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**HOUSE COMMITTEE ON STATE RECREATIONAL RESOURCES  
TEXAS HOUSE OF REPRESENTATIVES  
INTERIM REPORT 2000**

**A REPORT TO THE  
HOUSE OF REPRESENTATIVES  
77TH TEXAS LEGISLATURE**

**EDMUND KUEMPEL  
CHAIRMAN**

**COMMITTEE CLERK  
PAIGE COOPER**

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Committee On  
State Recreational Resources

November 28, 2000

Edmund Kuempel  
Chairman

P.O. Box 2910  
Austin, Texas 78768-2910

The Honorable James E. "Pete" Laney  
Speaker, Texas House of Representatives  
Members of the Texas House of Representatives  
Texas State Capitol, Rm. 2W.13  
Austin, Texas 78701

Dear Mr. Speaker and Fellow Members:

The Committee on State Recreational Resources of the Seventy-Sixth Legislature hereby submits its interim report including recommendations and drafted legislation for consideration by the Seventy-Seventh Legislature.

Respectfully submitted,

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Edmund Kuempel, Chairman

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Robert L. "Robby" Cook

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Clyde Alexander

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Myra Crownover

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John Davis

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Dan Ellis

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Mark Homer

Robert L. "Robby" Cook  
Vice-Chairman

Members: Clyde Alexander, Myra Crownover, John Davis, Dan Ellis, Mark Homer, Ruben Hope, Allan Ritter

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**INTRODUCTION**

At the beginning of the 76th Legislature, the Honorable James E. “Pete” Laney, Speaker of the Texas House of Representatives, appointed nine member to the House Committee on Legislative Management. The committee membership included the following: Robert L. “Robby” Cook, Vice-Chairman; members: Clyde Alexander, Myra Crownover, John Davis, Dan Ellis, Mark Homer, Ruben Hope, and Allan Ritter.

During the interim, the Committee was assigned five charges by the Speaker: Evaluate the need for hunting license exemptions for wildlife that pose an imminent threat to personal property or human health and safety; Study the management of state wildlife on private property; Review issues related to reciprocal license agreements with neighboring states and reduced-price fishing licenses for personas over 65; Consider a general policy governing the extent to which the state parks system should be financially self-supporting. Consider additional policies that might fairly allocate costs between the state and local entities for sites that are primarily of local interest; Conduct active oversight of the agencies under the committee’s jurisdiction. In order to undertake the charges efficiently and effectively, Chairman Kuempel appointed subcommittees to study the charges.

The subcommittees have completed their hearings and investigations. The State Recreational Resources Committee has adopted and approved the following report.

The Subcommittee on Oversight has monitored and overseen legislation enacted during the 76th Regular Session that was considered by the State Recreational Resources Committee. In addition, the Subcommittee has monitored The Texas Parks and Wildlife Department’s sunset process, as well as other oversight related activities, however, they did not result in written reports under the Committee’s cover.

Finally, the members of the Committee wish to express their appreciation to all who participated in the interim studies, the resource witnesses who submitted testimony and general comments, and the Texas Parks and Wildlife Department who assisted the Committee by providing pertinent background information.

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**HOUSE COMMITTEE ON STATE RECREATIONAL RESOURCES**  
**INTERIM STUDY CHARGES AND SUBCOMMITTEE ASSIGNMENTS**

**SUBCOMMITTEE ON HUNTING LICENSE EXEMPTIONS**

CHARGE      To evaluate the need for hunting license exemptions for wildlife that pose an imminent threat to personal property or human health and safety.

Allan Ritter, Chairman  
Clyde Alexander  
Dan Ellis  
Edmund Kuempel

**SUBCOMMITTEE ON STATE WILDLIFE**

CHARGE      To study the management of state wildlife on private property.

Edmund Kuempel, Chairman  
Robert L. "Robby" Cook  
John Davis  
Ruben Hope

**SUBCOMMITTEE ON FISHING LICENSES**

CHARGE      To review issues related to reciprocal license agreements with neighboring states and reduced-price fishing licenses for persons over 65.

Dan Ellis, Chairman  
Clyde Alexander  
Mark Homer  
Allan Ritter

**SUBCOMMITTEE ON STATE PARKS**

CHARGE      To consider a general policy governing the extent to which the state parks system should be financially self-supporting. Consider additional policies that might fairly allocate costs between the state and local entities for sites that are primarily of local interest.

Robert L. "Robby" Cook, Chairman  
John Davis  
Mark Homer  
Ruben Hope

**SUBCOMMITTEE ON OVERSIGHT**

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CHARGE      To conduct active oversight of the agencies under the committee's jurisdiction.  
Committee of the Whole  
**SUBCOMMITTEE ON HUNTING LICENSE EXEMPTIONS**

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## BACKGROUND

Following the 76th Legislative Session, the State Recreational Resources Committee was charged with evaluating the need for hunting license exemptions for wildlife that pose an imminent threat to personal property or human health and safety.

A landowner in Texas, under current law, must possess a hunting license in order to take any animal on their own property, even a rattlesnake. This was not always the case. The first hunting license went into effect on September 1, 1907. This license was required for a non-resident hunting game birds, at a cost of \$15. The first resident hunting license went into effect on September 1, 1909, at a cost of \$1.75. This license was required for game quadrupeds or game birds or wild fowl protected by the game laws of this State, except: in their county of residence; in the county adjoining their county of residence; or on land owned or controlled by a person.

Beginning on September 1, 1919, a resident hunting license (\$2) was required for anyone hunting with a gun outside their county of residence. On September 1, 1925, the Boyd-Hubby Game Bill went into effect. This law states that no citizen of this State shall hunt outside their county of his residence with a gun without first having procured from the Game, Fish, and Oyster Commission, or one of his deputies or from any County Clerk in this State, a license to hunt. The articles requiring hunting licenses shall not apply to persons under seventeen years of age.

Effective September 1, 1939, it became unlawful for any resident citizen of this State to hunt in the following counties: Mason, Menard, Kerr, Schleicher, Crockett, Sutton, Kimble, Real, Edwards, Blanco, Llano, Kendall, Gillespie, El Paso, Hudspeth, Culberson, Val Verde, Kinney, Terrell, Medina, Brewster, San Saba, and Maverick; without first having procured from the Game, Fish, and Oyster Commission, a resident hunting license. Such license was not required of any person under seventeen years of age or of any person hunting on land which he owns or upon which he resides.

No citizen of this State shall hunt any wild bird or animal outside the county of his residence with a gun without first having procured a license to hunt (Effective September 1, 1947). In addition, it shall be unlawful for any citizen of this State to hunt, take, or kill any deer or wild turkey in this State without first having a hunting license. Hunters under 17 years old and 65 years old and older are exempt from hunting license requirements for deer and turkey.

Effective September 1, 1957, no citizen of this State shall hunt any wild bird or animal outside the county of his residence without first having procured a license to hunt. In addition, it shall be unlawful for any citizen of this state to hunt, take, or kill any deer or wild turkey in this State without a hunting license. Hunters under 17 years old and 65 years old and older are exempt.

The following sections of the Parks and Wildlife Code, Chapter 42. General Hunting License, went into effect on September 1, 1975.

! §42.002(a) No resident may hunt wild turkey or deer in this state without first

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- ! having acquired a current resident hunting license.
  - ! §42.002(b) No resident may hunt any wild bird or animal outside the county of his residence without first having acquired a resident hunting license.
  - ! §42.003(a) A person may hunt on land on which he resides for any wild bird, except turkey, and any wild animal, except deer, without a resident hunting license.
  - ! §42.003(b) A resident may hunt on land on which he resides for turkey and deer without a resident hunting license if he has acquired a resident exemption hunting license.
  - ! §42.004(a) A resident who is under 17 years old or who is 65 years old or older may hunt any wild bird, except turkey, and any wild animal, except deer, without a resident hunting license.
  - ! §42.004(b) A resident who is under 17 years old or who is 65 years old or older may hunt wild turkey and deer without a resident hunting license if he has acquired a resident exemption hunting license.

The 69th Legislature changed the following sections of Parks and Wildlife Code Chapter 42.

- ! §42.002(a) No resident may hunt any bird or animal in this state without first having acquired and having in the person's possession a valid hunting license.
- ! §42.002(b) A resident possessing a valid resident alligator hunter's license, resident trapper's license, or fur-bearing animal propagation permit is not required to have a license issued under this section to take or possess the species covered by the license or permit.
- ! §42.0021 Lifetime Resident Hunting License
- ! §42.012(b) The commission may establish a lower fee or waive the fee for a resident who is under 17 years old, 65 years old or older, or a qualified disabled veteran.

The following sections of Parks and Wildlife Code Chapter 42 were repealed effective September 1, 1986, by Acts 1985, 69th Legislature:

- ! §42.003(a) A person may hunt on land on which he resides for any wild bird, except turkey, and any wild animal, except deer, without a resident hunting license.
- ! §42.003(b) A resident may hunt on land on which he resides for turkey and deer without a resident hunting license if he has acquired a resident exemption hunting license.
- ! §42.004(a) A resident who is under 17 years old or who is 65 years old or older may hunt any wild bird, except turkey, and any wild animal, except deer, without a resident hunting license.
- ! §42.004(b) A resident who is under 17 years old or who is 65 years old or older may hunt wild turkey and deer without a resident hunting license if he has acquired a resident exemptions hunting license.
- ! §42.0041(a) & (b) Exception; Resident Disabled Veterans



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In past legislative sessions, bills (75th - HB 2171, 76th - HB 2973 & HB 1947) have been introduced on behalf of individual constituents or singular groups that proposed hunting license exemptions for specified individuals to kill specified species of wildlife resources (hogs, coyotes) under special circumstances (on own property, depredating , threat to public health or safety.)

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## FINDINGS

The Committee took under advisement the issue of granting hunting license exemptions for specific wildlife species or for specific user groups; however, this is a very complex issue with no obvious simple solution. Any changes made to the Parks and Wildlife Code to implement such exemptions will almost certainly have ripple effects throughout the Code that may result in unintended negative impacts. In most cases, a proposed change for a hunting license exemption to benefit one user group (e.g. landowners) will have negative effects on other user groups (e.g. hunters, trappers) by restricting harvest and possession that are currently legal.

The issue of law enforcement plays a large part in discussing exemptions. Currently, game wardens exercise sound judgement and discretion when enforcing hunting license requirements; however, by adding exemptions into the current policy it would no doubt make enforcement more challenging.

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## RECOMMENDATIONS TO THE 77TH LEGISLATURE

It is the Committee's belief that there is no need to reinstate the landowner hunting license exemption that existed until 1985; therefore, the Committee has no recommendation to present to the 77th Legislature.

While the Committee understands the view that some landowners feel they are being penalized by having to purchase a hunting license to hunt on their own property, when they in many cases are providing improved habitat and stewardship of the land resource for the wildlife to flourish; there are those unscrupulous individuals who will take advantage of any exemptions to the current law. For most landowners this is not an issue, as they already purchase a hunting license for recreational hunting.

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**SUBCOMMITTEE ON STATE WILDLIFE**

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## BACKGROUND

The State Recreational Resources Committee was charged with studying the management of state wildlife on private property.

Texas recognizes the state's ownership of wildlife in section 1.011 of the Parks and Wildlife Code, which states that "all wild animals, fur-bearing animals, wild birds, and wild fowl inside the borders of this state are the property of the people of this state." The Texas Legislature has directed the Texas Parks and Wildlife Department to conserve an ample supply of wildlife resources on a statewide basis to insure reasonable and equitable enjoyment of the privileges of ownership and pursuit of wildlife resources (PWC §61.002). In addition, the Texas Legislature has directed the Department to provide technical guidance to landowners (PWC §§12.025,12.0251).

Regulations are promulgated by the Wildlife Division for the sole purpose of preventing the depletion or waste of game species (PWC §61.005) or to assist the Law Enforcement Division in refining the enforceability of regulations to match the resource's needs with minimal inconvenience to the public.

Deer may be possessed for the purpose of propagation, management, and scientific purposes (PWC §43.352) and other game species may be possessed for propagation purposes (PWC §44.002). Animals possessed under these permits/licenses must be obtained from a legal out-of-state source or from others who hold similar permits or licenses. These animals may be sold by permit/license holders for release or for possession by other permit/license holders, but animals possessed may not be killed or sold as meat or as carcasses (PWC §43.365). Regulation of these activities are solely for the purpose of preventing wild deer or other game animals from entering these facilities (PWC §43.365, 44.0125). Additionally, Texas Animal Health Commission may regulate possession and movement of animals to control certain diseases.

Although most states in this country allow game farming or ranching, a few states have either outlawed the practice or are attempting to do so. Other states which allow the practice have specifically legislated that ownership remains with the state, regardless of the existence of a game fence. The reasons for these trends are based on several concerns, ranging from the spread of disease to legal challenges over the nature of ownership of wild animals within game farms.

Except for the states discussed below, every state in the country has some form of legalized game farming/ranching. There are exceptions to this trend, however. Wyoming addressed the issue of game farms in 1977, when the legislature passed W.S. 23-1-103. This law provides that "there shall be no private ownership of live animals classified in this act as big or trophy game animals." Since the passage of the law, no game farms have been allowed in the state. South Carolina recently passed a bill (H.B. 4703), which makes it unlawful to construct a new enclosure "which prevents or materially impedes the free range of deer being hunted." The bill was signed by the Governor on June 14, 2000. In addition, a measure on the ballot in Montana attempts to phase out game farms. If approved, Initiative 143 would prohibit new game farm licensing, expansions or license transfers. The measure would also ban

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captive shooting of game farm animals.

The issue of privatization is always a hot topic. What varies from state to state is whether the animals within the enclosure remain within the legal ownership of the state until killed or whether ownership transfers to the landowner upon fencing. Traditionally, each state holds title to the wildlife within its borders until the animal has been “reduced to lawful possession.” Case law has interpreted lawful possession to mean the killing of an animal. Several state statutes have gone beyond this definition to include fencing in wildlife as a prerequisite to ownership.

An 1872 statute in California, for example, defines ownership of wild animals to include “when on the land of the person claiming them” (Ca. Civil Code sec. 656). In Louisiana, section 56:178 gives a property right to the landowner of game which is fenced in. Michigan also gives landowners a property right in the wild animals fenced in (Mich. Stat. sec. 324.41710). Ohio law provides that ownership of wild animals resides with the state unless the animals are “legally confined” (Ohio Stat. sec. 1531.02; see also *Douglas v. Seacoast Products, Inc.*, 431 U.S. 265 (1977)).

Several states give ownership of domestic game to the landowner. In Hawaii, for example, game birds on enclosed property are the “exclusive property of the licensed holder” (Hawaii Stat. sec. 183 D-41). In Wisconsin, game farms are allowed under Wisc. Stat. 29.867 for the purpose of “breeding, propagating, killing and selling game birds and game animals.” The statute goes on to state that, upon payment of a game farm license fee, the landowner becomes the “owner of all game birds or animals of the species licensed and of all their offspring actually produced...”

Other states, such as Iowa, provide the opposite result. In Iowa, hunting preserve licensees are required to construct boundary fences in such a way so as to “exclude all ungulates which are the property of the state from becoming a part of the hunting preserve enterprise” (Iowa Code sec. 484B.5). Similarly, Florida law requires that game fences be built in such a way so as to prevent wild game from entering (Fl. Stat. sec. 372.16). In Montana, a 1980 Attorney General opinion stated that “when the fence of a game farm permittee encloses native wild big game animals, these animals remain the property of the state and may be hunted and taken only in compliance with state law” (38 A.G. Op. 68 (1980)). This opinion was obviated, however, in 1983 when the legislature declared that “alternative livestock” were the private property of the landowner (Mt. Code sec. 87-4-414).

Several concerns arise with respect to privatization. First, disease on game farms is becoming an increasing problem. Chronic wasting disease (CWD), for example, has been found on game farms across the country. Another issue concerns violations of the public trust doctrine. A long line of U.S. Supreme Court cases have delineated the state’s ownership of wildlife, and deemed the relationship a “trust.” In *Geer v. Connecticut*, 161 U.S. 519 (1896), the Court held that “the ownership of wild animals, so far as they are capable of ownership, is in the state, not as proprietor but in its sovereign capacity, as the representative and for the benefit of all its people in common.” In *Hughes v. Oklahoma*, 441 U.S. 322 (1979) the Court again recognized a state’s right to the wildlife within its borders.

## FINDINGS

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There are several permit programs to help Texas landowners manage whitetail deer. In 1999, Texas had 3.6 million whitetails and over 500,000 hunters. In the last six years, programs have been developed or modified to allow landowners flexibility in managing white-tailed deer. Some of these programs were enacted by the Legislature, some were suggested by the Texas Parks and Wildlife Department's Wildlife Division, and some were developed at the request of the Texas Parks and Wildlife Commission.

Following are the special white-tailed deer permits:

**Trap/Transport/Transplant Permit (TTT)** - Enacted by the 74<sup>th</sup> Legislature - 1995. Available statewide. Allows the trapping, transportation, and release of wild white-tailed deer and mule deer (and any other game animal or game bird) from one area of the state to another area. To be issued, each permit must pass 3 tests: (1) neither the trapping or releasing of deer can have a significant negative impact on the population or habitat; (2) neither the trapping or releasing of deer can have a significant negative impact on a neighboring landowner; (3) deer cannot be released outside its normal range in this state (e.g., mule deer from Brewster County cannot be released in Orange County). There is a non-refundable application fee of \$150 for the permit, and a non-refundable amendment fee of \$25. Both trap and release sites must be approved by District Leaders (CS VI). **All release sites must have an approved Wildlife Management Plan (approved by CS VI or higher) that demonstrates available natural habitat (i.e., populations well within carrying capacity), and no depletion of deer on the property through recent hunting.** *In 1998, there were 61 permits issued, affecting approximately 400 ranches and 2,308 deer were moved. In 1999, there were 35 permits issued and 2,691 deer were authorized under these permits.*

Triple T Permits 1993-1999

1993	61 permits	3,316 deer moved
1994	65 permits	2,635 deer moved
1995	76 permits	4,870 deer moved
1996	98 permits	6,490 deer moved
1997	134 permits	7,426 deer moved
1998	61 permits	2,308 deer moved
1999	41 permits	2,691 deer moved

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**Urban Deer Removal Permit (UDRP)** - Enacted by the 74<sup>th</sup> Legislature - 1995. Available statewide. Same as TTT, but specifically aimed at urban deer problems. If the trap site is solely on land of a political subdivision or institution of higher education, the fees may be waived. All other conditions of the permit are identical to TTT. **All release sites must have an approved Wildlife Management Plan (approved by CS VI or higher) that demonstrates available natural habitat (i.e., populations well within carrying capacity), and no depletion of deer on the property through recent hunting.** The applicant must be the municipal authority. *There was 1 permit issued for 110 deer in 1998. There were 6 permit issued in 1999.*

**Scientific Breeder Permit (SBP)** - Enacted by the 69<sup>th</sup> Legislature - 1983. Available statewide. Permit allows the holder to own white-tailed deer or mule deer (deer must be obtained from another breeder or a legitimate out-of-state source) and propagate, sell, transport or release their deer. Wild deer may not be commingled with deer held under a SBP. Released deer become the property of the people of the state of Texas. SBP holders may not kill the deer that are held in their facility (not a farming permit). Application or renewal fee is \$150 annually, purchase permits are required to transfer ownership (\$25), and a transportation permit (\$25) is required if a person other than a SBP holder is moving the deer. *There are approximately 275 permitted facilities.*

**Landowner Assisted Management Permits (LAMPS)** - Enacted by Regulation - 1993. Available in specified counties. A procedure for issuing antlerless deer permits. These permits may be used throughout the hunting season. Permit issuance rates are determined by habitat type and area of the state from our routine white-tailed deer surveys. Landowners describe their property in their application showing the number of acres of their property that is made up of each habitat type. Permit issuance is calculated from this description. The system is automated and housed in the Wildlife Division Tyler office and the process is generally handled through the mails. If a landowner accepts LAMPS permits, all antlerless deer must be tagged with a LAMPS permit whether “doe days” are available or not. There is no fee for these permits. *In 1998, approximately 15,000 permits are issued on approximately 2,500 properties affecting over 2,000,000 acres annually in the Post Oak Savannah and Piney woods of East Texas.*

**Managed Lands Deer Permits (MLD)** - Enacted in its current form by the Regulation - 1996. Available in specified counties. A procedure for issuing antlerless deer permits and in some cases buck permits as well. These permits may be used throughout the hunting season. Permits are issued on recommendations contained in an approved Wildlife Management Plan, and based on a survey of the individual property. These management plans must be approved by one of our wildlife staff. If a landowner accepts only antlerless permits, all antlerless deer must be tagged with a MLD permits whether “doe days” are available or not. *In 1998, there were 9,570 permits issued to 373 properties affecting 1,289,217 acres. 30% of the permits were used. . In 1999, there were 12,899 permits issued to 361 properties affecting 1,222,920 acres. 42% of the permits were used* However, if a landowner accepts buck permits as well as antlerless permits, hunters on that property have a 5 deer no more than 3 buck bag limit if the landowner chooses to issue the hunter that many permits. **Also, when buck permits are accepted, an extended season (Saturday nearest Sept 30**



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**through Sunday nearest Jan 31) is available for that property.** All deer killed during the hunting season must be tagged with an appropriate MLD permit where they have been accepted. There is no fee for these permits. *In 1998, approximately 13,661 buck permits, and 25,808 antlerless permits were issued to 437 properties covering 1,850,229 acres. 49% of the buck permits and 48% of the antlerless permits were used. In 1999, approximately 16,410 buck permits, and 27,019 antlerless permits were issued to 475 properties covering 2,218,571 acres. 55% of the buck permits and 54% of the antlerless permits were used.*

**Antlerless Deer and Spike Buck Control Permits (ADCP)** - Enacted by Regulation - 1993. Available statewide. These permits may be used throughout the hunting season. A procedure for controlling a deer population that is so large that it is a danger to itself and its habitat, and an inadequate number of conventional hunters are available during the general season to control this population. It is meant to be an emergency action to reduce deer numbers so that the population can be controlled by conventional means. Few landowners in Texas request this permit more than one year. Under this permit, each deer must be tagged (but no license tag is required), and each designated shooter (must be named on the permit) can take up to 300 deer in a season. ADCP permits will not be issued for less than 20 antlerless deer. All animals must be taken during the general season for the county. All carcasses must be kept in an edible condition and may be donated to a person or persons other than those named on the permit. The management plan required for this permit can only be approved by a biologist CS VI or higher and the fee is \$300. *During the 1998 hunting season permits were issued on 91 properties covering 984,000 acres in 38 counties which received 10,972 antlerless permits and 2,271 spike permits; there were 5,008 antlerless deer and 1,050 spikes taken using these permits during the 1998 season.*

**Scientific Research Permit (SRP)** - Enacted by the 72<sup>th</sup> Legislature - 1991. Amended by the 74<sup>th</sup> Legislature - 1995. Available statewide. Deer may be held under a SRP following the approval of the research proposal submitted at the time of application. Normally, this permit is used for scientific collections, but upon approval, deer may be held under this permit as well. The fee is \$50 annually. *There is one SRP permit issued to a private individual and 3 permits issued to universities or research institutions in Texas.*

**Deer Management Permit (DMP)** – Enacted by the 75<sup>th</sup> Legislature – 1997. Deer may be trapped from the wild (within a high fenced property), held for selective breeding purposes, and released back into the wild on the same property. An approved Wildlife Management Plan (approved by CS VI or higher) is required and the fee is \$1,000 and renewal is \$500. *There have been two DMP permits issued.*

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## **RECOMMENDATIONS TO THE 77TH LEGISLATURE**

The Committee has no recommendation to the present to the 77th Legislature. The Committee has confidence in the current permit programs offered by the Texas Parks and Wildlife Department to Texas landowners for the management of whitetailed deer.

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**SUBCOMMITTEE ON FISHING LICENSES**

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## BACKGROUND

The State Recreational Resources Committee was charged with reviewing issues related to reciprocal license agreements with neighboring states and reduced-priced fishing licenses for persons over 65.

House Bill 1785, enacted in the 74th Session of the Texas Legislature provided that a fishing license issued under Chapter 46 of the Parks and Wildlife Code is not required of a person who is a resident and whose birth date is before September 1, 1930, or who is a nonresident, if the person's birth date is before September 1, 1930, and that person's state of residence grants a similar age exemption to Texas residents (in 1995, this applied only to residents of Kansas, Oklahoma, and Louisiana). This action was taken to address Texas' growing aging population and the resource taken while fishing; establish equity with senior hunters; and to obtain needed customer information. As a result of the passage of HB 1785 the Parks and Wildlife Commission offered residents who turned 65 on or after September 1, 1995, the special resident fishing license at a discounted cost of \$6 (resident fishing license costs \$19). The Texas Parks and Wildlife Department has determined that approximately 5% of the senior population are anglers. In FY96 13,784 special resident licenses were sold, resulting in \$79,396 in revenue. The Parks and Wildlife Department generated \$222,966 in revenue in FY99, with the sale of 39,117 special resident licenses. It is projected that by 2020 the special resident license will generate an annual revenue stream of over \$1 million, with an estimated 179,727 licenses sold annually.

The responsibility for establishing reciprocal hunting and fishing privileges with other states is delegated to the Texas Parks and Wildlife Commission under Parks and Wildlife Code, Chapter 41. The decision by the Texas Parks and Wildlife Department to eliminate reciprocal fishing license privileges for seniors had its roots in the creation of the reduced priced fishing license. The passage of House Bill 1785 prompted numerous comments from constituents and legislators concerning the equity of charging some seniors from Texas while allowing senior non-residents from Oklahoma, Louisiana, and Kansas to fish for free. In August 1999, the Texas Parks and Wildlife Department eliminated their reciprocal agreements with Oklahoma, Louisiana, and Kansas in response to those comments.

Since August 1999, the Texas Parks and Wildlife Department and many legislators have received complaints over the elimination of the reciprocal agreements. The complaints are in regards to the cost of non-resident fishing licenses in Louisiana and Oklahoma. Texas seniors are now required to purchase a non-resident fishing license in Louisiana at a cost of \$31 (3-day license = \$10), and in Oklahoma a non-resident fishing license costs \$28.50 (14-day license = \$20; 5-day license = \$10). When the reciprocal agreements were in place, seniors from all four states were exempt from licensing when fishing as a non-resident.

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## FINDINGS

After discussions with Legislators, anglers, and Louisiana and Oklahoma wildlife department staffs, the Texas Parks and Wildlife Department decided that reinstatement of the reciprocal agreements that were in effect prior to last year's actions, was the best option. Department staff began working toward reinstating the reciprocal agreements early this year.

Parks and Wildlife staff took their proposal before the Finance Committee of the Parks and Wildlife Commission on April 5, 2000. The staff recommendation was to amend the Finance Proclamation to allow seniors from Louisiana and Oklahoma to fish in Texas without a non-resident license if these two states enter into an agreement to provide the same privilege to Texas seniors who are 65 years of age or older. The Finance Committee authorized department staff to publish the proposed amendment in the *Texas Register* (25 TexReg 3993). The proposed amendment was published in the *Texas Register* on April 28, 2000. On June 1, 2000, the Parks and Wildlife Commission adopted the amendment to 31 TAC §§53.1 and 53.3 (Appendix A). Texas' reciprocal agreement with Oklahoma went into effect on September 1, 2000. To date, Louisiana has chosen not to reinstate the reciprocal agreement. Reinstatement of the reciprocal agreement must be done as an act of the legislature in Louisiana.

In addition to reinstating the reciprocal agreements, the Texas Parks and Wildlife Department staff began working on creating discounted combination licenses for seniors. The Finance Committee, of the Parks and Wildlife Commission, at its April 2000 meeting authorized department staff to publish a proposed amendment to the Finance Proclamation to create both a discounted senior combination license and a discounted senior super-combination license. The amendment appeared in the April 28, 2000 issue of the *Texas Register* (25 TexReg 3695). This action will allow seniors to purchase one license instead of two separate licenses for hunting and fishing privileges. In addition, it will offer a discount to seniors purchasing licenses, which is consistent with existing combination licenses. The Parks and Wildlife Commission adopted the amendment to 31 TAC §53.2, at its meeting on June 1, 2000 (Appendix B).

Senior sportsmen aged 65 or older can now purchase a \$25 Senior Super Combo License or a \$10 Senior Combination Hunting and Fishing License. The combination hunting and fishing license reflects \$2 in savings off the Special Resident Hunting and Special Resident Fishing License. The Senior Super Combo, which includes a hunting license, a fishing license and all special stamps, offers a \$38 savings if all items were purchased separately.

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## **RECOMMENDATIONS TO THE 77TH LEGISLATURE**

The Committee is satisfied that the Texas Parks and Wildlife Department has adequately addressed all concerns regarding reciprocal agreements and reduced-priced senior licenses, and therefore, has no recommendation to present to the 77th Legislature. The committee will continue to monitor the Departments efforts in reinstating the reciprocal agreement with Louisiana.

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**SUBCOMMITTEE ON STATE PARKS**

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## BACKGROUND

Following the 76th Legislative Session, the State Recreational Resources Committee was charged with considering a policy governing the extent to which the state parks system should be financially self-supporting, and to consider additional policies that might fairly allocate costs between the state and local entities for sites that are primarily of local interest.

In 1963, The Texas State Parks Board and Texas Technological College produced a long-range plan for the state park system. This document, *Texas State Parks A General Report of Functions, Space Requirements, Financial Considerations and Policies for the Future*, became the blueprint for parks and recreation in the state as the Parks Board was merged with the Texas Game and Fish Commission to create the Texas Parks and Wildlife Department. Subsequently, the Texas Legislature submitted a constitutional amendment to the state's voters, which resulted in the passage of \$75 million in bonds for the acquisition and development of state parks.

During the 1970's, the Lyndon B. Johnson School of Public Affairs at the University of Texas produced a second study, *Natural Area Surveys*, concerned with identification and protection of significant natural areas in Texas and this work greatly influenced subsequent acquisition by the Parks and Wildlife Department and other conservation institutions including the National Park Service and The Nature Conservancy. In 1982, the Texas Research League (now Texas Taxpayer and Research Association) performed an analysis of the department that focused on agency organization and Commission/staff relations.

In 1971, the 62nd Legislature established the State Park Fund for the planning, acquisition and development of state parks and historic sites to further enhance the system. The fund received revenue from a one-cent tax on each package of cigarettes sold, providing approximately \$16 million annually. The creation of this fund enabled the department, for the first time, to carry out an active and progressive park acquisition and development program.

Later, in response to the ever-increasing recreation needs of the urban areas of the state, the legislature, in 1979, created the Texas Local Park, Recreation, and Open Space Fund. The fund received approximately \$16 million annually from existing cigarette taxes, equivalent to one cent per package of cigarettes sold. This revenue was used for state park acquisition and development and to provide matching grants for local government outdoor recreation opportunities.

In 1993, faced with dramatically decreasing revenues (the cigarette tax ranged from a high of \$19 million in FY 1984 to a low of \$13.5 million in FY 1993), the Texas Legislature replaced the cigarette tax with the dedication of a portion of Texas sales tax collected on certain sporting goods and completed the process by which the Parks and Wildlife Department is now almost entirely financed by revenues collected directly or indirectly from its users. The vision and intent of this action was to move from a declining source of revenue with no connection to the outdoors to a growing source of funding directly tied to users.



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In January 1998, the Texas Parks and Wildlife Department entered into a financial contract with Texas A&M University to perform the parks, recreation and natural resources study (*Texas Outdoors A Vision for the Future*). The purpose of this study was to determine the extent and characteristics of public lands and facilities required to ensure that historical, natural, and recreational resources will be adequately provided, maintained, and held in the Public Trust for present and future generations of Texans. In addition, the study assessed the expectations of Texans concerning management, conservation, and protection of all public resources including terrestrial and aquatic.

*Texas Outdoors A Vision for the Future* reported that Texas ranks 49th in the nation for per capita spending (\$1.79) on state parks. The state falls 63% below the national average of \$4.81 per capita. In 1996, the state government of Texas spent only \$3 per capita on all state parks and recreation. At 77% below the average of \$13 per capita, Texas ranked 48th in the nation. In addition, Texas state parks operating expenditures of \$45 million constitute only .1% of total state expenditures, ranking Texas 46th.

According to *Texas Outdoors A Vision for the Future*, the shift of park funding from general fund support to being user funded brought unintended deterioration in the range and quality of services. The report identified 4 sources for additional resources to help solve this problem.

- ! Increase appropriations from the sporting goods sales tax (SGT) and link them to increases in the state sales tax.** The state has no means of directly calculating the level of SGT revenues it receives, estimates must be derived indirectly from several sources. Estimates suggest that SGT revenues are approximately \$85 million annually. If an SGT appropriation was expressed as a percentage of total sales taxes, appropriations would rise (or fall) in accordance with sales tax. In 1996, the \$32 million SGT appropriation represented only 0.003% of the total state sales tax receipts. As total sales taxes have grown since 1996, this percentage has decreased each year. Consideration should be given to keep the appropriation at 0.003% or to increase the percentage received. Each 0.001% increment will yield an additional \$11.34 million. Given the estimated \$85 million size of the SGT revenues, additional increments appear justifiable.
- ! Instead of only 75%, provide all of the unclaimed motor boat fuel tax refunds to TPWD.** Providing the remainder of the unclaimed motor boat fuel tax would not increase taxes and would yield approximately \$4 million.
- ! Because all Texans benefit equally from the preservation of cultural and historical sites, TPWD should receive appropriate additional general revenue for these sites, instead of relying solely on revenues earned from anglers, hunters, boaters, and recreational park visitors.**
- ! Restore promotional efforts of the Texas Conservation Passport (TCP) and generate more revenue from higher occupancy in existing campsites.** The potential added revenue from the sale of TCP's was estimated at more than \$1 million. However, when TPWD

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terminated their promotion of the TCP sales sharply declined from 123,000 in 1995 to 48,000 in 1997.

The State Auditor's Office completed an audit of Texas Parks and Wildlife's State Parks Division for fiscal year ending August 31, 1998. The purpose was to analyze and assess the key management control systems to ensure the Parks Division achieves its mission and goals. The Auditor's Office also evaluated the overall management control systems which included policy management, information management, resource management and performance management. The conclusion was that In FY 1998 Parks and Wildlife had available resources of \$41.4 million to cover only 80% of the \$51.5 million needed annually to run the state park system.

Texas Parks and Wildlife Department operated 123 parks in 1997, and reported that 31 parks were "operationally profitable." The agency calculated this by subtracting park operating expenses from revenue collected at each park. Operating expenses do not include costs for maintenance (funded from budgets other than operating budget), equipment, purchases and support services. Considering all costs, the 31 parks had \$2.4 million more in expenses than direct revenue collected. Only 6 parks were considered profitable in FY 1997 with a combined profit of about \$1 million.

The State Auditor maintained that static funding levels, rising personnel costs, rising operating costs and an increased number of parks has diminished the ability of the park system to address all needs. As new parks and programs become funding obligations in the future, the overall pool of current resources available for existing parks is further diminished.

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## FINDINGS

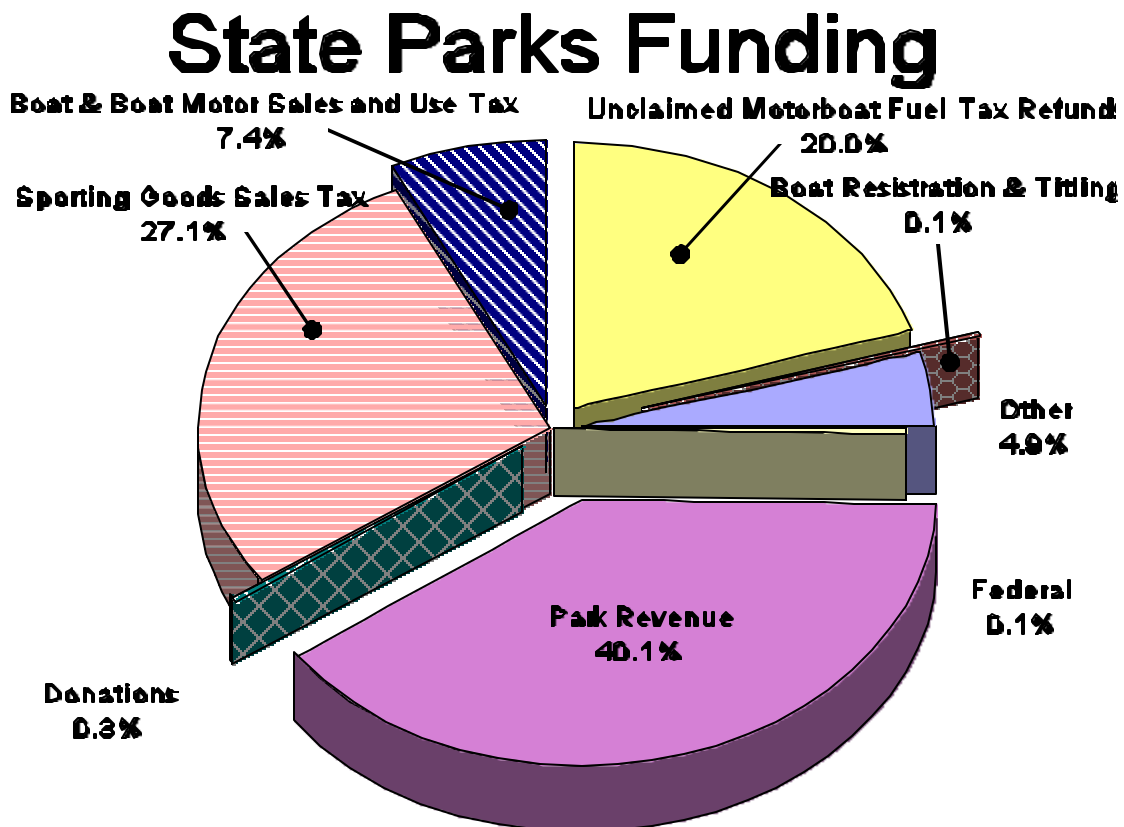
Texas Parks and Wildlife Department's funding structure is made up of fees and statutorily dedicated revenue. Dedicated revenue, including fees levied on hunters, anglers, boaters, park users, and other sources, account for more than 95 percent of the Department's budget; however, this source of revenue is fairly restricted. While TPWD has the statutory authority to adjust most of its fees through rulemaking, market forces limit fee and license increases. Past experience has shown that when fees are raised, sales volume decreases, even while net revenues increase. The Department's user-pay user-benefit method of financing also limits its flexibility. State and Federal laws require hunting and fishing license revenue to support the activities from which the fee was derived. While statutory dedication helps to ensure that user fees benefit those who pay them, dedications limit TPWD's ability to allocate resources to meet its most pressing needs.

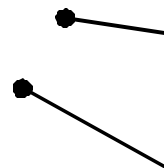
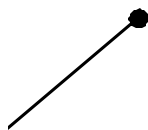
In response to Parks and Wildlife's funding needs the Legislature provided \$34 million in new funding for the current biennium from General Revenue and dedicated GR. This new funding is not guaranteed to continue because adequate fund balances and revenues may not be available. This new funding includes \$15 million for park operations. In FY 2000, the total operating budget for state parks is \$49,6

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State parks are funded as shown by the graph below.





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Revenues from park fees contribute \$19,918,780 annually to state parks funding. The Parks and Wildlife Department receives \$32 million annually from the sporting goods sales tax, of this amount \$13,440,376 is used specifically for state park funding. The sporting goods sales tax is dedicated to both supporting state parks and providing grants for the development of local parks. Of the first \$27 million in revenues from the tax, half pays for TPWD operations and half is dedicated to local park grants. Of the remaining \$5 million, 40 percent is used for state park operations, 40 percent goes to local park grants, and 20 percent pays for TPWD capital projects. In FY 2000, the Department received \$13.5 million in FY 2000 from the registration and titling fees, with \$51,443 going to funding state parks. The Texas Water Safety Act requires motorboats, boat motors, and sailboats 14 feet and longer to be registered with the Department. The registration and titling fee must be renewed every two years. Tax law dedicates 5% of the amount collected from taxes on the retail sale of a taxable boat or motor and use taxes on boats or motors purchased in another state and brought to Texas, to TPWD. State parks received \$3,677,685 in FY 2000 from the boat and boat motor sales and use tax. Of the unrefunded taxes on motor boat fuels, 75 % is dedicated to TPWD, resulting in a \$9,950,566 dedication to state parks. State parks receive \$66,907 annually from the federal government through apportionments, grants, and contracts.

The Sunset Advisory Commission, in response to a legislative mandate, has considered funding alternatives for the Department. The staff review found the current mix of license revenues and dedicated taxes to be stable and predictable; however, the Department's license revenue is inflexible as it is constrained by market forces. The Sunset staff determined that while the sporting goods sales tax is not perfectly related to park use, no other significant tax or new user fee provides a greater connection to park use. The most important conclusion is that if the Legislature chooses to provide additional funding to the Department, they could provide additional services to better meet Texas' growing conservation and recreation needs. The Sunset staff's funding alternatives were:

- ! The Legislature could consider three options regarding the statutory \$32 million cap on appropriations the Department receives from the Sporting Goods Sales Tax.
  - " Increase the statutory cap above \$32 million.
  - " Remove the \$32 million cap and replace it with an authorization for the Legislature to set the cap each biennium in the General Appropriations Act.
  - " Establish a floating cap based on a percentage of the total amount of revenue raised through the sporting goods sales tax.
- ! Consider replacing the Department's dedication of Sporting Goods Sales Tax revenue with the Boat and Boat Motor Sales and Use Tax.
- ! Expand the Boat Registration and Titling fees to include canoes, kayaks, and rowboats.
- ! The Legislature could request Texas voters to approve a new series of General Obligation Bonds for acquisition and development of park and conservation lands.

The Sunset Commission at its June meeting recommended to forward the following funding alternatives to the Legislature for consideration:

- ! Remove the \$32 million cap on the Sporting Goods Tax and allow the Legislature to set the cap each biennium in the General Appropriations Act.
- ! Consider requesting Texas voters to approve a new series of General Obligation Bonds for

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acquisition and development of park and conservation lands.

It is the Committee's opinion that sufficient means and methods are in place to allow the Parks and Wildlife Department to fairly allocate costs between state and local entities for sites that are primarily of local interest. The enactment of House Bill 2108 during the 76th Legislature resulted in several positive changes to Chapter 24 of the Parks and Wildlife Code. The Legislature codified the Department's Community Outdoor Recreation Outreach Program initiatives and increased the program's funding which had previously depended upon riders in the appropriations bill; appropriated unexpended interest earned by the Texas Recreation and Parks Account in the amount of \$5 million per year; provided for the transfer of Department lands and facilities to political subdivisions; increased funding for indoor recreation grants; and allocated funds for regional parks. Negotiations have already taken place between the Texas Parks and Wildlife Department and several public entities to consider the transfer of some Department sites to alternative ownership and management. These sites include Lubbock Lake Landmark State Historical Park, Jim Hogg State Historical Park, and Old Fort Parker State Historical Park.

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## **RECOMMENDATIONS TO THE 77TH LEGISLATURE**

The State Recreational Resources Committee encourages members of the Legislature to dedicate additional financial resources to the Parks and Wildlife Department, in order that they may protect and manage the rich and diverse cultural, historic, and ecological resources of Texas. In addition to improving facility maintenance, and acquiring additional conservation and recreation lands, the Parks and Wildlife Department would have the potential to draw down new federal funding if they were to receive additional appropriations.

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**SUBCOMMITTEE ON OVERSIGHT**



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## FINDINGS

The Committee on State Recreational Resources has conducted active oversight of the Texas Parks and Wildlife Department during this legislative interim, paying particular attention to the Department's Sunset Review and three key pieces of legislation enacted during the 76th Legislature (House Bill 2108, House Bill 3079, and Senate Bill 1303).

### *House Bill 2108*

The enactment of House Bill 2108 during the 76th Legislature resulted in several positive changes to Chapter 24 of the Parks and Wildlife Code. The Legislature codified the Department's Community Outdoor Recreation Outreach Program initiatives and increased the program's funding which had previously depended upon riders in the appropriations bill; appropriated unexpended interest earned by the Texas Recreation and Parks Account in the amount of \$5 million per year; provided for the transfer of Department lands and facilities to political subdivisions; increased funding for indoor recreation grants; and allocated funds for regional parks. The recreational grants rules (Appendix C) adopted by the Parks and Wildlife Commission, on April 6, 2000, incorporate changes made by the legislature, recommendations of the State Auditor to codify the Project Priority Scoring Systems used by the Department to evaluate and rank grant applications (Appendix D), and other proposed administrative changes suggested in seven public hearings held by the Department around the state.

Negotiations have taken place between Texas Parks and Wildlife Department and several public entities to consider the transfer of some Department sites to alternative ownership and management. These sites include Lubbock Lake Landmark State Historical Park, Jim Hogg State Historical Park, and Old Fort Parker State Historical Park.

House Bill 2108, amended the Texas Parks and Wildlife Code to authorize grants for the interim operation and maintenance of parks owned, operated or maintained by the Department and being transferred to a governmental entity for operation and maintenance of the site. A total of \$2 million is available each year of the FY00 - FY 01 biennium.

With the Commission's approval on August 31, 2000, Department staff will execute grant agreements to begin the process of transfer of Lubbock Lake Landmark State Historical Park, Jim Hogg State Historical Park, and Old Fort Parker Historical Site. In addition, the Department will end association with the Grand Saline Salt Palace.

### Lubbock Lake Landmark State Historical Park:

The Landmark is a National Historic Landmark, listed on the National Register of Historic Places, and a State Archeological Landmark, recognized as containing a historically important area having great value to the State of Texas. The Department is the owner in fee simple of the Lubbock Lake Landmark State Historical Park.

The Department proposes to convey title to two tracts of land consisting of approximately 336 acres,

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except the land and improvements containing the TPW Regional Office Complex, park residence, and maintenance area, to Texas Tech University. The deed transferring the Landmark will contain language that restricts the use of the Landmark to historical, archeological, and cultural purposes only.

Texas Tech University agrees to curate and house all Landmark artifacts and make them available to the public. The name of the Landmark will be changed to “Lubbock National Historic Landmark”.

Texas Parks and Wildlife will enter into a grant agreement with Texas Tech University in the amount of \$132,608 in improvements and \$550,000 for transitional operating funds.

Jim Hogg State Historical Park:

Jim Hogg State Historical Park is a 178.4 acre site east of Rusk in Cherokee County. The property was deeded by the City of Rusk in 1941 and was opened the same year. The site is a memorial to the State’s first native born governor, James Stephen Hogg.

The city of Rusk has submitted a proposal requesting transfer of the site. The Rusk City Council passed a resolution stating that they will continue the historical presence of the site in perpetuity. They will begin full responsibility for operations and maintenance immediately upon transfer of the deed to the property.

Texas Parks and Wildlife Department will enter into a grant agreement with the City of Rusk in the amount of \$160,400 to make needed repairs and improvements to the site as part of the transfer.

Old Fort Parker State Historical Park:

Old Fort Parker State Historical Park is a reconstructed fort that pays tribute to the Parker family. This is a 37.5 acre site between Groesbeck and Mexia in Limestone County, and was deeded by private owners in 1936. The Civilian Conservation Corps performed the original construction of the park. The City of Groesbeck already manages and maintains the site and they now desire to take legal control of the property. Texas Parks and Wildlife will enter into a grant agreement with the City of Groesbeck for the major rehabilitation of the fort structure, 25 RV campsites, rehabilitation of the septic system and restrooms in the amount of \$497,450. They have also requested initial transitional operating expenses in the amount of \$81,250.

Grand Saline Salt Palace:

This facility commemorates the importance of the salt industry in the Grand Saline area. This facility is owned and operated by the City of Grand Saline, and for many years the Parks and Wildlife Department has supplied supplemental operating funds at the direction of the Texas Legislature. An agreement has been discussed between the Department and City of Grand Saline that would make a final operating budget contribution of \$38,000 and end the relationship between the two parties. Funds to accomplish this would come from the State Park Account, Fund 64.

***House Bill 3079***

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In the 76th Legislative Session, the Texas Legislature passed House Bill 3079, which added a new subchapter G to Chapter of 11 of the Parks and Wildlife Code. HB 3079 addresses development of a statewide aquatic vegetation management plan.

To assist in the development of the statewide plan, Parks and Wildlife Department staff formed a stakeholder workgroup that includes representatives of TNRCC and TDA, as well as industry, environmental groups, and river authorities. The rules for the statewide aquatic vegetation management plan if adopted would incorporate the requirements of the statute and protect and enhance aquatic resources. The statewide plan would require that measures undertaken to control nuisance aquatic vegetation be consistent with the principles of integrated pest management as described in a guidance document that Department staff will prepare and regularly update. The guidance document will encourage beneficial aquatic vegetation, prevention of nuisance aquatic vegetation, and public education. The statewide plan would also require, consistent with the statute, that public drinking water suppliers receive notice of proposed aquatic herbicide application. The proposed rules would permit governing entities of public bodies of surface water to adopt, subject to TNRCC, TDA, and TPWD approval, local plans that are at least as stringent as the state plan. The proposed rules would require that the Department receive notification of all proposed control measures for nuisance aquatic vegetation, and would give the Department an opportunity to amend, reject, or make recommendations regarding proposed control measures under the state plan.

The Conservation Committee of the Parks and Wildlife Commission, on June 1, 2000, authorized Department staff to publish the proposed new subchapter K of 31 Texas Administrative Code Chapter 57, relating to the statewide aquatic vegetation management plan (Appendix E), in the *Texas Register* for public comment.

### ***Senate Bill 1303***

Responsibility for establishing provisions enabling a commercial finfish fishery license limitation program is delegated to the Texas Parks and Wildlife Commission under Parks and Wildlife Code, Chapter 47, Commercial Fishing License authorized by passage of Senate Bill 1303 during the 76th Legislature. Further provisions establishing changes in seasons, bag limits, means and methods for taking wildlife resources is delegated to the Texas Parks and Wildlife Commission under Parks and Wildlife Code, Chapter 61, Uniform Wildlife Regulatory Act.

Proposed rule changes include the creation of a Finfish Fishery Proclamation, §58.301 - §58.304 (Appendix F), which creates the elements of a finfish license management program including rules to establish: a commercial finfish fishing license; eligibility requirements to receive the license in the 2000-2001 license year and subsequent years; provisions for transfer of licenses; the number of licenses and individual may possess; and rules regarding license requirements when commercial finfish fishing. Additionally, suspension and revocation guidelines are established associated with flagrant violations defined in Chapter 47. A Review Board made up of 9 members distributed proportionally to historical finfish fishing license holders is created to review and advise the Department regarding appeal and hardship cases for eligibility into the license management program. The provisions for a license buyback program are established which allows the Department to purchase and retire commercial

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finfish fishing licenses in the future.

Proposed rule changes in the Finance Proclamation, §53.6 (Appendix G), establish license fees, transfer fees, and duplicate license fees for resident and non-resident commercial finfish fisherman's license. In the Statewide Hunting and Fishing Proclamation, §65.72 Fish (Appendix H), rules proposed define marking requirements for, and establish maximum numbers of commercial and recreational trotlines. In the Statewide Hunting and Fishing Proclamation, §65.78 Crabs and Ghost Shrimp (Appendix H), rules proposed define marking requirements for, and establish maximum numbers of crab traps used by commercial finfish fishermen. These rules regarding marking and placement of trotlines and crab traps, are designed to reduce conflict and are enforcement of existing regulations.

The rule changes combine to create a finfish fishery license management program and should provide increasing social and economic benefits for the finfish fishery in Texas. The program should stabilize effort in the fishery, thus creating a more stable and economically viable industry. The program should also provide the mechanisms needed to ensure reduction of effort through time, allowing for the long-term recovery and protection of the finfish fishery.

On January 18, 2000, the Regulations Committee on The Parks and Wildlife Commission authorized Department staff to publish the proposed regulation changes in the *Texas Register* (25 TexReg 1813-1912 / March 3, 2000) for public comment. The Parks and Wildlife Commission adopted the proposed regulations on April 6, 2000.

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**APPENDIX A**

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**APPENDIX B**

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**APPENDIX C**

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**APPENDIX D**

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**APPENDIX E**

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**APPENDIX F**

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**APPENDIX G**

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**APPENDIX H**