

Senate Federal and State Affairs Committee – February 13, 2024

Hearing on SB 370 - Neutral

Steve Hitchcock – Secretary, Board of Trustees –

Freedom's Frontier National Heritage Area

Chairman Thompson, Vice-Chairman Kloos, Ranking Member Faust-Goudeau and members of the Committee:

I decided to list myself as a neutral conferee on SB 370 because although I do not see any drastic, immediate negative effects from this legislation – I also see no urgent need for it.

Freedom's Frontier National Heritage Area has been a vehicle for collaboration between local, community historians and their counterparts across the region. It has connected state and national historical organizations and programs with the local historic sites that give unique perspectives on the broader topics in the history of the nation. The high-profile image of John Brown by John Stuart Curry in this building is known nation-wide. The context of Brown in Kansas, however, is provided by FFNHA partner sites around the region such as Osawatomie, the Black Jack Battlefield, and Quindaro - among others. Many of the complex and important stories of the pre-Civil War conflict in Kansas, the Border War, and civil rights issues into modern times can only be fully explored and conveyed through a combination of means. Reenactors and events at historic Kansas sites, presentations by scholars, support of local research, and the promotion of heritage tourism of many varieties are all within the range of activities supported by Freedom's Frontier.

In reading the three sections of the statutory language, sections 1(a) and 1(c) give the Kansas legislature the authority to approve any future designations of national heritage areas within the State of Kansas(1a) and restrict designation to only federal land(1c). Whether for state oversight, protection of property rights, encouraging state government participation, or other purposes, this language has the potential to open lines of communication between state government and our heritage area. I hope to see that happen going forward.

Section 1(b) of the legislation seems to be superfluous for both constitutional and practical reasons. No funds from state agencies may *ever* be expended for any reason without the approval of the legislature through the authorization and appropriations process. From a practical perspective, little or no state money goes to these programs.

For these reasons I see the potential statute as neither positive nor negative in and of itself.

Turning from the statutory language to the WHEREAS clauses of SB 370, however, does cause me concern at the incomplete and sometimes inaccurate information that seems to have inspired several of those clauses. While the WHEREAS section of the bill does not become part of Kansas statutes, it is part of the record we look at to understand the rationale behind our laws. I feel it is necessary to address the distortions behind these statements.

Clause three (lines 13-14) asserts that private property owners have no ability to remove their property from the designation. An NHA designation creates an area of eligibility – nothing more. Clear language describes the process of applying for status as a partner site – and the process to later, if desired, remove the site from partner status. No site is automatically included.

Clause four (lines 15-17) asserts that a designation is a federal legislative process that has no application or nomination process. The nomination process that centered on state congressional delegations was updated in 2023 to add the step of needing to meet program criteria before proceeding to congressional consideration. This was to make the criteria standard for all designated areas.

Clause five (lines 18-20) asserts that an entity charged with managing a heritage area interferes with state and private property rights. That is an allegation that I have yet to see supported with credible information. At the heart of the argument seems to be describing the boundaries of an NHA as creating a “jurisdiction,” rather than an area of eligibility. The word jurisdiction implies the power to create, enforce, or adjudicate laws or ordinances and is not part of the language, or authority, of an NHA.

Clause six (lines 22-24) cites opposition to including private property in a NHA designation. A NHA designation does not include private property, it only delineates an area of eligibility for participation in the partnership of historic sites and organizations. The way the question was worded created a bias toward a specific answer.

Clause nine (lines 31-34) asserts that “financial assistance components, legal agreements, accountability measures and performance requirements” as factors that “can create undue burdens for state and private property under federal oversight.” Quite simply, any of the above would be burdens on an NHA, not on the state. There isn’t federal oversight over state lands or private property under an NHA designation.

If SB 370 is to be seen as a good faith effort to protect rights of Kansans – and not as a political statement to be used as fodder by out-of-state activist groups, political opportunists, or others – the justification for the statutory changes should not be based on the biased language of these WHEREAS clauses.