

Approved: March 28, 2008
Date

MINUTES OF THE HOUSE AGRICULTURE AND NATURAL RESOURCES COMMITTEE

The meeting was called to order by Vice-Chairman Forrest Knox at 3:30 P.M. on March 19, 2008, in Room DSOB 783.

All members were present except:

Representative Clay Aurand - excused
Representative Vaughn Flora - excused
Representative Bill Feuerborn - excused
Representative Bill Light - excused

Committee staff present:

Raney Gilliland, Kansas Legislative Research Department
Hank Avila, Kansas Legislative Research Department
Gordon Self, Revisor of Statutes
Kristen Kellems, Revisor of Statutes
Florence Deeter, Committee Assistant

Conferees appearing before the committee:

Representative Richard Carlson, District #61
Jordan Austin, Kansas State Liaison, National Rifle Association of America
Chris Tymeson, Chief Legal Counsel, Kansas Department of Wildlife and Parks

Hearing on: HCR 5037 - Constitutional amendment to protect the public's right to hunt, fish and trap

Vice-Chairman Knox called the meeting to order and introduced Representative Carlson, District #61, who spoke as a proponent of **HCR 5037**. He indicated there are anti-hunting organizations whose objective is to end all consumptive sporting practices. Representative Carlson said this amendment not only preserves all landowner property rights, but will also provide assurance for traditional forms of hunting, fishing and trapping for all who engage in the sports (Attachment 1).

Jordan Austin, Kansas State Liaison, National Rifle Association of America, said that the traditions of hunting, fishing and trapping should be preserved for future generations of Kansans (Attachment 2). Mr. Austin said the anti-hunting organizations, in lieu of eliminating all hunting, are attempting to ban hunting one species at a time. He indicated that "non-threatened wildlife" such as doves, bears and cougars are included as traditionally pursued by hunters. Mr. Austin concluded his testimony by encouraging the committee to pass the resolution favorably to preserve this way of life for Kansans who enjoy this pastime.

Chris Tymeson, Chief Legal Counsel, Kansas Department of Wildlife and Parks, speaking as a neutral entity regarding **HCR 5037**, cautioned the committee to see potential issues, both for and against the resolution (Attachment 3). He said that because the laws and regulations are governed at the state level, the proposal of constitutional rights could result in litigation. Mr. Tymeson recommends allowing more time for constituent organizations to become aware of the need for the resolution. In answer to a question from committee members, Mr. Tymeson said Kansas is not being threatened with any lawsuit from anti-hunting organizations as yet; however, he indicated there could be potential litigation in the future.

The Vice-Chairman closed the hearing on **HCR 5037**.

Hearing on: SB 565 - State Fair Board, concerning background investigations for certain employees

The Vice-Chairman opened the hearing on **SB 565**, requesting Staff Raney Gilliland to brief the committee on the parameters of the bill. Mr. Gilliland said the new language brought from the Senate Judiciary Committee authorizes the State Fair Board to conduct a background check of seasonal employees assisting with the functions of the State Fair. He said the background checks would be limited to persons listed on the Kansas Registered Offender Search on the Kansas Bureau of Investigation (KBI) website. Mr. Gilliland said additionally the State Fair Board would be provided immunity from a civil suit for damages a person might bring who has been refused or discharged from employment.

The Committee engaged in discussion and questions. Gordon Self, Kansas Revisor of Statutes, said the kind

CONTINUATION SHEET

MINUTES OF THE House Agriculture and Natural Resources Committee at 3:30 P.M. on March 19, 2008, in Room DSOB 783.

of offenders investigated are those listed on the violent crimes register and those known sex offenders. Mr. Gilliland said the manager of the State Fair spoke as a proponent to the bill in the Senate Judiciary Committee. Mr. Gilliland said this bill differs from the original in that **SB 565** narrows the conducted search to be a more in-depth criminal investigation than KBI provides. He responded to a member's question, saying the wording "may conduct" rather than "shall conduct" gives added discretion to the State Fair Board.

There were no proponents, opponents or neutral positions presented on the hearing of **SB 565**.

The Vice-Chairman closed the hearing on **SB 565**.

The Chairman announced that a bill was introduced in the House Taxation Committee as an alternative to **SB 89** -litigation moneys. In addition, there is a possibility of working **SB 565** next week.

The meeting was adjourned at 4:45 p.m. The next meeting is scheduled for March 24, 2008, at 3:30 p.m.



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REPRESENTATIVES

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House Committee on Agriculture and Natural Resources - Rep. John Faber, Chairman

Mr. Chairman, members of the Committee, thank you for the privilege of presenting testimony today as a proponent of the constitutional amendment HB5037.

The first question I am most asked is "Why do we need this in Kansas?" Most of the members of the Agriculture and Natural Resources Committee and myself included grew up on farms and in rural areas where hunting and fishing is a way of life, but all we have to do is look around in our urban areas of the state. In most populated areas guns, and hunting are viewed as a relic of the past.

Anti-hunting organizations such as the Humane Society of the United States (not to be mistaken for the almost same name organization providing care and shelter for animals) have an annual budget of approximately \$200 million! Their declared objective is to end all consumptive sporting practices. They have already succeeded in enacting hunting bans in several strong hunting states. Two years ago in Michigan, HSUS banned the hunting of doves, America's most hunted game bird. They have succeeded in banning bear & cougar hunting in several states. They have attempted bans on bow hunting and hunting with hounds. They want to ban bow hunting because it is barbaric.

This constitutional amendment protects and preserves traditional forms of hunting, fishing and trapping. It preserves all of our landowner property rights.

A number of our states already have this protection in their constitution.

I hope you will view this amendment in the spirit that I offer it, as a protection of our hunting rights for the generations coming after us.

Thank you.

Sincerely,

Richard Carlson
Representative 61st District



NATIONAL RIFLE ASSOCIATION OF AMERICA

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Chairman John Faber
House Agriculture and Natural Resources Committee
Docking Building Room 783
Kansas State Capitol
Topeka, KS 66612

March 19, 2008

Chairman Faber,

Thank you for the opportunity to come before the committee today. My name is Jordan Austin and I am a registered lobbyist for the National Rifle Association of America. I am here today to speak in favor of HCR 5037. This important resolution is a necessary step to insure that the tradition of hunting, fishing, and trapping is preserved for future generations of Kansans.

These traditional sports have roots in Kansas that existed before that state was brought into the union. It is these traditions that allowed for the expansion of the United States from the 13 original colonies to the great nation that we are today. Hunting, fishing, and trapping are a way of life for many Americans and many, many Kansans.

As written, this constitutional amendment will recognize a citizens' right to hunt, fish, and trap in the state of Kansas. This right is subject to reasonable regulations established by the state legislature. This ensures that hunting will continue to be regulated to allow wildlife to flourish. The standard works toward ensuring that science, not politics, dictates hunting policy.

This bill also states that "traditional methods" may be used by hunters. This section protects hunters against politically motivated bans on bow hunting or hunting with hounds. These methods have been typically viewed as barbaric by anti-hunting groups such as the Humane Society of the United States (HSUS). This same group has also attacked hunting various species of traditionally pursued "non-threatened wildlife" such as doves, bears, and cougars. This provision will protect hunting these animals which have become targets of anti-hunting organizations who have realized that if they cannot ban hunting all together, will attack hunting one species at a time.

HCR 5037 is vitally important to the future of hunting and the preservation of this great pastime for the citizens of Kansas. I respectfully urge this committee to vote this resolution favorably out of committee for full consideration by the House. Thank you for the opportunity to speak today.

Jordan Austin

Kansas State Liaison
NRA-ILA

HS Ag & Nat'l Resources
3-19-08
Attachment 2

Testimony on HR 5037 regarding the Constitutional Right to Hunt and Fish
To
The House Committee on Agriculture and Natural Resources

By Christopher J. Tymeson
Chief Legal Counsel
Kansas Department of Wildlife and Parks

19 March 2008

HR 5037 seeks to submit this resolution to the electors of the state at the 2008 general election and amend the Bill of Rights to create a constitutional right to hunt, fish, and trap. Currently, 12 states have constitutional provisions afforded to hunting, fishing and trapping, most of which have been passed since the year 2000. As most of those amendments are new in time, there is very little case law to provide guidance as to the potential impacts.

There are many general potential issues, both pro and con, associated with the resolution that the Committee should be aware of when considering this proposal, some of which are merely statements and some are unanswered questions.

To begin, this issue could potentially serve as a rallying cry for anti-hunting, fishing and trapping groups to create a cohesive group where one does not currently exist in Kansas and polarize individuals who are currently indifferent to hunting, fishing, or trapping. Additional opposition may come from individuals who view this as a firearms issue. Failure of such an amendment to pass may also be viewed as an endorsement of anti-hunting, fishing and trapping agendas.

State authority to conduct natural resource management may change as a result of a constitutional right being granted rather than being considered a privilege. Currently, the presumption is that laws and regulations are rationally related to government business and the elevation of hunting, fishing and trapping to a constitutional right could subject those laws and regulations to a strict scrutiny analysis. That strict scrutiny analysis may also impact the ability to enforce laws and regulations related to conservation such as inspections of bag limits and the Wildlife Violator Compact. And undoubtedly, at some indeterminate point, passage of this resolution and the constitutional amendment will result in litigation, both in favor of and against sportsmen and the Department.

Conversely, on a national level, anti-hunting, fishing and trapping organizations are joining forces and mobilizing membership. Considering that a decline in the user base of hunters, anglers and trappers is occurring on a national level, will delaying such a proposal

further jeopardize the ability of passage in the future? Consideration should also be given to the timing of putting forth such a proposal. 3 of 8 constitutional amendments since 1990 have been rejected by the voters of Kansas. 2 of those 3 came in years in which national or statewide elections were being conducted. Groundwork should be laid with constituent organizations well in advance, perhaps even a year or two, in relation to passing the resolution and the amendment.

With regard to the specifics of the resolution itself, the Department would recommend several changes. First, the Bill of Rights of the Kansas Constitution has not been amended since 1861 and the recommendation would be to place any potential amendment into Article 15, Miscellaneous. Further, the recommendation would be to simplify the potential amendment by considering language such as "The people shall have the right to hunt, fish, trap and take game subject only to reasonable restrictions prescribed by law and regulation."

The Department appreciates the opportunity to address the resolution and would stand for any questions at the appropriate time.