

Approved April 7, 1989  
Date

MINUTES OF THE Senate COMMITTEE ON Energy and Natural Resources

The meeting was called to order by Senator Ross Doyen at  
Chairperson

8:04 a.m./~~p.m.~~ on March 23, 1989 in room 423-S of the Capitol.

All members were present except: quorum was present

Committee staff present:

Don Hayward, Revisor  
Raney Gilliland, Research  
Lila McClaflyn, Committee secretary

Conferees appearing before the committee:

Rep. Jeff Freeman  
Brenda Manske, Executive Director, Southeast Kansas Tourism Region  
Richard D. Pankratz, Director, Historic Preservation Dept., Kansas Historical  
Society  
Jerry Hazlett, Kansas Wildlife Federation  
Bob Meinen, Wildlife and Parks  
Omar Stavlo, Chief of Law Enforcement Wildlife and Parks  
Mike Cox, Chief of Education and Public Affairs, Wildlife and Parks  
Scott Johnson, Junction City  
Joyce Wolf, Kansas Audubon Council

List of other present is on file.

Chairman Doyen opened the hearing on H.B. 2303 - concerning fish and game; relating to the use of a crossbow by persons with disabilities. He called on Rep. Jeff Freeman co-sponsor of the bill.

Rep. Freeman stated the bill would authorize any person having a disability that prevents that person from physically using a conventional long bow or compound bow to hunt and take deer or antelope with a crossbow. The person would have to be certified by a physician to have a disability.

The hearing on the bill was closed.

The hearing on H.B. 2351 - conservation easements for preservation of historical and other property was opened. Rep. Jeff Freeman sponsor of the bill was called on.

Rep. Freeman stated the legislation would be a means of protecting and insuring the existence of historic properties in the state.

Brenda Manske presented written testimony supporting H.B. 2351 (Attachment I).

Richard D. Pankratz presented written testimony supporting H.B. 2351 (Attachment II).

Bob Meinen agreed to amendments made in the House Committee. He stated they had worked with the sponsor of the bill. If the bill passed there would need to be some rules and regulations drafted.

Jerry Hazlett stated they support the bill and had worked with Representative Freeman.

The hearing on H.B. 2351 was closed.

The Chairman opened the hearing on H.B. 2006 - concerning crimes and punishments, defining and classifying the crime of commercialization.

CONTINUATION SHEET

MINUTES OF THE Senate COMMITTEE ON Energy and Natural Resources,  
room 423-S, Statehouse, at 8:04 a.m.~~p.m.~~ on March 23,, 1989.

He called on Jerry Hazlett.

Mr. Hazlett presented written testimony urging support for H.B. 2006  
(Attachment III).

Bob Meinen stated this subject was studied during the interim, and this bill was a part of Proposal No. 15. He said Omar Stavlo and Mike Cox had a short video of illegally obtained wildlife being sold for commercial consumption.

The hearing on H.B. 2006 was closed.

The Chairman opened the hearing on H.B. 2007 - concerning falconry permits and examination fee. He called on Bob Meinen.

Mr. Meinen presented a statement supporting H.B. 2007 (Attachment IV).

Jerry Hazlett presented written testimony supporting H.B. 2007 (Attachment V).

Scott Johnson spoke in support of H.B. 2007.

Joyce Wolf presented written testimony supporting H.B. <sup>2007</sup> (Attachment VI).

Chairman Doyen ask the committee if there was any objection to lumping H.B. 2351, 2303, 2006 and 2007 for action. There was no objection. He called for action on the bills.

A motion was made by Senator Yost to report all of the bills favorable for passage. The motion was seconded by Senator Langworthy, and the motion carried.

The meeting adjourned. The next meeting will be on March 28, 1989.

1989 SENATE ENERGY AND NATURAL RESOURCES COMMITTEE

Date March 23, 1989

GUEST LIST

<u>NAME</u>	<u>REPRESENTING</u>
OMAR STAVLO	Ks. Dept. of Wildlife + Parks
Robert V. Ahrens	" " " " "
Mike Cox	" " " " "
Darell Monteil	" " " " "
Jerry Hayler	Ks Wildlife Federation
Richard Pankratz	Ks. State Historical Society
Bob Meinen	Wildlife + Parks

PRESENTATION

to

SENATE COMMITTEE  
ON ENERGY AND NATURAL RESOURCES

by

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

March 23, 1989

SE&NR  
3/23/89  
Attachment I

SOUTHEAST KANSAS TOURISM REGION

SUPPORTS HOUSE BILL 2351

Southeast Kansas Tourism Region supports House Bill 2351, amending KSA 1987 Supp. 58-3803, 58-3804 and 58-3805 to add properties of historical, architectural, archeological or cultural significance to those properties now subject to conservation easements.

The existing statutes enable execution of conservation easements for wetlands and riparian areas. This amendment expands these statutes to include properties of historic, architectural, archeological or cultural significance which are also listed on either the state or the National Register of Historic Places. As currently drafted, HB 2351 qualifies only units of local government as easement grantees.

SEKTR supports this amendment because it would provide an additional and very effective tool for the preservation and maintenance of the entire range of resources that we use to promote cultural tourism in rural Kansas.

The last remaining structures of an historic boom town in Woodson County provide good examples of the type of property that could benefit from protection under a conservation easement as outlined in HB 2351. By way of background, the town of Kalida existed from 1870 to 1875, serving briefly as the Woodson County Seat. In 1875, the town was abandoned and most of the buildings in Kalida were moved 2.5 miles uphill to Yates Center, leaving only the residence and out-buildings of town founder, Thomas Davidson. Davidson's son built Kalida Cave of ornately-carved sandstone block and sod in the early 1880s as a memorial to his father. The cave is a unique farm cellar that rises

from the native sod, a fanciful, folk-art legacy of the 1880s.

This property appears to qualify for state and national register listing. The current owner is an elderly widow who is physically and financially unable to maintain the cave and the historic wood frame buildings. Both the sandstone cave and the frame structures are deteriorating and without stabilization and a program of regular preventive maintenance, these historic sites as they now exist in their natural environment will be lost for the education and enjoyment of future generations of both travelers and native Kansans. In this instance, the property owner is willing to allow Woodson County government to maintain the property, but at present, the county is without authority to do so. House Bill 2351 will provide the mechanism needed to protect and preserve Kalida as a local historic site and as a worthwhile local tourist attraction.

The instant case likewise demonstrates two other benefits conferred by this amendment: namely, HB 2351 would allow local government to maintain and protect significant historic sites without the expense of acquisition, and at the same time would allow local government to limit its contractual involvement with a property to the availability of local financial resources.

In conclusion, SEKTR supports HB 2351 as an excellent tool for the preservation of the state's rich cultural heritage. Your favorable consideration will be appreciated.

Presentation to the Energy and Natural Resources Committee on House Bill 2351  
by Richard D. Pankratz, Director, Historic Preservation Department  
Kansas State Historical Society  
March 23, 1989

House Bill 2351 proposes modifications to the conservation easement bill enacted in 1987. The State Historical Society supports enactment of the bill.

A conservation easement constitutes an interest in real property. Kansas law presently recognizes "conservation easements" only in connection with wetlands and riparian areas. Around the country conservation easements are also being used to protect properties of historical, architectural, archeological, and cultural significance.

House Bill 2351 would permit the granting of easements in Kansas on properties of historical, archeological, architectural, and cultural significance.

A property owner concerned about the long term preservation of a historic resource in his or her ownership could by sale or donation transfer the development rights on that property to an easement holding entity. That entity would thus be given the right to protect the identified historic features of that historic property. For example, a property owner of a historic downtown office building could donate a facade easement to an easement holding entity. The owner would be free to continue to use or to reuse that building to meet his or her own economic goals, but he or she would have given up the right unilaterally to alter, remove, or otherwise change the historic features, elements, and materials of the exterior. The easement holder would act as

SE+NR  
3/22/89  
(Attachment II)

watchdog over that facade to insure that it was maintained and preserved and that its historic appearance continued to establish a sense of place as part of the heritage of that community.

Conservation easements could also preserve archeological sites by maintaining or establishing a beneficial land use. For example, keeping a site area in pasture as opposed to cultivation would prevent plowing from destroying shallow buried features such as hearths or cache pits. Easements could provide archeological site preservation even though land ownership might change. The vast majority of the state's archeological sites are buried and not readily visible. Conservation easements would alert new owners or even potential purchasers to a site's presence and inform them of its scientific value.

The use of conservation easements for historic properties could enhance historic preservation efforts in communities; a local government or preservation organization could acquire an easement instead of fee simple title to a property. Thus, control over the historic features would be acquired at much less, if any, cost, and the owner would continue to use the property, maintain it, and pay taxes on it. (Donations of easements for historic properties can be advantageous for the donor's federal income tax liability.) The conservation easement would provide a useful tool to encourage protection of the state's historic resources.



# *Kansas Wildlife Federation, Inc.*

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

TESTIMONY HB2006

SENATE ENERGY AND NATURAL RESOURCES COMMITTEE

PRESENTED BY Jerry R. Hazlett

March 23, 1989

At the KWF Annual Meeting in October 1988, a resolution urging the passage of a felony wildlife bill was unanimously passed. A copy of this resolution is attached.

The sale of illegally obtained wildlife is a growing problem nationally and in Kansas. Stiff penalties are needed to fight it. Those who profit from the sale of wildlife are stealing from all Kansans, but their theft and profit from these crimes are particularly heinous to those who hunt, fish and other wise enjoy wildlife within the law.

We urge you to pass this bill forward with a positive recommendation to the House.

We feel that the dollar values placed on the animals are on the low side. We would like to see the committee modify the bill, to include the concept of restitution to the environment. In other words if someone shoots 50 wild turkeys their penalty should also include replacement costs or habitat improvement so that 50 more turkeys can live.

On behalf of the Kansas Wildlife Federation I would like to thank the Committee for allowing us time to present our support for the passage of HB2006.

Thank you.

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3/23/89  
Attachment III

Resolution 1988-8

FELONY WILDLIFE LAW

WHEREAS, at the present time, all violations of Kansas wildlife laws and regulations are now considered misdemeanors; and

WHEREAS, misdemeanor penalties provide little deterrence to stop commercial poaching and other major wildlife crimes; and

WHEREAS, commercial poaching rings and major wildlife violations for profit are serious problems in Kansas; and

WHEREAS, theft of the public's wildlife is a crime against all citizens; and

WHEREAS, the Kansas Department of Wildlife & Parks and the Wildlife & Commission have proposed a felony wildlife statute;

NOW, THEREFORE, BE IT RESOLVED that KWF, Inc. in annual meeting assembled on October 30, 1988, in Lawrence, Kansas, calls on the Kansas Legislature to pass a statute making illegal commercialization of wildlife and major wildlife crimes for profit felony-level crimes with appropriate penalties.

*F-2*

The Wichita Eagle  
Established 1872

The Wichita  
**Eagle-Beacon**

The Wichita Beacon  
Established 1872

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## Editorials

# Crack down

## *Poaching a contemptible crime*

It's time for a hefty increase in the "operating expense" of Kansas poachers. An occasional \$500 fine is merely a nick in the pocketbook of the sleazy characters who make thousands of dollars illegally taking game and fish. Put the jerks in jail.

The normal overhead expenses of a poacher are tiny compared with the financial rewards. For the price of some ammunition, a spotlight and gasoline, for instance, a poacher can bag a deer rack that can bring between \$2,000 and \$10,000. An investment in a gill net and a few hours time can bring thousands of dollars to illegal fishermen.

As Outdoor Writer George Stanley reported in Sunday's Eagle-Beacon, the small fines for and misdemeanor status of poachers constitute a trivial cost.

When existing laws were written, poachers did not have access to nationwide and worldwide markets for their harvests. Often, those caught shooting and fishing illegally or out of season were good ol' boys out on a lark or simply itchy for some out-of-season action. No longer. The escalation of prices for trophies has spawned a steady trade in animals and their various parts, such as bear

gall bladders, sought as an aphrodisiac. Bald-eagle feathers fashioned into phony "indian artifacts" draw prices that make the slaughter of that vanishing bird irresistible to the greedy.

The Legislature can and should act vigorously. This is not an area involving many grays. It is either in season or out of season. A species is either subject to taking or not. A hunter or fisherman is either over the limit or not. The fine for individual poaching should be raised. But more importantly, the Legislature needs to address the issue of commercial poaching. The fines should be at least commensurate with the damage done to wildlife. Commercial poaching should be a felony, with sure jail time for offenders. Enforcement needs to be stepped up.

Regulated hunting and fishing provides sport for hundreds of thousands of Kansans and supports a substantial related industry in tourism, food and supplies. Proper game management also ensures the future of the species involved. The system works, but the bandits who flaunt the rules will destroy it unless the price is made so dear and the punishment so certain that they cannot afford to stay in business.

## OPERATION RIVER FISH

Several operation game thief complaints concerning illegal commercial poaching were received during 1986 and 1987 in the Montgomery and Cowley County Areas. As a result of these complaints and intelligence gathered by our Wildlife Conservation Officers, "Special Investigation" teams were sent into these areas to conduct "covert" investigations.

The investigations revealed commercial poachers were operating in these areas as well as the Elk and Barton County Areas. As a result of these investigations on the morning of June 29, 1988, raids were conducted in several counties in the State. A total of twenty-two (22) suspects were arrested and two (2) suspects were served summons.

During the investigation twenty-five (25) deer and over 1000 lbs. of fish were purchased by our covert investigators. Approximately 300 Wildlife and Parks violations were uncovered during this investigation. There were also two felony criminal solicitation charges filed.

The investigators paid an average of \$88 for each deer purchased during the investigation. The penalties for illegal sale of wildlife are outlined in KSA-154. It states the fines should be not less than ten dollars, nor more than five hundred dollars, or by imprisonment in the county jail for not more than six months, or by both such fine and imprisonment. This penalty provides very little deterrent for these types of Wildlife violations.

A proposed felony wildlife statute is attached for your review. We feel this type of penalty will provide a greater deterrent to commercial wildlife violations.

STATE OF KANSAS

Department of  
Wildlife & Parks



Mike Hayden, *Governor*  
Robert L. Meinen, *Secretary*  
W. Alan Wentz, *Assistant Secretary*

Office Of The Secretary  
900 Jackson Street, Suite 502  
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Operations Office  
Route 2, Box 54-A  
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316-672-5911

SEPARATE OPERATION

Montgomery County

4 Suspects were arrested on June 29, 1988  
2 Subponenas were also served

These four suspects have approximately 100 charges that could be filed against them. The charges range from spotlighting deer and killing deer during closed season, selling deer, taking frogs and squirrels during closed season, exceeding the bag limit on squirrels, shooting federally protected birds (hawks and owls).

More charges could possibly arise from this investigation.

Officers accompanied suspects on hunts and observed these violations.

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OPERATION FISHHOOK - SODENS DAM, EMPORIA

Started June 86 - August 87

14 Peoples Charged with 44 counts  
13 People Paid \$2,477.00 Fines and Costs

Mainly snagging fish illegally and keeping illegal fish. Some bartering took place. Fish traded for hunting on private property. "Big Fish 30-50 lb."

7 Individual Fishing Licenses were revoked for 1 year.  
1 Outstanding Warrant yet to be served.

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JOINT OKLAHOMA-KANSAS OPERATIONS

Started Early Fall 1984

Ended January 1985

23 Subjects Charged in Federal Court  
1 Case Dismissed  
22 Subjects Paid Fines Totaling \$27,975.00  
  
25 Subjects Charged in State Court  
16 Subjects Paid \$8,225.00 in Fines and Costs  
9 Outstanding Bench Warrants Covering 27 Counts  
—

Oklahoma Declined Prosecution.

Approximately 40 mounted deer heads and sets of antlers were seized. 19 turkeys and numerous deer were shot and left where they dropped and were never picked up. Over 100 deer were killed in a 2 year time span. A protected bird was seized during the search of one residence, as well as an antelope head from Wyoming (which was a Lacy Violation), as well as a fox which was protected in Oklahoma.

Almost all of these deer and turkey were shot from the vehicle, during closed season, without hunting licenses and deer permits, during daylight hours, but without landowner permission to hunt.

In excess of \$250,000.00 of cut, bagged and packaged cocaine was seized during the search of one residence.

H.B. 2007  
Testimony Provided to Senate Energy and  
Natural Resources Committee  
March 23, 1989  
Prepared by Kansas Department of Wildlife and Parks

H.B. 2007 will establish a frame work within which falconry permit fees and testing fees would be set by rule and regulations adopted by the Secretary in accordance with K.S.A. 1988 Supp. 75-3905. The falconry program in Kansas has been developed with the intent that the program will pay for itself. The Department of Wildlife and Parks supports H.B. 2007.

*Bob Meinen*  
*SE & NR*  
*3/23/89*  
*Attachment IV*



# *Kansas Wildlife Federation, Inc.*

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

TESTIMONY HB 2007

SENATE ENERGY AND NATURAL RESOURCES COMMITTEE

PRESENTED BY Jerry R. Hazlett

March 23, 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.

For several years, legalizing the sport of Falconry in Kansas has been debated.

KWF too was caught up in this debate, a debate filled with fact, fiction and emotion. In 1985 we set about trying to separate fiction and emotion from the biological facts.

We found that the facts did support the sport of Falconry, with proper regulation and management, as providing a legitimate resource recreational opportunity. Based on these findings, the Federation, in its annual meeting of 1985, passed a resolution for the sport of falconry in Kansas. A copy is attached to this testimony.

I would like to call your attention to two parts of that resolution.

- 1.) Last WHEREAS clause - falconry is legal in 47 states.
- 2.) NOW, THEREFORE BE IT RESOLVED clause - The Kansas Fish & Game Commission (now Kansas Department of Wildlife & Parks) implement regulations using Federal falconry regulations.

In a good faith effort to meet the concerns of many interested in Kansas falconry, the KDWP has developed a falconry management program that is much more restricted than the Federal Regulations. Even though more restrictive than necessary, KWF supports those regulations. KWF also supports the falconry fee structure in HB 2007 and asks for this Committees favorable recommendation and passage.

SE+NR

3/23/89

Attachment VI

**KANSAS WILDLIFE FEDERATION**

**RESOLUTION 1985-9**

FALCONRY

WHEREAS, the Kansas Wildlife Federation encourages and advocates the wise use of our state's natural resources; and

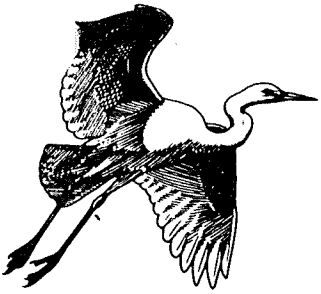
WHEREAS, the taking of game by trained birds of prey known as the sport of falconry according to established seasons and bag limits is a legitimate use of our state's natural resources; and

WHEREAS, falconers have made considerable contributions toward the conservation of birds of prey, including the breeding of endangered species and releasing them into the wild such as the peregrine falcon; and

WHEREAS, all raptors are fully protected by both Federal and Kansas laws; and

WHEREAS, falconry is presently legal in 47 other states;

NOW, THEREFORE, BE IT RESOLVED, that the Kansas Wildlife Federation, Inc., in annual meeting assembled on October 19-20, 1985, in Wichita, Kansas, supports the legalization of falconry in Kansas and its regulation by the Kansas Fish and Game Commission under the Federal falconry regulations.



# Kansas Audubon Council

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MARCH 23, 1989  
HOUSE BILL 2007

SENATE ENERGY AND NATURAL RESOURCES COMMITTEE

My name is Joyce Wolf, and I represent the 5000 Kansas members of the National Audubon Society who support the wise use and protection of our natural resources. Several years ago, the debate over falconry was intense and at times very divisive within certain segments of the environmental community, so it was no small surprise to many persons when the Kansas Audubon Council voted in October of 1987 to endorse, with certain reservations, the regulations for the establishment of falconry in Kansas.

Those reservations involve our concerns for the protection of the birds during the process of removal of fledglings from the nest. Some of our members feel strongly that the removal of hawks from the nest should be done under the supervision of department personnel and that an additional fee should be charged to help offset the added costs that would be incurred. After discussions with KDWAP staff, the Audubon Society is willing to accept the department's assurance that they intend to carefully monitor the falconry program. We have been told that if necessary they will consider adopting additional regulations to afford greater protection to the raptors.

The Kansas Audubon Council concurs with the KDWAP Commissioners' desire for the falconry program to be financially self-supporting. We realize that the fees set by the House Energy and Natural Resources Committee are at the top of the original recommendations. We hope that they will make a significant contribution to the cost of operating this program, and suggest that this aspect of falconry be reviewed periodically so that modifications can be added to reflect the wishes of the Commissioners.

We want to thank the committee for allowing us the opportunity to publicly express our concerns and continuing interest in the progress of the falconry program and to basically support HB 2007.

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Attachment VI.