Office of the Secretary
1020 S Kansas Ave., Suite 200
Topeka, KS 66612-1327

Kansas
Department of Wildlife, Parks and Tourism

Phone: (785) 296-2281
Fax: 785-296-6953
www.kdwp.state.ks.us

Robin Jennison, Secretary

Sam Brownback, Governor

Testimony on HCR 5008 regarding the Constitutional Right to Hunt, Fish and Trap
To
The Senate Committee on Federal and State Affairs

By Christopher J. Tymeson
Chief Legal Counsel
Kansas Department of Wildlife, Parks and Tourism
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HCR 5008 seeks to submit this resolution to the electors of the state at the 2016 general election and amend the Bill of Rights to create a constitutional right to hunt, fish, and trap. **The Department supports HCR 5008.** Currently approximately 20 states have constitutional provisions afforded to hunting, fishing and trapping, most of which have passed since the year 2000. As most of those constitutional amendments are fairly new in time, there is very little case law to provide guidance as to the potential impacts. There are a few potential issues associated with the resolution that the Committee should be aware of when considering this proposal.

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. However, the voters of Kansas passed a constitutional amendment several years ago related to the possession of firearms with an overwhelming majority of eighty-nine percent and one of the stated reasons for ownership was hunting.

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. At some indeterminate point, passage of this resolution and the constitutional amendment may result in litigation, both in favor of and against sportsmen and the Department. However, in the sixteen years that I have watched the issue, very little litigation has actually ensued and in fact, the Constitutional Right to Hunt, Fish and Trap was used as a basis by the Wisconsin Supreme Court in enacting a mourning dove season on behalf of the Department in the face of severe anti-hunting opposition. This issue has not become the litigation machine used by those opposed as a fear tactic. Further, the proposed amendment is subject to reasonable laws and regulations, further giving the Department and its constituents added security when considering regulatory proposals and laws.

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? There have been trapping and hunting bans of varying degrees and for certain species put forth in many states that significantly hinder the ability of the Department and the public to manage wildlife. A constitutional right to hunt, fish and trap may have been very helpful in defending against many of these unscientific proposals.

Hunting, fishing and trapping in Kansas generates over $1 billion dollars in collateral economic impact and user fees pay the way for conservation. The North American Model of Conservation and public ownership of wildlife is the very basis of wildlife management of all 50 states. If these time honored traditions and ways of life are to be preserved and funded in perpetuity, then this constitutional amendment should be put forth to the voters this year.

The Department appreciates the support of the Committee in passing HCR 5008 and the opportunity to address the Committee.