

Approved: Carl Dean Holmes
Date 4-29-95

MINUTES OF THE HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES.

The meeting was called to order by Chairperson Carl Holmes on FEBRUARY 23, 1995 in Room 526-S of the Capitol.

All members were present except: Representative Kline - Excused

Committee staff present: Raney Gilliland, Legislative Research Department
Dennis Hodgins, Legislative Research Department
Mary Torrence, Revisor of Statutes
Shirley Wilds, Committee Secretary

Conferees appearing before the committee: Darrel Montai - KS Wildlife and Parks

Others attending: See attached list

Hearing on HB 2477:

Darrel Montai. Mr. Montai testified briefly on this measure, saying that it will enable the Department law enforcement personnel to better administer the state's boating laws and regulations. Additionally, it provides for boating opportunity in a safe and secure manner. (See Attachment #1.)

Action on HB 2477:

Representative Sloan made a motion to pass HB 2477 favorably. Representative Lawrence seconded. Motion carried.

Hearing on HB 2478:

Darrel Montai: Mr. Montai explained the provisions that would be amended in **HB 2478**. He detailed the amendments to several statutes as is briefly listed: (See Attachment #2.)

- 1) It amends the definition of a private water fishing impoundment found under Statute.
- 2) Amends statute to expand the concept of group fishing licenses and address fishing license requirements for certain individuals involved in fishing clinics that are sponsored or co-sponsored by the Department.
- 3) Pursuant to statute, the Secretary is required to issue, free of charge, a permanent license to hunt, fish and furharvest in Kansas to any resident individual who is at least 1/16 Indian by blood and who is enrolled as an American Indian on a tribal membership roll maintained by the Bureau of Indian Affairs of the U. S. Department of Interior, or who has been issue a certificate of degree of Indian blood by such bureau of Indian Affairs.

Action on HB 2478:

Representative Sloan made a motion to pass HB 2478 favorably. Representative Hutchins seconded. Motion carried.

Action on HB 2457:

Representative McClure made a motion to reconsider her action on HB 2457 (See Attachment #10 in February 22 Committee minutes), and strike the second and third (B) in the new language. Representative Freeborn seconded. Motion carried.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES, Room 526-S Statehouse, at 3:30 p.m.. on February 23, 1995.

Representative McClure made a motion to pass **HB 2457** as amended. Representative Freeborn seconded. motion carried.

Action on HB 2452:

Representative Sloan made a motion to amend **HB 2452**, inserting new Section 13 and New Section 14. Representative McClure seconded. (Attachment 3)

Representative Krehbiel moved to table **HB 2452**. Representative Lloyd seconded. Motion carried.

Action on HB 2439:

Representative McClure moved to table **HB 2439**. Representative Alldritt seconded. Motion carried.

Action on HB 2476:

Representative Sloan made a motion to adopt the balloon on **HB 2476**. Representative Lloyd seconded. Motion carried. (See Attachment # 4.)

Representative Sloan made a motion to pass **HB 2476** favorably, as amended. Representative Lloyd seconded. Motion carried.

Upon conclusion of bill actions, Representative Lawrence reported to the Committee that the Subcommittees on **HB 2436** and **HB 2438** have elected to hold these two bills for purposes of further study. Representative Lawrence has proposed that a letter be drafted to the Department of Revenue regarding **HB 2436**, and a letter to the Kansas Corporation Commission regarding **HB 2438**. The letters will ask the Department and Commission to report back to them their thoughts and suggestions on these issues. The bills would then be addressed perhaps next session.

There being no further business, the meeting adjourned at 4:25 p.m.

The next meeting is scheduled for March 6, 1995.

ENERGY AND NATURAL RESOURCES COMMITTEE GUEST LIST

DATE: February 23, 1995

NAME	REPRESENTING
Steve Hurst	KWO
Michelle Peterson	K. Soc. Consulting
MAN COBB	City of Wichita
ED SCHIABY	WESTERN RESOURCES
Jack Glanz	City USA
GC Long	Utilicorp United
Mike Heim	Heim, Ebert & LeDew
Pat Ousey	KDHE
E.L. "Woody" Moore	Ka. Agg. Prod. Assn.
Januel Penny	KAPA
JIM PALSTON	KAPA
DAVE BARCLAY	KAPA
Doug Oidick	KAPA
Don Schnacke	KIOGN
Ron Hein	AFSA
DARRELL MONTEI	KDWP
Marshall Clark	KEC

STATE OF KANSAS



DEPARTMENT OF WILDLIFE & PARKS

OFFICE OF THE SECRETARY

900 SW Jackson St., Suite 502 / Topeka, Kansas 66612 - 1233
(913) 296-2281 / FAX (913) 296-6953

House Bill 2477

Testimony Presented To: House Energy and Natural Resources Committee
Provided By: Kansas Department of Wildlife and Parks
February 23, 1995

Law enforcement officers have the authority under K.S.A. 32-1179 to enforce the provisions of the state's boating laws and to stop and board any vessel which is subject to the state's boating laws. This is similar to a law enforcement officer's authority to stop motor vehicles for certain reasons. Under K.S.A. 8-1568, which applies to motor vehicles, attempting to flee from or elude a law enforcement officer is a violation subject to penalty. There is no similar provision under boating law which applies to vessels, thus a vessel operator who attempts to flee from or elude an officer has not committed a violation.

H.B. 2477 involves enactment of a fleeing or eluding provision patterned after K.S.A. 8-1568, except it would apply to vessels. Each vessel operator willfully failing to stop upon proper signal by hand, voice, emergency light or siren would be in violation and subject to penalty. Any officer giving such signal would be required to be in uniform and prominently displaying the officer's badge of office. A violation of the statute would be a class C misdemeanor.

The number of attempts to flee or elude during the course of a year is not large, but it does happen occasionally. It is the policy of the state and goal of this Department to provide the citizens of Kansas with recreational boating opportunity. H.B. 2477 will enable Department law enforcement personnel to better administer the state's boating laws and regulations. And further, to provide boating opportunity in a safe and secure manner.

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Attachment #1

STATE OF KANSAS



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OFFICE OF THE SECRETARY

900 SW Jackson St., Suite 502 / Topeka, Kansas 66612 - 1233
(913) 296-2281 / FAX (913) 296-6953

House Bill 2478

Testimony Presented To: House Energy and Natural Resources Committee
Provided By: Kansas Department of Wildlife and Parks
February 23, 1995

H.B. 2478 would amend several provisions of current law. Those amendments and a description of each is as follows:

1) It amends the definition of a private water fishing impoundment found under K.S.A. 32-701. Individuals fishing on a private water fishing impoundment are privileged to do so without a fishing license under K.S.A. 32-906. Individuals in possession and control of a private water impoundment, pursuant to K.S.A. 32-974, may propagate or raise fish in the impoundment for private or commercial use without any state license, permit or stamp and without limitation as to numbers, time or manner of taking fish from the impoundment. Thus, the definition of a private water fishing impoundment has bearing on those issues.

The current definition requires that an impoundment be entirely isolated from any other surface water and have no connection, except during periods of flood, with streams or other bodies of water that would permit fish to move between the private water fishing impoundment and streams or other bodies of water. They can be connected to a stream or other body of water by a pipe or conduit no larger than 8 inches in diameter if the pipe or conduit is screened to prevent the movement of fish.

The definition was likely prepared to apply to a traditional "farm pond". Although a few commercial fish growers utilize farm ponds, many use a pit or dugout for the raising of fish and generally these are in a series of interconnected pits or dugouts. For those using "farm ponds", these are also often constructed in series. The present definition appears to apply to a private water impoundment, not to a series of otherwise qualified impoundments. Each of the

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impoundments would have to be isolated or connected only by the screened pipe or conduit as previously mentioned.

Recreational fishing also occurs on some of the impoundments used by commercial fish growers and there are several locations around the state where similar private impoundments are operated strictly for recreational fishing as a business. Under the current definition, these areas may require a fishing license.

The Department's primary interest in private water fishing impoundments is twofold. The first is one of protection of native or "wild" fish species through prevention of release of fish from private water fishing impoundments. The second interest is ensuring that native or "wild" fish species existing in the wild as a public resource are not removed from the public sector and used in a private operation. Thus a definition should address proper inflow and outflow controls, but allow for interchange of water, if needed, between private water impoundments that are located within an ownership.

The proposed amendment would recognize the interchange of water between private water fishing impoundments within an ownership. The amendment would maintain that these impoundments not have any connection with streams or other bodies of water, but would remove the reference to pipe or conduit size. It would also recognize other means which would prevent movement of fish into or out of the impoundment or impoundments.

The Department is not aware of any existing private water fishing impoundment that would lose that status as a result of this bill. It would however, allow several known impoundments, which for all practical purposes are private water fishing impoundments, to qualify as private water fishing impoundments.

2) It amends K.S.A. 32-906 to expand the concept of group fishing licenses and address fishing license requirements for certain individuals involved in fishing clinics that are sponsored or co-sponsored by the Department.

Current law provides for the issuance of institutional group fishing licenses to facilities under the jurisdiction of or licensed by the Secretary of Social and Rehabilitation Services and to any veterans administration medical center in the state. The institutional fishing license allows any individual residing in such center or facility to fish without a license. They are limited to not more than 20 individuals at one time and all laws and regulations

regarding seasons, methods of take, size limitations, creel and possession limits, etc. are applicable.

A number of community, civic and charitable organizations are becoming more active in working with developmentally disabled individuals through group fishing activities. Under current law, a fishing license would be required for each individual involved, unless otherwise exempted such as by age. The amendment would allow these groups to secure a "group fishing license" for use during a group fishing activity. Amendment of K.S.A. 32-988 to establish a fee range for such group fishing license is included as is establishment of a \$50 fee for calendar year 1995.

Staff of the community, civic or charitable organization would be authorized to assist individuals involved in the group during the group's fishing activity. A fishing license would not be required of a staff member while assisting group members during the activity. Those provisions regarding staff are not included in current law pertaining to institutional fishing licenses. Proposed amendments to K.S.A. 32-906 would also extend the same privileges to staff assisting under an institutional fishing license.

The Department is involved in many fishing clinics throughout the state, but most are conducted in and around urban centers. The primary purposes of these clinics are to expose people to fishing and teach techniques and ethics. It is the Department's position that such exposure will provide a wholesome recreational alternative to those involved and some will eventually become license buyers. Generally, the audience is made up of individuals who are under 16 years of age and do not need a fishing license, but there are occasions when participants are over 16 years of age. The amended language would allow individuals who are participating in a fishing clinic sponsored or co-sponsored by the Department to do so without a fishing license.

3) Pursuant to K.S.A. 32-929, the Secretary is required to issue, free of charge, a permanent license to hunt, fish and furharvest in Kansas to any resident individual who is at least 1/16 Indian by blood and who is enrolled as an American Indian on a tribal membership roll maintained by the Bureau of Indian Affairs of the United States Department of Interior or who has been issued a certificate of degree of Indian blood by such Bureau of Indian Affairs.

The Bureau of Indian Affairs no longer issues certificates of degree of Indian blood nor does the BIA continue to maintain membership rolls of the various tribes. Tribal membership rolls are now maintained by the respective tribes and the tribes have the latitude, pursuant to their respective constitutions, to determine membership and to issue membership cards.

Applications for a permanent license to hunt, fish and furharvest are being received by the Department from resident Native Americans who might otherwise qualify for the permanent license, but who unable to comply with the statutory requirements of K.S.A. 32-929 and therefore their applications must be rejected.

The amendments to K.S.A. 32-929 would establish two criteria for eligibility to apply for and receive a permanent license to hunt, fish and furharvest. The minimum requirement of 1/16 Indian by blood would be maintained as one criteria and the other requirement would be membership on a tribal membership roll maintained by a federally recognized tribe. Upon submission of satisfactory proof of the two above requirements, a permanent license would be issued.

A definition of a "federally recognized tribe" would mean any American Indian group that has petitioned for and obtained recognition by the United States Department of the Interior under the standards set out in 25 C.F.R. Part 83, as amended.

AMENDMENT TO HB 2452

Representative Sloan

New Sec. 13. (a) There is hereby created in the state treasury the oil and gas remediation fund. All expenditures from the fund shall be in accordance with appropriation acts upon warrants of the director of accounts and reports pursuant to vouchers approved by the chairperson of the commission or a person designated by the chairperson.

(b) The moneys credited to the oil and gas remediation fund, shall be used to clean up pollution from abandoned oil and gas production sites over which the commission has acquired jurisdiction and authority pursuant to subsection (b) of K.S.A. 74-623 and amendments thereto and for expansion of the commission's current program for plugging wells under K.S.A. 55-179 and amendments thereto.

(c) Moneys credited to the oil and gas remediation fund shall not be expended or encumbered in a fiscal year for the purposes described in subsection (b) unless moneys credited to the conservation fee fund have first been expended or encumbered in such fiscal year for the purpose of plugging oil and gas wells under K.S.A. 55-179 and amendments thereto in an amount not less than the amount expended from the conservation fee fund for such purpose for the fiscal year ending June 30, 1996.

(d) On the 10th of each month, the director of accounts and reports shall transfer from the state general fund to the oil and gas remediation fund, the amount of money certified by the pooled money investment board in accordance with this subsection. Prior to the 10th of each month, the pooled money investment board shall certify to the director of accounts and reports the amount of money equal to the proportionate amount of all the interest credited to the state general fund for the preceding period of time specified under this subsection, pursuant to K.S.A. 75-4210a and amendments thereto, that is attributable to money in the oil and gas remediation fund. Such amount of money shall be determined by the pooled money investment board based on: (1) The average daily balance of moneys in the oil and gas remediation fund during the period of time specified under this subsection as certified to the board by the director of accounts and reports; and (2) the average interest rate on repurchase agreements of less than 30 days' duration entered into by the pooled money investment board for that period of time. On or before the fifth day of the month for the preceding month, the director of accounts and reports shall certify to the pooled money investment board the average daily balance of moneys in the oil and gas remediation fund for the period of time specified under this subsection.

\$0.01 **New Sec. 14. (a)** On and ^{*\$0.0018*} after January 1, 1996, there is hereby levied an assessment in the amount of ~~*\$0.0075*~~ on each barrel of oil and ~~*\$0.0004*~~ per mcf of natural gas produced from each well in the state of Kansas. Whenever the unobligated principal balance of the oil and gas remediation fund equals or exceeds \$3,000,000 on the day before the beginning of a new fiscal year, no assessment shall be levied pursuant to this section during such fiscal year or any subsequent fiscal year until the unobligated balance of the fund is less than \$1,500,000 on the day before the beginning of a new fiscal year, in which case the levy of the assessment shall resume.

(b) The assessment levied by this section shall be paid in the manner provided by law for payment of oil conservation assessments pursuant to K.S.A. 55-176 and amendments thereto and gas conservation assessments pursuant to K.S.A. 55-711 and amendments thereto. All revenue received from the assessment levied pursuant to subsection (a) shall be remitted daily to the state treasurer. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the oil and gas remediation fund.

(c) The commission shall be responsible for taking appropriate legal actions to collect any assessment levied by this section which is not paid or is not properly paid.

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HOUSE BILL No. 2476

By Committee on Energy and Natural Resources

2-14

9 AN ACT concerning sand and gravel pits; relating to the application of
10 certain statutes to evaporation of water therefrom.

11
12 *Be it enacted by the Legislature of the State of Kansas:*

13 Section 1. [Evaporation of water exposed as the result of the opening
14 or operation of sand and gravel pits shall not be construed to be a use or
15 diversion of water for the purposes of article 7 of chapter 82a of the
16 Kansas Statutes Annotated.]

17 Sec. 2. This act shall take effect and be in force from and after its
18 publication in the [statute book].

(a) An operator will notify the chief engineer of the division of water resources of the location and areal extent of any existing or proposed sand and gravel pit to be excavated, expanded or operated by the operator.

(b) Unless the chief engineer determines that it has a substantially adverse impact on the area ground water supply, the evaporation of water exposed as the result of the opening or operation of sand and gravel pits shall not be construed to be a beneficial use or diversion of water for the purposes of the Kansas water appropriation act, K.S.A. 82a-701 et seq., and amendments thereto.

(c) Evaporation from sand and gravel pits, as calculated by the chief engineer, will be reported as an industrial use to the director of taxation for the purpose of assessing the water protection fee, pursuant to K.S.A. 92a-954, and amendments thereto.

Kansas register

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