

Approved February 23, 1989
Date

MINUTES OF THE HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES

The meeting was called to order by Representative Jeff Freeman at
Chairperson

3:30 ~~am~~/p.m. on February 16, 1989 in room 526-S of the Capitol.

All members were present except:

Representative Grotewiel (excused)

Committee staff present:

Raney Gilliland, Legislative Research
Lynne Holt, Legislative Research
Mary Torrence, Revisor of Statutes' Office
Betty Ellison, Committee Secretary

Conferees appearing before the committee:

Robert L. Meinen, Secretary, Department of Wildlife and Parks
Don Jacka, Assistant Secretary, Board of Agriculture
Paul Fleenor, Director of Public Affairs, Kansas Farm Bureau
Marvin McCown, South-Central Tourism Region

The meeting was called to order by Vice Chairman Jeff Freeman.

HB 2367 - Recreational access program authorized.

Robert Meinen, Secretary of Wildlife and Parks, introduced this proposal which he said had been developed by his Department with the advice of the Board of Agriculture. He indicated that the proposed programs would pay landowners who would voluntarily open their land to public recreational access. The Secretary gave a detailed background of the programs, benefits and fiscal impacts of this bill. Attachment 1.

Lengthy committee discussion followed Mr. Meinen's remarks. During discussion, Representative Patrick requested that the Wildlife and Parks Department provide a legal memorandum stating their opinions as to the legal liabilities and duties of the landowner who leases land in the Community Wildlife Association and to the landowner who is adjacent and does not lease land to it. How does the Tort Claim Act apply? He expressed concern in terms of liability to the state.

Representative Patrick also asked if anyone in the Department or any state agency had sought private insurance to cover the risks of the state. He wondered if such insurance was available and if so, what it would cost. Representative Patrick posed another question--is the state increasing the liability of a non-leased person by creating an attractive setting which would draw people to an adjacent leased property? Also, if a permittee who has permission from the state goes on leased land, then cuts across non-leased land to get to other leased land and is injured, what is the liability of the state and what is the liability of the farmer?

Don Jacka of the Board of Agriculture described their role in developing the concepts which led to House Bill 2367. He noted that they had sought to assure that any proposal would address the basic concerns of landowners. These concerns were (1) liability, (2) compensation for opening the land to recreationists, (3) compensation to landowners whose crops are destroyed by deer and (4) that any program be voluntary. Attachment 2.

Brief discussion followed.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES,
room 526-S Statehouse, at 3:30 ~~xxx~~ p.m. on February 16, 1989

Paul Fleenor spoke on behalf of Kansas Farm Bureau. He indicated that he was appearing as a proponent of House Bill 2367, but that the majority of farmers and ranchers would prefer that the present system and procedures be continued. Five points are listed in their policy position which are important to them if voluntary leasing of private property to provide public access is to become a workable program. Attachment 3.

Discussion followed.

Marvin McCown, President of the South-Central Tourism Region appeared as a proponent. He indicated that his organization had heard a presentation and discussed House Bill 2367 at a meeting last month and the committee had expressed support for the concept of the proposal. He commented that the mechanics would need to be worked out and made two points relative to the bill: (1) It would have to be a volunteer type of approach; (2) It would generate a tremendous amount of revenue for Kansas because it extends the hunting season, generating additional dollars which are not currently in existence. Mr. McCown noted that the El Dorado Convention and Visitors Bureau also endorsed this proposal.

Due to time constraints, the Chairman requested that the remaining conferees return to complete this hearing at a later date. He announced the members of a subcommittee on Natural Gas Pipeline Safety which would meet on February 22. They are:

Chairman - Representative Kerry Patrick
Vice Chair - Representative Ken Grotewiel
Representative Jack Lacey
Representative Gayle Mollenkamp

The meeting was adjourned at 4:50 p.m.

The next meeting of the House Energy and Natural Resources Committee will be held at 3:30 p.m. on February 21, 1989 in Room 526-S.

Date: Feb. 16, 1989

GUEST REGISTER

HOUSE

COMMITTEE ON ENERGY AND NATURAL RESOURCES

NAME	ORGANIZATION	ADDRESS	PHONE
Debbie McCaskill	Commerce	Topeka	6022
Charles Lee	KSU Extension	Manhattan	532-5654
Spencer Tomb	Kansas Wildlife Fed	"	537-8295
Charlene Stinard	Ks Natural Resource Council	Topeka	233-6707
BILIE DEVINE	KS STATE BOARD OF AGRICULTURE	TOPEKA	296-3558
DON JACKA	KS STATE BOARD OF AGRICULTURE	TOPEKA	296-3558
Margaret Ahrens	Ks Chapter Sierra Club	Topeka	273-7346
Joyce Wiley	Ks. Audubon Council	Lawrence	449-3203
Ron Smith	Ks. Bowhunters Assn.	Topeka	266-8466
Jerry Hyatt	Ks Wildlife Fed.	Topeka	266-6185
Carol Montei		532 Sumner	672-7108
DARRELL MONTEI	KS. D. WLOF EFRS	PRATT	672-5911
John Strickler	Governor's Of.	Topeka	6240
Al P. Dony	"	"	
Alan Wentz	Ks Wildlife & Parks	Pratt	316 672 5911
JOHN HERRON	Ks. WILDLIFE & PARKS	PRATT	316 672-5911
Douglas Morris	KATVA	TOPEKA	272-0881
Tom Kuban	Antenn for Rex Hershey	O.P.	1-381-6494
Paul E. Fleener	Kansas Farm Bureau	Manhattan	537-2261
HOWARD W. TICE	Ks Ass'n of Women Growers	HATCHINSON	316 662-2367
DICK COMPTON	MIDWEST ENERGY, INC.	HAYS	(913) 625-3437
Woody Woodman	KCPA	KC Mo Po Box 679	816 556-2155

Recreational Access Program - Notes

2/16/89

The Kansas Department of Wildlife and Parks (KDWP), with the advice of the Kansas State Board of Agriculture, has developed, over the past 6 months, a proposal for improving opportunities for public access to private land with the cooperation of the landowner. The proposed programs would pay landowners who voluntarily open their land to public recreational access.

This program would open lands for recreation access on a statewide basis through a variety of mechanisms. The primary approach would be a voluntary leasing program whereby landowners or tenants would "bid" their land into the access program during a special sign-up period. KDWP would evaluate each parcel and offer the landowner a per acre payment based upon established criteria (such as the quality of the parcel's wildlife habitat and potential for recreation).

Public users of Recreational Access lands would need to buy a special permit from the Department of Wildlife and Parks, or a licensed vendor, to gain access to these enrolled lands. The money from these permits would go into a special access account used to fund the program.

Also, through the Recreational Access Program, KDWP will increase its educational efforts so that landowners and sportsmen better appreciate the delicate balance between private lands and public resources, and also clearly understand the rights and responsibilities of both groups. The Department will also provide biologists and conservation officers to work with landowners in improving wildlife habitat, handling complaints and assuring that the system works smoothly. These additional personnel costs will be paid for with access funds.

As an additional approach to leasing lands from individuals, the KDWP will work with local communities and groups of landowners to form "Community Wildlife Associations" in specific locations. Public users of association lands would have to buy an association permit or stamp from the Department (or licensed vendor). The permit would allow the user access only to land within that particular Community Wildlife Association.

Each association would help the Department manage, publicize and administer the Recreational Access Program within their area. The association approach would also encourage local communities and Chambers of Commerce to become involved in promoting outdoor recreation in their area.

Funds generated through the sale of association permits would be used by KDWP to lease lands within each association. In addition, KDWP could return a portion of the income to each association to help pay for advertising, habitat development, or any other special services provided by the association.

The bill would also allow KDWP to make leftover deer permits available to hunters who use these designated areas. There would be a limited number of these permits available in each big game management unit. These permits would be available to residents and non-residents alike.

H Energy and NR
2-16-89
Attachment 1

BENEFITS

The benefits of such a program would include:

1. Improving access to private lands for activities such as hunting, fishing, birdwatching, hiking, or other outdoor activities.
2. Providing an economic incentive to landowners who voluntarily allow access to their land.
3. Improving wildlife habitat in Kansas through better management.
4. Reducing landowner liability.
5. Providing increased tourism and local economic benefits.
6. Keeping user fees affordable.
7. Increasing emphasis on education and trespass enforcement.

FISCAL IMPACTS

Program Income = \$1.5 - 2.5 million/yr.

We estimate that we will sell between 60,000 to 100,000 permits a year, generating between \$1.5 to \$2.5 million/year of permit income to our agency.

We will need to use about 15-20% of the income to cover personnel and administrative costs. This will allow us to hire about 10 additional personnel to help administer and enforce the program.

This will support a leasing program of 350,000 to 600,000 acres statewide.

Economic Impact = \$14.7 million/yr

In addition, we anticipate this program will increase hunter activity from 3 million hunter-days/year to 3.6 million hunter-days/year.

The additional 1 million hunter-days of recreation will generate \$10.4 million/year of additional expenditures by resident hunters (510,000 hunter-days @ \$20.40/day) and \$4.3 million/year of additional expenditures by non-resident hunters (80,000 additional hunter-days @ \$54.10/day). This does not include expenditures by other recreationists (anglers, hikers, etc). . These estimates are based on expenditure figures from the 1980 National Survey of Hunting, Fishing and Wildlife Associated Recreation (US Fish and Wildlife Service).

COMMON QUESTIONS

1. Need for the Program
 - a. Patterns are changing over next 5-10 years.
 - b. 45% of land in Kansas is posted now.
 - c. More land is being closed due to concerns with trespass and liability. According to a department survey of Kansas landowners, 37% allowed no outsiders to hunt in 1985, vs. 27% in 1980.
 - d. Gets us involved now. We can influence cost of leasing in the future.
 - e. Fewer people are hunting now than anytime in past 25 yrs. Largely due to lack of opportunity.
2. What controls will landowner retain over land use?
 - a. KDWP is only interested in access rights, not land use.
 - b. Landowner can continue to farm, graze, etc.
 - c. KDWP will need some assurances concerning future use of land.
 - d. We will work out whatever assurances are necessary to both parties.
3. What control will landowner retain over access?
 - a. Landowners who want to retain specific control will not be interested in our program.
 - b. KDWP will negotiate access with landowner and offer per acre price accordingly.
 - c. Competitive bid situation. We interested in land with few restrictions and may pass on restricted use.
4. Won't associations turn into private clubs?
 - a. The lease will belong to KDWP.
 - b. KDWP will control and sell permits, set permit fees and receive funds.
 - c. Association only assists KDWP and is reimbursed for some costs.
 - d. Lands enrolled in the program have liability benefits.
5. How will liability be handled?
 - a. This law reduces the duty of care owed by a landowner to recreational users.
 - b. Injured parties will be able to file a claim against the Department.
6. This program will encourage leasing.
 - a. Private leasing is on the increase in Kansas now, as it is in other states (eg. IA, OK, FL, TX).
 - b. Our program will establish a price others will have to compete against.
7. Why allow non-resident deer hunting?
 - a. We have leftover permits.
 - b. A social issue. We can do without adversely affecting the resource.
 - c. Continued requests from both residents and non-residents.
8. Landowners have trouble with public access already.
 - a. We're willing to work with landowners.
 - b. \$ for the hassle.
 - c. Making more land available will reduce trespass by those who don't have permission.
9. Adjacent Landowners
 - a. Would have a right to file a claim against the Department for property damage arising from malicious conduct by permit holders.

LEASING IN OTHER STATES

- Florida
- Leases about 1 million acres of private land per year. (down from 2.5 million)
 - Paying avg. of \$.50/acre (formula based on acres and use)
 - Permits cost \$10/yr. \$3 goes to acquisition. (May increase to \$20-35 this year)
 - 110,000 permits sold last year (44% of their hunters).
 - Children under 16 are exempt
 - Have another 3.4 million acres available
 - Private leases are going for \$1 - \$5/acre
 - Mostly for deer hunting
 - Most of their expenditures are for road maintenance etc. These areas are managed as public areas.
- Texas
- Leases 600,000 of private land (mostly in E. TX. and for deer hunting)
 - Paying avg. of \$1.35/acre (Agency costs are paid first. Landowner share based on use. Agency is not charging for all costs.)
 - Permits cost \$35/yr.
 - 40,000 permits sold last year. Up from 20,000 last year.
- Arkansas
- Leases 300,000 (mostly for deer hunting)
 - Paying average of \$.63/acre
 - Permits cost \$10/yr.
 - Children under 16 are exempt
 - 26,000 permits sold last year (55,000 free permits the previous year)
 - Not recouping costs yet
- Nebraska
- Leases about 30,000 acres
 - Paying \$2.50/acre, but land must also be enrolled in a habitat improvement program
 - Paid for out of fee fund, no permits
- Oklahoma
- Leased about 10,000 acres last year, probably 20,000 this year
 - Paying \$1/acre, but for dove hunting only
 - Paid for out of fee fund, no permits
 - Original proposal for large-scale leasing program never got started.
- Iowa
- We've received several comments at our public meetings expressing dissatisfaction with Iowa's leasing program.
 - No state leasing program, but there is a large private program run by "Pheasants Galore". Mostly a lease/reservation system.
 - No firm figures, but appears to involve 400,000 acres in SW and SC Iowa. Estimate they are paying \$.20/acre on average for access.
 - Landowner receives \$20/day if hunters use his/her land (or about 27% of costs are paying for access); an additional \$25/day if they provide bed & breakfast
 - Costs \$75-\$85/day, 1,000 hunters enrolled last year, usually for 4 day package.
 - Landowner agrees not to allow anyone to hunt land within 3 days of a reservation
 - The company is supposed to have a \$1 million of liability coverage

New relief for hunter hassles

States pay farmers for allowing public access to private land

By RICK MOONEY

■ Be on the lookout: with more and more farmers and ranchers closing their lands to sportsmen, wildlife agencies in many states are searching for new ways to provide public access to private lands. If you're in the right place and have the right kind of land, you could pick up a nice bit of supplemental income or other benefits.

In Wisconsin, nearly 250 Wisconsin landowners have enrolled over 100,000 acres in the public hunting grounds leasing program run by the state's Department of Natural Resources (DNR). Only approved wildlife areas are eligible for the program. "What we're looking for is a continuous block of land that provides good wildlife habitat and public hunting opportunities," says DNR spokesman Dave Gjestson. "It wouldn't be feasible financially for the state to buy all this land."

In return for signing up, landowners get a yearly lease payment that usually works out to 40¢ to 80¢ an acre, depending on the type of habitat. Landowners with exceptional habitat can qualify for bonuses that take payments as high as \$1.50 an acre.

Rolf Anderson, dairy farmer in Jim Falls, Wis., is one of 20 landowners who signed up 3,500 acres in the DNR's Jim Falls Public Hunting Area. He receives about \$600 a year from the state for the 550 acres he has enrolled. "It's certainly not a lot of money," Anderson says. "But it helps pay the taxes and fix a fence or two."

Other states pay much more. Oklahoma pays as much as \$13 an acre to lease land. North Dakota sets a size limit of 20 to 40 acres on the land it leases, but pays a rate comparable to local land rental rates for farming.

But it isn't always the payment that attracts farmers into these kinds of programs. DNR wardens discourage trespassers by patrolling Anderson's leased land and posting signs advising hunters to respect landowner rights and to avoid restricted areas. "A lot of my land is good wildlife habitat," says Anderson. "If I wasn't in the program, hunters would still be out here and I'd have to

spend more of my time dealing with them."

The state's insurance for hunter-caused damage is another draw for Anderson. "Someone shot a hole through one of my (forage) choppers a few years ago," says Anderson. "The insurance paid up right away."

Wildlife agencies in some far western states have unique programs. Wyoming allows landowners to charge a fee for access. The state also attaches coupons to deer and antelope licenses. Hunters who shoot a deer turn the coupon over to the landowner who can redeem them with the state for \$8 each.

About half a dozen states have steered away from making direct payments to landowners. Instead, they offer to help control hunter activities on

private property.

Montana's Block Management Program offers a good example of how these programs work. The state hires a manager for a unit of property. The manager checks in hunters, gives instructions on where to hunt, issues permission slips and patrols the property for trespassing, poaching and other violations.

"In some parts of the state, landowners who allowed the public on their property were being overrun by large numbers of hunters," says Rich Clough of Montana's Department of Fish, Wildlife and Parks. "In some cases, it was getting to the point where the farmer or rancher didn't have time to do anything in the fall but manage hunters."

"We're stepping in and doing the management for the landowner. [This program] is a way of recognizing the costs involved for land owners in having wildlife on their property. We appreciate the contribution they're making by allowing public access to private lands."

It's a popular program among Montana's ranchers and farmers. Last year, 140 landowners enrolled almost 1.7 million acres. And due to additional funding from the state legislature this year, Clough expects program enrollment to increase substantially.

Similar programs in other states appear to be equally popular. In Pennsylvania, close to 30,000 landowners signed up for the state's "Farm Game" program. In exchange for a five-year lease allowing public hunting and trapping on their property, farmers get seedlings and plantings plus a subscription to the conservation department's outdoor magazine.

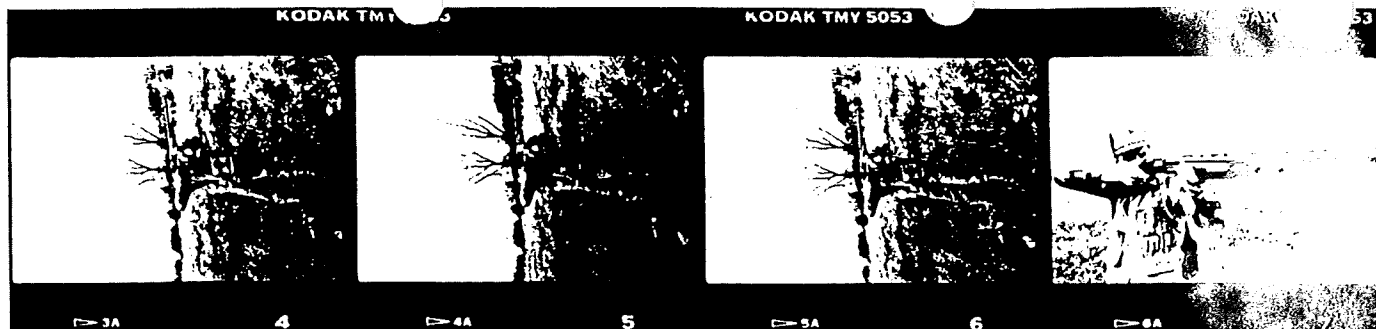
Some states offer tax breaks to property owners who agree to public access. In New Hampshire, allowing public recreational access can translate into a 20% discount on certain taxes. On pasture land, for example, use-value taxes in the \$25 to \$120 per acre range can fall to \$20 to \$96 per acre. Indiana and Louisiana also offer tax incentives.

A 1986 survey conducted by the Montana Department of Fish, Wildlife and Parks showed that 21 states were offering programs aimed at improving wildlife habitat and gaining land for outdoor recreation.



PHOTO BY THE AUTHOR

IN EXCHANGE FOR PUBLIC ACCESS rights, government officials patrol Wisconsin farmer Rolf Anderson's land and put up these signs.



Pheasant hunters spend \$70 million in Kansas

Quail, prairie chicken add millions more

By RON WELCH

Dick Ranney says the opening weekend of pheasant hunting season is to western Kansas what football's Super Bowl is to the city that is host to it.

"The economy gets a great boost from the influx of hunters," says the outgoing director of the local convention and visitors bureau. "Some motels post 'No Vacancy' signs for the first time during the year. Lines form at restaurants. Filling stations sell more gasoline. Sporting goods retailers have good sales of shells and equipment.

"The hunters buy groceries," he continues, "stop by a pharmacy to replace the tube of toothpaste they left at home, and so forth. It all adds up. In Dodge City we figure the season opener is worth around \$3 million to us."

Ranney estimates that the average hunter spends \$115.50 per day on food, fuel, lodging and other items. He multiplies that by the number of motel rooms available in Dodge City (approximately 900) and that by the average length of stay of 2.5 days, and that by an average party size of 3.8. The resulting figure, he multiplies by a turnover factor of 3.2.

"Hunters spend more than families that are vacationing," he says. "Families limit themselves. If a hunter forgets a pair of socks, he'll go buy them. If he has a good day in the field, he might spring for a round of drinks. I've known them to buy a new shotgun when they thought the one they were using had a bent barrel,

causing their aim to be off and resulting in a lot of missed birds."

Surveys conducted by the Kansas Department of Wildlife and Parks indicate that pheasant hunting season alone adds \$70 million to the state's economy.

"The pheasant opener is our busiest time of the year," says Charlotte Kindall, manager of the Norton Chamber of Commerce. "We have four motels with 100 rooms, and they were booked several months ago for the first pheasant weekend."

Kindall says her community of 3,400 nearly doubles in size when hunters show up. Her office tries to find quarters for those without motel reservations. Many are placed in local homes.

"It's no imposition," she says. "It's a time we look forward to. My family and I even put up three hunters from New Mexico at our house."

Kindall says she can't put a specific dollar amount on how much pheasants mean to the Norton economy but notes that nearly everyone there benefits.

"Civic and church organizations count on opening weekend for fund-raising projects," she says. "I know of three hunter's breakfasts that were held plus some soup and pie suppers. And, of course, our merchants are delighted to see all the new business."

Kevin Church, small game project leader for the Kansas Department of Wildlife and Parks, says his agency expects more than 40,999 non-resident

hunters to join Kansans in the fields this year. That will have a substantial impact on the economies of a number of communities.

"Bird populations are up," he says, "and hunters are aware of this. Also, fewer birds in South Dakota, Nebraska and Iowa—states that normally compete with us for hunters—should lead some people who normally hunt there to gravitate to Kansas."

Church gives several reasons why Kansas' pheasant hunting is as "good as any in the country" this season.

First, he says, the state has experienced mild winters the past several years, particularly in the western portion of the state where most pheasant hunting is done. This has led to good breeding conditions.

Secondly, two million acres were placed in the Crop Reserve Program (CRP) of the Food Security Act of 1985 and these lands, primarily in western Kansas, have provided pheasants with warm-season grasses and excellent cover to reproduce in.

"The other three states have had an exceptionally dry summer," Church says, "and farmers there were given variances on CRP land which allowed them to mow, hay and graze them. This destroyed much of the birds' habitat and decreased their numbers."

Church adds that although 77 of Kansas' 105 counties received the same variances, they were not the ones with

the largest pheasant populations. As a result, hunters can expect to harvest more than a million birds this season.

Pheasants aren't the only upland game birds that gives a boost to local economies. Cassoday, which bills itself as the "Prairie Chicken Capital of the World," booms opening day.

Norma Arsenault is owner of the 28-seat Cassoday Cafe. The first Saturday of the hunt brings in about \$1,500 in business, "Quite a bit over what we do normally," she says.

Cassoday, population 120, has four businesses Arsenault notes, and all but the antique store cater to hunters by opening early the first weekend of the season.

"Besides my cafe, we have a filling station and a convenience store-service station here," she says. "All of us get up with the hunters and start our days at 4 a.m."

Arsenault switches her normal ala carte cooking routine to prepare breakfast and lunch buffets. Otherwise, she says, she couldn't keep up with the 300 or so hunters who jam into her small cafe.

Many of her customers are repeaters from past years. They come from as far as Washington, D.C. and Philadelphia.

"Because we don't have any motels here, some of the hunters stay in El Dorado, Wichita and other towns nearby," she says, "but many of them have campers. I live 16 miles from here on the edge of the Flint Hills, and when I come to work the gravel road is so crowded it looks like an interstate!"

Like Norton, Cassoday relies on hunters to help fund civic functions. The community is host to a Prairie Queen Festival annually in June and makes much of its money for the event from the sale of souvenir caps and belt buckles.

"This year they're going like hot cakes," Arsenault says, "because we put a prairie chicken on them. They also say that we're the prairie chicken capital."

Jan and Duane Larson own the Townsman Motel in Yates Center. Each year 30 to 40 groups of quail hunters stay with them. Many have been customers before.

"We get them from Canada, Georgia, Louisiana, Kentucky, Illinois and all over," she says. "On an average they spend anywhere from four days to a week with us."

The Townsman has no restaurant so that business goes to others.

"We don't do a huge business with hunters, but it's occupancy that we can count on," she says. "This has been an average year for us. Hunting, though, has been very good."

Overall, 2 1/2 million quail are expected to be harvested in Kansas this season. However, it's the 1 million pheasants that will be taken that is the draw for hunters, particularly in western Kansas.

Randy Rodgers, a wildlife biologist with the Kansas Department of Wildlife and Parks, did a survey of the economic impacts of pheasant hunting in western Kansas. The questions were directed at motel operators and chambers of commerce.

Fifty-three percent of the motel operators rated the economic impact of pheasant hunting to their property or community as "high." Thirty-six percent said it was "moderate." Chamber responses were 63 percent in the "high" category, and 20 percent said "moderate." None indicated it has no economic impact.

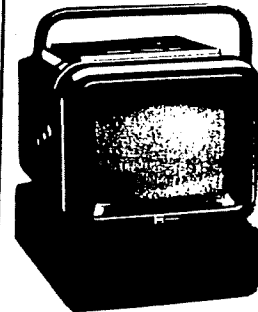
There was a divergence of opinion between motel operators and chambers on how they would rate pheasant hunting in bringing in business from outside, compared with other recreational attractions. More than half of the motel operators said they believed pheasant hunting to be most important while only 29 percent of the chambers checked "most important."

Nearly a quarter of the motel respondents indicated that 80-100 percent of their pheasant hunter clients were from other states. Sixteen percent responded that 60 to 80 percent were non-residents; 21 percent said 40-60 percent; 16 percent answered 20 to 40 percent and the rest responded 0 to 20 percent.

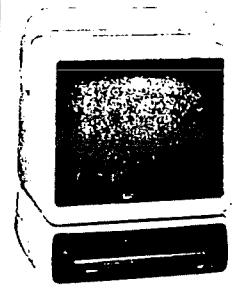
Additionally, the chambers of commerce were asked if they believed that pheasant hunting contributed to the quality of life in their communities. A large majority (79.41 percent) said, yes. More than 62 percent of the chambers said they used pheasant hunting as a means of promoting their community.

Ranney says he thinks the state and communities like Dodge City have been doing a good job of promoting pheasant hunting but adds "there's always room for improvement." ♦

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Testimony on
House Bill 2367

Public Access for Recreational Purposes

by
Don Jacka
Assistant Secretary
Kansas State Board of Agriculture

before the
House Committee on Energy & Natural Resources

16 February 1989

H Energy and NR
2-16-89
Attachment 2

Good afternoon, my name is Don Jacka. I am the assistant Secretary of the Board of Agriculture.

Today, I would like to provide you with some background regarding the concepts involved in House Bill 2367. I would like to convey to you the role of the Board of Agriculture in developing these concepts and the proposed House Bill 2367.

In 1987 the Kansas State Board of Agriculture received the report of the Commission on the Future of Kansas Agriculture. The Commission report contained a number of suggestions to improve Kansas agriculture. One suggestion was to encourage farmers to diversify their income by leasing their land to recreationists. Landowners are generally hesitant to lease their land for recreational purposes because of the fear of being sued if someone is injured on the property.

Last year the Kansas Legislature, as many of you will remember, passed amendments to the recreational use statute K.S.A. 1988 Supp. 58-3201 et seq, that allow landowners to lease their lands for a fee without assuming a higher level of duty to protect the recreationist from injury.

If you will recall, several bills were introduced last year that dealt with the ever increasing deer populations in this state. After the session, Governor Hayden and several legislators asked the Board of Agriculture to work with the Department of Wildlife and Parks to study and develop a program to address the problems of the deer population declining wildlife habitat, limited areas of access for recreationists, and the age-old difficulties between sportsmen and landowners.

Throughout the summer of 1988 the Board worked closely with the Department of Wildlife and Parks to assure that landowners' concerns were addressed. We

met with several farm organization leaders to get their input as to what landowners would prefer to have in any program proposed. During these meetings it became obvious that the basic concerns of landowners were liability, some compensation in exchange for opening the land to recreationists, a method to compensate landowners whose crops are destroyed by deer, and that any program be VOLUNTARY! Throughout our discussion with the Department of Wildlife and Parks we sought to assure that any proposal addressed these concerns.

The proposal drafted between the staff of the Board of Agriculture and the Department of Wildlife and Parks is similar to House Bill 2367 before you. The proposed program basically included three sections. Section one would allow the Secretary of the Department of Wildlife and Parks to enter into recreational leasing contracts with landowners. This general leasing program is purely voluntary. Landowners could participate as much or as little as they wished. Landowners would be provided with a payment in exchange for opening their lands to recreationists and would not incur more responsibility for entrants to their property. Recreationists would purchase permits to access the lands.

Secondly, the proposed program would allow the Secretary of the Department of Wildlife and Parks to establish Community Wildlife Associations. Again, the state would lease lands for recreational purposes but the local community in the area would act as the promoter of the area. A portion of the permit fees would be given to the local community to develop and advertise the area.

Finally, the proposed program would allow the Secretary of Wildlife and Parks to issue leftover regular season deer permits by management unit to program participant or non-participant landowners. The landowners could then, with the approval of the Department of Wildlife and Parks, make those permits available to resident or non-resident hunters. Landowners could earn additional

income by providing access for a fee to their land, ancillary services such as a bed and breakfast to the sportsmen and other possible revenue generators.

The concepts that I have outlined were submitted to both the delegate body of the Board of Agriculture and to the Board itself. Neither of these entities took any action on the proposal.

Thank you for allowing me to appear before you today.



PUBLIC POLICY STATEMENT

HOUSE ENERGY AND NATURAL RESOURCES COMMITTEE

Re: H.B. 2367 - An act authorizing establishment of a VOLUNTARY program to provide public access to private property for recreational purposes

February 16, 1989
Topeka, Kansas

Presented by:
Paul E. Fleener, Director
Public Affairs Division
Kansas Farm Bureau

Mr. Chairman and Members of the Committee:

My name is Paul E. Fleener. I am the Director of Public Affairs for Kansas Farm Bureau. We are pleased to have an opportunity to express our views on H.B. 2367. This legislation is the result of a proposal advanced by the Kansas Department of Wildlife and Parks and the Kansas State Board of Agriculture. The concept has the blessing of Governor Mike Hayden.

It has been our privilege in Kansas Farm Bureau to have participated in numerous conversations with representatives of the Governor's office and the two previously named agencies concerning the concept of public access to private property.

On October 28, 1988, the Governor and the Secretaries of Wildlife and Parks and Agriculture held a news conference to lay out the proposal for recreational access. The Governor opened the news conference then yielded to the two Secretaries to lay out the program. Much of what was discussed on that date is embodied in

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Attachment 3*

H.B. 2367. On the evening of October 28, 1988, the Kansas Wildlife Federation hosted a meeting in Lawrence, Kansas for interested parties to discuss the public access proposal. We made a brief statement on that occasion. We told the more than 200 assembled that the topic would be discussed thoroughly at the Kansas Farm Bureau Annual Meeting to be held on December 4-6, 1988. We forwarded to our county Policy Chairpersons a copy of the proposal developed by the two agencies and encouraged members in all 105 counties to examine the proposal and be prepared to discuss it at the KFB Annual Meeting.

Attached to our statement today is the policy position adopted by the farmers and ranchers who were serving as voting delegates at the Annual Meeting held here in Topeka, Kansas.

This issue was discussed and debated openly, thoroughly and completely at our Annual Meeting. The policy statement reflects the general feeling of farmers and ranchers. Let me stress the first point or two of the resolution or policy position:

We support the present system and procedures available to sportsmen and others who seek access to private property.

Three points follow that statement in our resolution. It is the leadoff paragraph and the three points are the major emphases of our members. They really like things the way they are. They would really like to continue access in the way it operates today. They do go ahead to say that **IF** ... if a voluntary leasing program to provide public access is to become a workable program in Kansas certain steps **must** be included in the program. There are five points. You can review them.

To the extent the points made by our farmers and ranchers are fully addressed and incorporated in H.B. 2367, we can and we will support this **voluntary** program for providing public access to private property.

We consider it one of the strengths of Kansas, and one of the strengths of Kansas agriculture, that less than 3 percent of Kansas acreage is public property. That statement is contained in the second "whereas" in the preamble to H.B. 2367. We want the land to remain in private hands. We know there are many Kansans who desire to get out into the country and enjoy the abundance of wildlife and game. They want to enjoy fishing in private ponds, they want to cross private property to access streams and rivers. A voluntary program to provide that access can be developed that provides an opportunity for income for farmers through a leasing program, that retains for farmers the management decision-making on the land, retains for the farmer the right to maintain control over access, and provides for the State of Kansas to assume full and complete liability for any damage or injury occurring as a result of the lease arrangement.

Thank you for the opportunity to make this statement. We would be pleased to respond to any questions.

POLICY POSITION

KANSAS FARM BUREAU

Printed below is the policy position on public access to private property which was adopted by the voting delegates from 105 county Farm Bureaus, representing farmers and ranchers in the 105 counties in Kansas, at the December 4-6, 1988 Annual Meeting of Kansas Farm Bureau.

Public Access to Private Property

We support the present system and procedures available to sportsmen and others who seek access to private property:

1. Ask the owner/operator for permission to be on or to cross the land;
2. Obtain a clear understanding and description of lands which are open to the uses for which access is sought; and
3. Be respectful of land, water and fences and all other property.

If voluntary leasing of private property to provide public access is to become a workable program in Kansas:

1. There must be an opportunity for income for farmers, landowners and tenants;
2. There must not be binding provisions proposed for any contract to lease private land for public access which would remove management decision making from the hands of the farmers and ranchers of this state;
3. Farmers must retain the right to maintain control over access to their leased land;
4. The State of Kansas must assume full and complete liability for any damages or any injury occurring as a result of the lease arrangement; and
5. The program must not be an acquisition of land. It must be clearly understood the program would provide access only, not ownership.