

**House Committee on Agriculture
January 30, 2019
Topeka, KS**

RE: HB-2062 - Relating to the applicability of conditions for operating recreational trails.

Chairman Highland and Members of the Committee,

My name is Larry Patrick and I currently reside in Wichita, Ks. I am a retired public school teacher, administrator, business owner, and farmer. My land is located in McPherson County, directly south of Lindsborg on 14th Avenue. I am a fourth generation owner of the same land originally purchased by my great-grandfather in the mid to late 1870's. **This letter is to declare my support of HB-2062.**

A review of the legislative history of the KRTA which began as HB-2711 in 1996, reveals the requirements of the Act **were not applicable** to entities having just applied for and received permission to negotiate with a railroad for a trail. The requirements **were only applicable** to those entities where negotiations had come to fruition and the entity had taken transfer of the interest by deed and became responsible for developing, operating or maintaining a trail on a rail-banked right-of-way.

Appellate and supreme courts have routinely held when a statute's language is plain and unambiguous, there is no need for the courts to speculate as to the legislative intent behind it. A statute is ambiguous when its language is open to two or more interpretations.

Minor wording additions are necessary to what is referred to as the Kansas Recreational Trails Act (or KRTA). The Act sets out the compulsory requirements for entities that have taken on the role of "responsible party" for recreational trails created pursuant to Federal statute 16 USC 1247(d), commonly referred to as rail-to-trails.

The Act also sets out the "oversight responsibilities" for counties and/or cities through which these trails pass. The reasoning behind the word additions is simple, sections of the Act are ambiguous and have led to interpretations inconsistent with legislative intent.

By adding the words, "to the responsible party" to sections 58-3212 and 58-3213 as proposed in this Bill, ambiguity is removed to ensure that the Act will be read **to not apply to entities that merely received permission to negotiate a transfer deal with a railroad, but only apply to entities that become the responsible party as defined in the Act.**

In McPherson County, KRTA was recently interpreted by a district court judge, revealing ambiguities in the statutory language that resulted in interpretations inconsistent with the legislative intent of the Act. Within section 58-3212 of the Act, the judge concluded provisions of the section **did not apply to the responsible party** for a trail. The judge also concluded section 58-3213 **applied to an entity that was not the responsible party** for the same trail. There is a notable ambiguity in this interpretation of the KRTA.

Please make the corrections to sections 58-3212 and 58-3213 as proposed in this Bill.

Respectfully Yours,
Larry Patrick