

Testimony in opposition to H.B. 2587

Rob Manes, State Director

On behalf of The Nature Conservancy of Kansas

March 14, 2012

Before the Agriculture and Natural Resources Committee

Dear Chairman Powell and Members of the Agriculture and Natural Resources Committee:

I thank you, on behalf of The Nature Conservancy of Kansas, for the opportunity to offer testimony regarding House Bill 2587. The Conservancy is a 60-year-old, private, nonprofit organization dedicated to the conservation of natural resources that benefit wildlife, native habitats, natural landscapes, and people. The Conservancy and its 7,000 members in Kansas have been responsible for the conservation of nearly 100,000 acres in our state over the past 40 years. Virtually all of our ventures are partnership-based. Our approach to conservation is founded on the best available ecological science and respect for economies, cultures, and private property rights.

Conservancy partnerships with private ranchers and other Kansas landowners and organizations address mutual agricultural and conservation needs across the state. In addition, Conservancy-owned lands include Konza Prairie Research Station, managed in cooperation with Kansas State University; Anderson County Prairie, a partnership with the University of Kansas; the Tallgrass Prairie National Preserve, a cooperative venture with the National Park Service; and a portion of Cheyenne Bottoms, managed in conjunction with the State of Kansas.

Conservation easements are among the most important tools for conserving Kansas' key agricultural and ecological landscapes. They are voluntarily entered and rely on partnerships between private landowners and private land trusts, guided by federal and state laws. Conservation easements, like restrictive covenants (which have been used for many decades), allow landowners to protect important characteristics of their properties, as well as financial values those characteristics may entail. They provide significant public benefits by leveraging diverse resources through a process that is governed primarily by landowners' long-term goals.

One of the most important characteristic of a conservation easement is that it is enduring. Easements stipulations jointly established by the landowner and the land trust (often with multiple landowner generations engaged in the conversation) ensure that both parties' goals are achieved, as well as compliance with tax laws and other legal standards.

At present, approximately 300 Kansas private landowners have voluntarily elected to enter their lands in conservation easements, totaling more than 111,000 acres. Participating landowners and their heirs have garnered over \$30 million in easement payments and tax relief. More than 95 percent of these easements are perpetual, reflecting the desires of landowners and the priorities of private land trusts that must accept easement responsibilities. Conservation easements provide a mechanism for ensuring the future of public interests in natural resources, including wildlife, habitats, healthy watersheds, scenic vistas, and other natural assets. Conservation easements also afford landowners opportunities to protect valued characteristics of their properties and to access financial benefits of their lands, without sacrificing agricultural income production.

Importantly, conservation organizations and agencies rely on easements as a cost-effective means for achieving their goals, one that also leaves ownership and management of lands with private individuals and families. The Conservancy has greatly reduced its fee title acquisition activities in Kansas and elsewhere in

recent years, because easements are often recognized as a superior approach, and they provide a mechanism for establishing valuable partnerships with private agricultural producers whose land management goals are compatible.

The Nature Conservancy opposes House Bill 2587, because it would negate the public benefits and the private landowner rights outlined above. Specifically, this bill presents the following significant liabilities:

- It assumes that the State's government is better positioned than the landowner to make long-term decisions about an individual's or family's land stewardship legacy.
- It would deny Kansans access to one of the most powerful and cost-effective tools for protecting important natural resources, such as watersheds, soils, critical grazing lands, wildlife habitats, and scenic vistas.
- It would deny private landowners the right to access legitimate values of their land. (Note that this would be similar to denying private landowners the opportunity to liquidate their mineral rights at their own election.)
- It would deny private landowners the ability to generate important revenues needed to:
 - expand their operations by purchasing additional lands or other assets;
 - realize financial benefits from land values while maintaining full agricultural production and values;
 - avoid foreclosure or other financial hardship;
 - enter retirement;
 - reduce income tax liabilities;
 - reduce estate tax liabilities;
 - maintain intact ranching operations for future generations; and
 - protect places and vistas that are important to family, community and cultural heritage.
- It would drastically reduce or eliminate the landowner federal income tax benefits of donated or partially donated easements.
- It would drastically reduce appraisal values of purchased easements; and could completely eliminate financial benefits to landowners.
- Due to the preceding effects, it would prevent the use of conservation easements in Kansas, thereby eliminating an important conservation tool that benefits all Kansans.
- It would drastically reduce Kansans' access to long-standing and important federal agricultural program funding that is effectively leveraged with private funds to acquire conservation easements.

Finally, this proposed legislation might reasonably be interpreted to indicate concern that easements threaten Kansas' economic future. In this light, we would note that all of the Kansas easements established over the past decade total only about two-tenths of one percent (0.002) of the state's land area; and even a very ambitious estimate for conservation easements would only increase this to about two percent (0.02) over the next 50 or more years. Moreover, all lands under conservation easements retain their full ability to support agricultural practices in perpetuity. It is difficult to conclude then that conservation easements present any threat to the future economic well-being of Kansas. In contrast, House Bill 2587 would extinguish the many private and public benefits of conservation easements, and it would deny private property owners' rights to steward their lands' most valued characteristics for future generations.

Thank you.