

Approved: 3-12-97
Date

MINUTES OF THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES.

The meeting was called to order by Chairperson David Corbin at 8:00 a.m. on March 11, 1997 in Room 254-E of the Capitol.

All members were present except: Quorum was present.

Committee staff present: Raney Gilliland, Legislative Research Department
Mary Ann Torrence, Revisor of Statutes
Lila McClafin, Committee Secretary

Conferees appearing before the committee:
Cynthia Abbott, National Audubon Society
Bill Fuller, Kansas Farm Bureau
Mike Beam, Kansas Livestock Association
Marty Vanier, Kansas Agricultural Alliance
Charles Benjamin, Kansas Natural Resources Council and Sierra Club

Others attending: See attached list

On a motion by Senator Biggs, seconded by Senator Karr, the minutes of March 6 were adopted.

HB 2361 - Recommendations of the Nongame and the Endangered Species Task Force; listing and recovery plans for species; conservation agreements; tax credits.

Chairperson Corbin brought to the attention of the committee that **HB 2361** was the same as the amended version of **SB 309** that passed the committee on February 24 and was not passed by the Senate. **SB 309** was doubly referred and was not worked by the Assessment and Taxation Committee. He ask if any of the conferees had changed their minds. He reported Kathy George, Chairperson of the Task Force Committee had called and expressed her support for **HB 2361**.

Cynthia Abbott, Kansas Audubon Society, stated her society still supports the bill.

Bill Fuller, Kansas Farm Bureau, said they still support the bill as long as it can be passed as a complete package (Attachment 1).

Mike Beam, Kansas Livestock Association, supported the bill. He thought there was some question regarding the tax provision in new section 6 that could be worked out. They supported the legislation and pledged to work for the passage of it (Attachment 2).

Marty Vanier, Kansas Agricultural Alliance urged support for passage of HB 2361 (Attachment 3).

Charles Benjamin, Kansas Natural Resources Council and Sierra Club, said they supported the bill and all of the amendments that were added in the House were positive.

The hearing was closed.

Senator Karr moved that **HB 2361** be passed. Senator Biggs seconded the motion. Staff said that the revisor for the Assessment and Taxation Committee had pointed out to her that an amendment was needed on page 2. Senator Karr withdrew his motion.

Staff distributed the proposed amendment (Attachment 4) and pointed out a typo amendment on page 4, in line 23. and brief discussion followed. Staff pointed out in the proposed amendment the following language should be struck "and the amount of any costs incurred" The committee briefly discussed the amendment. Senator Morris moved to adopted the proposed amendments with the suggested language struck. Senator

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES, Room 254-E Statehouse, at 8:00 a.m. on March 11, 1997.

Karr seconded, and the motion carried. Senator Karr then moved HB 2362 be passed as amended. Senator Biggs seconded, and the motion carried.

Chairperson Corbin said fiscal notes for **SB 379** and **SB 380** were now available in the committee office if anyone wished to review them.

The meeting adjourned at 8:24 a.m.

The next meeting is scheduled for March 12, 1997.



PUBLIC POLICY STATEMENT

SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES

RE: HB 2361 - Endangered Species Reform

**March 11, 1997
Topeka, Kansas**

**Presented by:
Bill R. Fuller, Associate Director
Public Affairs Division
Kansas Farm Bureau**

Chairman Corbin and members of the Senate Committee on Energy and Natural Resources, I am Bill Fuller, Associate Director of the Public Affairs Division for Kansas Farm Bureau.

We certainly appreciate this opportunity to present the views of the farmers and ranchers who are members of the 105 county Farm Bureaus in Kansas. Threatened and Endangered Species Policy that was debated, revised and adopted by the more than 435 Voting Delegates at the 78th Annual Meeting of Kansas Farm Bureau is attached to this statement.

Few issues have caused more emotional debate with our members than implementation of the endangered species program. The protection of endangered species has often caused the owners of private property to feel threatened.

We applaud the wisdom of the 1996 Kansas Legislature in creating the Endangered Species Task Force. SB 473 required representatives of 17 diverse groups to examine the statute, guidelines and operational policies, then make

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recommendations to the 1997 Legislature. Kansas Farm Bureau participated in this journey.

Kansas Farm Bureau supports HB 2361. Several important provisions of Farm Bureau policy are included in HB 2361: public informational meetings, local advisory committees, landowner incentives and mandatory 5-year review of the list.

Additionally, we believe "New Section 4", page 4, lines 15-7 is extremely important. This section requires Kansas Wildlife and Parks to adopt by rules and regulations Operational Directives of the Secretary dated January 18, 1996: "Normal farming and ranching land treatment practices, including those utilizing public fund cost-shares, will not be reviewed, by the department, for permitting purposes and will not be the subject of law enforcement actions, unless an intentional (willful) taking of a threatened or endangered species is evidenced, or a permit is otherwise required by another state or federal agency." We applaud the agency for this common sense approach to normal farming and ranching activities.

We support the amendments to HB 2361 that were approved by the House. We consider the amendments friendly and believe they clarify and will improve the administration and effectiveness of the legislation.

Will HB 2361 solve all endangered species/landowner conflicts? Probably not, but we believe the proposed legislation is a giant step in the right direction. While there may need to be technical amendments, we ask you to approve all of the provisions of the Task Force Report that are contained in HB 2361. We believe support by some members of the Task Force will dwindle and the problems that will be solved will be few if the full package is not approved.

In closing, we appreciate your consideration of the views of the farm and ranch members of Farm Bureau on this important public policy issue. We respectfully ask you to approve and advance HB 2361.

Thank You!

Listing a species as threatened or endangered should require documentation to demonstrate conclusively that the species proposed to be protected are actually present in a clearly defined geographic area, and are dependent for survival on habitat in that location.

A public information meeting should be held in the impacted area immediately following any proposal to list a species. Scientific data supporting the inclusion of a species shall receive wide dissemination to landowners and private organizations representing the rights of these landowners.

Any agency, organization or person requesting a listing for a species in need of conservation, requesting threatened or endangered classification to be placed on any species, or requesting critical habitat designation, should be required to provide and fund an environmental impact report with emphasis on the economic impact of the action.

A local advisory committee should be appointed and be involved in the development of all management, recovery and mitigation plans.

We support the creation and use of landowner incentives for the development and enhancement of habitat that supports endangered species on privately owned lands. Cost-sharing, tax credits and grants should compensate landowners whenever costs are incurred or income from the property is impacted in supporting endangered species.

A complete review of the Kansas Threatened and Endangered Species List should be completed at least every five years.

Additionally, any species placed on the federal list under the Endangered Species Act may be added to the state list only after the following criteria have been met:

1. Public hearings;
2. Approval by the Kansas Department of Wildlife and Parks;

3. Approval by the Kansas Biological Survey;
4. Review by any agency with programs that may be impacted; and
5. Compliance with the state review process and state statutory requirements.

A public hearing should be required and an economic impact statement developed before any animal, plant or marine species is permitted to be introduced or re-introduced by any governmental agency.

We believe mitigation or acreage replacement measures should take into account cost/benefit ratios, and the economic impact of any proposal for mitigation or acreage replacement. We believe KDWP should not require mitigation or replacement of habitat in areas where conversion of the habitat is insignificant in relationship to the total amount of habitat available in the area.



Since 1894

March 11, 1997

To: Senate Energy and Natural Resources Committee
Sen. David Corbin, Chairperson

Fr: Mike Beam, Executive Secretary, Cow-Calf/Stocker Division

Re: Support of HB 2361 - Amendments to the Kansas Nongame, Threatened & Endangered Species Act

Mr. Chairman, and committee members, this bill is identical to SB 309, which was approved by this committee and the full Senate before the "house of origin" deadline. It's the product of a task force created by last year's legislature. From our perspective the provisions of HB 2361 offer positive changes for landowners and individuals wishing to preserve and enhance the threatened and/or endangered species in Kansas. Below is a summary of the changes of most interest to our membership:

- **Early notification when listing or de-listing is under consideration** - It's been a policy and practice to notify the public of a listing proposal after it's been determined by a scientific review panel and KDWP personnel that a species should be listed for protection. The ultimate decision is made by the KDWP Commission.

HB 2361 requires notification to all interested parties when a proposed listing is submitted for scientific review. This will be much earlier in the process. This change offers two distinct advantages. First, a potential listing may cause less resistance if landowners are notified early. Secondly, affected parties may engage their own scientific review if everyone is aware of the proposal in the initial stages.

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attachment 2

- **Local Advisory Committee-** HB 2361 engages a local advisory committee when a species is listed. This broad-based committee will advise KDWP on the social and economic impact of the listing, help guide the direction of the recovery plan, and help disseminate factual information about the listing and incentives available to landowners.
- **Codify KDWP Policy on Regulation of Private Agricultural Lands -** During the Task Force meetings, KDWP explained their operational guideline limiting state sanctions or penalties for the taking of protected species and their habitat relating to normal farming and ranching land treatment practices. The Task Force recommended this operational guideline be adopted by rules and regulations. HB 2361 contains language reflecting this recommendation.
- **Incentives -** The Task Force made three recommendations for “no-cost” and two “cost” incentives for landowners who voluntarily agree to a conservation plan to protect and/or enhance the populations of species designated as in need of conservation, threatened or endangered. The cost incentives, outlined in New Section 6, are restricted and are only available if authorized by KDWP.

Mr. Chairman and committee members, there are additional details of HB 2361 that we view as positive and necessary in developing a more acceptable approach for the protection and enhancement of our state’s threatened and endangered species. We support this legislation and pledge to work with this committee and other members of the task force for the passage of the bill. Thank you!



KANSAS AGRICULTURAL ALLIANCE

**STATEMENT OF THE
KANSAS AGRICULTURAL ALLIANCE
BEFORE THE
SENATE ENERGY AND NATURAL RESOURCES COMMITTEE
DAVID CORBIN, CHAIRMAN
REGARDING HB 2361
MARCH 11, 1997**

The Kansas Agricultural Alliance (KAA) is a coalition of agribusiness organizations that spans the full spectrum of Kansas agriculture, including crop and livestock production, horticultural production, agricultural suppliers, allied industries and professions.

The Alliance supports HB 2361. The bill would require the Secretary of Wildlife and Parks to hold public meetings concerning recommendations for listing or delisting a species, review listed species every five years, establish procedures for developing and implementing recovery plans for listed species, establish volunteer local advisory committees, establish conservation agreements, and provide for tax incentives for landowners whose property is designated critical habitat or included in management activities.

House Bill 2361 allows property owners to work in concert with the Secretary of Wildlife and Parks to determine which species may be threatened, endangered or species in need of conservation and to develop and implement recovery plans. The bill allows landowners to recover costs associated with conservation efforts and provides some protection for lawful activities associated with normal farming and ranching. This partnership with local landowners is important because it makes the process for listing and providing for recovery of sensitive species more open and inclusive.

The members of the Kansas Agricultural Alliance urge your support for HB 2361.

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Attachment 3*

PROPOSED AMENDMENT TO HOUSE BILL NO. 2361

Add a section to read as follows:

"Sec. 7. K.S.A. 1996 Supp. 79-32,117 is hereby amended to read as follows: 79-32,117. (a) The Kansas adjusted gross income of an individual means such individual's federal adjusted gross income for the taxable year, with the modifications specified in this section.

(b) There shall be added to federal adjusted gross income:

(i) Interest income less any related expenses directly incurred in the purchase of state or political subdivision obligations, to the extent that the same is not included in federal adjusted gross income, on obligations of any state or political subdivision thereof, but to the extent that interest income on obligations of this state or a political subdivision thereof issued prior to January 1, 1988, is specifically exempt from income tax under the laws of this state authorizing the issuance of such obligations, it shall be excluded from computation of Kansas adjusted gross income whether or not included in federal adjusted gross income. Interest income on obligations of this state or a political subdivision thereof issued after December 31, 1987, shall be excluded from computation of Kansas adjusted gross income whether or not included in federal adjusted gross income.

(ii) Taxes on or measured by income or fees or payments in lieu of income taxes imposed by this state or any other taxing jurisdiction to the extent deductible in determining federal adjusted gross income and not credited against federal income tax. This paragraph shall not apply to taxes imposed under the provisions of K.S.A. 79-1107 or 79-1108, and amendments thereto, for privilege tax year 1995, and all such years thereafter.

(iii) The federal net operating loss deduction.

(iv) Federal income tax refunds received by the taxpayer if the deduction of the taxes being refunded resulted in a tax benefit for Kansas income tax purposes during a prior taxable year. Such refunds shall be included in income in the year actually received regardless of the method of accounting used by the taxpayer. For purposes hereof, a tax benefit shall be deemed

to have resulted if the amount of the tax had been deducted in determining income subject to a Kansas income tax for a prior year regardless of the rate of taxation applied in such prior year to the Kansas taxable income, but only that portion of the refund shall be included as bears the same proportion to the total refund received as the federal taxes deducted in the year to which such refund is attributable bears to the total federal income taxes paid for such year. For purposes of the foregoing sentence, federal taxes shall be considered to have been deducted only to the extent such deduction does not reduce Kansas taxable income below zero.

(v) The amount of any depreciation deduction or business expense deduction claimed on the taxpayer's federal income tax return for any capital expenditure in making any building or facility accessible to the handicapped, for which expenditure the taxpayer claimed the credit allowed by K.S.A. 79-32,177, and amendments thereto.

(vi) Any amount of designated employee contributions picked up by an employer pursuant to K.S.A. 12-5005, 20-2603, 74-4919 and 74-4965, and amendments to such sections.

(vii) The amount of any charitable contribution made to the extent the same is claimed as the basis for the credit allowed pursuant to K.S.A. 1996 Supp. 79-32,196, and amendments thereto.

(viii) To the extent claimed as the basis for credits allowed pursuant to section 6 and amendments thereto, the amount of any ad valorem taxes and assessments paid and the amount of any costs incurred for habitat management or construction and maintenance of improvements on real property.

(c) There shall be subtracted from federal adjusted gross income:

(i) Interest or dividend income on obligations or securities of any authority, commission or instrumentality of the United States and its possessions less any related expenses directly incurred in the purchase of such obligations or securities, to the extent included in federal adjusted gross income but exempt from state income taxes under the laws of the United States.

(ii) Any amounts received which are included in federal

adjusted gross income but which are specifically exempt from Kansas income taxation under the laws of the state of Kansas.

(iii) The portion of any gain or loss from the sale or other disposition of property having a higher adjusted basis for Kansas income tax purposes than for federal income tax purposes on the date such property was sold or disposed of in a transaction in which gain or loss was recognized for purposes of federal income tax that does not exceed such difference in basis, but if a gain is considered a long-term capital gain for federal income tax purposes, the modification shall be limited to that portion of such gain which is included in federal adjusted gross income.

(iv) The amount necessary to prevent the taxation under this act of any annuity or other amount of income or gain which was properly included in income or gain and was taxed under the laws of this state for a taxable year prior to the effective date of this act, as amended, to the taxpayer, or to a decedent by reason of whose death the taxpayer acquired the right to receive the income or gain, or to a trust or estate from which the taxpayer received the income or gain.

(v) The amount of any refund or credit for overpayment of taxes on or measured by income or fees or payments in lieu of income taxes imposed by this state, or any taxing jurisdiction, to the extent included in gross income for federal income tax purposes.

(vi) Accumulation distributions received by a taxpayer as a beneficiary of a trust to the extent that the same are included in federal adjusted gross income.

(vii) Amounts received as annuities under the federal civil service retirement system from the civil service retirement and disability fund and other amounts received as retirement benefits in whatever form which were earned for being employed by the federal government or for service in the armed forces of the United States.

(viii) Amounts received by retired railroad employees as a supplemental annuity under the provisions of 45 U.S.C. 228b (a) and 228c (a)(1) et seq.

(ix) Amounts received by retired employees of a city and by

retired employees of any board of such city as retirement allowances pursuant to K.S.A. 13-14,106, and amendments thereto, or pursuant to any charter ordinance exempting a city from the provisions of K.S.A. 13-14,106, and amendments thereto.

(x) For taxable years beginning after December 31, 1976, the amount of the federal tentative jobs tax credit disallowance under the provisions of 26 U.S.C. 280 C. For taxable years ending after December 31, 1978, the amount of the targeted jobs tax credit and work incentive credit disallowances under 26 U.S.C. 280 C.

(xi) For taxable years beginning after December 31, 1986, dividend income on stock issued by Kansas Venture Capital, Inc.

(xii) For taxable years beginning after December 31, 1989, amounts received by retired employees of a board of public utilities as pension and retirement benefits pursuant to K.S.A. 13-1246, 13-1246a and 13-1249 and amendments thereto.

(xiii) For taxable years beginning after December 31, 1993, the amount of income earned on contributions deposited to an individual development account under K.S.A. 1996 Supp. 79-32,117h, and amendments thereto.

(d) There shall be added to or subtracted from federal adjusted gross income the taxpayer's share, as beneficiary of an estate or trust, of the Kansas fiduciary adjustment determined under K.S.A. 79-32,135, and amendments thereto.

(e) The amount of modifications required to be made under this section by a partner which relates to items of income, gain, loss, deduction or credit of a partnership shall be determined under K.S.A. 79-32,131, and amendments thereto, to the extent that such items affect federal adjusted gross income of the partner."