

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

8:00 a.m./~~p.m.~~ on March 28, 1989 in room 423-S of the Capitol.

All members were present except: quorum present

Committee staff present:

Don Hayward, Revisor
Raney Gilliland, Research
Lila McClaflin, Committee Secretary

Conferees appearing before the committee:

Representative Max Moomaw
Representative Gale Mollenkam $\frac{1}{2}$
Glenn Rockers, Hays, Kansas
David Tanking, Lawrence, Kansas

Chairman Doyen opened the hearing on H.B. 2341 - relating to commercial fossil hunters. He called on Representative Moomaw.

Representative Moomaw presented written testimony supporting H.B. 2341. Attached to his statement is a newspaper item from The Hays Daily News of August 14, 1988 (Attachment I). He responded to questions.

Representative Gayle Mollenkamp gave written testimony supporting H.B. 2341 (Attachment II).

Glenn Rockers testified in opposition to H.B. 2341 (Attachment III). He responded to questions.

David Tanking presented written testimony opposing H.B. 2341 (Attachment IV). He responded to questions.

The committee adjourned at 9:00 a.m.

STATE OF KANSAS

MAX MOOMAW
ASSISTANT MAJORITY LEADER
REPRESENTATIVE, 117TH DISTRICT
HODGEMAN, LANE AND
PARTS OF FINNEY AND
NESS COUNTIES
R.R. 2, BOX 45
DIGHTON, KANSAS 67839-9801



TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
MEMBER: APPROPRIATIONS
LEGISLATIVE POST AUDIT
CALENDAR AND PRINTING
ECONOMIC DEVELOPMENT
MAJORITY PARTY CAUCUS CHAIRMAN

TO: Senator Ross Doyen, Chairman
Senate Energy and Natural Resources Committee

FROM: Representative Max Moomaw

RE: House Bill 2341

DATE: March 28, 1989

Thank you Mr. Chairman and members of the committee:

The chalk beds in western Kansas contain fossils that range in age from several thousand years to more than 100 million years old. These chalk beds hold specimens from the dinosaur age to the ice age. This area is one of the prime collecting areas of the world. Japan is one of the strong bidders for fossils. These fossils can be worth a lot of money. For example, a complete mosasaur can be worth from \$30,000 to \$50,000.

In recent years a controversy has developed between landowners and commercial fossil hunters. The landowners say the commercial fossil hunters in most cases have not told the farmer that they collect fossils to sell and that these fossils may be of great value. For example, one commercial collector told a landowner he collected for exercise and as a hobby. The landowner was not happy, to say the least, when he discovered that the collector was making money from the sale of fossils. A lot of the fossils now being collected are going to private collections instead of to museums and universities. I have no problem with people collecting and selling fossils as long as the landowner knows their intentions and as long as the landowner has an opportunity to participate in the proceeds of the

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Attachment I

Senator Ross Doyen, Chairman
Senate Energy and Natural Resources Committee
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Page two

sale of these fossils. I believe House Bill 2341 will guarantee that the landowner has that knowledge and that opportunity.

House Bill 2341 requires a commercial fossil hunter to have written permission from the landowner to search for fossils. That written permission shall state that the landowner has been informed that the commercial hunter intends to sell the fossils. H.B. 2341 requires the commercial fossil hunter to provide a description of the fossil, and must have the landowner's written permission to remove the fossil. I do not believe H.B. 2341 will limit the opportunity of 4-H Club members or people such as sharks' teeth hunters or geology clubs to continue to pursue those activities.

Mr. Chairman, this is a right to know bill. The right of a landowner to know when a commercial fossil hunter is on his land and the right to know what fossils are found on his land.

Bush remains silent on his choice for a running mate. Campaign aides say a dozen names still are in contention. See page 10.



the farm and move to town. See News Nor'wester, page 25.

Editorials..... page 4
Nor'wester..... page 25
Sports..... page 13

The Hays Daily News

Sunday morning
August 14, 1988
7 sections, 108 pages, 50¢
Our 59th year - No. 237
Hays, Kansas 67601

Collectors, paleontologists square off over sought-after fossils

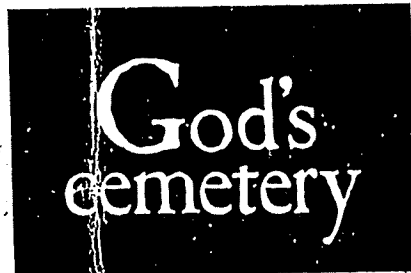
By MIKE CORN

Treasures — some more than 100 million years old — are disappearing from northwest Kansas.

When they resurface, the fossils, preserved in what was once the bottom of an ancient sea covering Kansas, could turn up in California, Japan or Europe.

The fossils might serve as expensive decorations for private collectors who hang them over fireplace mantels, use them in walls of indoor swimming pools or incorporate them into facades on high-rise office buildings.

"They collect them kind of like stamps," said J.D. Stewart, a Kansas-trained paleontologist who now serves as assistant curator for fossil fish and reptiles at the Los Angeles



• Today: The controversy over collecting.
Monday: Supplying the demand for fossils.
Tuesday: The Sternberg legacy lives on.

The search for Kansas fossils

County Museum of Natural History.
"That's a real disservice when sold to people like that, especially if

they're rare."

Professional fossil hunters have quietly invaded the thousands of acres of chalk beds in Trego, Gove, Logan and Wallace counties, collecting thousands of dollars worth of the fossils.

"I was amazed at the money they get for this stuff after I started checking," said Frank Offutt, a Gove County farmer whose land draws collectors like a magnet. "I had no idea it was worth thousands of dollars."

Scientific material is also lost, some contend.

"I personally think it's a tragedy this information is being lost," said a noted paleontologist who requested that his name not be used. "They (commercial collectors) will give you the argument that it will

weather away."

Commercial collectors argue that fossils would be lost if left to the vagaries of nature. They also contend that they donate rare specimens to museums — specimens that otherwise would not have been collected.

The chalk beds — dubbed God's Cemetery by world-famous collector Charles H. Sternberg — are imposing structures, visible examples of the powerful forces of nature.

Hunting fossils for profit is a complex issue, one with differing viewpoints. It is a war with several sides and plenty of fighting within individual camps.

Recognized paleontological societies abhor commercial collectors and advocate laws to protect areas

from depredation.

The only protection Kansas offers is the law against trespassing, which commercial collectors argue is adequate. In at least two instances, farmers disagree.

"They'll pull in and if someone doesn't run them off they stay until you do," Offutt said. "They're hard to run out. They've always got an excuse."

Details of the plundering that some claim is taking place remain sketchy. The farmers, on whose land the search for valuable fossils occurs, say the professionals are shrewd and offer only a partial story; the hunters fail to mention that they collect for a profit.

Some farmers, who have dealt with the collectors, say deception

and outright illegal actions, such as trespassing, have occurred.

Teams of collectors, armed with gas-powered jackhammers, remove fossils from the chalk in which it is imbedded.

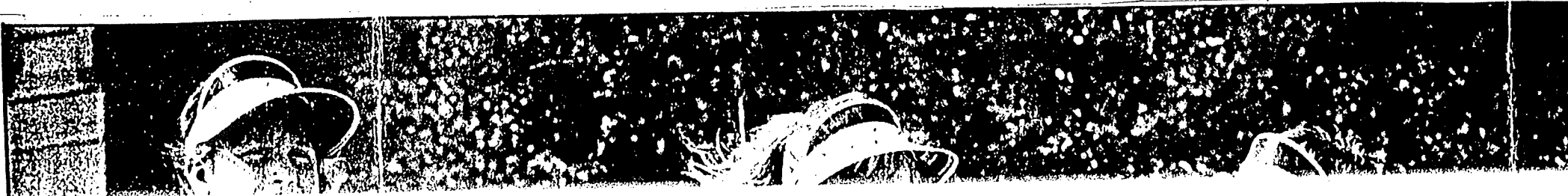
The potential profits make the work worthwhile.

The fossil remains of a rare shark hang on the wall at a fossil shop in Estes Park, Colo. The price tag for the *squalicorax falcatus*: \$28,000.

"That's what they were asking," Offutt said. The specimen came from Gove County, along the Smoky Hill River, but store personnel were not specific. Offutt fears the shark might have come from his land.

FOSSILS IN DEMAND

Continued on page 2

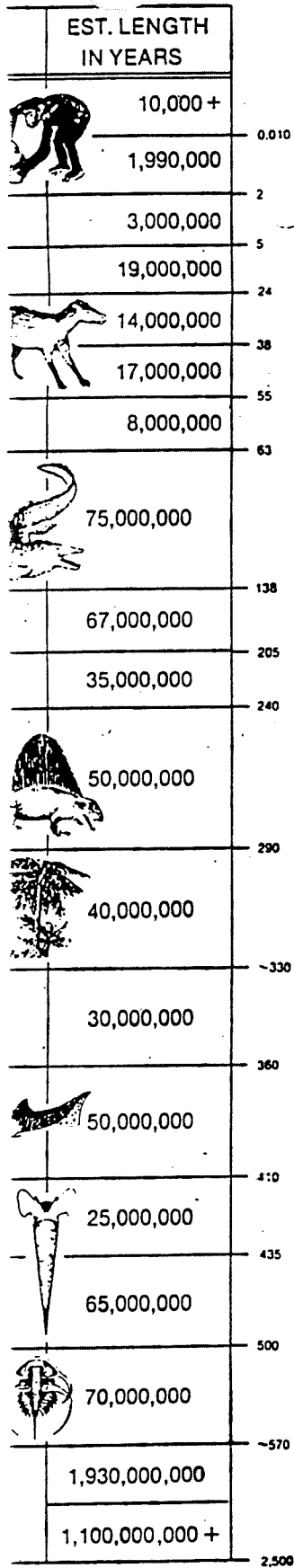


Breakdown
doesn't stop
avid tourists

SEWNR
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Attachment I
1-3

Fossils in demand, priced high

Continued from page 1



courtesy Kansas Geological Survey
 ation of geologic periods in
 ves during these times.

Other specimens bring healthy prices. A complete pterodactyl can fetch \$50,000 to \$100,000, paleontologists say. A complete mosasaur, relatively common in the chalk beds of northwest Kansas, can be worth \$30,000 to \$50,000.

Even at those prices, there are willing buyers. The strongest market is in Japan, where money is more plentiful than fossils.

Northwest Kansas farmers receive little or nothing for the fossils. Often, they don't even know someone is on their land, or what will be done with the fossils that are collected.

Offutt has been paid \$200 for three fossils recovered on land he farms. One, a cimolichthyes, a fish from the Cretaceous period, measuring 4-feet long — the size of Offutt's kitchen table — put \$100 in his pocket. A Utah firm eventually sold it for \$2,500.

Despite the money, Offutt is bitter about his experience with commercial collectors. His dislike for the business is shared by Gove County landowner Charles Tuttle and numerous paleontologists throughout Kansas and the nation.

"I don't like it," Offutt said. "In part since I found out this stuff's worth something. I don't like someone coming in and taking something worth something. It's like stealing."

Commercial collecting of fossils is not new. Collectors have combed the area for more than 100 years. Today, however, most fossils are going to private collectors rather than museums and universities.

Offutt views the commercial collectors as a tight-knit group, feeding information to one another about fossil-rich locations. After running off one collector, he said, he found another on his land.

The first collector, Dave Tanking, Baldwin, denies that he invited the second collector.

Offutt doubts that most farmers care if people collect but he thinks they should be paid a fair price for items taken from their land.

"I think they could hunt if they would pay people what it's worth."

He would prefer, however, that the material stay in Kansas.

"I really think it needs to stay in the area," he said. "But it doesn't seem like anyone's inter-

ested."

Paleontologists across the state and the nation are interested but say they are hampered by inadequate funding and manpower.

One exploration project could start in 1989, according to Hans Peter Schultz, a vertebrate paleontologist at the University of Kansas.

But, Schultz said, museums cannot compete with private collectors in terms of the amount of money they are willing to pay.

"We have no money to buy fossils," he said. "We have to collect ourselves. Collecting is cheap, compared to buying it."

Schultz knows there is an active market for fossils.

"Especially in Japan, at the moment, because they have money available," he said. Fossils are purchased to build into indoor swimming pool walls and entries into buildings.

"In Japan, people have so much money that they take complete museum exhibits and take it to Japan and exhibit it there for two to three months and take it back," Schultz said.

Japan is the primary market, said Tom Lindgren, co-owner of Green River Geological Laboratories, a Green River, Utah, firm that has started collecting in Kansas.

Money and a fascination with ancient monsters, precipitated by cheap Godzilla films, are thought to be responsible.

"Apparently it's become kind of popular to have one of these things over the mantel," said Joe Thomasson, an FHSU botany professor now on leave of absence. "I just cringe at the

thought of one of those being taken out of Gove County."

Thomasson fears the state is losing its treasures.

"I know there are these commercial outfits," he said. "Some try to put on a scientific facade, but the bottom line is the profit."

"The idea of hauling off stuff sell really rankles me," said Ch Maples, a paleontologist at the Kansas Geological Survey.

He likens the situation to "fos carpetbagging in a sense."

Maples would like to see the material remain in Kansas or, at the very least, in museums in the United States.

"This has been a pet peeve of mine," he said. "It's a personal one. I want to see the stuff in Kansas either remain in Kansas or be in a national place in the United States, like the Smithsonian."

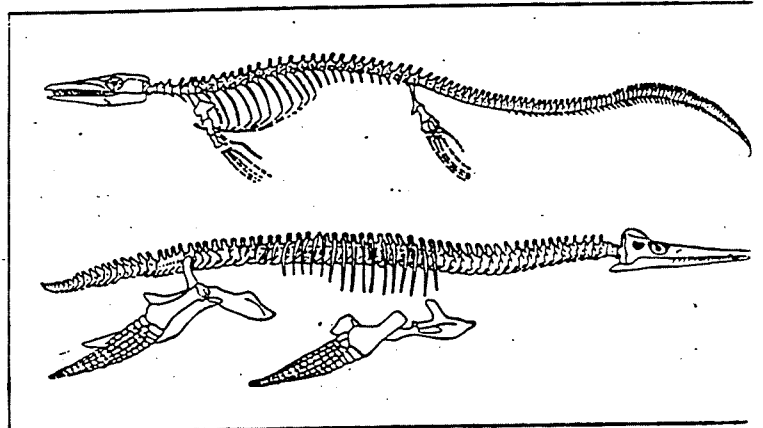
"If people see a part of Kansas in the Smithsonian, they may want to come to Kansas."

Maples said he would even go far as to allow international museums to collect the fossils, as long as the collecting is regular. He does not, however, want to "see some shyster getting rich at some landowner's expense."

Until recently, farmers were paid for fossils gathered by commercial collectors.

That will change, according to Glenn Rockers, a Hays man who makes his living collecting, preparing and selling fossils.

"It hasn't been upfront for a hundred years," Rockers said. "Now it has got to be upfront from here on. I know I have to change with the times and the times are changing."



Drawings courtesy Kansas Geological Survey

Fossils prevalent in the western Kansas chalk, from top, mosasaurs, plesiosaurs and pteranodons.

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STATE OF KANSAS



TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS

MEMBER: AGRICULTURE AND SMALL BUSINESS
ENERGY AND NATURAL RESOURCES
LOCAL GOVERNMENT

GAYLE MOLLENKAMP

REPRESENTATIVE, 118TH DISTRICT
LOGAN, GOVE, TREGO, GRAHAM
AND PARTS OF NESS AND
ROOKS COUNTIES

HC2, BOX 5

RUSSELL SPRINGS, KANSAS 67755-0005

SENATE ENERGY AND NATURAL RESOURCES COMMITTEE

THANK YOU MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE FOR ALLOWING
ME TO TESTIFY IN FAVOR OF HB 2341.

HB 2341 REQUIRES COMMERCIAL FOSSIL HUNTERS TO HAVE WRITTEN PER-
MISSION SIGNED BY THE LANDOWNER, ALSO SHOWING THE LOCATION WHERE
THEY MAY HUNT. THE BILL ALSO REQUIRES THE HUNTER TO NOTIFY THE
OWNER IF A FOSSIL IS FOUND. THE BILL PROVIDES A PENALTY CLAUSE
IF A VIOLATION OCCURS.

THE BILL IS VERY IMPORTANT TO THE LANDOWNERS IN THE FOSSIL-RICH
CHALK REGIONS IN KANSAS. THE BILL DOES PROMOTE COOPERATION AND
COMMUNICATION BETWEEN THE COMMERCIAL HUNTER AND THE LANDOWNER
ANY AGREEMENT BETWEEN THE TWO PARTIES IS PERMISSABLE WITHIN THE
LAW.

I WOULD ASK THE COMMITTEE TO PASS HB 2341 FAVORABLY.

I WOULD STAND FOR QUESTIONS.

A handwritten signature in cursive script, reading "Gayle Mollenkamp".

GAYLE MOLLENKAMP

SE+NR
3/28/89
Attachment II

TESTIMONY

RE: House Bill No. 2341

By: Glenn F. Rockers
P.O. Box 621
209 W. 17th Street
Hays, Kansas 67601
913-625-2245

MR. CHAIRMAN, and members of the committee, I would like to thank you today for the opportunity to testify my opposition to House Bill No. 2341. My name is Glenn Rockers, I live in Hays, Kansas, and I own and operate a business called PaleoSearch. My company collects, prepares and markets Kansas fossils.

The original intention of HB 2341 was to let the Kansas landowner know who was on his land collecting fossils and to inform the landowner of the monetary value of the fossils found on his land. I feel that HB 2341 is not quality legislation to guarantee the landowner his legal right to participate in the revenues of a valuable resource on his land.

I also feel that HB 2341 is a jerk-knee reaction to appease several western Kansas landowners concerning an isolated problem they had last year with a few non-resident fossil collectors. I would suggest that you keep in mind that the primary authors of this bill, Representative Moomaw and Representative Mollenkamp, both own land in a fossil-rich area of western Kansas. They are writing legislation that only redefines the existing Kansas trespass laws. It is earmarked to please the constituents in their district. The fossil-rich areas in western Kansas are primarily in Gove, Trego and Logan County. This is only three (3) counties out of one-hundred-five (105) in this State. Unfortunately, the negative impact of the bill will not be limited to these three (3) counties.

HB 2341 is very vague and will be detrimental to a lot of Kansans for the following reasons:

1. On line 23 of the bill, the term of "commercial fossil hunter" is

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not an accurate representation of what I, and others like me, do for a living. I take issue only with the word "hunter". Gentlemen, I am a professional fossil collector. I am very scientific and thorough in my activities and I am proud of my profession. I do not take a 12-gauge shotgun out with me to collect fossils any more than a sportsman takes a geologist's hammer out with him to hunt pheasants. The terminology in line 23 does not give an accurate impression of what I do.

2. On line 26, the definition of "fossil" is inaccurate for the purpose of this bill. The term fossil, as it is defined in this bill, encompasses a lot of other activities beyond the scope of this bill's intentions. As stated in the bill, fossil means " any impression or trace of an animal or plant of a past geological age preserved in the earth's crust". This is a scientifically accurate definition. It is so accurate that it also encompasses the oil, coal and mining industries in this State. Just about any company that digs up a Kansas rock, could, under the strict and literal interpretation of the definition of the word "fossil", be affected by this bill. For example, oil is nothing more than a liquid fossil; coal is nothing more than the compressed and fossilized remains of plant material; Kansas limestone is composed mostly of fossils. There are hundreds of businesses within our state that are mining, or drilling, Kansas fossils, for profit.

Members of this committee, I would like to show you a piece of Kansas chalk. What you are looking at is a fossil. You are looking at millions upon millions of microscopic shells of fossil animals that make up the Kansas chalk. Literally, anyone who picks up a piece of chalk or limestone for artistic, road-bed, or building purposes could be considered a commercial fossil collector, under the definition of "fossil" in this bill.

Because of this broad definition of the word "fossil", a lot of business people in the State of Kansas could be burdened with additional, bureaucratic red-tape. Unbeknown to them, their business activities could come under the regulation of this bill. I don't think the oil and mining industries are going to be too crazy about one more piece of red-tape to deal with. Especially, since the intentions of HB 2341 have absolutely nothing to do with them.

On line 28, I have no difficulty with the description of "landowner". However, I would like to point out that there is a tremendous amount of absentee ownership in western Kansas. Traditionally, the lessee, foreman or guardian of the land has had the authority to give permission to individuals for an assortment of activities on the land under their care. HB 2341 will undermine the traditional authority that Kansas ranchers and farmers have had when they lease someone else's land.

Beginning at line 29, the proposed requirement that commercial fossil collectors must have written permission to go upon someone's land to collect fossils is already adequately covered by existing trespass laws. Additional legislation is not necessary.

In paragraph 3c, it states that the commercial collector must give the landowner a description of the fossils found on his land. It is not only difficult but usually impossible to give an accurate description of the fossil at the time of discovery. Western Kansas fossils are usually extremely disarticulated (scattered) when they are found. It is only after complete and total removal of the fossil from the matrix that a fair description of the fossil can be given. Therefore, it would be legally impossible for the commercial fossil collector to comply with the requirements of line 40, paragraph 3c.

Testimony
Glenn F. Rockers
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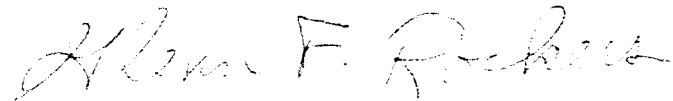
It is a matter of public record that my company, PaleoSearch, has pioneered a method for fair and equitable payment to the Kansas landowner for his share of a fossil found on his land. HB 2341 does not provide for any method of compensation to the landowner. This was one of the original intentions of the bill.

In summation, I want to reiterate that HB 2341 is a jerk-knee reaction to an isolated incident. This bill does not begin to cover the complexities of the fossil collecting activities in western Kansas.

If Kansas lawmakers want to pass a law that will be sincerely helpful and beneficial to all Kansas landowners, they should write a law that includes fossils under the classification and jurisdiction of the State's mining laws and regulations. The end result will be that all Kansas landowners will receive their fair share of money collected from the sale of fossils found on their land.

Traditionally, the Senate has passed quality legislation. Likewise, they have had the wisdom to strike down frivolous and vague legislation. I feel that HB 2341 fits into the latter category and I urge you to vote "NO" on this bill.

Sincerely,



Glenn F. Rockers

OPPOSITION TO BILL 2341

Ladies and Gentlemen of the Committee:

As a part-time commercial collector, I am opposed to House Bill #2341, because it is a fancy way of just rewriting a Kansas law called trespassing. You can-not collect fossils without permission of the landowner. If you are collecting without permission, the landowner has recourse under the trespass law.

I, and many other Kansans across the state grow tired of needless legislation egged on by journalists, trying to sell newspapers. It is a crying shame that in a state like Kansas that has such a rich history of commercial collectors and fossil collectors for hire, such as the famous Charles Sternberg, George Sternberg and the Bonner family of Western Kansas who have done so much for the state museum by contributing hundreds of specimens and filling the museums with fantastic finds, that bring people to Kansas as tourists, people who spend money on our state. This bill is a slap in the face to past, present, and future commercial fossil collectors and amateur fossil collectors.

As a commercial collector I have never been asked, to pay for a fossil I have collected. I have not collected on lands that I do not have permission to be on. Let's not rush to pass a Kansas law for a trespassing problem that was created largely by and out-of state firm.

If land-owners of Kansas would like to be payed for fossils that are on their land, all they have to do is ask, and thats all. If they do not want collectors on their land, all they have to do is say no.

If this bill is passed, with it's built-in red tape, it will hinder Earth Science Clubs, High School field trips and etc. Due to the fact that it will create a trend that surface collected fossils such as petrified wood, small fossil shells, crinoid stems etc, are a loss of revenue to the land owner,

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Attachment IV

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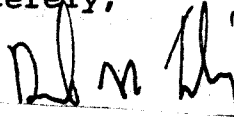
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when in reality small common surface collected fossils really do not have any commercial value. This bill will make a criminal out of somebody who picks up a piece of petrified wood, polishes it, makes it into a key chain, and sells it for 50¢.

If a landlord of Kansas wants to be payed, commercial collectors will pay them gladly. Let's save the taxpayers some money by leaving private business in the private sector.
PLEASE, LETS NOT OVERGOVERN THE PEOPLE ANYMORE!

Thank-you for your time on this matter, those of us interested in the earth sciences across the state will appreciate the committee saying no to this needless legislation.

Sincerely,



NIOBRARA PALEONTOLOGY
DAVID M. TANKING
1900 W. 31ST, LOT V-18 842-6304
LAWRENCE, KS 66046