

MINUTES OF THE HOUSE AGRICULTURE AND NATURAL RESOURCES COMMITTEE

The meeting was called to order by Chairman John Faber at 3:30 P.M. on March 14, 2007, in Room 241-N of the Capitol.

All members were present except:

Representative Light - excused

Committee staff present:

Raney Gilliland, Kansas Legislative Research Department  
Emalene Correll, Kansas Legislative Research Department  
Jason Thompson, Revisor of Statutes Office  
Florence Deeter, Committee Assistant

Conferees appearing before the committee:

Representative Tom Sloan, District 45  
Craig Phillips, Chief of Conservation and Restoration Branch of Environmental Division, Ft. Riley  
Stanley Rasmussen, Regional Counsel, United States Army Central Regional Environmental Office  
Roxanne Miller, Executive Director, Kansas Land Trust  
Mike Beam, Sr. Vice President, Kansas Livestock Association

Others attending:

See attached list.

It was noted that committee minutes dated February 28 and March 1, 2007, were sent electronically and, by consensus, were approved as written on March 9, 2007.

**Hearing on HB 2572 - Establishing the farm and ranch land protection grant program**

Jason Thompson, Revisor of Statutes Office, briefed the members on **HB 2572**, stating that the bill is similar to **HB 2147**, concerning establishment of a farm and ranch land protection grant program. He explained the new components in three sections of the bill giving clarification regarding contiguous lands.

Representative Tom Sloan, District 45, said **HB 2572**, funded by the Appropriations Committee, outlines a narrower margin in establishing a partnership with military facilities' managers involved with land conservation. He said that cities are not permitted to use eminent domain in areas where the state has conservation easement already established. Representative Sloan concluded by saying that this bill promulgates voluntary participation in the program; there is never any condemnation of owner's land for use by the military (Attachment 1).

Craig Phillips, Chief of Conservation and Restoration Branch of Environmental Division, Ft. Riley, speaking as a proponent of **HB 2572**, said that the legislature's support of conservation easements assist's the military in maintaining the boundaries of Ft. Riley (Attachment 2). Mr. Phillips included in his testimony on the bill three specific areas of concern and offered suggestions for change (Attachment 3).

Stanley Rasmussen, Regional Counsel, United States Army Central Regional Environmental Office, a proponent of **HB 2572**, indicated that buffer and conservation areas allow space for military installations to defer development in and around training and testing fields. Mr. Rasmussen said that the bill advocates cooperation with communities and landowners to retain the original purposes of the land under consideration (Attachment 4).

Roxanne Miller, Executive Director, Kansas Land Trust (KLT), speaking in opposition to **HB 2572**, said that KLT supports the principles in this bill, but has concerns with two new sections (Attachment 5). She said limitations or restrictions by the state regarding eligibility of landowners could adversely affect the Army Compatible Use Buffer program.

Mike Beam, Sr. Vice President, Kansas Livestock Association (KLA), holding a neutral position on **HB 2572**, said doing so would allow further investigation regarding the proposed provisions, in the event an interim

CONTINUATION SHEET

MINUTES OF THE House Agriculture and Natural Resources Committee at 3:30 P.M. on March 14, 2007, in Room 241-N of the Capitol.

committee is established. He suggested the study could produce a more efficient and effective conservation easement program that would be administered by the State Conservation Commission (Attachment 6).

Written testimony was submitted by Greg Foley, Executive Director, State Conservation Commission as a proponent of **HB 2572** (Attachment 7).

Steve Swaffar, Director of Natural Resources, Kansas Farm Bureau, submitted written testimony stating a neutral position on **HB 2572** (Attachment 8).

The Chairman closed the hearing on **HB 2572**.

The Chairman called for consideration of **SB 188 - Wildlife restoration fund**. Representative Svaty moved to pass favorably SB 188 and place it on the Consent Calendar. Representative Grange seconded, the motion passed.

The Chairman called for consideration of **SB 89 - Republican River, disposition of litigation moneys**. Upon request from a committee member, the Chairman allowed additional time for further study of the bill.

The Chairman called for a report from the sub-committee on **SB 146**. Jason Thompson, Revisor of Statutes Office, outlined provisions regarding the sunset period, the reduction from 75% to 50 % on the current grant program regarding the recycling of waste tires, and the \$1.00 per-ton fee at tire mono-fills and transfer stations. Mr. Thompson indicated that a balloon amendment would be presented to members at a subsequent meeting.

The committee was advised of new emerging technology in the tire recycling industry by Representative Knox, who stated that equipment is being developed that will provide both centrifugal and magnetic removal of unwanted particles in recycled tires. Retaining this information for provision in the bill could be of benefit to the industries involved in recycling.

The meeting was adjourned at 4:30 p.m. The next meeting is scheduled for March 20, 2007.

Guest List.

March 14, 2007

Rep. Von Stern  
Randy Melton  
Mark Heim  
~~Wendy~~  
Wendy Miles  
Stan Rasmussen  
Craig Phillips  
Mark Sallee  
Mike Beam  
Chris Tymeson

Adjutant General Dept.  
SCC  
KAPA - KRMCA  
KAPA - KRMCA  
US Army - CREO  
US Army - F. Riley  
US Army - CREO  
Ks Livestock Assn.  
KDWP

**TOM SLOAN**  
REPRESENTATIVE, 45TH DISTRICT  
DOUGLAS COUNTY

STATE CAPITOL BUILDING  
ROOM 113-S  
TOPEKA, KANSAS 66612  
(785) 296-7654  
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  
MEMBER: ENERGY AND UTILITIES  
TRANSPORTATION  
GOVERNMENT EFFICIENCY  
AND TECHNOLOGY

Testimony on HB 2572 - House Agriculture & Natural Resources - March 14, 2007

Mr. Chairman, Members of the Committee: HB 2572 is a more focused and narrow bill to create a partnership with federal and National Guard military facilities' managers to promote land conservation than was HB 2147 that this committee tabled.

Key Elements of the Bill:

1. Authorizes the Conservation Commission to facilitated the conservation of private agricultural lands through grants to eligible entities for the administration of perpetual conservation easements (pg. 4, lines 8-11).
2. Defines eligible entities as being described in the federal internal revenue code of 1986 (pg. 4, lines 18-19).
3. States that eligible farm and ranch lands must be contiguous to federal or state military facilities of more than 100 acres or is land adjacent to such lands already in the program (pg. 4, lines 25-27).
4. Establishes criteria for selecting eligible lands (pg. 5, lines 19-38).
5. Funding must be appropriated as part of the normal Legislative budget process - there are no dedicated funding sources.

Why is this Bill Important:

1. It sends a message to the federal and National Guard facilities' managers that the Legislature is serious about partnering to sustain the facilities' missions.
2. Establishes in statute that a formal administrative process exists to seek funding for preserving farm and ranch lands contiguous to military facilities.
3. No uniformed person from the U.S. Army or Air Force may testify on the bill, but you have heard testimony on HB 2147 from persons authorized by the Pentagon and Ft. Riley that these

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farm and ranch lands contiguous to military facilities.

3. No uniformed person from the U.S. Army or Air Force may testify on the bill, but you have heard testimony on HB 2147 from persons authorized by the Pentagon and Ft. Riley that these measures are important to maintaining the mission capability of the Army and Air Force. Several bases closed or were severely realigned during the BRAC process were targets because civilian encroachment adversely impacted the bases' mission capability. HB 2572 establishes a voluntary partnership between the military, Legislature, landowners, and third party administrators to protect the mission capability of our Army and National Guard facilities.

I encourage your approval of this bill.

Thank you for your attention and consideration, I will be pleased to respond to questions.



**DEPARTMENT OF THE ARMY**  
INSTALLATION MANAGEMENT COMMAND  
HEADQUARTERS, UNITED STATES ARMY GARRISON, FORT RILEY  
500 HUEBNER ROAD  
FORT RILEY, KANSAS 66442-5000

March 14, 2007

Testimony Regarding House Bill 2572, before the House Agriculture and Natural Resources Committee

Offered by B. Craig Phillips, Chief, Conservation and Restoration Branch,  
Environmental Division, Directorate of Public Works, Fort Riley, Kansas

Mister Chairman, members of the Committee, thank you for the opportunity to testify today regarding House Bill 2572.

Fort Riley appreciates the committee's consideration of HB 2572 and the aspects of the bill that support Fort Riley's military mission. We believe that an aggressive program to minimize development adjacent to the installation is a vital part of sustaining Fort Riley's mission for the future.

We have offered testimony before this body on several occasions, and I won't take the time to reiterate our position on conservation easements. Suffice to say that we support any effort by the State of Kansas to facilitate conservation easements throughout the state and specifically near military installations.

We do have some concerns with specific language contained in the text of the bill that we believe could be improved to better serve the interests of Fort Riley and conservation easement programs in the State. We offer suggested changes on the attached page.

Thank you.

A handwritten signature in cursive script that reads "B. Craig Phillips".

B. Craig Phillips

Specific suggestions for changes to House Bill 2572

1. New section 2, paragraph (d), page 4, line 21: We have concerns for the text as written regarding the word, "contiguous," relative to eligible properties and military facilities. Fort Riley's area of interest for conservation easements includes properties that are not contiguous or adjacent to the installation, but are near the installation. We suggest the text be modified to state, "(4) is contiguous to or within an identified buffer area of a federal or state military facility..."
2. Furthermore, we are unclear regarding the statement, "...already in the program." in new section 2, paragraph (d), page 4, line 27. We suggest the text be modified to state, "... or is located adjacent to lands already in a conservation easement that meets the criteria defined above."
3. New section 4, paragraph (2), page 5, line 7: This section implies that conservation easement agreements are negotiated with the U.S. Department of Agriculture or the U.S. Department of Defense. Neither agency currently negotiates or holds easements under the Farm and Ranchland Protection Program (FRPP) or the ACUB program, respectively. Easements are negotiated and held by non-governmental organizations. We suggest the following text as an alternative; "(2) a copy of the conservation easement agreement negotiated with the authorized agent of the United States Department of Agriculture, United States Department of Defense, or other agency....."

Testimony  
of  
Mr. Stanley L. Rasmussen  
Regional Counsel, US Army Central Regional Environmental Office  
on  
House Bill 2572  
An Act concerning the environment; establishing the farm and ranch land  
protection grant program.

Mr. Chairman and members of the committee, good afternoon, my name is Stanley Rasmussen. I am the Regional Counsel for the Army's Central Regional Environmental Office in Kansas City, MO. Our office also serves as the Department of Defense (DOD) Regional Environmental Coordinator for standard federal region VII.

I am very pleased to have this opportunity to speak to you in support of House Bill 2572. The purpose of my testimony today is to relay to the committee that we support this legislation and that we concur with the suggestions in the testimony provided by Mr. Craig Phillips of Fort Riley.

Buffer and conservation areas are being used throughout the United States to help prevent incompatible development around military installations that could threaten the training or testing missions of the installations. Once established, these areas not only benefit the military, but also help preserve habitat for wildlife and protected species.

The significance of House Bill 2572 is that it advances the military's goal of working cooperatively with community stakeholders to identify mutual objectives for land conservation while minimizing development around installations that could negatively impact our ability to complete our training and defense missions.

DoD supports the retention of farm and ranch lands for their traditional purposes especially when preservation and conservation of these lands serves to protect the vital training and readiness assets of the Armed Forces. For the reasons stated above, we support this legislation and encourage its approval by this committee. I thank you for taking the time to consider our comments on this bill, and I am pleased to respond to your questions.



Kansas Land Trust

**MEMORANDUM TO:** House Agriculture & Natural Resources Committee  
Rep. John Faber, Chairperson  
**DATE:** March 14, 2007  
**FROM:** RoxAnne Miller  
**RE:** House Bill No. 2572

The Kansas Land Trust does not support the voluntary conservation easement purchase program in Kansas as presented in House Bill No. 2572. In February, I spoke with you supporting HB 2147 and told of the Kansas Land Trust partnership with Ft. Riley to preserve approximately 50,000 acres of important land surrounding the military installation, through the Army Compatible Use Buffer (ACUB) program.

KLT utilizes the ACUB program and U.S.D.A. Farm and Ranch Lands Protection Program (FRPP) to fund the purchase of conservation easements and both programs require a funding match. A state funded match for these federal programs maximizes use of these funds and preserves more important lands. While the Kansas Land Trust whole-heartedly supports a state funded conservation easement purchase program to match the federal funds available, we have concerns with a few of the provisions in HB 2572. With the suggested changes below, KLT supports HB 2572.

Specifically, the requirement in New Sec. 2(d)(4) that the property be contiguous to a federal or state military facility may limit the objectives of the ACUB program in a manner that does not benefit the state. The ACUB area is 50,000 acres and is designed to provide a buffer area to minimize neighbor conflicts over military activities, reduce or eliminate potential for military training and testing restrictions, maximize the army's training on the military land, and support conservation objectives for agricultural lands and species habitat. Limiting the use of the state conservation easement program matching funds to properties adjacent to military lands, could cause a chilling effect on the success of the buffer. The Kansas Land Trust Cooperative Agreement with the Army is for a five-year period with the possibility of a five-year extension. To accomplish the greatest buffer objectives during this brief period, any restraints by the state on the eligibility may slow down the program. Our first few months of offering the opportunity to landowners shows the demand from adjacent landowners would not utilize all the Army funding for the buffer, however there are landowners within the buffer that are interested. Not participating with all willing landowners in the buffer may slow down the conservation easements and does not benefit the state. Entering into conservation easements with landowners of buffer land that is not adjacent to the military border offers strong benefits to the military's objectives and preserves important agricultural lands. KLT would like to be able to accept conservation easements from all willing landowners in the buffer to maximize success.

KLT suggests New Sec. 2 (d)(4) include all lands within a buffer of a federal or state military facility or is near lands already in the program.

Our second comment is a clarification of New Section 4 (2). The FRPP and ACUB conservation easements are negotiated and held by an "Eligible Entity", such as the Kansas Land Trust. The Eligible Entity is the grantee of the conservation easement and negotiates directly with the landowner. The Eligible Entity consults separately with the representatives of the U.S.D.A. and U.S. Department of Defense regarding the FRPP and ACUB requirements. Excluding the Eligible Entity from this subsection creates a misperception that the U.S.D.A. or U.S. Department of Defense is negotiating with the landowner.

I am attaching additional information as background and would be happy to answer any questions or provide additional information upon request.

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*Since 1894*

## TESTIMONY

To: House Agricultural and Natural Resources Committee  
Rep. John Faber, Chairperson

From: Mike Beam, Sr. Vice President  
Kansas Livestock Association

Date: March 14, 2007

Subject: HB 2572 - Establishing a farm and ranch land protection program.

Thank you, Mr. Chairman, for holding a hearing on this legislation. This hearing gives us an opportunity to visit with you about an opportunity the state has in offering a voluntary conservation program that preserves working agricultural lands for future generations. In many instances, our state's agricultural lands (a) represent the legacy of multi-generation farm and ranch families; (b) provide habitat for wildlife species in need of conservation; (c) enhance water quality; and (d) offer enjoyable scenic open spaces that we Kansans often take for granted.

As I reported to this committee last month, the USDA Natural Resources Conservation Service has reported land users of Kansas converted approximately 230,000 acres of rural land to urban development and transportation corridors between 1982 and 1997. (USDA/NRCS data for 1998-2006 is unavailable.)

The Kansas Livestock Association supports the creation of a state conservation easement purchase program. We also believe it is appropriate for such a program to be administered by the State Conservation Commission. I feel obligated today, however, to ask that you not act on this bill during the final weeks of the 2007 Legislative Session.

We have concerns with several aspects of HB 2572:

Subsection (d), of New Sec. 2 (page 4), limits eligible land to property contiguous to a military facility or land adjacent to property already in the program (USDA Farm and Ranchland Protection funded conservation easement property?).

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Subsection (b), of New Sec. 5 (page 5), directs the SCC to give funding priority to property in proximity to military installations.

*These two provisions are very restrictive and would prohibit most areas of the state from participating in the program.*

Furthermore, this bill is void of a permanent source of funding. I'd suggest there is no purpose of acting on HB 2572 if it does not create a method of providing the resources necessary to match federal program dollars.

If this committee is inclined to pass legislation this session, we'd ask you to reconsider your February 20, 2007 action to table HB 2147. This bill (as amended by committee) created a new "agricultural land conservation program" fund with a new dedicated source of funding by imposing a 1.5% "preservation fee" on agriculture land converted to non-agricultural use. HB 2147 directed priority to land near military facilities for two years, but did not exclude other land from eligibility.

In light of this committee's previous action, I'd ask you to suggest this issue be subject to an interim study later in 2007. Since your February 20, 2007 action to table HB 2147, I've visited with several groups and individuals who want to collectively review what other states are doing in this area and initiate a new bill in 2008.

I want to stress that we are very supportive of creating a conservation easement funding program in Kansas. We appreciate the supportive efforts of legislators and other groups/individuals who share our vision for a state program that recognizes the valuable public purpose of preserving a small part of our state's heritage and natural resources.

For now, we believe it's best to wait a year and work on a quality product next session. We want a product that all of us can be proud of. This initiative is all about doing something for the benefit of future generations. We can wait one more year, especially if this committee is willing to take a fresh look at this concept during the summer and/or next session.

Thank you!



Greg A. Foley, Executive Director

**KANSAS**  
State Conservation Commission

Kathleen Sebelius, Governor

**Testimony on the HB 2572**  
**concerning an Act relating to Conservation Easements**  
**to**  
**The House Committee on Agriculture and Natural Resources**  
**By**  
**Greg Foley**  
**Executive Director**  
**State Conservation Commission**

**March 14, 2007**

Chairperson Faber and members of the committee, thank you for the opportunity to provide testimony on HB 2572. The empowering statute for the State Conservation Commission (SCC) is conservation District Law, K.S.A. 2-1901 et seq. The proposed HB 2572 amends K.S.A. 2-1904. House Bill 2572 would establish the farm and ranch land protection grant program.

The proposal would *“facilitate the conservation of private agricultural lands in Kansas through grants to eligible entities for the administration and purchase of perpetual conservation easements, or other interests, of eligible farm and ranch lands.* HB 2572 would charge the State Conservation Commission with the administration of the Kansas farm and ranch land protection grant program for the *“purpose of limiting loss of agricultural lands to nonagricultural uses.”* The SCC has the ability to implement this program if HB 2572 is passed and funds appropriated, providing the SCC is not tasked with the actual contracting, maintaining or holding of the easement, and has the authority of using necessary appropriations for legal consultation in the processing of conservation easements.

In 2006, the SCC facilitated the state funding of three conservation easements in working with the Kansas Land Trust. One contract with the USDA Farm and Ranchland Protection Program (FRPP), and two contracts with the Department of Defense Army Compatible Use Buffer Program (ACUB) in conjunction with the USDA, FRPP. The SCC received \$311,500 for FY 2007 to use as a match to the ACUB program and the USDA, Natural Resources Conservation Service (NRCS) Farm and Ranchlands Protection Program funds of up to \$1,500,000. ACUBs establish buffer areas around Army installations to limit effects of encroachment and maximize land inside the installation that can be used to support the installation's mission. Under the FRPP, NRCS may provide up to 50 percent of the appraised fair market value of the conservation easement; the cooperation entity provides the other 50 percent. Landowner donations up to 25 percent of the appraised fair market value of the conservation easement may be considered part of the entity's matching offer. For the entity, two cost-share options are available when providing its matching offer. One option is for the entity to provide, in cash, at least 25 percent of the appraised fair market value of the conservation

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easement. The second option is for the entity to provide, in cash, at least 50 percent of the purchase price of the conservation easement. The SCC has requested \$311,500 for FY 2008 to use as a match to the ACUB program and the USDA, NRCS Farm and Ranchlands Protection Program funds of up to \$1,500,000. The Governor has recommended \$511,500.

The management and administration of such a program would require expertise of a legal nature. Such expertise is not available within current SCC staff. Prior experience for the agency in the administration of conservation easements has been in the area of acting as a pass-through facilitator with the function of handling the third party matching fund requirements for applicable federal programs. The agency estimates that approximately 10% of the cost of the easement will be necessary for administration purposes. Administration costs would include such items as the possible development of rules and regulations, and legal consultation fees associated with review and processing of all easement applications and required documentation as called for in the bill.

Thank you, Mr. Chairman, for the opportunity to provide written testimony on HB 2572.

**Kansas Farm Bureau**  
**WRITTEN POLICY STATEMENT**

**House Agriculture and Natural Resources Committee**

**Re:HB 2572 an act establishing the farm and  
ranchland protection program**

**March 14, 2007**  
**Submitted by:**  
**Steve M. Swaffar**  
**Director of Natural Resources**

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Chairman Faber and members of the committee, on behalf of the members of Kansas Farm Bureau we would like to provide the following written comments on HB 2572. We provide these comments as a neutral party. KFB is the state's largest general farm organization representing more than 40,000 farm and ranch families through our 105 county Farm Bureau Associations.

KFB policy supports both state and federal voluntary, incentive-based, cost-share conservation programs, and just this fall our members adopted policy specifically to support programs offering conservation easements. Clearly we support the overall concept proposed in HB 2572 but we do have some concerns about the lack of a funding mechanism in the bill. We also believe there is a need and desire for this type of program in other areas of the State, not just areas adjacent to military installations.

Development around urban centers that takes agriculture land out of production is a concern for many of our members farming and ranching close to these areas. Escalating land values create market competition for land for those farmers and ranchers trying to expand their operations. In some cases land sales prices are high enough that production agriculture simply would not be profitable because payments on the loan would be greater than the profits from grain or livestock production. Farmers and ranchers have few mechanisms to preserve valuable farm and ranch lands when developmental pressures drive prices to unrealistic levels. For this reason we support the concept of a conservation easement program. However, HB 2572 would not provide this opportunity outside of areas next to military installations.

KFB continues to support a program for voluntary conservation easements with the appropriate funding made available to all Kansas farmers and ranchers. We encourage the committee to continue to discuss the topic and find appropriate funding for a program. However, we prefer the language and funding mechanism that were provided in HB 2147, heard early this session by this committee. Perhaps the committee might reconsider all or portions of that bill. Thank you for this opportunity to provide comments on this important topic.