

MINUTES OF THE HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE

The meeting was called to order by Chairman John Edmonds at 1:30 P.M. on March 6, 2006 in Room 313-S of the Capitol.

All members were present.

Committee staff present:

Athena Andaya, Kansas Legislative Research Department
Dennis Hodgins, Kansas Legislative Research Department
Mary Torrence, Revisor of Statutes Office
Carol Doel, Committee Secretary

Conferees:

Representative Frank Miller
Steve Golden, Castle Coalition
Allie Devine, Kansas Livestock Association
Brad Harrelson, Kansas Farm Bureau
Charles Benjamin, Sierra Club
Ron Hodgkinson, Chairman Libertarian Party
Alan Cobb, Americans for Prosperity
David Morgan, Jerry's Bike Shop
Bob Tolbert, General Contractor - Topeka
John Geither
Bill House
Donna Martin
John Todd
Ginny Pfrang
Ron Gaches, Coalition for Kansas Job Growth
Don Moler, League of Kansas Municipalities
Jim Clark, Kansas Bar Association
Doug Kinsinger, Topeka Chamber of Commerce
Eric Sartorius, City of Overland Park

Others attending:

See attached list.

Chairman Edmonds opened the floor for bill introductions. There were none.

The Chairman directed the committee's attention to **HCR 5040** - Eminent domain; proposed constitutional amendment restricting government authority to take property. The floor was opened for public hearing.

Representative Frank Miller addressed the committee supporting **HCR 5040**. The Representative informed the committee that he had heard from a number of constituents who say they want protection from our current corrupted use of eminent domain law. He stated that his constituents are very clearly telling him to "stop the legal plunder of their property." Representative Miller did suggest two amendments to the bill which he feels would make it a stronger bill which he attached to his testimony. (Attachment 1)

Castle Coalition was represented by Steve Golden. They support the passage of **HCR 5040** which attempts to establish the important prohibition on private-to-private transfer of property. However, they feel that there are two large loopholes. They included their suggested language changes in their testimony. It is their opinion that the entire second sentence of Section 17 should be eliminated and replaced with **HCR 5025's** public use definition and judicial review requirement, or replace it with the model language suggested in their testimony. (Attachment 2)

Allie Devine, Vice President and General Counsel for the Kansas Livestock Association, spoke to the committee favoring the protection of private property interests. It is their feeling that the issues of eminent

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domain are very complex and raise a number of legal, social and economic issues, however reform is needed and requested by the people. They support reform of eminent domain authority and procedures for its use for economic development. They support Constitutional amendments and/or legislation that restricts the use of eminent domain. ([Attachment 3](#))

Kansas Farm Bureau was represented by Brad Harrelson, State Policy Director, KFB Governmental Relations. They support **HCR 5040** saying that the Farm Bureau Members have long been outspoken about intrusion and interference with private property rights by governments, especially when that action results in land being taken from one owner and subsequently conveyed to another under the auspices of economic development. ([Attachment 4](#))

Appearing before the committee on behalf of the Kansas Chapter of the Sierra Club, was Charles Benjamin, Ph.D., J.D. The Sierra Club is a proponent for **HCR 5040**. Doctor Benjamin informed the committee that one of the major strategic campaigns for the Sierra Club is the "Challenge to Sprawl Campaign" that works to fight poorly planned runaway development and promotes smart growth communities that increase transportation choices, reduce air and water pollution, and protect our natural places. ([Attachment 5](#))

Rob Hodgkinson, Chairman of the Libertarian Party addressed the committee supporting **HCR 5040**. In his testimony, Mr. Hodgkinson stated that he believes this bill can provide the protection needed against eminent domain abuse of forced private-to-private transfer. ([Attachment 6](#))

Alan Cobb represents American for Prosperity and they favor **HCR 5040**. Mr. Cobb expressed the opinion that **HCR 5040** would limit selected private developers from having the unfair advantage of eminent domain being their negotiating tool. He also included a survey of 400 registered voters in the State of Kansas. ([Attachment 7](#))

David Morgan related that he conditionally supports **HCR 5040**, but feels that it needs to be amended to limit abuses of power with stronger language and limits, such as is found in **HCR 5025**. ([Attachment 8](#))

Robert Toliver, of General Building Contractors, Inc., related his support of **HCR 5040** is conditional upon strengthening the language in regards to "just compensation". Just compensation for one's home, business, or land must be greater than the appraised value of the property. ([Attachment 9](#))

John Geither told of having built a business and was making a good living for his family when he received notice that his business was going to be torn down to make room for a large grocery store. He has had difficulties in relocating. Mr. Geither urges the passage of **HCR 5025** rather than **HCRS 5040** in order to restore property rights in Kansas. ([Attachment 10](#))

Bill House testified in support of **HCR 5040**. Mr. House explained the term eminent domain and related the facts regarding England in the year 1215 when the feudal barons were angered by the corrupt practices of King John, and joined their armed forces and forced the King to sign the document called the Magna Carta which restricted his right to seize their land or to tax them without their consent. He further related that Kansas is one of the six states that allow private property to be taken for private economic development. He also included a copy from the Wall Street Journal entitled *Don't Kelo My House*. ([Attachment 11](#))

Donna Martin supports **HCR 5040** as they fought an eminent domain battle when their land was to be taken for the building of a lake. This battle was won through the help of **SB 461** which they are thankful for. She is requesting protection of irreplaceable agricultural land for Kansas' future by passing **HCR 5040**. ([Attachment 12](#))

John Todd of Wichita, Kansas supports **HCR 5040**, however he prefers the eminent domain reform contained in **HCR 5025**, and believes that the people of Kansas can best be served by the passage of **SCR 1616**. He further stated that in a poll commissioned by Americans For Prosperity a resounding 90% of Kansans polled favored eminent domain reform. Mr. Todd also included various other informative articles regarding eminent domain for committee review. ([Attachment 13](#))

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Ginny Pfrang, wife of a Kansas farmer and rancher came to the committee to support **HCR 5040**. Ms. Phrang related incidents in which land had been taken from farmers for various projects in their county. Ms. Phrang stated that it doesn't matter whether the land is for economic development or watershed districts, Kansas needs to do a better job of protecting individual property rights. (Attachment 14)

Patrick Wilbur, Vice-Chair for the Libertarian Party of Kansas presented written testimony supporting **HCR 5040**. (Attachment 15)

Ron Gaches presented comments on behalf of the Coalition for Kansas Job Growth opposing **HCR 5040**. Mr. Gaches related that the Coalition agreed that new limits need to be imposed on the use of eminent domain for economic development purposes and further agreed that landowners deserve additional protection. It is their expectation to be able to be able to accomplish this without a constitutional amendment. (Attachment 16)

Don Moler, Executive Director of League of Kansas Municipalities informed the committee that the League is in strong opposition to **HCR 5040**. It is their belief that it is simply a device to make any use of eminent domain for economic development purposes virtually impossible as a matter of law, and therefore effectively end this practice in Kansas. He further stated that they believe that **HB 2741** strengthens the rights of private property owners while preserving the power of eminent domain for economic development purposes for the benefit of the public at large. (Attachment 17)

James Clark, Legislative Counsel for the Kansas Bar Association is in opposition to the restrictions contained in **HCR 5020**. It is the Kansas Bar Association's opinion that the Resolution creates restrictions on the eminent domain powers of state and local governments that will significantly impair their abilities to react to changing economic conditions in the future. (Attachment 18)

Doug Kinsinger, President and CEO of Greater Topeka Chamber of Kansas expressed opposition to **HCR 5040** stating it is a constitutional amendment to eliminate the use of eminent domain for economic development purposes. They requested the committee remain committed to Kansas economic growth by opposing the constitutional amendment and any other legislation that eliminates or virtually eliminates eminent domain for economic development purposes. (Attachment 19)

The City of Overland Park was represented by Erik Sartorius who gave testimony opposing **HCR 5040**. They believe that the process contained with the proposed constitutional amendment is wholly unworkable and will effectively end the use of eminent domain for economic development purposes. (Attachment 20)

Written testimony opposing **HCR 5040** was submitted by Ashley Sherard, Vice-President of Lenexa Chamber of Commerce (Attachment 21) and Randall Allen for the Kansas Association of Counties (Attachment 22).

With no other person wishing to address the Resolution, Chairman Edmonds closed the public hearing on **HCR 5040**.

With no further business before the committee, the Chairman adjourned the meeting.