

Approved: Carl Dean Holmes
Date 2/13/96

MINUTES OF THE HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES.

The meeting was called to order by Chairperson Carl Holmes at 3:35 p.m. on January 23, 1996, in Room 526-S of the Capitol.

All members were present except: Representative Steve Lloyd - Excused

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

Conferees appearing before the committee: Sharon Patnode, Legislative Division of Post Audit
William C. Long, Manhattan citizen
Spencer Tomb, Kansas Wildlife Federation
Darrell Montei, Department of Wildlife and Parks

Others attending: See attached list

Chairperson Holmes opened the meeting by announcing the Committee would not be working bills today. He has received the Environmental Task Force Report which will generate approximately 20 bills and will occupy most of the committee time from the first of February to turnaround time.

Hearing on HB 2621: Establishing a division of wildlife and a division of parks in the department of wildlife and parks

Sharon Patnode. Sharon Patnode, Senior Auditor, reviewed the Performance Audit Report dated February 1, 1995, for the Committee. (Copies available in the Legislative Division of Post Audit) Questions followed.

William Long. Mr. Long testified in support of **HB 2621**. (Attachment #1)

Spencer Tomb. Mr. Tomb testified in opposition to **HB 2621**. (Attachment #2)

Darrell Montei. Mr. Montei testified in opposition to **HB 2621**. (Attachment #3)

Questions and discussion followed, after which Chairperson Holmes closed the hearing.

The meeting adjourned at 5:08 p.m.

The next meeting is scheduled for January 24, 1996.

January 23, 1996

TO: Representative Carl D. Holmes, Chair, and the House Energy and Natural Resources Committee concerning House Bill ~~2599~~.2621

FROM: William C. Long, 824 Church Avenue, Manhattan, Kansas.

SUBJECT: Changes needed in Chapter 32 Wildlife, Parks and Recreation.

1. It is widely agreed that changes are needed in the operations of the Department of Wildlife and Parks. The continuing problems in the management and operation of the Department have been graphically illustrated by the continuing diversion situation. The mismanagement causing the diversion imperils the Sport Fish and Wildlife Restoration Program federal matching funds which are so necessary in the Department's operations and programs. It is important to remember that these matching funds come from Federal Excise Taxes paid by the sportsmen and women of Kansas.

2. Since I only became aware of HB 2621 and this hearing yesterday morning, I did not have the opportunity to review the proposed changes prior to preparing this presentation. Regardless of the proposed changes, you should give full consideration to the experience under the present provisions of Chapter 32. That experience demonstrates that regardless of the requirements or prohibitions enacted into law, those provisions may or may not be adhered to or enforced. It goes without saying that mere organizational changes will not solve problems.

3. Section 32-829 contains the statutory agreement wherein Kansas agreed to conform to the requirements of the Sport Fish and Wildlife Restoration Program, so that we would be eligible for the federal matching funds. Section 32-990 contains statutory restrictions on the use of Wildlife Fee Funds that are

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even more restrictive than the Federal regulations. Section 32-991 contains almost identical restrictions on the use of Park Fee Fund monies. In their February 1995 Performance Audit Report, the Legislative Division of Post Audit reported that during fiscal years 1989 through 1992 the Department spent \$1.7 million in violation of federal regulations. The agreement with the U.S. Fish and Wildlife Service changed that figure to \$1.9 million. Post Audit also reported that that \$1.9 million was part of \$3.9 million spent in violation of State law. A federal audit of fiscal years 1993 and 1994 identified a further diversion of \$1.7 million. The amount spent in violation of State law has not been identified, to my knowledge.

4. The Legislative Division of Post Audit's December 1995 report reports that the Department acknowledges that about \$800,000 was diverted during fiscal year 1995. Again, the amount spent in violation of State law was not further identified. That adds up to a total of \$4.4 million spent in violation of Federal regulations during fiscal years 1989 thru 1995. If we use the ratio identified by Legislative Post Audit for fiscal years 1989 thru 1992, we could have \$9 million spent in violation of State law by the Department during the 1989 thru 1995 period. In this last report Legislative Post Audit said that the problem was likely to continue.

5. My point in this review of the financial problems of the Department is that regardless of what you enact into the law, it means little unless the officials managing and carrying out these operations and functions adhere to the requirements of law and the law is enforced. In the case of the Kansas Department of Wildlife and Parks, neither the Governor or the Attorney General can seem to find any reason to prosecute or take appropriate action concerning the illegal expenditure of millions of dollars. At this point no one has been held responsible, even though the problem apparently continues. We are reminded that Attorney General Stephens forced a former

Department secretary to resign because he conducted Hunter Education short courses in violation of provisions of Chapter 32.

6. In the diversion situation, a number of the Department employees knew about the illegal expenditures. The unwillingness of the previous or present administrations to enforce the law has adversely affected the morale of many good employees in the Department. The credibility of the Department with the public and many legislators also seems to be at question. While I am not a lawyer, the provisions in the present law for spending wildlife fee funds and park fee funds appear clear. Apparently, in the opinion of the Governor and the Attorney General, the penalty provisions in Sections 32-1180 and 21-3902 do not apply to this illegal expenditure of millions of dollars. In considering HB 2621 I ask that you consult with the Governor and the Attorney General and make changes to the penalty provisions of the law so that it will be more likely that officials and employees involved in the illegal expenditure of State funds will be prosecuted. The current situation cannot be allowed to continue and should be corrected before additional funds are given to the Department.

Thank you.

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January 23, 1996

Testimony in Opposition to House Bill 2621

My name is Spencer Tomb and I am from Manhattan. I currently serve as Vice President of the Kansas Wildlife Federation and Chair the KWF Conservation Issues and Actions Committee.

The Kansas Wildlife Federation is a broad based, state wide conservation and education organization dedicated to the conservation, protection and sustainable and appropriate uses of our natural resources. We are the Kansas affiliate of the National Wildlife Federation.

The issues that have prompted this bill are very familiar to me because I have actively followed the wildlife conservation issues for KWF since 1987 and I first raised questions about misuse of license fees with the KDWP administration in 1989.

We oppose this bill because it is not needed at this time. Reorganization in the Kansas Department of Wildlife and Parks (KDWP) that has just been announced (moving Public Lands out of Parks and a monthly accounting system) should solve the problems that this bill addresses. We also oppose this bill because it would make the two directors unclassified employees and there have been numerous problems with unclassified appointments in KDWP.

Knowledgeable hunters, anglers and trappers are very disappointed that KDWP has not solved its problems of misusing our license fee dollars. We find it difficult to believe that these problems have continued so long without a correction. In other words, we understand the frustration that has surfaced in the Legislature and prompted this bill.

The principle problem is aging and under funded state parks system. The Wildlife Fee Fund has been used to cover the funding shortfall in the parks and has paid more than an appropriate share of the administrative costs in the agency. The Wildlife Fee Fund is a user fee fund. It is generated out of the pockets of hunters, anglers and trappers and we want this money spent on wildlife and natural resources, not on state parks.

Changing the organizational chart of KDWP and making the directors unclassified employees will not stop diversion. If there was a penalty knowingly diverting funds it would do more to solve the problem than this bill.

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DEPARTMENT OF WILDLIFE & PARKS

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H.B. 2621

Testimony Presented To: House Energy & Natural Resources Committee
Provided By: Kansas Department of Wildlife and Parks
January 23, 1996

H.B. 2621 would create a Division of Wildlife and a Division of Parks within the Department of Wildlife and Parks with respective Division Directors who would be in the unclassified service and appointed by the Secretary. All costs and expenses of administering the Wildlife Division including division personnel would be from the Wildlife Fee Fund. All costs and expenses of administering the Parks Division including division personnel would be from the Parks Fee Fund.

Currently, the Department is organized into four operational divisions which are Fish and Wildlife, Parks and Public Lands, Law Enforcement, and Administrative Services. Each division is headed by a Director who is in the classified service.

The Department is presently undergoing an internal organizational review with intent to implement a modified structure on or about February 1, 1996. Several changes are planned, which appear to meet the primary intent of this bill. The Public Lands Section of the Parks and Public Lands Division will be transferred to the Fish and Wildlife Division. This will leave a stand-alone Parks Division. The Public Lands Section is responsible for operation and management of state fishing lakes and wildlife areas and more appropriately belongs as a function within the Fish and Wildlife Division.

The proposed restructuring will assist in ensuring proper divisional funding, accurate expenditures from the appropriate funds, and accounting of those funds. The changes also address the recommendations of Legislative Post Audit and suggestions by the U.S Fish and Wildlife Service.

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The Department prefers not to place the two mentioned Directors in the unclassified service. That action could have a negative impact on program continuity when administrative changes occur and would tend to discourage experienced employees as possible candidates for advancement. It would also create a differential in classification with the other two division directors who would remain in the classified service.

It appears that the language requiring all costs of the two divisions to come from a single fund for each division would preclude the use of any other funds for those divisions. Without State General Funds, the Parks Division could not function, at least not at the current level. The Fish and Wildlife Division is primarily funded through the Wildlife Fee Fund, but also uses other appropriate funds, including federal grants. It should be noted that for FY96 and FY97, this Division is required to expend State General Funds in order to comply with the diversion repayment agreement for the federal aid audit period FY89 - FY92.

The internal reorganization which is planned for February, 1996, will provide for better accounting and financial management within the Department and address the primary intent of H.B. 2621. The Department requests that H.B. 2621 not be passed.