

Report of the Special Committee on the 30 x 30 Federal Initiative to the 2022 Kansas Legislature

CHAIRPERSON: Representative Ken Rahjes

VICE-CHAIRPERSON: Senator Dan Kerschen

OTHER MEMBERS: Senators Rick Billinger, Marci Francisco, Ron Ryckman, Sr., and Kellie Warren; and Representatives Doug Blex, Sydney Carlin, Christina Haswood (substitute member), Ron Highland, Joe Newland, and Lindsay Vaughn

STUDY TOPIC

The Committee is directed to:

- Study the federal 30 x 30 conservation initiative, which proposes achieving the goal of conserving 30 percent of U.S. lands and waters by 2030; and
- Study the potential effects the 30 x 30 initiative may have on the State of Kansas, including, but not limited to, private property rights and effects on the agriculture industry, and potentially make recommendations to the 2022 Legislature on legislation.

Special Committee on the 30 x 30 Federal Initiative

REPORT

Conclusions and Recommendations

The Special Committee on the 30 x 30 Federal Initiative recommends the House Committee on Agriculture and the Senate Committee on Agriculture and Natural Resources study and monitor both the federal 30 x 30 conservation initiative and National Heritage Areas during the 2022 Legislative Session.

Proposed Legislation: None.

BACKGROUND

The Legislative Coordinating Council (LCC) appointed the Special Committee on the 30 x 30 Federal Initiative (Committee), composed of 11 members from the House Committee on Agriculture, the House Committee on Water, and the Senate Committee on Agriculture and Natural Resources. The LCC approved two meeting days for the Committee and charged the Committee to study the federal 30 x 30 conservation initiative (30 x 30) and any potential effects 30 x 30 may have on Kansas, and potentially make recommendations to the 2022 Legislature on legislation.

COMMITTEE ACTIVITIES

The LCC approved two meeting days for the Committee during the 2021 Interim. The Committee met on December 8 and December 9, 2021, in the Statehouse.

December 8, 2021, Meeting

Overview of 30 x 30

A Principal Research Analyst with the Kansas Legislative Research Department provided an overview of 30 x 30, explaining the federal initiative was created through Executive Order (EO) 14008 signed by President Biden on January

27, 2021. The EO, “Tackling the Climate Crisis at Home and Abroad,” contained a section entitled “Conserving Our Nation’s Lands and Waters” (Section 216) that required a report to be drafted within 90 days by federal entities and stakeholders that would recommend steps “to achieve the goal of conserving at least 30 percent” of U.S. “lands and waters by 2030.” This section of the EO is known as “30 x 30.”

The analyst explained that the required report, “Conserving and Restoring America the Beautiful” (America the Beautiful report), was released to the public in May 2021. The report listed problems that should be addressed, recommended key principles critical to the success and durability of the 30 x 30 effort, and provided recommendations for early focus and progress. [Note: More detail on the America the Beautiful report is provided in the section of this document on the Kansas Department of Wildlife and Parks.]

At the time of the Committee meeting, no further information or guidance on 30 x 30 from the federal government was available; however, the analyst detailed the pieces of legislation introduced in Congress by some members of the Kansas Congressional Delegation to nullify the EO or nullify the EO and prohibit federal acquisition of land or declaration of a national monument in certain areas of the country.

Overview of National Heritage Areas

The analyst provided an overview of National Heritage Areas (NHAs), which are designated places where historic, cultural, and natural resources combine to form cohesive, nationally important landscapes. Unlike national parks, NHAs are largely lived-in landscapes that require communities and entities to collaborate to determine how to make heritage relevant to local interests.

NHAs are created through designation in legislation passed by Congress and signed by the President into law. The NHA program was started when President Reagan signed the first NHA into law in 1984 as an alternative to national parks. Since that time, 55 NHA designations have been created in 34 states, with the last 6 NHA designations signed into law in 2019 by President Trump.

Each NHA designation is passed as its own legislation; therefore, the terms and composition of each NHA is unique to its authorizing legislation.

Freedom's Frontier National Heritage Area

The analyst noted Kansas currently has one NHA, the Freedom's Frontier NHA, which encompasses 41 total counties along the Kansas-Missouri state line, with 29 counties in eastern Kansas and 12 counties in western Missouri. The Freedom's Frontier NHA was passed by Congress and signed into law by President George W. Bush in 2006. It focuses on historic sites, museums, historical societies, libraries, and other cultural-historical sites in these counties, in order to tell the stories of the Kansas-Missouri border war, the Civil War, the settlement of the Western frontier and rural America, and the "enduring struggle of freedom."

Kansas Nebraska Heritage Area

The analyst explained there had been a potential NHA in north-central Kansas and south-central Nebraska, which would have included 49 total counties, with 26 counties in Kansas and 23 in Nebraska.

The potential NHA was called the Kansas Nebraska Heritage Area, but no legislation for this

NHA has been introduced in Congress. In addition, the Kansas Nebraska Heritage Area Partnership, a group supporting the creation of the NHA, has suspended its activities.

Criticism of National Heritage Areas

The analyst explained that when President Biden signed the EO for 30 x 30 in January 2021, there were concerns about how achieving that goal would be possible. With no forthcoming information, critics of 30 x 30 drew attention to the private lands that might be used for such conservation.

The analyst noted some critics believe that NHA legislation could be used to acquire land for 30 x 30. While there is no explicit tie between 30 x 30 and NHAs in general, critics say that land in an NHA could be acquired for 30 x 30 because there is a connection to the federal government. The critics state there is no way for the federal government to achieve 30 percent conservation of land without forcing changes to private land, and with that relationship through NHAs, that could result in a government "land grab."

The analyst stated the Freedom's Frontier NHA authorizing legislation does not allow the NHA to acquire private property.

Kansas Department of Wildlife and Parks

The Secretary of Wildlife and Parks provided further specifics about 30 x 30. The co-equal principles of the America the Beautiful report are to:

- Pursue a collaborative and inclusive approach to conservation;
- Conserve America's lands and waters for the benefit of all people;
- Support locally led and locally designed conservation efforts;
- Honor Tribal sovereignty and support the priorities of Tribal Nations;

- Pursue conservation and restoration approaches that create jobs and support healthy communities;
- Honor private property rights and support the voluntary stewardship efforts of private landowners and fishers;
- Use science as a guide; and
- Build on existing tools and strategies with an emphasis on flexibility and adoptive approaches.

The Secretary stated the initial recommendations of the America the Beautiful report are to:

- Create more parks in nature-deprived communities;
- Support Tribal-led conservation;
- Expand collaborative conservation and possibly create conservation corridors;
- Increase equitable access for recreation;
- Create jobs through restoration practices; and
- Incentivize and reward stewards of working lands.

The Secretary stated that in moving forward as a state agency, there should be cooperation early and often, meaning the Kansas Department of Wildlife and Parks (KDWP) should be one of the primary collaborators in the strategic development and implementation of science-driven processes, policies, and strategic guidance for the conservation of resilient fish and wildlife populations of all kinds and their habitats.

The Secretary stated there should be clearly defined purposes and intent with regard to 30 x 30. This includes using the term “conservation” instead of “protection,” because “conservation” signifies continued, sustainable uses, such as

regulated hunting, fishing, trapping, timber harvest, and outdoor recreation on public lands. He stated state fish and wildlife agencies are also recommending the Biden Administration clearly articulate that 30 x 30 does not:

- Include the use of eminent domain or any new federal land designations without the expressed support of a community, or unilaterally creating a federal nexus over any state, territorial, or local government lands;
- Require lands considered for inclusion under 30 x 30 to have additional federal easements or other regulatory measures. Additionally, the designations should be voluntary instead of mandatory; and
- Focus on the designation and development of additional protections on federal lands at the expense of conservation-based natural resources management and sustainable use when many communities depend on the land for economic sustainability and growth.

The Secretary also stated that moving forward, private landowner perspectives should be considered. The Secretary noted any efforts under 30 x 30 should be encouraged through voluntary, incentive-based approaches that foster and support good stewardship and partnerships with private landowners.

The Secretary stated that 30 x 30 is an opportunity to improve conservation, but Kansas needs to stay engaged to impact how it is implemented; KDWP is well situated to represent the State’s interests, and the Secretary is a member of the recently created federal Joint Task Force on Landscape Conservation.

Freedom’s Frontier National Heritage Area

An individual who is a former member and Treasurer of the Freedom’s Frontier NHA Board of Trustees, and former Speaker of the Kansas House of Representatives from 2001-2003, provided testimony about the NHA.

The former board member stated President Reagan started NHAs as an alternative to national parks where land actually becomes federal property, and NHAs have always been a bipartisan program. The individual said NHA legislation passes Congress with bipartisan support because the two parties work together to preserve the history and heritage of the country.

The conferee noted the law that created the Freedom's Frontier NHA was written specifically to give landowners a choice—they could be involved or not. The conferee said no landowner can be forced to join the NHA, and any landowner who chooses to join can opt out at any time.

The conferee stated Freedom's Frontier is statutorily prohibited from owning property and interfering in any way with private property rights, water rights, hunting and fishing, and any city, county, state, or federal law, including zoning.

State Associations

Kansas Livestock Association

The Vice President of Legal and Government Affairs, Kansas Livestock Association (KLA), said that farmers and ranchers are some of the best stewards of the country's natural resources. The KLA conferee also noted that a KLA policy calls for limits on government intrusion in the marketplace and use of mechanisms like eminent domain to take land away from, or pose unnecessary restrictions on, private property.

The KLA conferee stated the KLA has concerns about 30 x 30, but if the only mechanism for achieving the conservation goals are through voluntary, incentive-based concepts, then KLA would not be opposed to the proposed conservation goals. However, the America the Beautiful report indicates an intent to go further than that and provides differing views on what should count for baseline conservation. The KLA conferee said there has been no further information that explains the actual actions that will be taken to achieve 30 x 30, which leads to uncertainty for private landowners who see only specific stakeholders involved in developing the America the Beautiful report. The KLA conferee said there is also concern over other actions by the

Biden Administration that signal a lack of understanding of private property rights.

The KLA conferee stated while 30 x 30 and ensuing federal actions are cause for concern, “the battles to stop federal government overreach must be fought in the halls of Congress and the courts.” The KLA conferee said in the meantime, Kansas policymakers should be careful in their attempt to fight this overreach and not take away conservation tools used currently by private citizens in the state.

The KLA conferee then discussed conservation easements as a conservation tool, which KLA supports. He discussed the Ranchland Trust of Kansas that was created by KLA members in 2003. It is a land trust that acquires and holds development rights (conservation easements) on working agricultural lands, but it does not own the land itself.

Kansas Farm Bureau

The Senior Director for the Advocacy Division, Kansas Farm Bureau (KFB), stated that since the EO was issued by President Biden in January 2021, the KFB has participated in several conversations with the U.S. Secretary of Agriculture and the U.S. Secretary of the Interior, asking for policy intent and administrative goals. The KFB conferee noted that little clarification has been received to-date.

The KFB conferee stated that KFB views the America the Beautiful report as a philosophical document that emphasizes important principles, such as incentive-based voluntary conservation, protecting personal and property rights, and continued ranching on public lands, but lacks specifics about those principles.

The KFB conferee stated KFB will continue to work with federal agencies to ensure that programmatic details live up to promises made to protect American agriculture. There are still questions and topics that need to be addressed, as the America the Beautiful report does not provide those details.

The KFB conferee said Kansans have expressed concerns that 30 x 30 will result in a federal land grab; however, nothing in the America

the Beautiful report shows this to be true, as only voluntary conservation efforts were mentioned. The KFB and American Farm Bureau Federation will continue to support private property rights and oppose any infringement on those rights and burdensome regulatory schemes.

Kansas Corn Growers Association

The Vice President for Market Development and Public Policy, Kansas Corn Growers Association (KCGA), provided an overview of conservation efforts that have been voluntarily implemented by Kansas corn farmers over the past 50 years and the goals for the future. The KCGA conferee stated increased adoption of these practices in Kansas, the United States, and around the world could yield the carbon reduction goals set forth in conservation goals from several global environmental groups.

The KCGA conferee noted from 1971 to 2020 in Kansas, corn production increased 515 percent and corn acreage increased 336 percent, but the land required to produce a bushel of corn decreased 44 percent and soil erosion decreased 58 percent.

In looking forward to 2030, it is estimated that land use efficiency will increase by 12 percent, energy use efficiency will increase by 13 percent, irrigation water use efficiency will increase by 15 percent, soil erosion will be further reduced by 13 percent, and greenhouse gas emissions will be reduced by 13 percent.

The KCGA conferee also shared that if agriculture is allowed to be a part of the discussions and solutions for 30 x 30 and practices are adopted to increase soil carbon sequestration, much progress can be made without significant changes to our modern food, transportation, and power generation systems. A one percent increase in organic carbon levels in farmland would yield eight tons of carbon reduction per acre per year over a relatively short time frame. If these numbers are applied globally, an annual carbon reduction of approximately 2.04 trillion tons, or 53 percent of the stated carbon reduction goal in 30 x 30, would be possible.

The KCGA conferee stated 30 x 30 starts from an assumption that croplands are part of the

problem, and this, coupled with a lack of information and answers from the Biden Administration, has left agriculture outside the group of stakeholders who could provide real, tangible results that could assist in achieving the goals of 30 x 30.

December 9, 2021, Meeting

Freedom's Frontier National Heritage Area

The current Treasurer of the Board of Trustees, Freedom's Frontier NHA, and Chairman and Chief Executive Officer of The Monarch Cement Company, stated Freedom's Frontier NHA is not part of 30 x 30. As the owner of both personal and commercial land within Freedom's Frontier NHA, the Freedom's Frontier official stated that if the NHA was part of 30 x 30, the conferee would not support the Freedom's Frontier NHA.

The Freedom's Frontier official stated the Freedom's Frontier NHA has over 300 partners along the Kansas-Missouri state line, which allows coordination and collaboration between these entities, helping weave a common thread through our collective histories. The Freedom's Frontier official stated by stimulating interest in the NHA's rich heritage and culture, it increases tourism and dollars that flow through the area, and small communities benefit from any tourism dollars spent locally. For every \$1 of federal money that is passed through Freedom's Frontier NHA, a community receives a \$5 return.

The Freedom's Frontier official stated that Freedom's Frontier NHA has not received any complaints since its inception in 2006. Landowners must opt in if they desire to be part of the NHA and if they opt in, they may opt out at any time. The Freedom's Frontier official reviewed the prohibitions detailed in the Freedom's Frontier NHA authorizing legislation with regard to private property rights.

Kansas Natural Resource Coalition

The Senior Administrator, Kansas Natural Resource Coalition (KNRC), provided observations regarding President Biden's January 2021 EO, stating:

- Long-term participation in the Paris Agreement requires ratification by the U.S. Senate.
- The presidential mandate to leverage purchasing power, banking influence, and fiscal power of the U.S. government is creating winners and losers in the private fossil fuel energy business sector.
- The presidential authority to issue EOs that direct federal agencies' activities under his control is constrained to the scope of the mandates that have been delegated to the federal agencies by Congress. The President does not have the authority to expand, supersede, or preempt authorities delegated to the federal agencies by Congress.

The Senior Administrator said part of the EO may preempt and redefine agency mandates over public lands, resources, fiscal procurement, and the private sector, which would negate the Congressional mandates on several federal acts.

The following recommendations for consideration were offered by the Senior Administrator:

- Counties within the Freedom's Frontier NHA have passed resolutions opposing the NHA designation—the Legislature should consider an initiative that informs each of the counties, landowners, and interested citizens groups of the benefits, zoning issues, and land use problems that can be associated with NHAs. If counties or landowners desire carve outs, the Legislature could encourage the Kansas Congressional delegation to sponsor legislation to do so.
- A state-sponsored impact analysis should be conducted, per the Regulatory Flexibility Act of 1980, on small businesses, communities, and the economy of Kansas counties that will be affected by the implementation of the EO; depending on the results, actions should

be considered to challenge or rescind the EO through the state Attorney General.

Kansas Sierra Club

The Legislative Director, Kansas Sierra Club, stated conservation is essential for all Kansans, meaning that all Kansas families and communities depend upon healthy, natural ecosystems for fundamental living needs and prosperity. The Legislative Director stated environmental stewardship is important and should be central to our ethics as individuals and through government action.

The Legislative Director stated 30 x 30 spells out overarching goals and strategies based on eight principles, while the plan for implementing and achieving these goals is left to state and local entities. The Legislative Director asked the Committee not to view 30 x 30 as a government strategy for a land grab, but to view it as an opportunity for Kansas to amplify its leadership in conservation and reinvigorate its commitment to preserve its natural heritage.

The Legislative Director stated the Kansas Sierra Club recommends the Committee embrace 30 x 30 as a means for further social and economic progress, by putting programs and goals into place that allow Kansas to pursue conservation in a Kansas-specific and Kansas-friendly way.

Public Testimony

Members of the public were allowed to provide in-person testimony or submit written testimony about 30 x 30. Nine members of the public provided in-person remarks to the Committee, and 30 members of the public, associations, and two counties provided written testimony.

Members of the public who provided in-person testimony had concerns regarding 30 x 30 and other issues, including conservation easements, eminent domain, zoning, the size of NHA designation areas, preservation as a means to recreation, NHAs as government “handouts” for county heritage, government control and overreach, Home Rule, limitations on citizens' liberties, and government growth and inflation.

Generally, the testimony further emphasized that the Legislature should be used as a stopgap between citizens and the government, and noted problems with the CRP (federal Conservation Reserve Program) not re-enrolling land previously in the CRP, market value of land in conservation programs, and options for landowners.

Other members of the public who provided in-person testimony provided information on how Freedom's Frontier NHA is funded and provided information on zoning in response to earlier public testimony.

CONCLUSIONS AND RECOMMENDATIONS

The Committee recommends the House Committee on Agriculture and Senate Committee on Agriculture and Natural Resources study and monitor both the 30 x 30 and NHAs during the 2022 Legislative Session.