

Approved 2-25-92
Date

MINUTES OF THE Senate COMMITTEE ON Energy and Natural Resources.

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

8:03 a.m. on February 20, 1992 in room 423-S of the Capitol.

All members were present except: All members were present.

Committee staff present:

Pat Mah, Legislative Research Department
Don Hayward, Revisor of Statutes
Raney Gilliland, Legislative Research Department
Lila McClaflin, Committee Secretary

Conferees appearing before the committee:

Arthur H. Griggs, Chief Attorney, Department of Administration
William A. Anderson, Jr., Commissioner, Department of Wildlife and Parks
Spencer Tomb, Past President, Kansas Wildlife and Parks
Jim Nixon, Geary County Fish and Game Association
Joyce Wolf, Kansas Audubon Council
Kathy George, Commissioner, Department of Wildlife and Parks

The Chairman opened the hearing on SB 653 - concerning qualifications of the Secretary of Wildlife and Parks. He called Mr. Griggs from the Department of Administration.

Mr. Griggs stated Gary Reser in the Governor's office had requested he appear because of a legal opinion he had previously written concerning the current statute on qualifications to be the Secretary of Wildlife and Parks. He thought the clarification made in SB 653 was appropriate Attachment 1).

William A. Anderson, Jr. testified against changing the requirements of education and experience for the Secretary (Attachment 2). He responded to questions.

Spencer Tomb opposed the reduction of the required qualifications for the Secretary of Wildlife and Parks (Attachment 3). He responded to questions.

Jim Nixon stated if any changes are made, make it stronger (Attachment 4).

Joyce Wolf urged the Committee to vote no on SB 653. (Attachment 5).

Written testimony opposing SB 653 was distributed from George T. Allen, Kansas Chapter, The Wildlife Society (Attachment 6).

Kathy George stated she opposed changing the requirements for the Secretary.

A member of the committee recommended the Board of Commissioners of Wildlife and Parks meet and submit their views on the issue to the Committee.

Chairman Doyen asked the Commissioners if they could do this and they agreed to do so. He announced the meeting scheduled for February 21, would be cancelled.

Senator Thiessen moved that the minutes of the meetings of February 13, 18, and 19 be adopted. The motion was seconded by Senator Sallee. The motion carried.

The meeting was adjourned at 9:03 a.m., and the next meeting will be February 25, 1992.

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

STATE OF KANSAS



Joan Finney, *Governor*

DEPARTMENT OF ADMINISTRATION

LEGAL SECTION

107 Landon State Office Building

900 Jackson

Topeka, Kansas 66612-1214

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M E M O R A N D U M

TO: Senate Energy and Natural Resources Committee

FROM: Arthur H. Griggs, Chief Attorney *AG*

DATE: February 19, 1992

RE: Qualifications of Secretary of
Wildlife and Parks

The purpose of my appearance before you is to support Senate Bill 653. Gary Reser in the Governor's office requested I appear before you because of a legal opinion I had previously written concerning the current statute on qualifications to be the Secretary of Wildlife and Parks. In the opinion I prepared, I concluded that the current statutes do not require a particular college degree or formal education requirement in order to meet the statutory qualifications for Secretary of Wildlife and Parks. In contrast, one of my colleagues in the Attorney General's office issued an opinion finding that "formal schooling" is required by the current statute and that one year at a junior college would not qualify one to serve as Secretary of Wildlife and Parks. In short, we had different views on the education requirement.

Senate Bill 653 would clarify that in considering qualifications for the Secretary of Wildlife and Parks, it is proper to look at the totality of a person's education, training and experience in determining whether the individual would make a good Secretary of Wildlife and Parks. This was my reading of what the legislative intent was in the current statute and what I believe to be reasonable public policy. As noted in 67 C.J.S. Officers § 17:

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Provisions in constitutions and statutes imposing qualifications should receive a liberal construction in favor of the people to exercise freedom of choice in the selection of officers, and in favor of those seeking to hold office. Ambiguities should be resolved in favor of eligibility to office . . .

In conclusion, I think that the clarification made in SB 653 is appropriate. Before any formal education requirements should be read into the current statute, if at all, the legislature should clearly spell out the type of education that is expected and the requirements should be clear in the statute.

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DEPARTMENT OF WILDLIFE & PARKS

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William A. Anderson, Jr.
Commissioner
5733 Reinhardt Drive
Fairway, KS 66205-3324
(913) 362-3648

February 20, 1992

TO: Senate Energy & Natural Resource Committee
RE: SB 653 Qualifications changes for the Secretary
of Wildlife and Parks

Our society holds dear the health of our citizens and the education of our children. We recognize that improper use of our natural resources and destruction of our environment will negatively impact our lives as well as take options away from future generations.

When we consider providing health services to the public, we expect the top qualified professionals to provide the care and run the institutions. When our children are educated, we do not want unqualified people teaching our children. At the University of Kansas, is it acceptable for the institution to be administered by individuals that have not achieved the highest level of education and experience? The answer is clearly no. All of us understand and accept we need properly educated, skilled and experienced people directing and operating these institutions.

Why should we accept anything less in the management of our natural resource agencies, such as Wildlife and Parks. Natural resource management is complex and can be subject to a variety of competing interests. Our natural resources need professional management in order to survive. The qualifications of the Secretary of Wildlife and Parks is a significant public policy statement. The individual that directs the department must have a combined background of education and experience in natural resources that enables them to effectively lead the agency. The lack of knowledge about policy issues surrounding natural resource management in todays marketplace can negatively impact the long term future of Kansas.

It is impossible to surround the Secretary of Wildlife and Parks with enough qualified staff to help make the right resource decisions if the leader lacks the background and education to understand the issues. The legislature needs to decide who in that case is really running the agency. If the Secretary has limited understanding of resource management, then the decisions will be made one of two ways; solely on the basis of politics or by second and third level individuals that do not answer to the Governor. That is unhealthy public policy management and not a good situation for the future of Kansas.

The individual that manages any state agency should have the ability to find the compromise between politics and sound public agency management. They must be responsive to the Governor and legislature. At the same time, they must have the abilities to stand-up and defend positions, articulate ideas and provide solutions to complex problems relative to their area of responsibility.

The issue of qualifications is not new to the laws of Kansas. The law on the qualifications for the Secretary of Wildlife and Parks is simply a modification of the law that existed for the director of fish and game for thirty plus years. The old position of the department director had virtually the same wording of education combined with demonstrated experience as exists in the recodified law of today.

After the law was passed, all of the Fish and Game directors were professionally trained. Nationally, the majority of the states have requirements of education and experience for positions comparable to the law in Kansas. Many states require specific college degrees and certifications. The states that use political patronage and no qualifications in natural resources are viewed as second rate and backward in their resources protection. I have been a member of the Wildlife & Parks Commission since inception and for the past 5 1/2 years I have seen first-hand the challenges our Secretaries face. It is my hope that Kansas will not go backwards and will reinforce their commitment to the future by not changing the requirements of education and experience for the Secretary.

Kansas Wildlife Federation, Inc.

P.O. Box 5715
Topeka, Ks. 66605

Affiliate of National Wildlife Federation
913/266-6185

200 S.W. 30th
Suite 106
Topeka, Ks. 66611

Testimony in opposition to SB 653

by

Spencer Tomb
Past President Kansas Wildlife Federation

20 February 1992

Mr. Chairman, Members of the Committee, my name is Spencer Tomb. I am from Manhattan and I am the immediate past president of the Kansas Wildlife Federation.

The Kansas Wildlife Federation is a not-for-profit wildlife and natural resource conservation and education organization. Our 6,000 volunteer members and the 10,000 Kansas members of our national affiliate, the National Wildlife Federation, are dedicated to the proper use, professional management and adequate funding for our vital soil, water, air, plant and animal resources.

This is the second time that the Kansas Wildlife Federation has appeared in the Legislature and shared our view of the qualifications for the Secretary of Wildlife and Parks. In the hearings on House Bill 2005 in January and February of 1989, we stated that our primary concern was that the KDWP be able to manage the state's wildlife and parks in a scientific and professional manner for the benefit of all Kansans.

The Kansas Wildlife Federation was involved from the first days of ERO 22 which was the blueprint for the Kansas Department of Wildlife and Parks. The wording of the qualifications section in HB 2005 is not an accident. The intent was to ensure that the Secretary and Assistant Secretaries would be professionals and that the Governor would choose a Secretary from a pool of qualified (educated, trained and experienced) professionals in the broad field of natural resource management. In October of 1988, the Federation passed a resolution calling for the Secretary, Assistant Secretary and other key staff of the KDWP to have education and experience in natural resource management. A copy of this resolution is attached.

^{See} evaluation With the merger of the Park Resources Authority and the Fish and Game Commission and the evaluation of the resulting department to the cabinet level, considerable responsibility and power were concentrated in the office of the Secretary of Wildlife and Parks. This responsibility and power should be in the hands of an educated, trained and experienced natural resource manager who can represent Kansas at regional and national meetings. The Secretary must have sufficient education and experience to be able to sort through complex technical information and make sound decisions on Kansas natural resource management and protection. All of our neighboring states see the value of experience and education by the appointments they have made to comparable positions. (See attached sheet).

Senate Bill 653 and its companion bill in the House HB 2939 will reduce by two thirds the required qualifications and make the qualifications section meaningless. This is why we oppose these bills. Our concern is for the long term future of our natural resources. We urge you not to take this backwards step and ask that you not pass this bill or any bill that weakens or dilutes the qualifications for Secretary of Wildlife and Parks.

attachment

Resolution 1988-10

QUALIFICATIONS OF APPOINTED STAFF IN THE
DEPARTMENT OF WILDLIFE AND PARKS

WHEREAS, the Kansas Fish and Game Commission and the Kansas Park and Resource Authority were combined into the Kansas Department of Wildlife and Parks in 1987; and

WHEREAS, the Secretary of the Department of Wildlife and Parks is appointed by the Governor and the Assistant Secretary and other key staff are appointed by the Secretary; and

WHEREAS, it is crucial that the Department of Wildlife and Parks be operated in a nonpartisan manner;

NOW, THEREFORE, BE IT RESOLVED that KWF, Inc. in annual meeting assembled on October 30, 1988, in Lawrence, Kansas, requests the Kansas Legislature to establish through statute that the Secretary, Assistant Secretary, and other key staff of the Department of Wildlife and Parks be required to possess education and experience in natural resource management at a level that qualifies them to operate this complex Department.

Education and experience of Wildlife and Parks agency heads in neighboring states

COLORADO

Kenneth Salazar, Executive Director (303)-866-3311
Dept. of Natural Resources

Education: undergraduate degree in Political Science, Colorado College; law degree Univ. of Michigan

Experience: Five years in private practice in natural resource law, five years on Governor's staff

IOWA

Larry Wilson, Director (515) 281-5145
Dept. of Natural Resources

Education: B S wildlife Biology, Utah State Univ. 1964

Experience: ten years as field biologist for Utah Fish and Game, regional biologist for ten years, two years as head of Iowa Fish and Game prior to creation of Div. of Natural Resources

MISSOURI

Jerry Presley, Director (314) 751-4115
Dept. of Conservation

Education: B S Forest Management, Univ. of Missouri, 1958

Experience: twenty-eight years of experience in various capacities in state forestry programs before becoming Assistant Director of the Missouri Dept. of Conservation which he held for two years before becoming Director, other positions held included District Forester, state forest land appraiser, assistant state forester, state forester

NEBRASKA

Rex Amack, Director (402) 471-5539
Game and Parks Commission

Education: B S Journalism, Univ. of Nebraska 1968

Experience: Up through the ranks of the Game and Parks Commission starting out as a writer for Nebraska land magazine serving as Chief of Information and Education 1973 - 1980 and Assistant Director 1980 - 1988 before becoming Director in 1989.

OKLAHOMA

Steven Alan Lewis, Director (405) 621-3851
Dept of Wildlife Conservation

Education: B S Wildlife, 1967; M S Fisheries, 1969 both from University of Arizona. Currently a PH. D. candidate at Oklahoma State University.

Experience: Continuous employment since 1969 in Wildlife management field.

**GEARY COUNTY FISH & GAME ASSOCIATION
JUNCTION CITY, KANSAS**

ATTENTION: KANSAS SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES
REFERENCE: SB 653

The dilution of the qualifications for the Kansas Secretary of Wildlife & Parks is a grave disservice to the fragile limited resources of our state, the citizens of our state and more importantly to the future of both the outdoors and people that will follow in generations to come.

It is important the Secretary has the educational background when dealing with his/her department personnel and other agencies and groups from outside the state. Technical data and information from federal, other states and institutions are not always presented in a manner that allows a novice outdoors person ample time to make a logical informed decision if one is required.

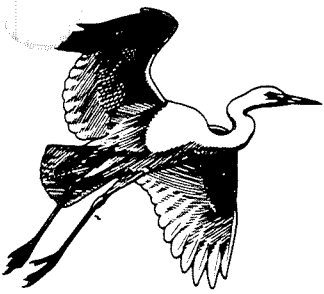
Management of a company with several hundred employees and a multi-million dollar budget is unthinkable to the board of directors of that company if experience and knowledge were lacking.

You are the Board of Directors of our wild resources. Please do not dilute ERO 22. If any changes are made - make it STRONGER. The future of a clean and healthy state and the outdoors we in the midwest enjoy depends on your judgement.

Respectfully Submitted,

Jim Nixon
Geary County Fish & Game Association

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Kansas Audubon Council

February 20, 1992

Testimony on SB 653 before the
Senate Energy and Natural Resources Committee

My name is Joyce Wolf and I here on behalf of the Kansas Audubon Council. The Council is comprised of National Audubon Society members who reside in areas served by the ten chapters (Kansas City, Leavenworth, Lawrence, Topeka, Manhattan, Salina, Hutchinson, Emporia, Wichita, and Southeast Kansas) as well as others who live in areas not served by these chapters. Audubon members share a desire to promote a sustainable society through the conservation, protection, and wise use of the earth's natural resources.

We would like to draw to this committee's attention the fact that the 1991 Special Committee on Governmental Organization, in regard to Proposal #9, concluded "that there is value in stated statutory qualifications, at least for major positions in state government ... (and they) would provide that 'yardstick' for measuring the appointees." Furthermore, the Special Committee endorsed the language of HCR 5031 which, among other things, states:

... The selection of persons with the proper qualifications is necessary for the most efficient operation of state government; and

... The selection of an appointee based on specific qualifications would result in a person entering the position with the skills necessary to perform the duties of the position and provide for a smooth transition when changes in such position occur; and

... The lack of statutory requirements for qualifications provides little guidance to the Senate Committee on Confirmation when such committee conducts interviews of appointees to important state offices;...

This is followed by a long list of secretaries of most state agencies, the directors of budget and KBI, and members of certain boards. Conspicuous by its absence from this list is the Secretary of Wildlife and Parks. KAC assumes that this is so because the special committee felt confident that the qualifications as currently designated in KSA 32-801 meet the needs spelled out in the preamble of HCR 5031.

KAC believes that during the statutory reorganization of KDWP, the legislature recognized the need that exists to have this department headed by a person who fully meets a set of specific criteria, i.e., not only should the person have a breadth and depth of knowledge of wildlife, parks or natural resources, but also have demonstrated experience in one or more of those fields and have administrative experience.

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In thinking about this set of qualifications and the suggested change in SB 653, it occurred to me that many KAC members have degrees in wildlife and are employed in some field of wildlife biology and that most members have spent a large part of their lives enjoying the recreational aspects of wildlife watching. Does that qualify them to hold the position of Secretary of KDWP? No, because few have any administrative background. All criteria must be present: education, training, experience, and executive and administrative ability.

KAC hopes that a vote on SB 653 will be viewed as an opportunity to affirm a commitment to protect the natural resources of the state of Kansas from being politicized. We believe that not just KAC members, but the public in general, support measures which promote effective and efficient government operation as mentioned in HCR 5031. Criteria have been set for this position; appointees should be measured against the "yardstick" already in place. KAC believes a no vote on SB 653 would be consistent with the recommendations of the Special Committee on Governmental Organization. We urge this committee to vote no on SB 653.



Kansa Chapter

THE WILDLIFE SOCIETY

3109 Gary Avenue
Manhattan, Kansas 66502
913 776-5125

19 February 1992

Senator Ross Doyen, Chairperson, and Members
Senate Energy and Natural Resources Committee
State Capitol
Topeka, Kansas 66612

Dear Senator Doyen and Committee Members:

As the organization of wildlife biologists in federal, state, and private employment in Kansas, we are concerned about matters that affect wildlife and natural resources management in the state. Therefore, I wish to state our position on the qualifications required of the appointed officials of the Kansas Department of Wildlife and Parks.

Most biologists entering the wildlife profession have completed a graduate degree in an appropriate field. The Wildlife Society has a voluntary nationwide program for certification of wildlife biologists, and the education and experience requirements have become more stringent during the past decade. A summary of the current requirements for certification is attached. Please note the breadth and depth of the studies required.

The Secretary of Wildlife and Parks must be both a spokesman for the agency and an advocate for sound natural resources management. Therefore, the credentials of the Secretary should be such that he or she can fully understand the issues we face and the methods we use to resolve those issues. Only if the Secretary is as qualified as the professionals in the field will he or she be able to present a sound case for wildlife management to the legislature and to the public.

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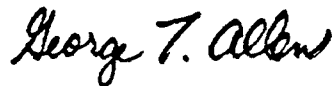
Senator Doyen, Senate Energy and Natural Resources Committee

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Jack Lacey has done an acceptable job as the Acting Secretary of Wildlife and Parks. However, we believe that the officials appointed to head state agencies should be qualified by education and experience to hold their positions. The Kansas Chapter of The Wildlife Society supports the requirement for professional qualifications based on education, experience, and administrative experience for the positions of Secretary and Assistant Secretary of Wildlife and Parks. We believe it is in the best interest of the natural resources we manage to have the most qualified appointee possible as Secretary of Wildlife and Parks. We ask that the current requirements for the position, which we understand are under consideration in SB 653, not be lowered. It does not serve wildlife professionals or the people of Kansas to reduce the requirements for appointment to this important position.

Thank you very much for your consideration of our concerns. Please contact me at the address or phone number above if you have questions about our views.

Sincerely,



George T. Allen, Ph.D.
President-Elect

xc: T. Swan, President
KCTWS Board Members
TWS National Office

CERTIFICATION REQUIREMENTS FOR PROFESSIONAL WILDLIFE BIOLOGISTS

Certification as a Wildlife Biologist requires completion of specific education requirements and completion of professional experience.

The education requirements for certification are as follows.

1. Biological Sciences. A minimum of 36 semester hours, 33 of which must be in categories a, b, and c.
 - (a). Wildlife Management. Courses emphasizing the principles and practices of wildlife management. (6 hours minimum)
 - (b). Wildlife Biology. Courses in the biology and behavior of birds and mammals, such as ornithology and mammalogy. (6 hours minimum)
 - (c). Ecology. Courses in general plant or animal ecology. (3 hours minimum)
 - (d). Basic Zoology. Courses in general zoology, genetics, physiology, anatomy, invertebrate zoology, or taxonomy. (9 hours minimum)
 - (e). Basic Botany. Courses in general botany, plant genetics, plant physiology, or plant taxonomy. (9 hours minimum)
2. Physical Sciences. Nine semester hours in physical sciences such as chemistry, physics, geology, or soils, with at least two disciplines represented.
3. Quantitative Sciences. Nine semester hours in quantitative sciences that must include:
 - (a) Basic quantitative sciences. A course in calculus. (3 hours).
 - (b) Applied quantitative sciences. A course in basic statistics (3 hours) and a course in biometry, sampling, computer science, or other applied quantitative science (3 hours).
4. Humanities and Social Sciences. Nine semester hours in humanities and social sciences such as economics, sociology, psychology, political science, government, history, literature, or foreign language.
5. Communications. Twelve semester hours in courses designed to improve communication skills, such as English composition, technical writing, journalism, public speaking, or use of mass media.
6. Policy, Administration, and Law. Six semester hours in courses such as resource policy and/or administration, environmental or wildlife law, or natural resources/land use planning. Technical courses such as photogrammetry, LANDSAT mapping, or introductory general conservation courses ordinarily will not apply.

Full certification requires five years of full-time experience or the equivalent after the baccalaureate. Certification as an Associate Wildlife Biologist is possible for an applicant who meets the education requirements but not the experience requirements. Completion of a Master's degree will earn one year's experience. Completion of a Ph.D. will earn two year's experience. Completion of a Master's and a Ph.D. will earn three years credit toward the experience requirement for certification.