

As Amended by House Committee

Session of 2006

**HOUSE BILL No. 2556**

By Representative Sloan

12-28

10 AN ACT concerning the conservation commission; relating to conser-  
11 vation easements; establishing the farm and ranch land protection pro-  
12 gram; amending K.S.A. 2-1904 and repealing the existing section.  
13

14 *Be it enacted by the Legislature of the State of Kansas:*

15 Section 1. K.S.A. 2-1904 is hereby amended to read as follows: 2-  
16 1904. (a) There is hereby established, to serve as an agency of the state  
17 and to perform the functions conferred upon it in this act, the state con-  
18 servation commission. The state conservation commission shall succeed  
19 to all the powers, duties and property of the state soil conservation com-  
20 mittee. The commission shall consist of nine members as follows:

21 (1) The director of the cooperative extension service and the director  
22 of the state agricultural experiment station located at Manhattan, Kansas,  
23 or such persons' designees shall serve, ex officio, as members of the  
24 commission.

25 (2) The commission shall request the secretary of agriculture of  
26 United States of America to appoint one person and the secretary of the  
27 Kansas department of agriculture to appoint one person, each of whom  
28 shall be residents of the state of Kansas to serve as members of the com-  
29 mission. These members shall hold office for four years and until a suc-  
30 cessor is appointed and qualifies, with terms commencing on the second  
31 Monday in January beginning in 1973.

32 (3) Five members of the state commission shall be elected by the  
33 conservation district supervisors at a time and place to be designated by  
34 the state conservation commission. The method of electing such members  
35 to be conducted as follows: The state is to be divided into five separate  
36 areas. Area No. I to include the following counties: Cheyenne, Rawlins,  
37 Decatur, Norton, Phillips, Smith, Osborne, Rooks, Graham, Sheridan,  
38 Thomas, Sherman, Wallace, Logan, Gove, Trego, Ellis and Russell. Area  
39 No. II to include: Greeley, Wichita, Scott, Lane, Ness, Rush, Pawnee,  
40 Hodgeman, Finney, Kearny, Hamilton, Edwards, Ford, Gray, Haskell,  
41 Grant, Stanton, Morton, Stevens, Seward, Meade, Clark, Comanche and  
42 Kiowa. Area No. III to include: Jewell, Republic, Mitchell, Cloud, Lin-  
43 coln, Ottawa, Ellsworth, Saline, Rice, McPherson, Reno, Harvey, King-

1 man, Sedgwick, Sumner, Harper, Barber, Pratt, Barton and Stafford. Area  
2 No. IV to include: Washington, Marshall, Nemaha, Brown, Doniphan,  
3 Clay, Riley, Pottawatomie, Jackson, Atchison, Jefferson, Leavenworth,  
4 Wyandotte, Johnson, Douglas, Shawnee, Wabaunsee, Geary, Dickinson,  
5 Morris, Osage, Franklin and Miami. Area No. V to include: Marion,  
6 Chase, Lyon, Coffey, Anderson, Linn, Bourbon, Allen, Woodson, Green-  
7 wood, Butler, Elk, Wilson, Neosho, Crawford, Cowley, Chautauqua,  
8 Montgomery, Labette and Cherokee. Areas II and IV will elect in even  
9 number years and Areas I, III and V shall elect in odd number years for  
10 two year terms. The elected commission members from Areas I, III and  
11 V shall take office on January 1, of the even number years. The remaining  
12 two elected members of the state commission from Areas II and IV shall  
13 take office on January 1, of the odd number years. The method of election  
14 is to be by area caucus of the district supervisors of each of the five  
15 separate areas of Kansas. The commission shall give each district notice  
16 of the time and place of such annual election meeting by letter if a mem-  
17 ber is to be elected to the commission from that area that year. The  
18 selection of a successor to fill an unexpired term shall be by appointment  
19 by the commission. The successor who is appointed to fill the unexpired  
20 term shall be a resident of the same area as that of the predecessor.

21 (b) The commission shall keep a record of its official actions, shall  
22 adopt a seal which seal shall be judicially noticed, and may perform such  
23 acts, hold such public hearings and adopt rules and regulations necessary  
24 for the execution of its functions under this act.

25 (c) The state conservation commission may employ an administrative  
26 officer and such technical experts as it may require and shall determine  
27 their qualifications and duties. Such officer and experts shall be in the  
28 unclassified service of the Kansas civil service act and shall receive annual  
29 salaries fixed by the commission and approved by the state finance coun-  
30 cil. All other agents and employees, permanent or temporary, required  
31 by the state conservation commission, shall be within the classified service  
32 of the Kansas civil service act. The commission may call upon the attorney  
33 general of the state for such legal services as it may require. It shall have  
34 authority to delegate to its chairperson, to one or more of its members  
35 or to one or more agents or employees, such powers and duties as it  
36 deems proper. It shall be supplied with suitable office accommodations  
37 at the state capital, and shall be furnished with the necessary supplies and  
38 equipment. Upon request of the commission, for the purpose of carrying  
39 out any of its functions, the supervising officer of any state agency or of  
40 any state institution of learning, insofar as may be possible under available  
41 appropriations and having due regard to the needs of the agency to which  
42 the request is directed, shall assign or detail to the commission members  
43 of the staff or personnel of such agency or institution of learning and

1 make such special reports, surveys or studies as the commission may  
2 request.

3 (d) The commission shall designate its chairperson and, from time to  
4 time, may change such designation. A majority of the commission shall  
5 constitute a quorum, and the concurrence of a majority in any matter  
6 within their duties shall be required for its determination. Members of  
7 the state conservation commission attending meetings of such commis-  
8 sion or attending a subcommittee meeting thereof authorized by such  
9 commission shall be paid compensation, subsistence allowances, mileage  
10 and other expenses as provided in K.S.A. 75-3223, and amendments  
11 thereto. The commission shall provide for keeping of a full and accurate  
12 record of all proceedings and of all resolutions, regulations and orders  
13 issued or adopted.

14 (e) In addition to the duties and powers hereinafter conferred upon  
15 the state conservation commission, it shall have the following duties and  
16 powers:

17 (1) To offer such assistance as may be appropriate to the supervisors  
18 of conservation districts, organized as provided hereinafter, in the carry-  
19 ing out of any of their powers and programs;

20 (2) to keep the supervisors of each of the several districts organized  
21 under the provisions of this act informed of the activities and experience  
22 of all other districts organized hereunder and to facilitate an interchange  
23 of advice and experience between such districts and cooperation between  
24 them;

25 (3) to coordinate the programs of the several conservation districts  
26 organized hereunder;

27 (4) to secure the cooperation and assistance of the United States and  
28 any of its agencies and of agencies of this state, in the work of such districts  
29 and to contract with or to accept donations, grants, gifts and contributions  
30 in money, services or otherwise from the United States or any of its agen-  
31 cies or from the state or any of its agencies in order to carry out the  
32 purposes of this act;

33 (5) to disseminate information throughout the state concerning the  
34 activities and programs of the conservation districts organized hereunder  
35 and to encourage the formation of such districts in areas where their  
36 organization is desirable;

37 (6) to cooperate with and give assistance to watershed districts and  
38 other special purpose districts in the state of Kansas for the purpose of  
39 cooperating with the United States through the secretary of agriculture  
40 in the furtherance of conservation pursuant to the provisions of the wa-  
41 tershed protection and flood prevention act, as amended;

42 (7) to cooperate in and carry out, in accordance with state policies,  
43 activities and programs to conserve and develop the water resources of

- 1 the state and maintain and improve the quality of such water resources;  
 2 (8) to enlist the cooperation and collaboration of state, federal, re-  
 3 gional, interstate, local, public and private agencies with the conservation  
 4 districts; ~~and~~  
 5 (9) to facilitate arrangements under which conservation districts may  
 6 serve county governing bodies and other agencies as their local operating  
 7 agencies in the administration of any activity concerned with the conser-  
 8 vation of natural resources; *and*  
 9 (10) *to facilitate the conservation of private working farm and ranch*  
 10 *lands in Kansas through grants to eligible entities for the administration;*  
 11 ~~*lease or and purchase of perpetual conservation easements, or other in-*~~  
 12 ~~*terests, of eligible farm and ranch lands.*~~

13 New Sec. 2. As used in this act:

- 14 (a) “Commission” means the state conservation commission.  
 15 (b) “Conservation easement” means a conservation easement, as de-  
 16 fined in K.S.A. 58-3810, and amendments thereto, which is a permanent  
 17 deed restriction.  
 18 (c) “Eligible entity” means any organization that is an organization as  
 19 described in section 170(h)(3) of the internal revenue code of 1986.  
 20 (d) “Eligible farm and ranch lands” means cropland, rangeland, grass-  
 21 land, pastureland or forestland which: (1) Is an incidental part of an ag-  
 22 ricultural operation on a farm or ranch; (2) has prime, unique or other  
 23 productive soil or contains historical or archaeological resources; and (3)  
 24 is subject to a pending offer for purchase or permanent conservation  
 25 easements from an eligible entity.  
 26 ~~(e) “Heart of the Flint Hills” means the area bounded on the north~~  
 27 ~~by U.S. highway 24, on the east by Kansas highways 99 and 4, on the~~  
 28 ~~south by Kansas highway 400 and on the west by Kansas highway 77,~~  
 29 ~~encompassing all or part of Pottawatomie, Riley, Shawnee, Wabaunsee,~~  
 30 ~~Geary, Morris, Lyon, Dickinson, Marion, Chase, Greenwood and Butler~~  
 31 ~~counties.~~

32 New Sec. 3. (a) There is hereby established a Kansas farm and ranch  
 33 land protection grant program, to be administered by the commission,  
 34 for the purpose of limiting loss of agricultural lands to nonagricultural  
 35 uses.

36 (b) The commission may make available matching grants to be of-  
 37 fered in cooperation with the United States department of agriculture  
 38 under the farm and ranch land protection program or the United States  
 39 department of defense, or any other federal or private entity, to eligible  
 40 entities for the administration, costs and purchase of permanent conser-  
 41 vation easements on eligible farm and ranch lands. Such costs shall in-  
 42 clude, but not be limited to, appraisals, surveys and title searches.

43 (c) The commission may adopt rules and regulations to administer

1 and implement the Kansas farm and ranch land protection grant program.  
 2 **(d) The commission shall not be the holder of conservation**  
 3 **easements.**  
 4 New Sec. 4. To receive grants pursuant to the Kansas farm and ranch  
 5 land protection grant program ~~or other program administered by the~~  
 6 ~~commission~~, eligible entities must make application to the commission in  
 7 the manner prescribed by the commission and shall provide to the  
 8 commission:  
 9 (1) Documentation from the internal revenue service that the entity  
 10 meets the requirement of subsection (c) of section 2, and amendments  
 11 thereto;  
 12 (2) a copy of the conservation easement agreement negotiated with  
 13 the United States department of agriculture, **United States department**  
 14 **of defense or other agency** and the landowner of the property for which  
 15 funding is sought;  
 16 (3) a ~~legally binding~~ written statement that creation and recordation  
 17 of appropriate deed restrictions will occur upon disbursement of the  
 18 funds to the landowner;  
 19 (4) a ~~legally binding~~ written agreement to implement the terms of  
 20 the conservation easement and to report the status of the conservation  
 21 easement as the commission deems necessary; and  
 22 (5) any other relevant information the commission deems necessary  
 23 to assure the appropriate use of grant funds.  
 24 New Sec. 5. (a) The commission shall evaluate and rank each appli-  
 25 cation based upon the following criteria:  
 26 (1) Contiguous acres of farm and ranch land to be conserved and its  
 27 ability to economically sustain agricultural activities;  
 28 (2) historic agricultural use and condition of the property;  
 29 (3) proximity of the property to: (A) A military installation or facility  
 30 under the supervision of the United States secretary of the army or the  
 31 United States secretary of the air force, (B) a military installation or facility  
 32 under the supervision of the Kansas national guard; ~~or (C) a state park,~~  
 33 ~~state lake, recreational area, wildlife area and sanctuary, fish hatchery,~~  
 34 ~~natural area or other lands, waters or facilities under the jurisdiction of~~  
 35 ~~the secretary of wildlife and parks;~~  
 36 (4) imminent threat of development for residential or commercial  
 37 purposes;  
 38 ~~(5) proximity of the property within a designated area for conserva-~~  
 39 ~~tion or preservation by public policy at the local, state or federal level;~~  
 40 ~~(6) (5) the property lies within the heart of the Flint Hills and was~~  
 41 ~~previously subject to a~~ **an unfulfilled** contract for development of wind  
 42 energy;  
 43 ~~(7) (6)~~ (6) commitment of eligible entity and landowner to the long-term

1 conservation of the property;

2 ~~(9) (7) public access to~~ **provide an educational opportunity re-**  
 3 **garding** the land's scenic value, plant and animal biodiversity, historic  
 4 and cultural characteristics; and

5 ~~(9) (8)~~ other factors the commission deems critical for fulfillment of  
 6 the purposes of this act.

7 **(b) For fiscal years 2007 and 2008, the commission shall give**  
 8 **funding priority to applications meeting the provisions of subsec-**  
 9 **tions (a)(3)(A) and (a)(3)(B) of this section.**

10 ~~(b) Because public moneys are expended to protect open space and~~  
 11 ~~environmentally important flora and fauna and land, provision for full or~~  
 12 ~~limited public access to land for which a grant is awarded pursuant to this~~  
 13 ~~act shall be a condition of receipt of such grant.~~

14 ~~(c)~~ Upon completion of the evaluations and rankings, the commission  
 15 shall timely award funds to successful applicants.

16 New Sec. 6. Failure of a property owner to observe and fulfill the  
 17 terms of a conservation easement shall render the property liable to the  
 18 commission for all grant moneys received by the property owner pursuant  
 19 to this act and liable to the purchaser of the property for all moneys paid  
 20 to the property owner by the purchaser.

21 **New Sec. 7. (a) Notwithstanding the provisions of K.S.A. 58-**  
 22 **3816, and amendments thereto, no city shall use eminent domain**  
 23 **to acquire land placed in a conservation easement under the Kan-**  
 24 **sas farm and ranch land protection grant program.**

25 **(b) If the land placed in a conservation easement under the**  
 26 **Kansas farm and ranch law protection grant program is taken for**  
 27 **public use, then the state of Kansas shall be paid from the settle-**  
 28 **ment moneys an amount equal to the amount the state contributed**  
 29 **under this act.**

30 New Sec. ~~7~~ **8.** (a) ~~There~~ **On July 1, 2007, there** is hereby imposed  
 31 on the change in classification of real property for purposes of ad valorem  
 32 taxation from agricultural use to a use other than agricultural use or use  
 33 as a city, county or state park an open space preservation fee in an amount  
 34 equal to ~~0.015%~~ **1.5%** of the fair market value of such property, as de-  
 35 termined by the county ~~assessor~~ **appraiser** pursuant to law, if such prop-  
 36 erty is reclassified at the time of or within seven years after transfer of  
 37 the property.

38 (b) The fee imposed by this section shall be ~~collected by the county~~  
 39 ~~assessor~~ **determined by the county clerk and the certified amount**  
 40 **shall be provided to the county treasurer for collection** and remitted  
 41 to the state treasurer. Upon receipt of the remittance, the state treasurer  
 42 shall deposit the entire amount in the state treasury and credit it to the  
 43 agricultural land conservation program fund.

- 1       (c) (1) ~~There is hereby established in the state treasury the agricul-~~  
2 ~~tural land conservation program fund. Moneys in the fund shall be ex-~~  
3 ~~pended only for the purpose of matching federal moneys available for~~  
4 ~~agricultural land conservation programs~~ **There is hereby established**  
5 **in the state treasury the agricultural land conservation program**  
6 **fund. Moneys in the fund shall be expended only for the admin-**  
7 **istration, costs and the purchase of permanent conservation ease-**  
8 **ments on agricultural lands. Moneys may be used for matching**  
9 **grants with federal agencies or private entities to conserve agri-**  
10 **cultural lands, but may not be used to acquire fee title to land.**
- 11       (2) On or before the 10th of each month, the director of accounts  
12 and reports shall transfer from the state general fund to the agricultural  
13 land conservation program fund interest earnings based on: (A) The av-  
14 erage daily balance of moneys in the agricultural land conservation pro-  
15 gram fund for the preceding month; and (B) the net earnings rate for the  
16 pooled money investment portfolio for the preceding month.
- 17       (3) All expenditures from the agricultural land conservation program  
18 fund shall be made in accordance with appropriation acts upon warrants  
19 of the director of accounts and reports issued pursuant to vouchers ap-  
20 proved by the chairperson of the commission, or a person designated by  
21 the chairperson, for the purposes set forth in this section.
- 22       Sec. ~~9~~ **9**. K.S.A. 2-1904 is hereby repealed.
- 23       Sec. ~~10~~ **10**. This act shall take effect and be in force from and after  
24 its publication in the statute book.