

SESSION OF 2013

**SUPPLEMENTAL NOTE ON SENATE RESOLUTION
NO. 1711**

As Amended by Senate Committee of the Whole

Brief*

SR 1711, as amended, expresses opposition to the proposed programmatic safe harbor agreement and environmental assessment drafted by the U.S. Fish and Wildlife Service (USFWS) to encourage non-federal landowners to voluntarily allow reintroduction of black-footed ferrets on their properties. The USFWS reintroduced black-footed ferrets into Logan County, Kansas, as part of a recovery effort in December 2007.

The resolution states opposition to the proposed USFWS program for several reasons enumerated as follows:

- The reintroduction has been wrought with problems ranging from destructive prairie dog infestations to monetary losses for adjacent landowners;
- The proposed safe harbor agreement and environmental assessment are insufficient and were drafted without adequate information;
- No environmental impact study for the proposed safe harbor agreement was conducted despite being required when any major federal action that significantly impacts the human environment is proposed;

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

- The USFWS did not coordinate with county or local governments in developing the safe harbor agreement;
- The safe harbor agreement includes no reference or discussion of conflicts with local government plans, despite Logan County having a plan opposing black-footed ferret reintroduction;
- The safe harbor agreement failed to adequately address the impact to non-enrolled, adjacent landowners in the present and the future, despite evidence showing the reintroduction of black-footed ferrets in Logan County has detrimentally affected neighboring landowners;
- There is a risk to the health and safety of Kansans due to plague outbreaks, as plague is now present in all 12 states where black-footed ferrets have been introduced;
- Limiting the size of the management zone to the size of the conservation zone is inconsistent with protection for adjacent landowners provided by the established larger sizes of a current buffer area at a current reintroduction site in Kansas; and
- The safe harbor agreement should include adequate safeguards, such as a binding written agreement, for non-participating landowners to have authorization for incidental take of black-footed ferrets.

The resolution requests the USFWS exclude Kansas from the territory contained in the safe harbor agreement and the USFWS refrain from any further releases of black-footed ferrets in Kansas. The resolution further states, if the USFWS proceeds with the safe harbor agreement against the wishes of the Kansas Senate, the Senate encourages the USFWS to

use a formal rule-making process to stipulate protections for all private landowners in areas of black-footed ferret releases, rather than using the informal safe harbor agreement. The resolution encourages the USFWS to conduct an environmental impact statement if the decision is made to move forward with the safe harbor agreement in Kansas against the wishes of the Senate. The resolution also encourages the USFWS to hold meetings with experts in prairie dog habitat, management of the current reintroduction sites, adjacent landowners to those sites, and representatives of local government in those areas should the USFWS move forward with the safe harbor agreement. The resolution charges the Secretary of the Senate to send copies of the resolution to the following:

- Administrator of the USFWS;
- Governors, state legislatures, and congressional delegations of Arizona, Colorado, Montana, New Mexico, South Dakota, Utah, and Wyoming;
- The Kansas congressional delegation;
- The U.S. Secretary of Agriculture; and
- The Kansas Secretary of Agriculture.

Background

SR 1711 was introduced by the Senate Committee on Federal and State Affairs and was referred to the Senate Committee on Natural Resources.

At the Senate Committee hearing, proponents for the resolution included representatives from the Kansas Department of Agriculture (KDA), the Kansas Farm Bureau, and the Kansas Livestock Association (KLA). The KDA representative testified that landowners in Logan County have suffered economic hardship resulting from the inability

to keep prairie dog colonies within the confines of the black-footed ferret safe harbor complexes. The representative also presented five additional recommendations for consideration. The KLA representative testified regarding the damage caused by prairie dog colonies associated with the reintroduction of the ferrets, and that the safe harbor agreement provides insufficient protections for adjacent landowners should ferrets stray onto their property. The representative from Kansas Farm Bureau testified regarding the USFWS failure to prepare an environmental impact study, the problems the prairie dog colonies cause for adjacent landowners, the lack of protections in place for adjacent landowners, and the USFWS' lack of regard for sound science when considering and implementing reintroduction.

Providing opposition testimony at the Senate Committee hearing were representatives from the Audubon of Kansas, the Nature Conservancy, and a citizen from Bucklin, Kansas. The Audubon of Kansas representative testified that many of the statements in the resolution are flawed or are in error. The representative also provided testimony countering claims found in the resolution. The Nature Conservancy representative provided testimony stating the resolution is unnecessary and as drafted contains unsupported assertions and misunderstandings of the reintroduction of black-footed ferrets. The citizen from Bucklin, Kansas, testified that prairie dogs are the keystone animal in the prairie ecology and many other animals rely on their presence to survive; to eradicate them would pose a risk to the prairie ecology. The citizen also testified against the use of Rozol poison to kill prairie dogs.

Neutral testimony was provided by the Secretary of Wildlife, Parks and Tourism and a representative of the Kansas Farmers Union. The Secretary of Wildlife, Parks and Tourism testified to the Department's membership in the Western Association of Fish and Wildlife Agencies, and how that association worked to create an agreement protecting private landowners' ability to ranch and maintain livestock on prairie lands while still promoting the conservation and recovery of the black-footed ferret. The Secretary expressed

concerns about the safe harbor agreement's proposed size for buffer zones between prairie dog colonies and adjacent landowners. The representative from the Kansas Farmers Union testified that government agencies must strike a balance between protecting natural resources and minimizing detrimental effects on agriculture production. The representative also testified that landowner rights must be given the utmost consideration when it comes to pest management practices.

The Senate Natural Resources Committee made two amendments to the resolution, which included deleting the words "expensive, unsuccessful and" from describing the reintroduction of black-footed ferrets and adding the word "adjacent" to describe the landowners that have experienced destructive prairie dog infestations to monetary losses as a result of the reintroduction of black-footed ferrets.

The Senate Committee of the Whole made two amendments to the resolution. The first amendment encourages the USFWS to hold meetings with experts in prairie dog habitat, management of current reintroduction sites, adjacent landowners to those sites, and representatives of local government should they proceed with the safe harbor agreement. The second amendment deleted the words "and misleading" and "rashly and." The amendment also deleted the word "mention" and replaced it with "adequately address," regarding the impact to non-enrolled, adjacent landowners. In addition, the amendment deleted "has been a complete disregard for the" from the resolution and added the words "is a" in discussing the risk to the health and safety of Kansans due to plague.