

Approved March 28, 1989
Date

MINUTES OF THE Senate COMMITTEE ON Agriculture

The meeting was called to order by Senator Allen at
Chairperson

10:08 a.m./~~pm~~ on March 27, 1989 in room 423-S of the Capitol.

All members were present ~~except~~:

Committee staff present: Lynne Holt, Legislative Research Department
Jill Wolters, Revisor of Statutes Department

Conferees appearing before the committee: John Strickler, Governor's Office
Robert L. Meinen, Secretary, Kansas Department of
Wildlife and Parks
Howard Tice, Kansas Association of Wheat Growers
William A. Anderson, Kansas Wildlife and Parks
Commission, Fairway
Paul Fleener, Kansas Farm Bureau
Stan Ahlerich, farmer, Winfield
Almeda Edwards, farmer, Ottawa
John Koepke, private citizen, Topeka
Dr. Tom Warner, Manhattan
Harland Priddle, Secretary, Department of Commerce

Senator Allen called the committee to order and attention to SB 375 and then on the following to testify.

John Strickler gave the committee copies of his testimony (attachment 1) and encouraged the committee to support SB 375.

Robert Meinen provided copies of his testimony for the committee (attachment 2) and encouraged passage of SB 375.

Howard Tice handed the committee copies of his testimony (attachment 3) and expressed support for the program with the request that the issue needs more study such as an interim study committee would allow. Mr. Tice suggested that landowners needed to be provided with more authority than the present SB 375 allows.

William Anderson gave the committee copies of his testimony (attachment 4) and then expressed support for SB 375.

Paul Fleener gave the committee copies of his testimony (attachment 5) and expressed support for SB 375. Mr. Fleener stated that farmers must have the right to control access to their leased land and that the state must assume full liability for any accidents that might happen on the leased lands. Mr. Fleener introduced Stan Ahlerich and Almeda Edwards to testify.

Stan Ahlerich expressed disagreement with the concepts of SB 375. Mr. Ahlerich stated that urban folks may want access to country lands but since country folks have no access to private urban facilities, such as beautiful swimming pools, he was opposed to the proposal. Mr. Ahlerich stated, that at the price of \$1 to \$5 per acre for lease agreements, that farm landowners would not be making enough to make leasing worthwhile. Mr. Ahlerich explained that in timberland and creek areas that it is very hard to know the exact boundry lines and so it would be hard to control leased and unleased boundry lines. Mr. Ahlerich explained that a leasing program could cause friction between landowner and tenant as the landowner would receive the income and the tenant would be left with all the work to do. Mr. Ahlerich stated that with the proposed 8 or 9

CONTINUATION SHEET

MINUTES OF THE Senate COMMITTEE ON Agriculture,
room 423-S, Statehouse, at 10:08 a.m./~~p.m.~~ on March 27, 19 89

new employees that would not be enough to provide better enforcement; also that the present system is more efficient and better than the program being suggested. Mr. Ahlerich requested the committee give the issue more study and that the State Board of Agriculture needs to get out throughout the state and visit with more farmers about this issue. He also stated that he knew of no farmer that would enroll in this suggested leasing program.

Almeda Edwards stated that she could understand the desire of urban persons desiring this planned leasing program but that she did not feel the same enthusiasm was felt with farmers. Ms. Edwards suggested the committee give the issue more and deeper study and that also farmers needed to be more informed of the proposed program so that they would be in favor of the program or it would not ever be a successful program. Ms. Edwards suggested the committee hold hearings across the state so that the hearings could be available to more people in our state.

John Koepke expressed appreciation for outdoor activities and that in the last year he had spent 22 days in such activity. Mr. Koepke explained that land around the urban areas is being leased privately now so that a number of people are unable to have access to lands and that with this proposed leasing program more people would be allowed access to land. Mr. Koepke suggested that sportsmen need to police their own membership for the outdoorsmen who do not respect landowners' land. Mr. Koepke encouraged support for this program so that all good hunting land does not end up leased to a few. This proposed program would make leased lands available to all.

Tom Warner gave copies of his testimony to the committee (attachment 6). Dr. Warner expressed support for SB 375.

Harland Priddle gave the committee copies of his testimony (attachment 7) and expressed support for SB 375.

The Chairman announced that the committee would meet the next day, March 28, for the hearing continuation of SB 375.

Senator Allen adjourned the committee at 11:00 a.m.

GUEST LIST

COMMITTEE: Senate Agriculture

DATE: March 27, 1989

NAME	ADDRESS	ORGANIZATION
JOHN HERRON	RR 2, Box 54A PRATT, KS 67124	KS DEPT. of WILDLIFE & PARKS
BILL ANDERSON	5733 REINHARDT FAIRWAY KS 66205	DEPT WILDLIFE & PARKS COMMISSION
B. Meinen	Kansas Wildlife & Park 5422 TUTTLECOVE RD MANHATTAN, KS	2281 SELF -
THOMAS D. WARNER		
DARRELL MONTEI	PRATT	D. W. I.P.
MIKE BEAM	TOPEKA	KS. LIVSTK. ASSN.
ALMEDA EDWARDS	OTTAWA, RT 2	FRANKLIN Co FARM BUREAU
Stan Ahlqvist	R1 Winfield, Ks 67156	Cowley Co Farm Bureau
Paul E. Floener	Manhattan	Kansas Farm Bureau
Art Griggs	State house Rm 263	Dept. of Adm.
Sheiland Fiddler	Topeka	KADOC
Mary Ann Bradford	Topeka	League of Women Voters
Jerry Styrud	Topeka	Ks. Wildlife Fed.
Kenneth M. Wilke	"	Ks Bd of Ag.
Bill Fuller	Manhattan	Ks. Farm Bureau
Warren Parker	Manhattan	Kansas Farm Bureau
Sam Braunbach	Topeka	KSBFA
Joe Lieber	Topeka	KS. Co-op Council
Brenda Manske	Yates Center	SEK TOURISM REGION
John Keeple	Topeka	Self
Janette Nanzlich	Topeka	self

STATE OF KANSAS



OFFICE OF THE GOVERNOR

State Capitol
Topeka 66612-1590
(913) 296-3232

Mike Hayden Governor

TO: Senate Committee on Agriculture
Jim Allen, Chairperson

FROM: John K. Strickler
Special Assistant for Environment and Natural Resources

DATE: March 27, 1989

RE: SB 375 - Recreational Access Program

I appreciate the opportunity to appear before you today on behalf of Governor Hayden regarding the State's efforts to provide enhanced recreational opportunities to its citizens.

The Governor would urge favorable consideration of SB 375. With less than 3 percent of its area in public ownership, Kansas is at a distinct disadvantage in meeting the growing recreational demands on its limited public land base. At the same time, farmers and other private landowners are now and will be experiencing increasing pressure from recreationists for access to their lands. The intent of the program provided for in this bill is to address these two problems.

The concept covered in SB 375 was developed by the Kansas Department of Wildlife and Parks in cooperation with the State Board of Agriculture. I'm sure witnesses from these two agencies will address the specifics in the bill in greater detail.

Governor Hayden's support of SB 375 is based on the following concepts:

Senate Agriculture
3-27-89
attachment 1

- * First and foremost, any participation in the program by landowners must be entirely voluntary. Having been raised on a western Kansas farm, he is well aware of the strong tradition of private property rights held in this state.
- * With the limited public land base in Kansas, increasing demands for a variety of recreational opportunities by Kansans and out-of-state recreationists cannot be met without looking to a portion of the 97 percent of lands privately owned.
- * Recreation and tourism provide a significant economic boost to our hard pressed rural areas. This program will help sustain and enhance this important segment of our economy.
- * If farmers and landowners are to provide recreational opportunities on their lands, there must be an economic incentive for those who voluntarily open their lands. I might add that in the climate of growing concern about the impact of property taxes, this program can provide a highly beneficial supplemental income option to landowners who choose to participate.
- * To be successful, this program must be self-supporting. Governor Hayden included \$2.2 million in his budget recommendations for FY 1990, but it is his intent that this program move rapidly to being financially self-sustaining.

I would like to add a personal note. Before coming on the Governor's staff in July of 1987, I spent over 27 years working in State and Extension Forestry in the Kansas Cooperative Extension Service. That work brought me in contact with a wide range of people all over the state -- sportsmen, wildlife biologists, environmentalists, but most of all farmers and other landowners as I assisted them with tree planting, timber harvesting and forest management problems. I have heard the complaints about slob hunters and inconsiderate city people from farmers -- and those complaints are legitimate -- although I always point out that these are not representative of the vast majority of hunters, fishermen and other recreationists in Kansas. I have heard sportsmen complain about why farmers don't do more for wildlife habitat, and I've heard farmers reply that since they are paying the taxes and providing the land for the wildlife, why should they put extra effort into managing for wildlife habitat when there are no financial incentives for them to do so. It just seems to me that the program provided for in SB 375 is an opportunity for all these interests to come together in a positive effort that will meet the needs of sportsmen, other recreationists and landowners.

Governor Hayden urges passage of SB 375. He further urges that the various interest groups -- recreationists, the business community and landowners -- all work together to make the Recreation Access Program a positive opportunity for all interests.

Thank you for the opportunity to visit with you on this matter.

Kansas Department of Wildlife and Parks

Notes on Senate Bill 375

Recreational Access Program

Presented to the Senate Agriculture Committee
March 27, 1989

By Secretary Robert L. Meinen

*Senate agriculture
3-27-89
attachment 2*

Recreational Access Program

3/24/89

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 contains provisions clarifying the duty of care required of landowners enrolled in the program. In short, a landowner leasing land to the state for recreational access would only be liable in instances of willful or malicious negligence. This provision is nearly identical to the standards used by other states with leasing programs. In addition, the bill would give the Department the authority to intervene on the landowner's behalf and to defray legal costs for the landowner.

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.

At least 21 other states in the country have programs in place for improving public access to private lands. The Department has coordinated with a majority of these states and has tried to incorporate the best provisions of these programs into the Recreational Access Program. Leasing of private lands for public access is a common and proven tool used by wildlife and park agencies in other states. None of these states have reported any serious problems with liability, property damage or overuse.

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. Clearly defining the duty of care required of landowners enrolled in the program.
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 landowners 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 landowners retain over access?
 - a. The Kansas program will be run very much like leasing programs in other states. 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 clarifies the duty of care owed by a landowner to recreational users.
 - b. The Department will establish internal procedures for handling claims less than \$500. Claims over \$500 will be handled through established state procedures.
 - c. If a landowner is sued by a recreational user (which is unlikely), the Department will have the authority to intervene on the landowner's behalf and will be able defray legal costs for the landowner.
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. Non-resident deer hunting is a social issue; it will not adversely affect the resource.
 - c. The Department continues to receive requests from both residents and non-residents.
8. Landowners have trouble with public access already.
 - a. We're willing to work with landowners.
 - b. The program will provide payments for an existing inconvenience.
 - 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

Rev. 3/24/89

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 670,000 of private land (84 different units, 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.
- 35,000 permits sold last year. Up from 24,000 last year.
- 86% of users are satisfied with the program.

Arkansas - Leases 300,000 acres (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

Indiana - Leases about 1500 acres in NW Indiana for pheasant hunting.

- Pays an average of \$80/acre, but landowners are required to convert the entire parcel into wildlife plantings.
- Paid for out of fee fund. Permits are free, but limited in number (by a drawing).

Wisconsin - Leases about 140,000 acres as Public Hunting Grounds.

- Pays \$.50 to \$1 per acre.
- Paid out of fee fund, no permits. When started 40 years ago, paid through a portion of license fee.
- Mostly for put-and-take pheasant hunting.

LEASING IN OTHER STATES LIABILITY

Rev. 3/24/89

Florida - Leases about 1 million acres of private land per year. (down from 2.5 million).

- State law very similar to Kansas. Landowner who opens their land to recreation is protected for all but gross negligence, if they do not charge a fee to individuals for access. Lease payments from the state are not considered a fee; it is the state who is charging the fee.
- They have had no liability problems, even though they have been leasing private lands for more than 20 years.
- If landowner is sued, Department policy is to attempt to intercede on behalf of the individual.
- State law limits the state's liability to \$100,000 per occurrence. This is in general state law, not in legislation related to leasing.

Texas - Leases 670,000 of private land (84 different units, mostly in E. TX. and for deer hunting).

- General liability provisions similar to Florida. No other liability problems to date.

Arkansas - Leases 300,000 acres (mostly for deer hunting).

- Contract relieves the company of liability in all cases except for gross negligence.
- Have never had a court case for injury or property damage in the two years the program has been in place.
- State does not assume liability. The state cannot be sued without its permission.
- Damage claims are handled through a claims commission.
- The individual hunter is liable.

Nebraska - Leases about 30,000 acres.

- Their "Recreational Liability Act", similar to Kansas' existing law, has been in place since at least 1977, possibly since 1965. Landowners who open their land to recreational access are only liable in cases of willful or malicious negligence.
- Landowners who charge fees to individuals owe a higher duty of care, however rent paid by a group, corporation or the state is not considered a fee from an individual.
- Nebraska has never had a landowner sued under this program.
- Claims against the state are handled by a state claims board.

Oklahoma - Leased about 10,000 acres last year, probably 20,000 this year.

- Contract specifies that landowner will be held harmless for personal injuries to hunters, except where caused by willful or malicious conduct by the landowner.
- Oklahoma law is similar to Kansas, but is a little unclear as to whether hunters on state-leased lands are invitees, requiring higher duty of care by the landowner.
- Lease payments by state to landowner are not considered fees.
- State can be sued, but liability limit is \$100,000.

Indiana - Leases about 1500 acres in NW Indiana for pheasant hunting.

- Law is very similar to Kansas. No liability problems to date.

Wisconsin - Leases about 140,000 acres as Public Hunting Grounds

- Landowner is held harmless except in cases of malicious intent; provided landowner is not receiving more than \$500 a year in lease payments. This is a relatively new law, 2 -3 years old.
- Field managers have authority to settle claims for damage to property and livestock.
- There have never been any lawsuits in relation to the program, even though it has been in place for 40 years.
- The state cannot be sued.

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. ◀

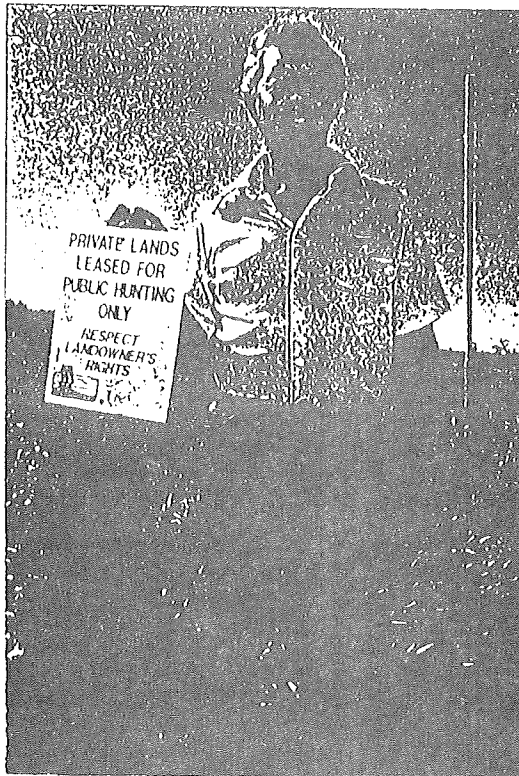
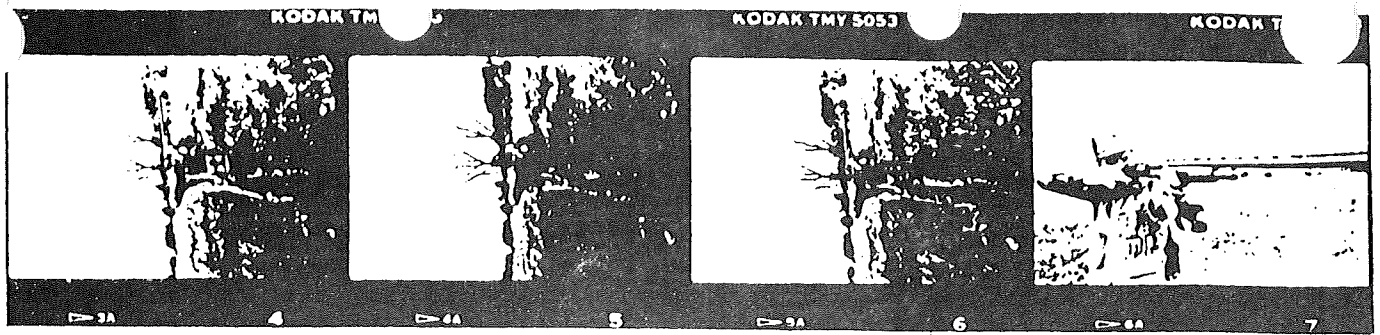


PHOTO BY THE AUTHOR

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 economics. 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.

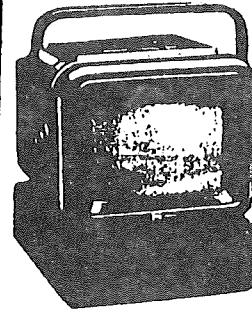
There was a divergence of opinion between motel operators and chambers on how they would rate pheasant hunting in bringing in business from outside, compared with other recreational attractions. More than half of the motel operators said they believed pheasant hunting to be most important while only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

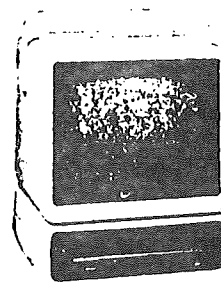
Additionally, the chambers of commerce were asked if they believed that pheasant hunting contributed to the quality of life in their communities. A large majority (79.41 percent) said, yes. More than 62 percent of the chambers said they used pheasant hunting as a means of promoting their community.

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." ♦

YOU CAN TAKE IT WITH YOU



7" Color TV and VHS player/recorder



10" Color monitor with built-in VHS player

The MPO Integrated portable business video lets you take your story with you, wherever you go. Screen sizes from 7" to 19" with built-in VCR that plays regular VHS tapes. Take your sales presentations, training programs, or corporate communications with you to clients, conventions, seminars. Call or write for more information or a FREE no obligation demonstration in your office.

(316) 687-6136

AdMax

P.O. Box 995
Wichita, Kansas 67201
1-800-627-6086

Video production available
by
Walterscheid Productions



Kansas Association Of Wheat Growers

"ONE STRONG VOICE FOR WHEAT"

TESTIMONY - SB 375

Senate Committee Agriculture
Chairman: Senator Jim Allen

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 375.

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 SB 375. 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 it 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. Concerning financial incentive, the member input I have received is that lease payments should range from \$5.00 - \$10.00 per acre, instead of \$1.00 - \$5.00. Many have expressed the feeling that the Department of Wildlife and Parks is trying to get "something for nothing" with their proposed lease payment schedule.

Since 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. Some may challenge that the farmer wants to "have his cake and eat it too," but the farmer is being asked to expose growing crops, expensive equipment, livestock, home and family to a greatly increased potential for damage or injury, so we feel a degree of control must be retained, and that it should be stated in the bill.

The responsibility for signage along borders between land under recreational access lease, and adjoining property not included in the program, should also be clearly stated in the bill.

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 was a good start, and SB 375 is somewhat improved. However, the hearing on HB 2367 in the House Energy and Natural Resources produced a wide range of very good questions concerning liability that are not yet resolved. The number of questions and the wide range of concerns expressed indicates that this is not a program to be entered into too quickly. With that in mind, our recommendation would be for an interim study to make sure we have the best program possible in the initial bill.

Kansas Department of Wildlife and Parks

Notes on Senate Bill 375

Recreational Access Program

Presented to the Senate Agriculture Committee
March 27, 1989

By William A. Anderson, Kansas Wildlife and Parks Commission

*Senate agriculture
3-27-89
attachment 4*

Recreational Access Program

I am here today to speak to you on behalf of the Kansas Wildlife and Parks Commission. The Commission is very concerned about the lack of public recreational opportunity in Kansas and the need to place more emphasis on the value of our outdoor resources. I'm certain the members of this committee are well aware of the environmental issues facing Kansas; the continuing drought, reductions in stream flows across Kansas, soil erosion, groundwater contamination to name a few. And as the land suffers, so does its fish and wildlife.

The Recreational Access Program is an essential element in bringing a general appreciation of the environment to the attention of all Kansans. As our state becomes more and more urbanized, Kansans are losing touch with the land. Without the opportunity to experience the outdoors; to see wildlife, hunt and fish, take pictures or walk across a prairie; Kansans will not understand the environment. This program can help bring them back in touch with the outdoors and with the landowners who manage and protect 97% of our resources.

Our investment in this program will be returned many times over, in increased tourism, in payments to landowners and in showing the value of good wildlife habitat to the public. The Kansas Wildlife and Parks Commission encourages you to support Senate Bill 375. In supporting this bill, you will be helping all outdoor users; including the sportsmen, the hikers, the birdwatchers, the landowners and the resource itself.



PUBLIC POLICY STATEMENT

SENATE COMMITTEE ON AGRICULTURE

Re: S.B. 375 - An act authorizing establishment of a VOLUNTARY program to provide public access to private property for recreational purposes

March 27, 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 S.B. 375. 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 S.B. 375. On the evening of October 28, 1988, the Kansas Wildlife Federation hosted a meeting in Lawrence, Kansas

*Senate agriculture
3-27-89
attachment 5*

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 served 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, the lead-off paragraph in our resolution, 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: **IF ...** if a voluntary leasing program to provide public access is to become a workable program in Kansas certain items **must** be included in the program. Those items are:

- 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.**

To the extent the points made by our farmers and ranchers are fully addressed and incorporated in S.B. 375, we can 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. The "3%" statement is addressed in the second "whereas" in the preamble to S.B. 375. **We want the land to remain in private hands.** We know there are many Kansans who desire to go 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 to provide an opportunity for income for farmers through a leasing program, that retains for farmers the management and 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.

March 27, 1989

TO: Senate Agriculture Committee
Senator Jim Allen, Chairperson

FROM: Dr. Thomas D. Warner
Manhattan, Kansas

RE: Testimony in support of Senate Bill No. 375

INTRODUCTION

We see on our televisions and read in our news papers that the young people in Kansas are leaving the state at an alarming rate because of the lack of jobs. I do not doubt these statements. As a state, we are taking strides to both strengthen our existing economic base and diversifying our state's economy. This is important and something we must do if we want to keep our most important resource, our children, in the state.

We must go beyond this, however, we must promote all things that enhance the "Quality of Life". This includes opportunities we can provide our citizens when they are not working. With less than 3% of Kansas public lands available for public recreation, we already have a sizable outmigration of Kansas residents seeking outdoor recreational experiences. This creates an outflow of Kansas dollars to our neighboring states.

This Bill provides a creative way to increase recreational opportunities for all of us.

Why this Bill should be supported:

- * There would be no taking of land. Participation is strictly voluntary. Access rights would be leased.
- * The land owner, with qualifying lands, would be able to produce additional income by providing access. This would help many land owners (farmers and ranchers) as they seek to stabilize their income in the midst of constantly fluctuating market prices.
- * Land owner liability would be provided by the state unless willful or malicious acts were taken by the owner.

3-27-89
attachment 6

* The user of the property would pay for that use. We would increase the number available recreation sites through user fees, not taxes.

Concluding Statement:

I have had the opportunity and pleasure to work with the leadership of the new Kansas Department of Wildlife and Parks. They are dedicated public servants who are working diligently for all of us. Senate Bill No. 375 is one way that they are **creatively** trying to address our "Quality of Life" needs.

I've lived in Texas, where those with wealth have leased up the lands most suitable for outdoor recreation. I believe we owe it to **all of our citizens** to provide affordable outdoor recreation opportunities. Senate Bill No. 375 will allow us to do that.

.....

Private Landowners Have Opportunities and Needs

We recommend

- Private landowners recognize the opportunity to provide expanded recreation resources and services to the public.
- Local, state and federal governments consider incentives to private landowners to increase public access, and review existing statutes, policies, regulations and practices to assure that impediments to providing public recreation on private lands are removed.
- Recreation organizations actively encourage respect for private property rights and assist in managing use of private lands.

Private landowners: important partners for recreation supply

Private lands constitute nearly two-thirds of our nation's land base, and host many recreational activities. The potential for private lands to provide even more recreation opportunities is great. Yet, many landowners have concerns, ranging from liability to vandalism, which prevent them from opening their lands to the public for recreation use.

The pressures on the nation's lands and waters to provide recreation opportunities will continue to grow. Projections of overall recreation demand made in 1962 for the year 2000 were reached in 1980. Present budget limitations at the federal, state and local levels make dramatic increases in public recreational land holdings unlikely.

Today, most of the public lands are in areas of the country where people are not. Conversely, private lands are often located near population centers. This makes private lands especially important in certain regions of the country, notably the East and the South. Some private lands provide the only access to public lands.

Government finally came to the realization that there would never be enough money to purchase, develop and maintain sufficient land and facilities to meet the demand for outdoor recreation. There is a growing recognition that the private sector, owning a majority of the land and resources, must be considered a partner in meeting future recreational needs.

Private lands are integral to meeting future demands for recreation. Whether it be for the production of wildlife, integration of trail systems, provision of support businesses for recreational enterprises, the assurance of solitude or exclusivity or the maintenance of open space near centers of human population, the importance of these lands to the physical and psychological well being of the nation's citizens is indisputable. Recreation planners and supply and demand analysts must take into account the importance of private lands to the spectrum of recreation activity.

HERBERT E. DOIG
Assistant Commissioner
New York Department of
Environmental Conservation

What we must do . . . is create new institutional ways for farmers, foresters and other landowners to be able to deal with the "people" aspects of recreational use. If owners incur costs, and recreation users reap benefits, there has to be a way for the users to repay the owners, or there simply will not be the amount of recreation that would otherwise be possible. We pride ourselves in this country on our ability to let the free market regulate most of our activities, but this is one where we have not yet invented a market mechanism in many places, and we need to encourage that.

NEIL SAMPSON
Executive Vice President
American Forestry Association

The system we have is not working, and the problems of creating quality sometimes seem insurmountable. If we are to save our wildlife and add new dimensions to recreational programs, we must turn to the private sector for answers. But, unfortunately, we are creating problems in this area faster than we can solve them.

DAYTON O. HITE
National Cattlemen's Association
Oregon

While we recognize the extent and the seriousness of the challenges to opening and reopening private lands to recreation, we also recognize opportunities to do so. Farming, ranching, timber production and other resource industries are experiencing difficult economic times. Adversity has prompted many in these industries to consider moving from single-purpose land management to multiple use management—from farming alone to farming and wildlife management, for example. As one witness told us, some landowners have arrived at a new view of recreation: “If it pays, it stays.”

How recreation “pays” can vary. It can pay in community appreciation for the landowner, especially a corporate landowner. It can pay through reduced tax property payments, where a local jurisdiction provides credit for allowing public recreation access, or in reduced federal taxes resulting from donation of a public recreation easement. It can pay through a recreational use lease, typically entered into by a club or a unit of government. Or, it can pay through individual fees charged for services or facilities. Successful efforts to maximize recreational access to private lands must be voluntary and not coercive and originate at the state and local levels, because of the importance of state liability and trespass laws and local taxing practices.

Landowners have legitimate concerns about opening their lands

We participated in a workshop about recreation on private lands, convened by Senator Wallop, which revealed several reasons why private landowners are hesitant to provide public access.

- Managing land for public recreation is primarily managing for people. Many private landowners have neither the training nor the desire to manage visitors.
- Recreation use is sometimes not compatible with the main uses of land.
- Acts of trespass, vandalism and litter are reportedly increasing. “Willful trespass with firearm” is troublesome to many owners.
- Owners fear liability if people get injured on their property.
- Personal reasons for owning lands are changing. Many people seek privacy and discourage use by others.
- Incentives for the landowner are often lacking. In many cases, the landowner is unable to receive any compensation for public recreation uses.

For these and other reasons, substantial portions of the private lands may never be available for general public recreation use.

Land ownership patterns influence recreation opportunities

Patterns and structures of land ownership in this country are changing, especially in rural areas, and these changes affect public access. Much of the change results from uncertain economies for agriculture and forest products, two principal uses of rural, private land with multiple recreation values.

The number of small farms and forests is growing. Owners of small tracts often acquire them for personal recreation space and are less inclined to open their lands to other people. Smaller tracts often preclude certain types of recreation.

The number and size of larger farms and forests are also growing. These larger tracts generally are managed for maximum income production. While the majority of industrial forest land is open for some recreation, restrictions on access are increasing due to concerns over vandalism, liability, and costs.

The future availability of private lands for recreation is difficult to predict because of the lack of consistent information over time to determine these trends.

We must remove disincentives for public access

Some forty-six states have statutes protecting private landowners from liability suits when they provide free public access, except in cases of gross negligence. Legal experts believe these recreation use statutes provide substantial protection to owners; however, the laws have seldom been tested. The costs of successful defenses can be substantial in time and dollars. Some liability concerns in the future may be resolved by amending state and federal liability laws.

However, these statutes can also inhibit private landowners from providing recreation access. The economic costs of maintaining open lands are high, and many landowners must seek financial return for recreation access. But charging fees for access and use generally eliminates the landowners' legal liability protection. Recreation is a valuable commodity, and landowners should receive fair economic value for recreation access.

The Florida liability law provides continuing protection, even when a fee is charged, providing the landowner meets certain criteria for wildlife habitat management. Other states should consider similar expansion of protection.

Trespass is another challenge. Local enforcement officials generally look upon trespass as a nuisance and are reluctant to investigate and to prosecute offenses. In a number of cases, recreation groups have aided landowners through peer pressure, posting of signs and other means. Land-

owners, enforcement officials and enthusiasts need to develop local strategies for confronting and controlling recreation trespass.

- Recreation organizations should actively encourage respect for private property rights and assist in managing use of private lands.

We must establish incentives for private landowners

Several states encourage private landowners to plan for multiple uses of their lands. Wisconsin rewards land conservation by providing landowners with tax incentives to manage lands for forests. New Jersey gives grants to landowners to develop recreation facilities. Virginia develops agricultural and forestry districts which provide tax benefits and some protection from development to landowners. Many states reduce or postpone property taxes for certain open space purposes, including recreation.

A number of Internal Revenue Service policies and regulations significantly affect potential donors' willingness to consider making a gift of land or conservation easements. An example is the current requirement that donors assume the cost of a private appraisal of the value of a donated easement. These policies and their effects on conservation and recreation philanthropy should be examined.

Private lands have recreation value: make landowners aware

Often landowners do not realize the potential value of their land for recreation. Landowners need to understand how they can increase the value of their lands by providing public recreation access.

In times of economic pressure for agricultural uses, recreation may offer a way for private landowners to remain economically viable.

- States should create statewide councils of private landowners and recreation users to define mutual goals for conservation of private resources, enhancement of recreation access, and monitoring conditions of use.
- Extension agents and soil conservation districts should help landowners expand recreation access through technical assistance programs.
- A clearinghouse should be established to more efficiently monitor, assemble and distribute legal, regulatory and other technical information and advice about recreation on private lands.

The farm bill: potential to improve quality and quantity of land for recreation

The 1985 Omnibus Food Security Act will expand recreation opportunity on private lands. The Act creates two programs, "Conservation Re-

erves" and "Easements for Credit Exchange," that remove large amounts of land from annual crop production and dedicate them for an interim period to conservation, recreation, and wildlife purposes.

The law authorizes up to 45 million acres to be placed in conservation reserves and removed from farm production for ten to fifty years. Soil, water and vegetation quality are improved when these lands are withdrawn from production. This potentially improves recreation beyond the reserved area as well.

As of October 1986, the U.S. Department of Agriculture had enrolled 9.1 million acres in this program. Much of the reserved land is in the more sparsely populated Plains states. The Easements for Credit program is not yet operational.

The effects of conservation reserves on the supply of publicly available recreation lands is uncertain. The economic distress in agriculture which stimulated enactment of this statute also motivates some farm owners to allow access only to persons or organizations able and willing to pay substantial fees for recreation.

Presently, billions of dollars are paid to agricultural interests in price supports for surplus crops. If equivalent dollars were paid to the same interests for wildlife habitat and recreation access improvement, extraordinary changes might occur in access to private lands.

Coordination of government actions would help

Public actions to expand recreation use on private land are likely to involve coordinated efforts by different agencies—agriculture, parks and recreation, and fish and wildlife, for example. Several people have suggested to us that interagency cooperation is difficult to achieve, and even harder to maintain. For example, fisheries policy, research and management—an area of significant interest to recreationists—is fragmented, and at times contradictory.

- The secretaries of the U.S. Departments of Agriculture and the Interior should jointly create a special *ad hoc* task force to focus attention and make detailed recommendations on issues involving public recreation access to private lands.

Dialogue stimulates recreation on private lands

Landowners have experienced vandalism and other malicious behavior on their lands. This disregard for private property by some individuals can be quite costly to private landowners.

A timber company in Virginia threatened to close its lands for recreation. The Izaak Walton League provided a forum where company representatives and recreation users discussed their problems. As a result, the

company decided against closing their lands to the public. The hunters, anglers, hikers and birdwatchers who enjoyed the land agreed to adhere to a code of behavior developed by the landowner and themselves.

Several states have followed this model and officially adopted councils of landowners and users to prevent unnecessary closures and provide a forum to voice concerns.

- A broad coalition of recreation users and private landowners should adopt codes of ethics describing acceptable behavior on all private lands.

In those few instances where landowners know about the law there is a perception that recreational use statutes do not provide sufficient immunity to act as an incentive for public access. Private landowners do not want to know if they will have a successful defense to a recreational injury lawsuit. Their concern is much more basic; they want to know: "Can I be sued?" . . . Unfortunately, the answer invariably is 'yes' with or without limited immunity recreational use statutes . . . Whether you win or lose, it has been said that a lawsuit is the worst thing that can happen to an individual with the exception of death or serious illness. The challenge to encouraging public recreation access to private lands is to somehow insulate the private landowner from the costs attendant to a lawsuit . . . Absent a coordinated institutionalized approach to the issue of recreational injury liability, twenty years from now we will be back once again to explore the challenge, including public recreation access to private lands.

JAMES C. KOZLOWSKI, ESQ.
Springfield, Virginia

So why do we keep our lands open to the public? Because we still feel that the goodwill we generate is worth the trouble. And because we have some concern that if the private sector withdraws its lands entirely, it will necessitate expanded government ownership to meet the demands of the public.

CLARENCE STREETMAN
Bowater Southern Paper
Company

A concern voiced by college students that visit our ranch on field trips is about our rates. Wouldn't hunting get so expensive that the poor man will not be able to afford to hunt. My answer is, "If you give me one coke and one pack of cigarettes a day for a year I will give you a good hunt." It depends on where the priorities are.

HENRY LOUIS WELGE
Doss, Texas

In the nine Virginia counties served by the Piedmont Environmental Council, 14 percent of all private lands have been dedicated by their owners to continued rural use, at least in the short term. This represents protection of 300,000 acres—one and one half times the area of Shenandoah National Park. These lands have been protected through landowner response to incentives offered by government, primarily Virginia's agricultural and forestry district program, but including conservation easement provisions of the Federal tax code.

ROBERT T. DENNIS
President, Piedmont
Environmental Council

How Three States Help Private Landowners

Wisconsin. Wisconsin's 'Managed Forest Law' provides a creative way to directly reward landowners for land conservation. The law encourages the management of private forest lands for commercial use, while recognizing the objective of individual property owners, compatible recreation uses, watershed protection, wildlife habitat and public access. The act provides lower taxes to owners of 10 acres or more who adopt and use an acceptable forest management plan. The plan may include approved, but not mandatory, actions to enhance wildlife, watershed or aesthetic values. The landowners may leave all or some of the area open to public hunting, fishing, hiking, skiing, sight-seeing or other recreation pursuits. Unauthorized access by motorized vehicles is prohibited.

Through 1992 the owner pays a fixed annual tax of \$.74 per acre on open lands. On lands closed to the public the owner pays \$.74 per acre, plus an additional annual tax of \$1.00 per acre. Present taxes on forest land are about \$2.00 per acre, so the economic benefits to landowners are especially high for open lands. Participants may not charge a user fee or lease managed lands. In 1992 and every fifth year, tax rates for open and closed areas will be adjusted.

The state pays local governments \$20 per acre in lieu of taxes from a state forestry fund. Participation in the 1987 signup, the state's first, encourages state officials. About 150,000 acres were designated for forest plans, with more than half of the owners choosing to keep lands open to the public.

New Jersey. New Jersey's 1984 'Open Lands Management Act' provides financial assistance to aid the development and maintenance of private property for public recreation. The Act was adapted from authority used by the Countryside Commission for England and Wales where a strategy of aiding private landowners is long-standing.

In New Jersey private landowners are given grants to make lands available to the public. Emphasis is on developing modest facilities to support passive recreation. Funding is also available for repair or replacement of damaged facilities and properties of the landowner or adjacent owners due to public use. Maximum grants are \$10,000. Purchase of liability insurance by the landowner is an eligible expense for the length of the agreement.

Funds are used to open up new areas or provide added recreation activities that had not previously existed. Owners agree to participate for a fixed period, not less than one year. The program guarantees public access for the full term, even with change of ownership. Fees can be charged for use of facilities, but only to cover costs of maintenance and repair.

Participants may be private individuals, businesses or organizations. Landowners benefiting the most from the program to date are nonprofit organizations. Farmland is poorly represented. Agreements with 17 owners have opened about 2,200 acres. The average cost of access covenants is \$75 per acre for an average agreement of 5.3 years. Thus, the annual cost per acre is about \$14. In the future program managers propose to 'take it to the cities and suburbs' and direct the program to newer private residential developments as well as vacant lands and waterfronts in economic transition.

Virginia. Virginia's authority to create local agricultural and forestry districts has resulted in about one-half million acres of private land voluntarily reserved as open space. About two-thirds of the acreage and perhaps 80 percent of the easements are in the nine counties organized by the Piedmont Environmental Council, a private nonprofit group. Public recreation access is not required, but is usually granted by landowners for hiking, horseback riding and cross-country skiing. "Firearms use is watched very closely," according to local officials, as is use of motorized vehicles.

The creation of districts is locally initiated by landowners and counties and is administered by the State Department of Agriculture and Consumer Services. Landowners, through county officials, generally determine the length of the agreements; 4 to 8 years is the present range. A proposal to amend state law to lengthen the contract term to 25 years will be advanced this year.

There are basically two incentives to landowners: districting "guarantees what the neighborhood will look like", and it provides for use value taxation, as opposed to potential development or market value tax rates. It is also more difficult procedurally to condemn reserved land for other purposes—roads, for example—so officials tend to give greater attention to proposed public projects.

Outdoor Recreation on Indian Lands

Native Americans have developed life-styles, cultures, religious beliefs and customs around fish, wildlife and other outdoor resources. These resources continue to provide sustenance, cultural enrichment and economic development for many tribes.

Native Americans own approximately 90 million acres of land. Native American lands are regarded as private lands, and decisions to develop public facilities rest exclusively with the tribe or pueblo. The opening of reservation lands for tourism and public access is relatively recent. However, these lands support approximately 10.5 million recreation days a year, including 8.5 million days of public use. Most of this recreation activity is water-based, especially fishing.

Reservation lands also provide critical wildlife habitat for endangered species, such as the bald eagle, as well as conservation of other plants and animals. Indian tribes are one of the nation's largest employers of fish and wildlife biologists.

As the population grows in the West, pressures on tribal lands for public recreation increase. As Mr. Cecil Antone from the Gila River Indian Community testified, "The public must be aware Indian lands are not public lands . . . Recreation on Indian lands is a privilege accorded to respectful guests, not a right that comes with American citizenship."

Access is a supply factor that might influence hunting participation at least as much as wildlife abundance. If wildlife is available but hunting is restricted, then there is no recreation provided. Factors related to the willingness of private landowners to permit hunting access have been studied by several researchers. These studies repeatedly show that the primary reason for posting of a land is for protection of property and control of trespass. About 62% of the variance in posting rates in New York was accounted for by three variables: percentage of permanent residents among property owners, educational level of landowners, and property value. These authors felt that a key factor involved with posting was prior experience of property owners with recreationists. Those who had negative experiences with hunters were more likely to post their land, compared to landowners that had not had conflicts with hunters.

The posting of land does not necessarily preclude hunting. Many private lands are intensively hunted by landowners, relatives, neighbors and friends. In fact, about 68 percent of the hunting effort in the United States during 1980 took place on private land. Hunters spent \$36.7 million that year for fees to hunt on private land.

ED LANGENAU

Testimony

Presented to:

The Senate Agriculture Committee

on Senate Bill 375

by

Harland E. Priddle
Secretary of Commerce

March 27, 1989

*Senate Agriculture
3-27-89
attachment 7*

Mr. Chairman and Members of the Committee,

I am pleased to be here today in support of Senate Bill 375. The strength of Kansas lies in its natural areas, history, heritage, and hospitality. The recreation access program outlined in Senate Bill 375 concentrates on these strengths.

Our "Linger Longer" experience has proven that people will stay longer in our state if we merely ask them. For example, in the "Linger Longer" program in 1988, 68 percent of the people stayed an extended period of time over and above their original schedule. Seventy-three percent saw attractions that they would not have seen if they had not been asked to stay longer in our state. The recreational access program extends the invitation to Kansans and people outside of our state to linger longer in the recreational areas of our state. Pheasants in the West, deer in the East, and turkey in the Central part of Kansas are but a few highlights which are attractive to individuals within and outside the state of Kansas.

Economic development is accomplished sometimes in strange and almost invisible ways. Each time a visitor stays another day in our state we receive \$150 as a minimum. The recreational access program encourages people to stay longer and do the things they enjoy by taking advantage of the natural resource strengths we have in Kansas.