

Approved March 20, 1989
Date

MINUTES OF THE HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES

The meeting was called to order by Representative Dennis Spaniol at
Chairperson

3:30 ~~am~~/p.m. on February 27, 1989 in room 526-S of the Capitol.

All members were present except:

Representative Charlton (excused)

Committee staff present:

Raney Gilliland, 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
Arthur H. Griggs, Chief Attorney, Department of Wildlife and Parks
Robert Manske, Southeast Kansas Tourism Region, Inc.
Spencer Tomb, Conservation Vice President, Kansas Wildlife Federation
Margaret Post Ahrens, Kansas Chapter, Sierra Club
Joyce Wolf, Kansas Audubon Council
Howard Tice, Executive Director, Kansas Association of Wheat Growers
Ron Smith, Kansas Bowhunters Association
Bob Robison, Topeka, Kansas

Chairman Dennis Spaniol called the meeting to order, calling attention to the minutes of February 21 and a fiscal note on House Bill 2367 which had been distributed.

The hearing on House Bill 2367 - Recreational access program authorized was continued from February 16, 1989.

Robert Meinen, Secretary of the Department of Wildlife and Parks, introduced Arthur Griggs, Chief Attorney, Department of Administration. Mr. Griggs was in attendance to help clear up questions raised at the previous hearing relative to liability of the state in regard to this proposed legislation. He discussed a memorandum which contained background information and current state law pertinent to this bill.
Attachment 1.

Lengthy discussion followed relative to amounts of liability, definition of agricultural land, abandoned homesteads and various possible liability situations. Responding to a question, Mr. Griggs agreed that the fact of potential liability exists. He commented that when the state considered the tort claims act in the late 1970's, it was a dramatic policy change.

In reply to a question, Secretary Meinen said that in essence, the state is leasing for permission for access to property. He emphasized that this legislation would not, from a liability point of view, make substantial changes in the law of today. He noted that if a person is leasing private land under the law as it is today, there has, as per legislation passed last year, been a change to that section which gives some protection to agricultural land that does receive a fee. If a landowner is still allowing trespass on his land, the situation still exists where the responsibility falls back on the trespasser. The Secretary added that proof of gross and wanton negligence in a court of law, in the level of duty care discussed here, would be extremely difficult to prove. He advised that the Department of Wildlife and Parks has operated under KSA 75-6104 (o), operating a large number of acres of land having to do with local parks, etc. This section of law has been court tested all the way to the Supreme Court and stood strong.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES,
room 526-S Statehouse, at 3:30 ~~am~~/p.m. on February 27, 1989

Robert Manske appeared as a proponent in lieu of Brenda Manske, representing Southeast Kansas Tourism Region, Inc. He commented that a large portion of travel-generated revenue is directly related to outdoor recreation, which plays a major role in tourism throughout the state. Mr. Manske also felt that the effective marketing of Kansas outdoor recreation would require widespread cooperation. Southeast Kansas Tourism made further recommendations in this regard. Attachment 2.

Spencer Tomb represented the Kansas Wildlife Federation, Inc., in support of the concept of a broad recreational access program in Kansas. However, the organization recommended two changes in the bill. Attachment 3.

Discussion concerned suggested fees and rules of conduct for sportsmen.

Margaret Ahrens appeared on behalf of the Sierra Club in support of House Bill 2367. She proposed an amendment to replace the second "WHEREAS" of the bill to read, "WHEREAS 2% of Kansas acreage is public land and water; .5% of Kansas acreage is owned and managed by the State of Kansas for outdoor recreation purposes." This would be a small part of the total of 439,000 acres owned and managed by the state.

Ms. Ahrens proposed another amendment to the bill: on page 5, line 181, to delete "Nothing in this act limits" and add: "This act limits any liability which otherwise exists to the following:". Also to leave "(a)" as it is and in "(b)" after the word "For" to add "negligent" before "injury". Ms. Ahrens was requested to provide the Revisor with a copy of her amendments for possible reference. Attachment 4.

Joyce Wolf spoke in favor of House Bill 2367, representing the Kansas Audubon Council. She mentioned one point that had been considered by their chapter in Lawrence, relative to a daily permit. She thought perhaps this could be addressed in section (c) of New Section 2. Attachment 5.

Howard Tice represented the Kansas Association of Wheat Growers, noting that members of his organization had many concerns with regard to a recreational access program. A resolution passed last December was included in his written testimony. He suggested that it might be appropriate to have a subcommittee study on this issue. Responding to a question, Mr. Tice said that based on input he had received, \$5.00 per acre would have to be a minimum fee and perhaps \$5.00 to \$10.00 would be a more reasonable figure to consider. Attachment 6.

Ron Smith represented the Kansas Bowhunters Association in opposition to House Bill 2367. He advised that the majority of their membership oppose this legislation because they do not want to see a situation similar to those in Texas and Oklahoma where it would be necessary to own a lease or know someone who owns a lease in order to hunt or fish. They believe that if this plan is initiated, enforcement would be a problem because Wildlife and Parks do not have enough conservation officers to protect wildlife and enforce game laws. They are opposed to the portion of the bill which would allow local units of government to designate areas as Community Wildlife Association areas. They felt that this legislation would encourage nonresidents to hunt and fish in Kansas and they opposed allowing nonresidents to hunt deer in Kansas at this time.

Bob Robison, a resident of Topeka and landowner in Wabaunsee County, appeared in opposition to House Bill 2367. He felt that even though this proposed legislation would be voluntary, we already have sufficient recreational land in use. He believed that Kansas has plenty of out-of-state hunters now and wondered if this would come under tourism.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES,
room 526-S, Statehouse, at 3:30 ~~am~~ p.m. on February 27, 1989

Mr. Robison noted that none of the farmers and ranchers he had spoken with in Wabaunsee County favored this proposal. The farmers are conscious of boundary problems and do not feel that this can be effectively enforced.

Representative Shore made a request of the Department of Wildlife and Parks for information on the lack of public access on public land whether owned by state, federal or local entities and how it is limited. He also requested information on the overly optimistic reports on bird numbers in some of the hunting areas and whether public access to private land might give the Department reason to be even more optimistic. Secretary Meinen's reply to this question was that the 1988 hatch appeared good until August. In the late part of the season, there was an underestimate of the impact of the drought on the bird population and there was an increase of predators because of the lack of cover. Another factor to consider is that 2½ million more acres went into Conservation Reserve Program land. Representative Shore said comments he had heard were that money to lease land for public access, wouldn't it be an incentive to be even more optimistic? Mr. Meinen replied that within a couple of years you would probably lose your credibility and would never sell another out-of-state permit. This would take time to rebuild.

Written testimony was submitted by the Kansas All-Terrain Vehicle Association, Attachment 7, as well as copies of letters to Representative Spaniol and Governor Hayden from the American Fisheries Society. Attachments 8 and 8a.

The meeting was adjourned at 5:15 p.m.

The next meeting of the House Energy and Natural Resources Committee will be held at 3:30 p.m. on February 28, 1989 in Room 526-S.

Date: Feb. 27, 1989

GUEST REGISTER

HOUSE

COMMITTEE ON ENERGY AND NATURAL RESOURCES

NAME	ORGANIZATION	ADDRESS	PHONE
Darrell Montei	K D W & P	PRATT	672-5911
Greg Lee	W & P	Topoka	273-7722
Bel Meiner	W & P	Top	2281
Alan Wentz	W & P	Pratt	672 5911
John HERRON	Ks. Dept of Wildlife & Parks	PRATT	(316) 672-5911
Jeff Gabriel	W & P	Topoka	2281
Ron Smith	Ks. Bowhunters Assn.	Topoka	266-8466
Jerry Hazlett	Ks. Wildlife Fed.	Topoka	266-6455
Bob Mandle	Southeast Ks. Tourism Reg.	Yates Center, Ks	316 3559 625- 5559
Robert Paris	Ks Assoc. of Wheat Growers	DIGBYTON Ks	387 306 2140
Daryl Johnson	Ks. water office	Topoka	267-0222
Bob Robinson	Land owner	Topoka	
Spencer Tombs	Kansas Wildlife Federation	Manhattan	537 8265
Joyce Wolf	Ks. Audubon Council	Lawrence	749-3203
Margaret Andrews	Ks. Chapter of Sierra	Topoka	273-7346
HOWARD W. TICE	Ks. Ass'n. of Wheat Growers	HITCHINSON	662-2367
Alice Jensen	Ks. State Board of Horticulture	Topoka	276-2653
Bill Jullow	Kansas Farm Bureau	Manhattan	913/537-2241
Debbie M'Caskey	KOOC	Topoka	6022
Charles Lee	Kansas State University Extension	Manhattan	913 532 5654
Larry Ross	Rails to Trails Coalition of Ks.	Wichita	(316) 682-0988
Sean Tombs	None	Manhattan	(913)-537-8265
Mark Tombs	NONE	"	"



DEPARTMENT OF ADMINISTRATION
State Capitol
Topeka 66612-1572
(913) 296-3011

Shelby Smith, *Secretary*

M E M O R A N D U M

TO: Robert Meinen, Secretary
Wildlife and Parks

FROM: Arthur H. Griggs, Chief Attorney *AG*
Department of Wildlife and Parks

DATE: February 24, 1989

SUBJECT: Liability Issues Relating To Land
Used For Recreational Purposes

The following background information is being provided in response to your recent letter:

I. Private Land Owners

Common Law - Under common law tort principles, land owners have a duty to exercise reasonable care for the safety of persons invited onto their land. A land owner has a duty to warn invitees of dangerous conditions upon the premises of which the land owner knows or should have known about by the exercise of ordinary care.

Kansas 1965 Act (K.S.A. 58-3201 et. seq.) - This act changed the common law duties described above. The purpose of the 1965 Act (and amendments in 1988) was to encourage owners to make their land available to the public for recreational purpose. It altered the common law doctrine by providing that the owner of land owes no duty of care to keep the premises safe for entry or use by others for recreational purposes or to give any warning of a dangerous condition. The Act does not apply when a nonagricultural land owner charges persons for the recreational use.

H Energy and NR
2-27-89
Attachment 1

Under the recreational access bill (H.B. 2367) being considered by the Legislature, it is expressly stated that lease payments from the state are not considered a "charge." Therefore, land owners leasing out their land under this new legislation would be covered by the liability protections provided by the 1965 Act.

II. State's liability - Recreational Lands

State Land - Subject to the limitations of the Kansas tort claims act, the state is liable for damages caused by the negligence or wrongful acts or omissions of state employees under the same circumstances as a private person would be liable. However, the tort claim act also provides that the state has no liability for damages resulting from any claim for injuries resulting from the use of any public property intended or permitted to be used for recreational purposes, unless the state or its employees are guilty of gross and wanton negligence that causes the injury.

Lease Lands. - The pending recreational access bill (H.B. 2367) amends the Kansas Tort Claims Act to provide that the state is not liable for any claims for injuries resulting from the use of any lands leased under the recreational access program, unless the state or its employees are shown to be guilty of gross and wanton negligence. This is the same standard that currently applies to land owned by the state.

III. Liability for torts by permit holders under H.B. 2367.

If a recreational access permit holder causes injury to persons or damage to others property, general tort liability principles would apply. The persons or property owners that have suffered an injury or loss caused by the tortious conduct of a permit holder would have a cause of action against the person that committed the tort. Additionally, Section 4 of the bill gives recognition to the current statutes that permit individuals to make claims to the Joint Committee on Claims Against the State. This Section does not provide for the state to assume any new liability; it is naming a place where a land owner may have a claim considered by a legislative committee.

PRESENTATION

to

HOUSE COMMITTEE
ON ENERGY AND NATURAL RESOURCES

by

BRENDA M. MANSKE
Executive Director
Southeast Kansas Tourism Region, Inc.

February 16, 1989

H Energy and NR
2-27-89
Attachment 2

SOUTHEAST KANSAS TOURISM REGION

SUPPORTS HOUSE BILL 2367

Southeast Kansas Tourism Region supports the Recreational Access Program proposed in House Bill 2367. Our support is based on the potential this program offers for increased tourism opportunities in rural Kansas. More specifically, we believe the proposed program addresses the three major, existing obstacles to expanded marketing of Kansas outdoor recreation.

By way of background, we wish to point out that even though it is not associated with traditional "smokestack" industries, tourism is economic development in Kansas, and in Southeast Kansas, tourism means big business. According to the U.S. Travel Data Center in Washington, D.C., travelers spent \$58.2 million in Southeast Kansas in 1985, generating more than \$10 million in payroll and 1,300 jobs for the region in that year. What may be more important, tourism expenditures raised more than \$2 million in state taxes and \$736,000 in local tax revenue during 1985.

A large portion of this travel-generated revenue is directly related to outdoor recreation, which currently plays a major role in tourism not only in Southeast Kansas, but throughout the state (see Exhibit 1 attached hereto). Outdoor recreation attractions in Southeast Kansas include some of the best quail hunting in the nation, in addition to fine bass fishing at state parks and lakes, Corps of Engineers Reservoirs and on private-access creeks, strip pits and farm ponds. Outdoor sports enthusiasts in Southeast Kansas also enjoy such water sports as boating, canoeing and swimming, as well as camping,

hiking, photography and bird-watching.

Kansas obviously has the resources to meet a growing demand for outdoor recreation facilities. Based on statistics gathered by the United States Travel and Tourism Administration, we know that national and international travel agents and tour operators are looking for new outdoor recreation destinations (see attached USTTA graphs). The tourism region's recent experience with a West German tour wholesaler, Canada Reise Dienst, demonstrated both the potential for and the problems associated with a program of expanded marketing for outdoor recreation in Kansas.

In order to package our resources for Horst Gennert of Canada Reise Dienst, Southeast Kansas Tourism Region initiated the first phase of a plan to identify farmers and rural landowners in the region who would be willing to permit fee-based public hunting on their lands. A second aspect of this plan involved locating guides and outfitters for tourist hunting/fishing/hiking and camping trips.

Initial response to this effort was positive. At a July 1988 tourism region board meeting in Coffeyville, 36 people turned out to learn more about our need for recreational land. Nine of these people were landowners who were interested in how they could benefit economically from our marketing effort. Others attending that meeting included one outfitter, a lakefront resort owner, a motel owner, a county commissioner, the coordinator of the regional resource conservation and development district, a county economic development director, one city House

manager and a city council member. We later contacted several rural landowners throughout the region who expressed interest in this effort.

Based on this response, the tourism region developed a hunting and fishing tour package that was presented to the West German tour wholesaler at a meeting in Oklahoma in August of 1988. As a result of this experience, we identified three major obstacles to further packaging and marketing of outdoor recreation in Southeast Kansas. First, landowners told us they could not afford to bear the full cost of liability insurance to cover accidental injury to fee-paying users of private land. We suggested the use of public land to overcome the liability problem and learned that the existing public lands available for hunting and fishing are inadequate to meet the needs of increased marketing. We were told that public land in Kansas is now overhunted at current levels of use; that is, we already have too many hunters and not enough game on public land. Finally, our marketing efforts were hampered by the lack of an existing outfitter/guide program in Kansas.

Southeast Kansas Tourism Region believes that the Recreational Access Program proposed by House Bill 2367 addresses the tourism marketing needs that have been identified in the area of outdoor recreation. Tour package buyers need assurance of safety, assurance of ample game and assurance of quality guides and outfitters. Likewise, tour package providers need liability protection, game and habitat conservation assistance and access

to quality guides and outfitters.

In conclusion, Southeast Kansas Tourism Region believes that the effective marketing of Kansas outdoor recreation will require widespread cooperation. To that end, we encourage the Kansas Legislature to endorse the Recreational Access Program outlined in House Bill 2367. We likewise encourage implementation of the following recommendations in this regard:

- 1) Establish a comprehensive marketing plan for the proposed Recreational Access Program;
- 2) Officially recognize the major role outdoor recreation plays in Kansas tourism and
- 3) Increase coordination and cooperation between the Kansas Department of Commerce Division of Travel and Tourism Development and the Kansas Department of Wildlife and Parks to effectively package and market outdoor recreation.

HOUSE ENERGY AND NATURAL RESOURCES COMMITTEE
February 16, 1989

SOUTHEAST KANSAS TOURISM REGION

SUPPORTS HOUSE BILL 2367

EXHIBIT I

SPORTS/ENTERTAINMENT REVENUE IN KANSAS, 1986

- * The State of Kansas sold nearly \$2 MILLION worth of out-of-state hunting and fishing permits in 1986

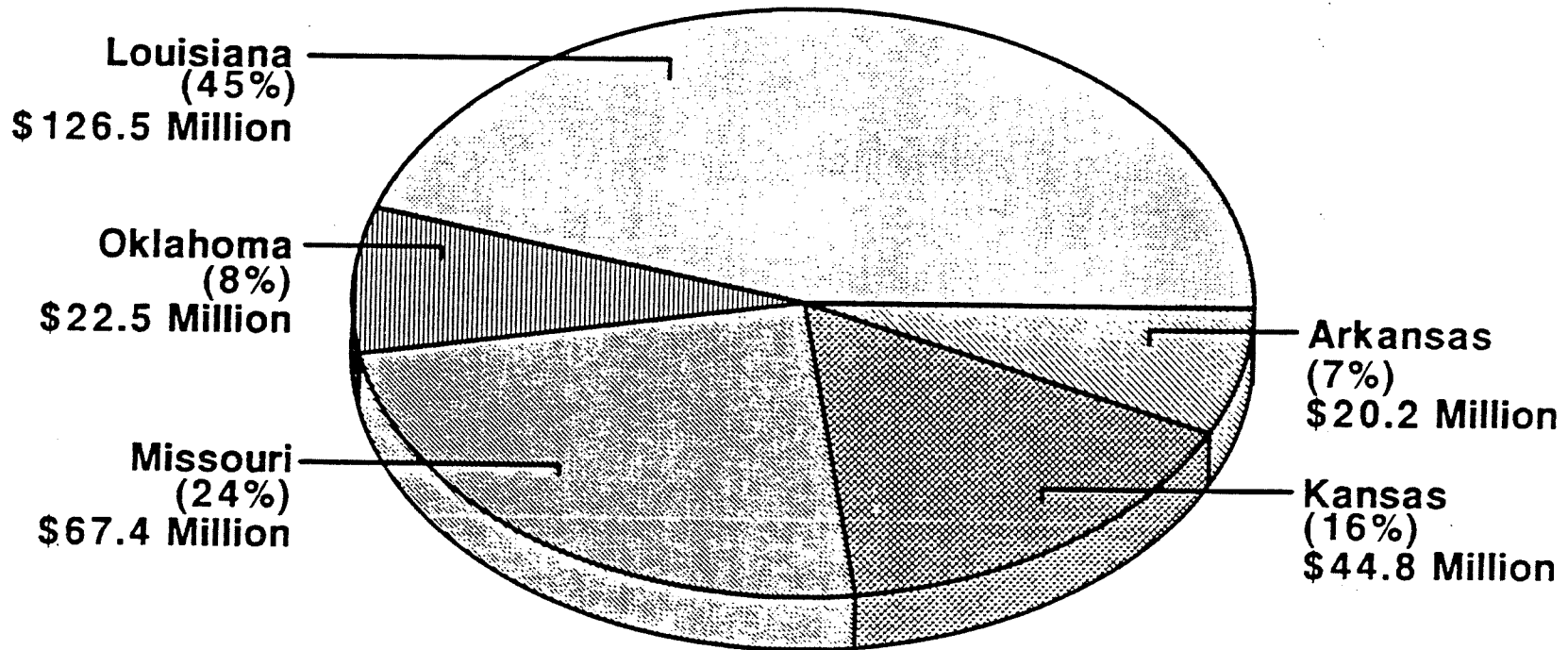
BARTON COUNTY SPORT HUNTING REVENUE, 1986

- * Barton County hosted an estimated 516 out-of-state hunters during 1986
- * Each hunter spent an average of 2.5 days in Barton County per hunting trip
- * Each hunter spent approximately \$55 per day in Barton County
- * Out-of-state hunters contributed an estimated \$71,000 in direct revenue to Barton County in 1986
- * Above figures do not reflect sales of 48-hour water fowl permits
- * Above figures do not reflect indirect economic impact of out-of-state hunting in Barton County for 1986

FOREIGN VISITOR SPENDING IN AMERICA'S HEARTLAND BY STATE

1986

\$281.4 Million
Total Spending



CHARACTERISTICS OF KEY OVERSEAS POTENTIAL PLEASURE MARKETS TO AMERICA'S HEARTLAND

(Top Products, Services, Amenities, Cont'd.)

	<u>West Germany</u>
Interesting / Friendly Local People	94%
Manageable Size / Able to See Everything	88%
Outstanding Scenery	87%
Variety of Sightseeing Excursions	86%
Warm, Sunny Climate	84%
Wilderness & Undisturbed Nature	83%

- * Percent Saying This Item Is Important to Them
- + Percent Is Significantly Higher than Average on That Item
- Percent Is Significantly Lower than Average on That Item
- Not in Top 6 Statements

PRODUCTS WANTS / NEEDS SEGMENTATION

(High Potential Travelers to America's Heartland)

	<u>United Kingdom</u>	<u>West Germany</u>
Sports & Entertainment	12%	23%
Developed Resort	11%	7%
Culture & Comfort	18%	*
Culture & Nature	14%	15%
Rural Beach	*	22%
Beach	18% ⁻	*
Big City	14%	21%
Outdoor Sports	13%	12%

- * Segment Not Present
- + Percent Significantly Higher than Average for Segment
- Percent Significantly Lower than Average for Segment

LITTLE BALKANS COUNTRY

HUNTING AND FISHING TOURS

The Little Balkans Country of Southeast Kansas offers some of the finest small game hunting and light-tackle fishing in the world. The lush, scenic surroundings and the variety of fish and game available make this small corner of America's Heartland an angler's dream and a hunter's paradise.

Hundreds of private strip pits and ponds, rivers, state lakes and federal reservoirs abound with bass (white, largemouth, smallmouth, spotted), channel cat, bluegill, flathead, buffalo, carp, crappie, green sunfish, buffalo, wiper and walleye.

The Little Balkans Country also boasts the state's best quail cover in a region where a varied patchwork of woods, brush and beautiful native grassland combine with fertile cropland and mild winters to produce some of the best bobwhite shooting in the United States.

Thousands of acres of private farmland, hickory-oak forests, secluded wetlands and state and federal game preserves also provide habitat for dove, ducks, geese, prairie chicken, bobcat, coyote, raccoon, muskrat, squirrel, rabbit, mink and fox.

* * *

To showcase what may be the best-kept secret in America's Heartland, Southeast Kansas Tourism Region has rounded up the components of the state's first regional hunting and fishing tour itineraries, featuring the personal services of outfitters and guides who have grown up hunting and fishing in Little Balkans Country.

Accommodations are comfortable, reasonably-priced and tailored to the pleasure of our guests, ranging from idyllic tent camping to rustic cabins, friendly farm bed-and-breakfast hideaways or small, independently-owned motels.

Southeast Kansas is famous for its special blend of down-home Midwest cooking spiced with culinary traditions handed down by settlers from Germany, Italy, Czechoslovakia, Russia, France, England, Scotland and Wales. Good food in abundance is a mainstay of hospitality in Little Balkans Country.

Our outfitters specialize in catering to small, private parties and are eager to customize itineraries for families, corporate groups or sportsmen looking for a memorable holiday in a peaceful, unspoiled setting far away from the tourist crowd.

KANSAS SOUTHEAST
OUTFITTERS and GUIDES

Hunting and Fishing Tour Packages

Private camping trips by canoe, mule or horse and guided fishing and hunting vacations of all kinds. Will put sportsmen where fish and game are available on thousands of acres of private or public land ranging from Neosho River bottom to mined land wildlife areas characterized by wooded spoils, hickory-oak forests, native grassland and abundant water and wetlands.

Fish for white bass, largemouth bass, smallmouth bass, spotted bass, bluegill, channel cat, crappie, green sunfish, buffalo, bullhead, carp, drum, flathead and redear sunfish.

Hunt quail, dove, ducks, geese, bobcat, coyote, squirrel, rabbit, raccoon, muskrat, mink and fox.

Primary location in Cherokee County Mined Land Wildlife Area, approximately a two-hour drive from Tulsa, Oklahoma; three hours from Wichita, Kansas and three hours from Kansas City, Missouri. Prices include pick-up from airport; 50% deposit required.

GUIDED HUNT OR FISHING TRIP--all equipment; mules, horses or canoes; meals, cabin or wall tent:

\$150 per person, per day

GUIDED CAMPING TRIP--no hunting or fishing, all equipment; mules, horses or canoes; meals, cabin or wall tent:

\$125 per person, per day

DROP CAMP--campsite with outfitters' tent and all necessary gear; no guide or food provided:

\$75 per person, per day

GUIDED TOUR ON HORSEBACK, MULE OR CANOE--no hunting or fishing:

\$10 per person, per hour

RV SPACE AND HOOK-UPS AVAILABLE

OUTFITTERS

Lenny Mosler (316) 597-2799

Ed White (316) 795-2830

PARADISE QUAIL HUNTING
Altoona, Kansas

Kurt Nunnenkamp, Guide

Paradise Quail Hunting offers one of the state's most affordable guided hunting trips, right in the heart of prime quail country.

From hedgerows to creeks, from feed fields to pasture land, at Paradise you'll be working 3,000 acres of the finest hunting ground in the Heartland region.

Born and raised near Altoona, Nunnenkamp has hunted quail all his life. He grew up on a farm and still works the land, where he watches the quail population from hatching to hunting time. He knows where the birds are and has raised and trained his dogs to hunt this particular kind of terrain.

As an expert local guide, Nunnenkamp will ensure that you see as much action as possible, including excellent points on coveys and singles, retrieving to hand and just plain over-all stylish dog work. He'll also clean all your birds at the end of the day. Duck hunting is now available at \$25 per day.

RATES PER DAY:

1 person--\$50	Special father/son rate (son under 18): \$80 per day
2 people--\$100	
3 people--\$125	
4 people--\$150	50% deposit advance deposit; balance due upon arrival

ACCOMMODATIONS:

Bed and breakfast for up to four people, full bath:
\$40 per night total
Motel accommodations available 8 miles away at Neodesha, Kansas.
Excellent catered meals also available on request.

Neodesha airport offers 3,000-foot, lighted runway. Nunnenkamp provides airport pick-up and return service at no extra charge.

For reservations, call (316) 568-2518.

COFFEY COUNTY, KANSAS

FISHING TOUR PACKAGE

One Day / One Night

Persons In group:	4	8	12
Guides	2/\$60	2/\$60	3/\$90
Boats (includes life jackets)	3/\$60	5/\$100	7/\$140
Equipment (includes live bait and rigged rod & reel)	\$48	\$96	\$144
Transportation (9 passenger suburban)	\$40	\$40	2/\$80
Motel (double-occupancy rooms)	\$54	\$108	\$162
Meals (breakfast, lunch, dinner)	3/\$92	3/\$184	3/\$276
Total	\$354	\$588	\$892

* Group rates on equipment for groups over 12.

* Group rates on meals for groups over 20.

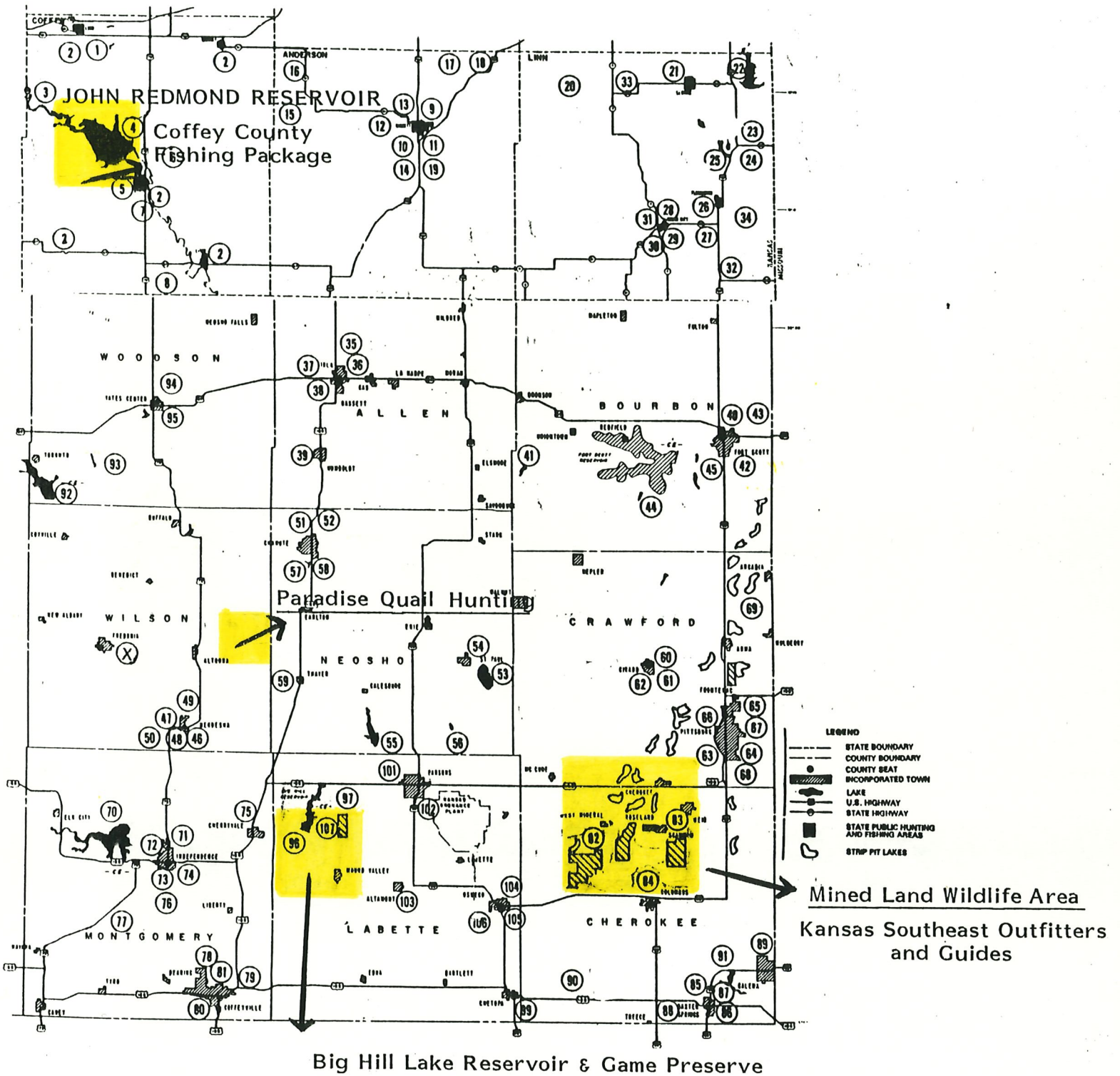
BEST TIME: March, April, May

3 BEST FISH: Crappie, White bass, catfish

3 BEST PLACES: On lake-in boat, below dam-in water,
or area ponds-on bank.

SOUTHEAST KANSAS

LITTLE BALKANS COUNTRY HUNTING AND FISHING TOURS



SOUTHEAST

① **BIG HILL WILDLIFE AREA** (8 W and 4 S of Parsons) 1,320 acres. Deer, squirrels, quail, rabbits, doves, and waterfowl.

② **BOURBON WILDLIFE AREA** (4½ E of Elmore) 350 acres. Quail, squirrel, deer, and some duck hunting.

③ **COPAN WILDLIFE AREA** (½ W of Caney) 2,360 acres. Quail, deer, rabbits, doves, and wild turkeys.

④ **ELK CITY WILDLIFE AREA** (3 W of Independence) 10,966 acres. Ducks, geese, deer, quail, rabbits, doves, prairie chickens, and squirrels.

⑤ **HARMON WILDLIFE AREA** (1 N and 1 E of Chetopa) 102 acres. Deer, squirrels, and rabbits, with limited quail hunting.

⑥ **HOLLISTER WILDLIFE AREA** (6 W and 2 S of Fort Scott) 2,432 acres. Quail, rabbits, squirrels, deer, with some prairie chicken and furbearer hunting.

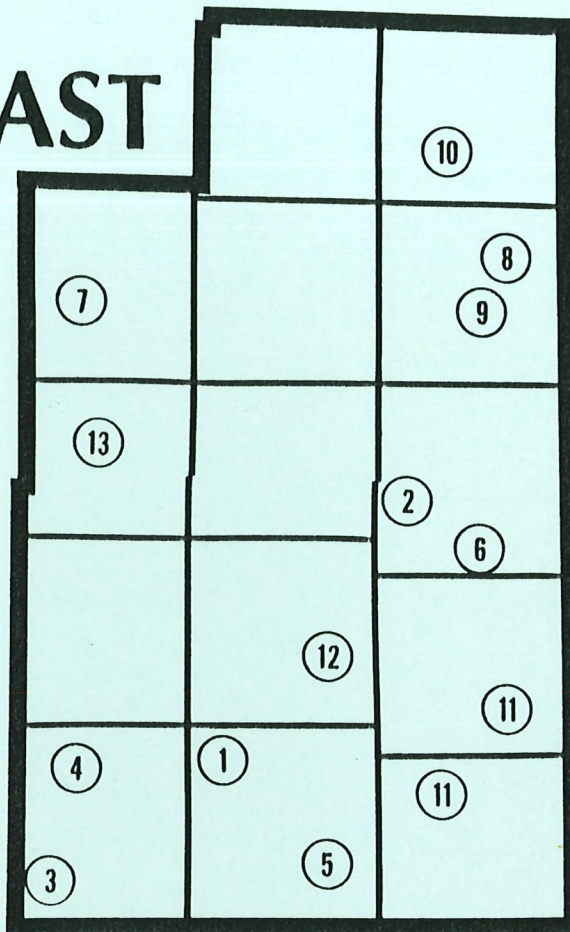
⑦ **JOHN REDMOND WILDLIFE AREA** (NW of Burlington) 1,700 acres (Otter Creek Arm) managed by Fish & Game, plus 4,000 acres managed by the Corps of Engineers, plus 9,000 acres (Flint Hills National Wildlife Refuge)


managed by U. S. Fish and Wildlife Service. Ducks, geese, quail, deer, squirrels, rabbits, furbearers, coyotes, and greater prairie chickens.


⑧ **LA CYGNE WILDLIFE AREA** (5 E of La Cygne) 4,080 acres. Firearms restricted to shotguns and .22 caliber rifles; no high-powered rifles allowed.


Ducks, geese, deer, squirrels, quail, rabbits, and furbearers.

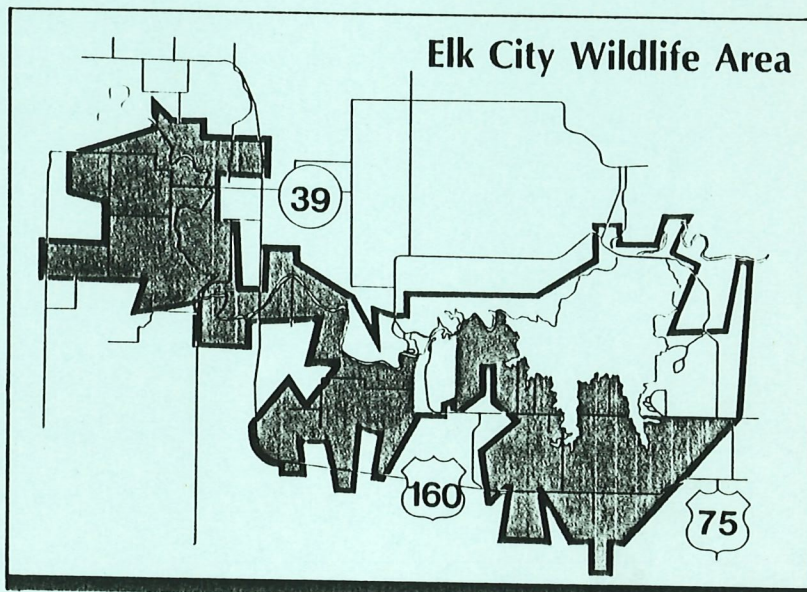
⑨ **MARAIS DES CYGNES WILDLIFE AREA** (5 N of Pleasanton) 6,376 acres. Managed primarily for ducks and geese, but also offers good hunting for squirrels, and deer, with some rabbit and quail hunting.



 Land owned or managed by the Fish and Game Commission; open to hunting except where otherwise posted

 Water areas; check local regulations for zones open to hunting

 Land managed by other agencies; check local regulations for zones open to hunting

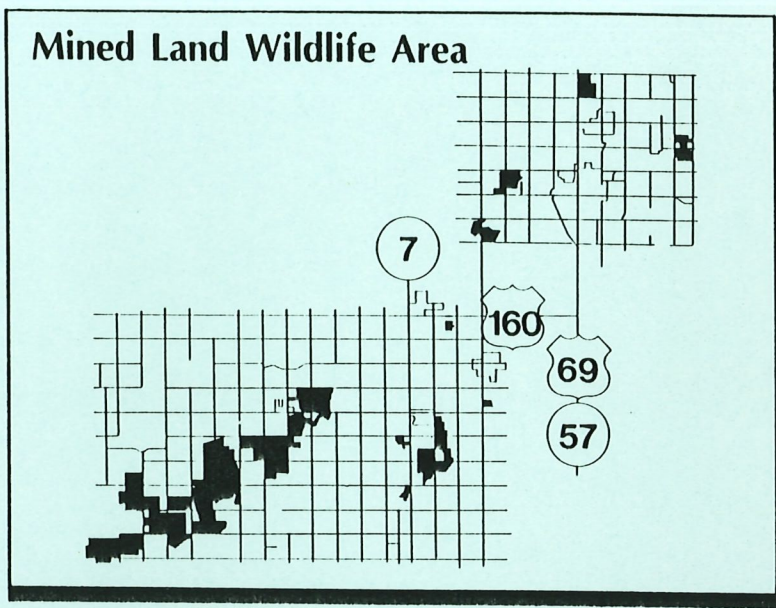
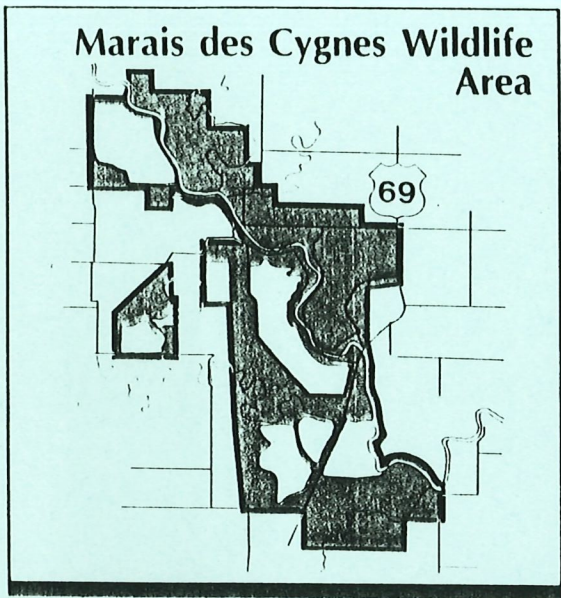


10 **MIAMI WILDLIFE AREA** (8 1/2 S of Osawatomie) 267 acres. Primary squirrel and deer hunting, with limited waterfowl hunting.

11 **MINED LAND WILDLIFE AREA** (Scattered tracts in Cherokee and Crawford counties) 14,015 acres. Deer,

12 **NEOSHO WILDLIFE AREA** (1 E of St. Paul) 2,016 acres. Primarily managed for waterfowl hunting, but also offers hunting for deer, quail, rabbits, squirrels, and doves.

WOODSON WILDLIFE AREA (E of Toronto) 2,400 acres. Prairie chicken, quail, rabbit, squirrel, deer, with some hunting for furbearers, doves, coyotes, and waterfowl.



Kansas Wildlife

Kansas Wildlife Federation, Inc.

200 S.W. 30th, Suite 101 • P.O. Box 5715 • Topeka, KS 66605

TESTIMONY HB 2367

HOUSE ENERGY AND NATURAL RESOURCES COMMITTEE
PRESENTED BY Spencer Tomb, Conservation Vice President
February 16, 1989

The Kansas WILDLIFE FEDERATION is a not-for-profit natural resource conservation and education organization. Our 8000 volunteer members join with the 10,000 Kansas members of our affiliate organization, The National Wildlife Federation to support the sound use, management and enjoyment of our vital air, water, soil and wildlife resources.

We appreciate the efforts of the KDWP and the State Board of Agriculture, whose discussions through the summer and fall 1988 led to this bill. KWF held two public meetings on the access program, one in Lawrence in October and another last month in Salina. From these public meetings and Board action, KWF favors the concept of a broad recreational access program in Kansas

Outdoor recreation in Kansas is big business. It is difficult to estimate the amount spent by hikers, campers and bird watchers (non-consumptive users), because their uses are more diffuse through the year. Consumptive users, because many of them are required to buy licenses, are tracked more carefully in the United States and Kansas economies. In 1986 Kansas hunters and fishermen spent approximately \$160 million dollars for equipment, food, transportation and lodging. Hunters alone contribute approximately 3 million dollars to the Dodge City economy on the opening weekend of the pheasant season.

There is little in this bill for the avid or serious recreational user. These are the ones who fear this program and are most likely to oppose it. If part of the user fee went to purchase prime recreational lands and improve habitat the bill would have a larger constituency in favor.

Because of this, KWF would like to see two (2) changes to this bill:

To Sec. 5, add item 4 "up to 20% of the fee shall be used either for acquisition of recreational lands from willing sellers or long term habitat improvement on leased or purchased lands.

Delete "or by other landowners" line 138.

*H Energy and NR
2-27-89
Attachment 3*



SIERRA CLUB

Kansas Chapter

HB 2367: Recreational Access

Testimony Before the House Committee on Energy and Natural Resources

Margaret Post Ahrens

February 16, 1989

I am Margaret Ahrens, lobbyist for the Kansas Chapter of the Sierra Club. I am here today testifying also on behalf of the Kansas Natural Resource Council. Both organizations work to protect our natural resources. I speak today in support of HB 2367 because of its potential to enhance our appreciation for our state's natural heritage, our land, our wildlife and our water.

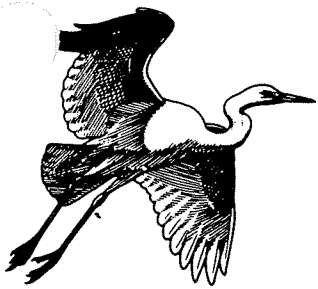
Less than 3% of the land of the State of Kansas is available for public outdoor recreation use. That amount includes Federal, state, local public and private school properties, and commercial ventures. 1985 Department figures showed that 84% of Kansas over 6 years of age participated in non-consumptive uses of public outdoor recreation facilities in Kansas. Obviously, demand, use and appreciation of the outdoors in Kansas is not reserved to the elite. Nor is it reserved to the 12% who hunt and the 31% who fish.

When I moved to Kansas 7 years ago a radio ad was hailing Kansas as a place with as much water as Minnesota. I was moving here from Minnesota. When the ad was later retracted because it was inaccurate, I was not happy. I felt sad that a state needed to compare itself with another state to be recognized for what the other state had, naturally. It occurred to me that Kansas might not know what they have.

HB 2367 embodies an ingenious method for Kansans to better get to know their state. It proposes a voluntary program by which landowners under state leasing agreements, could share the use of their property with members of the public. It offers people like myself the opportunity for more participation in nature. It recognizes the status of Kansas' land and water as more than resources to "use", acknowledging them as gifts to appreciate and care for.

I have spoken with numerous members of the agricultural community in this Legislature about problems they encounter now with both permitted and illegal use of their lands. The "friendly agreements" between owners and users do not appear to be that friendly. This bill allows the state to assist the landowner in his/her dealings with the public, to respond to the enthusiasm of an increasingly outdoor-minded public and to celebrate what is Kansas, naturally.

*H Energy and NR
2-27-89
Attachment 4*



Kansas Audubon Council

House Bill 2367
February 16, 1989

House Committee on Energy and Natural Resources

When first presented, in October 1988, with the very broad concept of this bill, the Kansas Audubon Council responded with two primary concerns: 1) that the rights of landowners be protected and 2) that the integrity of the habitat enrolled in the program also be protected. We did, however, decide to reserve final judgement and keep an open mind as the details of the plan evolved and were explained to us.

Last month the Council had an opportunity to hear a department presentation on recreational access. Having taken into consideration the following: 1) the 250,000 park permits sold in 1987 translate to approximately 4.2 million visits, 2) Kansans and others have increasing amounts of leisure time thereby placing greater pressures on our parks and other natural resources, 3) the relative lack of public lands in the state available for recreational uses, and 4) the relationship of "quality of life" concerns and tourism to recreational opportunities, the Council believes the Recreational Access Program begins to address some of those items in an innovative way. Therefore the Council voted to support the Recreational Access Program as provided for in HB 2367.

Our original concerns for landowner rights have been addressed by the voluntary nature of the program, the right of the landowner to choose the type activities permitted on his/her land and the question of liability is addressed by sections 10 and 11 of the bill.

We believe the strategy of paying a higher rate for better habitat will be an incentive for landowners to improve or maintain the quality of the habitat on their property. Additionally, as department representatives assess the lands bid into the program, they will be able to advise landowners on habitat improvement suggestions and techniques.

The Kansas Audubon Council believes the Recreational Access Program takes an important step in providing added opportunities for a wide variety of recreational needs without the permanent commitment nor cost of land acquisition while providing additional income to the landowner whose property is accepted into the program.

We hope that each of you will keep that same sort of spirit of open-mindedness as our delegates did as you consider the merits of this proposal, and we urge you to vote for HB 2367.

H Energy and NR
2-27-89
Attachment 5



Kansas Association Of Wheat Growers

"ONE STRONG VOICE FOR WHEAT"

TESTIMONY - HB 2367

House Committee on Energy and Natural Resources
Chairman: Representative Dennis Spaniol

Mr. Chairman, members of the committee, I am Howard W. Tice, Executive Director of the Kansas Association of Wheat Growers. I appreciate this opportunity to present the views of our association concerning HB 2367.

Our members have certainly been aware of the desire of the urban population, for more recreational access to good hunting land, nature trails, fishing sites and streams for canoeing. They are certainly aware of the increase of the deer herd, which is the primary reason the recreational access program was proposed. It is to the definite advantage of the land owner, to have the deer herd reduced, considering the ever increasing amount of crop and equipment damage they cause.

At the same time, a landowner must consider the cost of allowing people to use his property for recreational purposes. How much additional liability will he incur? How much additional damage will be done by those who are not good sportsmen? Will those who follow the rules and respect the fact that they are guests of the landowner outnumber those who litter, shoot up barns and livestock and leave pasture gates open? How many people should be allowed in a certain area at the same time? If there are large numbers, will that greatly increase the risk of injury from accidents? If so, who is responsible?

Those are only a few examples of the questions a landowner must ask before becoming involved in a lease program such as proposed in HB 2367. While there is some degree of trade-off between the landowner's need to have the deer population reduced and the hunter's desire for access to prime deer habitat, The landowner must still determine if the income potential of the lease program is high enough to offset the increased problems. Reducing some of the risk potential is the aim of one of the resolutions our members passed last December. It reads as follows:

WHEREAS the Kansas Department of Wildlife and Parks is proposing a hunter access program to better control the state's rapidly increasing deer herd, and
WHEREAS under the proposal, the state would lease land from landowners and/or tenants, to be used for recreational purposes, and
WHEREAS private liability insurance costs would almost certainly negate whatever gain the landowner or tenant might realize from lease payments;
THEREFORE BE IT RESOLVED that the KAWG OPPOSES any state lease program, for public recreational use of private land, that does NOT hold the state, as leaseholder, liable for any accidents or injuries occurring as a result of recreational use of such leased land.

I believe the second states many of the other concerns. It reads:

WHEREAS indiscriminate recreational use of farmland, under a state lease, would cause many problems for landowners and tenants, such as pasture gates left open, damage to outbuildings and equipment, and injury or death to farm livestock, and
WHEREAS indiscriminate recreational use of farmland, under a state lease, would have the possible result of unsafe numbers of hunters in an area at one time, and
WHEREAS indiscriminate recreational use of farmland, under a state lease, would prevent a landowner or tenant from clearly defining the boundaries of lease land, which would surely result in sportsmen straying from leased land onto land not covered by the lease program, and
WHEREAS landowners and tenants who participate in a state lease plan for recreational access, have a responsibility to their neighbors who may not enter into such a lease program, to take all reasonable means to make sportsmen aware of the boundaries of such leased land, and
WHEREAS a farmer's land is his home, his livelihood, and his future, and a farmer has the right to protect his investment;
THEREFORE BE IT RESOLVED that the **KAWG OPPOSES** any state lease program, for public recreational use of private land, unless landowners and/or tenants retain necessary control over the recreational use of the land, to protect their homes and their business investments.
BE IT FURTHER RESOLVED that the landowner and/or tenant must retain the right to order anyone from their land, and prevent their return, when they abuse their privileges on the land.

Our organization can be supportive of a recreational access leasing program as long as the program provides enough financial incentive to offset the concerns already stated and as long as the state assumes liability for accidents that occur as a result of the recreational use. Since the **Department of Wildlife and Parks** does not have sufficient staff to adequately police all of the potential leased land, it is also important that the farmer retain the ability to respond to problems or impending problems promptly, instead of having to wait for enforcement officers to answer his call. We also feel that lease provisions must be consistent from area to area, to avoid confusion and further problem potential.

We feel the **Department of Wildlife and Parks** should be commended for their desire to work with the **Board of Agriculture** to develop this plan. **HB 2367** is a good start. However, we have some concern that the liability question has not been completely resolved, especially in light of reports that there strong doubt that the state can assume such liability. I would also ask whose responsibility it would be to post adequate signage along borders between land in the program and neighboring parcels not under the lease.

With those concerns stated, our position may well be described as conditional support. If our questions can be answered adequately, we would have no problem with changing that to unconditional support.



KANSAS ALL-TERRAIN VEHICLE ASSOCIATION

P.O. BOX 67423, TOPEKA, KANSAS 66667-0423

February 15, 1989

Chairperson
House Special Committee on
Energy and Natural Resources
State Capitol Room #526-S
Topeka, KS 66612

Dear Chairperson;

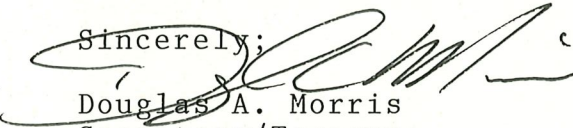
The Kansas All-Terrain Vehicle Association (KATVA) would like to voice our support for House Bill #2367, Recreational Access Program. KATVA is composed of members from all over the state of Kansas, with a common goal the Safe operation of ATV's. While this Bill is mainly aimed at more public access to private ground for the expansion of hunting and fishing, there is a real need for public off-road Motorcycle and ATV riding areas. Our surrounding states have many public off-road riding areas, while the State of Kansas has NO STATE PUBLIC riding areas. Many Kansans travel for hours to surrounding states to spend the weekend camping and riding. Kansas could keep the money we spend out of state and also attract people and their money if Kansas had public off-road riding areas.

The kind of ground that is needed and desirable for off-road riding areas is ground that is totally useless to anybody else. Motorcycles and ATV's need ground that can not be used by farmers for crops or for grazing. Abandoned strip pits and old rock quarries are highly desirable.

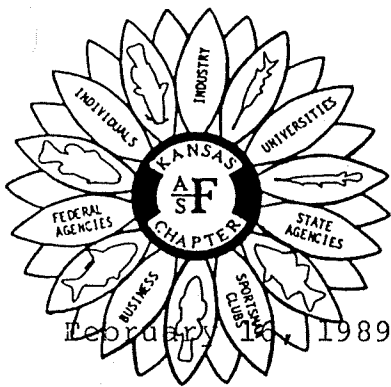
If the House were to pass House Bill #2367 this would make it possible for the State to open off-road riding areas at little or no expense to the State. Off-road riding areas need very little development, all that is needed is access to the land. In most cases a local off-road riding club will provide most or all of the trail development and maintenance necessary.

Many of our KATVA members are hunters and fisherman and campers like most everyone else interested in out door activities. We would urge you to pass House Bill #2367 onto the full House as soon as possible.

Sincerely;


Douglas A. Morris
Secretary/Treasure
KATVA

H Energy and NR
2-27-89
Attachment 7



KANSAS CHAPTER

American Fisheries Society

Representative Dennis Spaniol
Chairman
Energy & Natural Resources Committee

Dear Rep. Spaniol,

I represent the Kansas Chapter of the American Fisheries Society, a professional society made up of the state's fisheries scientists.

Our group would like to inform you of our support for the concept of a recreational access program which would allow the state to lease private lands for public recreation.

Much of the aquatic resources in the state, especially streams, are not accessible to the public. We feel that it is the best interest of the resource to expose the people of Kansas to the resource through recreation, thereby fostering an appreciation for things wild.

The additional recreational lands open to the public would also have the added benefit of reducing fishing and hunting pressure on the public waters and wildlife areas. This would result in higher catch rates for anglers and more game bagged for hunters. In other words, improve the quality of the recreational experience on public lands.

I ask that you make our groups position known at the upcoming hearings and urge you and your colleagues to pursue and pass legislation which would make this wonderful concept a reality.

Sincerely,

Douglas D. Nygren

Douglas D. Nygren
President
Kansas Chapter
American Fisheries Society

*H. Energy and NR
2-27-89
Attachment 8*



American Fisheries Society

ORGANIZED 1870 | INCORPORATED 1910

February 24, 1989

Governor Mike Hayden and the Kansas Legislature:

The Kansas Chapter of the American Fisheries Society is made up of university professors, professional fisheries managers and researchers, fish hatchery biologists, fisheries students and biologists from industry. As scientists, we appreciate the value of sound data for basing resource decisions. As Kansas citizens, we appreciate your role in making some of these decisions.

Attached, you will find four resolutions recently adopted by the Kansas Chapter of the American Fisheries Society. They include positions concerning the Recreational Access Program, Bighead Carp, State Water Plan funding and Minimum Desirable Streamflows. We urge you to honor our position on these issues as their respective bills are brought to you for action.

Respectfully,

Doug Nygren,
President of the Kansas
Chapter of the AFS

Ken Brunson,
Chairman of the Resolutions Committee
Kansas Chapter of the AFS

H Energy and NR
2-27-89
Attachment 8a

STATE WATER PLAN FUNDING

WHEREAS, House Bill NO. 2008 includes provisions for funding the state water plan through a user fee concept; and

WHEREAS, aquatic recreation contributes significantly to the quality of life in Kansas and should be considered as a general public benefit; and

WHEREAS, negative impacts from pollution sources and mismanagement of our lakes and streams are affecting these public benefits; now, therefore be it

RESOLVED, that the Kansas Chapter of the American Fisheries Society at its fourteenth annual meeting on February 21, 1989, does hereby support and urge passage of H.B. No. 2008 with an amendment which allows for expenditure of receipts for state water plan projects having significant public recreational benefits along with the other purposes mentioned in this bill; and, be it further

RESOLVED, that copies of this resolution be sent to Governor Mike Hayden and all legislators of the State of Kansas.

SUPPORT OF RECREATIONAL ACCESS PROGRAM

WHEREAS, the demand for fishing access to lakes, ponds, and streams in Kansas will continue to grow; and

WHEREAS, public accessibility may not meet this increased demand and;

WHEREAS, Governor Mike Hayden's budget includes funding proposals for a Recreational Access Program to be administered by the Kansas Department of Wildlife and Parks; and

WHEREAS, if implemented, the Recreational Access Program could serve to satisfy some of the future demand for public fishing areas along with potential means to properly conserve unique and critical habitats of sensitive and important aquatic species; now, therefore be it

RESOLVED, that the Kansas Chapter of the American Fisheries Society at its fourteenth annual meeting on February 21, 1989 does hereby support and urge passage of the Governor's proposed budget which includes provisions for funding the Recreational Access Program; and, be it further

RESOLVED, that copies of this resolution be sent to Governor Mike Hayden and all legislators of the state of Kansas.

SUPPORT FOR MINIMUM DESIRABLE STREAMFLOWS
FOR FIVE ADDITIONAL STREAMS

WHEREAS, minimum desirable streamflows are critical in maintaining stream ecosystems and their fish and wildlife populations; and

WHEREAS, standards for flows in eighteen streams have been adopted by previous Kansas Legislatures; and

WHEREAS, additional minimum desirable streamflows have been supported by the Kansas Water Office, Kansas Water Authority, Division of Water Resources of the State Board of Agriculture, Kansas Department of Wildlife and Parks, and the Kansas Department of Health and Environment for the following streams: Walnut River, Whitewater River, Solomon River, Spring River, and Chapman Creek; and

WHEREAS, support from the public is strong for these measures as indicated in numerous public meetings across Kansas; now, therefore, be it

RESOLVED, that the Kansas Chapter of the American Fisheries Society, assembled at its fourteenth annual meeting, February 21, 1989, urges acceptance of the established and additional recommended minimum desirable streamflows; and be it

FURTHER RESOLVED, that copies of this resolution be sent to the members of the Kansas Legislature and the Governor of the State of Kansas.

OPPOSITION TO LEGALIZATION OF BIGHEAD CARP

WHEREAS, negative impacts from exotic species introductions may be irreversible as best evidenced by such importations as the Common Carp (Cyprinus carpio); and

WHEREAS, it is known that Bighead Carp (Aristichthys nobilis), an Asian fish, utilizes some of the same food items eaten by native species, particularly juvenile sport fishes; and

WHEREAS, Senate Bill 158 seeks to remove the restriction of introductions of Bighead Carp; and

WHEREAS, considerable research and scientific consensus should be established concerning the potential biological implications of introductions of Bighead Carp to Kansas prior to any adopted changes in K.S.A. 32-164a; now, therefore be it

RESOLVED, that the Kansas Chapter of the American Fisheries Society at its fourteenth annual meeting on February 21, 1989, does hereby oppose Senate Bill 158 and rejects any efforts to modify this species importation law prior to adequate and complete scientific assessment and review; and, be it further

RESOLVED, that copies of this resolution be sent to Governor Mike Hayden and all legislators of the state of Kansas.