

MINUTES OF THE HOUSE ENVIRONMENT COMMITTEE

The meeting was called to order by Chairman Joann Freeborn at 3:30 P.M. on February 14, 2006 in Room 231-N of the Capitol.

All members were present except:

Representative Gary Hayzlett- excused  
Representative Vaughn Flora- excused

Committee staff present:

Raney Gilliland, Legislative Research Department  
Lisa Montgomery, Revisor of Statutes Office  
Pam Shaffer, Committee Secretary

Conferees appearing before the committee:

Tom Sloan, Representative, 45<sup>th</sup> District  
Greg Foley, Executive Directory, State Conservation Commission  
Mike Beam, Kansas Livestock Association  
RoxAnne Miller, Kansas Land Trust  
Rose Bacon, Rancher/landowner, Council Grove  
David Webb, Realtor/auctioneer/appraiser, Stillwell, KS  
Bill Sproul, Rancher/landowner, Sedan, KS  
Steve Swaffar, Kansas Farm Bureau

Others attending:

See attached list.

Chairperson Freeborn ask everyone to sign the guest list. She announced Thursday's agenda: Hearings on: **HB2756 - Kansas storage tank act, reimbursement for upgrades and closures; HCR6008 - Resolution urging the United States army corps of engineers to approve a plan by the state of Kansas for the reservoirs of Kansas; HB2875 - Concerning inspection fees for works constructed for appropriation of water for beneficial use. Possible action on: HB2710 - Creates the water transition assistance program; HB2756 - Kansas storage tank act, reimbursement for upgrades and closures; and HCR6008 - Resolution urging the United States army corps of engineers to approve a plan by the state of Kansas for the reservoirs of Kansas.**

Chairperson Freeborn opened final action:

**HB2716- Granting of easement for diversion works on Kansas river for water district number 1 of Johnson county.** The Fiscal note states costs of between \$5,000 and \$10,000. Representative Olson had a correction on the bill, a balloon (See attachment 1), Representative Olson moved to adopt the balloon, Representative Light seconded, motion carried. Representative Olson moved HB2716, as amended be recommended favorable for passage, Representative Light seconded, motion withdraw. Representative Hawk made a motion for a conceptual amendment to add verbiage that the state would not be financially harmed in any way, Representative Olson seconded, discussion followed, motion carried. Representative Olson moved that HB2716 be passed as amended, Representative Light seconded, motion carried. Representative Olson will carry.

**HB2757 - Requiring notification of oil and gas spills to landowners.** Negligible costs that could be absorbed within existing resources. Representative Johnson moved to adopt the balloon which was passed out by Representative Sloan at the February 9 Committee Meeting adding "or the representative of the landowners" to line 13 (See attachment 2) Representative Sloan seconded, motion carried. Representative Johnson motioned for HB2757 be passed as amended, Representative Slaty seconded, motion carried. Representative Johnson will carry

**HCR5029 - Congress urged to ban MTBF in gasoline by January 1, 2010.** Representative Sloan moved to recommend **HCR5029** favorable for passage, Representative Hawk seconded, motion carried. Representative Slaty will carry.

CONTINUATION SHEET

MINUTES OF THE House Environment Committee at 3:30 P.M. on February 14, 2006 in Room 231-N of the Capitol.

Chairperson Freeborn opened the hearing on **HB2556**. Copy of the Fiscal Notes (See attachment 3) was given to all committee members.

Tom Sloan, Representative, 45<sup>th</sup> District, Lawrence, proponent, testified, (See attachment 4). Representative Sloan had balloons for **HB 2556**, copy was given to each member of the committee. (See attachment 5).

Greg Foley, Executive Director, State Conservation Commission, proponent, testified, (See attachment 6).

Mike Beam, Kansas Livestock Assoc, proponent, testified, (See attachment 7).

Roxanne Miller, Kansas Land Trust, proponent, testified, (See attachment 8).

Rose Bacon, Rancher/landowner, Council Grove, KS, proponent, testified (See attachment 9).

David Webb, Auctioneer/appraiser, Stillwell, KS, proponent, testified (See attachment 10).

Bill Sproul, Rancher/landowner, Sedan, KS, proponent, testified (See attachment 11).

Steve Swaffar, Kansas Farm Bureau, opponent, testified (See attachment 12).

Questions and discussion followed the testimony.

Chairperson Freeborn closed the hearing on **HB2556**.

Chairperson Freeborn adjourned the meeting at 5:10pm. The next scheduled meeting is Thursday, February 16.

HOUSE ENVIRONMENT COMMITTEE GUEST LIST

DATE: 02/14/06

NAME	REPRESENTING
Eric Arner	Water District No 1 Johnson Cty.
Carole Jordan	Dept of Ag
Kent Bacon	Kansas Land Trust
Rose J. Bacon	Kansas Land Trust
Craig Phillips	FORT RILEY MILITARY INST.
Stanley Rasmussen	Department of Army
Mary Ann Stankewicz	KGFA
Leslie Kausman	Ks Coop Council
Steve Swatta	Ks Farm Bureau
Mike Beam	Ks LUSTK. ASSN.
John Petelvar	Tollgate Ranch
Ed Cross	KIOGA
Bill Spraul	Rancher
Dave Webb	Kansas Ranch Land Trust
Perrow Spraul	Rancher
Mark Tomb	LKM
Dale Sloan	visitor
Aug A. Wiley	SCC

HOUSE ENVIRONMENT COMMITTEE GUEST LIST

DATE: 2/14/06

NAME	REPRESENTING
Steve Adams	Ks Wildlife & Parks
Amy Thornton	KDWP
Tony Fobson	KDOR
Dane Hoffman	KS Assoc of Wheat Growers
Daphne Brown	KASSW



# HOUSE BILL No. 2716

By Representatives Olson, Beamer, Brown, Brunk, Burgess, Carlson, Carter, Colloton, Cox, Freeborn, George, Goico, Grange, Hawk, Hayzlett, Hnebert, Huff, Huntington, Kelley, Kelsey, Kiegerl, Kilpatrick, Kinzer, Knox, Lane, Long, Mast, Masterson, Mays, Merrick, Judy Morrison, Oharah, Otto, Owens, Pilcher-Cook, Powers, Proehl, Ruff, Ruiz, S. Sharp, Siegfried, Sloan, Svaty, Swenson, Treaster, Vickrey, Watkins, Wilk, Williams, Wolf, Yoder and Yonally

1-25

15 AN ACT concerning water; granting an easement for construction of  
16 diversion works along the Kansas river.

17  
18 *Be it enacted by the Legislature of the State of Kansas:*

19 Section 1. (a) The secretary of state is hereby authorized and di-  
20 rected to grant an easement to water district no. 1 of Johnson county,  
21 Kansas, on a tract of land owned by the state of Kansas along the south  
22 and north banks of the Kansas river described as follows: Commencing  
23 at ~~the southwest corner of the northwest quarter of section 26, township~~  
24 ~~11 south, range 15 east of the 6th p.m., thence on a line 89°59'28" along~~  
25 ~~the south line of the northwest quarter, a distance of 1,305.42 feet to the~~  
26 ~~southeast corner of government survey lot 4, thence on a line 31°25'19",~~  
27 ~~and distance of 2,175.90 feet to the point of beginning, thence on a line~~  
28 ~~95°45'25" a distance of 961.04 feet, thence on a line 311°43'22", a dis-~~  
29 ~~tance of 1,277.63 feet, thence on a line 76°43'22", a distance of 1,809.23~~  
30 ~~feet, thence on a line 169°23'29", a distance of 963.02 feet, thence on a~~  
31 ~~line 250°23'29", a distance of 170.00 feet to the point of beginning. Less~~  
32 ~~that part of the above described tract lying northerly high bank of the~~  
33 ~~Kansas river and less that part of such tract lying southerly of the southerly~~  
34 ~~high bank of the Kansas river.~~

35 (b) Such easement shall be conditioned on water district no. 1 of  
36 Johnson county assuming full responsibility for the use of such easement  
37 and holding the state of Kansas harmless therefor. Such easement shall  
38 terminate if the land is no longer used for the purpose for which the  
39 easement was granted.

40 (c) Water district no. 1 of Johnson county Kansas, is hereby author-  
41 ized to acquire the easement described in subsection (a) and to use such  
42 easement for the purpose of locating, constructing, maintaining and op-  
43 erating diversion works for the appropriation of water and to assume full

the east half of the southeast quarter of the southwest quarter of Section 31, Township 11 South, Range 24 East, the east half of the northeast quarter of the southwest quarter of Section 31, Township 11 South, Range 24 East, and the southeast quarter of Section 31, Township 11 South, Range 24 East. Less that part of the above described tract lying northerly of the northerly high bank of the Kansas River and less that part of such tract lying southerly of the southerly high bank of the Kansas River

1 responsibility for such use and hold the state of Kansas harmless therefor.  
2 Sec. 2. This act shall take effect and be in force from and after its  
3 publication in the statute book.

# HOUSE BILL No. 2757

By Committee on Environment

1-27

9 AN ACT concerning oil and gas; relating to spill notification.

10

11 *Be it enacted by the Legislature of the State of Kansas:*

12 Section 1. The state corporation commission shall adopt rules and  
13 regulations requiring operators to timely notify landowners of a spill  
14 which is also required to be reported to the commission.

15 Sec. 2. This act shall take effect and be in force from and after its  
16 publication in the statute book.

or the representative of the landowners

February 13, 2006

The Honorable Joann Freeborn, Chairperson  
House Committee on Environment  
Statehouse, Room 143-N  
Topeka, Kansas 66612

Dear Representative Freeborn:

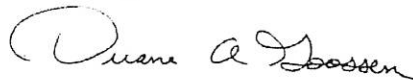
SUBJECT: Fiscal Note for HB 2556 by Representative Sloan

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2556 is respectfully submitted to your committee.

The bill would establish the Kansas Farm and Ranch Land Protection Grant Program to limit the loss of agricultural land to nonagricultural use. The program would be administered by the State Conservation Commission (SCC). The Commission would make matching grants in cooperation with the United States Department of Agriculture for the purchase of permanent conservation easements on eligible farm and ranch lands. The costs would include appraisals, surveys, and title searches. The Commission would adopt rules and regulations to establish the application process, monitor the negotiation of contracts, and assure the appropriate use of grant funds. The bill would impose a change in the classification of real property for ad valorem taxation from agricultural to non-agricultural use and assess an open space preservation fee of 0.015 percent based on the fair market value of the property. Fee revenue would be credited to the Agricultural Land Conservation Program Fund in the SCC to be used as matching funds for programs that conserve agricultural land.

The State Conservation Commission indicates that it would function as the agency that handles the third party matching fund requirements for applicable federal programs. The fiscal effect on the agency would be negligible and could be absorbed within existing resources.

Sincerely,



Duane A. Goossen  
Director of the Budget

cc: Mark Heim, Conservation Commission  
Max Foster, Agriculture  
Steve Neske, Revenue

House Environment Committee  
February 14, 2006  
Attachment 3

TOM SLOAN

REPRESENTATIVE, 45TH DISTRICT  
DOUGLAS COUNTY

STATE CAPITOL BUILDING

ROOM 446-N

TOPEKA, KANSAS 66612-1504

(785) 296-7677

1-800-432-3924

772 HWY 40

LAWRENCE, KANSAS 66049-4174

(785) 841-1526

sloan@house.state.ks.us



TOPEKA

HOUSE OF  
REPRESENTATIVES

COMMITTEE ASSIGNMENTS

CHAIRMAN: HIGHER EDUCATION

MEMBER: UTILITIES

ENVIRONMENT

AGRICULTURAL & NATURAL  
RESOURCES BUDGET

KANSAS WATER AUTHORITY

## Testimony on HB 2556 - Conservation Easements

House Environment Committee

February 14, 2006

Madam Chairman, Members of the Committee: Kansas agricultural interests have for several years been interested in developing a stronger conservation easement program to preserve not only unique Kansas lands, but also the agrarian way of life. Last year the House Agriculture and Natural Resources Budget Committee held hearings on a bill to develop this expanded program. For a variety of reasons, I opposed that bill. However, I made a commitment to try and develop a conservation easement bill that might garner support from a broader array of interests. HB 2556 was introduced to keep that promise.

Although I talked with and showed earlier drafts of the bill to some interested parties, it was not until HB 2556 was formally introduced that discussions with the broader range of parties were held. Accompanying my testimony is a balloon that reflects a greater consensus of opinion from agricultural interests, state agency program administrators, and me to create a program that is easily administered, provides a reasonable balance of urban and rural stakeholder interests, and can achieve the objective of preserving open space and a way of life.

Briefly, the balloon version of HB 2556 establishes that the State Conservation Commission may facilitate the conservation of farm and ranch lands in Kansas through grants to purchase perpetual conservation easements. The criteria for establishing "eligible farm and ranch lands" are defined on page 4, lines 19-24.

The Conservation Commission is authorized to participate in such preservation programs with the United States Department of Agriculture (Farm and Ranch Land Protection Program), Department of Defense (ACUP), or other federal or private entity. Kansas dollars would be part of any necessary matching fund requirements to fully utilize such federal grants. Page 5, New Sections 4 and 5, provide the guidelines for implementing the program.

I particularly want to call the Committee's attention to page 6, New Section 7, line 12, establishes a funding source for this program. I try not to propose programs without a funding source, though the conservation easement program proposed in this bill can exist based on annual SGF appropriations.

The proposed funding stream requires that for farm and ranch lands sold and reclassified for other than agricultural or municipal uses within seven years, a fee equal to 1.5 percent of the sale price shall be collected and remitted to the state to support this program.

House Environment Committee

February 14, 2006

Attachment 4

## HOUSE BILL No. 2556

By Representative Sloan

12-28

Representative Sloan  
January 25, 2006

9 AN ACT concerning the conservation commission; relating to conser-  
10 vation easements; establishing the farm and ranch land protection pro-  
11 gram; amending K.S.A. 2-1904 and repealing the existing section.  
12

13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. K.S.A. 2-1904 is hereby amended to read as follows: 2-  
15 1904. (a) There is hereby established, to serve as an agency of the state  
16 and to perform the functions conferred upon it in this act, the state con-  
17 servation commission. The state conservation commission shall succeed  
18 to all the powers, duties and property of the state soil conservation com-  
19 mittee. The commission shall consist of nine members as follows:

20 (1) The director of the cooperative extension service and the director  
21 of the state agricultural experiment station located at Manhattan, Kansas,  
22 or such persons' designees shall serve, *ex officio*, as members of the  
23 commission.

24 (2) The commission shall request the secretary of agriculture of  
25 United States of America to appoint one person and the secretary of the  
26 Kansas department of agriculture to appoint one person, each of whom  
27 shall be residents of the state of Kansas to serve as members of the com-  
28 mission. These members shall hold office for four years and until a suc-  
29 cessor is appointed and qualifies, with terms commencing on the second  
30 Monday in January beginning in 1973.

31 (3) Five members of the state commission shall be elected by the  
32 conservation district supervisors at a time and place to be designated by  
33 the state conservation commission. The method of electing such members  
34 to be conducted as follows: The state is to be divided into five separate  
35 areas. Area No. I to include the following counties: Cheyenne, Rawlins,  
36 Decatur, Norton, Phillips, Smith, Osborne, Rooks, Graham, Sheridan,  
37 Thomas, Sherman, Wallace, Logan, Gove, Trego, Ellis and Russell. Area  
38 No. II to include: Greeley, Wichita, Scott, Lane, Ness, Rush, Pawnee,  
39 Hodgeman, Finney, Kearny, Hamilton, Edwards, Ford, Gray, Haskell,  
40 Grant, Stanton, Morton, Stevens, Seward, Meade, Clark, Comanche and  
41 Kiowa. Area No. III to include: Jewell, Republic, Mitchell, Cloud, Lin-  
42 coln, Ottawa, Ellsworth, Saline, Rice, McPherson, Reno, Harvey, King-  
43 man, Sedgwick, Sumner, Harper, Barber, Pratt, Barton and Stafford. Area



1 No. IV to include: Washington, Marshall, Nemaha, Brown, Doniphan,  
2 Clay, Riley, Pottawatomie, Jackson, Atchison, Jefferson, Leavenworth,  
3 Wyandotte, Johnson, Douglas, Shawnee, Wabaunsee, Geary, Dickinson,  
4 Morris, Osage, Franklin and Miami. Area No. V to include: Marion,  
5 Chase, Lyon, Coffey, Anderson, Linn, Bourbon, Allen, Woodson, Green-  
6 wood, Butler, Elk, Wilson, Neosho, Crawford, Cowley, Chautauqua,  
7 Montgomery, Labette and Cherokee. Areas II and IV will elect in even  
8 number years and Areas I, III and V shall elect in odd number years for  
9 two year terms. The elected commission members from Areas I, III and  
10 V shall take office on January 1, of the even number years. The remaining  
11 two elected members of the state commission from Areas II and IV shall  
12 take office on January 1, of the odd number years. The method of election  
13 is to be by area caucus of the district supervisors of each of the five  
14 separate areas of Kansas. The commission shall give each district notice  
15 of the time and place of such annual election meeting by letter if a mem-  
16 ber is to be elected to the commission from that area that year. The  
17 selection of a successor to fill an unexpired term shall be by appointment  
18 by the commission. The successor who is appointed to fill the unexpired  
19 term shall be a resident of the same area as that of the predecessor.

20 (b) The commission shall keep a record of its official actions, shall  
21 adopt a seal which seal shall be judicially noticed, and may perform such  
22 acts, hold such public hearings and adopt rules and regulations necessary  
23 for the execution of its functions under this act.

24 (c) The state conservation commission may employ an administrative  
25 officer and such technical experts as it may require and shall determine  
26 their qualifications and duties. Such officer and experts shall be in the  
27 unclassified service of the Kansas civil service act and shall receive annual  
28 salaries fixed by the commission and approved by the state finance coun-  
29 cil. All other agents and employees, permanent or temporary, required  
30 by the state conservation commission, shall be within the classified service  
31 of the Kansas civil service act. The commission may call upon the attorney  
32 general of the state for such legal services as it may require. It shall have  
33 authority to delegate to its chairperson, to one or more of its members  
34 or to one or more agents or employees, such powers and duties as it  
35 deems proper. It shall be supplied with suitable office accommodations  
36 at the state capital, and shall be furnished with the necessary supplies and  
37 equipment. Upon request of the commission, for the purpose of carrying  
38 out any of its functions, the supervising officer of any state agency or of  
39 any state institution of learning, insofar as may be possible under available  
40 appropriations and having due regard to the needs of the agency to which  
41 the request is directed, shall assign or detail to the commission members  
42 of the staff or personnel of such agency or institution of learning and  
43 make such special reports, surveys or studies as the commission may

1 request.

2 (d) The commission shall designate its chairperson and, from time to  
3 time, may change such designation. A majority of the commission shall  
4 constitute a quorum, and the concurrence of a majority in any matter  
5 within their duties shall be required for its determination. Members of  
6 the state conservation commission attending meetings of such commis-  
7 sion or attending a subcommittee meeting thereof authorized by such  
8 commission shall be paid compensation, subsistence allowances, mileage  
9 and other expenses as provided in K.S.A. 75-3223, and amendments  
10 thereto. The commission shall provide for keeping of a full and accurate  
11 record of all proceedings and of all resolutions, regulations and orders  
12 issued or adopted.

13 (e) In addition to the duties and powers hereinafter conferred upon  
14 the state conservation commission, it shall have the following duties and  
15 powers:

16 (1) To offer such assistance as may be appropriate to the supervisors  
17 of conservation districts, organized as provided hereinafter, in the carry-  
18 ing out of any of their powers and programs;

19 (2) to keep the supervisors of each of the several districts organized  
20 under the provisions of this act informed of the activities and experience  
21 of all other districts organized hereunder and to facilitate an interchange  
22 of advice and experience between such districts and cooperation between  
23 them;

24 (3) to coordinate the programs of the several conservation districts  
25 organized hereunder;

26 (4) to secure the cooperation and assistance of the United States and  
27 any of its agencies and of agencies of this state, in the work of such districts  
28 and to contract with or to accept donations, grants, gifts and contributions  
29 in money, services or otherwise from the United States or any of its agen-  
30 cies or from the state or any of its agencies in order to carry out the  
31 purposes of this act;

32 (5) to disseminate information throughout the state concerning the  
33 activities and programs of the conservation districts organized hereunder  
34 and to encourage the formation of such districts in areas where their  
35 organization is desirable;

36 (6) to cooperate with and give assistance to watershed districts and  
37 other special purpose districts in the state of Kansas for the purpose of  
38 cooperating with the United States through the secretary of agriculture  
39 in the furtherance of conservation pursuant to the provisions of the wa-  
40 tershed protection and flood prevention act, as amended;

41 (7) to cooperate in and carry out, in accordance with state policies,  
42 activities and programs to conserve and develop the water resources of  
43 the state and maintain and improve the quality of such water resources;

F-5

1 (8) to enlist the cooperation and collaboration of state, federal, re-  
2 gional, interstate, local, public and private agencies with the conservation  
3 districts; ~~and~~

4 (9) to facilitate arrangements under which conservation districts may  
5 serve county governing bodies and other agencies as their local operating  
6 agencies in the administration of any activity concerned with the conser-  
7 vation of natural resources; *and*

8 (10) *to facilitate the conservation of private working farm and ranch*  
9 *lands in Kansas through grants to eligible entities for the administration,*  
10 *lease or purchase of perpetual conservation easements, or other interests,*  
11 *of eligible farm and ranch lands.*

and

12 New Sec. 2. As used in this act:

13 (a) "Commission" means the state conservation commission.

14 (b) "Conservation easement" means a conservation easement, as de-  
15 fined in K.S.A. 58-3510, and amendments thereto, which is a permanent  
16 deed restriction.

17 (c) "Eligible entity" means any organization that is an organization as  
18 described in section 170(h)(3) of the internal revenue code of 1986.

19 (d) "Eligible farm and ranch lands" means cropland, rangeland, grass-  
20 land, pastureland or forestland which: (1) Is an incidental part of an ag-  
21 ricultural operation on a farm or ranch; (2) has prime, unique or other  
22 productive soil or contains historical or archaeological resources; and (3)  
23 is subject to a pending offer for purchase or permanent conservation  
24 easements from an eligible entity.

25 (e) "Heart of the Flint Hills" means the area bounded on the north  
26 by U.S. highway 24, on the east by Kansas highways 99 and 4, on the  
27 south by Kansas highway 400 and on the west by Kansas highway 77,  
28 encompassing all or part of Pottawatomie, Riley, Shawnee, Wabaunsee,  
29 Geary, Morris, Lyon, Dickinson, Marion, Chase, Greenwood and Butler  
30 counties.

31 New Sec. 3. (a) There is hereby established a Kansas farm and ranch  
32 land protection grant program, to be administered by the commission,  
33 for the purpose of limiting loss of agricultural lands to nonagricultural  
34 uses.

35 (b) The commission may make available matching grants to be of-  
36 fered in cooperation with the United States department of agriculture  
37 under the farm and ranch land protection program or the United States  
38 department of defense, or any other federal or private entity, to eligible  
39 entities for the administration, costs and purchase of permanent conser-  
40 vation easements on eligible farm and ranch lands. Such costs shall in-  
41 clude, but not be limited to, appraisals, surveys and title searches.

42 (c) The commission may adopt rules and regulations to administer  
43 and implement the Kansas farm and ranch land protection grant program.

1 New Sec. 4. To receive grants pursuant to the Kansas farm and ranch  
2 land protection grant program ~~or other program administered by the~~  
3 ~~commission~~, eligible entities must make application to the commission in  
4 the manner prescribed by the commission and shall provide to the  
5 commission:

6 (1) Documentation from the internal revenue service that the entity  
7 meets the requirement of subsection (c) of section 2, and amendments  
8 thereto;

9 (2) a copy of the conservation easement agreement negotiated with  
10 the United States department of agriculture ~~and the landowner of the~~  
11 property for which funding is sought;

[ , United States department of defense or other agency

12 (3) a ~~legally binding~~ written statement that creation and recordation  
13 of appropriate deed restrictions will occur upon disbursement of the  
14 funds to the landowner;

15 (4) a ~~legally binding~~ written agreement to implement the terms of  
16 the conservation easement and to report the status of the conservation  
17 easement as the commission deems necessary; and

18 (5) any other relevant information the commission deems necessary  
19 to assure the appropriate use of grant funds.

20 New Sec. 5. (a) The commission shall evaluate and rank each appli-  
21 cation based upon the following criteria:

22 (1) Contiguous acres of farm and ranch land to be conserved and its  
23 ability to economically sustain agricultural activities;

24 (2) historic agricultural use and condition of the property;

25 (3) proximity of the property to: (A) A military installation or facility  
26 under the supervision of the United States secretary of the army or the  
27 United States secretary of the air force. (B) a military installation or facility  
28 under the supervision of the Kansas national guard; ~~or~~ (C) a state park,  
29 state lake, recreational area, wildlife area and sanctuary, fish hatchery,  
30 natural area or other lands, waters or facilities under the jurisdiction of  
31 the secretary of wildlife and parks;

32 (4) imminent threat of development for residential or commercial  
33 purposes;

34 (5) proximity of the property within a designated area for conserva-  
35 tion or preservation by public policy at the local, state or federal level;

[ and by renumbering the remaining subsections accordingly

36 (6) the property ~~lies within the heart of the Flint Hills and was pre-~~  
37 viously subject to ~~a~~ contract for development of wind energy;

[ an unfulfilled

38 (7) commitment of eligible entity and landowner to the long-term  
39 conservation of the property;

40 (8) ~~public access to~~ the land's scenic value, plant and animal biodi-  
41 versity, historic and cultural characteristics; and

[ provide an educational opportunity regarding

42 (9) other factors the commission deems critical for fulfillment of the  
43 purposes of this act.

(b) Because public moneys are expended to protect open space and environmentally important flora and fauna and land, provision for full or limited public access to land for which a grant is awarded pursuant to this act shall be a condition of receipt of such grant.

(c) Upon completion of the evaluations and rankings, the commission shall timely award funds to successful applicants.

New Sec. 6. Failure of a property owner to observe and fulfill the terms of a conservation easement shall render the property liable to the commission for all grant moneys received by the property owner pursuant to this act and liable to the purchaser of the property for all moneys paid to the property owner by the purchaser.

On July 1, 2007, there

New Sec. 7. (a) There is hereby imposed on the change in classification of real property for purposes of ad valorem taxation from agricultural use to a use other than agricultural use or use as a city, county or state park an open space preservation fee in an amount equal to 0.015% of the fair market value of such property, as determined by the county assessor pursuant to law, if such property is reclassified at the time of or within seven years after transfer of the property.

1.5%

appraiser

(b) The fee imposed by this section shall be collected by the county assessor and remitted to the state treasurer. Upon receipt of the remittance, the state treasurer shall deposit the entire amount in the state treasury and credit it to the agricultural land conservation program fund.

determined by the county clerk and the certified amount shall be provided to the county treasurer for collection

(c) (1) There is hereby established in the state treasury the agricultural land conservation program fund. Moneys in the fund shall be expended only for the purpose of matching federal moneys available for agricultural land conservation programs.

There is hereby established in the state treasury the agricultural land conservation program fund. Moneys in the fund shall be expended only for the administration, costs and the purchase of permanent conservation easements on agricultural lands. Moneys may be used for matching grants with federal agencies or private entities to conserve agricultural lands, but may not be used to acquire fee title to land.

(2) On or before the 10th of each month, the director of accounts and reports shall transfer from the state general fund to the agricultural land conservation program fund interest earnings based on: (A) The average daily balance of moneys in the agricultural land conservation program fund for the preceding month; and (B) the net earnings rate for the pooled money investment portfolio for the preceding month.

(3) All expenditures from the agricultural land conservation program fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the chairperson of the commission, or a person designated by the chairperson, for the purposes set forth in this section.

Sec. 8. K.S.A. 2-1904 is hereby repealed.

Sec. 9. This act shall take effect and be in force from and after its publication in the statute book.



Greg A. Foley, Executive Director

**KANSAS**  
State Conservation Commission

Kathleen Sebelius, Governor

**Testimony on the HB 2556 concerning an Act relating to Conservation Easements**

to

**The House Committee on Environment**

**by Greg A. Foley  
Executive Director  
State Conservation Commission**

**February 14, 2006**

Chairperson Freeborn and members of the Subcommittee, thank you for the opportunity to provide testimony on HB 2556 and information pertaining to how a Conservation Easement Program could function.

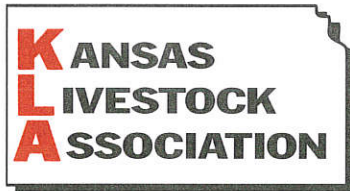
House Bill 2556 amends K.S.A. 2-1904, an act concerning the Conservation Commission, to include an additional duty and power, *to facilitate the conservation of private working farm and ranch lands in Kansas through grants to eligible entities for the administration, lease or purchase of perpetual conservation easements, or other interests, of eligible farm and ranch lands*. The proposed Act would establish a grant program, administered by the Commission that would function as a third party matching fund to eligible federal programs. The Act identifies what lands are eligible, the eligible entities, all necessary documentation and the priority ranking criteria.

The SCC respectfully would request clarification in New Section 3 that the proposed program is not a stand alone program, rather a program that works in concert with an applicable federal program. A stand alone state program would have a significant fiscal impact due to personnel through workload associated with the development of legal documents of perpetual nature. In addition, stand alone programs require annual monitoring and potential enforcement to assure compliance with such easements. The SCC has no legal staff currently. The State Conservation Commission believes a stand alone conservation easement program would be much better suited in an agency with extensive legal staff, such as the Kansas Department of Wildlife and Parks.

The State Conservation Commission directed me to clarify to the Committee that we do not have a position on New Section 7 that imposes a new fee on lands that have been reclassified from agricultural use to any other use.



In conclusion, the SCC appreciates the confidence of bill sponsors to recommend our agency as a clearinghouse for Conservation Easement matching funds and pledge to implement a fair and equitable matching-fund type program to the best of our ability. Madam Chair, I would like to thank you for the opportunity to provide testimony on H.B. 2556. I will stand for questions at the pleasure of the committee.



*Since 1894*

## TESTIMONY

To: The House Environment Committee  
Rep. Joann Freeborn, Chairperson

From: Mike Beam, Kansas Livestock Association (KLA)

Subj: **HB 2556**- Legislation establishing a Kansas farm and ranch land protection program, to be administered by the State Conservation Commission.

Date: February 14, 2006

***Attachments include:***

- *Existing state statutes regarding conservation easements*
- *What is a Conservation Easement? (KLA-RT)*
- *USDA Farm and Ranchland Protection Program fact sheet*
- *State by state enrollment in FRPP (1996-2004)*
- *AFT State PACE Programs*
- *What is KLA-RT*

Thank you, Chairperson Freeborn, for scheduling a hearing on this proposal. The Kansas Livestock Association (KLA) supports this proposal and appreciates Rep. Tom Sloan's efforts to produce and advocate a measure that can provide a state mechanism to permanently preserve Kansas farm and ranch land.

Our state's agriculture land base is the heart of our rich agricultural and rural life heritage. There are several private landowners scheduled to testify this afternoon. As you hear their story, I believe you will gain a greater appreciation for our desire to provide a tool, on a voluntary basis, that enables today's landowners to conserve their lands for future generations of Kansans.

(Our support for HB 2556 is based on the changes/amendments negotiated after the introduction of the bill.)

House Environment Committee  
February 14, 2006  
Attachment 7

## Key provisions of HB 2517:

- ✓ Amends the State Conservation Commission (SCC) statutes to provide the agency authority to partner with private conservation groups for the administration of conservation easements on eligible farm and ranch lands. (*page 4, no. 10, subsection e, Section 1*)
- ✓ Refers to a “conservation easement” as defined in Kansas statute. (*page 4, subsection b, New Section 2*)
- ✓ Defines an “eligible entity” as one recognized by the Internal Revenue Service as a charitable conservation organization that can accept and administer conservation easements. (*page 4, subsection c, New Section 2*)
- ✓ Provides a definition of eligible farm and ranch lands, consistent with the USDA Farm and Ranchland Protection Program. (*page 4, subsection d, New Section 2*)
- ✓ Establishes a “Kansas farm and ranchland protection grant program” to be administered by SCC. (*page 4, subsection a, New Section 3*)
- ✓ Allows SCC to make grants available, in cooperation with the federal USDA Farm and Ranchland Protection Program or other federal agencies, for permanent conservation easements and associated costs. (*page 4, subsection b, New Section 3*)
- ✓ Authorizes SCC to promulgate rules and regulations to administer the program. (*page 4, subsection c, New Section 3*)
- ✓ Establishes several guidelines and/or documents eligible entities must provide SCC, including a written agreement prescribing the manner in which the entity will administer SCC funded conservation easements. (*page 5, New Section 4*)
- ✓ Lists criteria for evaluating and ranking applications. (*page 5, New Section 5*)
- ✓ Includes a provision for repayment of SCC funds if the conservation easement is not adhered to. (*page 6, New Section 6*)
- ✓ Creates a dedicated source of funding by imposing a 1.5% “preservation fee” on agriculture land converted to non-agricultural use.

**Conservation easements:**

A conservation easement (see "What is a Conservation Easement") is a contract or covenant, attached to the deed, which stipulates specific uses or activities that may and may not occur on the designated land.

In most instances, the agreement is perpetual.

If a conservation easement is gifted to an eligible private conservation organization the provisions of the easement are negotiated between the landowner and conservation organization (land trust). A gifted easement, that meets requirements of the Internal Revenue Service (IRS), is considered a charitable contribution and federal income tax deduction.

Placing a conservation easement on agricultural land is not a viable consideration for every landowner, but it can be a tool to:

- Leverage the value of the development rights on property without changing the current use (agricultural production).
- Lower the market value to address potential estate tax concerns.
- Preserve the historical farming or ranching tradition of the family.
- Conserve the historical open spaces and scenic view shed of the local community.

**USDA Farm and Ranchland Protection Program:**

The Farm and Ranchland Protection Program (FRPP) (see attached Fact Sheet) provides matching funds to states, tribal and local governments, and private conservation groups for the purchase of permanent conservation easements that preserve working agricultural lands. Since 1996, this program has benefited the public by permanently preserving over 300,000 acres of farm and ranchland in 42 states. In recent years, the Kansas Natural Resources and Conservation Service (NRCS) office has received an FRPP allotment, but has had very few applications.

The limiting factor for FRPP participation in Kansas is the requirement that private or non-federal entities must provide a minimum match of 25% of the easement value. The ability of private conservation groups (land trusts) to generate funds to conserve large acreages is quite limited. It appears most of the federal FRPP funds are conserving agricultural land and open spaces in states that have a dedicated source of conservation easement purchase dollars that can match the USDA program.

**FRPP provides 2-1 matching funds:**

It is important to note the federal FRPP dollars are a two to one match to monies provided by states (or any nonfederal dollars). Furthermore, a participating landowner must donate 25% of the conservation easement's value.

For example, if an appraisal determines a proposed conservation easement has a value of \$100,000, USDA pays the landowner \$50,000 if the private entity or state provides \$25,000 and the landowner donates \$25,000. So, in this example a state can participate in a \$100,000 perpetual conservation project for \$25,000!

**The vision for conservation easements in Kansas:**

In recent years, KLA has responded to concerns from ranchers regarding the suburban residential encroachment in several areas of Kansas. Our members have expressed concern that some of these changing landscapes are occurring in areas that historically have been noted for their large intact ranching and grazing lands that support viable agriculture operations. One step taken is the formation of a land trust, called the Kansas Livestock Association Ranchland Trust, Inc. (KLA-RT). KLA-RT has received its nonprofit-charitable designation from the IRS.

**Opportunity and challenge for the Kansas Legislature:**

Kansans are known for their commitment to conservation. Landowners all across this state have received local, state, and national recognition for their land stewardship practices. The Kansas legislature, each year, appropriates funding for conservation programs that support water quality and soil conservation. These are all worthy projects, but we believe it is time to take another step in voluntary conversation. Let's act today, to design a program and a new source of dedicated funds to preserve the land itself by funding conservation easements on working, private agriculture lands.

Thank you for your time and consideration.

# Kansas Conservation Easement Law

## 58-3810

### Chapter 58.--PERSONAL AND REAL PROPERTY PART 6.--MISCELLANEOUSPROVISIONS Article 38.--EASEMENTS

**58-3810. Uniform conservation easement act; definitions.** As used in this act, unless the context otherwise requires:

(a) "Conservation easement" means a nonpossessory interest of a holder in real property imposing limitations or affirmative obligations the purposes of which include retaining or protecting natural, scenic or open-space values of real property, assuring its availability for agricultural, forest, recreational or open-space use, protecting natural resources, maintaining or enhancing air or water quality, or preserving the historical, architectural, archaeological or cultural aspects of real property.

(b) "Holder" means:

(1) A governmental body empowered to hold an interest in real property under the laws of this state or the United States; or

(2) a charitable corporation, charitable association or charitable trust, the purposes or powers of which include retaining or protecting the natural, scenic, or open-space values of real property, assuring the availability of real property for agricultural, forest, recreational or open-space use, protecting natural resources, maintaining or enhancing air or water quality, or preserving the historical, architectural, archaeological or cultural aspects of real property.

(c) "Third-party right of enforcement" means a right provided in a conservation easement to enforce any of its terms granted to a governmental body, charitable corporation, charitable association or charitable trust, which, although eligible to be a holder, is not a holder.

History: L. 1992, ch. 302, § 11; July 1.

## 58-3811

### Chapter 58.--PERSONAL AND REAL PROPERTY PART 6.--MISCELLANEOUSPROVISIONS Article 38.--EASEMENTS

**58-3811. Same; creation; duration; impairment; conveyance or assignment.**

(a) A conservation easement may be created only by the record owner of the surface of the land specifically stating the intention of the grantor to create such an easement under this act.



(b) Except as otherwise provided in this act, a conservation easement may be created, conveyed, recorded, assigned, released, modified, terminated or otherwise altered or affected in the same manner as other easements.

(c) No right or duty in favor of or against a holder and no right in favor of a person having a third-party right of enforcement arises under a conservation easement before its acceptance by the holder and a recordation of the acceptance.

(d) Except as provided in subsection (b) of K.S.A. 58-3812 and unless the instrument creating it otherwise provides, a conservation easement shall be limited in duration to the lifetime of the grantor and may be revoked at grantor's request.

(e) An interest in real property in existence at the time a conservation easement is created is not impaired by it unless the owner of the interest is a grantor of the conservation easement.

(f) A conservation easement may not be conveyed or assigned by a holder to any entity or person other than a city or county of this state, an entity enumerated by subsection (b)(2) of K.S.A. 58-3810 or the grantor thereof or such grantor's heirs.

**History:** L. 1992, ch. 302, § 12; July 1.

## **58-3812**

### **Chapter 58.--PERSONAL AND REAL PROPERTY**

#### **PART 6.--MISCELLANEOUSPROVISIONS**

#### **Article 38.--EASEMENTS**

**58-3812. Same; judicial actions; who may bring action affecting conservation easement; modification or termination by court.** (a) An action affecting a conservation easement may be brought by:

- (1) An owner of an interest in the real property burdened by the easement;
- (2) a holder of the easement;
- (3) a person having a third-party right of enforcement; or
- (4) a person authorized by other law.

(b) This act does not affect the power of a court to modify or terminate a conservation easement in accordance with the principles of law and equity.

**History:** L. 1992, ch. 302, § 13; July 1.

**58-3813**  
**Chapter 58.--PERSONAL AND REAL PROPERTY**  
**PART 6.--MISCELLANEOUSPROVISIONS**  
**Article 38.--EASEMENTS**

**58-3813. Same; validity of conservation easement.** A conservation easement is valid even though:

- (a) It is not appurtenant to an interest in real property;
- (b) it can be or has been assigned to another holder;
- (c) it is not of a character that has been recognized traditionally at common law;
- (d) it imposes a negative burden;
- (e) it imposes affirmative obligations upon the owner of an interest in the burdened property or upon the holder;
- (f) the benefit does not touch or concern real property; or
- (g) there is no privity of estate or of contract.

**History:** L. 1992, ch. 302, § 14; July 1.

**58-3814**  
**Chapter 58.--PERSONAL AND REAL PROPERTY**  
**PART 6.--MISCELLANEOUSPROVISIONS**  
**Article 38.--EASEMENTS**

**58-3814. Same; application of act.** (a) This act applies to any interest created after its effective date which complies with this act, whether designated as a conservation easement or as a covenant, equitable servitude, restriction, easement or otherwise.

(b) This act applies to any interest created before its effective date if it would have been enforceable had it been created after its effective date unless retroactive application contravenes the constitution or laws of this state or the United States.

(c) This act does not invalidate any interest, whether designated as a conservation or preservation easement or as a covenant, equitable servitude, restriction, easement or otherwise, that is enforceable under other law of this state.

**History:** L. 1992, ch. 302, § 15; July 1.

## 58-3815

### Chapter 58.--PERSONAL AND REAL PROPERTY PART 6.--MISCELLANEOUSPROVISIONS Article 38.--EASEMENTS

**58-3815. Same; uniformity of application and construction.** This act shall be applied and construed to effectuate its general purpose to make uniform the laws with respect to the subject of the act among states enacting it.

**History:** L. 1992, ch. 302, § 16; July 1.

## 58-3816

### Chapter 58.--PERSONAL AND REAL PROPERTY PART 6.--MISCELLANEOUSPROVISIONS Article 38.--EASEMENTS

**58-3816. Same; certain utility and water district easements not impaired.** Nothing in this act shall be construed so as to impair the rights of a public utility or city with respect to the acquisition of rights-of-way, easements or other property rights, whether through voluntary conveyance or eminent domain, upon which facilities, plants, systems or other improvements of a public utility or city are located or are to be located or so as to impair the rights of a watershed district under K.S.A. 24-1201 *et seq.* and amendments thereto with respect to rights-of-way, easements or other property rights upon which watershed structures are located or are to be located.

**History:** L. 1992, ch. 302, § 17; July 1.

## 58-3817

### Chapter 58.--PERSONAL AND REAL PROPERTY PART 6.--MISCELLANEOUSPROVISIONS Article 38.--EASEMENTS

**58-3817. Same; short title.** This act shall be known and may be cited as the uniform conservation easement act.

**History:** L. 1992, ch. 302, § 18; July 1.



An affiliate of the Kansas Livestock Association

## What is a Conservation Easement?

A conservation easement is a legally recorded agreement or contract, between the landowner and another entity, which restricts the use of designated land for conservation purposes. These agreements are voluntary in nature and, in most instances, authorize continued agricultural use. Donors of conservation easements retain title to their property and voluntarily grant conservation easements to protect their land from future development. A conservation easement runs with the title to the property regardless of changes in future ownership.

Not all conservation easements are alike. Each is tailored to the unique character of the land and the conservation desires of its owner(s) and grantee. Types of uses that are generally restricted by a conservation easement include (a) sub-division for residential or commercial activities; (b) construction of non-agricultural buildings; (c) nonagricultural commercial activities; (d) surface mining; and (e) other land uses or activities defined in the easement contract.

The following are examples of the types of uses that are usually allowed by a conservation easement:

- Continued agricultural use
- Construction of buildings, fences, water improvements, etc. necessary for agriculture and compatible with conservation objectives
- Sale, devise, gifting or other method of transferring parcels, subject to terms of the easement
- Landowner control of access
- Additional family and employee residences compatible with conservation objectives
- Wildlife and fisheries protection, restoration and enhancement projects
- Any and all uses not specifically prohibited

### Tax aspects of conservation easements

The federal tax code provides tax benefits for landowners who apply qualified conservation easements to their property. The donation of an easement may qualify as a charitable contribution for federal income tax purposes. Furthermore, the conservation easement may reduce estate and gift taxes. In general, the following rules apply for federal income tax benefits<sup>1</sup>:

1. The conservation easement must be granted in perpetuity (mortgage and/or contract holders must agree to subordinate to the easement).
2. The easement must provide at least one of the following three conservation purposes:
  - Protection of relatively natural habitat for fish, wildlife, plants or similar ecosystems.
  - Preservation of open space (including farmland or forest land) for (1) scenic enjoyment of the general public and/or (2) significant public benefit pursuant to a clearly delineated government policy.
  - Preservation of land areas for the education of or outdoor recreation by the general public.
3. The easement must be granted to a qualified organization (i.e. KLA-RT).

<sup>1</sup> This report is not intended to provide specific legal advice or counsel. Landowners considering a conservation easement should consult an attorney and tax specialist.



4. The easement must prohibit all surface mining. If the easement donor does not own all the mineral rights, the possibility of surface mining must be determined "so remote as to be negligible."
5. Resource data documenting the conservation values of the property must be collected prior to donation of the easement.

*Several states provide state tax benefits to landowners for preserving agricultural land with conservation easements. While Kansas currently has no such provisions, the Kansas Livestock Association members adopted a policy resolution in 2004 that supports the creation of a state funded conservation easement purchase program in Kansas.*

### **Payments to landowners for conservation easements**

In some instances, a landowner may receive financial compensation from a private or governmental entity seeking to reward landowners for preserving the conservation value of their land. On occasion, a land trust or conservation organization has conducted fundraising efforts to generate funds and provide a payment for a specific landowner to permanently preserve the conservation aspects of their property. States such as Colorado dedicate a portion of their gaming revenue to fund conservation easement purchases for the preservation and protection of agricultural land. Currently, two United States Department of Agriculture (USDA) programs provide cash payments for purchasing conservation easements on targeted agricultural land. One of these programs, the Farm and Ranchland Protection Program, has not been fully utilized in Kansas because there are no state matching funds available to access this federal funding. A second program, the Grassland Conservation Program (GRP), has been popular among Kansas grassland owners. During the last sign-up period (FY 05), second sign-up period (FY 04), 114 landowners (owning over 40,000 acres of native grassland) applied for GRP easements. The Kansas NRCS officials intend to close on over 61 GRP conservation easement contracts, covering 26,400 acres, after the first three years of the program. (Federal funds for GRP are currently unavailable for this program. KLA and other ranching /conservation organizations will lobby for additional GRP funds in the 2007 Farm Bill debate.)

### **Value of conservation easements**

The value of a conservation easement is the difference between the value of the land without any restrictions and the value of the land after restrictions are defined by a conservation easement. When the easement qualifies under IRS regulations, that amount is also usually the value of the charitable donation. Land values differ greatly throughout the nation; in areas where there is intense development pressure, the value of the easement may be greater. A qualified appraisal is necessary to value the tax benefit and for publicly funded compensation programs such as GRP.

*Note: Thanks to the Colorado Cattlemen's Agricultural Land Trust and the Montana Land Reliance for much of the information contained in this document. More extensive information about conservation easements, agricultural land trusts, and tax benefits from conservation easements is available at their web sites – <http://cca.beef.org/pages/ccalt-home.htm> and <http://www.mtlandreliance.org/>*

### **For further information, contact:**

Kansas Livestock Association Ranchland Trust, Inc.  
Mike Beam, Executive Director  
6031 SW 37<sup>th</sup>. Street  
Topeka, KS 66614  
785/273-5115  
mike@kla.org

## Fact Sheet

September 2004

## *Farm and Ranch Lands Protection Program*

### **Overview**

The Farm and Ranch Lands Protection Program (FRPP) is a voluntary program that helps farmers and ranchers keep their land in agriculture. The program provides matching funds to State, Tribal, or local governments and non-governmental organizations with existing farm and ranch land protection programs to purchase conservation easements. FRPP is reauthorized in the Farm Security and Rural Investment Act of 2002 (Farm Bill). The U.S. Department of Agriculture's (USDA) Natural Resources Conservation Service (NRCS) manages the program.

### **Benefits/Accomplishments**

Through 2003, more than 300,000 acres have been protected in 42 states.

### **How FRPP Works**

USDA works through State, Tribal, and local governments and non-governmental organizations to conduct the FRPP. These entities acquire conservation easements from landowners. Participating landowners agree not to convert their land to non-agricultural uses and to develop and implement a conservation plan for any highly erodible land. All highly erodible lands enrolled must have a conservation plan developed based on the standards in the NRCS Field Office Technical Guide and approved by the local conservation district. Landowners retain rights to use the property for agriculture.

To participate, a landowner submits an application to an entity—a State, Tribal, or local government or a non-governmental organization—that has an existing farm or ranch land protection program. The NRCS

State Conservationist, with advice from the State Technical Committee, awards funds to qualified entities to purchase perpetual conservation easements.

### **Eligibility**

To qualify for FRPP, the land offered must be part or all of a farm or ranch and must:

- Contain prime, unique, or other productive soil or historical or archaeological resources;
- Be included in a pending offer from a State, Tribal, or local government or non-governmental organization's farmland protection program;
- Be privately owned;
- Be covered by a conservation plan for any highly erodible land;
- Be large enough to sustain agricultural production;
- Be accessible to markets for what the land produces;
- Be surrounded by parcels of land that can support long-term agricultural production; and
- Be owned by an individual or entity that does not exceed the Adjusted Gross Income (AGI) limitation.

The AGI provision of the 2002 Farm Bill impacts eligibility for FRPP and several other 2002 Farm Bill programs. Individuals or entities that have an average AGI exceeding \$2.5 million for the three tax years immediately preceding the year the contract is approved are not eligible to receive program benefits or payments. However, an exemption



is provided in cases where 75 percent of the AGI is derived from farming, ranching, or forestry operations.

If the land cannot be converted to non-agricultural uses because of existing deed restrictions or other legal constraints, it is ineligible for FRPP.

### ***Funding***

FRPP is funded through the Commodity Credit Corporation. The FRPP share of the easement cost must not exceed 50 percent of the appraised fair market value of the conservation easement. As part of its share of the cost of purchasing a conservation easement, a State, Tribal, or local government or non-governmental organization may include a charitable donation by the landowner of up to 25 percent of the appraised fair market value of the conservation easement. As a minimum, a cooperating entity must provide, in cash, 25 percent of the appraised fair market value or 50 percent of the purchase price of the conservation easement.

### ***For More Information***

If you need more information about FRPP, please contact your local USDA Service Center, listed in the telephone book under U.S. Department of Agriculture, or your local conservation district. Information also is available on the World Wide Web at: <http://www.nrcs.usda.gov/programs/farmland/2002/>



Visit USDA on the Web at:  
<http://www.usda.gov/farmland>

**Note:** This is not intended to be a definitive interpretation of farm legislation. Rather, it is preliminary and may change as USDA develops implementing policies and procedures. Please check back for updates.

**Table 1: FRPP FY 1996-2004 Cumulative Summary**

State	Financial Assistance	Easements Acquired*		Pending Easements	
	Cumulative Allocations	Number	Acres	Number	Acres
ALABAMA	\$2,223,568	5	467	3	527
ARIZONA	2,413,956	1	50	3	2,651
CALIFORNIA	13,683,514	19	2,055	14	16,244
COLORADO	11,421,291	30	12,944	16	6,810
CONNECTICUT	9,559,380	13	2,013	16	1,294
DELAWARE	11,701,766	75	14,625	28	3,391
FLORIDA	8,654,861	4	6,946	6	8,339
GEORGIA	3,599,112	3	317	4	972
IDAHO	1,885,100	2	1,056	5	2,065
ILLINOIS	4,964,582	8	1,413	6	909
INDIANA	999,919	0	0	2	250
IOWA	1,655,311	4	711	9	2,258
KANSAS	738,913	0	0	5	6,264
KENTUCKY	10,398,758	69	14,527	18	3,940
LOUISIANA	20,000	0	0	1	41
MAINE	4,603,710	6	1,015	11	2,411
MARYLAND	17,747,864	103	15,586	191	36,759
MASSACHUSETTS	12,567,611	62	4,817	24	1,275
MICHIGAN	10,805,685	24	3,111	27	3,945
MINNESOTA	2,376,928	0	0	11	1,567
MISSOURI	2,237,928	1	102	7	941
MONTANA	5,609,720	6	2,522	10	15,800
NEBRASKA	518,568	0	0	2	1,300
NEVADA	550,000	0	0	2	120
NEW HAMPSHIRE	7,925,752	28	1,784	25	2,617
NEW JERSEY	15,543,921	59	5,728	122	14,419
NEW MEXICO	1,810,055	0	0	10	167
NEW YORK	9,970,124	22	5,639	36	9,720
NORTH CAROLINA	7,690,424	19	2,859	22	7,096
NORTH DAKOTA	1,118,300	1	113	1	27
OHIO	7,232,792	12	3,253	28	5,022
OKLAHOMA	2,541,207	2	202	20	2,104
OREGON	1,305,000	2	13,675	1	788
PENNSYLVANIA	15,830,429	91	16,204	106	14,799
RHODE ISLAND	6,869,085	14	1,137	21	1,188
SOUTH CAROLINA	3,565,670	8	742	6	1,465
TENNESSEE	900,000	0	0	1	425
TEXAS	3,276,722	1	862	3	1,655
UTAH	2,446,997	5	1,692	1	360
VERMONT	12,891,230	111	27,911	44	9,080
VIRGINIA	4,371,831	2	386	15	2,684
WASHINGTON	6,869,918	23	1,982	29	3,070
WEST VIRGINIA	2,951,488	5	679	20	2,446
WISCONSIN	6,746,560	27	4,289	25	3,653
WYOMING	1,770,147	1	630	4	6,883
TOTAL	\$264,565,697	870	177,817	959	209,621

\* Easements acquired through September 30, 2004.



FARMLAND  
INFORMATION  
CENTER

FACT  
SHEET

STATUS OF

STATE PACE

PROGRAMS



FARMLAND INFORMATION CENTER  
One Short Street, Suite 2  
Northampton, MA 01060  
(800) 370-4879  
www.farmlandinfo.org

NATIONAL OFFICE  
1200 18th Street, NW, Suite 800  
Washington, DC 20036  
(202) 331-7300  
www.farmland.org

DESCRIPTION

As of June 2005, 27 states have laws authorizing state-level purchase of agricultural conservation easement (PACE) programs. Montana's PACE statute expired in 2003. This table displays the status and summarizes important information about farm and ranch land protection programs in 20 states that have acquired funding and easements. To be included, the protection of agricultural lands must be a primary, stated conservation purpose of the program.

EXPLANATION OF COLUMN HEADINGS

Year of Inception / Year of First Acquisition

"Year of Inception" is the year the law creating the PACE program was approved. "Year of First Acquisition" is the year the program acquired its first easement.

Easements / Restrictions Acquired

Number of agricultural conservation easements or conservation restrictions acquired through the state program. This number does not necessarily reflect the total number of farms/ranches protected, as some programs acquire a property in stages and may hold multiple easements on the same farm/ranch. Some state programs do not hold easements but instead provide funds for easement purchase to local governments or land trusts.

Acres Protected

Number of acres protected by the program to date.

Program Funds Spent to Date

Dollars spent by each program to acquire easements on farms/ranches. Amounts may include unspent funds that are encumbered for installment payments on completed projects. Unless otherwise noted, this figure does not reflect either incidental land acquisition costs, such as appraisals, insurance and recording fees, or the administrative cost of running the program. These figures do not include addi-

tional funds contributed by federal programs, local governments, or private land trusts, foundations or individuals, nor the value of landowner donations.

Additional Funds Spent To Date

Funds contributed toward state program acquisitions by local governments (e.g. counties municipalities) private land trusts, foundations or individuals, and federal programs (see "Sources of Funding" below). The value of landowner donations is not included.

Program Funds Available

Program funds available for the current fiscal year to acquire easements on agricultural land.

Program Funds Available Per Capita

Program funds available per person based on state population figures for 2004 from the U.S. Bureau of the Census.

Outstanding Applications

Backlog of applications reported by program administrators.

Funding Sources

Sources of funding for each program. "Transportation funding" refers to federal money disbursed under the Intermodal Surface Transportation Efficiency Act of 1991 and the Transportation Equity Act for the 21st Century (ISTEA and TEA-21). ISTEA provided funding for a broad range of highway and transit programs, including "transportation enhancements." Easement acquisitions that protect scenic views and historic sites along transportation routes are eligible for this program. Adopted in May of 1998, TEA-21 reauthorized federal transportation spending through fiscal year 2004 (including extensions). "FRPP" is the federal Farm and Ranch Lands Protection Program. Originally established in the 1996 Farm Bill as the Farmland Protection Program, the FRPP provides matching funds to state, local and tribal agricultural

PURCHASE OF AGRICULTURAL CONSERVATION EASEMENTS

State	Year of Inception/ Year of First Acquisition	Easements / Restrictions Acquired	Acres Protected	Program Funds Spent To Date	Additional Funds Spent to Date
<b>California</b>					
California Farmland Conservancy Program	1995/1997	88	24,000	\$36,000,000 ^	\$23,200,000
<b>Colorado</b>					
Great Outdoors Colorado Δ	1992/1995	137	226,549	\$69,050,669 ^	\$143,797,065
<b>Connecticut</b>					
Connecticut Farmland Preservation Program	1978/1979	213	30,087	\$86,518,128 ^	\$4,925,000
<b>Delaware</b>					
Delaware Agricultural Lands Preservation	1991/1996	442	79,649	\$88,506,863 ^	\$14,957,215
<b>Kentucky</b>					
Division of Agricultural Education and Farmland Preservation	1994/1998	98	20,649	\$10,321,041	\$5,200,987
<b>Maine</b>					
Farmland Protection Program	1999/1990	17	4,275	\$3,358,371	\$4,091,000
<b>Maryland</b>					
Maryland Agricultural Land Preservation Foundation	1977/1980	1,964	281,545	\$338,090,291	\$113,387,467
Rural Legacy	1997/1999	1,693	235,299	\$230,528,310	\$106,065,747
		271	46,246	\$107,561,981 ^	\$7,321,720
<b>Massachusetts</b>					
Massachusetts Agricultural Preservation Restriction Program	1977/1980	632	55,516	\$141,769,596 ^	\$25,706,827
<b>Michigan</b>					
The Farmland and Open Space Preservation Program	1974/1994	72	15,834	\$25,620,571 ^	\$3,228,902
<b>Montana x</b>					
Montana Agricultural Heritage Program	1999/2000	8	9,923	\$888,000	\$1,420,710
<b>New Hampshire</b>					
Agricultural Lands Preservation Program x	1979/1980	86	10,938	\$13,325,308	\$5,349,573
Land Conservation Investment Program x	1987/1988	31	2,864	\$5,000,000	\$140,000
Land & Community Heritage Investment Program	2000/2001	36	6,232	\$5,349,008	N/A
		19	1,842	\$2,976,300 ^	\$5,209,573
<b>New Jersey</b>					
The New Jersey Farmland Preservation Program	1983/1985	1,232	133,733	\$465,158,017	\$237,269,293
<b>New York</b>					
Agricultural and Farmland Protection Program	1996/1998	81	14,140	\$33,425,059 ^	\$20,012,404
<b>North Carolina</b>					
Conservation Trust for North Carolina	1986/1999	33	4,412	\$2,384,500 ^	\$26,000,000
<b>Ohio</b>					
Ohio Agricultural Easement Programs	1999/1999	83	15,410	\$12,500,000	\$6,900,000
Southern Ohio Tobacco Agricultural Easement Purchase Program x	2002/2002	69	12,410	\$12,500,000	\$5,400,000
		14	3,000	\$0	\$1,500,000
<b>Pennsylvania</b>					
Bureau of Farmland Preservation	1988/1989	2,565	295,447	\$460,719,453 ^	\$189,594,540
<b>Rhode Island</b>					
Rhode Island Division of Agriculture	1981/1985	61	4,382	\$17,093,097	\$9,873,680
<b>South Carolina</b>					
South Carolina Conservation Bank	2002/N/A	0	0	\$0	\$0
<b>Utah *</b>					
Critical Agricultural Land Conservation Fund	1999/2001	17	26,157	\$5,059,121	\$14,176,293
LeRay McAllister Critical Lands Conservation Fund	1999/2000	2	29	\$139,000	\$166,000
		15	26,128	\$4,920,121	\$14,010,293
<b>Vermont</b>					
Vermont Housing and Conservation Board	1987/1987	368	108,945	\$42,000,000 ^	\$36,695,800
<b>STATE TOTALS</b>		<b>8,197</b>	<b>1,361,591</b>	<b>\$1,851,788,085</b>	<b>\$885,786,756</b>

STATUS OF STATE PROGRAMS AS OF JANUARY 2005

Program Funds Available	Program Funds Available Per Capita	Outstanding Applications	Funding Sources
\$12,000,000	\$0.33	12	Appropriations, bonds, private contributions, FRPP
\$8,550,000 =	\$1.86	13	Local government contributions, portion of lottery proceeds, FRPP
\$3,231,872	\$0.92	140	Bonds, local government contributions, FRPP
\$14,300,000	\$17.22	101	Agricultural transfer tax, appropriations, bonds, local government contributions, portion of lawsuit settlement, private/foundation contributions, transportation funding, FRPP, property transfer tax
\$1,500,000	\$0.36	587	Appropriations, bonds, tobacco settlement funds, FRPP
N/A	N/A	N/A	Appropriations, bonds, credit card royalties, local government contributions, private contributions, FRPP
\$30,100,000	\$5.42	165	
\$28,100,000	\$5.06	140	Agricultural transfer tax, bonds, local government contributions, private contributions, real estate transfer tax, FRPP
\$2,000,000 =	\$0.36	25	Bonds, local government contributions, private contributions, real estate transfer tax, federal wetlands conservation funds
\$8,500,000	\$1.32	100	Bonds, local government contributions, private contributions, transportation funding, FRPP
\$1,500,000	\$0.15	19	Local government contributions, private/foundation contributions, repayment of tax credits by landowners withdrawing from the state's circuit breaker program, FRPP
\$0	\$0.00	N/A	Appropriations, FRPP
\$0	\$0.00	6	
\$0	\$0.00	0	Appropriations, local government contributions, FRPP
\$0	\$0.00	0	Bonds
\$0	\$0.00	6	Appropriations
\$127,825,178	\$14.69	500	Appropriations, bonds, local government contributions, portion of state sales and use tax, FRPP, private/foundation contributions
\$12,600,000	\$0.66	0	Bonds, property transfer tax, local government contributions, FRPP
\$0	\$0.00	2	Appropriations, FRPP
\$3,120,000	\$0.27	1,107	
\$3,120,000	\$0.27	1,107	Bonds, FRPP
\$0	\$0.00	0	Tobacco settlement funds
\$25,000,000	\$2.02	1,900	Appropriations, bonds, cigarette tax, interest on securities, local government contributions, FRPP
\$2,000,000	\$1.85	35	Appropriations, bonds, local government contributions, private contributions, FRPP, property transfer tax
\$24,185,245 =	\$5.76	19	Deed/recording fees
\$798,000	\$0.33	2	
\$50,000	\$0.02	1	Appropriations, FRPP
\$748,000 =	\$0.31	1	Appropriations, local government contributions, private/foundation contributions, FRPP
\$2,100,000	\$3.38	58	Appropriations, bonds, Farms for the Future pilot program, local government contributions, private/foundation contributions, property transfer tax, transportation funding, FRPP
\$277,310,295		4,766	

easement acquisition programs. The program was expanded in the 2002 Farm Bill to include certain non-governmental organizations. In addition to these sources of funding, several local programs reported financial contributions from private individuals or foundations

## STATUS OF STATE

## PACE PROGRAMS

For additional information on farmland protection and stewardship contact the Farmland Information Center. The FIC offers a staffed answer service, online library, program monitoring, fact sheets and other educational materials.

[www.farmlandinfo.org](http://www.farmlandinfo.org)

(800) 370-4879

### NOTES

- △ Program activity includes fee simple acquisitions of agricultural land. All programs with fee activity included on this fact sheet have policies requiring resale of the restricted property.
- × Program has terminated or is no longer acquiring agricultural conservation easements.
- Program funds available include monies for other land conservation purposes.
- ^ “Program Funds Spent to Date” includes incidental land acquisition costs and/or personnel costs.
- \* In Utah, the LeRay McAllister Critical Lands Conservation Fund and the Critical Agricultural Land Conservation Fund—administered by the Utah Department of Agriculture and Food (UDAF)—completed seven joint projects. For the purposes of this table, these projects are included in the figures for the LeRay McAllister program. The projects covered 2,526 acres. UDAF contributed \$391,000 and holds the easements.





## What is a land trust and who is KLA-RT?

### What is a Land Trust?

Land trusts are private, non-profit organizations with a primary mission to conserve land and open spaces. In most instances, the Internal Revenue Service (IRS) expressly recognizes a land trust as a charitable organization. While land trusts may purchase land, they more commonly hold, manage, and administer *conservation easements*<sup>1</sup> from landowners who desire to preserve the conservation values and open spaces of their land for a pre-determined time period. According to the *Land Trust Alliance (LTA)*<sup>2</sup>, some trusts organized over 100 years ago. Today, LTA estimates over 1,200 local and regional land trusts protect over 6.2 million acres in the United States.

### What or who is KLA-RT?

This entity is a newly created non-profit organization founded by the *Kansas Livestock Association (KLA)*<sup>3</sup>. The Kansas Livestock Association Ranchland Trust (KLA-RT) is an affiliate of KLA, and is recognized by the Kansas Secretary of State and IRS as a separate, stand-alone organization with its own articles of incorporation, bylaws, budget/checking account, and Board of Directors.

### What is the purpose of KLA-RT?

The mission of the KLA Ranchland Trust is to preserve Kansas' ranching heritage and open spaces for future generations through the conservation of working landscapes. To fulfill this mission, KLA-RT is authorized in its bylaws and IRS filings to acquire, own, hold, protect and defend conservation easements.

### Why did KLA organize a land trust?

KLA leaders in the Flint Hills expressed interest in forming a land trust in 2001 to provide a rancher-landowner governed organization to assist landowners who are considering conservation easements for the long-term preservation of their working ranchlands. At least a half dozen state and local cattle producer organizations in western states have formed land trust affiliates to help address the conversion of grazing lands to residential and commercial development. KLA members involved in forming the KLA-RT believe the vast acres of open-spaced ranch lands of Kansas will be under more intense developmental pressure in the future. These leaders believe many landowners will prefer voluntary conservation easements as an economic alternative to development, especially if the easements could be held and administered by a qualified and competent agricultural land trust.

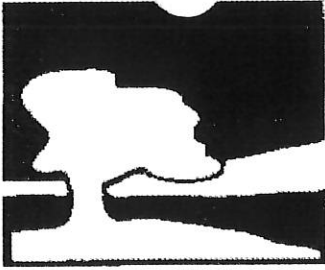
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<sup>1</sup>A conservation easement is a legal contract, attached to the land's deed, which limits the use of the land by current and subsequent owners. See KLA-RT summary, "What is a Conservation Easement?"

<sup>2</sup>The Land Trust Alliance is a society of land trusts. Comprehensive information about land trusts is available on their web site, [www.lta.org](http://www.lta.org).

<sup>3</sup>The Kansas Livestock Association is a 110-year-old trade organization for agricultural producers whose primary interest is beef cattle production. More information about KLA is available at [www.kla.org](http://www.kla.org).





## Kansas Land Trust

**MEMORANDUM TO:** House Environment Committee  
Rep. Joann Freeborn, Chairperson  
**DATE:** February 14, 2006  
**FROM:** RoxAnne Miller  
**RE:** House Bill No. 2556

*The Kansas Land Trust (KLT) is a Kansas nonprofit organization formed in 1990 and is a statewide land trust serving Kansas landowners. KLT's mission is to assist landowners who want to voluntarily protect and preserve their lands of agricultural, historic, scenic, recreational or ecological significance in Kansas.*

The Kansas Land Trust supports the conservation easement purchase program in Kansas as presented in the revised House Bill No. 2556. KLT has completed one conservation easement purchase in Riley County under the Farm & Ranch Lands Protection Program and is preparing to close a second in Morris County.

Every year since 2002, when Kansas became eligible to receive conservation easement purchase funds under FRPP, we have turned back money because there were no matching funds available for the minimum 25% match. **In 2003 Kansas turned back \$239,087 of FRPP funds, in 2004 \$735,500, and in 2005 \$824,933.**

- The FRPP program requires a minimum match of funds equivalent to 25% of the conservation easement value.

Fort Riley and the Kansas Land Trust are partnering to pursue the Army Compatible Use Buffer (ACUB) Project in a buffer area of approximately 50,000 acres adjacent to the military property. The Kansas Land Trust will provide willing landowners in the buffer area the opportunity to sell a permanent conservation easement. Landowner participation will be entirely voluntary.

- The ACUB Program requires matching funds.
  - Matching funds for the purchase of conservation easements best positions the Ft. Riley Project. The NRCS Farm & Ranch Lands Protection Program is eligible for matching conservation easement purchase money; and
  - Matching funds for project costs. Costs include the land trust administrative and transactional costs.

House Environment Committee  
February 14, 2006  
Attachment 8

8-2

500 ACRES	Hypothetical FRPP Project	CE Appraised Value = \$250/acre (ranges 20% to 40% of land value)	\$125,000		CASH TO LANDOWNER	TAX DEDUCTION
		FRPP 50%	\$62,500	Cash to landowner		
		25% Land Trust	\$31,250	Cash to landowner	\$93,750	
		25% Landowner / Bargain Sale	\$31,250	Charitable Contribution/ Reduced Purchase Price Tax deduction		\$31,250
		SF contribution to Land Trust by landowner in the amount of >\$20,000 or 10% of CE appraised value	\$20,000	Cash from landowner = Charitable Contribution & Tax deduction	(\$20,000)	\$20,000
<b>Net cash to landowner</b>					<b>\$73,750</b>	
<b>Total Tax deduction</b>						<b>\$51,250</b>

1000 ACRES	Hypothetical FRPP Project	CE Appraised Value = \$250/acre (ranges 20% to 40% of land value)	\$250,000		CASH TO LANDOWNER	TAX DEDUCTION
		FRPP 50%	\$125,000	Cash to landowner		
		25% Land Trust	\$62,500	Cash to landowner	\$187,500	
		25% Landowner / Bargain Sale	\$62,500	Charitable Contribution/ Reduced Purchase Price Tax deduction		\$62,500
		SF contribution to Land Trust by landowner in the amount of >\$20,000 or 10% CE appraised value	\$25,000	Cash from landowner = Charitable Contribution & Tax deduction	(\$25,000)	\$25,000
<b>Net cash to landowner</b>					<b>\$162,500</b>	
<b>Total Tax deduction</b>						<b>\$87,500</b>

8-3

500 ACRES	Hypothetical FRPP Project	CE Appraised Value = \$500/acre (ranges 20% to 40% of land value)	\$250,000		CASH TO LANDOWNER	TAX DEDUCTION
	FRPP 50%		\$125,000	Cash to landowner		
	25% Land Trust		\$62,500	Cash to landowner	\$187,500	
	25% Landowner / Bargain Sale		\$62,500	Charitable Contribution/ Reduced Purchase Price		\$62,500
	SF contribution to Land Trust by landowner in the amount of >\$20,000 or 10% of CE appraised value		\$25,000	Cash from landowner = Charitable Contribution & Tax deduction	(\$25,000)	\$25,000
<b>Net cash to landowner</b>					<b>\$162,500</b>	
<b>Total Tax deduction</b>						<b>\$87,500</b>

1000 ACRES	Hypothetical FRPP Project	CE Appraised Value = \$500/acre (ranges 20% to 40% of land value)	\$500,000		CASH TO LANDOWNER	TAX DEDUCTION
	FRPP 50%		\$250,000	Cash to landowner		
	25% Land Trust		\$125,000	Cash to landowner	\$375,000	
	25% Landowner / Bargain Sale		\$125,000	Charitable Contribution/ Reduced Purchase Price		\$125,000
	SF contribution to Land Trust by landowner in the amount of >\$20,000 or 10% CE appraised value		\$50,000	Cash from landowner = Charitable Contribution & Tax deduction	(\$50,000)	\$50,000
<b>Net cash to landowner</b>					<b>\$325,000</b>	
<b>Total Tax deduction</b>						<b>\$175,000</b>

8-4

500 ACRES	Hypothetical FRPP Project	CE Appraised Value = \$750/acre (ranges 20% to 40% of land value)	\$375,000		CASH TO LANDOWNER	TAX DEDUCTION
	FRPP 50%		\$187,500	Cash to landowner		
	25% Land Trust		\$93,750	Cash to landowner	\$281,250	
	25% Landowner / Bargain Sale		\$93,750	Charitable Contribution/ Reduced Purchase Price		\$93,750
	SF contribution to Land Trust by landowner in the amount of >\$20,000 or 10% of CE appraised value		\$37,500	Cash from landowner = Charitable Contribution & Tax deduction	(\$37,500)	\$37,500
<b>Net cash to landowner</b>					<b>\$243,750</b>	
<b>Total Tax deduction</b>						<b>\$131,250</b>

1000 ACRES	Hypothetical FRPP Project	CE Appraised Value = \$750/acre (ranges 20% to 40% of land value)	\$750,000		CASH TO LANDOWNER	TAX DEDUCTION
	FRPP 50%		\$375,000	Cash to landowner		
	25% Land Trust		\$187,500	Cash to landowner	\$562,500	
	25% Landowner / Bargain Sale		\$187,500	Charitable Contribution/ Reduced Purchase Price		\$187,500
	SF contribution to Land Trust by landowner in the amount of >\$20,000 or 10% CE appraised value		\$75,000	Cash from landowner = Charitable Contribution & Tax deduction	(\$75,000)	\$75,000
<b>Net cash to landowner</b>					<b>\$487,500</b>	
<b>Total Tax deduction</b>						<b>\$262,500</b>

**Sec. 170(h) Qualified conservation contribution.—**

(1) **In general.**—For purposes of subsection (f)(3)(B)(iii), the term “qualified conservation contribution” means a contribution—

- (A) of a qualified real property interest,
- (B) to a qualified organization,
- (C) exclusively for conservation purposes.

(2) **Qualified real property interest.**—For purposes of this subsection, the term “qualified real property interest” means any of the following interests in real property:

- (A) the entire interest of the donor other than a qualified mineral interest,
- (B) a remainder interest, and
- (C) a restriction (granted in perpetuity) on the use which may be made of the real property.

(3) **Qualified organization.**—For purposes of paragraph (1), the term “qualified organization” means an organization which—

- (A) is described in clause (v) or (vi) of subsection (b)(1)(A), or
- (B) is described in section 501(c)(3) and—

- (i) meets the requirements of section 509(a)(2), or
- (ii) meets the requirements of section 509(a)(3) and is controlled by an organization described in subparagraph (A) or in clause (i) of this subparagraph.

(4) **Conservation purpose defined.**—

(A) **In general.**—For purposes of this subsection, the term “conservation purpose” means—

- (i) the preservation of land areas for outdoor recreation by, or the education of, the general public,
- (ii) the protection of a relatively natural habitat of fish, wildlife, or plants, or similar ecosystem,
- (iii) the preservation of open space (including farmland and forest land) where such preservation is—
  - (I) for the scenic enjoyment of the general public, or
  - (II) pursuant to a clearly delineated Federal, State, or local governmental conservation policy,

and will yield a significant public benefit, or

- (iv) the preservation of an historically important land area or a certified historic structure.

(B) **Certified historic structure.**—For purposes of subparagraph (A)(iv), the term “certified historic structure” means any building, structure, or land area which—

- (i) is listed in the National Register, or
- (ii) is located in a registered historic district (as defined in section 48(g)(3)(B)) and is certified by the Secretary of the Interior to the Secretary as being of historic significance to the district.

A building, structure, or land area satisfies the preceding sentence if it satisfies such sentence either at the time of the transfer or on the due date (including extensions) for filing the transferor’s return under this chapter for the taxable year in which the transfer is made.

2/14/06

**Chairwoman Joann Freeborn, and members of the Environmental Committee,**

**Thank you for allowing us the time to speak to you on behalf of the Conservation Easement program. We appreciate your work in this vital area and your interest in maintaining our agricultural land base.**

**USDA figures from 1992 to 1997 show that 1.2 Million acres of agricultural land are lost each year to industrial and residential development. More recent figures confirm an ever-increasing trend and point towards 1.4 Million acres of agricultural land lost each year to development. It is important to note that these figures account for only the PRODUCTION agricultural land, that is, land that was being used for ranching or crop production. The figures for total rural land being developed are much higher.**

**Of course, a growing economy and strong country need both industrial and residential development, but at some point, a balance must be struck because a reliable economy and strong country also need a reliable food source, which comes from its agricultural land base. We as a country and society also realize the importance of maintaining the integrity of unique and irreplaceable ecosystems. It is in maintaining this vital agricultural land base and maintaining unique ecosystems that the Conservation Easements are so important.**

**My husband and I operate a backgrounding and grazing operation in the Flint Hills of Kansas. We feel we have improved the land since we acquired it by properly managing both the prairie and tame grasses on the ranch, by preventing erosion problems, and by cleaning up the junk left by previous owners. It is our intention to leave the land better than we found it and hopefully to maintain the integrity of our land well into the future. The Conservation Easement programs, which provide for the protection and preservation of agricultural land, allow us to do that.**

**In our case we are using the Farm and Ranchland Protection Program (FRPP), to make certain that our ranch land will stay ranch land in the future. The FRPP easement allows us the use of our land as a working ranch. It also allows us to sell, lease, or will it to heirs. The one thing it does not allow is development of the land, which is something we do not want to happen.**

**All around us we see land being developed either from various industrial enterprises, or into "ranchetts" for residential housing. There are ads in our local paper weekly which specify tracts of 5 to 40 acres that are wanted for development.**

House Environment Committee  
February 14, 2006  
Attachment 9

**It is our desire that our ranch NOT be developed, but without the Conservation Easement program we could not accomplish that goal.**

**Since our land is our main investment and our “Retirement Package”, we, like most private landowners and ranchers, cannot afford to just donate our land to an easement program without some type of compensation to make up for the value we are losing by not developing our land. With the FRPP Conservation Easement we as landowners do donate 25% of the appraised value of the easement. We also donate 10% of the appraised value to the KLT, which helps to ensure that there are funds to enforce the conditions of the easement in the future. KLT funds and the funds designated by the legislature make up the remainder of the funding.**

**The beauty of the Conservation Easement program is that we are able to realize a portion of the value of our land now, which can help with cash flow, expansion, or debt relief. Then if we sell the land in the future, we can price it somewhat below the market price which should make it more affordable for another young couple to purchase and run it as a working ranch. It is our hope that in that manner we can perpetuate not only agricultural land, but also the ranching lifestyle and work ethic in another generation of younger Kansans.**

**Other states are also realizing where the base of their economy lies and are setting up dedicated funding for Conservation Easements. A statement made by one of these folks has stayed with me. His comment was, “We are placing easements on as much land as we can get funding for and are preserving land for future agricultural use. But we should have started thirty years ago.”**

**I would put one note of caution in here. I understand that the mandatory public use of land with Conservation Easements clause has been deleted from this bill. This is very wise. Any attempt to mandate public use would be an attempt to severely limit Conservation Easements. This is not a matter of farmers and ranchers being inhospitable, but rather a matter of practicality, liability, bio-security, conservation and common sense.**

**We host Ranch Tours and enjoy our visitors, but on the practical level, we schedule their time with us during a season, during a day and during a time of day when we can take the time to give them our undivided attention. Since my husband and I make up our entire work force, it would simply not be practical to have folks showing up anytime and having them scattered all over the ranch.**

**As to liability, everyone here is well aware that many people will sue at the drop of a hat. We have rough terrain, rattlesnakes, copperheads, chiggers, badger holes, drop off areas in the creek and the neighbor’s bulls to worry about. Our Ranch Tours keep our visitors limited to a relatively safe area at our headquarters, which enables us to have constant oversight of them.**



**Bio-security is also a real concern in this era. When we have hosted overseas visitors before 9/11 and the Foot and Mouth disease outbreak, we really didn't worry much. Now we insist that our visitors are registered with a reputable tour agency and have been in the U.S. for more than four days before they visit our ranch. Veterinarians tell us that the Foot and Mouth Virus will die in 48 hours, which should protect us from accidental contamination.**

**As to the conservation aspect; the whole point of the Conservation Easement is to maintain the agricultural land in good condition. It would make no sense to mandate public access which could lead to tracks, trails and trash all over it.**

**The common sense factor should be obvious. Our ranch is our boardroom, our assembly line, our production facility, our warehouse and our home. No one I can think of would even consider mandating public access to all those areas.**

**In closing, I believe we all recognize that agricultural land in Kansas is one of our most valuable assets and is the base of our economy. Your work and support of the Conservation Easement program and its funding is vitally important.**

**Thank you again for your time and consideration on this matter.**

**RK Cattle Co.  
Rose & Kent Bacon  
1181 Four Mile Road  
Council Grove, KS 66846  
Ph. 620-767-7048  
Email> [rkcattle@excite.com](mailto:rkcattle@excite.com)**

**Dave Webb**  
**4815 W. 191<sup>st</sup>**  
**Stilwell, Kansas 66085**  
**dwebb@dlwebb.com**

Thank you <sup>Mr. Mula</sup> Chairman and committee members. Thank you for the opportunity to be here. I know your time is busy and valuable.

My name is Dave Webb of Stilwell, Kansas. I am an auctioneer and appraiser by profession. Also I am a former member of this institution.

My testimony today is brief. I for many years have supported a dedicated funding measure to insure the future of Kansas lands, and that our land for future generations is protected. Many see our state as black and white, not in color. We do very little besides lip service to commit to our landscape, our heritage and another generation's future.

Many other states have committed and or dedicated funding for this type of preservation. And I might add that it does not interfere with school finance, or highway programs, or the many other aspects of state government.

In our world of "what have you done for me lately", this is one of those items of legislation that there is no immediate gain from. This is a vision, and if nothing is done the vision is getting blurred. The gain will be realized long after were gone and in another's generation. It is time and if fact, it is past time that we take action to preserve land for another generation.

A source of dedicated funding is needed for preservation.

While we are here, we are only caretakers of the land; our responsibility is to leave it in a better condition for another generation.

Thank you,

Dave Webb

HOUSE ENVIRONMENT COMMITTEE GUEST LIST

DATE: 02/14/06

NAME	REPRESENTING
Eric Arner	Water District No 1 Johnson Cty.
Carole Jordan	Dept of Ag
Kent Bacon	Kansas Land Trust
Jose J. Bacon	Kansas Land Trust
Craig Phillips	FORT RILEY MILITARY INST.
Stanley Rasmussen	Department of Army
Mary Ann Stankewicz	KGFA
Leslie Kausman	Ks Coop Council
Steve Swatta	Ks Farm Bureau
Mike Beam	Ks LUSTK. ASSN.
John Petelvar	Tollgate Ranch
Ed Cross	KIOGA
Bill Sprout	Rancher
Dave Webb	Kansas Ranch Land Trust
Perry Sprout	Rancher
Mark Tomb	LKM
Dale Sloan	visitor
Doug A. Wiley	SCC

HOUSE ENVIRONMENT COMMITTEE GUEST LIST

DATE: 2/14/06

NAME	REPRESENTING
Steve Adams	Ks Wildlife & Parks
Amy Thornton	KDWP
Tony Fobson	KDOR
Dane Hoffman	KS Assoc of Wheat Growers
Daphne Brown	KASSW

# HOUSE BILL No. 2716

By Representatives Olson, Beamer, Brown, Brunk, Burgess, Carlson, Carter, Colloton, Cox, Freeborn, George, Goico, Grange, Hawk, Hayzlett, Hnebert, Huff, Huntington, Kelley, Kelsey, Kiegerl, Kilpatrick, Kinzer, Knox, Lane, Long, Mast, Masterson, Mays, Merrick, Judy Morrison, Oharah, Otto, Owens, Pilcher-Cook, Powers, Proehl, Ruff, Ruiz, S. Sharp, Siegfried, Sloan, Svaty, Swenson, Treaster, Vickrey, Watkins, Wilk, Williams, Wolf, Yoder and Yonally

1-25

15 AN ACT concerning water; granting an easement for construction of  
16 diversion works along the Kansas river.

17  
18 *Be it enacted by the Legislature of the State of Kansas:*

19 Section 1. (a) The secretary of state is hereby authorized and di-  
20 rected to grant an easement to water district no. 1 of Johnson county,  
21 Kansas, on a tract of land owned by the state of Kansas along the south  
22 and north banks of the Kansas river described as follows: Commencing  
23 at ~~the southwest corner of the northwest quarter of section 26, township~~  
24 ~~11 south, range 15 east of the 6th p.m., thence on a line 89°59'28" along~~  
25 ~~the south line of the northwest quarter, a distance of 1,305.42 feet to the~~  
26 ~~southeast corner of government survey lot 4, thence on a line 31°25'19",~~  
27 ~~and distance of 2,175.90 feet to the point of beginning, thence on a line~~  
28 ~~95°45'25" a distance of 961.04 feet, thence on a line 311°43'22", a dis-~~  
29 ~~tance of 1,277.63 feet, thence on a line 76°43'22", a distance of 1,809.23~~  
30 ~~feet, thence on a line 169°23'29", a distance of 963.02 feet, thence on a~~  
31 ~~line 250°23'29", a distance of 170.00 feet to the point of beginning. Less~~  
32 ~~that part of the above described tract lying northerly high bank of the~~  
33 ~~Kansas river and less that part of such tract lying southerly of the southerly~~  
34 ~~high bank of the Kansas river.~~

35 (b) Such easement shall be conditioned on water district no. 1 of  
36 Johnson county assuming full responsibility for the use of such easement  
37 and holding the state of Kansas harmless therefor. Such easement shall  
38 terminate if the land is no longer used for the purpose for which the  
39 easement was granted.

40 (c) Water district no. 1 of Johnson county Kansas, is hereby author-  
41 ized to acquire the easement described in subsection (a) and to use such  
42 easement for the purpose of locating, constructing, maintaining and op-  
43 erating diversion works for the appropriation of water and to assume full

the east half of the southeast quarter of the southwest quarter of Section 31, Township 11 South, Range 24 East, the east half of the northeast quarter of the southwest quarter of Section 31, Township 11 South, Range 24 East, and the southeast quarter of Section 31, Township 11 South, Range 24 East. Less that part of the above described tract lying northerly of the northerly high bank of the Kansas River and less that part of such tract lying southerly of the southerly high bank of the Kansas River

1 responsibility for such use and hold the state of Kansas harmless therefor.

2 Sec. 2. This act shall take effect and be in force from and after its  
3 publication in the statute book.

# HOUSE BILL No. 2757

By Committee on Environment

1-27

9 AN ACT concerning oil and gas; relating to spill notification.

10

11 *Be it enacted by the Legislature of the State of Kansas:*

12 Section 1. The state corporation commission shall adopt rules and  
13 regulations requiring operators to timely notify landowners of a spill  
14 which is also required to be reported to the commission.

15 Sec. 2. This act shall take effect and be in force from and after its  
16 publication in the statute book.

or the representative of the landowners



February 13, 2006

The Honorable Joann Freeborn, Chairperson  
House Committee on Environment  
Statehouse, Room 143-N  
Topeka, Kansas 66612

Dear Representative Freeborn:

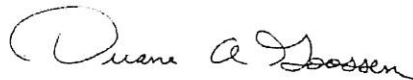
SUBJECT: Fiscal Note for HB 2556 by Representative Sloan

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2556 is respectfully submitted to your committee.

The bill would establish the Kansas Farm and Ranch Land Protection Grant Program to limit the loss of agricultural land to nonagricultural use. The program would be administered by the State Conservation Commission (SCC). The Commission would make matching grants in cooperation with the United States Department of Agriculture for the purchase of permanent conservation easements on eligible farm and ranch lands. The costs would include appraisals, surveys, and title searches. The Commission would adopt rules and regulations to establish the application process, monitor the negotiation of contracts, and assure the appropriate use of grant funds. The bill would impose a change in the classification of real property for ad valorem taxation from agricultural to non-agricultural use and assess an open space preservation fee of 0.015 percent based on the fair market value of the property. Fee revenue would be credited to the Agricultural Land Conservation Program Fund in the SCC to be used as matching funds for programs that conserve agricultural land.

The State Conservation Commission indicates that it would function as the agency that handles the third party matching fund requirements for applicable federal programs. The fiscal effect on the agency would be negligible and could be absorbed within existing resources.

Sincerely,



Duane A. Goossen  
Director of the Budget

cc: Mark Heim, Conservation Commission  
Max Foster, Agriculture  
Steve Neske, Revenue

House Environment Committee  
February 14, 2006  
Attachment 3

TOM SLOAN

REPRESENTATIVE, 45TH DISTRICT  
DOUGLAS COUNTY

STATE CAPITOL BUILDING

ROOM 446-N

TOPEKA, KANSAS 66612-1504

(785) 296-7677

1-800-432-3924

772 HWY 40

LAWRENCE, KANSAS 66049-4174

(785) 841-1526

sloan@house.state.ks.us



TOPEKA

HOUSE OF  
REPRESENTATIVES

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MEMBER: UTILITIES

ENVIRONMENT

AGRICULTURAL &amp; NATURAL

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KANSAS WATER AUTHORITY

## Testimony on HB 2556 - Conservation Easements

House Environment Committee

February 14, 2006

Madam Chairman, Members of the Committee: Kansas agricultural interests have for several years been interested in developing a stronger conservation easement program to preserve not only unique Kansas lands, but also the agrarian way of life. Last year the House Agriculture and Natural Resources Budget Committee held hearings on a bill to develop this expanded program. For a variety of reasons, I opposed that bill. However, I made a commitment to try and develop a conservation easement bill that might garner support from a broader array of interests. HB 2556 was introduced to keep that promise.

Although I talked with and showed earlier drafts of the bill to some interested parties, it was not until HB 2556 was formally introduced that discussions with the broader range of parties were held. Accompanying my testimony is a balloon that reflects a greater consensus of opinion from agricultural interests, state agency program administrators, and me to create a program that is easily administered, provides a reasonable balance of urban and rural stakeholder interests, and can achieve the objective of preserving open space and a way of life.

Briefly, the balloon version of HB 2556 establishes that the State Conservation Commission may facilitate the conservation of farm and ranch lands in Kansas through grants to purchase perpetual conservation easements. The criteria for establishing "eligible farm and ranch lands" are defined on page 4, lines 19-24.

The Conservation Commission is authorized to participate in such preservation programs with the United States Department of Agriculture (Farm and Ranch Land Protection Program), Department of Defense (ACUP), or other federal or private entity. Kansas dollars would be part of any necessary matching fund requirements to fully utilize such federal grants. Page 5, New Sections 4 and 5, provide the guidelines for implementing the program.

I particularly want to call the Committee's attention to page 6, New Section 7, line 12, establishes a funding source for this program. I try not to propose programs without a funding source, though the conservation easement program proposed in this bill can exist based on annual SGF appropriations.

The proposed funding stream requires that for farm and ranch lands sold and reclassified for other than agricultural or municipal uses within seven years, a fee equal to 1.5 percent of the sale price shall be collected and remitted to the state to support this program.

House Environment Committee

February 14, 2006

Attachment 4

## HOUSE BILL No. 2556

By Representative Sloan

12-28

Representative Sloan  
January 25, 2006

9 AN ACT concerning the conservation commission; relating to conser-  
10 vation easements; establishing the farm and ranch land protection pro-  
11 gram; amending K.S.A. 2-1904 and repealing the existing section.  
12

13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. K.S.A. 2-1904 is hereby amended to read as follows: 2-  
15 1904. (a) There is hereby established, to serve as an agency of the state  
16 and to perform the functions conferred upon it in this act, the state con-  
17 servation commission. The state conservation commission shall succeed  
18 to all the powers, duties and property of the state soil conservation com-  
19 mittee. The commission shall consist of nine members as follows:

20 (1) The director of the cooperative extension service and the director  
21 of the state agricultural experiment station located at Manhattan, Kansas,  
22 or such persons' designees shall serve, *ex officio*, as members of the  
23 commission.

24 (2) The commission shall request the secretary of agriculture of  
25 United States of America to appoint one person and the secretary of the  
26 Kansas department of agriculture to appoint one person, each of whom  
27 shall be residents of the state of Kansas to serve as members of the com-  
28 mission. These members shall hold office for four years and until a suc-  
29 cessor is appointed and qualifies, with terms commencing on the second  
30 Monday in January beginning in 1973.

31 (3) Five members of the state commission shall be elected by the  
32 conservation district supervisors at a time and place to be designated by  
33 the state conservation commission. The method of electing such members  
34 to be conducted as follows: The state is to be divided into five separate  
35 areas. Area No. I to include the following counties: Cheyenne, Rawlins,  
36 Decatur, Norton, Phillips, Smith, Osborne, Rooks, Graham, Sheridan,  
37 Thomas, Sherman, Wallace, Logan, Gove, Trego, Ellis and Russell. Area  
38 No. II to include: Greeley, Wichita, Scott, Lane, Ness, Rush, Pawnee,  
39 Hodgeman, Finney, Kearny, Hamilton, Edwards, Ford, Gray, Haskell,  
40 Grant, Stanton, Morton, Stevens, Seward, Meade, Clark, Comanche and  
41 Kiowa. Area No. III to include: Jewell, Republic, Mitchell, Cloud, Lin-  
42 coln, Ottawa, Ellsworth, Saline, Rice, McPherson, Reno, Harvey, King-  
43 man, Sedgwick, Sumner, Harper, Barber, Pratt, Barton and Stafford. Area

1 No. IV to include: Washington, Marshall, Nemaha, Brown, Doniphan,  
2 Clay, Riley, Pottawatomie, Jackson, Atchison, Jefferson, Leavenworth,  
3 Wyandotte, Johnson, Douglas, Shawnee, Wabaunsee, Geary, Dickinson,  
4 Morris, Osage, Franklin and Miami. Area No. V to include: Marion,  
5 Chase, Lyon, Coffey, Anderson, Linn, Bourbon, Allen, Woodson, Green-  
6 wood, Butler, Elk, Wilson, Neosho, Crawford, Cowley, Chautauqua,  
7 Montgomery, Labette and Cherokee. Areas II and IV will elect in even  
8 number years and Areas I, III and V shall elect in odd number years for  
9 two year terms. The elected commission members from Areas I, III and  
10 V shall take office on January 1, of the even number years. The remaining  
11 two elected members of the state commission from Areas II and IV shall  
12 take office on January 1, of the odd number years. The method of election  
13 is to be by area caucus of the district supervisors of each of the five  
14 separate areas of Kansas. The commission shall give each district notice  
15 of the time and place of such annual election meeting by letter if a mem-  
16 ber is to be elected to the commission from that area that year. The  
17 selection of a successor to fill an unexpired term shall be by appointment  
18 by the commission. The successor who is appointed to fill the unexpired  
19 term shall be a resident of the same area as that of the predecessor.

20 (b) The commission shall keep a record of its official actions, shall  
21 adopt a seal which seal shall be judicially noticed, and may perform such  
22 acts, hold such public hearings and adopt rules and regulations necessary  
23 for the execution of its functions under this act.

24 (c) The state conservation commission may employ an administrative  
25 officer and such technical experts as it may require and shall determine  
26 their qualifications and duties. Such officer and experts shall be in the  
27 unclassified service of the Kansas civil service act and shall receive annual  
28 salaries fixed by the commission and approved by the state finance coun-  
29 cil. All other agents and employees, permanent or temporary, required  
30 by the state conservation commission, shall be within the classified service  
31 of the Kansas civil service act. The commission may call upon the attorney  
32 general of the state for such legal services as it may require. It shall have  
33 authority to delegate to its chairperson, to one or more of its members  
34 or to one or more agents or employees, such powers and duties as it  
35 deems proper. It shall be supplied with suitable office accommodations  
36 at the state capital, and shall be furnished with the necessary supplies and  
37 equipment. Upon request of the commission, for the purpose of carrying  
38 out any of its functions, the supervising officer of any state agency or of  
39 any state institution of learning, insofar as may be possible under available  
40 appropriations and having due regard to the needs of the agency to which  
41 the request is directed, shall assign or detail to the commission members  
42 of the staff or personnel of such agency or institution of learning and  
43 make such special reports, surveys or studies as the commission may

1 request.

2 (d) The commission shall designate its chairperson and, from time to  
3 time, may change such designation. A majority of the commission shall  
4 constitute a quorum, and the concurrence of a majority in any matter  
5 within their duties shall be required for its determination. Members of  
6 the state conservation commission attending meetings of such commis-  
7 sion or attending a subcommittee meeting thereof authorized by such  
8 commission shall be paid compensation, subsistence allowances, mileage  
9 and other expenses as provided in K.S.A. 75-3223, and amendments  
10 thereto. The commission shall provide for keeping of a full and accurate  
11 record of all proceedings and of all resolutions, regulations and orders  
12 issued or adopted.

13 (e) In addition to the duties and powers hereinafter conferred upon  
14 the state conservation commission, it shall have the following duties and  
15 powers:

16 (1) To offer such assistance as may be appropriate to the supervisors  
17 of conservation districts, organized as provided hereinafter, in the carry-  
18 ing out of any of their powers and programs;

19 (2) to keep the supervisors of each of the several districts organized  
20 under the provisions of this act informed of the activities and experience  
21 of all other districts organized hereunder and to facilitate an interchange  
22 of advice and experience between such districts and cooperation between  
23 them;

24 (3) to coordinate the programs of the several conservation districts  
25 organized hereunder;

26 (4) to secure the cooperation and assistance of the United States and  
27 any of its agencies and of agencies of this state, in the work of such districts  
28 and to contract with or to accept donations, grants, gifts and contributions  
29 in money, services or otherwise from the United States or any of its agen-  
30 cies or from the state or any of its agencies in order to carry out the  
31 purposes of this act;

32 (5) to disseminate information throughout the state concerning the  
33 activities and programs of the conservation districts organized hereunder  
34 and to encourage the formation of such districts in areas where their  
35 organization is desirable;

36 (6) to cooperate with and give assistance to watershed districts and  
37 other special purpose districts in the state of Kansas for the purpose of  
38 cooperating with the United States through the secretary of agriculture  
39 in the furtherance of conservation pursuant to the provisions of the wa-  
40 tershed protection and flood prevention act, as amended;

41 (7) to cooperate in and carry out, in accordance with state policies,  
42 activities and programs to conserve and develop the water resources of  
43 the state and maintain and improve the quality of such water resources;

F-5

1 (8) to enlist the cooperation and collaboration of state, federal, re-  
2 gional, interstate, local, public and private agencies with the conservation  
3 districts; ~~and~~

4 (9) to facilitate arrangements under which conservation districts may  
5 serve county governing bodies and other agencies as their local operating  
6 agencies in the administration of any activity concerned with the conser-  
7 vation of natural resources; *and*

8 (10) to facilitate the conservation of private working farm and ranch  
9 lands in Kansas through grants to eligible entities for the administration,  
10 lease or purchase of perpetual conservation easements, or other interests,  
11 of eligible farm and ranch lands.

and

12 New Sec. 2. As used in this act:

13 (a) "Commission" means the state conservation commission.

14 (b) "Conservation easement" means a conservation easement, as de-  
15 fined in K.S.A. 58-3510, and amendments thereto, which is a permanent  
16 deed restriction.

17 (c) "Eligible entity" means any organization that is an organization as  
18 described in section 170(h)(3) of the internal revenue code of 1986.

19 (d) "Eligible farm and ranch lands" means cropland, rangeland, grass-  
20 land, pastureland or forestland which: (1) Is an incidental part of an ag-  
21 ricultural operation on a farm or ranch; (2) has prime, unique or other  
22 productive soil or contains historical or archaeological resources; and (3)  
23 is subject to a pending offer for purchase or permanent conservation  
24 easements from an eligible entity.

25 (e) "Heart of the Flint Hills" means the area bounded on the north  
26 by U.S. highway 24, on the east by Kansas highways 99 and 4, on the  
27 south by Kansas highway 400 and on the west by Kansas highway 77,  
28 encompassing all or part of Pottawatomie, Riley, Shawnee, Wabaunsee,  
29 Geary, Morris, Lyon, Dickinson, Marion, Chase, Greenwood and Butler  
30 counties.

31 New Sec. 3. (a) There is hereby established a Kansas farm and ranch  
32 land protection grant program, to be administered by the commission,  
33 for the purpose of limiting loss of agricultural lands to nonagricultural  
34 uses.

35 (b) The commission may make available matching grants to be of-  
36 fered in cooperation with the United States department of agriculture  
37 under the farm and ranch land protection program or the United States  
38 department of defense, or any other federal or private entity, to eligible  
39 entities for the administration, costs and purchase of permanent conser-  
40 vation easements on eligible farm and ranch lands. Such costs shall in-  
41 clude, but not be limited to, appraisals, surveys and title searches.

42 (c) The commission may adopt rules and regulations to administer  
43 and implement the Kansas farm and ranch land protection grant program.



1 New Sec. 4. To receive grants pursuant to the Kansas farm and ranch  
2 land protection grant program ~~or other program administered by the~~  
3 ~~commission~~, eligible entities must make application to the commission in  
4 the manner prescribed by the commission and shall provide to the  
5 commission:

6 (1) Documentation from the internal revenue service that the entity  
7 meets the requirement of subsection (c) of section 2, and amendments  
8 thereto;

9 (2) a copy of the conservation easement agreement negotiated with  
10 the United States department of agriculture ~~and the landowner of the~~  
11 property for which funding is sought;

[ , United States department of defense or other agency

12 (3) a ~~legally binding~~ written statement that creation and recordation  
13 of appropriate deed restrictions will occur upon disbursement of the  
14 funds to the landowner;

15 (4) a ~~legally binding~~ written agreement to implement the terms of  
16 the conservation easement and to report the status of the conservation  
17 easement as the commission deems necessary; and

18 (5) any other relevant information the commission deems necessary  
19 to assure the appropriate use of grant funds.

20 New Sec. 5. (a) The commission shall evaluate and rank each appli-  
21 cation based upon the following criteria:

22 (1) Contiguous acres of farm and ranch land to be conserved and its  
23 ability to economically sustain agricultural activities;

24 (2) historic agricultural use and condition of the property;

25 (3) proximity of the property to: (A) A military installation or facility  
26 under the supervision of the United States secretary of the army or the  
27 United States secretary of the air force. (B) a military installation or facility  
28 under the supervision of the Kansas national guard; ~~or~~ (C) a state park,  
29 state lake, recreational area, wildlife area and sanctuary, fish hatchery,  
30 natural area or other lands, waters or facilities under the jurisdiction of  
31 the secretary of wildlife and parks;

32 (4) imminent threat of development for residential or commercial  
33 purposes;

34 (5) proximity of the property within a designated area for conserva-  
35 tion or preservation by public policy at the local, state or federal level;

[ and by renumbering the remaining subsections accordingly

36 (6) the property ~~lies within the heart of the Flint Hills and was pre-~~  
37 viously subject to ~~a~~ contract for development of wind energy;

[ an unfulfilled

38 (7) commitment of eligible entity and landowner to the long-term  
39 conservation of the property;

40 (8) ~~public access to~~ the land's scenic value, plant and animal biodi-  
41 versity, historic and cultural characteristics; and

[ provide an educational opportunity regarding

42 (9) other factors the commission deems critical for fulfillment of the  
43 purposes of this act.

(b) Because public moneys are expended to protect open space and environmentally important flora and fauna and land, provision for full or limited public access to land for which a grant is awarded pursuant to this act shall be a condition of receipt of such grant.

(c) Upon completion of the evaluations and rankings, the commission shall timely award funds to successful applicants.

New Sec. 6. Failure of a property owner to observe and fulfill the terms of a conservation easement shall render the property liable to the commission for all grant moneys received by the property owner pursuant to this act and liable to the purchaser of the property for all moneys paid to the property owner by the purchaser.

New Sec. 7. (a) There is hereby imposed on the change in classification of real property for purposes of ad valorem taxation from agricultural use to a use other than agricultural use or use as a city, county or state park an open space preservation fee in an amount equal to 0.015% of the fair market value of such property, as determined by the county assessor pursuant to law, if such property is reclassified at the time of or within seven years after transfer of the property.

(b) The fee imposed by this section shall be collected by the county assessor and remitted to the state treasurer. Upon receipt of the remittance, the state treasurer shall deposit the entire amount in the state treasury and credit it to the agricultural land conservation program fund.

(c) (1) There is hereby established in the state treasury the agricultural land conservation program fund. Moneys in the fund shall be expended only for the purpose of matching federal moneys available for agricultural land conservation programs.

(2) On or before the 10th of each month, the director of accounts and reports shall transfer from the state general fund to the agricultural land conservation program fund interest earnings based on: (A) The average daily balance of moneys in the agricultural land conservation program fund for the preceding month; and (B) the net earnings rate for the pooled money investment portfolio for the preceding month.

(3) All expenditures from the agricultural land conservation program fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the chairperson of the commission, or a person designated by the chairperson, for the purposes set forth in this section.

Sec. 8. K.S.A. 2-1904 is hereby repealed.

Sec. 9. This act shall take effect and be in force from and after its publication in the statute book.

On July 1, 2007, there

1.5%

appraiser

determined by the county clerk and the certified amount shall be provided to the county treasurer for collection

There is hereby established in the state treasury the agricultural land conservation program fund. Moneys in the fund shall be expended only for the administration, costs and the purchase of permanent conservation easements on agricultural lands. Moneys may be used for matching grants with federal agencies or private entities to conserve agricultural lands, but may not be used to acquire fee title to land.



Greg A. Foley, Executive Director

**KANSAS**  
State Conservation Commission

Kathleen Sebelius, Governor

**Testimony on the HB 2556 concerning an Act relating to Conservation  
Easements**

to

**The House Committee on Environment**

**by Greg A. Foley  
Executive Director  
State Conservation Commission**

**February 14, 2006**

Chairperson Freeborn and members of the Subcommittee, thank you for the opportunity to provide testimony on HB 2556 and information pertaining to how a Conservation Easement Program could function.

House Bill 2556 amends K.S.A. 2-1904, an act concerning the Conservation Commission, to include an additional duty and power, *to facilitate the conservation of private working farm and ranch lands in Kansas through grants to eligible entities for the administration, lease or purchase of perpetual conservation easements, or other interests, of eligible farm and ranch lands*. The proposed Act would establish a grant program, administered by the Commission that would function as a third party matching fund to eligible federal programs. The Act identifies what lands are eligible, the eligible entities, all necessary documentation and the priority ranking criteria.

The SCC respectfully would request clarification in New Section 3 that the proposed program is not a stand alone program, rather a program that works in concert with an applicable federal program. A stand alone state program would have a significant fiscal impact due to personnel through workload associated with the development of legal documents of perpetual nature. In addition, stand alone programs require annual monitoring and potential enforcement to assure compliance with such easements. The SCC has no legal staff currently. The State Conservation Commission believes a stand alone conservation easement program would be much better suited in an agency with extensive legal staff, such as the Kansas Department of Wildlife and Parks.

The State Conservation Commission directed me to clarify to the Committee that we do not have a position on New Section 7 that imposes a new fee on lands that have been reclassified from agricultural use to any other use.

In conclusion, the SCC appreciates the confidence of bill sponsors to recommend our agency as a clearinghouse for Conservation Easement matching funds and pledge to implement a fair and equitable matching-fund type program to the best of our ability. Madam Chair, I would like to thank you for the opportunity to provide testimony on H.B. 2556. I will stand for questions at the pleasure of the committee.



*Since 1894*

## TESTIMONY

To: The House Environment Committee  
Rep. Joann Freeborn, Chairperson

From: Mike Beam, Kansas Livestock Association (KLA)

Subj: **HB 2556**- Legislation establishing a Kansas farm and ranch land protection program, to be administered by the State Conservation Commission.

Date: February 14, 2006

***Attachments include:***

- *Existing state statutes regarding conservation easements*
- *What is a Conservation Easement? (KLA-RT)*
- *USDA Farm and Ranchland Protection Program fact sheet*
- *State by state enrollment in FRPP (1996-2004)*
- *AFT State PACE Programs*
- *What is KLA-RT*

Thank you, Chairperson Freeborn, for scheduling a hearing on this proposal. The Kansas Livestock Association (KLA) supports this proposal and appreciates Rep. Tom Sloan's efforts to produce and advocate a measure that can provide a state mechanism to permanently preserve Kansas farm and ranch land.

Our state's agriculture land base is the heart of our rich agricultural and rural life heritage. There are several private landowners scheduled to testify this afternoon. As you hear their story, I believe you will gain a greater appreciation for our desire to provide a tool, on a voluntary basis, that enables today's landowners to conserve their lands for future generations of Kansans.

(Our support for HB 2556 is based on the changes/amendments negotiated after the introduction of the bill.)

House Environment Committee  
February 14, 2006  
Attachment 7

## Key provisions of HB 2517:

- ✓ Amends the State Conservation Commission (SCC) statutes to provide the agency authority to partner with private conservation groups for the administration of conservation easements on eligible farm and ranch lands. (*page 4, no. 10, subsection e, Section 1*)
- ✓ Refers to a “conservation easement” as defined in Kansas statute. (*page 4, subsection b, New Section 2*)
- ✓ Defines an “eligible entity” as one recognized by the Internal Revenue Service as a charitable conservation organization that can accept and administer conservation easements. (*page 4, subsection c, New Section 2*)
- ✓ Provides a definition of eligible farm and ranch lands, consistent with the USDA Farm and Ranchland Protection Program. (*page 4, subsection d, New Section 2*)
- ✓ Establishes a “Kansas farm and ranchland protection grant program” to be administered by SCC. (*page 4, subsection a, New Section 3*)
- ✓ Allows SCC to make grants available, in cooperation with the federal USDA Farm and Ranchland Protection Program or other federal agencies, for permanent conservation easements and associated costs. (*page 4, subsection b, New Section 3*)
- ✓ Authorizes SCC to promulgate rules and regulations to administer the program. (*page 4, subsection c, New Section 3*)
- ✓ Establishes several guidelines and/or documents eligible entities must provide SCC, including a written agreement prescribing the manner in which the entity will administer SCC funded conservation easements. (*page 5, New Section 4*)
- ✓ Lists criteria for evaluating and ranking applications. (*page 5, New Section 5*)
- ✓ Includes a provision for repayment of SCC funds if the conservation easement is not adhered to. (*page 6, New Section 6*)
- ✓ Creates a dedicated source of funding by imposing a 1.5% “preservation fee” on agriculture land converted to non-agricultural use.



**Conservation easements:**

A conservation easement (see "What is a Conservation Easement") is a contract or covenant, attached to the deed, which stipulates specific uses or activities that may and may not occur on the designated land.

In most instances, the agreement is perpetual.

If a conservation easement is gifted to an eligible private conservation organization the provisions of the easement are negotiated between the landowner and conservation organization (land trust). A gifted easement, that meets requirements of the Internal Revenue Service (IRS), is considered a charitable contribution and federal income tax deduction.

Placing a conservation easement on agricultural land is not a viable consideration for every landowner, but it can be a tool to:

- Leverage the value of the development rights on property without changing the current use (agricultural production).
- Lower the market value to address potential estate tax concerns.
- Preserve the historical farming or ranching tradition of the family.
- Conserve the historical open spaces and scenic view shed of the local community.

**USDA Farm and Ranchland Protection Program:**

The Farm and Ranchland Protection Program (FRPP) (see attached Fact Sheet) provides matching funds to states, tribal and local governments, and private conservation groups for the purchase of permanent conservation easements that preserve working agricultural lands. Since 1996, this program has benefited the public by permanently preserving over 300,000 acres of farm and ranchland in 42 states. In recent years, the Kansas Natural Resources and Conservation Service (NRCS) office has received an FRPP allotment, but has had very few applications.

The limiting factor for FRPP participation in Kansas is the requirement that private or non-federal entities must provide a minimum match of 25% of the easement value. The ability of private conservation groups (land trusts) to generate funds to conserve large acreages is quite limited. It appears most of the federal FRPP funds are conserving agricultural land and open spaces in states that have a dedicated source of conservation easement purchase dollars that can match the USDA program.

**FRPP provides 2-1 matching funds:**

It is important to note the federal FRPP dollars are a two to one match to monies provided by states (or any nonfederal dollars). Furthermore, a participating landowner must donate 25% of the conservation easement's value.

For example, if an appraisal determines a proposed conservation easement has a value of \$100,000, USDA pays the landowner \$50,000 if the private entity or state provides \$25,000 and the landowner donates \$25,000. So, in this example a state can participate in a \$100,000 perpetual conservation project for \$25,000!

**The vision for conservation easements in Kansas:**

In recent years, KLA has responded to concerns from ranchers regarding the suburban residential encroachment in several areas of Kansas. Our members have expressed concern that some of these changing landscapes are occurring in areas that historically have been noted for their large intact ranching and grazing lands that support viable agriculture operations. One step taken is the formation of a land trust, called the Kansas Livestock Association Ranchland Trust, Inc. (KLA-RT). KLA-RT has received its nonprofit-charitable designation from the IRS.

**Opportunity and challenge for the Kansas Legislature:**

Kansans are known for their commitment to conservation. Landowners all across this state have received local, state, and national recognition for their land stewardship practices. The Kansas legislature, each year, appropriates funding for conservation programs that support water quality and soil conservation. These are all worthy projects, but we believe it is time to take another step in voluntary conversation. Let's act today, to design a program and a new source of dedicated funds to preserve the land itself by funding conservation easements on working, private agriculture lands.

Thank you for your time and consideration.

# Kansas Conservation Easement Law

## 58-3810

### Chapter 58.--PERSONAL AND REAL PROPERTY PART 6.--MISCELLANEOUSPROVISIONS Article 38.--EASEMENTS

**58-3810. Uniform conservation easement act; definitions.** As used in this act, unless the context otherwise requires:

(a) "Conservation easement" means a nonpossessory interest of a holder in real property imposing limitations or affirmative obligations the purposes of which include retaining or protecting natural, scenic or open-space values of real property, assuring its availability for agricultural, forest, recreational or open-space use, protecting natural resources, maintaining or enhancing air or water quality, or preserving the historical, architectural, archaeological or cultural aspects of real property.

(b) "Holder" means:

(1) A governmental body empowered to hold an interest in real property under the laws of this state or the United States; or

(2) a charitable corporation, charitable association or charitable trust, the purposes or powers of which include retaining or protecting the natural, scenic, or open-space values of real property, assuring the availability of real property for agricultural, forest, recreational or open-space use, protecting natural resources, maintaining or enhancing air or water quality, or preserving the historical, architectural, archaeological or cultural aspects of real property.

(c) "Third-party right of enforcement" means a right provided in a conservation easement to enforce any of its terms granted to a governmental body, charitable corporation, charitable association or charitable trust, which, although eligible to be a holder, is not a holder.

History: L. 1992, ch. 302, § 11; July 1.

## 58-3811

### Chapter 58.--PERSONAL AND REAL PROPERTY PART 6.--MISCELLANEOUSPROVISIONS Article 38.--EASEMENTS

**58-3811. Same; creation; duration; impairment; conveyance or assignment.**

(a) A conservation easement may be created only by the record owner of the surface of the land specifically stating the intention of the grantor to create such an easement under this act.

(b) Except as otherwise provided in this act, a conservation easement may be created, conveyed, recorded, assigned, released, modified, terminated or otherwise altered or affected in the same manner as other easements.

(c) No right or duty in favor of or against a holder and no right in favor of a person having a third-party right of enforcement arises under a conservation easement before its acceptance by the holder and a recordation of the acceptance.

(d) Except as provided in subsection (b) of K.S.A. 58-3812 and unless the instrument creating it otherwise provides, a conservation easement shall be limited in duration to the lifetime of the grantor and may be revoked at grantor's request.

(e) An interest in real property in existence at the time a conservation easement is created is not impaired by it unless the owner of the interest is a grantor of the conservation easement.

(f) A conservation easement may not be conveyed or assigned by a holder to any entity or person other than a city or county of this state, an entity enumerated by subsection (b)(2) of K.S.A. 58-3810 or the grantor thereof or such grantor's heirs.

**History:** L. 1992, ch. 302, § 12; July 1.

## **58-3812**

### **Chapter 58.--PERSONAL AND REAL PROPERTY**

#### **PART 6.--MISCELLANEOUS PROVISIONS**

#### **Article 38.--EASEMENTS**

**58-3812. Same; judicial actions; who may bring action affecting conservation easement; modification or termination by court.** (a) An action affecting a conservation easement may be brought by:

- (1) An owner of an interest in the real property burdened by the easement;
- (2) a holder of the easement;
- (3) a person having a third-party right of enforcement; or
- (4) a person authorized by other law.

(b) This act does not affect the power of a court to modify or terminate a conservation easement in accordance with the principles of law and equity.

**History:** L. 1992, ch. 302, § 13; July 1.

**58-3813**  
**Chapter 58.--PERSONAL AND REAL PROPERTY**  
**PART 6.--MISCELLANEOUSPROVISIONS**  
**Article 38.--EASEMENTS**

**58-3813. Same; validity of conservation easement.** A conservation easement is valid even though:

- (a) It is not appurtenant to an interest in real property;
- (b) it can be or has been assigned to another holder;
- (c) it is not of a character that has been recognized traditionally at common law;
- (d) it imposes a negative burden;
- (e) it imposes affirmative obligations upon the owner of an interest in the burdened property or upon the holder;
- (f) the benefit does not touch or concern real property; or
- (g) there is no privity of estate or of contract.

**History:** L. 1992, ch. 302, § 14; July 1.

**58-3814**  
**Chapter 58.--PERSONAL AND REAL PROPERTY**  
**PART 6.--MISCELLANEOUSPROVISIONS**  
**Article 38.--EASEMENTS**

**58-3814. Same; application of act.** (a) This act applies to any interest created after its effective date which complies with this act, whether designated as a conservation easement or as a covenant, equitable servitude, restriction, easement or otherwise.

(b) This act applies to any interest created before its effective date if it would have been enforceable had it been created after its effective date unless retroactive application contravenes the constitution or laws of this state or the United States.

(c) This act does not invalidate any interest, whether designated as a conservation or preservation easement or as a covenant, equitable servitude, restriction, easement or otherwise, that is enforceable under other law of this state.

**History:** L. 1992, ch. 302, § 15; July 1.

## 58-3815

### Chapter 58.--PERSONAL AND REAL PROPERTY PART 6.--MISCELLANEOUSPROVISIONS Article 38.--EASEMENTS

**58-3815. Same; uniformity of application and construction.** This act shall be applied and construed to effectuate its general purpose to make uniform the laws with respect to the subject of the act among states enacting it.

**History:** L. 1992, ch. 302, § 16; July 1.

## 58-3816

### Chapter 58.--PERSONAL AND REAL PROPERTY PART 6.--MISCELLANEOUSPROVISIONS Article 38.--EASEMENTS

**58-3816. Same; certain utility and water district easements not impaired.** Nothing in this act shall be construed so as to impair the rights of a public utility or city with respect to the acquisition of rights-of-way, easements or other property rights, whether through voluntary conveyance or eminent domain, upon which facilities, plants, systems or other improvements of a public utility or city are located or are to be located or so as to impair the rights of a watershed district under K.S.A. 24-1201 *et seq.* and amendments thereto with respect to rights-of-way, easements or other property rights upon which watershed structures are located or are to be located.

**History:** L. 1992, ch. 302, § 17; July 1.

## 58-3817

### Chapter 58.--PERSONAL AND REAL PROPERTY PART 6.--MISCELLANEOUSPROVISIONS Article 38.--EASEMENTS

**58-3817. Same; short title.** This act shall be known and may be cited as the uniform conservation easement act.

**History:** L. 1992, ch. 302, § 18; July 1.





An affiliate of the Kansas Livestock Association

## What is a Conservation Easement?

A conservation easement is a legally recorded agreement or contract, between the landowner and another entity, which restricts the use of designated land for conservation purposes. These agreements are voluntary in nature and, in most instances, authorize continued agricultural use. Donors of conservation easements retain title to their property and voluntarily grant conservation easements to protect their land from future development. A conservation easement runs with the title to the property regardless of changes in future ownership.

Not all conservation easements are alike. Each is tailored to the unique character of the land and the conservation desires of its owner(s) and grantee. Types of uses that are generally restricted by a conservation easement include (a) sub-division for residential or commercial activities; (b) construction of non-agricultural buildings; (c) nonagricultural commercial activities; (d) surface mining; and (e) other land uses or activities defined in the easement contract.

The following are examples of the types of uses that are usually allowed by a conservation easement:

- Continued agricultural use
- Construction of buildings, fences, water improvements, etc. necessary for agriculture and compatible with conservation objectives
- Sale, devise, gifting or other method of transferring parcels, subject to terms of the easement
- Landowner control of access
- Additional family and employee residences compatible with conservation objectives
- Wildlife and fisheries protection, restoration and enhancement projects
- Any and all uses not specifically prohibited

### Tax aspects of conservation easements

The federal tax code provides tax benefits for landowners who apply qualified conservation easements to their property. The donation of an easement may qualify as a charitable contribution for federal income tax purposes. Furthermore, the conservation easement may reduce estate and gift taxes. In general, the following rules apply for federal income tax benefits<sup>1</sup>:

1. The conservation easement must be granted in perpetuity (mortgage and/or contract holders must agree to subordinate to the easement).
2. The easement must provide at least one of the following three conservation purposes:
  - Protection of relatively natural habitat for fish, wildlife, plants or similar ecosystems.
  - Preservation of open space (including farmland or forest land) for (1) scenic enjoyment of the general public and/or (2) significant public benefit pursuant to a clearly delineated government policy.
  - Preservation of land areas for the education of or outdoor recreation by the general public.
3. The easement must be granted to a qualified organization (i.e. KLA-RT).

<sup>1</sup> This report is not intended to provide specific legal advice or counsel. Landowners considering a conservation easement should consult an attorney and tax specialist.

4. The easement must prohibit all surface mining. If the easement donor does not own all the mineral rights, the possibility of surface mining must be determined "so remote as to be negligible."
5. Resource data documenting the conservation values of the property must be collected prior to donation of the easement.

*Several states provide state tax benefits to landowners for preserving agricultural land with conservation easements. While Kansas currently has no such provisions, the Kansas Livestock Association members adopted a policy resolution in 2004 that supports the creation of a state funded conservation easement purchase program in Kansas.*

### **Payments to landowners for conservation easements**

In some instances, a landowner may receive financial compensation from a private or governmental entity seeking to reward landowners for preserving the conservation value of their land. On occasion, a land trust or conservation organization has conducted fundraising efforts to generate funds and provide a payment for a specific landowner to permanently preserve the conservation aspects of their property. States such as Colorado dedicate a portion of their gaming revenue to fund conservation easement purchases for the preservation and protection of agricultural land. Currently, two United States Department of Agriculture (USDA) programs provide cash payments for purchasing conservation easements on targeted agricultural land. One of these programs, the Farm and Ranchland Protection Program, has not been fully utilized in Kansas because there are no state matching funds available to access this federal funding. A second program, the Grassland Conservation Program (GRP), has been popular among Kansas grassland owners. During the last sign-up period (FY 05), second sign-up period (FY 04), 114 landowners (owning over 40,000 acres of native grassland) applied for GRP easements. The Kansas NRCS officials intend to close on over 61 GRP conservation easement contracts, covering 26,400 acres, after the first three years of the program. (Federal funds for GRP are currently unavailable for this program. KLA and other ranching /conservation organizations will lobby for additional GRP funds in the 2007 Farm Bill debate.)

### **Value of conservation easements**

The value of a conservation easement is the difference between the value of the land without any restrictions and the value of the land after restrictions are defined by a conservation easement. When the easement qualifies under IRS regulations, that amount is also usually the value of the charitable donation. Land values differ greatly throughout the nation; in areas where there is intense development pressure, the value of the easement may be greater. A qualified appraisal is necessary to value the tax benefit and for publicly funded compensation programs such as GRP.

*Note: Thanks to the Colorado Cattlemen's Agricultural Land Trust and the Montana Land Reliance for much of the information contained in this document. More extensive information about conservation easements, agricultural land trusts, and tax benefits from conservation easements is available at their web sites – <http://cca.beef.org/pages/ccalt-home.htm> and <http://www.mtlandreliance.org/>*

### **For further information, contact:**

Kansas Livestock Association Ranchland Trust, Inc.  
Mike Beam, Executive Director  
6031 SW 37<sup>th</sup>. Street  
Topeka, KS 66614  
785/273-5115  
mike@kla.org



## Fact Sheet

September 2004

## *Farm and Ranch Lands Protection Program*

### **Overview**

The Farm and Ranch Lands Protection Program (FRPP) is a voluntary program that helps farmers and ranchers keep their land in agriculture. The program provides matching funds to State, Tribal, or local governments and non-governmental organizations with existing farm and ranch land protection programs to purchase conservation easements. FRPP is reauthorized in the Farm Security and Rural Investment Act of 2002 (Farm Bill). The U.S. Department of Agriculture's (USDA) Natural Resources Conservation Service (NRCS) manages the program.

### **Benefits/Accomplishments**

Through 2003, more than 300,000 acres have been protected in 42 states.

### **How FRPP Works**

USDA works through State, Tribal, and local governments and non-governmental organizations to conduct the FRPP. These entities acquire conservation easements from landowners. Participating landowners agree not to convert their land to non-agricultural uses and to develop and implement a conservation plan for any highly erodible land. All highly erodible lands enrolled must have a conservation plan developed based on the standards in the NRCS Field Office Technical Guide and approved by the local conservation district. Landowners retain rights to use the property for agriculture.

To participate, a landowner submits an application to an entity—a State, Tribal, or local government or a non-governmental organization—that has an existing farm or ranch land protection program. The NRCS

State Conservationist, with advice from the State Technical Committee, awards funds to qualified entities to purchase perpetual conservation easements.

### **Eligibility**

To qualify for FRPP, the land offered must be part or all of a farm or ranch and must:

- Contain prime, unique, or other productive soil or historical or archaeological resources;
- Be included in a pending offer from a State, Tribal, or local government or non-governmental organization's farmland protection program;
- Be privately owned;
- Be covered by a conservation plan for any highly erodible land;
- Be large enough to sustain agricultural production;
- Be accessible to markets for what the land produces;
- Be surrounded by parcels of land that can support long-term agricultural production; and
- Be owned by an individual or entity that does not exceed the Adjusted Gross Income (AGI) limitation.

The AGI provision of the 2002 Farm Bill impacts eligibility for FRPP and several other 2002 Farm Bill programs. Individuals or entities that have an average AGI exceeding \$2.5 million for the three tax years immediately preceding the year the contract is approved are not eligible to receive program benefits or payments. However, an exemption

is provided in cases where 75 percent of the AGI is derived from farming, ranching, or forestry operations.

If the land cannot be converted to non-agricultural uses because of existing deed restrictions or other legal constraints, it is ineligible for FRPP.

### ***Funding***

FRPP is funded through the Commodity Credit Corporation. The FRPP share of the easement cost must not exceed 50 percent of the appraised fair market value of the conservation easement. As part of its share of the cost of purchasing a conservation easement, a State, Tribal, or local government or non-governmental organization may include a charitable donation by the landowner of up to 25 percent of the appraised fair market value of the conservation easement. As a minimum, a cooperating entity must provide, in cash, 25 percent of the appraised fair market value or 50 percent of the purchase price of the conservation easement.

### ***For More Information***

If you need more information about FRPP, please contact your local USDA Service Center, listed in the telephone book under U.S. Department of Agriculture, or your local conservation district. Information also is available on the World Wide Web at: <http://www.nrcs.usda.gov/programs/farmbill/2002/>



Visit USDA on the Web at:  
<http://www.usda.gov/farmbill>

**Note:** This is not intended to be a definitive interpretation of farm legislation. Rather, it is preliminary and may change as USDA develops implementing policies and procedures. Please check back for updates.

**Table 1: FRPP FY 1996-2004 Cumulative Summary**

State	Financial Assistance	Easements Acquired*		Pending Easements	
	Cumulative Allocations	Number	Acres	Number	Acres
ALABAMA	\$2,223,568	5	467	3	527
ARIZONA	2,413,956	1	50	3	2,651
CALIFORNIA	13,683,514	19	2,055	14	16,244
COLORADO	11,421,291	30	12,944	16	6,810
CONNECTICUT	9,559,380	13	2,013	16	1,294
DELAWARE	11,701,766	75	14,625	28	3,391
FLORIDA	8,654,861	4	6,946	6	8,339
GEORGIA	3,599,112	3	317	4	972
IDAHO	1,885,100	2	1,056	5	2,065
ILLINOIS	4,964,582	8	1,413	6	909
INDIANA	999,919	0	0	2	250
IOWA	1,655,311	4	711	9	2,258
KANSAS	738,913	0	0	5	6,264
KENTUCKY	10,398,758	69	14,527	18	3,940
LOUISIANA	20,000	0	0	1	41
MAINE	4,603,710	6	1,015	11	2,411
MARYLAND	17,747,864	103	15,586	191	36,759
MASSACHUSETTS	12,567,611	62	4,817	24	1,275
MICHIGAN	10,805,685	24	3,111	27	3,945
MINNESOTA	2,376,928	0	0	11	1,567
MISSOURI	2,237,928	1	102	7	941
MONTANA	5,609,720	6	2,522	10	15,800
NEBRASKA	518,568	0	0	2	1,300
NEVADA	550,000	0	0	2	120
NEW HAMPSHIRE	7,925,752	28	1,784	25	2,617
NEW JERSEY	15,543,921	59	5,728	122	14,419
NEW MEXICO	1,810,055	0	0	10	167
NEW YORK	9,970,124	22	5,639	36	9,720
NORTH CAROLINA	7,690,424	19	2,859	22	7,096
NORTH DAKOTA	1,118,300	1	113	1	27
OHIO	7,232,792	12	3,253	28	5,022
OKLAHOMA	2,541,207	2	202	20	2,104
OREGON	1,305,000	2	13,675	1	788
PENNSYLVANIA	15,830,429	91	16,204	106	14,799
RHODE ISLAND	6,869,085	14	1,137	21	1,188
SOUTH CAROLINA	3,565,670	8	742	6	1,465
TENNESSEE	900,000	0	0	1	425
TEXAS	3,276,722	1	862	3	1,655
UTAH	2,446,997	5	1,692	1	360
VERMONT	12,891,230	111	27,911	44	9,080
VIRGINIA	4,371,831	2	386	15	2,684
WASHINGTON	6,869,918	23	1,982	29	3,070
WEST VIRGINIA	2,951,488	5	679	20	2,446
WISCONSIN	6,746,560	27	4,289	25	3,653
WYOMING	1,770,147	1	630	4	6,883
TOTAL	\$264,565,697	870	177,817	959	209,621

\* Easements acquired through September 30, 2004.



FARMLAND  
INFORMATION  
CENTER

FACT  
SHEET

STATUS OF  
STATE PACE  
PROGRAMS



FARMLAND INFORMATION CENTER  
One Short Street, Suite 2  
Northampton, MA 01060  
(800) 370-4879  
www.farmlandinfo.org

NATIONAL OFFICE  
1200 18th Street, NW, Suite 800  
Washington, DC 20036  
(202) 331-7300  
www.farmland.org

DESCRIPTION

As of June 2005, 27 states have laws authorizing state-level purchase of agricultural conservation easement (PACE) programs. Montana's PACE statute expired in 2003. This table displays the status and summarizes important information about farm and ranch land protection programs in 20 states that have acquired funding and easements. To be included, the protection of agricultural lands must be a primary, stated conservation purpose of the program.

EXPLANATION OF COLUMN HEADINGS

Year of Inception / Year of First Acquisition

"Year of Inception" is the year the law creating the PACE program was approved. "Year of First Acquisition" is the year the program acquired its first easement.

Easements / Restrictions Acquired

Number of agricultural conservation easements or conservation restrictions acquired through the state program. This number does not necessarily reflect the total number of farms/ranches protected, as some programs acquire a property in stages and may hold multiple easements on the same farm/ranch. Some state programs do not hold easements but instead provide funds for easement purchase to local governments or land trusts.

Acres Protected

Number of acres protected by the program to date.

Program Funds Spent to Date

Dollars spend by each program to acquire easements on farms/ranches. Amounts may include unspent funds that are encumbered for installment payments on completed projects. Unless otherwise noted, this figure does not reflect either incidental land acquisition costs, such as appraisals, insurance and recording fees, or the administrative cost of running the program. These figures do not include addi-

tional funds contributed by federal programs, local governments, or private land trusts, foundations or individuals, nor the value of landowner donations.

Additional Funds Spent To Date

Funds contributed toward state program acquisitions by local governments (e.g. counties municipalities) private land trusts, foundations or individuals, and federal programs (see "Sources of Funding" below). The value of landowner donations is not included.

Program Funds Available

Program funds available for the current fiscal year to acquire easements on agricultural land.

Program Funds Available Per Capita

Program funds available per person based on state population figures for 2004 from the U.S. Bureau of the Census.

Outstanding Applications

Backlog of applications reported by program administrators.

Funding Sources

Sources of funding for each program. "Transportation funding" refers to federal money disbursed under the Intermodal Surface Transportation Efficiency Act of 1991 and the Transportation Equity Act for the 21st Century (ISTEA and TEA-21). ISTEA provided funding for a broad range of highway and transit programs, including "transportation enhancements." Easement acquisitions that protect scenic views and historic sites along transportation routes are eligible for this program. Adopted in May of 1998, TEA-21 reauthorized federal transportation spending through fiscal year 2004 (including extensions). "FRPP" is the federal Farm and Ranch Lands Protection Program. Originally established in the 1996 Farm Bill as the Farmland Protection Program, the FRPP provides matching funds to state, local and tribal agricultural



PURCHASE OF AGRICULTURAL CONSERVATION EASEMENTS

State	Year of Inception/ Year of First Acquisition	Easements / Restrictions Acquired	Acres Protected	Program Funds Spent To Date	Additional Funds Spent to Date
<b>California</b>					
California Farmland Conservancy Program	1995/1997	88	24,000	\$36,000,000 ^	\$23,200,000
<b>Colorado</b>					
Great Outdoors Colorado Δ	1992/1995	137	226,549	\$69,050,669 ^	\$143,797,065
<b>Connecticut</b>					
Connecticut Farmland Preservation Program	1978/1979	213	30,087	\$86,518,128 ^	\$4,925,000
<b>Delaware</b>					
Delaware Agricultural Lands Preservation	1991/1996	442	79,649	\$88,506,863 ^	\$14,957,215
<b>Kentucky</b>					
Division of Agricultural Education and Farmland Preservation	1994/1998	98	20,649	\$10,321,041	\$5,200,987
<b>Maine</b>					
Farmland Protection Program	1999/1990	17	4,275	\$3,358,371	\$4,091,000
<b>Maryland</b>					
Maryland Agricultural Land Preservation Foundation	1977/1980	1,964	281,545	\$338,090,291	\$113,387,467
Rural Legacy	1997/1999	1,693	235,299	\$230,528,310	\$106,065,747
		271	46,246	\$107,561,981 ^	\$7,321,720
<b>Massachusetts</b>					
Massachusetts Agricultural Preservation Restriction Program	1977/1980	632	55,516	\$141,769,596 ^	\$25,706,827
<b>Michigan</b>					
The Farmland and Open Space Preservation Program	1974/1994	72	15,834	\$25,620,571 ^	\$3,228,902
<b>Montana x</b>					
Montana Agricultural Heritage Program	1999/2000	8	9,923	\$888,000	\$1,420,710
<b>New Hampshire</b>					
Agricultural Lands Preservation Program x	1979/1980	86	10,938	\$13,325,308	\$5,349,573
Land Conservation Investment Program x	1987/1988	31	2,864	\$5,000,000	\$140,000
Land & Community Heritage Investment Program	2000/2001	36	6,232	\$5,349,008	N/A
		19	1,842	\$2,976,300 ^	\$5,209,573
<b>New Jersey</b>					
The New Jersey Farmland Preservation Program	1983/1985	1,232	133,733	\$465,158,017	\$237,269,293
<b>New York</b>					
Agricultural and Farmland Protection Program	1996/1998	81	14,140	\$33,425,059 ^	\$20,012,404
<b>North Carolina</b>					
Conservation Trust for North Carolina	1986/1999	33	4,412	\$2,384,500 ^	\$26,000,000
<b>Ohio</b>					
Ohio Agricultural Easement Programs	1999/1999	83	15,410	\$12,500,000	\$6,900,000
Southern Ohio Tobacco Agricultural Easement Purchase Program x	2002/2002	69	12,410	\$12,500,000	\$5,400,000
		14	3,000	\$0	\$1,500,000
<b>Pennsylvania</b>					
Bureau of Farmland Preservation	1988/1989	2,565	295,447	\$460,719,453 ^	\$189,594,540
<b>Rhode Island</b>					
Rhode Island Division of Agriculture	1981/1985	61	4,382	\$17,093,097	\$9,873,680
<b>South Carolina</b>					
South Carolina Conservation Bank	2002/N/A	0	0	\$0	\$0
<b>Utah *</b>					
Critical Agricultural Land Conservation Fund	1999/2001	17	26,157	\$5,059,121	\$14,176,293
LeRay McAllister Critical Lands Conservation Fund	1999/2000	2	29	\$139,000	\$166,000
		15	26,128	\$4,920,121	\$14,010,293
<b>Vermont</b>					
Vermont Housing and Conservation Board	1987/1987	368	108,945	\$42,000,000 ^	\$36,695,800
<b>STATE TOTALS</b>		<b>8,197</b>	<b>1,361,591</b>	<b>\$1,851,788,085</b>	<b>\$885,786,756</b>

STATUS OF STATE PROGRAMS AS OF JANUARY 2005

Program Funds Available	Program Funds Available Per Capita	Outstanding Applications	Funding Sources
\$12,000,000	\$0.33	12	Appropriations, bonds, private contributions, FRPP
\$8,550,000 =	\$1.86	13	Local government contributions, portion of lottery proceeds, FRPP
\$3,231,872	\$0.92	140	Bonds, local government contributions, FRPP
\$14,300,000	\$17.22	101	Agricultural transfer tax, appropriations, bonds, local government contributions, portion of lawsuit settlement, private/foundation contributions, transportation funding, FRPP, property transfer tax
\$1,500,000	\$0.36	587	Appropriations, bonds, tobacco settlement funds, FRPP
N/A	N/A	N/A	Appropriations, bonds, credit card royalties, local government contributions, private contributions, FRPP
\$30,100,000	\$5.42	165	
\$28,100,000	\$5.06	140	Agricultural transfer tax, bonds, local government contributions, private contributions, real estate transfer tax, FRPP
\$2,000,000 =	\$0.36	25	Bonds, local government contributions, private contributions, real estate transfer tax, federal wetlands conservation funds
\$8,500,000	\$1.32	100	Bonds, local government contributions, private contributions, transportation funding, FRPP
\$1,500,000	\$0.15	19	Local government contributions, private/foundation contributions, repayment of tax credits by landowners withdrawing from the state's circuit breaker program, FRPP
\$0	\$0.00	N/A	Appropriations, FRPP
\$0	\$0.00	6	
\$0	\$0.00	0	Appropriations, local government contributions, FRPP
\$0	\$0.00	0	Bonds
\$0	\$0.00	6	Appropriations
\$127,825,178	\$14.69	500	Appropriations, bonds, local government contributions, portion of state sales and use tax, FRPP, private/foundation contributions
\$12,600,000	\$0.66	0	Bonds, property transfer tax, local government contributions, FRPP
\$0	\$0.00	2	Appropriations, FRPP
\$3,120,000	\$0.27	1,107	
\$3,120,000	\$0.27	1,107	Bonds, FRPP
\$0	\$0.00	0	Tobacco settlement funds
\$25,000,000	\$2.02	1,900	Appropriations, bonds, cigarette tax, interest on securities, local government contributions, FRPP
\$2,000,000	\$1.85	35	Appropriations, bonds, local government contributions, private contributions, FRPP, property transfer tax
\$24,185,245 =	\$5.76	19	Deed/recording fees
\$798,000	\$0.33	2	
\$50,000	\$0.02	1	Appropriations, FRPP
\$748,000 =	\$0.31	1	Appropriations, local government contributions, private/foundation contributions, FRPP
\$2,100,000	\$3.38	58	Appropriations, bonds, Farms for the Future pilot program, local government contributions, private/foundation contributions, property transfer tax, transportation funding, FRPP
\$277,310,295		4,766	

easement acquisition programs. The program was expanded in the 2002 Farm Bill to include certain non-governmental organizations. In addition to these sources of funding, several local programs reported financial contributions from private individuals or foundations

## STATUS OF STATE

## PACE PROGRAMS

For additional information on farmland protection and stewardship contact the Farmland Information Center. The FIC offers a staffed answer service, online library, program monitoring, fact sheets and other educational materials.

[www.farmlandinfo.org](http://www.farmlandinfo.org)

(800) 370-4879

### NOTES

- △ Program activity includes fee simple acquisitions of agricultural land. All programs with fee activity included on this fact sheet have policies requiring resale of the restricted property.
- × Program has terminated or is no longer acquiring agricultural conservation easements.
- Program funds available include monies for other land conservation purposes.
- ^ “Program Funds Spent to Date” includes incidental land acquisition costs and/or personnel costs.
- \* In Utah, the LeRay McAllister Critical Lands Conservation Fund and the Critical Agricultural Land Conservation Fund—administered by the Utah Department of Agriculture and Food (UDAF)—completed seven joint projects. For the purposes of this table, these projects are included in the figures for the LeRay McAllister program. The projects covered 2,526 acres. UDAF contributed \$391,000 and holds the easements.



## What is a land trust and who is KLA-RT?

### What is a Land Trust?

Land trusts are private, non-profit organizations with a primary mission to conserve land and open spaces. In most instances, the Internal Revenue Service (IRS) expressly recognizes a land trust as a charitable organization. While land trusts may purchase land, they more commonly hold, manage, and administer *conservation easements*<sup>1</sup> from landowners who desire to preserve the conservation values and open spaces of their land for a pre-determined time period. According to the *Land Trust Alliance (LTA)*<sup>2</sup>, some trusts organized over 100 years ago. Today, LTA estimates over 1,200 local and regional land trusts protect over 6.2 million acres in the United States.

### What or who is KLA-RT?

This entity is a newly created non-profit organization founded by the *Kansas Livestock Association (KLA)*<sup>3</sup>. The Kansas Livestock Association Ranchland Trust (KLA-RT) is an affiliate of KLA, and is recognized by the Kansas Secretary of State and IRS as a separate, stand-alone organization with its own articles of incorporation, bylaws, budget/checking account, and Board of Directors.

### What is the purpose of KLA-RT?

The mission of the KLA Ranchland Trust is to preserve Kansas' ranching heritage and open spaces for future generations through the conservation of working landscapes. To fulfill this mission, KLA-RT is authorized in its bylaws and IRS filings to acquire, own, hold, protect and defend conservation easements.

### Why did KLA organize a land trust?

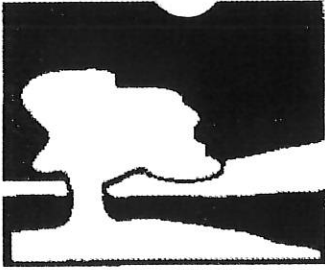
KLA leaders in the Flint Hills expressed interest in forming a land trust in 2001 to provide a rancher-landowner governed organization to assist landowners who are considering conservation easements for the long-term preservation of their working ranchlands. At least a half dozen state and local cattle producer organizations in western states have formed land trust affiliates to help address the conversion of grazing lands to residential and commercial development. KLA members involved in forming the KLA-RT believe the vast acres of open-spaced ranch lands of Kansas will be under more intense developmental pressure in the future. These leaders believe many landowners will prefer voluntary conservation easements as an economic alternative to development, especially if the easements could be held and administered by a qualified and competent agricultural land trust.

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<sup>1</sup>A conservation easement is a legal contract, attached to the land's deed, which limits the use of the land by current and subsequent owners. See KLA-RT summary, "What is a Conservation Easement?"

<sup>2</sup>The Land Trust Alliance is a society of land trusts. Comprehensive information about land trusts is available on their web site, [www.lta.org](http://www.lta.org).

<sup>3</sup>The Kansas Livestock Association is a 110-year-old trade organization for agricultural producers whose primary interest is beef cattle production. More information about KLA is available at [www.kla.org](http://www.kla.org).



## Kansas Land Trust

**MEMORANDUM TO:** House Environment Committee  
Rep. Joann Freeborn, Chairperson  
**DATE:** February 14, 2006  
**FROM:** RoxAnne Miller  
**RE:** House Bill No. 2556

*The Kansas Land Trust (KLT) is a Kansas nonprofit organization formed in 1990 and is a statewide land trust serving Kansas landowners. KLT's mission is to assist landowners who want to voluntarily protect and preserve their lands of agricultural, historic, scenic, recreational or ecological significance in Kansas.*

The Kansas Land Trust supports the conservation easement purchase program in Kansas as presented in the revised House Bill No. 2556. KLT has completed one conservation easement purchase in Riley County under the Farm & Ranch Lands Protection Program and is preparing to close a second in Morris County.

Every year since 2002, when Kansas became eligible to receive conservation easement purchase funds under FRPP, we have turned back money because there were no matching funds available for the minimum 25% match. **In 2003 Kansas turned back \$239,087 of FRPP funds, in 2004 \$735,500, and in 2005 \$824,933.**

- The FRPP program requires a minimum match of funds equivalent to 25% of the conservation easement value.

Fort Riley and the Kansas Land Trust are partnering to pursue the Army Compatible Use Buffer (ACUB) Project in a buffer area of approximately 50,000 acres adjacent to the military property. The Kansas Land Trust will provide willing landowners in the buffer area the opportunity to sell a permanent conservation easement. Landowner participation will be entirely voluntary.

- The ACUB Program requires matching funds.
  - Matching funds for the purchase of conservation easements best positions the Ft. Riley Project. The NRCS Farm & Ranch Lands Protection Program is eligible for matching conservation easement purchase money; and
  - Matching funds for project costs. Costs include the land trust administrative and transactional costs.

House Environment Committee  
February 14, 2006  
Attachment 8



8-2

500 ACRES	Hypothetical FRPP Project	CE Appraised Value = \$250/acre (ranges 20% to 40% of land value)	\$125,000		CASH TO LANDOWNER	TAX DEDUCTION
		FRPP 50%	\$62,500	Cash to landowner		
		25% Land Trust	\$31,250	Cash to landowner	\$93,750	
		25% Landowner / Bargain Sale	\$31,250	Charitable Contribution/ Reduced Purchase Price Tax deduction		\$31,250
		SF contribution to Land Trust by landowner in the amount of >\$20,000 or 10% of CE appraised value	\$20,000	Cash from landowner = Charitable Contribution & Tax deduction	(\$20,000)	\$20,000
<b>Net cash to landowner</b>					<b>\$73,750</b>	
<b>Total Tax deduction</b>						<b>\$51,250</b>

1000 ACRES	Hypothetical FRPP Project	CE Appraised Value = \$250/acre (ranges 20% to 40% of land value)	\$250,000		CASH TO LANDOWNER	TAX DEDUCTION
		FRPP 50%	\$125,000	Cash to landowner		
		25% Land Trust	\$62,500	Cash to landowner	\$187,500	
		25% Landowner / Bargain Sale	\$62,500	Charitable Contribution/ Reduced Purchase Price Tax deduction		\$62,500
		SF contribution to Land Trust by landowner in the amount of >\$20,000 or 10% CE appraised value	\$25,000	Cash from landowner = Charitable Contribution & Tax deduction	(\$25,000)	\$25,000
<b>Net cash to landowner</b>					<b>\$162,500</b>	
<b>Total Tax deduction</b>						<b>\$87,500</b>



8-3

500 ACRES	Hypothetical FRPP Project	CE Appraised Value = \$500/acre (ranges 20% to 40% of land value)	\$250,000		CASH TO LANDOWNER	TAX DEDUCTION
	FRPP 50%		\$125,000	Cash to landowner		
	25% Land Trust		\$62,500	Cash to landowner	\$187,500	
	25% Landowner / Bargain Sale		\$62,500	Charitable Contribution/ Reduced Purchase Price		\$62,500
	SF contribution to Land Trust by landowner in the amount of >\$20,000 or 10% of CE appraised value		\$25,000	Cash from landowner = Charitable Contribution & Tax deduction	(\$25,000)	\$25,000
<b>Net cash to landowner</b>					<b>\$162,500</b>	
<b>Total Tax deduction</b>						<b>\$87,500</b>

1000 ACRES	Hypothetical FRPP Project	CE Appraised Value = \$500/acre (ranges 20% to 40% of land value)	\$500,000		CASH TO LANDOWNER	TAX DEDUCTION
	FRPP 50%		\$250,000	Cash to landowner		
	25% Land Trust		\$125,000	Cash to landowner	\$375,000	
	25% Landowner / Bargain Sale		\$125,000	Charitable Contribution/ Reduced Purchase Price		\$125,000
	SF contribution to Land Trust by landowner in the amount of >\$20,000 or 10% CE appraised value		\$50,000	Cash from landowner = Charitable Contribution & Tax deduction	(\$50,000)	\$50,000
<b>Net cash to landowner</b>					<b>\$325,000</b>	
<b>Total Tax deduction</b>						<b>\$175,000</b>

8-4

500 ACRES	Hypothetical FRPP Project	CE Appraised Value = \$750/acre (ranges 20% to 40% of land value)	\$375,000		CASH TO LANDOWNER	TAX DEDUCTION
	FRPP 50%		\$187,500	Cash to landowner		
	25% Land Trust		\$93,750	Cash to landowner	\$281,250	
	25% Landowner / Bargain Sale		\$93,750	Charitable Contribution/ Reduced Purchase Price		\$93,750
	SF contribution to Land Trust by landowner in the amount of >\$20,000 or 10% of CE appraised value		\$37,500	Cash from landowner = Charitable Contribution & Tax deduction	(\$37,500)	\$37,500
<b>Net cash to landowner</b>					<b>\$243,750</b>	
<b>Total Tax deduction</b>						<b>\$131,250</b>

1000 ACRES	Hypothetical FRPP Project	CE Appraised Value = \$750/acre (ranges 20% to 40% of land value)	\$750,000		CASH TO LANDOWNER	TAX DEDUCTION
	FRPP 50%		\$375,000	Cash to landowner		
	25% Land Trust		\$187,500	Cash to landowner	\$562,500	
	25% Landowner / Bargain Sale		\$187,500	Charitable Contribution/ Reduced Purchase Price		\$187,500
	SF contribution to Land Trust by landowner in the amount of >\$20,000 or 10% CE appraised value		\$75,000	Cash from landowner = Charitable Contribution & Tax deduction	(\$75,000)	\$75,000
<b>Net cash to landowner</b>					<b>\$487,500</b>	
<b>Total Tax deduction</b>						<b>\$262,500</b>

**Sec. 170(h) Qualified conservation contribution.—**

(1) **In general.**—For purposes of subsection (f)(3)(B)(iii), the term “qualified conservation contribution” means a contribution—

- (A) of a qualified real property interest,
- (B) to a qualified organization,
- (C) exclusively for conservation purposes.

(2) **Qualified real property interest.**—For purposes of this subsection, the term “qualified real property interest” means any of the following interests in real property:

- (A) the entire interest of the donor other than a qualified mineral interest,
- (B) a remainder interest, and
- (C) a restriction (granted in perpetuity) on the use which may be made of the real property.

(3) **Qualified organization.**—For purposes of paragraph (1), the term “qualified organization” means an organization which—

- (A) is described in clause (v) or (vi) of subsection (b)(1)(A), or
- (B) is described in section 501(c)(3) and—

- (i) meets the requirements of section 509(a)(2), or
- (ii) meets the requirements of section 509(a)(3) and is controlled by an organization described in subparagraph (A) or in clause (i) of this subparagraph.

(4) **Conservation purpose defined.**—

(A) **In general.**—For purposes of this subsection, the term “conservation purpose” means—

- (i) the preservation of land areas for outdoor recreation by, or the education of, the general public,
- (ii) the protection of a relatively natural habitat of fish, wildlife, or plants, or similar ecosystem,
- (iii) the preservation of open space (including farmland and forest land) where such preservation is—
  - (I) for the scenic enjoyment of the general public, or
  - (II) pursuant to a clearly delineated Federal, State, or local governmental conservation policy,

and will yield a significant public benefit, or

- (iv) the preservation of an historically important land area or a certified historic structure.

(B) **Certified historic structure.**—For purposes of subparagraph (A)(iv), the term “certified historic structure” means any building, structure, or land area which—

- (i) is listed in the National Register, or
- (ii) is located in a registered historic district (as defined in section 48(g)(3)(B)) and is certified by the Secretary of the Interior to the Secretary as being of historic significance to the district.

A building, structure, or land area satisfies the preceding sentence if it satisfies such sentence either at the time of the transfer or on the due date (including extensions) for filing the transferor’s return under this chapter for the taxable year in which the transfer is made.

2/14/06

**Chairwoman Joann Freeborn, and members of the Environmental Committee,**

**Thank you for allowing us the time to speak to you on behalf of the Conservation Easement program. We appreciate your work in this vital area and your interest in maintaining our agricultural land base.**

**USDA figures from 1992 to 1997 show that 1.2 Million acres of agricultural land are lost each year to industrial and residential development. More recent figures confirm an ever-increasing trend and point towards 1.4 Million acres of agricultural land lost each year to development. It is important to note that these figures account for only the PRODUCTION agricultural land, that is, land that was being used for ranching or crop production. The figures for total rural land being developed are much higher.**

**Of course, a growing economy and strong country need both industrial and residential development, but at some point, a balance must be struck because a reliable economy and strong country also need a reliable food source, which comes from its agricultural land base. We as a country and society also realize the importance of maintaining the integrity of unique and irreplaceable ecosystems. It is in maintaining this vital agricultural land base and maintaining unique ecosystems that the Conservation Easements are so important.**

**My husband and I operate a backgrounding and grazing operation in the Flint Hills of Kansas. We feel we have improved the land since we acquired it by properly managing both the prairie and tame grasses on the ranch, by preventing erosion problems, and by cleaning up the junk left by previous owners. It is our intention to leave the land better than we found it and hopefully to maintain the integrity of our land well into the future. The Conservation Easement programs, which provide for the protection and preservation of agricultural land, allow us to do that.**

**In our case we are using the Farm and Ranchland Protection Program (FRPP), to make certain that our ranch land will stay ranch land in the future. The FRPP easement allows us the use of our land as a working ranch. It also allows us to sell, lease, or will it to heirs. The one thing it does not allow is development of the land, which is something we do not want to happen.**

**All around us we see land being developed either from various industrial enterprises, or into "ranchetts" for residential housing. There are ads in our local paper weekly which specify tracts of 5 to 40 acres that are wanted for development.**

House Environment Committee  
February 14, 2006  
Attachment 9

**It is our desire that our ranch NOT be developed, but without the Conservation Easement program we could not accomplish that goal.**

**Since our land is our main investment and our “Retirement Package”, we, like most private landowners and ranchers, cannot afford to just donate our land to an easement program without some type of compensation to make up for the value we are losing by not developing our land. With the FRPP Conservation Easement we as landowners do donate 25% of the appraised value of the easement. We also donate 10% of the appraised value to the KLT, which helps to ensure that there are funds to enforce the conditions of the easement in the future. KLT funds and the funds designated by the legislature make up the remainder of the funding.**

**The beauty of the Conservation Easement program is that we are able to realize a portion of the value of our land now, which can help with cash flow, expansion, or debt relief. Then if we sell the land in the future, we can price it somewhat below the market price which should make it more affordable for another young couple to purchase and run it as a working ranch. It is our hope that in that manner we can perpetuate not only agricultural land, but also the ranching lifestyle and work ethic in another generation of younger Kansans.**

**Other states are also realizing where the base of their economy lies and are setting up dedicated funding for Conservation Easements. A statement made by one of these folks has stayed with me. His comment was, “We are placing easements on as much land as we can get funding for and are preserving land for future agricultural use. But we should have started thirty years ago.”**

**I would put one note of caution in here. I understand that the mandatory public use of land with Conservation Easements clause has been deleted from this bill. This is very wise. Any attempt to mandate public use would be an attempt to severely limit Conservation Easements. This is not a matter of farmers and ranchers being inhospitable, but rather a matter of practicality, liability, bio-security, conservation and common sense.**

**We host Ranch Tours and enjoy our visitors, but on the practical level, we schedule their time with us during a season, during a day and during a time of day when we can take the time to give them our undivided attention. Since my husband and I make up our entire work force, it would simply not be practical to have folks showing up anytime and having them scattered all over the ranch.**

**As to liability, everyone here is well aware that many people will sue at the drop of a hat. We have rough terrain, rattlesnakes, copperheads, chiggers, badger holes, drop off areas in the creek and the neighbor’s bulls to worry about. Our Ranch Tours keep our visitors limited to a relatively safe area at our headquarters, which enables us to have constant oversight of them.**

**Bio-security is also a real concern in this era. When we have hosted overseas visitors before 9/11 and the Foot and Mouth disease outbreak, we really didn't worry much. Now we insist that our visitors are registered with a reputable tour agency and have been in the U.S. for more than four days before they visit our ranch. Veterinarians tell us that the Foot and Mouth Virus will die in 48 hours, which should protect us from accidental contamination.**

**As to the conservation aspect; the whole point of the Conservation Easement is to maintain the agricultural land in good condition. It would make no sense to mandate public access which could lead to tracks, trails and trash all over it.**

**The common sense factor should be obvious. Our ranch is our boardroom, our assembly line, our production facility, our warehouse and our home. No one I can think of would even consider mandating public access to all those areas.**

**In closing, I believe we all recognize that agricultural land in Kansas is one of our most valuable assets and is the base of our economy. Your work and support of the Conservation Easement program and its funding is vitally important.**

**Thank you again for your time and consideration on this matter.**

**RK Cattle Co.  
Rose & Kent Bacon  
1181 Four Mile Road  
Council Grove, KS 66846  
Ph. 620-767-7048  
Email> [rkcattle@excite.com](mailto:rkcattle@excite.com)**



**Dave Webb**  
**4815 W. 191<sup>st</sup>**  
**Stilwell, Kansas 66085**  
**[dwebb@dlwebb.com](mailto:dwebb@dlwebb.com)**

Thank you <sup>Mr. Webb</sup> Chairman and committee members. Thank you for the opportunity to be here. I know your time is busy and valuable.

My name is Dave Webb of Stilwell, Kansas. I am an auctioneer and appraiser by profession. Also I am a former member of this institution.

My testimony today is brief. I for many years have supported a dedicated funding measure to insure the future of Kansas lands, and that our land for future generations is protected. Many see our state as black and white, not in color. We do very little besides lip service to commit to our landscape, our heritage and another generation's future.

Many other states have committed and or dedicated funding for this type of preservation. And I might add that it does not interfere with school finance, or highway programs, or the many other aspects of state government.

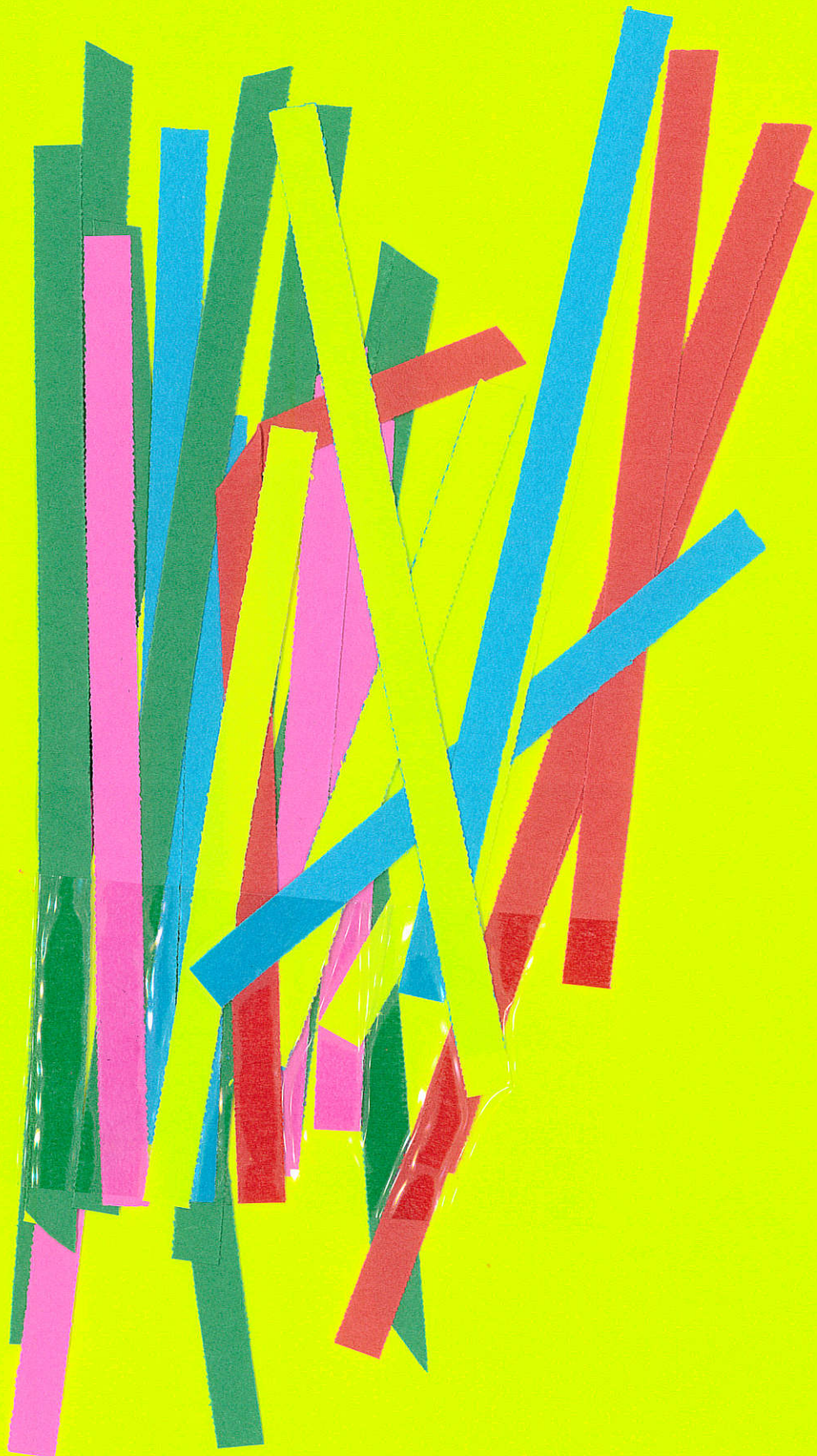
In our world of "what have you done for me lately", this is one of those items of legislation that there is no immediate gain from. This is a vision, and if nothing is done the vision is getting blurred. The gain will be realized long after were gone and in another's generation. It is time and if fact, it is past time that we take action to preserve land for another generation.

A source of dedicated funding is needed for preservation.

While we are here, we are only caretakers of the land; our responsibility is to leave it in a better condition for another generation.

Thank you,

Dave Webb



2  
10-8



February 14, 2006

(Testimony in support of HB 2556)

Good Afternoon Ladies & Gentlemen:

My name is Bill Sproul. I am a rancher from Sedan which is in the southern end of the tall grass region of the Flint Hills. I am here to speak on behalf of the prairie and ranching. Some say that Kansas is the "Sunflower State" but I like to think of it as the "Prairie State" because of the rich ranching heritage and the value that the open spaces have for the state. It is hard to explain what it is like to start in the morning during the summer months which is when the majority of stocker cattle are grazed in the Flint Hills.

You leave the barn a horseback when it is getting light out-but the sun has not peaked out over the horizon. It is quiet but there are noises surrounding from birds, crickets, bees, etc. Riding out in the pastures prowling cattle on a young horse is hard to describe. I feel there will always be young horses to ride and cowboys to ride them, but I am afraid that there might not be big open pasture to ride in unless we do something now to preserve them.

A few years back I was farming & ranching in Leavenworth County which is in the northeast part of the state next to Kansas City and Lawrence. I owned some of the land but I rented most of it for my operation. During my last ten years of residence in Leavenworth County there was a constant squeeze from the urban sprawl. I was unable to purchase it because property was worth more for development for housing than I could profit from farming or running cattle on it. I tried different approaches to remain there and continue from starting cattle to back grounding calves for other owners-but finally gave-up and moved my ranching operation to the southern end of the Flint Hills.

With my experience from farming and ranching in the Leavenworth area for nearly 20 years I can see the same trend appearing in the horizon for the big open country that we are ranching on now. If we do not stand up and do some type of voluntary preservation now, I feel future generations will not have the opportunity to preserve ranch lands.

Once you fragment an open space with development or multiple ranchettes then the entire ecosystem changes and it will never be the same. Roads are built, boundaries are changed, management styles are different, and the prairie will not be the prairie ever again.

Like I said earlier-there will always be cattle, horses, and cowboys because they can adapt. Unless something is done now, we will not have the prairies that are so valuable to Kansas.

Bill Sproul  
1649 Hwy 166  
Sedan, KS 67361  
620.725.3295

House Environment Committee  
February 14, 2006  
Attachment 11



## **Kansas Farm Bureau POLICY STATEMENT**

### **House Environment Committee**

#### **Re:HB 2556 relating to conservation easements establishing the Farm and Ranchlands Protection Program**

**February 14, 2006**

**Submitted by:**

**Steve M. Swaffar**

**Director of Natural Resources**

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Chairperson Freeborn and members of the committee, thank you for this opportunity to provide testimony today on House Bill 2556. I am Steve Swaffar, Director of Natural Resources for the Kansas Farm Bureau (KFB). KFB stands in opposition to HB 2556 as written. We understand there are significant amendments that will be presented that should address many of our concerns.

Some of you may recall that KFB did support a measure during the 2005 legislative session creating a state administered conservation easement program, HB 2517. We still support the concept of a state administered conservation easement program. KFB policy supports both state and federal voluntary, incentive-based, cost-share conservation programs. Urban expansion and development is a large concern for many of our members farming and ranching close to metropolitan areas. Land values continue to increase due to developmental pressure potentially causing unfair competition for land for those farmers and ranchers trying to expand their operations. Most farmers want their land to remain in agricultural, but pressure to sell and strong competition for land by developers is rapidly turning some of the most productive agriculture land into shopping centers, parking lots and housing developments. Farmers and ranchers have few mechanisms to preserve valuable farm and ranch lands or in these situations. Therefore we support the concept of a conservation easement program that works in concert with federal Farm and Ranchland Protection Program (FRPP). However, we do want to share our concerns with the committee about HB 2556 as it is drafted currently.

Section 1(e)(10) would allow the State Conservation Commission (SCC) to distribute grants to *"lease or purchase perpetual conservation easements or other interests, of eligible farm and ranch lands."* We don't believe the intent of this program is to lease perpetual easements, but the intent is to purchase those easements. We would request the word lease be removed from this section.

House Environment Committee

February 14, 2006

Attachment 12

Section (2)(e) identifies the Heart of the Flint Hills region by highway boundaries and the applicable counties. As a statewide organization representing members inside and outside of this designated area, KFB does not support providing an advantage for conservation easement eligibility to a particular farm or ranch simply because of its geographic location. Although we recognize the unique nature of the Flint Hills region, we also believe there are equally important areas such as the Smoky Hills, Red Hills, Cross-timbers area, Cheyenne Bottoms and Quivira National Wildlife Refuge that are just as valuable. Therefore we do not feel it is appropriate to disadvantage these regions of the State. We request that this section and the related sections be removed from the bill.

Section 5(a)(5) allows for ranking criteria to include a consideration for whether the farm or ranch is close to or within a "*designated area for conservation or preservation by public policy at the local, state, or federal land.*" We are not sure exactly what this might mean, but we have concern this could lead to small or large tracts of land being designated as such, just to increase the chances that the area would rank higher for the purpose of this program. For example, if a county commission designates its entire county in need of conservation; would this then rank the entire county higher in this process? On this basis, we request this section be removed.

Section 5(a)(6) designates the Heart of the Flint Hills region as a factor that would rank that farm or ranch higher for eligibility for one of these grants. For the same reasons we stated before we do not believe this should be a ranking criteria based exclusively on geographic location. Therefore we request this provision be removed.

Section 5(a)(8) would provide additional ranking criteria points for public access to the land covered under a conservation easement. We cannot support any provision that would encourage or require access to private property. One of KFB's foundation policies is the protection of private property rights. We feel very strongly that whether it is required access to private property or increased availability to programs by allowing access to private property, the rights of landowners to provide or not provide access to their property should not be a public policy decision. Therefore we respectfully request this section be removed or significantly revised.

Section 5(b) requires public access be given by landowner entering into one of these agreements. As I stated before we can support this type of requirement. This is a fundamental private property right that should be a landowner decision.

KFB would like to see a program for voluntary conservation easements with appropriate funding made available to all Kansas farmers and ranchers. We hope that HB 2556 can be adequately amended to provide that opportunity. Thank you for this opportunity to provide testimony.