



Robin Jennison, Acting Secretary

Department of Wildlife and Parks

Sam Brownback, Governor

February 17, 2011

Representative Sharon Schwartz, Chairperson  
House Budget Committee for Agriculture and Natural Resources  
Room 142-S, State Capitol Building  
Topeka, KS 66612

Dear Chairperson Schwartz:

Pursuant to the request of the Committee, the Kansas Department of Wildlife and Parks (KDWP) is providing the following information on two topics. One topic explains the federal and state restrictions that the KDWP must adhere to in order to utilize federal aid received from the U.S. Fish and Wildlife Service (USFWS), Department of the Interior. The other topic will be a brief discussion on the status of the Park Fee Fund regarding revenue and expenditures.

The KDWP utilizes federal aid received from the USFWS for operation and development of fishing and hunting programs within the State. For FY 2012 the Department is recommended in the Governor's Budget Report to expend \$5,235,058 in federal fund expenditures for the Dingell-Johnson Sport fish Restoration program and \$6,344,640 for the Pittman-Robertson Wildlife Restoration program. These funds compose 17.5 percent of the total recommended budget for the KDWP in FY 2012.

The use of these funds is directed by both federal and state law. Attached is a packet of information pertaining to requirements that the State of Kansas has adopted in order to utilize federal aid from the USFWS. Included in the packet are the federal regulations requiring license fees to be used only for the administration of the State fish and game department and the state laws whereby the State assents to the federal provisions. Also included in the packet is the state law (KSA 32-990) restricting the use of the Wildlife Fee Fund to wildlife related expenditures under the control of the Secretary of Wildlife and Parks. The last item in the packet is the results of not complying with federal aid requirements.

As can be noted, the KDWP was found to be diversion of protected wildlife funds for other purposes than wildlife related expenditures. The State had to replace the diverted funds with appropriations of State General Fund equal to the amounts determined by federal auditors to have been diverted for inappropriate uses. For reference, the diverted funds were used for indirect cost expenditures that should have been financed primarily with Park Fee Fund or Boating Fee Fund revenue.

The USFWS has determined that revenue generated from property obtained or managed with wildlife funds is also protected from other uses. The KDWP leases property to agricultural users and the revenue from those leases is considered to be protected funds.

House Agriculture & Natural  
Resources Budget Committee  
Date 2-17-2011  
Attachment 1

The KDWP has not had an unresolved diversion issue since 1993. The Department has created internal safeguards to assure appropriate use of wildlife funds.

The second topic to be discussed is the status of the Park Fee Fund. The Park Fee Fund is authorized by KSA 32-991. This statute provides that all moneys received from state park permit fees and related charges shall be deposited to the Park Fee Fund to be used only for expenses related to administration of state parks under the control of the Secretary of Wildlife and Parks. Attached is a copy of the referenced state law.

For FY 2012, the Governor's Budget Report recommends expenditures of \$6,882,035 for state park operations. There are no funds recommended for capital improvement projects. Estimated revenue to the Park Fee Fund for FY 2012 is \$6,343,800. Expenditures from the Fund will exceed revenue by \$538,235 resulting in an FY 2012 ending balance of \$136,476. For FY 2010 actual revenue to the fund was \$5,745,148 with expenditures of \$5,814,764 resulting in an ending balance of \$1,322,986. Expenditures from the fund have been exceeding revenue resulting in decreased balance in the fund. This cannot continue and KDWP will take action to correct the imbalance. The attached table for the Park Fee Fund indicates the changing fund status for the four year period FY 2009 – 2012.

The KDWP will monitor the changing status of the Park Fee Fund to assure that obligations are financed. However, the decreasing fund balance in the fund may require delay in payments due an inadequate fund balance during the middle portion of the fiscal year. It should be noted that the revenue to the fund is very weather oriented and revenue estimates can vary significantly.

If you or members of the Committee have any questions, please advise. Thank you.

Sincerely,



Robin Jennison, Acting Secretary of Wildlife and Parks

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FISH AND WILDLIFE SERVICE  
STATE GRANT PROGRAMS

State Grant Programs

Part 521 Federal Aid Program Eligibility

Chapter 1 Federal Aid in Wildlife Restoration

521 FW 1.1

**1.1 Purpose.** The purpose of this chapter is to provide eligibility standards for the Federal Aid in Wildlife Restoration program.

**1.2 Authority.** The Federal Aid in Wildlife Restoration program is authorized by the Federal Aid in Wildlife Restoration Act of 1937, as amended, (16 U.S.C. 669-669i) and is often referred to as the Pittman-Robertson or P-R Act. The Federal Aid in Wildlife Restoration Act (Act) authorizes the Secretary of the Interior "...to cooperate with the States, through their respective State fish and game departments, in wildlife-restoration projects as hereinafter set forth...". The Secretary has delegated to the Director the responsibility for carrying out the purposes of the Act, except for the apportionment of funds to the States. Regulations for execution of the Act are contained in Title 50 CFR Part 80.

**1.3 Responsibility.** Regional Directors are responsible for administration of the Federal Aid in Wildlife Restoration program within their Regions, to include the approval of proposals, monitoring performance of approved projects, and monitoring compliance with applicable Federal laws and regulations. The Assistant Director-Fish and Wildlife Enhancement provides oversight for the Federal Aid in Wildlife Restoration program.

**1.4 Eligible Participants.** State fish and wildlife agencies are authorized to participate. Also authorized to participate are the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

**1.5 Prerequisite Requirements.** To be eligible to participate, States must have "...assented to the provisions of this Act and shall have passed laws for the conservation of wildlife which shall include a prohibition against the diversion of license fees paid by hunters for any other purpose than the administration of said State fish and game department...".

**1.6 Eligible Purposes.** The following are eligible purposes under the Federal Aid in Wildlife Restoration program. Additional information on eligible project purposes is in 522 FW.

A. The restoration, conservation, management, and enhancement of wild birds and wild mammals, and the provision for public use of and benefits from these resources.

B. The education of hunters and archers in the skills, knowledge, and attitudes necessary to be responsible hunters or archers.

**1.7 Ineligible Activities.** The Federal Aid in Wildlife Restoration Act contains prohibitions on the use of Federal Aid funds for certain purposes. In addition, the rules and policies specify certain other purposes or activities that are not consistent with the grant program purposes and are,

therefore, ineligible. The following is a summary of those activities that are ineligible under the Federal Aid in Wildlife Restoration program.

A. Public relations activities for the purpose of promoting organizations or agencies, including publication of agency magazines, displays, exhibits, etc. This prohibition does not apply to educational or technical guidance activities specifically related to accomplishment of Federal Aid projects.

B. Activities for the purpose of producing revenue. Includes all processes and procedures directly related to the sale of licenses, permits, etc., which are imposed by law or regulation. It also includes the acquisition of real or personal property for the purpose of rental, lease, sale, or other commercial purposes. The production of income which results from otherwise eligible activities, incidental to these activities, is not prohibited. Examples are sale of surplus commodities, collection of user fees, etc.

C. Providing services or property of material value to individuals or groups for commercial purposes or to benefit such individuals or groups. This does not prohibit providing technical assistance to a private landowner or operator.

D. Enforcement of game and fish laws and regulations. This includes routine patrol, investigations, and law enforcement training. This does not prohibit activities necessary to accomplish Federal Aid project purposes or to protect Federal Aid assets, such as control of public entry, and does not prohibit activities to ensure public health and safety on Federal Aid areas.

E. Establishment, publication, and dissemination of regulations issued by a State pertaining to the protection and utilization of fish and wildlife resources. Includes laws, orders, seasonal regulations, bag limits, creel limits, license fees, etc. This does not prohibit the scientific collection of information needed to support management recommendations.

F. Stocking of game animals for the purpose of providing hunting of the animals stocked without objectives for restoration or establishment of self-sustaining populations.

G. Furnishing public facilities, equipment, or services in excess of the minimum required to meet project purposes or health and safety standards.

**1.8 Compliance.** Grantees are required to comply with all applicable Federal laws and regulations, as a condition of acceptance of Federal funds. In addition to the laws and regulations specific to the grant program, there are numerous other compliance requirements to Federal grant programs. Those generally applicable to all Federal grant programs are listed as Assurances, since grantees must provide assurance that they will comply with applicable provisions. (See 523 FW 1 for a summary of the compliance

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**32-828****Chapter 32.--WILDLIFE, PARKS AND RECREATION  
Article 8.--DEPARTMENT OF WILDLIFE AND PARKS**

**32-828. Assent to wildlife restoration act; use of fees.** (a) The state of Kansas hereby assents to the provisions of the wildlife restoration act (16 U.S.C. 669 *et seq.*), as amended. The secretary is hereby authorized and directed to perform such acts as necessary to the conduct and establishment of cooperative wildlife restoration projects, as defined in such act, in compliance with such act and with rules and regulations promulgated by the secretary of the interior thereunder. The state treasurer is hereby authorized to receive and disburse all money apportioned to the state in accordance with the provisions of such act.

(b) No moneys accruing to the state of Kansas from fees paid for hunting or furharvester licenses, permits or stamps shall be used for any purpose other than the administration of the department and the protection, propagation, preservation, management and investigation of wildlife.

**History:** L. 1938, ch. 67, § 1; L. 1989, ch. 118, § 15; July 1.

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FISH AND WILDLIFE SERVICE  
STATE GRANT PROGRAMS

State Grant Programs

Part 521 Federal Aid Program Eligibility

Chapter 2 Federal Aid in Sport Fish Restoration

521 FW 2.1

**2.1 Purpose.** The purpose of this chapter is to provide eligibility standards for the Federal Aid in Sport Fish Restoration program.

**2.2 Authority.** The Federal Aid in Sport Fish Restoration program is authorized by the Federal Aid in Sport Fish Restoration Act of 1950, as amended, (16 U.S.C. 777-777k). The Federal Aid in Sport Fish Restoration Act (Act) authorizes the Secretary of the Interior "...to cooperate with the States, through their respective State fish and game departments, in fish restoration and management projects as hereinafter set forth...". The Secretary has delegated to the Director the responsibility for carrying out the purposes of the Act, except for the apportionment of funds to the States. Regulations for execution of the Act are contained in Title 50 CFR Part 80.

**2.3 Responsibility.** Regional Directors are responsible for administration of the Federal Aid in Sport Fish Restoration program within their Regions, to include the approval of proposals, monitoring performance of approved projects, and monitoring compliance with applicable Federal laws and regulations. The Assistant Director-Fish and Wildlife Enhancement provides oversight for the Federal Aid in Sport Fish Restoration program.

**2.4 Eligible Participants.** State fish and wildlife agencies are authorized to participate. Also authorized to participate are the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the District of Columbia.

**2.5 Prerequisite Requirements.** To be eligible to participate, States must have "...assented to the provisions of this Act and shall have passed laws for the conservation of fish, which shall include a prohibition against the diversion of license fees paid by fishermen for any other purpose than the administration of said State fish and game department...".

**2.6 Eligible Purposes.** The following are eligible purposes under the Federal Aid in Sport Fish Restoration program. Additional information on eligible project purposes is in 522 FW.

A. The restoration, conservation, management, and enhancement of sport fish, and the provision for public use of and benefits from these resources. Sport fish are limited to aquatic, gill breathing, vertebrate animals bearing paired fins, and having material value for sport or recreation.

B. The enhancement of the public's understanding of water resources and aquatic life forms, and the development of responsible attitudes towards the aquatic environment.

**2.7 Ineligible Activities.** The rules implementing the Federal Aid in Sport Fish Restoration Act contain prohibitions on the use of Federal Aid funds for certain purposes. In addition, policies specify certain other

purposes or activities that are not consistent with grant program purposes and are, therefore, ineligible. The following is a summary of those activities that are ineligible under the Federal Aid in Sport Fish Restoration program.

A. Public relations activities for the purpose of promoting organizations or agencies, including publication of agency magazines, displays, exhibits, etc. This prohibition does not apply to educational or technical guidance activities specifically related to accomplishment of Federal Aid projects.

B. Activities for the purpose of producing revenue. Includes all processes and procedures directly related to the sale of licenses, permits, etc., which are imposed by law or regulation. It also includes the acquisition of real or personal property for the purpose of rental, lease, sale, or other commercial purposes. The production of income which results from otherwise eligible activities, incidental to these activities, is not prohibited. Examples are sale of surplus commodities, collection of user fees, etc.

C. Providing services or property of material value to individuals or groups for commercial purposes or to benefit such individuals or groups. This does not prohibit providing technical assistance to a private landowner or operator.

D. Enforcement of game and fish laws and regulations. This includes routine patrol, investigations, and law enforcement training. This does not prohibit activities necessary to accomplish Federal Aid project purposes or to protect Federal Aid assets, such as control of public entry, and does not prohibit activities to ensure public health and safety on Federal Aid areas.

E. Establishment, publication, and dissemination of regulations issued by a State pertaining to the protection and utilization of fish and wildlife resources. Includes laws, orders, seasonal regulations, bag limits, creel limits, license fees, etc. This does not prohibit the scientific collection of information needed to support management recommendations.

F. Furnishing public facilities, equipment, or services in excess of the minimum required to meet project purposes or health and safety standards.

**2.8 Compliance.** Grantees are required to comply with all applicable Federal laws and regulations, as a condition of acceptance of Federal funds. In addition to the laws and regulations specific to the grant program, there are numerous other compliance requirements to Federal grant programs. Those generally applicable to all Federal grant programs are listed as Assurances, since grantees must provide assurance that they will comply with applicable provisions. (See 523 FW 1 for a summary of the compliance requirements normally associated with Federal Aid programs.)

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**32-829****Chapter 32.--WILDLIFE, PARKS AND RECREATION  
Article 8.--DEPARTMENT OF WILDLIFE AND PARKS****32-829. Assent to fish restoration and management projects act; use of fees. (a)**

The state of Kansas hereby assents to the provisions of the fish restoration and management projects act (16 U.S.C. 777 *et seq.*), as amended. The secretary is hereby authorized and directed to perform such acts as necessary to the conduct and establishment of cooperative fish restoration projects, as defined in such act, in compliance with such act and rules and regulations promulgated by the secretary of the interior thereunder. The state treasurer is hereby authorized to receive and disburse all moneys apportioned to the state in accordance with the provisions of such act.

(b) No moneys accruing to the state of Kansas from fees paid for fishing licenses, permits or stamps shall be used for any purpose other than the administration of the department and the protection, propagation, preservation, management and investigation of wildlife.

**History:** L. 1951, ch. 284, § 1; L. 1989, ch. 118, § 16; July 1.

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## 32-990

### Chapter 32.--WILDLIFE, PARKS AND RECREATION

#### Article 9.--LICENSES, PERMITS, STAMPS AND OTHER ISSUES

**32-990. Wildlife fee fund.** (a) Unless otherwise directed by law, all moneys received from licenses, permits, stamps and other issues of the department, and duplicates thereof, to take, propagate, rehabilitate, collect, possess, sell, import, export, transport or deal in wildlife, or parts thereof, and all moneys from sources related thereto or allied recreational pursuits, shall be remitted in accordance with the provisions of K.S.A. 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 wildlife fee fund, which is hereby created.

(b) All costs and expenses incurred by the department for the following purposes shall be paid from the wildlife fee fund:

(1) Administering, implementing and enforcing the laws of this state relating to wildlife and its protection, propagation, preservation, management, investigation and recreational use; and

(2) acquiring title to lands and rights therein or thereon, waters or water rights, and keeping, improving and maintaining the same for the purposes described in subsection (b) (1).

(c) No moneys derived from sources described in subsections (a) or (d) shall be used for any purpose other than the administration of matters which relate to wildlife and which are under the control, authorities and duties of the secretary and department as provided by law.

(d) On or before the 10th of each month, the director of accounts and reports shall transfer from the state general fund to the wildlife fee fund interest earnings based on:

(1) The average daily balance of moneys in the wildlife fee fund for the preceding month; and

(2) the net earnings rate of the pooled money investment portfolio for the preceding month.

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

**History:** L. 1927, ch. 221, § 11; L. 1938, ch. 67, § 2; L. 1989, ch. 118, § 107; L. 1992, ch. 17, § 1; L. 1996, ch. 253, § 2; May 23.

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SUMMARY OF FINANCIAL OBLIGATIONS BY KANSAS DEPARTMENT OF WILDLIFE AND PARKS (KDWP) TO COMPLY WITH FEDERAL AID AUDIT ISSUES

SGF\$ 3,340,300

21 Oct-97

AMOUNT OF DIVERSION FOR FY 1989 - FY 1992 WAS DETERMINED TO BE \$1,900,109

FY 1995	802,786	Transfer from State General Fund to Wildlife Fee Fund
FY 1996	432,710	Transfer from State General Fund to Wildlife Fee Fund
	115,952	State General Fund appropriation to KDWP
FY 1997	548,661	Transfer from State General Fund to Wildlife Fee Fund
	1,900,109	Total amount of Diversion for FY 1989 - FY 1992

AMOUNT OF DIVERSION FOR FY 1993 - FY 1994 WAS DETERMINED TO BE \$1,669,396

FY 1997	720,123	Transfer from State General Fund to Wildlife Fee Fund
	114,625	Transfer from Boating Fee Fund to the Wildlife Fee Fund
FY 1998	720,073	State General Fund appropriation to KDWP
	114,675	Transfer from Boating Fee Fund to the Wildlife Fee Fund
	1,669,496	Total Amount of Diversion payments for FY 1993 - FY 1994

THE KDWP MADE INADEQUATE EXPENDITURES TO COMPLY WITH BASE FISHERIES EXPENDITURES FOR FY 1986 - FY 1992. THE KDWP WAS REQUIRED TO MAKE ADDITIONAL EXPENDITURES OF \$3,541,526 FOR FISHERIES PROGRAMS.

FY 1995	1,180,509	Amount authorized by 1994 Legislature from Wildlife Fee Fund for fisheries programs. First year payment.
FY 1996	1,187,650	Amount authorized by 1995 Legislature from Wildlife Fee Fund for fisheries programs. Second year payment.
FY 1997	1,173,367	Amount authorized by 1996 Legislature from Wildlife Fee Fund for fisheries programs. Third year payment.
	3,541,526	Total amount for fisheries programs.



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## 32-991

### Chapter 32.--WILDLIFE, PARKS AND RECREATION

#### Article 9.--LICENSES, PERMITS, STAMPS AND OTHER ISSUES

**32-991. Parks fee fund.** (a) Unless otherwise directed by law and except for revenues pledged to payment of revenue bonds issued in connection with specific projects, all moneys received from state park permit fees, tolls, rentals and charges derived from the use, lease or operation of state parks, or any portion thereof or facility therein, including receipts from the park and recreation motor vehicle permit and from fees for duplicate permits and other issues of the department, all moneys derived from the sale of bonds and all moneys from sources related thereto or allied recreational pursuits shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the parks fee fund, which is hereby created.

(b) All costs and expenses incurred by the department for the following purposes shall be paid from the parks fee fund:

(1) Administering, implementing and enforcing the laws of this state relating to state parks and state park facilities and their management and use; and

(2) acquiring title to lands and rights therein or thereon, waters or water rights, and keeping, improving and maintaining the same for the purposes described in subsection (b) (1).

(c) No moneys derived from sources described in subsection (a) shall be used for any purpose other than the administration of matters which relate to state parks and which are under the control, authorities and duties of the secretary and the department as provided by law.

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

**History:** L. 1955, ch. 355, § 14; L. 1963, ch. 409, § 6; L. 1989, ch. 118, § 108; L. 2001, ch. 5, § 101; July 1.

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PARK FEE FUND FY 2009 -FY 2012

	FY 2009	FY 2010	FY 2011	FY 2012
Beginning Balance	\$ 1,248,489	\$ 1,392,602	\$ 1,322,986	\$ 674,711
Revenue	\$ 5,079,883	\$ 5,745,148	\$ 6,053,800	\$ 6,343,800
Expenditures	\$ 5,012,085	\$ 5,814,764	\$ 6,702,075	\$ 6,882,035
Ending Balance	\$ 1,316,287	\$ 1,322,986	\$ 674,711	\$ 136,476

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