

MINUTES OF THE HOUSE AGRICULTURE COMMITTEE

The meeting was called to order by Chairman Dan Johnson at 3:30 p.m. on January 28, 2004, in Room 423-S of the Capitol.

All members were present.

Committee staff present:

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

Conferees appearing before the committee:

Leslie Kaufman, Director, Governmental Relations, Kansas Cooperative Council
Brad Harrelson, Associate State Director, Governmental Relations, Kansas Farm Bureau
Todd Johnson, Governmental Affairs Staff, Kansas Livestock Association/President, Kansas Agricultural Alliance
Representative Tom Sloan (written only)
Bob Rhoton, Lawrence Chamber of Commerce AgriBusiness Network
Kermit Kalb, Douglas County
Janine Joslin, President, Board of Directors, Kansas Preservation Alliance, Inc. (written only)

Others attending:

See attached list.

There were no requests for introduction of committee bills.

Hearing on HB 2530 - Removal of officers of cooperative agricultural marketing association by board of directors.

Chairman Johnson opened the hearing on **HB 2530**, and noted that the bill would have no fiscal effect. Raney Gilliland explained that the first changes in the bill were technical in nature; lines 26 through 31 provide for the removal and replacement of officers by board of directors of agriculture cooperative marketing associations. He suggested that the committee might want to consider defining "majority" as a majority of those present or a majority of the total board.

Leslie Kaufman, Director, Governmental Relations, Kansas Cooperative Council, appeared in support of **HB 2530** requested by the Council and Kansas Farm Bureau. She explained that under the current statute, the board of directors for an entity organized under the state Cooperative Marketing Act elects officers from within the board (secretary and treasurer can be non-board members). She reported that the statutes had been interpreted to mean that the board, which initially elects officers, could remove and replace an officer. The court did not concur with this interpretation. This legislation will align the statute with what was assumed for many years to be a valid interpretation. The bill will not alter the current method of removing an officer from the board. She expressed concern with some of the language in the bill. She proposed to reinsert "from their number" on line 15; and to clarify that a majority means a majority of a quorum. (Attachment 1)

Brad Harrelson, Associate State Director, Governmental Relations, Kansas Farm Bureau, concurred with the testimony offered by the Kansas Cooperative Council in support of the targeted amendment in **HB 2530**. He noted that boards of directors of virtually all other organizational structures have the capacity to remove an officer. As such, they believe it is appropriate that entities organized under the Cooperative Marketing Act, who share many of the same responsibilities and duties, have that same ability. Kansas Farm Bureau and all 105 county Farm Bureau Associations are organized under this act. (Attachment 2)

Todd Johnson, President of the Kansas Agricultural Alliance, a group of nineteen organizations representing agricultural, agribusiness, and rural interests, appeared in support of **HB 2530**. As a point of information, he stated that the Alliance only takes positions on specific legislation when its members are unanimous in their support of or opposition to a bill. He reported that many of their member organizations are structured under the Cooperative Marketing Act. He felt the two suggested amendments by the Kansas Cooperative Council conferee were friendly amendments and would be supported by the Alliance. (Attachment 3)

CONTINUATION SHEET

MINUTES OF THE HOUSE AGRICULTURE COMMITTEE at 3:30 p.m. on January 28, 2004, in Room 423-S of the Capitol.

There being no other conferees, the hearing on **HB 2530** was closed.

Hearing on HB 2531 - Historical preservation; consideration of established agricultural use of land required.

Chairman Johnson opened the hearing on **HB 2531**. It was noted that there was a fiscal note expenditure on the bill of \$2,080. Raney Gilliland explained that this legislation would prohibit any rule or regulation that would hinder or restrict the use of any agricultural land that is located within the environs of a historic property. Land used for agricultural purposes which is located within 500 feet of a historic property shall be deemed to be located within the environs of such historic property. A public notification requirement is included in the bill.

Representative Tom Sloan, sponsor of the bill, submitted written testimony in support of **HB 2531**. He notes that this legislation proposes that urban and rural environs be equal—500 feet, and that within the 500-foot environs, statutorily defined and accepted agricultural practices are acceptable. He reported that early drafts of the bill were shared with agricultural practitioners and preservationists, with suggestions from both being incorporated in the current version. ([Attachment 4](#))

Brad Harrelson, Associate State Director, Governmental Relations, Kansas Farm Bureau, testified in support of **HB 2531**. He reported that Kansas Farm Bureau has been actively engaged in discussions throughout the development of the bill and supports its intent. KFB also is supportive of an amendment to the original language striking "...located in an unincorporated portion of a county" that may be offered. As written, this language may have unintended consequences, and limit land use such as agriculture production in "incorporated" portions of a county. ([Attachment 5](#))

Todd Johnson, Governmental Affairs Staff, Kansas Livestock Association, appeared in support of **HB 2531** clarifying how agricultural land and farming practices fit into the historic preservation act. KLA requested amending the bill to strike the words "an unincorporated portion of" on page 2, line 38. He reported that the authoring legislator has agreed to the amendment and does not consider it to change the intent of the legislation. He noted that, currently, land used for agricultural purposes is not defined by its location, and that any reference as such could confuse other issues. ([Attachment 6](#))

Bob Rhoton, Lawrence Chamber of Commerce AgriBusiness Network, testified in support of **HB 2531**. He believes the bill protects a farmer's ability to continue to operate a farm without further limiting or placing added restrictions and expenses to produce an income from their land. He feels that reducing the environs rule to 500 feet will reduce the workload of the State Historical Preservationist in reviewing requests, saving them time and money. ([Attachment 7](#))

Kermit Kalb, a Douglas County landowner living next to the historical Black Jack Battlefield and Santa Fe Trail ruts, spoke in support of the changes that **HB 2531** would bring in regard to the environs law concerning historic sites. He respects the preservation of this historic site; however, he feels that the current environs laws infringe on his rights as a property owner. ([Attachment 8](#))

Janine Joslin, President, Board of Directors, Kansas Preservation Alliance, Inc., submitted written testimony thanking those involved for their efforts in working with preservationists throughout Kansas in considering the environs issue of the Kansas Historic Preservation Statute. ([Attachment 9](#))

Mary R. Allman-Koernig, Executive Director, Kansas State Historical Society, and Christy Davis, Assistant Director of the Cultural Resources Division, responded to committee questions. The Kansas State Historical Society has no objection to the bill.

There being no other conferees, the Chairman closed the hearing on **HB 2531**.

The meeting adjourned at 4:30 p.m. The next meeting is scheduled for February 2, 2004.



**Leslie Kaufman, Director
Governmental Relations
Kansas Cooperative Council**

**HOUSE COMMITTEE ON AGRICULTURE
January 28, 2004**

RE: HB 2530 -- Amending the Kansas Cooperative Marketing Act to allow a board of directors to remove an officer and elect a successor.

Chairman Johnson and members of the House Committee on Agriculture, thank you for the opportunity to appear today in support of HB 2530 amending the Kansas Cooperative Marketing Act to allow a cooperative's board of directors the ability to remove an officer and elect a successor. I am Leslie Kaufman and I serve the Kansas Cooperative Council as Governmental Relations Director. The Council has a membership of 186 cooperative businesses. Together, they have a combined membership of nearly 200,000 Kansans.

Under the current statute, the Board of Directors for an entity organized under the state Cooperative Marketing Act, elects officers from within the board. (In the case of the secretary and treasurer, those officers can be non-board members.) The Council had been interpreting the statutes to mean that the board, which initially elects officers, could remove and replace an officer. The court has clarified this portion of the law and their interpretation was not the same as ours. As such, we, along with Kansas Farm Bureau, requested introduction of the bill before you now.

The provisions of HB 2530 make a targeted amendment to allow the board of directors the ability to make an officer change in an appropriate and timely manner. This legislation will align the statute with what we thought, for many years, was a valid interpretation.

We are not seeking authority for the board to be able to remove another member-elected board member from the board, altogether. This bill will not alter the current method of removing an officer from the board (petition of the membership and hearing before them). We are simply asking that a board, statutorily provided with the authority to initially elect an officer, be afforded the corollary ability to remove that person from office should the need arise.

We certainly appreciate the opportunity to appear today in support of HB 2530. Our hope is that you will look favorably on this legislation and pass it without substantive amendment. Thank you for your consideration.



Kansas Farm Bureau

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PUBLIC POLICY STATEMENT HOUSE COMMITTEE ON AGRICULTURE

RE: HB 2530 -- Amending the Kansas Cooperative Marketing Act to allow a Board of Directors to remove an officer and elect a successor.

January 28, 2004
Topeka, Kansas

Presented by:
Brad Harrelson, Associate State Director
KFB Governmental Relations

Chairman Johnson and members of the House Committee on Agriculture, thank you for the opportunity to appear today in support of HB 2530, amending the Kansas Cooperative Marketing Act allowing a cooperative's board of directors the ability to remove an officer and elect a successor. I am Brad Harrelson, Associate State Director, Governmental Relations for Kansas Farm Bureau (KFB). KFB is the state's largest general farm organization and represents more than forty thousand agricultural producer families through the 105 county Farm Bureau Associations across Kansas.

The membership of Kansas Farm Bureau agrees with the testimony offered by the Kansas Cooperative Council and supports the bill. KFB policy reflects support of this targeted amendment to the Cooperative Marketing Act through the following policy statement:

We support the opportunity for entities to organize under the Kansas Cooperative Marketing Act. We encourage changes in the law to allow the Board of Directors the ability to remove an officer. AG-13

Under the current statute, the Board of Directors for an entity organized under the state Cooperative Marketing Act, elects officers from within the board. The court has clarified this portion of the law and their interpretation was not the same as ours. Consequently, we support a change to the statute that would allow a Board of Directors the same authority to remove an officer, as they currently have to elect an officer.

Boards of Directors, of virtually all other organizational structures, have the capacity to remove an officer. As such, we believe it is appropriate that entities organized under the Cooperative Marketing Act, who share many of the same responsibilities and duties, have that same ability.

Passage of this bill would have a significant impact upon Kansas Farm Bureau. A substantial number of our members are patrons of local or community/regional coops, and indeed, some would serve on the boards of these organizations. Furthermore, all 105 county Farm Bureau Associations are organized under the Cooperative Marketing Act, as well the Kansas Farm Bureau.

For these reasons it is important that this limited amendment to the statute be passed. Therefore, we respectfully ask the committee to take favorable action on HB 2530. Thank you for your consideration.



KANSAS AGRICULTURAL ALLIANCE

HOUSE COMMITTEE ON AGRICULTURE

RE: HB 2530 – Amending the Kansas Cooperative Marketing Act; relating to removal of officers by board of directors

January 28, 2004

**Presented by:
Todd Johnson, President
Kansas Agricultural Alliance**

*Kansas Agribusiness
Retailers Association*

*Kansas Agricultural
Aviation Association*

Kansas Agri-Women

*Kansas Association of
Agriculture Educators*

*Kansas Association of
Conservation Districts*

*Kansas Association of
Wheat Growers*

*Kansas Corn Growers
Association*

Kansas Cooperative Council

Kansas Dairy Association

*Kansas Electric
Cooperatives*

Kansas Ethanol Association

Kansas Farm Bureau

*Kansas Grain & Feed
Association*

*Kansas Grain Sorghum
Producers*

*Kansas Livestock
Association*

Kansas Pork Association

*Kansas Seed Industry
Association*

Kansas Soybean Association

*Kansas Veterinary Medical
Association*

Good afternoon, Chairman Johnson and members of the House Agriculture Committee. I am Todd Johnson and I appear before your committee today as President of the Kansas Agricultural Alliance (KAA), a group of nineteen organizations representing agricultural, agribusiness and rural interests. As a point of information, the Alliance only takes positions on specific legislation when its members are unanimous in their support of or opposition to a bill.

Today I stand before you to share the Alliance's full support of HB 2530, a bill that amends the Cooperative Marketing Act as it relates to election and removal of officers by an organization's board of directors.

This issue is of importance to KAA because member organizations of our alliance are structured under the Cooperative Marketing Act. In addition, individual members of our respective nineteen organizations are active within associations governed by this act. It is safe to say all our organizations have members who serve, or have served, on boards of directors affected by this act.

KAA feels it is important any board of directors organized under the Cooperative Marketing Act have the authority to remove an officer from such office by a majority vote, and have the ability to elect a replacement for such officer. We feel this change allows the board appropriate governing authority as entrusted by members.

Our support in amending this act is directed solely at the provisions that relate to officer election and removal. We have not taken a position on any other changes to the act, and would ask that our support only be applied to this section. We encourage the legislation to pass favorable without amendment.

Thank you.

House Agriculture Committee
January 28, 2004
Attachment 3

TOM SLOAN

REPRESENTATIVE, 45TH DISTRICT
DOUGLAS COUNTYSTATE CAPITOL BUILDING
ROOM 446-NTOPEKA, KANSAS 66612-1504
(785) 296-7677
1-800-432-3924772 HWY 40
LAWRENCE, KANSAS 66049-4174
(785) 841-1526
sloan@house.state.ks.us

TOPEKA

HOUSE OF
REPRESENTATIVESCOMMITTEE ASSIGNMENTS
CHAIRMAN: HIGHER EDUCATION
MEMBER: UTILITIES
ENVIRONMENT
GENERAL GOVERNMENT &
HUMAN RESOURCES
BUDGET

Testimony on **HB 2531**

Mr. Chairman, Members of the Committee: **HB 2531** addresses the preservation of the practice of agriculture while protecting historic sites.

Under current state law, the request for a local government permit (e.g., building permit) within the *environs* of an historic site requires local and state officials to consider the impact of the proposed development or construction project on the historic site/structure. Within urban areas, the environs extend 500 feet from the historic property; in non-urban areas, the environs extend 1,000 feet.

HB 2531 proposes that urban and rural environs be equal - 500 feet. The bill further states that within the 500-foot environs, statutorily defined and accepted agricultural practices are acceptable. From a pragmatic public policy perspective, a proposed subdivision of houses within the environs would still “trigger” review at the local and state levels for adverse impact on the historical site. However, replacing a hay barn that was destroyed in a tornado would not.

Early drafts on **HB 2531** were shared with agricultural practitioners and preservationists. Suggestions from both are incorporated in the current version. The final draft was also circulated separately by the State Historic Preservation Officer and me to preservationists across the state. Great effort has been made to balance the need to protect the integrity of our state’s historical sites and to protect the ability of farmers to earn a living from their land.

I regret that my responsibilities on the House Higher Education Committee prevent my appearing before the Agriculture Committee today. I encourage any member with questions to call my office and I will come visit you about **HB 2531**.

House Agriculture Committee
January 28, 2004
Attachment 4



Kansas Farm Bureau

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PUBLIC POLICY STATEMENT

House Committee on Agriculture

**RE: HB 2531 – an act concerning state historic property;
relating to agricultural use of land.**

**January 28, 2004
Topeka, Kansas**

**Presented by:
Brad Harrelson, Associate State Director
KFB Governmental Relations**

Chairman Johnson and members of the committee, thank you for the opportunity to provide comments on House Bill 2531. I am Brad Harrelson, Associate State Director of Governmental Relations for the Kansas Farm Bureau. KFB is the state's largest general farm organization and represents more than forty thousand agricultural producer families through the 105 county Farm Bureau Associations across Kansas.

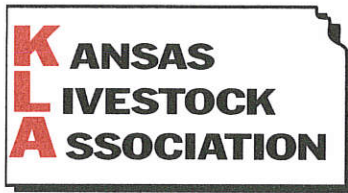
Our members have a long history of treasuring and protecting their private property rights.

We vigorously support landowner's rights. AG12

Through one of our local county farm bureaus, we have come to understand that individuals' rights can potentially be restricted under current law, should their property abut a registered historical site. Furthermore, the restriction covers a rather large area of impact. It is possible that normal farming and ranching activities, or construction of facilities to carryout those activities could be negatively impacted. The bill before you today seeks to correct this over-extension of governmental authority.

We have been actively engaged in discussions throughout the development of this bill and support it's intent. We are also supportive of an amendment to the original language striking "... located in an unincorporated portion of a county" that may be offered. As written, this language may have unintended consequences, and limit land use such as ag production in "incorporated" portions of a county.

Again, thank you for the opportunity to speak to you today, and we would respectfully ask the committee to take favorable action on HB 2531.



Since 1894

TESTIMONY

To: House Agriculture Committee
Representative Dan Johnson, Chairman

From: Todd Johnson, Governmental Affairs Staff

Subject: **Support for HB 2531** – An act concerning state historic property; relating to agricultural use of land.

Date: January 28, 2004

The Kansas Livestock Association (KLA), formed in 1894, is a trade association representing over 6,000 members on legislative and regulatory issues. KLA members are involved in many aspects of the livestock industry, including seedstock, cow-calf and stocker production, cattle feeding, grazing land management and diversified farming operations.

Good afternoon Representative Johnson and committee members. I am Todd Johnson, governmental affairs staff for the Kansas Livestock Association. Thank you for allowing me to address your committee this afternoon.

The topic of historic environs and their impact on agricultural land and agricultural practices has drawn concern from KLA members. We are before your committee today to explain these concerns, and remedy a potentially cumbersome requirement. Let me first begin by explaining the impact of historic environs.

Based on authority granted the State Historical Society through KSA 75-2724 (d):

“Failure of any person or entity to apply for and obtain the proper or required building or demolition permit before undertaking a project that will encroach upon, damage or destroy any historic property included in the national register of historic places or the state register of historic places, **or the environs of such property**, shall be subject to a civil penalty ...”

If the proposed project is located within 500 feet of the boundaries of a historic property located within the city limits, or within 1,000 feet of the boundaries in the **unincorporated** portion of a **county**, notice will be given to the state historic preservation officer who shall be given the opportunity to investigate and comment upon the proposed project.

House Agriculture Committee
January 28, 2004
Attachment 6

Kansas Livestock Association Testimony – HB 2531

HB 2531 clarifies how agricultural land and farming practices fit into the historic preservation act as follows:

- Clarifies the act shall not restrict the use of ag land, restrict landowner ability to construct or remodel buildings on agricultural land, or require the owner of ag land to change or modify the use of such land.
- Makes the historic environs consistent at 500 feet, for cities and unincorporated portions of the county.
- Directs the state historical society to notify landowners, within 500 feet of the boundaries of a proposed historic property, before consideration is taken to list a property as historic.

We respectfully request the following minor amendment be made to this bill:

- Page 2, line 38, strike the words “an unincorporated portion of”

The new paragraph would simply state agricultural land “means land located in a county which is devoted to the production of plants, animals”

The authoring legislator has agreed to the amendment and does not consider it to change the intent of the legislation. Currently land used for agricultural purposes is not defined by its location. Any reference as such could confuse other issues.

Thank you for your time and favorable consideration of this issue.

January 28, 2004

My name is Bob Rhoton and I represent the Lawrence Chamber of Commerce AgriBusiness network. I also work as an agricultural lender in Lawrence, which is becoming more urban each year.

I would like to support the proposed changes in the historical preservation environs rule as outlined in House Bill 2531.

With the support of the State Historical Preservationist, I feel we have a bill that protects a farmer's ability to continue to operate a farm without further limiting or placing added restrictions and expenses to produce an income from their land. It is difficult enough to make a living by farming today. Having a law that requires farmers located next to a historical property to go through the State Historical Preservationist, adds another level of hardship to a farmer if they were to change a corral, add a machine shed, or make a house improvement or addition if they were within the 1000 foot environ rule.

The current law specifies that in rural areas there is a 1,000-foot environs on any state or national historical site. Reducing this environs rule to 500 feet will reduce the workload of the State Historical Preservationist in reviewing requests and also save them time and money. The other amendment to the bill will exempt agricultural land from being reviewed as long as the land will remain in agricultural uses. This will allow farmers to continue to operate their farms without this review processes. I don't think any of us can argue against historical preservation, but having one of these sites located next to a working farm and possibly having to change your practices could be an economic hardship.

House Agriculture Committee
January 28, 2004
Attachment 7

This time last year we were asking that this bill be amended, but there were objections made over the way the bill was submitted. We have had a year to set down with the local preservation societies and work out a bill that is mutually accepted by all interested parties. With this extra time that has been put into this proposal and the fact that the bill will still protect State and National Historical Site as well as production agriculture interests, I would hope that you see fit to accept HB 2531 as proposed.

Thank you for your time.

My name is Kermit Kalb. I live in eastern Douglas County right next to the historical Black Jack battlefield and the Santa Fe Trail ruts.

We now have the fifth generation of the Kalb family living and farming on our ground surrounding the Black Jack battlefield.

I would like to speak out in favor of the changes that House Bill #2531 would bring in regards to the environs laws concerning historic sites. Having lived in this area all my life, I have a great respect for the preservation of this historical site. However, I feel that the current environs laws infringes on my rights as a property owner.

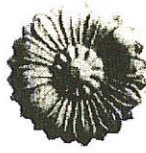
We were quite surprised to learn that a group of people, who had no direct contact with the Black Jack site could petition for the historical designation that would put such constraints on our property. Because of the current environs law, and the fact that we are the contiguous landowner of 400 acres that falls within that 1000 feet environs, this current law puts undue restrictions on us.

Our main concern is that we want to be able to continue in our farming operation the way it is today, and even expand that operation if we so choose. With the current environs regulations this will require more paper work and more headaches for us to deal with if we do expand our operation. We have already dealt with the growing paperwork involved with our cattle feedlot operation permits. This would be just one more agency that we would have to answer to. It gets to the point that we don't know who we will have to answer to next concerning what we will want to do with our own property.

The rights of property owners is the most important factor to us. Most people don't seem to understand that we have been in the area continuing our farming operation for many generations and have always had the upmost respect for the historical aspects of the community. Theses environs restrictions just seem to limit our rights as property owners.

The farming community in our area is growing older and not many are returning to the farm. Because of this, much of the farm ground in our part of the county is being sold for development purposes. That is not our intention, especially with my son joining our farming operation. But with the current environs laws this would restrict what we could do with our land if we were forced to sell some of our land because of this rural development.

We support the changes in House Bill #2531 concerning the environs regulations and thank you for the opportunity to speak today.



Kansas *Preservation* Alliance, Inc.

SAVING THE PAST TO ENRICH THE FUTURE

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Atchison
Cheryl Brown Henderson
Topeka

January 28, 2004

Kansas House of Representatives
Agriculture Committee

Dear Representative,

On behalf of the Board of Directors of the Kansas Preservation Alliance I would like to thank you for your efforts in working with preservationists throughout Kansas in considering the environs issue of the Kansas Historic Preservation Statute.

As the grassroots not-for-profit preservation organization in Kansas, the Kansas Preservation Alliance represents the diversity of historically minded preservationists including old-house owners; businesses and professionals who work on those old houses; developers who are saving historical buildings in small towns across the state; and employees of museums and other historic tourist attractions.

Because of the importance of historic preservation in the state and the country, KPA pays close attention to the protections that are in place. We trust our representatives to keep our organization advised of any threats to these protections and to ensure that KPA is a part of the discussion concerning historic preservation.

Thank you again for your persistence in working towards our common interests of preserving the cultural and historical heritage of Kansas.

Sincerely,

Janine E. Joslin
President, Board of Directors

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