

Approved

Ken Grotewiel  
Date 3/14/91

MINUTES OF THE HOUSE COMMITTEE ON ENERGY & NATURAL RESOURCES

The meeting was called to order by Representative Ken Grotewiel at  
Chairperson

3:30 ~~am~~/p.m. on March 5, 1991 in room 526-S of the Capitol.

All members were present except:

Committee staff present:

Raney Gilliland, Principal Analyst, Legislative Research  
Pat Mah, Legislative Research  
Lenore Olson, Committee Secretary

Conferees appearing before the committee:

Representative Anthony Hensley  
Representative Marvin Smith  
Representative Darrel Webb  
Jack Lacey, Secretary, Department of Wildlife and Parks  
Cathy McKenzie, Northeast Kansas Cage Bird Club  
Debbie, Keehn, President, Northeast Kansas Cage Bird Club  
Debbie Burkey, Secretary, Northeast Kansas Cage Bird Club  
Terri Smith, Heart of America Game Breeders Association  
Paul Shelby, Assistant Judicial Administrator, Office of  
Judicial Administration

Chairperson Grotewiel called the meeting to order and opened the hearing on HB 2171.

Representative Webb testified in support of HB 2171. He also presented the background on this bill regarding the reciprocal agreement between the states of Kansas and Texas.

Secretary Jack Lacey, Wildlife and Parks, testified in opposition to HB 2171, stating that they cannot support this bill because of revenue loss of \$150,000 and further erosion of their revenue loss.  
(Attachment 1)

Representative Hensley stated that he supports HB 2171, but believes it should be amended in the form of language in SB 79, which would allow for a refund for any member who did not use their license because they were deployed to the Persian Gulf, as in the case of Arthur Balandran.  
(Attachment 2)

The Chair concluded the hearing on HB 2171.

The Chair then opened the hearing on HB 2294,

Representative Marvin Smith testified in support of HB 2294. He stated that he has been contacted by a number of constituents that have been affected by the inspection of their homes and facilities with their ownership of pet birds. (Attachment 3)

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON ENERGY & NATURAL RESOURCES,  
room 526-S, Statehouse, at 3:30 ~~xxx~~/p.m. on March 5, 1991

Cathy McKenzie, Northeast Kansas Cage Bird Club, testified in support of HB 2294. She stated that as a pet owner, one of her concerns with KSA 32-951 is the inspections that are required. All birds are susceptible to disease and she feels rather uneasy about the prospect of illness being brought to her beloved pets. (Attachment 4)

Debbie Keehn, Northeast Kansas Cage Bird Club, testified in support of HB 2294. She stated that the importance of maintaining a disease free environment in any care facility cannot be stressed enough. An inspector trekking from one facility to the next is a major concern and years of hard work and thousands of dollars can be lost. (Attachment 5)

Debbie Burkey, Northeast Kansas Cage Bird Club, testified in support of HB 2294. She stated that if it is determined that there is a need to monitor facilities that raise or care for species of birds kept as pets, then it should be via a program designed to benefit these animals. (Attachment 6)

Secretary Lacey testified on HB 2294, stating that they do not oppose this exemption, but recommends the Committee give consideration to HB 2494 which would accomplish the same objectives as HB 2294 and would also provide for more exemptions from the game breeder permit. (Attachment 7)

The Chair closed the hearing on HB 2294 and opened the hearing on HB 2494.

Secretary Lacey testified in support of HB 2494 and recommended it be amended to strike "wild birds" on line 14 and "any other wildlife" on line 15. (Attachment 8)

Terri Smith, Heart of America Game Breeders Association, testified in opposition to HB 2494, stating that she is concerned with this bill. She is bothered by the definition of "game birds," and wants this bill to be amended to include only those species that are native to Kansas.

The Chair closed the hearing on HB 2494 and opened the hearing on HB 2495.

Secretary Lacey testified in support of HB 2495, stating that this bill would allow the Department to use the same regulatory process for all season and limit setting regulations. Often it is necessary to implement a season or limit on certain species within a short time frame. (Attachment 9)

The Chair closed the hearing on HB 2495 and opened the hearing on HB 2496.

Secretary Lacey testified in support of HB 2496, stating that increasing the late payment charge is anticipated to encourage timely purchase of park permits by more people and is not intended to generate more income. If the increased charge has the desired effect, revenue is expected to remain about constant, but administrative costs associated with late payments should substantially decrease. (Attachment 10)

The Chair closed the hearing on HB 2496 and opened the hearing on HB 2526.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON ENERGY & NATURAL RESOURCES,  
room 526-S, Statehouse, at 3:30 ~~xxx~~/p.m. on March 5, 1991

Secretary Lacey testified in support of HB 2526. He stated that an increasing number of states have enacted statutes requiring violators to provide a special compensation for use by their state conservation department in addressing damages and losses and to offset costs sustained by the public and the state. (Attachment 11)

Paul Shelby, Office of Judicial Administration, testified in opposition to HB 2526. He stated that this bill will adversely affect the Judicial Branch and create additional expenses for counties. He also expressed his concern with the July 1, 1991, effective date for this bill. Mr. Shelby recommended that the "penalty assessment" phase of the bill be amended out. (Attachment 12)

Chairperson Grotewiel closed the hearing on HB 2526.

The meeting adjourned.



H.B. 2171

TESTIMONY PRESENTED TO: House Energy & Natural Resources Committee

Provided By: Department of Wildlife and Parks

March 5, 1991

H.B. 2171 would authorize Kansans on active military duty to hunt and fish without charge while on leave or furlough. Under current law, Kansans on active duty may purchase any Department issue as a resident which includes big game permits. Those benefits are deleted in H.B. 2171.

The Department estimates the changes would result in a Wildlife Fee Fund revenue loss of \$150,000. Former Kansans on active duty would be unable to participate in most big game hunting and would have to purchase other issues as a nonresident.

The Department cannot support H.B. 2171 because of revenue loss and further erosion of our revenue base. The provisions of H.B. 2171 would provide some benefit to Kansans on active duty, but would also deprive them of the many residency benefits to which they are currently entitled.

*E+NR*  
*3/5/91*  
*Attachment 1*

# 'Desert Storm' engulfs Iraq

■ Allied aircraft hit radar installations, communications facilities in Baghdad

From wire reports

WASHINGTON — Hundreds of American and allied warplanes from Britain, Saudi Arabia and Kuwait launched predawn strikes in Iraq and Kuwait focused on the "destruction of Saddam Hussein's offensive military capabilities," Defense Secretary Dick Cheney said Wednesday. Gen. Colin Powell, chairman of the Joint Chiefs of Staff, said the allied offensive met "no air resistance" from Iraq's air force.

Early reports indicated the carefully orchestrated air raids, beginning only a day after a U.N. deadline for an Iraqi withdrawal from Kuwait had expired, succeeded in hitting at least some Iraqi radar and communications facilities in Baghdad. The Pentagon said the attacks struck at Iraqi air bases and aircraft, chemical and nuclear plants and missile sites.

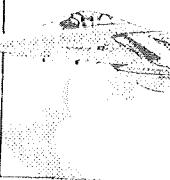
There were reports that the raids inflicted massive damage, but there was no official confirmation of the extent of it.

Cheney said the "operation appears to have gone very, very well." Asked about American casualties, he said "preliminary reports ... are very, very encouraging."

Cheney and Powell briefed reporters at the Pentagon as the first wave of war, code-named Operation Desert Storm, ended at daybreak in the Middle East.

"Nobody should doubt our ability

McDonnell



**Type**  
F-15E is a two seat, fighter-bomber, capable of carrying a heavy payload of bombs into enemy territory.

**Specifications**  
Weight (empty)  
Max weapon load  
Max takeoff weight

War in the Gulf  
■ Local reactions  
■ War reported  
Second Front

and our resolve," Cheney said. Both he and Powell discussed specifics of the operation, even to confirm the number of Iraqis involved. "We are in the final stages of this operation," Cheney said in explanation. But Pentagon sources said the condition of anonymity was maintained.

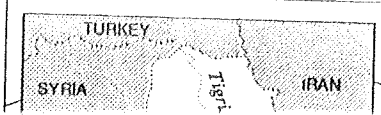


—John Bock/The Capital-Journal

Topeka resident Arthur Balandran embraced his wife, Naya, Wednesday. Sgt. Balandran is a member of a Topeka-based military police unit. See story on page 7-A.

## Saddam: 'Dawn of victory near'

Iraqi leader vows to crush attacking forces



EXNR 3/6/91 Arthur Balandran

Senate Minority Leader Bob Dole, who was seriously wounded in World War II, praised President Bush's revised speech before the nation.

"President Bush spoke eloquently tonight of our national purpose in the gulf," Dole said.

A congressional source said Bush called Dole in his Capitol office about 5:40 p.m. to notify him that an attack was about to be launched.

Dole talked with the president for several minutes and then called House Minority Leader Robert Michel and Senate Majority Leader George Mitchell. Both came to Dole's office and at 6:25 p.m. the leaders were briefed by Robert Gates, a native of Wichita, who is deputy national security adviser.

Sen. Nancy Kassebaum, who was in Wichita Wednesday night, called Hussein's rebuffs of diplomatic overtures as a "grave tragedy."

Fifth District U.S. Rep. Dick Nichols, Republican of McPherson said, "Hussein has been given every opportunity. We have exhausted every diplomatic opportunity, and here it is. Nevertheless, the beginning is stunning."

U.S. Rep. Dan Glickman, 4th District Democrat, has been a critic of Bush's Persian Gulf policy, but he still voted for the resolution.

"It was really too late for Congress to say no," he said. "I did it with a very heavy heart. I'm not going to second-guess the president now."

Glickman was flying from Wichita to Washington when he received a note from a flight attendant to call his staff. He then learned that war had begun.

"I thought that the attack would not happen for a few days," he said.



—Earl Richardson/The Capital-Journal

## Images of War

Johney Allen changed channels to see the latest on Operation Desert Storm late

Wednesday at Capitol Post No. 1 of the American Legion, 3800 S.E. Michigan.

# Emotions high, nerves taut as soldiers leave Kansas for gulf

By MARY NEUBAUER  
The Associated Press

Staff Sgt. Arthur Balandran broke away from fellow soldiers who were preparing to leave for the Persian Gulf on Wednesday at Forbes Field and ran to a security fence where his family was waiting to say one last goodbye.

He tearfully hugged his wife, two daughters and two sons.

His son, Joe, 16, just had time to

hang a St. Christopher medallion around his father's neck before Balandran had to run back to join the troops boarding a bus that would carry them to their plane.

The Balandrans live in Topeka and received a phone call telling them Sgt. Balandran was at Forbes Field about 30 minutes before his 2:15 p.m. departure, Joe Balandran said.

Balandran and the 25 soldiers who left for Saudi Arabia with him were

Photo, p. 1-A

among the first to leave Forbes Field after the expiration of the United Nations' deadline for Iraqi troops to withdraw from Kuwait.

Balandran is a member of the 403rd Military Police Prisoner of War Camp. The mission of his unit, which has been training at Fort Ril-

ey for a month, is to operate a camp that could hold up to 12,000 prisoners of war.

Forbes has been the point of deployment for 10,000 soldiers, including the 1st Infantry Division from nearby Fort Riley, and those who left Wednesday.

Deployment of the 1st Infantry was completed earlier Wednesday, when the last 20 soldiers from the division left for the gulf.

Joe Balandran said he was very

nervous that his father had to leave after the U.N. deadline expired.

"I just want it to get over with," he said. "I just want my dad to be home. I want them to figure out what they're going to do and do it."

"We are glad something happened," said Tom Balandran, 21, reached at home after the attack took place. "We'll be praying more that this will hurry up and so he can come home."

MARVIN E. SMITH  
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TOPEKA

HOUSE OF  
REPRESENTATIVES

COMMITTEE ASSIGNMENTS  
MEMBER: EDUCATION  
TAXATION  
TRANSPORTATION

March 5, 1991

HOUSE ENERGY AND NATURAL RESOURCES COMMITTEE

HOUSE BILL 2294

Mr. Chairman and Members of the Committee:

Thank you for scheduling a hearing for HB 2294 this session.

I have been contacted by a number of constituents that have been affected by the inspection of their homes and facilities with their ownership of pet birds.

Conferees that are proponents of HB 2294 are here today to tell you their stories.

I hope you will give favorable consideration to this proposal and recommend for passage.

I will be available for questions.

Marvin E. Smith  
Representative, 50th District

*E+NR*  
*3/5/91*  
*Attachment 3*



Cathy S. McKenzie  
Box 128  
ton, KS 66436  
913-364-4151

March 5, 1991

HB 2294-Approval for this bill exempting pet bird owners and breeders from game bird permits.

As a pet owner, I am concerned that birds commonly kept as house pets are included in KSA 32-951. Perhaps the original intention of this bill was to exclude house pets as canaries and parakeets were listed as being exempt. This seems to imply that all other pet birds require wild game permits. There are in excess of 200 varieties of birds that are commonly kept as house pets, therefore KSA 32-951 is inadequate as it stands.

Birds have been kept as pets since the days of the Roman Empire. They have also been a part of American history. George Washington, Thomas Jefferson, Theodore Roosevelt, Lyndon Johnson and John Kennedy all shared the White House with pet birds.

Parrots are intelligent, sensitive, long lived and often times very expensive pets. Taking care of a parrot demands a sensitivity that goes beyond the common sense most people rely on in taking care of a dog or cat and often requires a lifetime commitment as they may live from twenty-five to seventy-five years. Daily interaction is needed to maintain the emotional well being of a parrot. They like routine in their lives and quite frequently bond very strongly with their owners, even to the extent of conversing with them.

As a pet owner, one of my concerns with KSA 32-951 is the inspections that are required. All birds are susceptible to disease and I feel rather uneasy about the prospect of illness being brought to my beloved pets.

House pets of all kinds have special relationships with their owners. State permits are not required for other animals commonly kept as house pets. Pet birds should not be included in KSA 32-951. I ask you to vote favorably for HB 2294.

*E+NR*

*3/5/91*

*Attachment 4*

Deborah Keehn  
Route 1  
1, KS 66440  
913-986-6776

March 5, 1991

HOUSE BILL NO. 2294 - EXEMPTING PET BIRD OWNERS AND BREEDERS  
FROM GAME BREEDER PERMIT REQUIREMENTS

Mr. Chairman and Members of the Committee:

My name is Deborah Keehn. I live in Hoyt, Kansas and am the current president of the Northeast Kansas Cage Bird Club. I am here in support of House Bill 2294 which amends KSA 32-951.

As a concerned pet bird owner, I feel it is important that this Bill be approved. The statute as it reads now is very vague and confusing. Having served as president of the bird club for the past two years puts me in a position to hear how confused the general public is, and to hear their concerns involving KSA 32-951.

Under KSA 32-951, all people owning birds other than a canary or parakeet will have to have a permit. In order to get a permit, the facility where the birds are kept will have to be inspected. Will the person that has one or more pet birds in their living room have to have their home inspected, and what will the criteria of a home inspection be? If my home or facility does not meet that criteria, what are the penalties? Can my birds be confiscated? Will the state have qualified inspectors to carry out KSA 32-951? The majority of birds kept as pets require care far different from that of quail or pheasant. Some situations that would be recognized as perfectly normal by an experienced bird owner may not seem so to an inexperienced and unqualified inspector.

Aviculture has become a very popular pastime. There are many small hobby breeders. The person who breeds and raises a few finches on his sunporch and sells them for eight to ten dollars apiece will not have any takers if the buyer must pay \$10.50 a year for a permit to keep that ten dollar finch. People who breed these small birds are usually beginners, we all have to start somewhere. If we put this hobby breeder out of business, where will he gain the knowledge he needs to move on to the more difficult species - possibly one day joining those breeders who are actually helping to save a species of bird, such as the Hyacinth macaw.

The larger breeders of these species of birds have concerns, too. Breeders of birds that are commonly kept as house pets follow an entirely different set of rules than those folks involved in breeding game birds. Many of these birds are very difficult to breed - you can't simply throw together a male and a female and expect them to produce babies. Many species of parrots take years for the pair to bond, and some species mate for life. Inspections at an inopportune time of facilities housing these birds can result in terrible damage. These birds are sensitive, intelligent creatures, and especially while nesting can be easily stressed which can result in their abandoning the nest, or even in killing their young chicks.

*E+NR*  
*3/5/91*  
*Attachment 5*

The importance of maintaining a disease free environment in any care facility cannot be stressed enough. An inspector trekking from one facility to the next is a major concern. There are a number of diseases peculiar to these species of birds that could be easily spread from one aviary to another via unknowing inspectors, a situation that can quickly wipe out an entire flock. Years of hard work and thousands of dollars can be lost.

Aviculturists, through controlled breeding, are the last hope for a large number of species of parrot-type, and softbilled birds. We all are aware that the destruction of rainforests, and other natural habitat is occurring at an unbelievable rate. Many species are already extinct, and dozens more are near extinction. The majority of us who are aviculturists are responsible, caring people who truly care about preserving these species.

I understand that there are, no doubt, unscrupulous individuals operating bird breeding facilities that would be forced to improve their methods through an inspection process. Furthermore, I would wholeheartedly support such a program. However, KSA 32-951 was not intended to deal with the regulation of the breeding of birds for the pet trade, and the Kansas Wildlife and Parks Commission is not properly prepared to determine whether an exotic bird breeding facility is operating under acceptable standards.

I sincerely believe that amending KSA 32-951 to exclude species of birds kept as pets will prevent further confusion and concern on the part of Kansans that own these birds. It is my hope that you will approve House Bill 2294 for all of the reasons discussed here today.

Thank you for allowing me to speak on behalf of this Bill. I would be happy to try to answer any questions that you might have.

Debbie Burkey  
Route 2, Box 234  
Mayetta, KS 66509  
913-966-2781

March 5, 1991

**HOUSE BILL NO. 2294 - EXEMPTING PET BIRD OWNERS AND BREEDERS FROM  
GAME BREEDER PERMIT REQUIREMENTS**

Mr. Chairman and Members of the Committee:

My name is Debbie Burkey, and I live at Route 2 Mayetta, Kansas. I am the current Secretary for the Northeast Kansas Cage Bird Club. I am here today in support of House Bill No. 2294, which amends KSA 32-951, a statute requiring game animal breeders to obtain a permit. House Bill 2294 will serve to draw a distinction between game animals and those species of birds kept as pets by myself and by thousands of other Kansans throughout the state.

KSA 32-951, if taken at face value, was intended to provide a means of protecting Kansas wildlife from the spread of any disease from contact with game animals raised in breeding facilities. The types of birds permitted to be kept as pets are not indigenous to the United States and are, for the most part, tropical birds, and they pose no threat to species of animals indigenous to Kansas. Defining these birds as "birds commonly kept as house pets" for the purpose of this Bill is probably the most concise definition available.

The Kansas Wildlife and Parks Commission's interpretation of KSA 32-951 as set forth in their publication, "Game Breeder Guidelines", and as described to us by officials at their local offices, indicates that the species of birds that we keep as pets will require a permit. The Game Breeder Guidelines says, "This section requires that anyone engaged in the business of raising and selling wild birds, game birds, game animals, furbearing animals, or any other wildlife have a game breeders' permit". It goes on to say, "for the purposes of enforcement, the Department defines the term 'raising' to mean 'to care for'".

The Game Breeder Guidelines also includes a list of animals for which a game breeder permit is NOT required. This list includes, under the heading "Semi-Domesticated Wildlife", two species of birds commonly kept as housepets: canaries and parakeets or budgerigars. The text explains that "only the semi-domesticated wildlife listed are exempt from game breeder permit requirements; other semi-domesticated wildlife are too similar in appearance to other wildlife".

I currently own and "care for" seven birds. Four of the seven are species other than canaries or parakeets. After reading the "Game Breeder Guidelines", I called the Law Enforcement Supervisor for Region 2 of the Wildlife and Parks Commission. What I was told was that if I ever decided to sell one of these birds, I would probably need a permit but I could avoid the permit process by giving the birds away. This is not a viable solution to the problem as even the smaller, very popular species such as lovebirds and cockatiels are worth from \$50 to \$100 each. The Enforcement Supervisor felt that persons selling birds was at issue here - but it is important to note that pet bird owners usually own several birds, and it is not unusual for them to sell one or more birds, fairly regularly, in order to "try out" a different species.

*E+NR  
3/5/91  
Attachment 6*

Convinced that I would indeed have to obtain a permit in order to legally keep my birds, I contacted the Conservation Officer for Jackson County. The Conservation Officers perform the inspections, using the criteria provided in the Game Breeder Guidelines to determine whether an applicant is operating under acceptable care standards to qualify for a permit. The Conservation Officer felt that if I ever intended to sell a bird, I would need a permit - and that he would need to do an "in home" inspection. He admitted that he had no experience with the species of birds that I own, and that the Game Breeder Guidelines criteria does not cover care requirements for these birds, nor does it discuss "in home" inspections.

It is surprising to me that the Wildlife and Parks Commission would even consider performing "in home" inspections of pets. Aside from my belief that these species of birds should not be lumped in with game animals, and aside from the problem of Wildlife and Parks inspectors' lack of knowledge concerning these birds and their care requirements, the 70 Conservation Officers available statewide to perform these "in home" inspections could not possibly handle the number of permit applications to be processed should every pet bird owner apply. It is my feeling that when the Wildlife and Parks Commission drafted their interpretation, they did not realize how many different species of birds are kept as pets. Obviously, through their exemption of canaries and parakeets, there was some attempt made to address pet birds - but there is a real need for further clarification of which birds are intended to be regulated.

If it is determined that there is a need to monitor facilities that raise or care for species of birds kept as pets, then it should be via a program designed to benefit these animals. The current statute, if implemented using the Kansas Wildlife and Parks Commission's Guidelines, will not protect these animals at all, but will only be a continuing source of confusion and a waste of tax dollars.

House Bill No. 2294, if approved by you, will clearly distinguish the types of birds that pet owners care for from the game birds for whom the statute was originally intended. It is my sincere hope that you will consider the points discussed here today, and act favorably concerning House Bill No. 2294. I'd like to thank you for the opportunity to testify before you, and I will certainly try to answer any questions that you might have.

H.B. 2294

TESTIMONY PRESENTED TO: House Energy & Natural Resources Committee  
Provided By: Department of Wildlife and Parks  
March 5, 1991

H.B. 2294 would provide an exemption from the game breeder permit requirement for persons raising and selling birds commonly kept as house pets. The number of persons needing such a permit under current requirements is unknown; however, a review of 1990 permits showed only one person engaged solely in such activity.

The Department does not oppose that exemption, but recommends this Committee give consideration to H.B. 2494 which is a Department sponsored bill. It would accomplish the same objectives as H.B. 2294 and would also provide for more exemptions from the game breeder permit.

*E+NR*  
*3/5/91*  
*Attachment 7*

H.B. 2494

TESTIMONY PRESENTED TO: House Energy & Natural Resources Committee

Provided By: Department of Wildlife and Parks

March 5, 1991

H.B. 2494 is Department sponsored legislation which would amend the current game breeder statute. Currently, a permit is required to raise and sell wild birds, game birds, game animals, furbearers and any other wildlife. The definition of wildlife is such that a permit is required for virtually all individuals raising and selling any kind of wildlife. This is a broader application of the game breeder permit requirement than was intended as a result of the 1989 recodification of Wildlife and Parks statutes.

It is recommended that "wild birds" on line 14 and "any other wildlife" on line 15 be struck. Language is proposed to exempt all wildlife (except game birds, game animals and furbearers) from the permit requirement except for those species that a permit would be required by regulation.

*E+NR*  
*3/5/91*  
*Attachment 8*

H.B. 2495

TESTIMONY PRESENTED TO: House Energy & Natural Resources Committee

Provided By: Department of Wildlife and Parks

March 5, 1991

Under current law, the Department can use the exempt regulation provisions of K.S.A. 77-415 to set seasons and establish bag and possession limits for game birds, game animals, fish and furbearers. Setting of seasons and limits for other species of wildlife follow procedures for permanent regulations. The only difference between a permanent and exempt regulation is the requirement to file with the Secretary of State. Exempt regulations do not require filing, thus become effective upon adoption.

H.B. 2495 would allow the Department to use the same regulatory process for all season and limit setting regulations. Often it is necessary to implement a season or limit on certain species within a short time frame. A permanent regulation does not take effect for approximately 55-60 days after adoption. Use of exempt regulations will avoid that problem.

*EXNR*

*3/5/91*

*Attachment 9*



H.B. 2496

TESTIMONY PRESENTED TO: House Energy & Natural Resources Committee

Provided By: Department of Wildlife and Parks

March 5, 1991

H.B. 2496 is Department requested legislation which would increase the late payment charge from \$2 to \$15 on failure to purchase a required park permit. Upon notice of a late payment summons, recipients have 24 hours to make payment and to purchase the required permit.

The number of summons issued during the past 3 years has shown a steady increase. In 1988, 3,189 summons were issued and increased to 4,952 in 1989. Figures for 1990 are incomplete, but are expected to slightly exceed 8,000 summons. Apparently, it is worth the \$2 gamble to avoid purchase of a park permit for an increasing number of people.

Increasing the late payment charge is anticipated to encourage timely purchase of park permits by more people. Our intent is not to generate more income. If the increased charge has the desired effect, revenue is expected to remain about constant. However, administrative costs associated with late payments should substantially decrease.

*E+NR*  
*3/5/91*  
*Attachment 10*

H.B. 2526

Testimony Provided to: House Energy and Natural  
Resources Committee

Provided by: Department of Wildlife and Parks

March 5, 1991

H.B. 2526 would provide for a penalty assessment in addition to any fines and court costs which are levied for violation of wildlife and parks laws or rules and regulations. The penalty assessment would be not less than 25 percent nor more than 75 percent of the fine or forfeiture including court costs. The maximum could be exceeded by the court for violations involving physical damage to resources or properties or for violations involving illegal killing, injuring or possession of wildlife. For purposes of determining the penalty assessment amount for wildlife violations, wildlife values as established by K.S.A. 1990 Supp. 32-1005 are referenced. The penalty assessment would be credited to the Kansas Department of Wildlife and Parks Penalty Assessment Fund which is created. Funds deposited would be interest bearing and available to the Secretary for projects designed to address problems and expenses relating to or caused by the violations.

H.B. 2526 would also involve amendment to K.S.A. 1990 Supp. 32-1050. This statute provides for a cash bond for certain violations, but the listing of violations covered and the amount specified for the violation is inadequate. It is proposed that the list be expanded to cover the more typical violations that occur and the amounts specified more accurately reflect present fines. Bond amounts for violations not listed could be established by the courts. A penalty assessment of 25 percent would be required as a part of the bond. Currently, personal checks are not authorized as a form of cash bond. It is recommended that personal checks be authorized as a form of payment. Courts accept personal checks as legal tender for payment of fines and court costs, thus should also be accepted as

*E+NR*  
*3/5/91*  
*Attachment 11*

legal tender for a cash bond.

K.S.A. 1990 Supp. 32-1054 requires judges or clerks of the court to report trial results and the amount of fine collected, if any. This statute is proposed for amendment to also include information on the amount of penalty assessment collected, if any.

The department is charged with management of the state wildlife and natural resources and for the public enjoyment of those resources including the providing of outdoor recreational opportunities. Financial support has been borne by the public primarily through their purchase of licenses, permits, stamps and other department issues. The same public also withstands the costs associated with law enforcement and for any costs resulting from illegal acts including damages and losses to wildlife and natural resources and to facilities, property and equipment.

Fines levied as a result of illegal acts are deposited in the state general fund and are not available to the department to defray costs of law enforcement or to address damages or losses sustained. Court costs are also assessed by the courts and are retained to cover court expenses.

An increasing number of states have enacted statutes requiring violators to provide a special compensation for use by their state conservation department in addressing damages and losses and to offset costs sustained by the public and the state. This procedure shifts a portion of the financial responsibility to violators for their actions rather than entirely on the public in general, as is the current situation in states such as Kansas.

Records maintained by the Department's Law Enforcement Division show 4,102 citations and convictions in 1989. That number was up slightly from the 3,789 and 3,676 figures for 1988 and 1987 respectively. In 1989, \$192,259 in fines and \$112,561 in court costs were levied. The 1988 and 1987 records reflect \$203,390 and \$172,041 in fines and \$96,020 and \$90,746 in court costs. The average amount of fines levied for the three year period was \$189,230 and \$99,776 was the average amount of court costs

imposed.

Recodification of Wildlife and Parks laws became effective July 1, 1989 and at that time new penalty provisions also became effective. Although 1989 Law Enforcement Division figures do not reflect higher fines, it is estimated that the amount of fines levied will increase as courts become more aware of the greater flexibility they now have. For purposes of estimating the fiscal impact of H.B. 2526, a fine amount of \$210,000 and court costs of \$100,000 are used.

Estimating the amount of penalty assessment revenue is difficult due to the discretion courts may use in imposing a penalty assessment. Based on a minimum 25 percent penalty assessment, the amount would be \$77,500 with a maximum of \$232,500 using a 75 percent penalty assessment. The probable amount of penalty assessment revenue is estimated to be between \$100,000 and \$150,000.

The estimated amount would be revenue to the department and represents a charge to the public. However, it is a charge directed at that portion of the public violating laws of this state and regulations of the department and would be imposed through the courts of this state. Moneys contributed by the vast majority of the public through their various user fees would thus be freed for use on projects intended to benefit their interests.

House Bill No. 2526  
House Energy and Natural Resources  
March 5, 1991

Testimony of Paul Shelby  
Assistant Judicial Administrator  
Office of Judicial Administration

Mr. Chairman:

I appreciate the opportunity to discuss with you House Bill No. 2526 which establishes a penalty assessment for violations of wildlife and parks laws or rules and regulations and creates a fund in the state treasury for the moneys thus collected.

The purpose of this bill is to help to protect and preserve Kansas wildlife, a goal we can all applaud and appreciate. However, in attempting to achieve this goal, this bill will adversely affect the Judicial Branch and create additional expenses for the counties.

First, the bill requires a calculation of a penalty assessment for every fine imposed or bond posted for violations of fish, game and watercraft laws and regulations. In Fiscal Year 1990, there were roughly 3,650 such events. If the provisions of this bill had applied during that year, in 3,300 cases, judges would have had to make individualized penalty assessments according to the more elaborate criteria spelled out by this bill rather than apply the simple traffic ticket approach currently required. This adds up to alot of judicial time.

The bill will also increase the work of the clerks by requiring them to segregate and account for all convictions and bonds under this act.

The second problem with this bill as proposed is that, presently, we do not segregate any type of fines, fees, or forfeitures. They are all collected in one fund whether they are for criminal, traffic or fish and game violations. After they are collected, the moneys are paid once monthly in a lump sum to the state treasurer. It is the state treasurer who splits out certain percentages to fund the Crime Victim Compensation Fund and the Crime Victim Assistance Fund.

A third problem results from the July 1, 1991 effective date for this bill. First, that date means that, if this bill remains in its present form and becomes law, there are only a few short months in which to change both manual and computerized accounting systems, develop forms, and rewrite manuals. Second, the counties are on a calendar year system, and no such changes have been budgeted.

*E+NR  
3/5/91  
Attachment 12*

In order to achieve the goals of this bill without disrupting the counties and the judicial branch, we recommend that the committee amend HB 2526 to provide for a wildlife fund which is given a percentage of all fines, fees, and forfeitures just as the crime victim funds are. For example, in FY1990, the district courts collected \$9,613,531 in fines, fees, and forfeitures. If the legislature allocated 1% of this amount for the purposes of this bill, the wildlife fund would have received over \$96,000 last year.

We also recommend that the "penalty assessment" phase of the bill be amended out. If additional money for the wildlife fund is necessary without reducing the general fund, the penalties and bonds for wildlife and watercraft offenses could be increased.

Also in closing, you have House Bill No. 2471 in this committee which regulates littering and establishes a solid waste management fund. We will have the very same problems with this bill.

We urge you to consider our concerns with this proposal.