

MINUTES OF THE House SUB COMMITTEE ON Natural Resources

The meeting was called to order by Representative Ron Fox at
Vice-Chairperson

3:30 ~~xxx~~/p.m. on February 24, 1983 in room 519-S of the Capitol.

All members were present except:

Committee staff present:

Theresa Kiernan, Revisor of Statutes' Office
La Nelle Frey, Secretary to the Committee

Conferees appearing before the committee:

HB 2453 - Representative Ed Rolfs.
Scott Johnson, North American Falconers Association of Kansas.
Darrell Montei, Fish and Game Commission.
Ted Cunningham, Kansas Outdoors Unlimited.
Denny Burgess, Kansas Wildlife Federation.
Eulalia Lewis, Kansas Audubon Society.
Monte Hentor, Kansas Audubon Council.
Brian Taylor, Kansas Audubon Council.

HB 2452 - Bill Hanzlick, Director, Fish and Game Commission.
Joyce Harmon, Fish and Game Commission.
Denny Burgess, Kansas Wildlife Federation.
Eulalia Lewis, Kansas Audubon Society.
Ted Cunningham, Kansas Outdoors Unlimited.
Galen Pittman.
Monte Hentor, Kansas Audubon Council.

HB 2453 - An act concerning the Kansas fish and game commission;
relating to the regulation of falconry.

Representative Ed Rolfs testified in support of HB 2453. He provided an overview of the proposed legislation.

Scott Johnson, North American Falconers Association (NAFA) of Kansas, testified in support of HB 2453. He said there are 2500 falconers in the United States, with approximately 15 falconers in the State of Kansas. He noted that the sport of falconry currently is legal in 42 states. He stated that he did not believe falconry would have an adverse affect on the raptor population in Kansas. He said NAFA has overseen raptor breeding projects, and he believes that more raptors have been bred in captivity than in the wild.

Darrell Montei, chief of the Fish and Game Commission's game division, testified in support of HB 2453. He said the Commission's first concern is for the resource, and available information indicates that falconry does not have an adverse impact on raptor or prey populations. He also noted that benefits are realized through rehabilitation efforts by falconers and restoration programs for threatened and endangered species. He said the Commission believes the program should be self-supporting, or nearly so, and has addressed this concern in HB 2453 by authorizing the Commission to set permit fees by rule or regulation. Mr. Montei said the Commission had five proposed amendments to HB 2453 which he outlined in his testimony (see attachment 1).

Ted Cunningham, Kansas Outdoors Unlimited, testified in support of HB 2453. He said his organization has about 430 members in Kansas who support the protection, enhancement, and maintenance of wildlife. He stated that they believe the falconry program would not adversely affect the native bird population in Kansas, and the program will be self-sustaining.

Denny Burgess, Kansas Wildlife Federation, spoke in support of HB 2453. He said his organization has approximately 10,000 members in Kansas. He

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MINUTES OF THE House SUB COMMITTEE ON Natural Resources

room 519-S, Statehouse, at 3:30 ~~am~~ /p.m. on February 24, 1983

noted that they want the program to be self-supporting. He also stated that nonresidents who want to participate in the sport of falconry in Kansas should have to purchase a nonresident hunting license and a non-resident falconer's permit.

Eulalia Lewis, Kansas Audubon Society, spoke in opposition to HB 2453. She said the legalization of falconry in Kansas would provide an added drain on native bird populations which are taken for sport. She stated that the raptor population would decline because of cropping by falconers. She expressed concern that illegal falconry would be extremely difficult to control and the legalization of falconry would benefit only a few. She also predicted that it would cost approximately \$6,500 in the first year to maintain a commission employee to monitor falconers and that it would take an additional \$4,000 per year thereafter to maintain the program (see attachment 2).

Monte Hentor, Kansas Audubon Council, offered comments regarding HB 2453 as it is currently written. He said he was not opposed to the bill, but would like to have it amended to include a definite list of species to be taken by falconers. He thought the fine for abusing the law should be harsher than a Class C felony.

Brian Taylor, Kansas Audubon Council, spoke in opposition to HB 2453 as it is currently written, but does support the legalization of falconry in Kansas. He said his concerns dealt with the difficulty in regulating nonresidents engaging in the sport of falconry in Kansas; the need for a more specific definition to accompany "competent and experienced"; and, the penalty should be a felony.

A brief question and answer period followed several of the presentations of testimony on HB 2453.

HB 2452 - An act concerning fish and game; relating to the disposition of certain fines.

Bill Hanzlick, director of the Fish and Game Commission, said the Commission had a proposed amendment to HB 2452 regarding important language left out of the bill (see attachment 3). He then introduced Joyce Harmon, a member of his staff, to present an overview of the bill.

Joyce Harmon, wildlife education coordinator, Fish and Game Commission, testified in support of HB 2452. She said the bill concerns monies acquired from fines of hunting, fishing, boating, or trapping violations, excluding court costs, which would be credited to the Commission's account and used to educate and inform Kansans about wildlife. She said that currently these fine monies are deposited in the state's General Fund of which the Commission gets no part. She noted that in 1983, it is estimated that law violators will pay about \$200,000 in fines. She said the main beneficiary of HB 2452 would be the Commission's Wildlife Education Service. The goal of this service is to make available a voluntary wildlife education program to all public and private schools in Kansas. She distributed to subcommittee members copies of materials exemplifying the preschool through third grade units. She noted that the program has the potential to reach approximately 450,000 to 600,000 Kansas youth. She said that a survey of other fish and game agencies across the nation revealed that 26 states out of 49 receive some portion of the fine monies back into the agency's general fund; 14 of those states receive 100% of it (see attachment 4).

Denny Burgess, Kansas Wildlife Federation, testified in favor of HB 2452. He said that a good wildlife education program would deter young Kansas sportsmen from shooting something they don't know is illegal to shoot. He said he thought it was a vital part of the Commission's overall program.

Eulalia Lewis, Kansas Audubon Society, appeared before the Subcommittee to express favorable passage of HB 2452. She termed it a "great bill" and thought the fine monies that go to the General Fund belong to the Commission. She said the education program is a good expenditure of the funds and that

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organizations such as the Audubon Society would be anxious to have access to the materials.

Ted Cunningham, Kansas Outdoors Unlimited, spoke in support of HB 2452. He predicted that the educational program would decrease violations. He said he felt Kansas had a low track record on educating the public about wildlife, and he thought there would be a large demand for this type of educational material. He distributed to Subcommittee members a copy of a brief survey form his organization had used at a recent outdoors show. A question regarding the education program was included, with the majority of respondents saying "yes" to such a program (see attachment 5).

Galen Pittman, Lawrence, testified in support of HB 2452. He said he thought that educating Kansas citizens about wildlife is great and the program outlined would change people's attitudes about nature. He said he also thought the educational process would improve the landowner/hunter problem currently experienced in Kansas. He concluded by distributing written testimony in support of HB 2452 for the following Lawrence citizens: John Zempel (see attachment 6), Edward and Cynthia Shaw (see attachment 7), and Ruth Fauhl (see attachment 8).

A brief question and answer period followed several of the presentations of testimony on HB 2452.

There being no further business to come before the Subcommittee, the meeting adjourned at 5:00 p.m.

The next meeting of the Subcommittee will be held February 25, 1983.

Rep. Ron Fox, Vice-chairman

H.B. 2453

Testimony of Kansas Fish and Game Commission
Provided to House Natural Resources Subcommittee
on February 24, 1983

The Kansas Fish and Game Commission supports legalizing the sport of falconry in Kansas. The Commission's first concern is for the resource and available information indicates that falconry does not have an adverse impact on raptor or prey populations. Benefits are also noted through rehabilitation efforts by falconers and restoration programs for threatened and endangered species.

Therefore, costs of the program have become the primary consideration of the Commission. The Commission believes the program should be self-supporting or nearly so. This concern has been addressed in H.B. 2453 by authorizing the Commission to set permit fees by rule or regulation.

16 U.S.C. 704 (August 3, 1978) specifies legal procedures for governing falconry. States may be more restrictive, but cannot be more liberal in their laws and regulations. Section 3 of H.B. 2453 may be more liberal in that persons exempt from purchase of a hunting licence would also be exempt from holding a valid Kansas falconer's permit. Federal law requires all persons engaged in falconry to have a permit.

Nonresidents should be permitted to pursue their sport in Kansas through purchase of a nonresident hunting license and purchase of a nonresident falconer's permit -- both of which should be valid for the calendar year in which issued.

The Commission would offer the following amendments to H.B. 2453 for consideration by the House Subcommittee on Natural Resources:

- (a) Language which would clarify that all persons engaged in falconry must possess a valid falconer's permit.
- (b) That a falconer's permit is required to take, capture or possess a raptor.
- (c) Nonresidents permits valid for calendar year.
- (d) Section 4 (a) be expanded to include 16 U.S.C. 704 (August 3, 1978) plus any subsequent amendments.
- (e) Omit Section 4 (b) as the first part deals with a legal charge which is already a primary conservation function of our agency. The second part of Section 4 (b) treats threatened and endangered species and is covered in federal law. Federal law does allow master falconers to have certain specified threatened species under strict regulations. We prefer to have the same authority in Kansas for species restoration and rehabilitation work.

ADDITIONAL FACTS ON FALCONRY
IN REFERENCE TO H.B. 2453

- a) 42 states now have falconry -- Kansas is the largest land mass state to prohibit falconry. The remaining seven states are in eastern and northeast portion of the United States.
- b) There were about 2,500 falconers in the U.S. in 1975-76 when the uniform federal laws governing falconry were enacted.
- c) The 1981 annual report listed 2,508 falconers nationwide.
- d) 22% of these were apprentice level, 39.5% were general level and 38.5% were master level.
- e) The 1981 report listed 2,006 raptors in possession or .8 raptors per falconer. .32 of these birds were taken from the wild that year and .48 were previously possessed.
- f) Available information indicates that only the state of Michigan prohibits the taking of raptors from the wild.

Information provided by Mr. James Ruos, Office of Migratory Birds Management.
U.S. Fish and Wildlife Services, Washington, D.C.

HOUSE BILL No. 2453

By Committee on Energy and Natural Resources

2-15

0017 AN ACT concerning the Kansas fish and game commission;
0018 relating to the regulation of falconry.

0019 *Be it enacted by the Legislature of the State of Kansas:*

0020 Section 1. As used in this act:

0021 (a) "Falconry" means the sport of taking quarry by means of
0022 trained raptors;

0023 (b) "raptor" means any live migratory bird of the family
0024 Accipitridae, ^{excludes} other than the bald and golden eagle, or the family
0025 Falconidae and great horned owls of the family Strigidae;

0026 (c) "commission" means the Kansas fish and game commis-
0027 sion.

0028 Sec. 2. Falconry permits shall be classified as:

0029 (1) Apprentice;

0030 (2) general; or

0031 (3) master.

0032 The commission shall establish, by rule or regulation, the fee for
0033 each classification. The permit shall expire on December 31 of
0034 the year for which it was issued. The commission shall establish,
0035 by rule or regulation, the fee for renewal of a falconry permit.

0036 ~~Sec. 3. It shall be unlawful for any person required to purchase a hunting license within this state to take, capture or possess or attempt to take or capture native species of wild birds, wild animals and migratory game birds with the aid of a raptor without a valid falconer's permit issued by the Kansas fish and game commission. Any nonresident required to purchase a hunting license within this state may hunt with the aid of a raptor for a period not to exceed five consecutive days upon payment of the fee established by the commission.~~

0045 Sec. 4. The commission shall adopt and enforce all rules and

*Red-tail hawk
is considered migratory*

Sec. 3 ~~(a)~~ (a) It shall be unlawful for any person to take, capture, or possess or attempt to take or capture any raptors for falconry purposes without a valid falconer's permit issued by the Kansas Fish and Game Commission; and

(b) Any person holding a valid falconer's permit and if required by law, a valid hunting license may take, capture or possess or attempt to take or capture wild birds, wild animals and migratory game birds with the aid of raptors in accordance with regulations governing open seasons.

0046 regulations necessary to:

0047 ~~(a) Comply with the provisions of the migratory bird treaty~~
0048 ~~act, 16 U.S.C. 704 (August 3, 1978);~~

0049 ~~(b) insure that the use of raptors is restricted to competent and~~
0050 ~~experienced individuals and to such numbers which are consis-~~
0051 ~~tent with good management practices and the current population~~
0052 ~~status of the individual species or subspecies involved and to~~
0053 ~~species not listed as threatened or endangered by the state or the~~
0054 ~~United States department of interior; and~~

0055 (c) any other rules and regulations necessary to enforce the
0056 provisions of this act.

0057 Sec. 5. Any violation of any provision of this act or any rule
0058 or regulation adopted by the commission shall be a class C
0059 misdemeanor. Any raptor possessed by a person violating the
0060 provisions of this act shall be turned over to the commission for
0061 placement or for release if it appears the raptor will survive in
0062 freedom.

0063 Sec. 6. This act shall take effect and be in force from and after
0064 its publication in the statute book.

(a) Comply with the provisions of the
migratory bird treaty act, 16 U.S.C. 704
(August 3, 1978) and any subsequent
amendments thereto;

(b) Establish the time, area and means which
raptors may be taken and species that may
be taken; and

Handwritten notes at the top of the page, including "Attachment 2/2-24-8" and "House Subcommittee on Natural Resources".

abitat
&
opulation
ions

1. Because of habitat loss it has been necessary to shorten hunting seasons and decrease the number of native birds taken for sport. Permitting falconry would provide an added drain on native bird populations. Raptors do not maintain large populations and the extent to which they can withstand cropping with out declining is much less than the game birds. Information on number of eggs laid, Number of young hatched, number of young reared, to flying, mortality rates of fledged young annual adult mortality rates, average distance of dispersal, average age of first breeding as well as ecological information on the major habitat districts supporting raptors in Kansas, is needed before any informed decision can be made on how many young raptors of any one species can be taken each year.

pecies
threatened

2. Those birds subject to cropping by falconers are often those that are on the threatened or endangered lists (True Falcons except the Kestral) and therefore the falconers are looking to the Red Sholdered Hawk, Red Tailed Hawk and its kind. This will put a lot of pressure on these populations and there is little data on raptors to determine which ones could be harvested. (Prairie falcons do not nest in KS. THEY HAVE JUST BEEN PROTECTED FROM KILLING-- WHY SUBJECT THEM TO FALCONRY?)

programs
all ready

3. A Falconry bill is not necessary for the preservation, conservation, or propagation and release of raptors in Kansas. These activities can and are best undertaken by the Ks Fish and Game Commission under EXISTING legislation through their Non Game programs, their Rare and/ or Endangered Species programs and Raptor Rehabilitation Programs.

supervi-
sion

4. Illegal Falconry (which we have now) is extremely difficult to control and legalizing the sport would likely compound the problems. The enforcement would fall onto the Kansas Fish and Game Commission. (Of 333 Hawks held by California falconers at the beginning of 1972, 235 of the birds were "lost", 71%. It can be assumed that they were replaced. While 20 years of survival for a raptor is attainable in captivity, the committment of a falconer to a single bird is unlikely.)

ost

5. The legalization of falconry would benefit only a few falconers (5-10) and neither the raptors nor the sportsmen of Kansas. The KFGC has estimated that the cost of falconry the first year would be \$6500 the first year and \$4000 annually there after. With the present inflation and the increasing demands on a decreasing amount of money, this expenditure is a waste that would benefit very few. There would be costs before falconry could be implemented obtaining baselined data on bird populations. There would be costs to set up an examination system that would be needed before any permits could be granted. Other high costs are because of the United States Fish and Wildlife Service requirements already in place, (50 CFR 21.28 and 21.29 covering validation of applicants for the three levels of permit for falconry and of the facilities to care and maintain birds found in illegal holdings. For Kansas The new bill does not state that the falcons the birds held by falconers will be obtained in Kansas, Therefore the regulating of the sale of trafficking of birds is impossible to enforce.

ther
problems

6. New trends in other states show a reversal of the growth of falconry. First it seems to be due to the decreased population of true falcons, and yet the illegal sales to the Mid eastern countries continues. The Gyrfalcon at the Air Force Academy was offered \$2500 in 1972 by a "tourist" from the Arabs. If Dr Mc Intyre could start again he would have only 5 Prairie Falcons instead of the Gyrfalcon. One Wyoming man admits to trading 100 falcons in 2 years. Alaska now prohibits taking of perigrins, yet "tourists" still return with young and eggs in their coats. There has been a 20% decline as of 1972. California is getting laws to protect the falcons same as the condors. They have had raptor populations decline near all cities, especially after the falconers visit the schools. (IT IS BETTER THAT THE RAPTOR REHABILITATION WORKERS VISIT SCHOOLS AND THAT THE STUDENTS BE TAKEN OUT TO SEE BIRDS THAT ARE FREE, NOT CAPTIVE AS PETS)

PROPOSED AMENDMENT TO HB 2452

On line 48 insert after expenditures "of such proceeds".

HOUSE BILL 2452

Testimony by Joyce R. Harmon

Wildlife Education Coordinator, Kansas Fish and Game Commission
to House Energy and Natural Resources Sub-Committee

February 24, 1983

Mr. Chairman and Members of the Committee:

House Bill 2452 concerns the disposition of proceeds from fines arising from violations of fish and game laws; amending K.S.A. 20-2801 and repealing the existing section. More simply, monies acquired from fines of hunting, fishing, boating or trapping violations, excluding court costs, would be credited to the Fish and Game Commission account and used to educate and inform Kansans about wildlife. The positive result of a well-informed public will be supported by the negative act of violations. Currently the fines are deposited in the state's General Fund of which Fish and Game gets no part. For 1983, it is estimated that law violators will pay approximately \$200,000 in fines.

One of the main beneficiaries of this change will be the Kansas Fish and Game Commission's Wildlife Education Service. The goal of the Wildlife Education Service is to make available a voluntary wildlife education program to all public and private schools in Kansas. The service offers a supplement to existing curricula. The Wildlife Education Service includes a Wildlife Reference Center that provides free loan films, filmstrips, books, slide series and other wildlife related materials. The Wildlife Reference Center service is in such demand that additional and replacement copies of most titles must be purchased. Curriculum guides for preschool through senior high school students are being completed. The materials include student booklets and accompanying teacher's guides. The materials before you are examples of the preschool through third grade units. These are designed to be easy for a teacher to use and require little or no background in wildlife. The need for such a program has been seen throughout the state from teachers, administrators, youth leaders, fish and game personnel and the general public. The program has the potential to reach approximately 450,000 to 600,000 Kansas youth. Statewide inservice workshops have been

presented to interested school districts. At these sessions, teachers and administrators are made aware of what is available from the Kansas Fish and Game Commission and are given the opportunity to learn wildlife education activities appropriate for classroom use. Additional funding is needed to produce the remaining curricula materials and to expand the Wildlife Reference Center to meet statewide demands.

More funding is also required for the Commission's adult information-education programs. Educating our young people is not enough. It is essential that adults understand the importance of wildlife resources to Kansas citizens. This understanding will leave more people with an appreciation of the need for laws that protect wildlife, and could reduce violations as a result.

In response to those individuals who would suggest that the Fish and Game Commission might change its enforcement policies in order to raise more money, we would like to point out the following information from our Law Enforcement Division. 1) The existing staff of 67 game protectors, 3 administrators and 38 deputy game protectors are currently working at full capacity. The last new full-time law enforcement position was added in 1973. The average number of arrests for the past several years has been slightly over 4,000 per year. When this bill is passed, fine monies will not directly benefit the Law Enforcement Division. Even if an attempt were made to misuse this law, the judicial system has a built-in system of checks and balances to avoid any abuse in the form of fines and costs. Once a game protector has written a notice to appear and complaint, the judge levies fees based on minimum and maximum fines for the specific violation. These minimum and maximum amounts are set by legislative statute. Our law enforcement personnel work to protect wildlife resources for the good of all Kansans.

Many violations that occur are the result of misunderstanding of the needs of our wildlife resources, the regulations to protect these resources, and the benefit that can be derived from wildlife, under proper management. The number of violations against fish and game laws will never be totally eliminated, but can be reduced through greater information and education efforts.

In a survey of other fish and game agencies across the nation, 26 states out of 49 receive some portion of the fine monies back into the agency's general fund. Fourteen of these receive 100% of it.

In conclusion, the benefits of the passage of House Bill 2452 are the following:

- 1) Expansion of the Wildlife Education Service for Kansas schools as requested by teachers and sportsmen across the state.
- 2) Provision of more and better information on wildlife to the general public.
- 3) Violators of fish and game laws would pay for a program that will have statewide application and will eventually reduce the number of violations.
- 4) No tax monies involved.
- 5) Improvements of landowner, hunter and non-hunter relations through better understanding of wildlife resources in Kansas.

We urge favorable consideration of H.B. 2452. Thank you for the opportunity to appear before you.

Total 1291

KANSAS OUTDOORS UNLIMITED, INC.
WICHITA, KANSAS FEBRUARY 16-20, 1983

Would you agree to have one nickel (.05¢) earmarked from the sale of each resident and non-resident hunting license to fund a program to combat the growing poaching problem in Kansas?

YES 987 252 NO 52

Do you feel that funds derived from fines for fish and game violations should be earmarked for wildlife educational programs instead of being returned to the Kansas general tax fund?

YES 1003 252 NO 36

Please rate our Kansas State Parks for camping and recreational facilities.

EXCELLENT 167 GOOD 661 FAIR 132 POOR 99 252

NAME

STREET AND NUMBER

CITY

STATE

ZIP CODE

Natural Resources Subcommittee

Topeka, KS

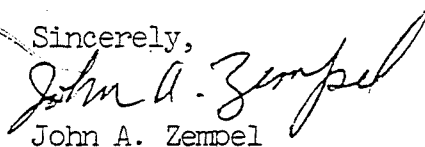
Ron Fox, Chairperson & Subcommittee Members

Re: H.R. 2452

The Jayhawk Audubon Society of Lawrence strongly supports H.R. 2452. We ask that you support this bill also and submit it to the full House with your approval, so that it may be acted upon promptly.

Education of the public with respect to our natural resources (which includes wildlife) is a major emphasis of the Jayhawk Audubon Society. The use of fines from offenders of the Fish and Game Laws for public education accomplishes several goals. First is that the monies would be used to educate young people and old of the importance of our conservation programs and that violating these law they jeopardize the whole conservation effort of Kansas. Secondly, what better way is there for violators to repay Kansas for their disregard of our conservation programs.

Sincerely,



John A. Zempel

President of the Jayhawk Audubon Society
P.O. Box 2227
Lawrence, KS

Lawrence, Kansas
February 23, 1983

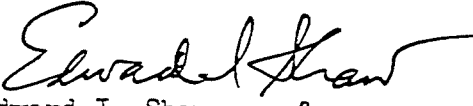
Natural Resources Sub-Committee
Kansas House of Representatives
Topeka, Kansas

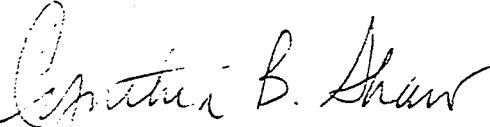
Att: Ron Fox, Chairman

Re: HB 2452

To whom it may concern:

As educators on the university and elementary levels, respectively, we
urge passage of the bill which will earmark funds collected in fines
for breaking Fish and Game laws, for educational purposes.


Edward I. Shaw, professor


Cynthia B. Shaw, teacher

Lawrence , Kansas
February 23, 1983

Natural Resources Sub-Committee
Kansas House of Representatives
Topeka, Kansas.

Attention: Ron Fox , Chairman

Re: HB 2452

To whom it may concern:

As a Kansas resident who has had experience as a land-owner
and as a leader of school aged groups for "nature study" I
ask that your committee give favorable consideration to HB 2452
which would give the money collected for fines for violating
Fish & Game regulations to a fund for Wildlife Education.


Ruth D. Faulh