bill 2351. He described the buildings remaining in Kalida, noting that it was a potential state and/or national registered property but had not yet been designated as such. The owner of the property was unable to maintain the property as it should be, particularly if it were to be a tourist attraction. Mr. Manske felt that it would be in the public interest to have this kind of tool available to units of government in the preservation of historic sites and in selling historic sites as tourist attractions. Attachment 5.

Richard Pankratz was a proponent of House Bill 2351, representing the Kansas State Historical Society. He commented that this bill is very similar to House Bill 2379 which is presently in the House Federal and State Affairs Committee. He commented that both bills proposed modifications to the conservation easement bill enacted in 1987, and the State Historical Society would support enactment of either bill. Mr. Pankratz explained what a conservation easement does, noting that one can exist only if there are two willing parties--the property owner and the potential easement holder. Attachment 6.

During discussion, Ramon Powers, Executive Director of the State Historical Society, responded to a question relative to amending the bill so the state would have the funding to protect against future encumbrances upon the Legislature. Mr. Powers felt that if the state were active in acquiring an easement, it would be done in such a way that the amount of liability to the state would be limited, or avoided entirely if possible. Mr. Pankratz added that if an easement were drawn up in favor of the state, it would be a document that would in effect give the state supervisory power over the facade or historic features of a building. Under the easement document, the state would have the power to compel the property owner to maintain the historic character and features of the building. He also noted that as the law now stands, the Legislature is the only entity that can accept properties for the state. A subsequent owner of the property would also be required to maintain the property in conjunction with the agreed upon terms of the easement instrument, which would be filed with the Register of Deeds. Thus any subsequent purchaser would be aware of any encumbrance.

Darrel Montei, representing the Department of Wildlife and Parks, testified briefly in support of House Bill 2351. He commented that

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES,
room 526-S Statehouse, at 3:30 ~~xxx~~ p.m. on February 28, 1989

the Department wished to lend support to the concept of conservation easements; they also had supported the issue when it was passed in 1987. He noted that there are certain historic types of areas relating to parks that the Department could become involved in or have an interest in when cities or counties would administer conservation easements. He felt it was a good tool, leaving ownership with the owner and allowing the owner to make whatever arrangements they wished for maintenance of that facility or area.

John Woodman represented Kansas City Power and Light in opposition to House Bill 2351. He advised that his company does support the concept of conservation easements and preservation of historical sites. However, a utility, by virtue of its franchise certificate has not only the right, but also the duty to serve customers in its service area; this requires the right of way to construct facilities. The granting of a conservation easement to a 501(c)(3) corporation would severely delay and greatly increase the cost of obtaining the required rights of way to service. The condemnation procedure in the eminent domain doctrine is an option for them, but again this would cause cost and delay. He asked that this burden of time and dollars not be imposed upon their customers. Mr. Woodman requested the same amendment that Representative Freeman did--that the new language in lines 69 through 74 be stricken from the bill.

M. S. Mitchell, representing the Home Builders Association of Kansas, spoke in opposition to House Bill 2351. He joined Representative Freeman and Mr. Woodman in requesting that 501(c)(3) in addition to current law be stricken. The other point made by Mr. Mitchell was that if historic architectural and archeological sites are included, then this bill should only include those sites that have been designated by the official organizations. He also had concerns with the additional language in lines 26 and 28, feeling that this would be a source of conflict. Attachment 7.

Written testimony in support of House Bill 2351 was provided to the committee by David Burk, President, Historic Preservation Board, Metropolitan Area Planning Department, Wichita, Kansas. Attachment 8.

The meeting was adjourned at 4:30 p.m.

The next meeting of the House Energy and Natural Resources Committee will be held at 3:30 p.m. on March 2, 1989 in Room 526-S.

Date: Feb. 28, 1989

GUEST REGISTER

HOUSE

COMMITTEE ON ENERGY AND NATURAL RESOURCES

NAME	ORGANIZATION	ADDRESS	PHONE
Jerry Compton	HGE E	TOPEKA	354-1741
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DICK COMPTON	MIDWEST ENERGY	HAYS	645-3437
DAN Mc GEE	CENTEL ELECTRIC	GREAT BEND	(316) 793-7841
Curt Carpenter	Centel Electric	Great Bend	793-7841
Woody Woodman	KCP & L	KC Mo	556-2155
PAUL K. HEUTEN	HEUTEN CONTRACTORS INC	WICHITA	267-3321
DAVE CORLISS	LEAGUE of MUNICIPALITIES	Topeka	354-9565
Louie Stroup Jr	Kansas Municipal Utilities	M Pherson.	316 241-1423
Donni McGinness	KS Electric Coops.	topeka	272-8740
JANET STUBBS	HBAK	"	233-9853
M.S. Mitchell	HBAK	Wichita	316-265-9812
Richard Paustrot	Kansas State Historical Society	Topeka	296-4788
Ramon Powers	Kansas State Historical Society	Topeka	296-3251
Rob Manes	Dept. of Wildlife & Parks	Pratt	(316) 692-5911
DARRELL MONTEI	KS. D. W & P	PRATT	692-5911
Spencer Tomb	Kansas Wildlife Fed.	Manhattan	537-8265

DON M. REZAC
 REPRESENTATIVE, SIXTY-FIRST DISTRICT
 WABAUNSEE COUNTY AND PARTS
 OF POTTAWATOMIE AND RILEY COUNTIES
 (913) 889-4514



TOPEKA

COMMITTEE ASSIGNMENTS
 MEMBER: AGRICULTURE AND SMALL BUSINESS
 ENERGY AND NATURAL RESOURCES
 LOCAL GOVERNMENT

HOUSE OF
 REPRESENTATIVES

TESTIMONY

TO THE

HOUSE ENERGY AND NATURAL RESOURCES

Thank you Mr. Chairman,

House Bill 2173 deals with wearing a Blaze Orange by pheasant and quail hunters during firearm season of deer and elk.

A group of hunters from my area approached me on this subject last spring. I did have a meeting with these hunters and a representative from Wildlife and Parks from Pratt in April between regular session and veto session. At this meeting the subject of Blaze Orange and upland game hunting was discussed. Wildlife and Parks representative stated that he would rather address this by education rather than by statute. As time went on I told this group of hunters that I would introduce this legislation and here we are today. The name of this legislation is Safety and if this would stop someone from being shot someday with a high-power, it would be worth it. Whether the quail or pheasant hunter was mistaken for a deer at a distance in a brushy situation, or as a deer ran over the countryside and a group of quail hunters were in the background. The deer hunter didn't realize that they were there and missed the deer and shot into a group of quail hunters.

New language for the bill is on line 24 where it just adds pheasant and quail hunter and if it was to pass it would require that pheasant and quail hunters would wear Blaze Orange at least during Firearm Deer and Elk season.

DON REZAC
 State Representative
 District #61

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 Attachment 1*

HUNTER ORANGE SURVEY

- I. A review of current regulations and recommendations compiled by Burlington Industrial Fabrics Company, producers of Ten Mile Cloth®, Camo Ten® and Easy Ten™ fabrics for hunting garments.

UNITED STATES

ALABAMA All persons utilizing firearms during gun deer season must wear a vest or cap with at least 144 square inches of solid Hunter Orange, visible from all sides. Deer hunters in tree stands elevated more than 12 feet from the ground need not wear Hunter Orange, except when traveling to and from tree stands. (Exception: waterfowl, turkey and dove hunters and those hunting legally designated species during legal nighttime hours.)

ALASKA Upland and big game hunters are strongly recommended to wear Hunter Orange.

ARIZONA Upland and big game hunters are strongly recommended to wear Hunter Orange.

ARKANSAS All hunters, and those accompanying them, during gun seasons for deer and bear must wear a Hunter Orange hat and an outer garment with at least 400 square inches of Hunter Orange above the waist. (Exception: waterfowl hunters.)

CALIFORNIA Upland and big game hunters are strongly recommended to wear Hunter Orange.

COLORADO All firearm hunters for elk, deer, antelope, or bear must wear a Hunter Orange cap and at least 500 square inches of solid Hunter Orange on an outer garment above the waist.

CONNECTICUT All hunters during gun deer season must wear at least 200 square inches of Hunter Orange, visible from all sides. (Exception: bow hunters, waterfowl hunters in boats, blinds, or other stationary positions, hunters of raccoon or opossum at night, and landowners hunting on their own land.)

DELAWARE All hunters during big game season must wear at least 400 square inches of Hunter Orange on the head, chest, and back.

FLORIDA All deer hunters, and those accompanying them, on public land during open deer season must wear at least 500 square inches of Hunter Orange on an outer garment above the waist. (Exception: bow hunters during bow season.)

GEORGIA All deer and feral hog hunters, and those accompanying them, during firearm deer seasons must wear at least 500 square inches of Hunter Orange on outer garments above the waist.

HAWAII All persons in any hunting area where firearms are permitted must wear a Hunter Orange outer garment above the waist, or a piece of Hunter Orange material of at least 144 square inches on their front and back, above the waist. A solid Hunter Orange hat is recommended.

IDAHO Upland and big game hunters are strongly recommended to wear Hunter Orange.

ILLINOIS All hunters and trappers during gun deer season must wear a cap and outer garment above the waist with at least 400 square inches of solid Hunter Orange. (Exception: migratory waterfowl hunters.)

INDIANA Deer (bow and gun), rabbit, squirrel, grouse, pheasant, and quail hunters must wear at least one of the following solid Hunter Orange garments: vest, coat, jacket, coveralls, hat or cap. (Exception: bow hunters for deer during first part of archery deer season.)

IOWA All firearm deer hunters must wear at least one of the following Hunter Orange garments: cap, hat, coat, vest, or jacket. Camouflage Hunter Orange must be supplemented by an article of solid Hunter Orange.

KANSAS All firearm deer hunters must wear a head covering and outer garment above the waist with at least 200 square inches of Hunter Orange, visible front and back.

KENTUCKY All deer hunters must wear a visible vest, coat, coveralls, cap or hat of Hunter Orange when hunting during the deer gun or special muzzle-loading seasons. The entire garment must be Hunter Orange.

LOUISIANA All hunters, including archers, on Wildlife Management Areas and all deer hunters elsewhere must wear at least 400 square inches of Hunter Orange on the head, chest or back. (Exception: bow hunters when no gun deer season is in progress, and hunters on privately owned and legally posted land.)

MAINE All firearm hunters during open gun deer seasons must wear an article of solid Hunter Orange clothing visible from all sides. Camouflage Hunter Orange must be supplemented with an article of solid Hunter Orange. (Exception: waterfowl hunters from a boat, blind, or in conjunction with decoys.)

MARYLAND All deer hunters and those accompanying them must wear a cap and vest or jacket of Hunter Orange. (Exception: bow hunters during archery season only, and unlicensed hunters on their own property.)

MASSACHUSETTS All hunters during shotgun deer season and deer hunters during primitive firearm season must wear at least 500 square inches of Hunter Orange on their chest, back, and head. (Exception: waterfowl hunters in a blind or boat.) All hunters on Wildlife Management Areas during pheasant and quail season must wear a Hunter Orange hat or cap. (Exception: waterfowl hunters in a blind or boat, and raccoon hunters at night.)

MICHIGAN All firearm hunters on any land during daylight hunting hours must wear a hat, cap, vest, jacket, rainwear, or other outer garment of Hunter Orange visible from all sides. All hunters, including archers, must comply during gun deer season. Camouflage Hunter Orange is legal provided 50% of the surface area is solid Hunter Orange. (Exception: waterfowl, bobcat, crow, and wild turkey hunters, and bow hunters for deer or bear during open archery season.)

MINNESOTA All hunters and trappers during gun deer season must have a visible portion of their outer garments, including any head covering, colored either red or Hunter Orange. Camouflage patterns must have at least 50% of the surface area solid Hunter Orange.

MISSISSIPPI All deer hunters during gun season for deer must wear at least 500 square inches of solid Hunter Orange visible from all sides.

MISSOURI All deer hunters during gun deer season must wear a garment with at least 500 square inches of Hunter Orange, of which some part must be above the shoulder.

MONTANA All big game hunters and those accompanying them must wear at least 400 square inches of Hunter Orange above the waist. A hat or cap alone is not sufficient. (Exception: bow hunters during special archery season.)

NEBRASKA All big game hunters with firearms must wear at least 400 square inches of Hunter Orange on the head, back, and chest.

NEVADA Upland and big game hunters are strongly recommended to wear Hunter Orange.

NEW HAMPSHIRE Upland and big game hunters are strongly recommended to wear Hunter Orange.

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Attachment 1a*

NEW JERSEY All hunters with firearms for deer, rabbit, hare, squirrel, fox, or game birds must wear a Hunter Orange cap, or other outer garment with at least 200 square inches of Hunter Orange visible from all sides. (Exception: waterfowl, wild turkey and bow hunters.)

NEW MEXICO Upland and big game hunters are strongly recommended to wear Hunter Orange.

NEW YORK Upland and big game hunters are strongly recommended to wear Hunter Orange.

NORTH CAROLINA Bear, deer or wild boar hunters with the use of firearms must wear a hat, cap or outer garment of Hunter Orange, visible from all sides. (Exception: landowners hunting on their own land.)

NORTH DAKOTA All big game hunters with firearms must wear a head covering and outer garment above the waist with at least 400 square inches of Hunter Orange material.

OHIO All deer hunters during gun deer seasons must wear a visible Hunter Orange hat, cap, vest, or coat.

OKLAHOMA All firearm deer hunters must wear a head covering and outer garment above the waist with at least 500 square inches of clothing of which 400 square inches must be Hunter Orange. All other hunters must wear either a head covering or outer garment of Hunter Orange during open gun deer seasons. (Exception: waterfowl, crow, or crane hunters, and those hunting furbearing animals at night.)

OREGON Upland and big game hunters are strongly recommended to wear Hunter Orange.

PENNSYLVANIA All deer, bear, and woodchuck hunters, and those accompanying them, during open gun seasons must wear at least 250 square inches of Hunter Orange. Deer and bear hunters must wear the Hunter Orange on the head, or chest and back. Woodchuck hunters must wear a solid Hunter Orange head covering.

RHODE ISLAND All hunters must wear 200 square inches of solid Hunter Orange contained in outer garments worn above the waist and visible in all directions. (Exception: waterfowl hunters, bow hunters, and hunters of fox or raccoon at night.)

SOUTH CAROLINA All hunters must wear a visible, solid Hunter Orange hat, coat, or vest while gun hunts, including muzzle-loading firearms, for deer are in progress. (Exception: dove and duck hunters on Game Management Areas and all small game hunters on private land.)

SOUTH DAKOTA All big game hunters with firearms must wear one or more exterior Hunter Orange garments above the waist. (Exception: turkey hunters.)

TENNESSEE All big game hunters with firearms must wear at least 500 square inches of Hunter Orange on a head covering and an outer garment above the waist, visible front and back. (Exception: turkey hunters and those hunting on their own property.)

TEXAS All hunters in Wildlife Management Areas must wear at least 400 square inches of Hunter Orange, with at least 144 square inches on both the chest and back. (Exception: bow hunters during special archery season; turkey, migratory bird, and alligator hunters; and those hunting furbearers or coyotes at night.)

UTAH All deer and other big game hunters must wear at least 400 square inches of Hunter Orange on the head, chest, and back.

VERMONT Upland and big game hunters are strongly recommended to wear Hunter Orange.

VIRGINIA Hunters during firearm deer season and those accompanying them must wear Hunter Orange on the upper body, visible from all sides, or a Hunter Orange hat, or display 100 square inches of Hunter Orange within body reach, visible from all sides.

WASHINGTON All upland bird hunters on designated state-owned Wildlife Areas must wear at least 400 square inches of Hunter Orange on an outer garment above the waist.

WEST VIRGINIA All deer hunters during gun deer season must wear at least 400 square inches of Hunter Orange on an outer garment.

WISCONSIN All hunters during gun deer season must have 50% of their outer garments above the waist, including any head covering, colored Hunter Orange. (Exception: waterfowl hunters.)

WYOMING All big game hunters must wear one or more exterior garments (i.e. hat, shirt, jacket, coat, vest, or sweater) of Hunter Orange. (Exception: bow hunters during special archery season.)

CANADA

ALBERTA No garment color requirements or recommendations.

BRITISH COLUMBIA No garment color requirements or recommendations.

MANITOBA All big game hunters must wear a Hunter Orange hat and an additional 2580 square centimeters (400 square inches) of Hunter Orange above the waist, visible from all sides. (Exception: bow hunters in special archery areas or seasons, and wolf hunters outside big game seasons.)

NEW BRUNSWICK All hunters and those accompanying them must wear at least 2580 square centimeters (400 square inches) of Hunter Orange above the waist, visible from all sides. (Exception: waterfowl hunters and persons authorized to hunt raccoons at night.)

NEWFOUNDLAND Upland and big game hunters are strongly recommended to wear a minimum of 2580 square centimeters of Hunter Orange (400 square inches).

NORTHWEST TERRITORY Upland and big game hunters are strongly recommended to wear Hunter Orange.

NOVA SCOTIA All hunters and those accompanying them must wear a cap or hat and a vest, coat, or shirt of Hunter Orange visible from all sides.

ONTARIO Upland and big game hunters are strongly recommended to wear a minimum of 2580 square centimeters of Hunter Orange (400 square inches).

PRINCE EDWARD ISLAND Upland and big game hunters are strongly recommended to wear Hunter Orange.

Kansas Wildlife Federation, Inc.

200 S.W. 30th, Suite 101 • P.O. Box 5715 • Topeka, KS 66605

February 28, 1989

Kansas Wildlife Federation Testimony on HB2173

by
Spencer Tomb
KWF Conservation Vice President

Mr. Chairman, members of the Committee, my name is Spencer Tomb. I am from Manhattan and currently serve as Conservation Vice President of KWF.

The Kansas Wildlife Federation is a not-for-profit wildlife and natural resources conservation and education organization. Our 8000 volunteer members, and the 10,000 Kansas members of our national affiliate, The National Wildlife Federation, are dedicated to the proper use, management and funding for our vital soil, water, air, plant and animal resources.

A resolution to require hunter orange of all pheasant and quail hunters throughout the season failed to receive a majority vote at the 1988 KWF Annual Meeting. The majority felt that a regulation to require hunter orange to be worn by all pheasant and quail hunters would restrict some mixed bag hunting opportunity and would be difficult to enforce.

If the KWF resolution had the narrower focus (the firearms deer season) of HB2173, it probably would have passed. The use of hunter orange is increasing due to the educational efforts of the Kansas Hunter Education Program.

Most pheasant and quail hunters recognize the value of hunter orange in the field, but it is still no substitute for care in target identification and knowing what is down range of the target. It is prudent for all pheasant and quail hunters to wear blaze orange when they hunt in groups, and during the firearms deer season, it is foolish to hunt through deer cover without it.

This bill (HB2173) opens the big game section so that we see it as a window of opportunity to correct an unnecessary restriction of young hunters. We are speaking of the requirement that a young hunter has to be 14 years old to hunt turkeys in Kansas. We would like to see either this bill amended to allow young hunters who have passed the hunter education course to hunt wild turkeys in the immediate supervision of a licensed adult turkey hunter.

We are prepared to give additional testimony supporting the removal of the age restriction. The Kansas Wild Turkey Federation agrees that the age restriction should be removed. The new Strategic Plan for Wildlife of KDWP lists the removal of the age restriction as a goal in the Wild Turkey plan.

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Attachment 2

Resolution 1988-2

REMOVAL OF AGE RESTRICTIONS FOR WILD TURKEY HUNTING

WHEREAS, the wild turkey is the ultimate game bird and is now found in every county of the state; and

WHEREAS, the age restrictions for big game hunting were first imposed to limit the number of permits to a household when the resource was limited; and

WHEREAS, statistics show that young hunters are safe and reliable when given adult supervision; and

WHEREAS, young hunters can develop the shooting skills required to be safe and effective turkey hunters before they are teenagers; and

WHEREAS, states with longer traditions of wild turkey hunting (i.e. Texas, Missouri and Oklahoma) do not have age restrictions and have no plans to impose age restrictions;

NOW, THEREFORE, BE IT RESOLVED that the KWF Inc., in annual meeting assembled on October 30, 1988, in Lawrence, Kansas resolves to lobby and take all necessary steps to persuade the Kansas Wildlife and Parks Commission and the Kansas Legislature to remove the age restriction for wild turkey hunting so that young hunters can have the chance to hunt the ultimate game bird when they have immediate adult supervision until age 14, have passed a hunter education course, and their parents have decided they have developed enough hunting skills.

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Attachment 2a

February 28, '89

To Whom It May Concern:

It is my belief that during the Kansas deer hunting season, all hunters, not just deer hunters should be required to wear "Blazing Orange" for their own safety. On two occasions during deer hunting season 1987, my hunting companions and I walked out of thickets and creek bed areas to come face to face with quail hunters entering the end we were coming out of. This was a startling feeling to me. They were not wearing orange or red and could not be readily seen. Had a deer come out and we had shot, it could have been a bad situation.

THEREFORE: I strongly feel if they want to be out among the deer hunters with high-powered rifles they should be seen and not camouflaged.

Signed:

William H. Stewart

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Attachment 3

H.B. 2173

Testimony Presented to the House Energy and
Natural Resources Committee
February 28, 1989

Provided by the Kansas Department of Wildlife and Parks

House Bill 2173 would require persons hunting pheasant and/or quail during the deer and elk firearms seasons to wear orange attire. The safety benefits of such a requirement (if blaze orange, hunter orange or daylight fluorescent orange were specified) seem obvious, but other factors merit discussion.

Deer season and the quail and pheasant seasons do overlap briefly, and the possibility of an accident of the type this bill addresses certainly exists. However, no such incident is among the 20 accidents documented in Kansas' 24-year deer hunting history. Hence, no statistical justification for such a requirement is available. Mistaken-for-game and victim-out-of-sight accidents, common in other states, are those best prevented by blaze orange use. Such accidents are uncommon, however, in Kansas. The majority of the state's hunting accidents (approximately 60 percent) involve pheasant and/or quail hunters injuring each other.

Another consideration is that hunting is already quite safe. The Kansas hunting accident rate is slightly more than one per 100,000 recreation days, including all types of hunters. This figure includes non-vision-related accidents, such as self-inflicted and in-vehicle accidents, which account for most (13 of 20) Kansas deer hunting accidents. Four of the other seven accidents involved documented law violations, and none was strictly vision-related. Thus, a blaze orange requirement would not have prevented any of Kansas' 20 deer hunting mishaps. In an evaluation of vision-related pheasant and/or quail hunting accidents, it was determined that 35 percent of the victims were wearing blaze orange, but were injured anyway.

Of those nearby states with similar topographies and hunter populations (predominantly upland bird hunters), only Oklahoma requires pheasant and/or quail hunters to wear blaze orange during the firearms deer season. Such requirements are more common in states featuring highly varied topographies and large timber expanses.

Though no formal surveys have been conducted, informal examinations indicate that many Kansas hunters do not favor such a mandate. Those in opposition generally perceived it as unnecessary over-regulation. Other concerns regard hunt satisfaction (blaze orange is overtly unnatural) and enforcement.

A recent statistical analysis resulted in an estimate that three to nine (3-9) hunting accidents might be prevented annually if all pheasant and/or quail hunters were required to utilize blaze orange attire throughout the season. Such a requirement, however, would also likely meet with strong opposition, and would not guarantee a significant hunting accident rate reduction. The proposed requirement pertaining only to firearms deer and elk seasons would bring no significant accident rate reduction. The possibility exists, however, that it may prevent a future accident.

It is an objective of the Department of Wildlife and Parks to increase blaze orange use via concerted education efforts. The first such effort, initiated in 1988, involved the ongoing mandatory Hunter Education Program (which reaches 13,000-15,000 students per year); television public service announcements; color posters; special notices on deer permits, hunting licenses, and permit envelopes; and special press releases.

Blaze orange use by hunters appears to be increasing without a mandate. The state's hunting accident rate continues to decline, and is only about half that of the 1960s. This is attributed mainly to the success of the Hunter Education Program.

Blaze orange use is an effective tool for reducing hunting accidents. Required blaze orange use by pheasant and quail hunters was discussed at the January, 1989 Commission meeting. While recognizing the safety value of wearing blaze orange, the Commission recommended intensification of educational efforts instead of requiring its use.

SOUTHEAST KANSAS TOURISM REGION, INC.

February 28, 1989

Testimony before the House Committee on Energy and Natural
Resources by Brenda M. Manske, Executive Director,
Southeast Kansas Tourism Region, Inc.

SOUTHEAST KANSAS TOURISM REGION
SUPPORTS HOUSE BILL 2351

Southeast Kansas Tourism Region supports the Conservation Easement amendment in House Bill 2351 amending KSA 1987 Supp. 58-3803, 58-3804 and 58-3805 and creating a second class or property subject to Conservation Easements. This class being properties of historical, architectural, archeological or cultural significance.

This category of conservation easement is necessary to retain and maintain such properties, including improvements in a condition that would retain their values and significance for the public interest, in a manner consistent with conservation and perservation of buildings, sites, or structures having such values.

House Bill 2351 would simply expand the conservation easements presently available for wetlands and riparian areas. As drafted the amendment would apply only to properties or sites listed on the National and State Registers. Further, the only entities qualifying as grantees would be a unit of government or 501(c)(3) corporations.

The rights of certain utility and water districts as set out in KSA 1987 Supp. 58-3809 shall remain intact as House Bill 2351 does not amend or repeal 58-3809.

Southeast Kansas Tourism Region promotes and markets our historic properties as tourist attractions. The conservation easement is an effective tool in safe guarding the properties and assuring that with regard to such privately ^{owned} ~~owned~~ sites the owners may receive assistance in maintaining and improving such sites, and therefore, preserving them as attractions.

In Woodson County, Kansas there remains native sandstone structures from the town Kalida founded in 1870. In 1875 the buildings ^{were moved overland} from Kalida ~~was~~ ^{named merland} approximately three miles to the present townsite of Yates Center, Kansas. The Kalida property is presently owned by one of the heirs of the founder of Kalida and

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Attachment 5

she desires that the remaining evidence of Kalida be preserved and maintained. The County Commissioners of Woodson County have in the past indicated an interest in maintaining the property, however, without the statutory authority contained in the House Bill 2351 would be unable to do so. This is a good example of the need for the amendment.

One of the benefits of this type of conservation easement is that the state or other units of government is able to maintain and preserve such properties without the expense of purchasing the same and may contractually limit there involvement in the property to such extent as local finances are available. The state or local unit of government is not obligated to provide funds for any purpose other than the purpose set out in the original easement.

Presentation to the Energy and Natural Resources Committee on House Bill 2351
by Richard D. Pankratz, Director, Historic Preservation Department
Kansas State Historical Society
February 28, 1989

House Bill 2351 is very similar to House Bill 2379 which was introduced by the Federal and State Affairs Committee at the request of the State Historical Society. Both propose modifications to the conservation easement bill enacted in 1987. The State Historical Society would support enactment of either bill.

A conservation easement constitutes an interest in real property. Kansas law presently recognizes "conservation easements" only in connection with wetlands and riparian areas. Around the country conservation easements are also being used to protect properties of historical, architectural, archeological, and cultural significance.

House Bill 2351 (and 2379) would permit the granting of easements in Kansas on properties of historical, archeological, architectural, and cultural significance.

A property owner concerned about the long term preservation of a historic resource in his or her ownership could by sale or donation transfer the development rights on that property to an easement holding entity. That entity would thus be given the right to protect the identified historic features of that historic property. For example, a property owner of a historic downtown office building could donate a facade easement to an easement holding entity. The owner would be free to continue to use or to reuse that building to meet his or her own economic goals, but he or she would have given up the right

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unilaterally to alter, remove, or otherwise change the historic features, elements, and materials of the exterior. The easement holder would act as watchdog over that facade to insure that it was maintained and preserved and that its historic appearance continued to establish a sense of place as part of the heritage of that community.

Conservation easements could also preserve archeological sites by maintaining or establishing a beneficial land use. For example, keeping a site area in pasture as opposed to cultivation would prevent plowing from destroying shallow buried features such as hearths or cache pits. Easements could provide archeological site preservation even though land ownership might change. The vast majority of the state's archeological sites are buried and not readily visible. Conservation easements would alert new owners or even potential purchasers to a site's presence and inform them of its scientific value.

The use of conservation easements for historic properties could enhance historic preservation efforts in communities; a local government or preservation organization could acquire an easement instead of fee simple title to a property. Thus, control over the historic features would be acquired at much less, if any, cost, and the owner would continue to use the property, maintain it, and pay taxes on it. (Donations of easements for historic properties can be advantageous for the donor's federal income tax liability.) The conservation easement would provide a useful tool to encourage protection of the state's historic resources.

The Historical Society endorses the enactment of House Bill 2351 (or 2379).

TESTIMONY BEFORE HOUSE ENERGY AND NATURAL RESOURCES COMMITTEE

ON HOUSE BILL 2351

CONCERNING CONSERVATION EASEMENTS

BY M. S. MITCHELL, LEGISLATIVE CHAIRMAN

HOME BUILDERS ASSOCIATION OF KANSAS

House Bill 2351, as one of the two bills introduced in this session of the Kansas Legislature having to do with conservation easements, proposes to add to present law which permits the placing of prohibitions, limitations or obligations on the use of wetlands or riparian areas a number of additional elements such as the one found on Lines 26 thru 28. The new language which would require an owner of the fee title of land on which a wetland or riparian area was subject to a conservation easement to retain or maintain "such wetlands or areas....in a condition that would retain their values and significance for the public interest," is certain to be the source of dispute for current and future owners of title to the land. No one can define what such conditions are today since the value of lands in hydric soils or covered with native trees, shrubs, brush, weeds and grass is not the same to farmers as to ranchers, or to timbermen, or to hunters, or to trappers, or to developers, or homeowners, or to the administrators of nuisance ordinances prohibiting rodent harborages and growth during the summer months higher than 18 inches. And if difficult to define today, who can predict what values and significance the "public" will place on such places in the future?

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Lines 32 thru 39 increase the potential impact of conservation easements by making it possible to include "properties of historical, architectural, archeological or cultural significance" to wetlands and riparian areas. This addition takes conservation easements far beyond the recommendations found in the Kansas Water Plan which first suggested their use as a means of implementing the conservation portion of the Plan. Here the basis for conflict will be inclusion of structures in conservation easements which do not comply with the criteria set out for the national register of historic places or the state register of historic properties or which designate landmarks by local governments or commissions.

The third addition to current law proposed by House Bill 2351 is found on line 69 thru 74 which would permit ANY organization which can obtain exemption from federal income taxes under section 501(c)(3) to solicit and acquire conservation easement rights. Again, the Kansas Water Plan proposed that conservation easements be obtained only by the state in exchange for the state's expert advice and assistance in preparing and implementing management plans of the crucial wildlife habitat found in some wetlands and riparian areas. Ability to obtain income tax exemption is no indicator that an organization has the expertise to prepare or manage wetlands and or riparian areas to the best advantage of the state. Since conservation easements

are transferable, it would be possible for ANY EXEMPT organization to acquire and assemble them in a pattern which could prohibit extension of public facilities such as streets, sewers and other utilities to areas which are not subject to such easements and thereby prohibit all growth and expansion of municipal services.

Clearly, this was not the intent of the framers of the Kansas Water Plan section on Fish, Wildlife and Recreation when the concept of conservation easements was proposed, and with the current law less than two years old, I respectfully request that House Bill 2351 not be passed out of committee this year, and that current law be given a chance to protect those wetlands and riparian areas which are designated crucial habitat by the state agencies before such sweeping changes are considered.

SEDGWICK COUNTY



METROPOLITAN AREA PLANNING
DEPARTMENT

CITY HALL — TENTH FLOOR
455 NORTH MAIN STREET
WICHITA, KANSAS 67202-1688
(316) 268-4561

February 22, 1989

The Honorable Ken Grotewiel
State House of Representatives
House Committee on Energy
and Natural Resources
1425 West Murdock
Wichita, Kansas 67203

Dear Mr. Grotewiel:

The City of Wichita's Historic Preservation Board (H.P.B.) has reviewed House Bill No. 2351. It unanimously supports this legislation that enables the creation of conservation easements for the purpose of maintaining historically significant resources and that allows receipt of easement donations by tax exempt organizations. H.P.B. believes this legislation is a crucial element to preservation of the city's and state's important buildings, structures and sites.

Sincerely,

David Burk, President
Historic Preservation Board

DB/MJW:blw

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