

MINUTES OF THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES.

The meeting was called to order by Chairperson David Corbin at 8:08 a.m. on February 17, 1998 in Room 254-E of the Capitol.

All members were present except:

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

Conferees appearing before the committee:
Rob Manes, Department of Wildlife and Parks
Senator Robert Tyson
Richard Larson, McPherson, KS

Others attending: See attached list

A motion was made by Senator Huelskamp with a second from Senator Tyson to approve the minutes of February 12. The motion carried.

SB 504- Accounting for compensation received by the Department of Wildlife and Parks from leases of real property.

Chairperson David Corbin opened the hearing. Chairperson Corbin referred to The Legislative Post Audit Report that was reviewed on February 10, this report discussed how the Department handled the compensation received from leases.

Rob Manes, Department of Wildlife and Parks (KDWP), said they were appearing for information purposes, and they recommended an amendment for the committee to consider (Attachment 1).

Senator Tyson said he asked to have the bill introduced to bring these lease monies under legislative oversight. The budget process is meaningless if agencies can raise funds that are invisible to the legislature. Included with his testimony is a letter he wrote to Governor Graves, information on a meeting that was held in Beloit, Kansas was attached, and testimony from Sharyl Miller who was employed as a office manger for a propane distributing company in McPherson, Kansas (Attachment 2).

Richard E. Larson, McPherson, Kansas, told of an experience he had with Todd Pesch, KDWP's manager of the McPherson Valley Wetlands. Because of the tax liability he did not want KDWP's share paid to him, therefore he thought it was necessary for KDWP to have their own account rather than asking tenants' to run funds through their accounts (Attachment 3).

Responding to a question, Mr. Manes said the amendments they proposed would improve internal control and bring the funds under legislative oversight. The Revisor could place the proposed amendment in the appropriate place.

A motion was made by Senator Morris with a second from Senator Biggs to conceptually adopt the language proposed in KDWP's testimony and that the revisor amend the bill in the appropriate place. The motion carried. A motion was made by Senator Biggs with a second from Senator Morris that the bill be passed as amended. The motion carried.

The meeting adjourned at 8:30 a.m.

The next meeting is scheduled for February 18, 1998.



STATE OF KANSAS
DEPARTMENT OF WILDLIFE & PARKS

Office of the Secretary
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February 17, 1998

Senator David Corbin, Chairperson
Committee on Energy and Natural Resources
Room 254-E, State Capitol Building
Topeka, Kansas 66612

Dear Senator Corbin:

The Kansas Department of Wildlife and Parks (KDWP) appreciates the opportunity to discuss Senate Bill No. 504 with your Committee. Senate Bill No. 504 would require the KDWP to account for funds received from lease of property under the control of the Department and to include such funds in the annual budget request submitted to the Governor and the Legislature.

The KDWP manages property throughout the State for the purposes of providing outdoor recreation and preserving wildlife resources. These properties include both state-owned property and property leased from the federal government (U.S. Army Corps of Engineers (COE) or Bureau of Reclamation (BOR)). The management practices established by KDWP for these properties are intended to optimize wildlife populations on public land in an environmentally sound and fiscally efficient manner.

The KDWP has established guidelines to direct agricultural activities on wildlife lands it manages. These guidelines emphasize that agricultural practices and the revenue generated are only for the improvement of wildlife populations, to maintain optimum wildlife habitat and provide for public use of the wildlife resource. The guidelines are utilized by local KDWP managers as they negotiate with local agricultural producers to determine cropping and grazing practices for state-managed property.

The COE and BOR have established requirements for the use of revenues generated by agricultural production on federal lands leased by KDWP. These requirements include a stipulation that any revenue generated through agricultural production must be utilized on the property from which the revenue is generated. In accordance with this requirement, the KDWP has received on an annual basis appropriation authority from the Legislature for the utilization of the "Federally Licensed Wildlife Areas Fund" to receipt and expend funds generated from agricultural production on federal lands. The fund is appropriated as a no limit fund. The actual receipts and expenditures will vary, depending on the return from agricultural production for any one year, and the KDWP estimates that revenue and expenditures will be \$400,000 per year.

Senate Energy & Natural Resources

Attachment: /

Date: 2-17-98 /-1

For state-owned property managed by KDWP the Department has used a system of goods and services agreements to receive reimbursement for use of state property for agricultural production. It is recommended that a fund entitled "State Agricultural Production Fund" be created for FY 1999. The fund should be authorized with a no limit expenditure authority similar to the Federally Licensed Wildlife Areas Fund described above. The following statutory amendments are recommended for consideration as an amendment to Senate Bill No. 504.

KSA 32 - xxx (a) Unless otherwise directed by law, all moneys received from agricultural production on state-owned property shall be remitted in accordance with the provisions of KSA 75-4215, and amendments thereto, to the state treasurer. The state treasurer shall deposit the entire amount in the state treasury and credit it to the state agricultural production fund, which is hereby created.

(b) The Kansas Department of Wildlife and Parks shall establish separate accounts of the fund hereby created for each state-owned property managed by the Department. Such accounts shall be used for costs and expenses associated with management practices as determined for each property.

(c) All expenditures from the state agricultural production fund shall be made in accordance with appropriations acts upon warrants of director of accounts and reports issued pursuant to vouchers approved by the secretary.

The suggested amendment would comply with the intent of Senate Bill No. 504 and would also concur with recommendations made by the Legislative Post Auditor regarding the proper accounting of compensation received for lease of property managed by KDWP. If you or members of the Committee have any questions, please advise.

Sincerely,



Steven A. Williams, Secretary
Kansas Department of Wildlife and Parks

Williams\agfund



TOPEKA

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ENERGY AND NATURAL RESOURCES
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JOINT COMMITTEE ON PENSIONS,
INVESTMENTS & BENEFITS

The Honorable Bill Graves
Governor of Kansas
2nd Floor, State Capitol
Topeka, Ks 66612-1590

December 1, 1997

Dear Governor Graves,

We have what appears to be a serious problem with a policy of not reporting State Revenue from grain sales from state-owned property.

KDWP has apparently been contracting with farmers to grow crops on state-owned property and asking farmers to deposit the state's share of the crop in the farmer's private bank account with the understanding that KDWP would give the farmer state bills to pay directly from that private account. This was brought out at the recent KDWP Commission meeting at Beloit by farmers from several areas of the state.

I have enclosed a clipping from the Salina Journal concerning this meeting. You will notice that McPherson County farmer called it a "classic laundering scheme" and a Norton farmer used the term "barter system." I attended the meeting to tell of a similar situation that I had found at McPherson.

In a telephone conversation between my office and a small business employee at McPherson, we were told that a couple years ago KDWP owed the business about \$100. To pay this bill KDWP brought in a check for \$2600 from Mid Ks Coop made out to KDWP. The employee was asked to give KDWP full credit and that KDWP would present bills to be paid from this fund. The employee paid one bill for \$500 and thought that several of the checks they paid were made out to McPherson Valley Wetlands. The employee felt that KDWP was using them as a bank and the next year, when the KDWP representative wanted to deposit more funds the employee refused. The employee said they would look up the canceled checks for us, but we have not heard back nor are we pursuing the matter at this time.

Senate Energy & Natural Resources

Attachment: 2

Date: 2-17-98 2-1

Mr. Don Schroeder, McPherson County Commissioner, recently wrote you a letter asking about the possibility of the state concealing the income of grain sales. In your reply through KDWP, Secretary Steve Williams wrote;

“I assure you Wildlife Area Manager Todd Pesch did act within the Department of Wildlife and Parks (KDWP) regulations, in regard to the handling of funds garnered by the leasing of public lands for agricultural use.”

In my research I find no state regulations giving KDWP authority to generate their own revenue that cannot be openly seen and accounted for by the public and their elected representatives. I only see department guidelines which are approved only by that agency.

To me it is of the utmost importance that we openly account for all of our funds. If government is allowed to generate income that is not seen then it can spend money that has no oversight. There is no accounting and no check and balance. What is wanted by the bureaucrat may not be needed by the taxpayer.

We need to rectify this situation. It may be as simple as establishing state revenue accounts in which all these moneys can be deposited and accounted for. The budget process is meaningless if agencies can raise funds that are invisible to the legislature.

Sincerely,

Robert Tyson

cc: Sen. Stan Clark
Sen. David Corbin
Rep. Steve Lloyd
Rep. Laura McClure

February 9, 1998

TESTIMONY

SB 504

SENATE ENERGY AND NATURAL RESOURCES COMMITTEE

My name is Sharyl Miller. I live in McPherson, Kansas and employed as office manager for a propane distributing company in McPherson. In 1994 or 1995, Todd Pesch, an employee of KDWP, and manager of McPherson Valley Wetlands, came to my office with a check I believe was payable to McPherson Valley Wetlands in the approximate amount of \$2600.00. He asked me to deposit the check to the credit of KDWP. We were only owed about \$100.00 for propane by KDWP but he insisted that he wanted to have a credit with us for the balance of around \$2500.00. I deposited the check and gave KDWP credit on account for the balance. Thereafter, Mr. Pesch came in several times and had me issue checks to several different payees until the credit was all used up. I think he was using us as a bank.

The following year Mr. Pesch came into my office with the same proposition of depositing a check in an amount larger than what KDWP's balance was. I refused to accept the check.

Sharyl Miller



Senate Energy & Natural Resources

Attachment: 2

Date: 2-17-98 2-3

▼ KANSAS DEPARTMENT OF WILDLIFE AND PARKS

Farmers complain of state's land-lease policy

Farmers don't want to hold state's share of money and pay state's share of bills

By LINDA MOWERY-DENNING
The Salina Journal

BELOIT — Norton farmer John Miller called the Kansas Department of Wildlife and Parks method of agricultural land lease "a barter system."

McPherson County farmer Richard Larson compared it to a "classic laundering scheme."

Criticism of Wildlife and Parks' accounting methods came Wednesday during a meeting in Beloit of the seven-member commission that advises and sets regulations for the department. About 100 attended.

The farmers, during a public comment period, described situations where they were asked to keep the department's one-third share of crop revenue from public

land. Then when a department bill came due or when supplies were needed, Wildlife and Park personnel instructed the farmers to make payment from their accounts. The farmers also were responsible for the income on the department's share of the grain.

"I'm just asking this commission to set up some kind of account so I don't have to run it through mine," said Larson, who leases 45 acres in the McPherson Valley Wetlands and who rejected the method of payment.

State Sen. Robert Tyson, R-Parker, said the issue was one of accountability and especially important in light of a proposed \$10 million capital improvement request that is to be before the Legislature next year.

Gov. Bill Graves has said he would support the funding, which is earmarked for restoration of the state's 24 parks.

Tyson said the lease money is being spent in a way "not visible to the public." In response, department Secretary Steve Williams said farmers who leased land

from his agency have several options, including repayment with goods or services.

He said such arrangements are made to invest earnings from public land back into local areas.

At one point, commission Chairman John Dykes expressed concerns about the tone of the comments and suggested the speakers might be better of taking their complaints to the Kansas attorney general.

That drew another response from Williams, who said he was aware of Larson's situation but no others. Williams asked for time to investigate their concerns.

"It's my responsibility. If I fail in that responsibility, by all means, it should go somewhere else," he said.

Commissioners instructed Williams to give a report explaining the department's farm lease regulations at its next meeting in January.

Other business

In other business:

• Commissioners instructed department officials to move ahead with plans to raise cabin-lot fees at Cedar Bluff, Webster and Lovewell reservoirs in north-central and northwest Kansas from \$100 to \$200 a year.

This issue, which has been debated for more than a year, could face final action at the commission's March meeting.

About half a dozen private cabin owners spoke for an hour Wednesday. They complained about public access to their cabin areas and other concerns. Williams read parts of the Nov. 6 letter to cabin owners at Cedar Bluff, in which department officials promised to address their concerns by making other areas more attractive to the public, thus discouraging use of the cabin areas.

However, commissioner Dykes warned "this will never be a gated community. It's public land."

The 167 lots in question — the majority of them at Cedar Bluff in Trego County —

are owned by the federal Bureau of Reclamation and leased to the state, which in turn leases the land to the cabin owners.

• Holders of the early contracts pay as little as \$18.50 a year for use of the land.

• Williams said the department, because of its interest in establishing minimum fish, wildlife and recreation pool levels at western Kansas reservoirs, has applied to the state for water rights in Glen Elder Reservoir, west of Beloit.

He said there is potential for 214,000 acre-feet of storage to become available in the next two years. Department officials, at the urging of the state, have written to the reservoir's owner, the Bureau of Reclamation, to confirm the federal agency's interest in selling the storage.

In 1993, Wildlife and Parks and the Kansas Water Office acquired 163,000 acre feet of water storage in Cedar Bluff Reservoir at a cost of \$365,424.

Additional funds of \$153,000 have been spent to date for operation and maintenance.

▼ LEGISLATURE

Computer plans upset legislators

Lawmakers don't think state agencies working together on technology

By CAROL CRUPPER
Harris News Service

TOPEKA — As Kansas travels the information superhighway, state lawmakers want to make sure it's a smooth, cost-effective trip.

On Wednesday, some felt a bump.

Members of the Joint Commission on Computers and Telecom-

Rep. Jim Morrison, R-Colby and chairman of the panel, said its purpose is to "keep the agencies honest and avoid duplication."

Rep. Gary Hayzlett, R-Lakin, said the group strives to prevent the hodgepodge purchasing of computers that had been common in state government.

"Literally millions of dollars were being wasted," he said.

What is being asked now, said Rep. George Dean, D-Wichita, is for agencies to present a strategic plan and a needs analysis before making technological purchases.

Morrison takes pride in the ef-

ficacy of

Steve Davis, consultant for Juvenile Justice, said he was looking more at the criminal than the social side of information management.

Sen. Paul Feliciano, D-Wichita, disagreed with that tact, saying a number of young people would be interacting with both agencies. Because of this, he said he thought it would be best that the agencies' computers were in sync.

Feliciano said he didn't want to see a fragmented system, with the two agencies carrying papers back and forth

February 9, 1998

TESTIMONY

SB 504

SENATE ENERGY AND NATURAL RESOURCES COMMITTEE

My name is Richard Larson. I live in McPherson, Kansas and am engaged in farming. I lease approximately 45 acres of land in the McPherson Valley Wetlands from Kansas Department of Wildlife and Parks on a crop share basis. In 1997, I delivered the state's share of the wheat crop harvested to a local elevator, Mid-Kansas Coop.

Shortly after harvest, Todd Pesch, KDWP's manager of the McPherson Valley Wetlands, told me he was going to have Mid-Kansas Coop issue a check for the state's share of wheat in my name and asked me to put the money in my personal account. Mr. Pesch sent me a written direction dated July 29, 1997, a copy of which is attached hereto, to pay McPherson Concrete the sum of \$1362.25. After consulting with my accountant, I refused to accept the check for the state's share of wheat or to pay McPherson Concrete any money. We felt this may be a money laundering scheme and I also would be subject to federal, state, and FICA taxes on this money. Depending on my tax brackets, my tax liability would be from 32% to nearly 50% of the money if I would have accepted his direction.

The Mid-Kansas Coop then issued a check payable directly to McPherson Concrete for the state's rental share of the crop harvested. The amount of the state's share was \$1348.49, as shown by the attached service agreement dated August 11, 1997.

I feel KDWP should have their own account rather than running funds through tenants' accounts.



Richard E. Larson

Senate Energy & Natural Resources

Attachment: 3

Date: 2-17-98 3-1

SERVICE AGREEMENTS

Permittee: Larson, Richard Area: McPherson Valley Wetlands
Contract No.: MP-2-97 Tract/Field No(s): LB-04
Crop Year: 1997 Crop: Winter Wheat
State's Share Value: \$1362.25

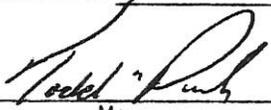
Services Provided by Permittee:

Permittee agrees to pay McPherson Concrete \$1362.25 for concrete that will be laid in Headquarter's shop floor.

Value of Permittee's Service: \$1362.25

Value Remaining to State: 0

Permittee: _____


Manager

7-29-97
Date

White-Manager's File; Yellow-Lessee; Pink-Reg. Supervisor

SERVICE AGREEMENTS

Permittee: Larson, Richard

Area: McPherson Valley Wetlands

Contract No.: MP-02-97

Tract/Field No(s): LB-04

Crop Year: 1997

Crop: Winter Wheat

State's Share Value: \$ 1348.49

Services Provided by Permittee:

Permittee had Mid-Kansas Coop provide McPherson Concrete with a check toward the cost of cementing the shop floor this fall and winter.

Permittee left 2.4 acres standing in field for a dove hunting plot.

Value of Permittee's Service: \$1348.49

Value Remaining to State: 0

Permittee: refused to sign



Manager

8-11-97

Date

White-Manager's File; Yellow-Lessee; Pink-Reg. Supervisor