

**ODYSSEY**  
**Of**  
**SURVIVAL**

A History of the Arkansas Conservation Sales Tax

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## INTRODUCTION

State wildlife and conservation agencies across the country are suffering budget problems because they always seem to be at the foot of the line when legislatures hand out tax dollars for what are perceived to be greater societal needs -- education, prisons, medical care, infrastructure, and so on.

The Arkansas Game & Fish Commission recognized as early as 1983 that dire financial straits lay ahead unless it could find a funding source beyond the stagnating base of hunting and fishing license sales and fines for violating its regulations. However, the agency had an additional problem: the constitutional amendment that gave it political independence in 1945 also required that it operate exclusively on these revenue sources.

In 1976, Missouri voters adopted a state constitutional amendment that raised the sales tax by 1/8th-cent and dedicated the revenues to their politically independent Department of Conservation. Arkansas Game & Fish Commission Director Steve N. Wilson believed that if his agency worked hard enough, it could replicate Missouri's achievement. His belief and dedication led to an "Odyssey of Survival" that culminated in victory 14 years later.

The Commission succeeded in obtaining enough petition signatures to put an initiated constitutional amendment on the 1984 general election ballot. The agency's 400 employees put so much time and energy into collecting the signatures, however, that they could not overcome some basic errors and wage the kind of campaign necessary to persuade Arkansans to put a tax in the constitution. The amendment failed roughly by a margin of 45 percent for, 55 percent against -- close enough that the Commission broadened its base of support to envelop conservation groups and tried again in 1986.

This time the effort to gain enough petition signatures was aborted because, under a new federal rule, the 1/8th-cent tax would have jeopardized Arkansas' continued participation in the food stamp program. It also was questionable whether enough petitions could have been gathered.

In part because of the amendment campaigns, relations with the Arkansas General Assembly could not have been worse. A desperation move by the Commission to increase resident hunting fees in 1987 produced a long-simmering constitutional showdown that ended in a 1988 landmark Supreme Court decision in which both the agency and the legislature lost and won.

With the air cleared and aided by some inevitable political changes, the Commission slowly turned its relationship around with the legislature until, in 1993, the General Assembly chose the 1/8th-cent sales tax as one of three amendments the constitution said it could offer to the voters on the November 1994 general election ballot.

There was a major change, however. Since 1985, the state Parks Division had been documenting the deterioration of its facilities and its inability to develop already authorized new parks for lack of funds. These unmet needs eventually reached \$178 million.

Obtaining something is better than getting nothing. The Game & Fish Commission and the state Parks and Tourism Department agreed to share the proceeds of a 1/8th-cent tax increase and even broadened their reach by including two other constituencies neither touched -- the Department of Arkansas Heritage and the anti-litter Keep Arkansas Beautiful program.

After the campaign committee overcame an initial error of hiring a political consultant when a campaign manager was needed, the drive appeared headed for success in 1994 when the measure was knocked off the ballot by court order because the Secretary of State had failed to advertise it or any of the other legislative constitutional amendments properly.

The 1995 legislature put the amendment on the 1996 ballot. The 1994 campaign team stayed intact and made some subtle strategy shifts while doing everything earlier and better than it had in 1994. A new governor came forward with an extraordinary show of support for the amendment.

Election night was excruciating, and the campaign did not learn until 2 p.m. the following day that the amendment had passed with 50.6 percent of the vote. It became Amendment 75 to Arkansas' 122-year-old Constitution.

Wilson made many substantive remarks in declaring victory, but none was more poignant or true than this:

"We found we couldn't do it alone."

Within weeks after the news had spread nationwide about the 1/8th-cent win in Arkansas, the leaders of financially strapped conservation agencies in other states began calling Wilson and asking, "How did you do it?"

For all of his easy-going demeanor, Wilson is a man who likes documentation. Perhaps documentation of Arkansas' odyssey would help others considering a similar challenge. Wilson approached a veteran journalist who earlier had prepared a history of Arkansas wildlife for the Commission about writing a book on the conservation sales tax effort. The book was to be both a readable and informative work for Arkansans and serve as a "how-to" (and "how-not-to") manual

for those in other states, particularly because campaigns involving state government agencies by necessity have some unusual requirements.

Meanwhile, the director of the 1996 sales tax campaign, Mary E. Klaser, has been responding to invitations to visit other states to tell them what will be involved if they undertake a similar funding effort. Her outline, much of which will be presented here, is an excellent primer. WHY she says what she does is explained in this book.

Some of the more salient points include:

- Organize a campaign committee chaired or co-chaired by the most strategically prominent individuals possible. From within the committee's ranks, designate an executive committee to meet monthly at first and later weekly to make the strategic and necessary day-to-day decisions.
- Hire or obtain the volunteer services of a solid constitutional lawyer for guidance on the method or methods available to amend the state's constitution, the best method to use if more than one option is available, to draft the language of the amendment, to comply with the minute legal details of what must be done to assure its placement on the ballot, and to defend the amendment in court if necessary. Unless the sponsor can afford to pay workers to gather signatures, which is unlikely for state agencies, the petition route should be avoided.

Assuming the issue is on the ballot:

- Hire or obtain the volunteer services of a top-notch certified public accountant as campaign treasurer who will familiarize himself or herself with all applicable federal and state fundraising laws and reporting requirements.
- Either the lawyer or the CPA also may be used to research and prepare the clearest instructions possible on what state employees may and may not do in regard to the campaign.
- Hire a campaign manager or director who also may have fundraising duties unless another individual(s) take responsibility for this, working in conjunction with the manager/director. All of these persons should be in place a year to 18 months before the election.
- After determining the kind and amount of tax to be sought, have the state agency in charge of revenue collection and disbursement project how much revenue it will generate in each of the next 10 years. Also have the agency ascertain how much the tax will cost the average resident annually. Learn from the U.S. Census Bureau how the state ranks in tax burden, both in actual dollars and per capita.
- No agency has a right to ask for additional tax support without detailed justification extending over at least the next decade. Field offices should prepare and submit to headquarters prioritized laundry lists of repairs, improvements, acquisitions, and other needs.
- Hold a series of public meetings around the state at which the people are asked to say what they want the agencies involved to do.

- Each agency that will benefit from the proposed tax should prepare a 10-year plan explaining with priorities how it will spend the revenues.
- Each agency also should do an analysis of how much revenue its activities or those it regulates (hunting, fishing, parks, forests, etc.) generate annually. This information is designed primarily for the business community, whose support will be vital.
- Conduct a benchmark poll to identify public perceptions of the agencies, how residents feel about designated taxes, how they would vote, what messages receive the most favorable responses, and so forth.
- Combine the information in Steps 5 through 10 into a White Paper that is presented with as much publicity as possible to the governor, the legislature, major organizations, and to the people through the news media.
- Devise a realistic campaign budget with a timeline for target amounts. Reserve about 60 percent of the funds for advertising. If many candidates will be running and/or there are many ballot issues, it will be critical to reserve television ad time as early as possible to obtain good "spots."
- A successful tax campaign requires a grassroots effort; it cannot be achieved solely through media advertising. Therefore, organize a campaign committee of volunteers in each county. Use them as well to stage fund-raising parties or other events.
- Hire a professional public relations firm to develop and produce a short video that outlines needs, proposed spending, and consequences if there is no new funding to be shown to civic clubs and other groups.
- Organize a Speakers Bureau and furnish the members with all the information (including the video) they need to present the case. Information packets also should be sent about six months before the election to every candidate for state or district office, all mayors, county chief executives, church, newspaper, radio and television station, club, and Chamber of Commerce. Ask for an endorsement in the packet, and if one is not forthcoming, follow up.
- Be nonpartisan.
- Never forget to say "thank you" to anyone who does anything to help the cause.

Two of the four agencies benefiting from Arkansas' 1/8th-cent sales tax increase had in place nonprofit Foundations that had helped them for years with fund-raising and other support. They were invaluable to the successful Arkansas effort. For example, the Game & Fish Foundation contributed more than \$66,000 over three years (1994-1996) toward approval of the tax amendment.

## MISSOURI: 'THE SHOW 'EM STATE'

### Introduction

Shortly after the new lands of the 1803 Louisiana Purchase came under American control, the Territory of Orleans was created, encompassing the future state of Louisiana. The remainder of the Purchase, including what was to become Arkansas, made up the District of Louisiana.

About a year later, the District was given territorial status. At the same time, a District of New Madrid was created within the Territory that included southern Missouri and all of Arkansas.

The District of New Madrid was divided in 1806 with the southern half becoming the District of Arkansas, which historian Michael B. Dougan, Ph.D., says was the first legal use of the name. Six years later, the Territory of Orleans became the State of Louisiana, which forced the old Louisiana to become the Territory of Missouri. The next year (1813), the Missouri legislature created the County of Arkansas with Arkansas Post near the Mississippi River as its seat. Three other counties were created in the south in 1818: Pulaski, Clark and Hempstead.

Some political forces in St. Louis began agitating in 1819 for Missouri to become a state, but it was deemed to be too large for admission. This produced a movement to detach the southern counties--a move welcomed by most of the future Arkansans.

Cattle baron and politician/landowner J. Hardeman Walker differed, however, and his opposition led to what is known as the "Missouri Bootheel." Arkansas legally became a separate Territory on July 4, 1819, while Congress was wrestling with the question of westward extension of slavery that Missouri's petition for statehood had raised. Following the historic Missouri Compromise of 1820, Missouri became a state in its current configuration in 1821. Arkansas remained a Territory until being admitted into the Union in 1836.

Because of terrain, Arkansas was destined to develop more slowly than the Territory to the north to which it had been attached. For example, Americans pushing west would be greeted by an "endless swamp" if they contemplated crossing the Mississippi River into Arkansas. This

was not the case farther north where the sizable city of St. Louis offered civilization and commerce to the pioneers.

This brief history demonstrates it is no mistake and even fitting that Arkansas has followed Missouri in protecting two resources the states share--natural beauty and what was and is again abundant wildlife.

### **Political Independence**

After 41 years as director of the Conservation Federation of Missouri, Ed Stegner retired in 1993 to a 930-acre farm that he has made into what amounts to a private wildlife management area located a few miles from his birthplace near Pilot Grove, Mo.

For the better part of the Twentieth Century, Missouri has been the envy of and standard of excellence for wildlife agencies throughout the United States. Asked to analyze why Missouri has been the conservation leader for so long, Stegner attributed it to two factors, the first of which is that the state's Conservation Commission and the Department it governs have been constitutionally independent of the governor and the state legislature for more than 60 years.

Mac Johnson could have been describing Arkansas when he wrote about the conditions that led to the formation of the Conservation Federation of Missouri in 1935:

It was a time of social turmoil--1935, the Great Depression. Much of Missouri's forest had been cut, sawn and shipped out. There had been long periods of searing drought. Wildlife was at an all-time low. It could have been the virtual end of the Missouri outdoors.

Fortunately, it wasn't. On September 10, 75 intensely concerned citizens gathered in Columbia and set out to solve the problem. They called themselves the Restoration and Conservation Federation of Missouri and immediately began a campaign to rebuild, from the ground up, what was then called the Missouri Game and Fish Department. It would be done by initiative petition and a constitutional amendment.

....By virtue of a strong campaign guided by a few men with long-range vision, it happened. Proposition 4, as it was called, appeared on the ballot and was approved by

a majority of voters in the general election of 1936.

With the amendment, Section 40 of the Missouri Constitution vests "control, management, restoration, conservation and regulation of the bird, fish, game, forestry and all wildlife resources of the state...and the administration of all laws pertaining thereto" to a "commission consisting of four members appointed by the governor...not more than two of whom shall be of the same political party."

Determined and persistent attempts to disqualify and repeal the new law followed, and these kept both the Commission and the Conservation Federation in what Johnson called "fighting trim." He also speculated that if it had not been for the attacks by politicians on the Commission, the Federation probably would have "withered and disbanded for lack of a unifying interest."

As it was, armed with protection from unwarranted political interference, particularly from the legislature, the Commission with the Federation's support set about to restore Missouri's wildlife health.

A similar group of concerned sportsmen organized themselves in 1935 in Arkansas as the Wildlife Federation. They no doubt watched with envy and awe at what their Missouri counterpart was able to achieve.

Building on what had been in place since 1915 as a Game and Fish Department within the executive branch and borrowing heavily from the wording in the Missouri initiative, the Arkansans put together a similar constitutional amendment for an independent commission consisting of seven voting members and the head of the land grant University's zoology department serving ex-officio, thereby giving the agency scientific guidance and credibility.

After an aborted start, a slightly modified amendment was put before Arkansas voters as an initiative and adopted in 1944; it went into effect July 1, 1945.

Other than the size of the respective commissions and the Missouri requirement for equal political party representation, the only substantial difference between the two amendments is that Arkansas' says the legislature must appropriate Game Protection Fund monies to operate the agency. The state's leading newspaper, the *Arkansas Gazette*, had insisted editorially on this, forcing the modification in the original proposal.

Missouri's amendment is silent on this point. In fact, however, Missouri's legislature appropriates the Commission's funds, but there has never been a court test of its authority to do so. Such a test occurred in Arkansas in 1988 when the state Supreme Court ruled that the General

Assembly must appropriate, but in doing so, it cannot destroy the independence the voters gave the Game & Fish Commission by telling it how to spend its funds.

### **Financial Stability**

Stegner's second reason for Missouri being in the conservation forefront among the states is that since 1976, the Commission and Department have not had to rely exclusively on hunting and fishing license fees for funding. This is because Missouri voters approved a 1/8th-cent sales tax increase constitutional amendment with revenue targeted to the agency.

The retired Federation director attributed passage of the tax to "luck," but as he recalled events leading up to the vote, it became clear that a willingness to take risks, political savvy, persistence, and hard work had far more to do with the achievement than luck.

Carl R. Noren had spent all but a few months of his adult life working for the Department of Conservation when he became its director in January 1967. From his retirement home in Athens, Georgia, Noren in 1997 traced the origins of the 1/8th-cent tax to a canoe trip he took in 1968 on an Ozark Mountains stream with Commissioner Robert G. "Bob" DeLaney of St. Louis and wildlife biologist/artist Charles W. Schwartz.

Since his appointment as director, Noren had been re-evaluating the Department in light of the 1936 constitutional amendment, and he had a gnawing feeling it was not fulfilling all the responsibilities charged to it, especially with regard to non-game species. He and others in the Department had long been aware of and concerned about an apparent lack of work on non-game wildlife, something they rationalized by saying their first obligation was to the hunters and anglers who financed the agency. Further, they told themselves, habitat restored for game also benefited non-game species.

Noren discussed his feelings at length with DeLaney during the canoe trip and found the Commissioner also felt the agency was falling short. But they agreed that to do the comprehensive job the constitution outlined would require more money. And they recognized that a government agency stepping forward to say it needed more money would be viewed as "self-serving" and have little public credibility. No, what was needed was an independent analysis of the Department's work and recommendations about what it should be doing.

Perhaps the luck to which Stegner referred is what occurred a few months later when St. Louis businessman, duck hunter and Audubon Society leader Warren Lammert visited Noren's

office. Lammert said he wanted to do "something" for conservation, and he had no preconceived ideas about what that "something" should be. Noren did.

First, Lammert went to work recruiting a group called "Friends of Conservation," which subsequently reinforced the view that an independent analysis of the Department was in order. Three nationally recognized conservationists from outside the state were approached about doing the study: Dr. A. Starker Leopold of the University of California's School of Forestry and Conservation, Irving K. Fox of the Water Resources Center at the University of Wisconsin, and Charles H. Callison, executive vice-president of the National Audubon Society.

Noren credited Lammert with arranging the funding by the Edward K. Love Conservation Foundation of St. Louis that made the year-long study possible.

Not surprisingly, Leopold, Fox and Callison in May 1970 delineated four goals for the Department encompassing some new programs such as non-game species management, providing areas for nature study, photography, hiking or riding, and improving the natural environment by ecological management. They noted that:

...collectively these proposed shifts of program will largely benefit the general public rather than hunters and fishermen. For this reason it is essential that a plan of finance be devised that will augment present license fees with revenues from more general sources.

The trio did not say how much they thought it would cost to carry out their recommendations or how the money could be obtained. It was left to the Department to put a price tag on the recommendations: \$21 million, or roughly double the agency's budget.

The Department turned to fiscal consultant Arthur W. Betts, former director of the state Commission on Fiscal Affairs, to explore a wide range of potential funding such as general revenues, general obligation and revenue bonds, severance tax, real estate transfer tax, soft drinks tax, beer tax, and user fees.

Betts found in a September 1970 study that only three sources would provide an "adequate amount without excessive rate": beer tax, severance tax, and soft drink tax. The Missouri legislature proceeded to raise the beer tax at its 1971 session, effectively removing this from the list of options, Stegner recalled.

Further analysis was needed, and the Department went for this to the Research Center at the School of Business and Public Administration of the University of Missouri-Columbia. The study result, released in March 1971, showed a soft drink tax of 1 cent a can would come closer to meeting the Department's needs than raising severance taxes.

The Department and its conservationist friends sought as much publicity as it could get for each step in the process.

Building on the Leopold-Fox-Callison report, the Department put together and published a "Design for Conservation," which described how it would spend the revenues flowing from an initiated constitutional amendment putting a 1-cent a can or bottle tax on soft drinks. To get such an initiative on the 1972 general election or an earlier special election ballot, however, would entail obtaining the signatures on petitions of 8 percent of the number of Missourians who had voted in the last gubernatorial election (about 90,000) from at least two-thirds (7) of the state's 10 congressional districts. Alas, the Department could not be in the business of gathering signatures or conducting such a campaign!

"We had no one to take action," Noren said. A statewide meeting of conservationists was called for a full presentation of the studies and the proposal. Leaving nothing to chance, Noren visited outdoor writer Leonard Hall the night before the June 1971 meeting and thought he had arranged for Hall to move at the appropriate time for the formation of a Citizens Committee for Conservation to be organized to carry out the campaign. (It was understood the Missouri Federation was to be the driving force in the Committee.)

But when the time came at the meeting, Noren continued with a laugh, Hall "just sat there like a bump on a log." However, Jim Gamble, a St. Louis lawyer, did make the motion. It passed, after which Ted Scott of Buffalo, described by Noren as a "country-shrewd lawyer with good people skills," volunteered to be the Committee's chairman!

### **Technical Knock-Out**

Armed with petitions put together by what Stegner called "a committee of lawyers," volunteers fanned out across Missouri in search of signatures. They concentrated on county and district fairs, festivals, sporting events--anywhere people gathered. Signatures proved harder to get in the urban centers of St. Louis and Kansas City than in the rural areas, which is why what happened a few years later was a surprise. The campaign committee occasionally covered a volunteer's expenses but paid no one to get signatures, Stegner said.

More than a thousand signed and numbered prints of a painting of Canada geese by Schwartz were sold for \$50 each to help raise funds for the campaign. The original painting now hangs over the fireplace in Stegner's home.

The conservationists were jubilant when the petitions they turned in were certified as having 164,000 valid signatures—at that time the largest number of signatures ever collected for an initiative in Missouri. The amendment was to be placed on the November 1972 ballot.

Jubilation turned to gloom, however, when House Speaker Tom Graham of Jefferson City, in his private capacity as a practicing lawyer, filed a lawsuit in which he challenged the validity of the proposed amendment because it did not contain this language: "Be it resolved by the people of the state of Missouri that the Constitution be amended:" A lower court and ultimately the Missouri Supreme Court held that Graham was correct: the amendment had to have "an enactment clause," and the initiative was stricken from the ballot. (Such a ruling is not exclusive to Missouri; initiatives have been stricken from the ballot in Arkansas through the years because they lacked an "enactment clause.")

### **Legislative Maneuvers**

Though disappointed, Stegner said the conservationists were determined to make a drive for the 1974 general election ballot. Then the Missouri legislature changed the law so that signatures on petitions had to be those of *registered* voters. This was effective in stopping the petition effort because only residents in Missouri's cities were registered to vote; those in the rural areas just showed up at the polls. The conservationists had to wait out the 1974 general election, the first held under a statewide voter registration system, because there was no way until then to know who was registered and who was not.

Stegner opined state legislatures will take any action they can to make an initiative difficult because they do not like this route for adoption of laws or constitutional amendments. "It goes over their heads," he said.

### **Choosing a New Tax**

When 1975 dawned, the conservationists were contemplating a new campaign but heard the soft drink bottlers had stockpiled millions of dollars to fight them. Stegner said a University of Missouri public opinion poll found the voters would have passed a soft drink tax--narrowly, but the survey had been taken in the absence of a massive opposition campaign by the bottlers.

Another survey by a University of Missouri professor showed that either a soft drink or a sales tax increase could pass. A 1/8th of a cent sales tax increase would produce the revenue the

Department needed, so Stegner said the conservationists opted for it rather than take on the soft drink bottlers and their reputed warchest.

The campaign to gather signatures was kicked off Aug. 1, 1975, accompanied by a new "Design for Conservation" in which the Department told how it would spend nearly \$25 million in revenues: \$4,455,000 a year to increase upland wildlife public lands; \$1,826,000 on five wetlands areas adjacent to metropolitan areas; \$600,000 to protect natural areas and endangered species; \$3,025,000 to acquire additional forests; \$4,586,000 on stream preservation and access; \$2,025,000 to build and operate 33 small lakes; \$200,000 to acquire 30 miles of spring-fed streams; \$1,235,000 on two warmwater hatcheries; \$564,000 on wildlife management services; \$1,090,000 on aquatic wildlife management; \$308,000 on forest management services; \$560,000 on law enforcement; \$263,000 to augment information materials; \$1,806,200 on conservation education services; \$500,000, \$300,000 and \$125,000 on wildlife, aquatic and forest research, respectively; \$1,235,000 to protect lands along the Mississippi and Missouri Rivers, and \$195,000 on forest fire control.

This time the conservationists needed 150,000 valid signatures to get their initiative on the 1976 election ballot.

Some \$27,000 unspent from the 1971-72 campaign was put into getting publicity and paying expenses for some volunteers to gather signatures. A few of those who had helped in 1971 refused to canvass again, saying they had worked their hearts out only to be "let down" by those who had made the technical mistake.

The effort was organized by congressional districts, each with a chairman. Signature quotas were set for each district at 50 percent above what actually was needed because, Stegner explained, "Many people are ashamed if they're not registered to vote and they will lie about it." Each county within each district also had a chairman, and "we badgered and shamed them" into collecting signatures, he recalled.

"It's always been tough to get signatures....It's hard to get people who will do it [gather them], especially if they've encountered two or three turndowns at the beginning. I guess they're shy. Three-fourths of those you ask will sign if you explain it [the initiative] to them," he said, and added, "I even have to force myself to do it."

But Stegner estimated he personally gathered 20,000 to 25,000 petition signatures in his life--"more than any other person in Missouri." Five hundred of those came at a fair in Cape Girardeau. "We really worked the county fairs hard, and the state fair [at Sedalia], but we ended up going to the malls in the cities, too," he recalled.

The cities, particularly St. Louis, proved to be the most difficult locales for signature efforts. "City people in Missouri don't even know who their congressman is," Stegner said. To overcome this, maps were attached to the backs of clipboards so volunteers could say to potential signers, "Show me where you live." This often was the only way to determine which congressional district was involved. As in 1971, the conservationists eventually had to face reality and drop the two congressional districts in St. Louis from among the two-thirds (7) where they could get 8 percent of the signatures.

Hard as it was, the volunteers turned in 208,000 signatures in July 1976, and the initiative was certified for the ballot. Their thoughts turned to the campaign for voter approval.

### **Victory in the Cities**

The campaign was run on what Stegner called a "shoestring."

In January 1976, he said, "We hired a political consultant out of Kansas that was supposed to raise \$700,000, of which we would get \$300,000. We [the Citizens Committee for Conservation or CCC] would pay the consultant's expenses," he continued.

The CCC executive committee that met weekly changed the contract so that it would not have to pay the consultant any more in expenses than what was raised. Apparently the consultant signed the contract without noticing this change had been made. The change, Stegner said, "saved our butts because the consultant didn't do 'diddly-squat' and finally raised only \$6,000, but presented a bill for \$13,000 in expenses."

The CCC itself raised \$125,000, most of it in small contributions because donations were not tax-exempt and the "big types" would not give as a result, Stegner said. Again, the CCC sold wildlife prints and packets of smaller prints by artist Schwartz as well as seed packets for wildlife food plots to raise money.

The campaign emphasized that most of the money would be used to acquire land for public use and for non-game, which meant everyone had a stake and everyone should pay--not just hunters fishermen.

Department employees could not work on state time but many devoted their off-hours to promoting the tax, Stegner said, and he concentrated on getting favorable newspaper editorials (the Kansas City *Star* was a major supporter) and other publicity. "We got a lot of free radio time with tapes we produced," he said.

Conservationists went to bed election night believing they had lost. Stegner recalled a St. Louis *Post-Dispatch* reporter calling him about 3 a.m., seeking a comment on the narrow loss. As

an exhausted Stegner fought for consciousness, the reporter left the phone to make a final check of returns. When he returned, he announced, "Now you're ahead!"

City results were pouring in, and a margin of about 25,000 votes produced a 50.8 percent victory for the 1/8th of 1 cent conservation sales tax!

The initiative lost in Missouri's rural areas, including every precinct in Cole County, which is Jefferson City, the capital, "because all the other state employees were envious," Stegner said. Perhaps because of his own rural background, Stegner believes he understands the opposition in the country.

"Basically, I think it's because of their conservatism and because they're against authority, which is represented by the game warden," he explained. Even though the conservationists had trouble getting petition signatures in the cities, "their residents were the ones who supported the initiative," Stegner observed. Why? He said he does not have a clue.

### **Attempted Robbery**

Under Noren until his retirement in 1979 and then under his successor, Larry R. Gale, the Department of Conservation went full-tilt carrying out its new mandate, never forgetting to report periodically to the public about how the money was being spent. Meanwhile, envy and need were growing within state government.

In 1981, Stegner said, the Department of Natural Resources (encompassing soil conservation, parks, pollution control, and geology) persuaded a legislator to sponsor a constitutional amendment for the General Assembly to put on the 1982 election ballot. The proposal would have given half the revenues from the 1/8th of 1-cent sales tax to the Natural Resources Department. That half then would be divided further--1/32nd going to parks and 1/32nd to soil programs.

Stegner and other conservationists received a "wake-up call" when the measure they thought had no chance of passing easily cleared the House. They rushed to the Senate and got the amendment blocked.

### **A Tax of Its Own**

The Department of Natural Resources was not about to give up, however. Rep. Leroy Brownguart of Moscow Mills introduced a resolution in the 1983 legislative session for a constitutional amendment vote in 1982 to raise the sales tax by 1/10th of 1 cent with the revenue earmarked for parks, soils, and the agency's other programs.

"I didn't think he could get it on the ballot," Stegner said, but again the conservationists were caught by surprise when the measure cleared the House. "I really went to work on the Senate then," Stegner recalled. His objective this time, however, was to get the bill passed so Natural Resources would have a funding source of its own and leave the Conservation Department's money alone.

As written, the bill provided the 1/10th-cent sales tax increase would expire in 10 years. The Senate cut the time in half, and the measure had to go back to the House for concurrence in the change. The session was winding down; time was running out. In the final action of the session, the House brought up the bill as amended by the Senate and passed it.

Once again, city residents said "yes" and those in the rural areas voted "no," and the amendment squeaked to victory in 1984 by 1,699 votes. The amendment was written so that the tax was to provide additional money for the Natural Resources Department, "but in truth, the legislature has kept cutting general revenues for parks, soil, and so forth. However, the tax provides more today than they [the Department] had been getting in general revenues," Stegner said.

Missouri voters had the option in 1988 of renewing the 1/10th tax for 10 years or letting it expire, and they chose the former by a 69 percent margin as the conservationists urged them "to keep what we already have."

In 1996, two years before the 1/10th tax was scheduled to expire, the legislature asked the voters whether the tax should be extended for another 10 years. This time the voters said "yes" by a 67 percent margin. Stegner maintained the tax should be made perpetual, "but I couldn't sell it," he said. Neither did he succeed with his argument that the amendment should say the legislature would not have to appropriate the revenues.

Other states took note in the late 1970s and 1980s of Missouri's success of passing both 1/8th and 1/10th sales tax increases for conservation and the outdoors. They talked of trying to emulate it. Oklahoma conservationists invited Stegner to their state to discuss what Missouri had done, but the Sooner State never tried an initiative.

Arkansas Game & Fish Commission officials already had decided to go for an initiated constitutional amendment by June 1983 when Stegner came to Little Rock at their invitation. "I tried not to mislead them...I told them it would be tough," he recalled.

Stegner's expenses to Little Rock were reimbursed, but he received no fee for his time. Even so, he considers himself well paid because he was given a lifetime Arkansas hunting and fishing license, and he has used it!

## II

### THE 'IMPETUOUS' CAMPAIGN FOR AMENDMENT 67

#### Introduction

The directors of America's state wildlife agencies are a fraternity. They meet several times a year, nationally and in regional clusters, to trade information on trends, problems, and "what works" discoveries in wildlife management.

In 1981, Steve N. Wilson was in his second year as director of the Arkansas Game & Fish Commission and was soaking up information at these meetings as he evaluated his agency. At one meeting, Wilson's Tennessee counterpart, Gary Myers, revealed his staff was telling him, "We're going to run out of money in the next biennium."

The 37-year-old Wilson was surprised. It had never occurred to him a state government agency could run out of money!

Agencies that receive general revenues, raised through a state's taxing powers, theoretically will not run out of money as long as the legislature considers them important enough to fund. But most wildlife agencies were like Arkansas', depending heavily if not exclusively on special (not general) revenues -- fees from hunting and fishing license sales and related income.

Soaring energy costs caused by two "oil crises" in the mid- and late-1970s had rocked the economies of the industrialized west, particularly the United States. Inflation was out of control; doing "business as usual" was costing more and more.

When Wilson returned to Little Rock after hearing Myers, he asked the G&FC's veteran fiscal officer, Vernon Tate, to "run the numbers" on future agency income and expenditures.

Tate's report was alarming. Wilson and the Commission had a two-part response: reduce spending and find new revenues. Assistant Director Carl Hunter was put in charge of reducing expenditures by 20 percent over five years. The Commission then went on to ask the 1983 General Assembly for a \$3 increase in the fees for basic resident hunting and fishing licenses.

The license increase would not be enough, and Wilson was convinced hunters and anglers could no longer afford to fund the G&FC by themselves. Nor should they be asked to, he argued.

This philosophical sea change led to the first of several efforts to emulate Missouri by getting voter approval of a 1/8th-cent conservation sales tax.

Through a herculean effort, principally by George M. Purvis, the issue made it to the November 1984 general election ballot.

But Arkansas voters weren't ready and said no.

A review of the 1984 Arkansas campaign will reveal substantial differences between it and Missouri's approach.

"We naively thought that if Missouri could do it, we could, too, with enough hard work," Wilson said 13 years later. There is a difference between working hard and working smart, however, and it was Wilson who used the word "impetuous" to characterize the 1984 campaign. Purvis said in a separate interview that "impetuous" was the correct word.

### **A \$13 Million Hole**

The Arkansas G&FC received a financial "wakeup call" in January 1982 when it was told the agency's revenue would be \$13 million short of funding requirements between then and mid-1986. Even if the G&FC received "as much as a 30 percent revenue increase of some form beginning with the 1983-84 fiscal year, we will still be over \$4 million short of funds to cover the current, and next four years' expenditure needs," according to the report.

The Commission, the report continued, "will not be able to obligate itself to any new improvement, construction or land acquisition projects; nor will we be able to meet existing obligations without drastic spending reductions in maintenance, operation and equipment purchases coupled with additional revenue increases." Since 1977-78, inflation had driven up maintenance, operation and equipment costs by 50 percent. Revenue from the sale of new wildlife tags and permits had only "helped us keep our heads above water."

Billy White's Federal Coordination and Support Services Division would be hit particularly hard. White warned that without additional revenues, the G&FC would be unable to put up the necessary match to use \$500,000 in federal wildlife restoration aid in 1984-85, and this probably would reach \$900,000 in the next fiscal year. Federal fish restoration aid also was in jeopardy.

### **'The Plan for Conservation'**

Purvis' Information and Education Division went into overtime mode. G&FC outdoor writer Jim Spencer stayed up several nights working with Wilson to put together the Spring/Summer 1982 issue of the agency's magazine that featured "The Plan for Conservation"

written by Assistant Director Carl Hunter along with reports from the divisions about their accomplishments and how each was spending existing available revenues.

"The Plan for Conservation," Hunter told *Arkansas Game & Fish* readers, "includes production and management of game and fish species that provide recreation to the sportsmen. These are the main programs that need additional funding so that hunting and fishing opportunities can be increased." There followed a list of special projects with "per year costs" totaling some \$4.8 million with the caveat that, "This listing does not include all of the expenses involved in operation of the Game and Fish Commission but only for those special projects described."

The projects ranged from a low of \$20,000 to continue restoring the white-tailed deer population in some areas of the state to a high of \$1.2 million a year for road maintenance, levee and pipe maintenance and rebuilding, and other routine upkeep in the wildlife management areas.

"The Plan" clearly was aimed at sportsmen in support of a license increase request Wilson knew was coming. Buried at the end of "The Plan," however, was this statement: "The only real escape from the inflation trap for the sportsmen of Arkansas is a source of funding not dependent upon further license increases or additional permits and tags, a source that increases or decreases with the economy, and one that is self-adjusting."

Hunter continued:

Missouri escaped the trap with a one-eighth of one percent sales tax voted by the people because of their interest in and their recognition of the need and desirability of conservation for all of the people as well as for those who are interested in outdoor activities of all types.

...  
...

Arkansas could not derive the same amount of income from a funding source such as Missouri has because of our smaller population. Several states in this section of the country will continue to have larger budgets for conservation but with a stable source of funding that would substantially increase the budget of the Game and Fish Commission the larger land acquisition and development projects could be resumed.

### **License Fees Raised**

Following a public hearing on the proposal in Little Rock at which little dissension was voiced, the G&FC at its July 1982 meeting formally voted to ask the 1983 General Assembly to

raise the fees for both resident hunting and fishing licenses from \$7.50 to \$10.50 -- the third increase in eight years. (Licenses were raised from \$3.50 to \$5 in 1975 and to \$7.50 in 1977.)

Commissioners, Wilson, Hunter, and division chiefs stumped the state, meeting with sportsman and conservation groups to hustle support for the license increase that the director said would produce an expected \$1.3 million annually.

Michael Lewellen, reporting for the Pine Bluff *Commercial* on a meeting between G&FC officials and the Jefferson Wildlife Association, said the director explained why the agency received no general revenues but that "plans were being made for an all-out drive to put a possible constitutional amendment on the 1984 general election ballot to change this."

Wilson also was quoted as saying that, "The license increase is actually a short-term solution to the problems facing the commission caused by the economic conditions today. We have already made plans to reduce some of our expenditures, but that alone won't do it."

*Arkansas Democrat* staff writer Carl T. Hall speculated in a lengthy article that the "selling job" on the license increase would not be easy, in part because the cost-cutting already had begun to take its toll. Some former employees and some anonymous workers still on the payroll had taken allegations about "cronyism, mismanagement and misuse of funds" by the G&FC to the Arkansas Chapter of The Wildlife Society, a group of about 100 professional biologists. They also went to the governor's office and to the press. But the Society continued to back the increase even as it also supported a full-scale review of the Commission by the Washington-based Wildlife Management Institute.

While the legislature was considering Parkin Sen. Clarence Bell's bill to raise the license fees, the G&FC took action in January 1983 to ease the burden on some Arkansas hunters by adopting a new Sportsman's Permit costing \$17.75.

The permit included a hunting license, two gun deer tags, four wild turkey tags, one muzzle loading deer tag, one archery bonus deer tag, and authority to kill one black bear. If purchased separately before, the tags alone cost \$50.50. Deer hunters were affected most by the change. Previously all they had needed was a \$7.50 hunting license. This basic license would continue to exist, of course, but it covered only small game. The Sportsman's Permit and what it meant to the deer hunter was to become the source a few years later of a constitutional showdown between the legislature and the G&FC.

The Commission also acted in January 1983 to raise non-resident hunting licenses, which it could do without legislative approval under Amendment 35.

Meanwhile, Wilson had agreed with newspaper writer Hall that publicity about allegations against the G&FC could make it hard for the agency to get its license increase approved by the General Assembly.

This was not the case, however. In the words of *Arkansas Gazette* Outdoor Editor Joe Mosby, Bell's bill "breezed through both the House and the Senate with no difficulty" after it was amended to say the basic \$10.50 resident hunting fee would continue to contain two gun deer tags. In the House where any G&FC proposal usually encounters substantial trouble, the vote for the bill was 88 to 8. Gov. Bill Clinton signed the measure into law in early March 1983.

### **The `Ultimate Solution'**

Passage of Bell's bill was not certain on Sunday, February 20, 1983, when Wilson expounded his conviction in the editorial section of the state's largest newspaper, the *Arkansas Gazette*, that hunters and anglers could not and should not continue to bear the total burden of funding the G&FC.

He pointed to a national survey that found more than \$40 billion was spent on hunting and fishing in the United States in 1980, making wildlife a bigger business than the nation's two largest retailers, which at the time were Sears and Safeway.

Wilson wrote:

In Arkansas more than \$404 million was spent on hunting and fishing in 1980, which was a significant benefit indeed. Expenditures for fishing totaled \$209 million. Migratory bird hunters spent almost \$19 million. The bulk of these expenditures was for equipment, transportation and food and lodging, which benefit every sector of the economy. Only 3 percent was spent for licenses, tags, and permits.

...

Certainly fish and wildlife resources in Arkansas benefit everyone economically as well as spiritually. Remember, for every \$1 the Arkansas Game and Fish Commission spends, hunters and fishermen spent \$33 on hunting and fishing in Arkansas. However, the Arkansas Game and Fish Commission is not authorized under Amendment 35 to spend general revenue dollars and indeed we have no standing in that long line. There is no way the Commission could compete with education, prisons and highways, having no history of dipping into the general revenue pot.

Wilson went on to tell *Gazette* readers that Missouri found the "ultimate solution" in 1976 with a 1/8th-cent conservation sales tax constitutional amendment that generated more than \$20 million a year -- "enough so that hunting and fishing licenses can be reduced to a token amount" [and it] "lets all the citizens share the cost of a top-notch, scientifically managed fish and wildlife program." He continued:

What this program provides, and would provide for us, is enough revenue to acquire needed or endangered tracts of land, carry out expensive restocking and restoration projects, construct new fishing lakes and access points and many other projects.

I firmly believe that sportsmen, business leaders and and political leaders should examine very seriously how Arkansas might copy the Missouri program. An industry that generates \$404 million in sales each and in which 920,000 of our citizens actively participate must be saved.

Wilson's letter subsequently was republished in the Spring 1983 issue of the Commission's magazine.

### **Purvis Put in Charge**

Wilson dropped a bombshell at the Commission's April 1983 meeting by announcing that George M. Purvis would be leaving the post of Information & Education Division chief he had held for 26 of the 32 years he had been with the agency to fill the newly created position of special assistant to the director.

Purvis' jobs, Wilson said, would be to "coordinate the campaign for a conservation sales tax, serve as liaison to the [new] Arkansas Game and Fish Foundation, and assist the director's office with public relations matters."

The announcement signaled that, unlike Missouri, the Arkansas agency that would benefit from the tax would be spearheading the campaign. Why? Because, Purvis said in a 1997 interview, the state's conservation organizations, particularly the Wildlife Federation, were perceived as being "too weak" to do the job.

Because of years of statewide exposure on his radio and television programs, Purvis was synonymous in the public's mind with the Arkansas Game & Fish Commission. He was, in Wilson's words, "a hero."

The *Gazette's* Mosby warned the Commission in his column after the meeting that the timing was not right. He wrote:

Across the nation during the last few years, the mortality on sales tax increases -- of any kind -- has been extremely high. Arkansas's public officials, recent governors and legislators, have been extremely skittish on the raise-the-sales-tax subject -- and in all probability, if a vote was taken today on adding a fraction of 1 per cent to the state sales tax to give to the Game and Fish Commission, it would go down to defeat like the Titanic.

The timing isn't right. The conditions aren't right. More important, the public hasn't been sold on the idea.

In fact, the public could be forgiven for asking: *What* conservation sales tax campaign is Purvis heading?

Other than some general statements before sportsmen organizations in the fall of 1982 at meetings called to generate support for an imminent license fee increase request and Wilson's one "Forum" column in the *Gazette* reproduced in the Commission's magazine, nothing had been said publicly about such a campaign.

Unlike Missouri, Arkansas had laid little foundation publicly for what was to come.

### **'Window-Dressing'**

Two months went by before the sales tax plan received its next headline when the G&FC appointed 12 persons to an advisory council to work with Purvis. Wilson called the council "open-ended," meaning that others could be added to it from time to time, and they were -- to a total of 19.

Named to the initial committee were: Mike Mills of Ponca and Little Rock, director of tourism for the state Parks and Tourism Department; Nesbit Bowers of Pine Bluff, president of the Arkansas Wildlife Federation; Ellen Neaville of Springdale, president of the Arkansas Audubon Society; Bob Purvis, George's son and executive director of the Eureka Springs Chamber of Commerce and president-elect of the Arkansas Travel Council; and Carl Garner of Heber Springs, Greers Ferry Lake resident engineer.

Also, M. C. "Bucky" Magness of Little Rock, president of the Arkansas Bass Association; Dan Smith of Hot Springs, president of the National Bird Hunters Association; Jim Gaston of Lakeview, resort operator and long-time member of the state Parks, Recreation and Travel Commission; Jane Gulley of Little Rock, who was known throughout the state for her "Eagle Awareness" work; Del "Pepsi" Brannon, a Pine Bluff businessman; and Lois Imhoff of Fayetteville, president of the Arkansas League of Women Voters.

Purvis said the panel was appointed to "try to broaden our base. It kept us from feeling like we were all by ourselves."

The group was to give the G&FC ideas about promoting the sales tax, but Garner could recall few meetings of the group being held. But he did remember the one at which Ed Stegner, executive director of the Conservation Federation of Missouri, spoke in June 1983. Other members interviewed in 1997 said they could not remember any meetings. A set of bylaws was prepared for the council, but no evidence could be found that they were adopted.

When appointment of the council was made, Mosby again was less than impressed. He wrote in his next column:

You can do a bit of reading between the lines about the soft approach to the beginning of this conservation sales tax campaign. Normally, such an undertaking would be accompanied by drumrolls, the blare of trumpets, speeches, news conferences on the Capitol steps and assorted other hoopla.

But, let's face it. Talk about sales tax in Arkansas right now is wrapped around various quests for raising the current statewide 3 per cent tax, closing exemptions and getting massive new doses of money for schools, prisons, highways and other uses.

Most of us will agree there's no use in trying to run the conservation sales tax in ahead of the general sales tax debates or in front of the effort to beef up public school financing. There's talk from the Capitol of a September legislative session for these purposes.\*

*\*A lengthy special legislative session was held in the fall of 1983 at which the sales tax was raised by 1 cent with all revenues targeted for public school and state-supported higher education institutions.*

## **The Legal Basics**

Arkansas is one of 23 states that permits use of the public\_initiative process. Like the referendum, the initiative was envisioned as a vehicle for an enlightened and informed electorate to participate actively in the legislative process. It also was meant to be the way to keep state officials, often seen as being influenced by "big business" and corruption, in check. The initiative was the means of directly enacting reform and adopting public policy.

Under Amendment 7 to the 1874 Arkansas Constitution, 10 percent of the legal voters of the state may propose a constitutional amendment by filing initiative petitions with the Secretary of State.

Legal voters are defined as the total number of votes cast for governor in the last preceding general election. Therefore, initiatives proposed for the 1984 ballot had to have at least 10 percent of 789,351, which was the total number of votes that had been cast for Arkansas governor in 1982.

Before any initiative petition can be circulated for signatures, the sponsors must submit an original draft of the proposed measure along with a ballot title and a popular name to the state Attorney General. Within 10 days, the Attorney General has to approve and certify the ballot title and popular name, or substitute what he considers to be more suitable and correct language.

At least 30 days before petitions are filed with the Secretary of State, the proposed measure must have been published once at the expense of the petitioners in some newspaper of general circulation. Proof of publication must be submitted to the Secretary of State when the petitions are filed.

Initiative petitions for statewide measures must be filed with the Secretary of State not less than four months before the general election. The deadline for the G&FC to file its constitutional amendment petitions for the 1984 general election was July 6, 1984.

After the petitions are submitted, the Secretary of State has 15 days in which to verify whether they contain an adequate number of signatures. If not, the sponsors have 30 more days in which to submit additional signatures. If they succeed, the Secretary of State certifies the initiative for the ballot and takes over the duties of publishing it to inform the electorate.

### **Drafting the Amendment**

G&FC staff attorney P. Douglas Mays took the first cut at drafting a constitutional amendment for the 1986 general election ballot, filling two full legal-sized pages with verbiage.

He sent his draft to the agency's outside counsel, John C. Lessel at the Little Rock law firm of Mitchell, Williams, Selig, Jackson & Tucker, who on November 21, 1983, sent Mays a

"substantially revised" version of the proposal and a series of seven possible popular names. The amendment with popular name and ballot title had been reduced to one legal-sized page.

Lessel wrote that he and Jim Smith of the firm felt it "would be appropriate to meet with the Political Action Committee [advisory council] to discuss the proposed amendment and various legal and practical considerations surrounding its adoption. We would like to receive their input on the language of the amendment prior to its submission to the Attorney General."

Another purpose of the meeting, Lessel said, was to discuss legal representation. "Jim and I feel that once the Committee is formed, it should receive its own legal representation. We strongly feel that the Game & Fish Commission should not pay the legal fees of the Committee."

Purvis said in a 1997 interview that a highlight of the Amendment 67 campaign for him was taking a red pen to the law firm's draft and "simplifying" it.

Purvis told Lessel in a November 30 letter that he had "touched base" with several Advisory Council members "and it was their opinion that the Council would not want to be involved in the wording or drafting of the Amendment."

In explaining the changes he had made, Purvis said he had put the word "additional" in front of sales tax because "we want people to know up front that this is an additional tax, not one to take away from those now dependent on the sales tax."

As to the popular name, Purvis said he, Wilson and Mays had decided they wanted to use "One Eighth of One Percent Conservation Sales Tax" because "this tells how much and what it is and doesn't raise questions as some other titles might." Both statements indicate Purvis' intent to be as straightforward as possible.

James E. Smith, Jr., a partner in "the Mitchell Law Firm," sent the amendment as revised by Purvis to Attorney General Steve Clark on December 28, 1983, with a request for approval of the popular name and ballot title.

The proposed popular name read: "One-Eighth of One Percent Conservation Sales Tax Amendment," and the ballot title was: "A proposed constitutional amendment to the Arkansas Constitution effective January 1, 1985, so as to provide money for the Arkansas Game and Fish Commission to be appropriated by the General Assembly for the same purposes presently authorized.

"Such money will be provided by collection of an additional sales and use tax of one-eighth of one percent (0.00125)."

Clark told Smith a week later that the popular name and ballot title were "insufficient" and countered with these:

POPULAR NAME: The Arkansas Game and Fish Commission Sales and Use Tax Amendment.

BALLOT TITLE: A proposed constitutional amendment to the Arkansas Constitution, effective January 1, 1985, to provide additional money for the Arkansas Game and Fish Commission to be appropriated by the General Assembly for the same purposes presently authorized by law. Such money will be provided by the levy and collection of an additional sales and use tax of 1/8 of 1% (0.00125).

The full text of the proposed amendment is Appendix A.

Purvis talked to Lessel on January 9, 1984, reporting that he and others at the G&FC were insistent that Clark's version of the popular name be amended to include 1/8 of 1% before "sales and use tax." Smith then apparently talked with the Attorney General's Office by telephone because in a letter for Clark written by Chief Deputy Attorney General Rodney Parham on the same date, the revision was accepted.

### **'A Big, Challenging Task'**

As the lawyers worked, Purvis was trying to arrange an Advisory Council meeting for January 19, 1984.

In a letter to Council members urging them to attend the meeting, Purvis revealed that two of them had told him the initiative should go on the 1986 general election ballot rather than the one in 1984. Purvis rejected this, saying it had taken Missouri four years to win a 1/8th of 1 percent sales tax, and he did not want to take that long. "It will be a big, challenging task but I think we can do it this year," he wrote.

Purvis also revealed that the Center for Urban Government Affairs Survey Marketing Unit of the University of Arkansas at Little Rock was doing a public opinion poll for the G&FC. He and Wilson had worked up about 40 questions with Dr. M.D. "Doug" Buffalo of the Survey Marketing Unit, and he promised to furnish copies of the questions to the Council members.

Purvis worked up an appeal for sportsmen to help with the petition drive for the Jim Spencer's weekly newsletter, *Arkansas Outdoors*, which goes to all media in the state. Some newspapers printed the appeal verbatim.

In the appeal, Purvis declared he needed no fewer than 1,000 volunteers to gather 150,000 signatures to put the issue on the November ballot, which suggests he had heeded Missouri's advice to strive for double the actual number of signees required.

After the amendment was approved by the Attorney General and the petitions were printed, all G&FC employees received an undated letter from Wilson in which each was advised he was being sent 10 petitions, an instruction sheet and a fact sheet. Supervisors, wildlife officers, district biologists and biologists had an extra burden because they were being asked to take 100 petitions each and get 8 to 10 people (other than G&FC workers) to help them fill the petitions with signatures. "Since this is a voluntary effort on your part," the director said, "please get the petitions signed after work hours and on days off. If possible, get family members and friends to help..."

Wilson and Purvis "hit the road," beginning in late January and continuing through the spring, speaking before every civic club to which they could wrangle an invitation and at a series of meetings arranged through hunter safety instructors.

As far as the public was concerned, the petition drive appears to have started January 29, 1984, when an article by the author appeared on Page 1 of the newspaper for which she worked, the *Arkansas Gazette*.

Among other facts, the article based on an interview with Purvis said petitions were going out to 300 volunteers; that a 1/8th of 1 percent sales tax was expected to yield \$15 million annually, which would double the G&FC's budget; that the Commission had pledged to freeze the cost of resident hunting and fishing licenses at \$10.50 if the levy passed; and that Purvis was aware of UALR surveys that show voters are more inclined to support a tax if they are told how the revenues will be spent.

Purvis conceded the G&FC had not told the public yet how the revenue would be spent, but he hoped it would. Meanwhile, he had asked the divisions to give him "realistic assessments" of what they would do if they had the money. Enforcement said it would hire 30 additional wildlife officers at an annual cost of \$30,000 each; the Real Estate Section said it would take \$16 million to "round out" the borders of existing wildlife management areas and that 45,000 acres suitable for public hunting were on the market for \$18 million. The Fisheries Division said it needed \$3 million to build nine more nursery ponds.

The article took note of the fact the Commission had "come under attack in the last year for being too political and catering to wealthier sportsmen, primarily the houndsmen." Further, a spate of firings, mostly of wildlife biologists in the name of budget problems, had prompted charges the Commission was "wasting money that it should have used to retain the employees it was 'purging.'" Purvis countered by citing the G&FC's "track record" for rebuilding the state's deer and wild turkey populations and for the fishing lakes it had built.

Aware *Gazette* opposition had doomed the first drive for Commission independence in the 1940s, Purvis said in a memorandum to Wilson on January 30, 1984, that he and renowned conservationist Harold Alexander had met for an hour and a half January 26 with Jerry Dhonau, one of the newspaper's editorial writers, about the tax. He quoted Dhonau as saying the *Gazette* probably would not comment until the amendment was on the ballot, which Purvis said "would be fine as far as I'm concerned."

Within a week after the "petition drive begins" article appeared, another Page 1 *Gazette* headline rocked the G&FC, telling how the agency had given complimentary hunting and fishing licenses to its 400 employees January 10 for the first time in its 39-year history. Depending on what licenses the employees normally would have bought, the total value of the gifts ranged from \$7,300 to slightly more than \$11,100.

Deputy Director Richard Broach was quoted as saying he saw "nothing consistent" with the G&FC handing out free licenses to its employees at the same time it had begun promoting the sales tax increase vote because, he explained, the workers were not getting their usual 5.5 percent anniversary salary increases under the state plan in 1984. The increases would have totaled \$400,000, Broach said. Wilson said, however, he could see how an average Arkansas sportsman who had to pay \$21 to hunt and fish might think there was "a little impropriety" about it.

There was no record of the Commission voting to approve the complimentary license because there was none -- only a consensus reached by the panel members late in the afternoon at its October or November 1983 meeting, Wilson said.

### **UALR Findings**

Results of the UALR public opinion poll were released in February 1984. Some of the findings were surprising to those who had conducted the survey.

Only 9 percent of the Arkansans surveyed were against hunting, and 93 percent had some involvement with wildlife, ranging from feeding birds and other animals to hunting and fishing.

Dr. Buffalo said 402 persons chosen at random from telephone books were interviewed from January 9-14, 1984. The number of persons from each county reflected that county's proportion of the total state population, he explained, and a survey of this size produced a sampling error of plus or minus 5 percent.

The researcher attributed the high degree of involvement with wildlife by Arkansans to the 46 to 56 percent support that the Commission's proposed tax had received in the poll, and he noted the survey was done before there had been much publicity about the levy. He said UALR

was surprised to find the support existed regardless of whether the respondent knew that the Commission received no tax revenues but relied instead on hunting and fishing license fees and related income.

Because voters respond better when they know how proposed taxes are going to be spent, Dr. Buffalo encouraged the G&FC to use the tax revenues "to expand hunter education, sponsor more classes on wildlife, raise more fish to stock lakes and streams, and do more to protect non-game and endangered species," as many of those surveyed said they wanted.

Showing a "clear need" for the funds and presenting a unified front, both by the commissioners and its staff, were essential if the proposed tax was to pass, he advised. He also said there was "not as much sensitivity as one might suspect" to media reports about Commission activities unless they were about "scandals involving millions of dollars" that occurred just before the vote, a statement that must have emboldened Commissioner Dr. George W. Cole, Jr. of Fayetteville.

### **Dog Deer Hunters Angered**

Purvis said he begged the Commission not to take any action that would stir up a major controversy, but Dr. Cole was adamant that it would be "no big deal" to curtail deer hunting with dogs in the mountains, which the panel did when it set 1984-85 seasons at the March 1984 meeting.

The Commission said it closed the six-day December deer season in Zones 1 through 11 to help populations increase in the mountains, which had lagged behind more deer-prolific South Arkansas.

Within days, hundreds of hunters from several areas of the state gathered at Bee Branch for a protest meeting where they agreed to wage a campaign on several fronts, including putting an initiative on the 1984 general election ballot to repeal Amendment 35; to oppose the 1/8th of one percent sales tax increase; to ask the 1985 General Assembly to roll back the license fee hike voted in 1983; and to file a lawsuit against the Commission for "arbitrary and capricious" action on dog deer hunting.

The dog deer hunters were furious and stayed that way. Purvis remains convinced their anger made the already difficult petition drive harder and cost the initiative significant support in November.

## More Storm Clouds

The petition drive was well underway before the G&FC apparently realized it had made a protocol error that it tried to correct March 15 with a letter from Wilson informing each of the state's 35 senators and 100 House members of the petition drive.

He pointedly reminded the lawmakers the G&FC would not have to put them on the the political hot seat anymore by asking for resident hunting and fishing license increases if the tax passed.

Then, contrary to what Jerry Dhonau had said he thought would happen, the *Arkansas Gazette* weighed in editorially against the initiative in March. This brought a three-page response from Wilson on March 27 (published March 31) in which he argued, among other things:

...While the Gazette is apparently uncomfortable with the earmarking of tax money for specific purposes, it is worth noting that state sales taxes of this sort (such as our recent one cent sales tax for education) are the most popular methods of improving state funding across the nation. Evidently, people are tired of their general taxes being poured into bottomless pits with no real guarantee or record of how the money is spent. Taxes reserved for highly specific uses provide the public some assurance that funds will be spent as promised and not invaded for totally unintended uses.

It was apparent by early April that the petition campaign was not going as well as G&FC had hoped and was, perhaps, even bogged down. Agency files reveal a more urgent tone as Wilson, for example, sent a letter to all employees dated April 9, 1984, imploring them to send in their "*filled in* notarized petitions" to Purvis. "Get in all other petitions by June 10th. We must get the necessary 150,000 signatures!!! If each of you will make the petition drive top priority it will succeed. Let's all be positive."

Purvis clearly was concerned on April 30 when he penned a memorandum to Wilson, saying he had written each commissioner to ask him to push the petition drive (the letter was dated May 1) and had sent a letter to each volunteer urging all to redouble his efforts (the letter was dated May 2).

"We are far short of our needed number of signatures. Time grows short," Purvis continued. "There's still time. We can do it but everyone must get involved. We need a minimum of 300 signatures per employee and/or about 2,000 signatures per county.

A letter was sent to each of 10 G&FC team leaders in which Purvis listed the minimum number of registered voters' signatures needed from each county in the individual's area.

Purvis continued to "cross Ts and dot Is," having Mays advertise the initiative as required by law in a newspaper with statewide circulation on May 9 and 10. The *Arkansas Democrat* was chosen for the advertisement. Though it had fewer subscribers than the cross-town *Gazette*, the *Democrat* had been kinder, citing the results of the UALR poll in an editorial February 24, 1984, and saying chances were good the initiative would make the ballot and would be "better once it is understood that G&FC has no state revenues now and gets its operating budget from sales of state and federal sportsmen's licenses and equipment fees."

Still, something a little dramatic was needed to spark the campaign. This came May 21 when the G&FC, at Purvis' urging, vowed to roll back the 1983 license increase as it affected bank fishermen and to make hunting and fishing licenses free for those over 65 years of age. The Commission also directed the staff to compile a list of approved projects that had not been carried out for lack of funds.

The extent to which the campaign was in trouble was disclosed by Wilson, who reported that only 35,000 of the nearly 80,000 signatures needed had been gathered. No one had lost hope, however, because teams had been organized to work outside the polls at the May 29 party primaries where registered voters were certain to be found.

Prominent members of the new Game & Fish Commission Foundation, a private fundraising group, were pressed into service.

For example, Sheffield Nelson, who had headed the state's largest natural gas company, appealed by letter to Wal-Mart founder Sam Walton to grant permission "for Game & Fish employees and other volunteers to circulate petitions" in his stores. Proving that nothing was easy about the process, a Wal-Mart executive replied that individual store managers had to make such decisions.

### **Compromise Reached**

Wilson acknowledged at the May Commission meeting that the agency had been under pressure from conservation organizations to say how it would spend the money if the tax increase passed.

This pressure intensified when Terry Horton resigned as the G&FC's hunter education coordinator in early 1984 to become executive director of the Arkansas Wildlife Federation.

Horton appeared before the G&FC at its April 18, 1984, meeting to say the Federation supported the tax but had "some concerns":

Much more specific planning should be done so the public will have a better understanding of how this money will be spent. We would encourage the commission to publish detailed information concerning proposed projects, their costs, and the expected benefits. The nonhunting public especially needs to be informed of what they will get from the tax.

Wilson said he felt the G&FC had done enough by approving the printing of a brochure that talked in general terms about land acquisition and improved law enforcement. The director has been consistent through the years in saying that he wanted to avoid being too specific because Missouri Department of Conservation officials had told him they had been "backed into a corner" if they did not spend every dime precisely as promised in 1976. Too much specificity would cause political problems later, they warned.

A compromise was in order.

The director went before the Arkansas Conservation Coalition (made up of 10 statewide organizations) at its June 4, 1984, meeting with what he described later as a compromise between its demand for more specific spending details and his concern. He gave estimated annual budget increases for commission projects if the sales tax were approved and brought in the expected \$15 million a year including specific amounts for programs and divisions.

A more elaborate version of the spending plan was published in the Commission's September/October 1984 magazine under Wilson's byline. At the other end of the spectrum, a vastly simplified "Plan for Conservation" with large letters and cartoon figures made up an orange flyer that was handed out to voters at the polls (See Appendix B). Included was a bar graph showing spending rising as a total within the agency's budget in these amounts: to 10 percent from 3.9 percent for wildlife management; to 7.8 percent from 4.4 percent for enforcement; to 5.8 percent from 3.4 percent for fisheries; to 2.1 percent from .4 percent for information and education; to 1.1 percent from .08 percent for nongame wildlife management, and to 1.8 percent from 1.3 percent for administration.

Arguably, all of this came too late to offset the earlier criticism, which left a lasting impression among some of the public that the Commission was reluctant to say how it would spend the additional money. This, in turn, generated suspicion.

## Petitions Delivered

Wilson began a final push to get needed signatures with a letter dated June 7 to petition circulators in which he urged them to return filled and notarized petitions to Purvis by June 26. "It takes time to process the petitions and all must be filed in the Secretary of State's office on or before July 6th."

Purvis prepared a one-page list of tips on where to go to get signatures -- shopping centers, supermarkets, rodeos, horse shows, craft shows, ball games in urban areas; G&FC lakes, bait shops, sporting goods stores, club meetings. "Carry sheet [petition] in pocket at all times, make it a habit to get signatures each and every day," he advised.

Despite the effort, the *Jonesboro Sun's* Paul Holmes reported on June 22, 1984, that the issue was "down to the wire" with several thousand signatures still needed on petitions. Purvis was quoted as saying he had checked petitions containing more than 73,000 names, trying to weed out any obvious problems before they were submitted to the Secretary of State.

Northeast Arkansas voters, however, had taken the drive seriously. A team of enforcement officers and other G&FC personnel headed by biologist David Long had gathered a large number of signatures. In Craighead County, 40 percent of the number of persons who voted in the 1982 gubernatorial election had signed petitions; 20 percent had signed in adjacent Greene County.

At 10 a.m. on Tuesday, July 3, Purvis and Hunter hauled three boxes of petitions to the second floor Capitol office of Secretary of State Paul Riviere and received a receipt for papers they said contained the signatures of 101,351 registered Arkansas voters.

Unfortunately, delivery of the conservation sales tax petitions had to share the 6 o'clock television news and the next morning's newspaper headlines with a busload of supporters who filed petitions later in the day containing 150,000 signatures for an initiative to legalize casino gambling in Garland County.

Riviere announced July 20 that all four initiatives submitted for the November 6 election had passed the first test. His staff had checked 30,025 signatures from the G&FC and found that 81 percent of them were valid. Only the gambling casino amendment among the four had a higher rate at 82 percent. Purvis and company felt they had reason to be hopeful.

In fact, he was optimistic enough on July 23 that he penned a memorandum to Wilson in which he said he would like to see the Commission adopt a resolution praising all Game and Fish personnel for getting the needed signatures.

He added a second "very important" thought in the memo: "I would like to see the Commission resolve *unanimously* to support the passage of the 1/8 of 1% Sales Tax Amendment." Purvis apparently realized that G&FC records, including Commission meeting minutes, were devoid of a vote authorizing, approving or supporting the initiative, though it was understood the panel was backing it.

Within hours, however, Riviere advised Purvis it appeared the conservation sales tax petitions might be in trouble. Wilson told the *Arkansas Gazette* that petitions containing some 3,000 to 5,000 signatures had come to the agency after the first deadline and these would give it a head start on making up any deficiency in the 30 additional days allowed by the constitution. Purvis swung into action, calling those in the field who had been the most vigorous in gathering signatures, and alerting them that more work probably would be needed from them at shopping centers and at other public gatherings over the July 28-29 weekend.

The official word came Friday, July 27, that the Commission was 4,779 signatures short of having the 78,935 needed to get the tax issue on the ballot. With 3,000 to 5,000 petitions in hand and with teams working over the weekend, Purvis was able to deliver 7,114 additional signatures to Riviere's office on Monday, July 30. Of those, 5,172 were found to be valid.

On August 3, 1984, Riviere issued a certificate bearing the official seal of his office stating that the proposed constitutional amendment would be on the November 6, 1984, ballot; it was to be listed as Amendment 67.

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There was a brief but perceptible letdown at the Game & Fish Commission after Riviere's certification letter. More than a decade later, Director Wilson observed that, "We spent all of our time and energy gathering signatures. We didn't have our arms around the entire scope" of the project. Purvis said it would have been "physically impossible" because of limited manpower to gather signatures and plan a campaign simultaneously.

Mental gears had to be shifted, and with only three months until the election, many decisions had to be made about how voters were to be persuaded to vote to tax themselves.

The process did not start well.

### **The `Jerry Russell Mystery'**

Purvis said he and Wilson interviewed several local campaign consultants and chose the fiery, no-nonsense Jerry Russell, president of Campaign Consultants, Inc., Little Rock, for the task.

They regarded Russell as the campaign consultant, but he does not remember it this way. Had he been the consultant, Russell said, he would have created and placed the advertising. As it was, campaign records show the Little Rock public relations firm of what was known then as Cranford/Johnson & Associates was hired to create, produce, and place most of the newspaper, radio and television advertising, outdoor posters and polling place signs. For this, Cranford/Johnson billed just under \$130,000.

The only bill found from Russell's firm, dated November 1, 1984, shows a "Balance due on fee" of \$6,215.20 plus the costs of 48-inch ads placed in the Sunday, November 4, 1984, issues of the *Arkansas Gazette* and *Arkansas Democrat* for a total due of \$8,176.90.

The G&FC supplemented advertising placed by Russell and Cranford/Johnson & Associates by generating press releases and obtaining materials such as stuffers, latex pins, flyers, and bumper stickers.

### **Attitude Check**

Wilson sent a letter dated August 14, 1984, to the 10 G&FC employees who had acted as area leaders in the push for petition signatures in which he advised, "We have decided to keep the same set up for the promotional effort," and they should plan to attend a meeting August 22.

The Northeast Arkansas area leader, David Long, apparently knew about the decision before Wilson's letter because he sent a memorandum dated August 9 to all G&FC employees in Fulton, Randolph, Clay, Sharp, Lawrence, Greene, Independence, Jackson, Craighead, Mississippi, and Poinsett counties.

Long's memo is revealing in many respects. In it he said:

...It's my opinion that the hardest part is over, for nothing can be as hard as collecting those signatures on petitions. Amen, I just heard someone say.

...we do have a lot of work ahead of us. But this work should be easy and maybe enjoyable. Our next phase is to promote this Amendment for the November ballot at every opportunity...

The one biggest day of course will be on election day--November 6th. We need to start today, planning for this day's work! George tells me we will be

provided with a small leaflet, with wording short and to the point, to give out to voters at the polls,...We need to start now, to plan on having all major polling places covered with someone simply handing out these leaflets.

Long described how the polls should be covered, including asking wives, relatives and friends to volunteer. He expected names of poll workers to be submitted to county coordinators by mid-October. And he told his troops to set up booths at county fairs and to leave copies of the green "Plan for Conservation" pamphlet at bait shops, license dealers, gun shops, sporting good stores, "or any place having a good flow of people and willing to let you leave them." With hunting season approaching, Long reminded wildlife officers they could leave the pamphlets under windshield wipers if they could not hand them to hunters directly.

This matter demands your utmost attention. This is the 'Conservation issue of the century' for the state of ARKANSAS. With you[r] continued work and effort, this Conservation Amendment can pass.

Time is fast passing, only 12 weeks before the election, let's get this passed.

PMA -- Positive Mental Attitude, we have it on the ballot, lets [sic] carry through to the end. Gee, I would hate to be a politician!

**Needed: \$200,000**

After determining what materials were needed and generally how much advertising to buy, Wilson and Purvis turned much of their attention in August to fund-raising. Their efforts received a severe setback August 23 when outside counsel, John C. Lessel, sent a letter in which he reviewed applicable state and Internal Revenue laws and regulations and concluded they "make it clear you cannot advise a contributor he may deduct from income tax amounts contributed in support of your organization" (the political action committee to be established).

Long-time G&FC supporters received form letters from Wilson in which he said:

Unfortunately, we can't legally spend 'Game & Fish' money on the Amendment 67 Campaign. We are therefore having to raise the campaign funds through private donations.

Depending on the recipients, other letters contained more details. For example, Wilson told Larry Grisham of Jonesboro that \$200,000 needed to be raised statewide, and to accomplish this, \$20,000 was needed from Craighead County. Also:

Not only do we need direct cash contributions, we need contributions of billboard space, newspaper and television ads and any other means of communicating the concept that Amendment 67 is important to everyone.

Also, we are conducting a statewide raffle to raise funds. Limited Edition prints would make the raffle a success.

Even the smallest of contributions (\$5 or \$7) brought thank you letters from Wilson.

All conceivable approaches were tried. Purvis told Fisheries Division Chief Bill Keith in a memorandum that "It occurred to me that a letter from you asking for a substantial donation, in your own way and addressed to the people that we have bought such things as catfish food, fertilizer, etc., might be instrumental in raising a large sum for the campaign."

There was an early response from the National Wild Turkey Federation, Inc., that no doubt buoyed both Wilson and Purvis because the organization pledged more than \$1,700 worth of posters and prints for a raffle. The NWTF's state affiliate also donated \$1,000 in cash.

Purvis friend Susan Morrison, a Eureka Springs artist, produced a special drawing of a squirrel and donated the entire signed numbered series of 2,000 prints and the proceeds from any sales to the campaign. The 11 x 14-inch prints (Appendix C), which became an unofficial logo, were sold for \$25 each. The campaign hoped to receive \$50,000 from sales.

Several letters went to Maurice Smith, executive director of the Hospitality Association, all of which suggested the travel and tourism industry was not following through on what Purvis and Wilson thought was an earlier pledge of "wholehearted support."

In an August 22 letter, Wilson told Commission employees that if they wanted to contribute to the campaign, he urged them to do so, "but I would rather you give your whole hearted support." This suggests an awareness (about which Purvis still speaks) that many G&FC employees were not enthusiastic about the tax. The Commission was part of the state pay plan and its small annual pay raises, so Purvis said he often found himself trying to explain to employees why the tax would benefit them.

Despite a blizzard of letters, the campaign had received only \$55,000 through the end of September.

## **Getting Attention Is Tough**

By September, the campaign had settled into a nuts-and-bolts rhythm of raising funds, lining up as many speaking engagements as possible before civic and conservation organizations, and having respected members of recognized professions, businesses or other groups personally solicit the support of colleagues.

Purvis sent a lengthy letter to Gov. Bill Clinton in which he outlined the Commission's accomplishments, included a flyer telling how additional funds would be spent, noted the chief executive had come out strongly for or against other initiated amendments on the ballot, and implored him to give "careful consideration" to supporting Amendment 67. Silence.

Purvis knew something had to be done to generate attention if not excitement. He was seeking a high-profile individual to head a Committee for Amendment 67 and struck paydirt September 19 when Commission Chairman Dr. George Robert Cole, Jr., of Fayetteville, called to report he had recruited former Razorback and professional football running back and Northwest Arkansas developer Jim Lindsey to be the chairman.

"As George Robert promised, you will not have to spend much time on the actual campaign," Wilson said in a confirmation letter the following day. "The core of the committee will be here and can handle most everything here. I will, of course, keep you informed by telephone." Wilson's letter also said:

We do need to make a big splash with a news conference here in Little Rock as soon as possible. We'll be in touch for a date.

Ms. Jane Gulley will be Co-Chairman and can do a lot of the necessary Little Rock speaking.

Nearly a month later (October 17), a press conference was held at the Capitol at which Lindsey declared, "I don't see conservation as a political issue. It seems to be almost a moral issue." He continued:

I oppose increasing taxes, but this is not a giveaway program. It is a program for our natural heritage.

We know our environment has been assaulted. Some of us have even participated in it. I

have developed land in Northwest Arkansas, but I see this as a way we can strike a blow to preserve it.

In addition to Lindsey, Gulley, Cole, Wilson, and Purvis, committee members included (a few being holdovers from the advisory council) then environmental leader Dr. Joe Nix of Arkadelphia; Miss Lily Peter of Marvell; Henry Gray, director of the Highway and Transportation Department, Lynn Chachere, Robert East and Kay Kelly Arnold, all of Little Rock; "Turk" Corder of Helena; former G&FC member R.A. Nelson of Blytheville; trapper Harold McAlpine of Pearcy (Garland County); Wildlife Federation President Clyde Temple of Ingalls; Bob Purvis of the Travel Council; Carl Garner of Heber Springs; sportsmen Dr. J. F. Cooley and Mike Moore, both of North Little Rock; Del "Pepsi" Brannon of Pine Bluff; and Dan Smith of Royal (Garland County).

There was little media coverage of the campaign, which could be attributed in part to the fact the 1/8th-cent Conservation Sales Tax was on the ballot with four other constitutional amendments, some of which were generating more controversy. One, as mentioned earlier, was to allow casino gambling in Hot Springs, and another was to give four-year terms to state constitutional officers.

### **Nuts and Bolts**

The nuts-and-bolts work in the campaign was spelled out in status reports released on committee letterhead in October.

As of October 8, \$85,000 had been contributed and 79 persons had volunteered to head committees in 58 of the state's 75 counties with a hope the others could be "lined up" by the following day.

Other points made were:

- 68 prizes valued at about \$15,000 had been donated for a drawing scheduled November 3 from which the Committee hoped to realize \$40,000.
- The Central Arkansas Field Trial Association - John Seawright and L.M. James donated a seven-month-old quarterhorse filly with champion bloodlines valued at \$10,000 to be raffled.
- Commission Chairman Cole sent letters seeking donations and support to 3,100 fellow physicians in the state.
- Dr. George Holitik, past state chairman of Ducks Unlimited, sent letters to 16,000 waterfowl hunters.

- 38 construction contractors who frequently did business with the G&FC received letters.
- All 75 county judges received letters, and the mayor of Cammack Village wrote to all of his counterparts in the state.
- Letters went to 2,000 hunting and fishing license dealers.
- Commissioner Frank Lyon Jr. sent letters to 200 prominent sportsmen.

Some \$47,000 in television advertising time had been purchased to air between October 29 and November 6. The Arkansas Radio Network (84 stations) began airing \$19,000 worth of commercials on September 24. Newspaper ads were being prepared and would be sent to each county coordinator. Four-color yard posters were to be ready for regional coordinators to pick up and distribute to county chairmen October 12; 31 billboard paper signs were in the works with the same to be used on plywood signs; about 15,000 bumper strips had been distributed.

Finally, the October 8 "status report" said Area Marketing Research Associates had conducted a survey in which nearly 60 percent of those who said they were certain to go to the polls November 6 had not heard anything about Amendment 67. "After the amendment was explained, 56.1% said they would vote for this amendment...,while only 21.5% said they would vote" against it; the remainder were undecided.

An October 23 update reported, among other things, that contributions had reached \$150,000 and were "still coming in," that \$50,000 in additional radio and TV advertising time had been bought, and 70 dozen white "VOTE FOR 67" T-shirts had been distributed for sale throughout Arkansas.

Early enough to be used in campaign literature, Amendment 67 received endorsements from the Arkansas Parks, Recreation and Travel Commission; Arkansas Wildlife Federation; The Ozark Society; Conservation Coalition; The Wildlife Society; Arkansas Trappers Association; Arkansas Bass Association; Arkansas Bow Hunters Association; Arkansas Striper Association; White & Norfolk River Outfitters Association; Arkansas Muzzle Loading Association; the Batesville and Greater Little Rock Chambers of Commerce; the Yell County, Greene County, and Jefferson County Wildlife groups; Lee Wilson and Co. (Mississippi County); Central Ozarks Gobblers Chapter of the National Wild Turkey Federation; Northeast Arkansas Wildlife Sportsman's Association; Wattensaw Bow Hunters Association; East Arkansas Wildlife Association; Arkansas Coon Hunters Association; and the Arkansas Fox and Wolf Hunters Association.

## Opposition Surfaces

Two days after the Capitol press conference, the Joint Interim Committee on State Agencies and Governmental Affairs questioned how a 1/8th-cent sales tax could be collected by merchants and then unanimously voted its opposition to the levy. Rep. W.H. "Bud" Rice, D-Waldron, led the opposition, saying that because 1/8th of 1 cent amounted to a penny for every \$8 spent, many merchants could end up paying the tax themselves on sales of less than \$8 and he did not consider this fair.

Both Committee Chairman Sen. Nick Wilson, D-Pocahontas, and Rice said they did not want to see a tax made a part of the state Constitution even though this was the only route open to the G&FC to get around limits imposed under Amendment 35.

Director Wilson was not present but told reporters later that Missouri had been collecting such a tax since 1976 with "absolutely no problem...It sounds crazy, but it's very simple to do."

*Arkansas Democrat* reporter Jonathan Runnells wrote October 24 that opposition to the initiative "has been rather limited."

As expected, the state AFL-CIO and Arkansas Community Organizations for Reform Now (ACORN) took stands against the tax, a traditional position for both because they consider the sales tax regressive -- that is, costing low-income individuals disproportionately more of their income for necessities than wealthier persons. Another traditional anti-tax group, the Pulaski County Taxpayers Association, announced its opposition the Sunday before the Tuesday vote with President Tom M. Ferstl saying that the G&FC having "its own private taxing authority [is] ... so silly as to almost be unworthy of further comment."

The Arkansas Republican Party's platform opposed the Conservation Sales Tax because of its philosophical stand against more government taxation.

The author noted in the *Arkansas Gazette* October 30 that Donnie E. "Buck" Bates of Dover was leading the North Central Arkansas Sportsman's Association "in a fierce fight on radio and in newspapers" against Amendment 67 because of its anger over the Commission barring the use of dogs to hunt deer in the mountains.

And both the *Gazette* and the *Democrats* blasted Amendment 67 editorially.

## Amendment 67 Goes Down

Nearly 800,000 Arkansans voted on Amendment 67 in an election in which a popular conservative Republican, Ronald Reagan, was winning re-election.

Secretary of State Riviere certified that Amendment 67 received 350,276 votes for or 44.66 percent with 434,114 or 55.34 percent against (not including overseas absentee ballots).

*Arkansas Gazette* Outdoor Editor Joe Mosby noted Amendment 67 carried in only 12 counties, all in northern Arkansas, with the strongest showing being in the northeast section of the state that generally lacks hunting and fishing opportunities because of land-clearing agricultural practices. The issue was close in 29 more counties, with Mosby defining "close" as being from 1 to 4 percentage points short of a majority. Two of the counties favoring Amendment 67 -- Benton and Baxter -- traditionally lean heavily toward the Republican Party.

Purvis also noted that Northeast Arkansas was the area "with the most participation by volunteer workers and the most participation by our own people."

#### COUNTIES THAT SUPPORTED AMENDMENT 67

| <b>COUNTY</b> | <b>FOR</b> | <b>%</b> | <b>AGAINST</b> | <b>%</b> |
|---------------|------------|----------|----------------|----------|
| Baxter        | 7,225      | 50.15    | 7,183          | 49.85    |
| Benton        | 15,352     | 52.45    | 13,915         | 47.55    |
| Clay          | 3,306      | 51.55    | 3,107          | 48.45    |
| Craighead     | 11,363     | 63.65    | 6,488          | 36.35    |
| Crittenden    | 4,187      | 52.59    | 3,775          | 47.41    |
| Greene        | 6,306      | 55.10    | 5,138          | 44.90    |
| Jackson       | 3,851      | 51.50    | 3,627          | 48.50    |
| Mississippi   | 8,196      | 51.97    | 7,574          | 48.03    |
| Poinsett      | 5,313      | 56.65    | 4,065          | 43.35    |
| Sharp         | 3,355      | 50.99    | 3,225          | 49.01    |
| Washington    | 15,825     | 54.04    | 13,457         | 45.96    |
| Woodruff      | 1,888      | 56.39    | 1,460          | 43.61    |

#### OTHER COUNTIES

|           |       |       |       |       |
|-----------|-------|-------|-------|-------|
| Arkansas  | 3,720 | 48.26 | 3,988 | 51.74 |
| Ashley    | 2,944 | 37.61 | 4,883 | 62.39 |
| Boone     | 3,061 | 31.94 | 6,524 | 68.06 |
| Bradley   | 1,286 | 27.67 | 3,362 | 72.33 |
| Calhoun   | 712   | 30.90 | 1,592 | 69.10 |
| Carroll   | 3,130 | 45.87 | 3,693 | 54.13 |
| Chicot    | 1,912 | 36.81 | 3,282 | 63.19 |
| Clark     | 3,228 | 47.63 | 5,455 | 52.63 |
| Cleburne  | 3,955 | 44.52 | 4,928 | 55.48 |
| Cleveland | 870   | 26.94 | 2,359 | 73.06 |
| Columbia  | 2,806 | 35.90 | 5,011 | 64.10 |
| Conway    | 3,166 | 36.75 | 5,449 | 63.25 |
| Crawford  | 5,188 | 41.34 | 7,362 | 58.66 |
| Cross     | 2,464 | 43.70 | 3,174 | 56.30 |

|              |        |       |        |       |
|--------------|--------|-------|--------|-------|
| Dallas       | 1,397  | 31.05 | 3,102  | 68.95 |
| Desha        | 1,667  | 40.12 | 2,488  | 59.88 |
| Drew         | 1,776  | 32.50 | 3,688  | 67.50 |
| Faulkner     | 7,158  | 47.20 | 8,006  | 52.80 |
| Franklin     | 2,655  | 40.57 | 3,889  | 59.43 |
| Fulton       | 1,819  | 45.36 | 2,191  | 54.64 |
| Garland      | 14,929 | 49.88 | 15,000 | 50.12 |
| Grant        | 2,095  | 39.56 | 3,201  | 60.44 |
| Hempstead    | 3,246  | 41.73 | 4,532  | 58.27 |
| Hot Spring   | 3,866  | 34.61 | 7,305  | 65.39 |
| Howard       | 1,530  | 32.97 | 3,110  | 67.03 |
| Independence | 5,336  | 45.77 | 6,322  | 54.23 |
| Izard        | 2,242  | 45.77 | 2,656  | 54.23 |
| Jefferson    | 10,810 | 43.19 | 14,221 | 56.81 |
| Johnson      | 2,774  | 36.94 | 4,736  | 63.06 |
| Lafayette    | 1,610  | 45.35 | 1,940  | 54.65 |
| Lawrence     | 2,683  | 41.13 | 3,840  | 58.87 |
| Lee          | 1,976  | 48.43 | 2,104  | 51.57 |
| Lincoln      | 1,514  | 37.48 | 2,525  | 62.52 |
| Little River | 2,309  | 46.99 | 2,605  | 53.01 |
| Logan        | 2,985  | 34.22 | 5,738  | 65.78 |
| Lonoke       | 5,859  | 46.44 | 6,756  | 53.56 |
| Madison      | 2,454  | 45.25 | 2,969  | 54.75 |
| Marion       | 2,133  | 41.21 | 3,043  | 58.79 |
| Miller       | 5,841  | 45.44 | 7,013  | 54.56 |
| Monroe       | 2,157  | 48.60 | 2,281  | 51.40 |
| Montgomery   | 1,275  | 34.08 | 2,466  | 65.92 |
| Nevada       | 1,454  | 35.55 | 2,636  | 64.45 |
| Newton       | 1,250  | 35.53 | 2,268  | 64.47 |
| Ouachita     | 4,046  | 38.44 | 6,480  | 61.56 |
| Perry        | 1,199  | 34.98 | 2,229  | 65.02 |
| Phillips     | 4,739  | 47.27 | 5,059  | 52.73 |
| Pike         | 1,103  | 26.39 | 3,077  | 73.61 |
| Polk         | 2,642  | 37.04 | 4,490  | 62.96 |
| Pope         | 6,153  | 39.26 | 9,518  | 60.74 |
| Prairie      | 1,691  | 45.13 | 2,056  | 54.87 |
| Pulaski      | 51,736 | 48.09 | 55,854 | 51.91 |
| Randolph     | 2,813  | 49.45 | 2,875  | 50.55 |
| Saline       | 9,148  | 44.82 | 11,262 | 55.18 |
| Scott        | 1,318  | 30.26 | 3,037  | 69.74 |
| Searcy       | 1,213  | 32.23 | 2,551  | 67.77 |
| Sebastian    | 12,847 | 40.05 | 19,229 | 59.95 |
| Sevier       | 1,808  | 35.45 | 3,292  | 64.55 |
| St. Francis  | 4,026  | 44.81 | 4,958  | 55.19 |
| Stone        | 1,641  | 41.07 | 2,355  | 58.93 |
| Union        | 5,105  | 33.59 | 10,093 | 66.41 |
| Van Buren    | 2,489  | 38.31 | 4,008  | 61.69 |
| White        | 8,775  | 46.49 | 10,101 | 53.51 |
| Yell         | 2,375  | 32.72 | 4,883  | 67.28 |

Purvis reported the campaign received contributions totaling \$150,601.26 and borrowed \$40,000 from Twin City Bank and the Game & Fish Commission Foundation for a total of \$190,601.26. The Committee for Amendment 67, he said, was \$35,000 in debt (and this did not

include bills about which he had no knowledge that came in as late as January 1985). This meant fund-raising continued after the election, and some creditors were asked to "write-off" the debt, which a few did.

### **Analyzing Defeat**

Instant analyzers also known as journalists went to work immediately on the Amendment 67 results.

*Arkansas Democrat* columnist Frank Fellone observed wryly that there seemed to be "as many reasons for Amendment 67 failing as there are whiskers on a catfish."

Not only did Fellone seem to agree with Purvis' assessment that "We failed to tell the people" about Amendment 67, but he opined that being listed on the ballot next to the initiative on casino gambling in Hot Springs, which "went down in flames," did not help the Conservation Sales Tax either.

*Arkansas Democrat* Outdoor Editor Aubrey Shepherd quoted an unnamed individual as saying it was not the fact the state's two major newspaper came out against Amendment 67 that caused its defeat but the opposition of the deer hunters angered by the G&FC's vote to outlaw the use of dogs in the mountainous areas.

Shepherd rejected this, saying "the number of people demanding to use dogs despite the commission's scientifically based decision is relatively small." The reasons, the columnist said, had to be "widespread lack of understanding of the commission's plans for conservation..., as well as plain resistance to any tax increase."

Wildlife Federation Executive Director Horton noted all of these reasons and others, but said individuals close to the campaign felt "they just ran out of time. In other words, they needed a month or more of additional advertising and campaign coordination on the local level....Many...believe the proposal was defeated because voters usually cast ballots against issues they are not familiar with." Horton attributed much of this to G&FC failure to lay a foundation about why it needed more funds and details on how additional revenues would be spent.

No one studied the election results more closely than Purvis, who did a county-by-county and precinct-by-precinct analysis. He found some surprises, such as the "overwhelming support from all of the retirement communities" in the state, including Cherokee Village, which by itself put Sharp County in the "win" column.

There was a slight to moderately heavier vote for Amendment 67 in most of the larger towns, though this was not true in Little Rock where there seemed to be "no rhyme or reason" for support or lack of it. The urban vote in Arkansas could not be compared to that of St. Louis and Kansas City in Missouri, Purvis said.

Minorities did not reject the amendment heavily as predicted. Purvis pointed out that the measure carried in predominantly black precincts at Cotton Plant, West Memphis, and in Mississippi County. However, the issue failed to carry in any predominantly black precincts in Pulaski and Jefferson counties.

Purvis continues to the present to maintain that the dog deer hunting issue was a principal reason Amendment 67 failed, but in his 1984 analysis he called it an adverse factor that probably was topped anyway by thoughts of those living in south, west central, and north central Arkansas "that there's plenty of wildlife, wildlife habitat and it will continue without additional effort."

There was a strong correlation between petition signatures, contributions, and the final vote on Amendment 67 among the counties.

He added it was "fairly obvious" the majority of hunters and fishermen in most of the state did not support the amendment, and "it probably was because they didn't realize that they stood to benefit more than any other group if it had passed."

Further, Purvis found Missouri's achievements had only a "moderate influence" on the Arkansas vote because Amendment 67 had carried in only four of the nine counties bordering that state. "Obviously," he noted, "the average person doesn't know what is going on in the next state as far as wildlife management is concerned."

Later, Purvis received some insights from experienced political activists Jim Thompson and Thedford Collins, who told him, among other things:

The vote around the edge of the state often is more favorable to change than the interior...because of the influence of other state governments. They can see there is more than one way to do things. (Purvis took another look at Amendment 67 results and found that 9 of the 12 counties that voted for it are on the state's borders.

The mountainous parts of Arkansas are conservative in most votes on issues.

The no vote up and down University Avenue in Little Rock reflected older, middle class voters who do not like change and are anti-tax.

To illustrate the reliability of surveys, consider that if someone says 'I love you,' they may or may

not, but if they say 'I hate you' -- they do! A 60 percent or more favorable return is needed in a survey to be reasonably sure of a 51 percent vote.

The Fayetteville/Jonesboro areas have a higher education level (because of the presence of universities) and this could have been a plus factor.

Based on radio and television ads, the 1984 campaign was "pitched too high" from an educational standpoint for most of the state. There is a need for a greater emotional appeal in this issue campaign.

Wilson later asked Purvis to do more analysis of the 1984 vote comparing county deer and turkey harvests with ballot outcomes and the influence, if any, of the proximity of G&FC-owned wildlife management areas.

What the former showed was that the G&FC was a victim of its own success because all the counties that voted for Amendment 67 had a deer harvest of 0 to 500 while 12 of the 15 counties in the southern part of the state where support for the initiative was less than 40 percent had harvests of more than 1,000.

In all 12 counties where the amendment passed, the turkey season either was closed or the harvest was fewer than 50. In short, where game populations were high, Amendment 67 support was low, and vice versa.

From his second analysis, Purvis concluded that the presence of a wildlife management area in a county "had little if any positive effect" on the Amendment 67 vote.

Finally, Purvis made a list of things that might have produced a different outcome for Amendment 67 if they had been different.

Among points he had not mentioned before were:

- All division chiefs had been 100 percent behind the amendment. Several were, but one gave "lip service" and "at least one was NOT FOR it."
- An in-house publication existed to foster better communications with "our people."
- Better use (more visibility) of the Committee for Amendment 67.
- Not a presidential election year for a "conservative" no tax increase candidate. Director Wilson felt Reagan being on the ballot outweighed all other factors.
- "If I'd still had a weekly TV show there would have been more visibility and if [Raymond] Ho had not been there [as director of the Arkansas Educational Television Network], several shows would have been on the 1/8 of 1%. That's fate!"

- If the tourism industry had supported the sales tax as we had expected or had been led to believe by its leaders.
- If conservation groups had been more supportive.
- If all age groups had been as supportive as those in retirement communities such as Fairfield Bay.

### **Ready to Go Again?**

In late November, Wilson received a letter from Larry R. Gale, director of the Missouri Department of Conservation, saying he was sorry to hear of the defeat of Amendment 67 but:

I hope this will not discourage you and your associates from making another effort when conditions may be more favorable.

Gale did not have to be concerned about this.

The *Democrat's* Shepherd already had declared that, "New options must be found because the job of the state's only full-time conservation agency cannot be done on the presently limited funding basis."

AWF's Horton had written that "The efforts put forth this year by the commission staff and volunteers were certainly not wasted....Because of their excellent work, maybe the next time around the proposal will be much better understood and accepted by the public."

Fellone told his readers: "Don't be surprised to see this amendment on the ballot in 1986." Purvis had told him that "The ones who worked the hardest on it are the ones who are ready to go again."

And, while disappointed, Wilson recognized that "It was a surprise we came as close as we did."

By the end of November, it had become clear that Amendment 67 had infuriated key legislators, and a crisis was in the works that eventually would affect what the G&FC was able to do with respect to additional funding.

At a legislative subcommittee meeting November 28, six of the panel's seven members told Wilson they were dissatisfied with the G&FC budget that had been presented, largely because it proposed to increase funding for information and education from about \$400,000 to \$1 million annually. They wanted more money for wildlife officers.

"You're going to blow off and waste" the \$1 million, complained Sen. Knox Nelson, D-Pine Bluff, then at the peak of his unprecedented political power (so powerful that Gov. Clinton never devised a way to beat him in the Senate). Nelson added he hoped the Commission's idea of good public relations was not the 1/8th of 1 cent sales tax it had proposed unsuccessfully. "I hope you never do that again," he warned.

### III

## 1986: STAMPED OUT

### Introduction

Legislative hostility toward the Game & Fish Commission continued to mount in 1985. The agency saw its economic plight as so severe, however, that legislative wrath could not deter it from seeking a new revenue source.

Director Wilson and the Commission sought to overcome the obvious mistakes in the Amendment 67 campaign as they geared up for a try in 1986 at gaining voter approval of a 1/8-cent sales tax increase.

Most of all, they knew an earlier start was needed and they eventually recognized the agency could not achieve victory by itself -- it had to reach out and involve the public in a meaningful way. This was done through the creation of "Arkansans for Nature" and working with it to develop a thoughtful plan for spending revenues from a dedicated tax, based on what the public said it wanted. Rather than the detailing the "nuts and bolts" of the campaign as Chapter II did for the 1984 effort, this section will highlight these and other differences between the two drives.

Ultimately, the 1986 campaign was aborted, but for a reason the G&FC could not anticipate, control, or overcome – federal government action on an unrelated matter.

The legislative heat was so intense that a reporter, 12 years later, expressed amazement Wilson had been able to keep his job. He replied he would not have except that political powerhouses like Gov. Bill Clinton; Wilson's mentor, Henry Gray, director of the Highway and Transportation Department; and former G&FC Chairman Rick Hampton (son of former Highway Commissioner and state Rep. Wayne Hampton) rallied to his cause behind the scenes.

### Legislative Heat

Relationships containing an underlying unhappiness and resentment often spawn spats on side issues where compromises can be reached that do little to cure the systemic infection. So it was in 1985-86 between the Arkansas General Assembly and the Game & Fish Commission.

For example, the Commission met with about 30 legislators at a special meeting in late January 1985 where state Sen. Allen Gordon of Morrilton and Rep. Ted Mullenix of Hot Springs, a Democrat and Republican, respectively, warned that the agency's action barring the use of dogs to hunt deer in the mountains in December was causing "a lot of sentiment" among their

colleagues to repeal the \$3 resident license fee increase they had approved in 1983 and "a growing movement" in the public to vote on repealing Amendment 35 to strip the panel of its constitutional independence.

The Commission responded it was prepared to look at some regulatory changes at its February meeting, but the legislators were not satisfied with what was being proposed. Efforts to cool the embers of the dog-deer wildfire went forward, however, and by early August, Director Wilson was able to write a follow-up letter to Glen Slater of Royal (Garland County), with whom he had met during the winter to discuss both the controversy and the sales tax:

I remember feeling like you and your group would support the conservation tax if we could work out a compromise on the dogs. We did that! I do not foresee us making any changes in the dog-deer regulations now in effect. I do feel we will be able to add some days to the December season in the near future as the deer respond...

Wilson went on to say he hoped Slater would come to a meeting set for August 20 on the conservation sales tax "and take an active part" in the campaign for the levy.

Because the real issues were the Commission's independence and its tampering with the tax base, which the General Assembly considered its exclusive province, settling the dog-deer issue did little to mollify the legislators.

At a special session in June 1985, the Arkansas House of Representatives adopted a resolution sponsored by member W.H. "Bud" Rice of Waldron urging the G&FC to refrain from initiating or assisting a 1/8th-cent conservation sales tax drive. "It is unwise to increase a tax levy by a constitutional amendment because of the difficulty in making a subsequent change in the Constitution," HR 6 stated.

(A revised ballot title and popular name for the 1/8th-cent tax and a letter by Mays was ready to go to the attorney general for his approval by May 25, but Purvis sought and received

Wilson's concurrence to delay mailing them. "This will not slow us up much but could avoid irritating the Legislature. Until we send the letter we're still just contemplating the effort," Purvis explained.)

Pine Bluff's Knox Nelson, the Senate's chief power broker, also saw fit to issue another warning, saying:

I just don't think a state agency, any state agency, ought to go around and ask for revenues that are not appropriated by the General

Assembly.

This is going to further divide the General Assembly and the commission. I thought we made ourselves clear to them, but if this is their attitude, then they're gonna have to face whatever consequences come forth for them.

### **So Sorry!**

The legislature's irritation escalated when, bolstered by staff attorney Douglas Mays' view that the General Assembly was encroaching on the G&FC's autonomy, Wilson challenged the power of the Legislative Council in July to approve his agency's professional services contracts as was required of other state government units. Attorney General Steve Clark advised Wilson the legislature did not have the authority to approve or disapprove the content of G&FC contracts but it could require that they be submitted for review.\*

*\*This is one of several issues the Supreme Court considered in 1988 in the ultimate legal showdown between the General Assembly and the G&FC. In its opinion, the Supreme Court said General Assembly review of contracts before they go into effect was a violation of the separation of powers doctrine. The General Assembly continues to the present to ignore the Supreme Court's finding.*

More salt was poured in the open wound a few days later when special pay raises for wildlife officers came before the Legislative Council. The raises were approved, but not before a senior Representative, John E. Miller of Melbourne (Izard County), had this to say about the real cause of the legislature's dismay with the G&FC:

This state cannot afford to put the tax priority of our state government on a tax increase for the Game and Fish Commission. I like to hunt, and fish a little, but certainly education is far more important. I think it would be a terrible mistake that our number one tax priority in state government would be a tax for the Game and Fish Commission in the Constitution, outside the scope of our statutory laws.

In a command appearance, Wilson went before the Legislative Council subcommittee that reviews contracts on August 14, 1985, and apologized. The request for an attorney general's opinion about the legislature's authority to review his agency's contracts was a "valid one," he said, but "We did not do that to antagonize the General Assembly, and I apologize that that's what

happened. I'm the most cooperative guy you could work with, and I want to continue that cooperation, and our Commission does."

The subject quickly turned to the real one as the legislators asked if the Commission was going to try for the sales tax again. Wilson told them:

If that effort is to be tried again, it will not be me or George Purvis, it will be the citizens of Arkansas.

He added, however, that he thought citizens, financed by contributions, would make the effort.

When asked about G&FC employees gathering signatures and posting signs during the 1984 effort, Wilson told the lawmakers that this had been "a mistake" and "we will not be using their time and equipment" in a new campaign.

#### **'Citizens Will Do It...'**

Wilson could make these statements because he knew he and Terry Horton, executive director of the Arkansas Wildlife Federation, had laid the groundwork for a citizens organization to be formed to promote passage of the tax.

If the legislature's hostility to the G&FC's involvement in a tax campaign was not enough to convince Wilson that a citizens group had to lead the way, perhaps a note from Craig Douglass of Cranford Johnson Robinson Associates, the public relations firm, did. Douglass told Wilson in the note dated July 17:

One recommendation that we hope you will consider very strongly is the need to separate the campaign from the state agency. The perceived self interest in projects such as this is the primary cause for failure. (This has been our experience in campaign's [sic] as recent as the Little Rock Port Industrial Development Project.)

About three weeks later, Wilson sent a memorandum to the commissioners saying he had met with Wildlife Federation representatives and believed he had "convinced them they should be the lead organization pushing for the amendment and not us."

The Federation officials, he said, had invited more than 30 leaders of other conservation groups to a meeting August 20 at G&FC headquarters. "Hopefully at that time all the

organizations will band together in a coalition of support and actually take over the effort." Wilson urged the commissioners to be there.

### **Wrong Way Start**

Until this point, Craig Douglass and others who cared enough to be observant had cause to believe the Commission might try being "lead dog" on the campaign sled again based on these events in early 1985:

- Wilson said at an April 22 staff meeting it was time to start fund-raising and planning another 1/8th-cent tax campaign. To make it effective, several potential actions were addressed, such as rolling back license fees and eliminating licenses for seniors and for bank fishing. He invited ideas.
- At its May 20 meeting, the Commission unanimously directed its staff "to put in motion the Conservation Sales Tax drive" on a motion by Frank Lyon Jr. seconded by William E. Brewer. (Such action was missing in the first campaign.)
- On May 24, Mays prepared a proposed ballot title and popular name to the attorney general for approval. "Except for a few minor word changes and date changes," Mays said in his letter, "these are the same as you approved in 1984." The word "Conservation" had been inserted into the proposed popular name, as in "The Arkansas Game and Fish Commission 1/8 of 1% Conservation Sales and Use Tax Amendment."
- Over Wilson's signature, 1985-86 Game and Fish calendars were sent June 25 to all who contributed \$1,000 or more to the previous campaign.
- Attorney General Clark refused on July 3 to accept the word "Conservation" in the popular name.
- John Sunderland, a G&FC employee since 1970, was given a special assignment position to "facilitate and coordinate the development of long-range, comprehensive plans" for the G&FC, including the conservation sales tax. Wilson said he expected Sunderland to "receive everyone's cooperation."
- Clark approved the ballot title and popular name July 9, after which Purvis had 10,000 petitions printed. A total of 88,655 signatures of registered voters would have to be gathered and submitted to the Secretary of State by July 4, 1986. (This meant getting 166,000 people to sign, Purvis reminded Commission employees.)
- Fisheries Division Chief Scott Henderson told all his employees by memorandum July 5 to "Take some time to review last year's efforts and provide me a list of any and all groups or individuals in your area that might provide some assistance during the upcoming petition drive and campaign....Any and all you can think of should be included whether they were active last time or not....I need the information by July 15."

### **A Chorus of `Boos'**

Except for outdoor writers like the *Arkansas Democrat's* Aubrey Shepherd, these developments produced a chorus of boos from editorial writers and newspaper columnists.

Brenda Blagg, respected local/state government reporter and columnist for the *Springdale News*, said the decision to try again for the 1/8th-cent sales tax "taunts wisdom." If the Commission loses its gamble, she warned, it will pay for it with future trouble getting license increases and other help from the legislature.

Paul Greenberg of the *Pine Bluff Commercial*, whose views were syndicated in other state newspapers, complained "There appears to be no limit to the gall of this commission....[it] has got too big for its britches. If the governor and legislature can't keep Game and Fish from forever grabbing, then perhaps the people can."

Small-town Arkansas chimed in with the *Cabot Star-Herald* predicting "Voters will look twice before they mark their ballot in favor of the commission's request" because most "would rather say yes to a one cent county or local tax where the money will be used locally than see it go to the commission for game and fish use."

Editorial Page Director James O. Powell of the state's largest newspaper, the *Arkansas Gazette*, said it was time for the legislature to consider offering the people a chance to repeal Amendment 35. He declared:

Contending with another self-serving campaign by Game and Fish will be a nuisance all around. Inescapably, the energies of Game and Fish employees will be diverted, in some measure, from their regular duties. Opponents of the scheme will have to organize all over again in the name of good government. The nuisance factor is compounded by the insistence of an arrogant state board, and its bureaucracy, on mounting another drive for the same dubious cause that has just been repudiated.

Unlike the year before, the *Gazette* was not silent at first. This time it hammered the proposal editorially about every other week.

### **A Critical Difference**

As noted in Chapter II, Terry W. Horton became executive director of the Arkansas Wildlife Federation in early 1983, giving the organization its first full-time staff and office.

The energetic, Paragould-born Horton recruited numerous specialized sportsmen's groups as Federation affiliates, a move that allowed it to claim their members as its own. By 1985, the AWF could say it had 6,000 members -- clearly the champion among conservation organizations in the state.

In the August 1985 issue of the Federation's monthly newsmagazine, *Arkansas Out-of-Doors*, Horton told how the Game & Fish Commission had come to the organization nine months before the vote in 1984 and asked it to support the conservation sales tax.

It took the Federation leaders two months to agree to do so.

This time, Horton explained, the Commission realized the Federation and other conservationists "must not simply be asked to support the proposal -- they must be involved all the way from the earliest planning stages to manning the polls at the 1986 General Election."

Further, Horton said the Commission realized that "Campaign literature and other materials concerning the sales tax must contain *specific* information regarding the planned expenditures..." This was a critical difference, he said.

Outgoing AWF President Clyde Temple of Ingalls had appointed a committee that already was working with the G&FC to develop a "new, improved, and highly specific...`Design for Conservation' that should be more acceptable to outdoor recreationists than last year's Amendment 67," Horton revealed.

The newsmagazine contained a "very short questionnaire" about G&FC operations that Horton urged AWF members to complete and return because, he said, Director Wilson was "counting on getting a substantial amount of feedback" from it.

At the Federation's invitation, about 40 persons from various conservation groups gathered at the August 20 to hear Horton say that his organization and other conservation groups must take the lead in the drive to obtain petition signatures.

The *Arkansas Gazette* reported Wilson stated his agency would offer support in both the petition drive and the election, but the Commission was looking to private organizations to lead in the efforts.

The Federation held its annual meeting four days later at which Gov. Bill Clinton and U.S. Sen. Dale Bumpers (D-Ark.) were the featured speakers. Wilson said in a memorandum to commissioners, Carl Hunter and Dick Broach, and division chiefs that he considered this "the kick-off for the conservation tax campaign," and he wanted to see a "*very good* turnout" of G&FC people.

In addition to electing Ed Haas of Batesville to succeed Temple as president, the Federation put together a steering committee to direct the tax campaign. The members included

Wilson and Sunderland. Purvis and Federal Coordination and Support Services Division Chief Billy White were to act in an advisory capacity, drawing on their experience from the 1984 effort.

The stage was set now for Wilson to try to explain to his staff what was expected of it, which he did at a meeting August 26.

Minutes of the meeting reveal he said "The G&F would have the same level of involvement" as before, "but on a voluntary basis and this is to be stressed at all of our meetings and no G&F vehicles or uniforms should be displayed....There was considerable discussion as to the mechanics of the drive for the Tax."

The transition was an uneasy one. No mechanism was in place to accept contributions, so Wilson had to continue to send out gift acknowledgments. Purvis continued to charge ahead, asking for Wilson's permission to "set up meetings" with "appropriate professors" at colleges to "enlist the aid of students (especially those in wildlife and fisheries) to help our petition drive."

Purvis also reported he had distributed "just over 9,000 petitions (last year a total of 30,000 were distributed to get the needed signatures)" and he wanted authority to work with the agency's four regional hunter safety instructors to enlist as many volunteers in the petition drive as possible. "Our biggest group of volunteers are the Hunter Safety instructors," he advised Wilson.

### **A New Beginning**

The steering committee, which Haas chaired, met for the first time September 14, 1985, and at Wilson's suggestion, adopted the name Concerned Citizens for Conservation (CCC).

In addition to Wilson and Purvis from the G&FC and Haas and Horton from the Federation, those attending were representatives from the Arkansas BASS Federation, the Native Plant Society, the Central Arkansas Audubon Society, the Arkansas Audubon Society, the Southwest Furtakers Association, the Trappers Association, the Northeast Arkansas Sportsmen's Association, the National Wildlife Federation, the Arkansas Bowhunters and the Wattensaw Bowhunters Association.

By mid-October, the CCC had picked up representatives of the Arkansas Wild Turkey Federation, the Arkansas Chapter of National Campers & Hikers, the Sierra Club, the State Coon Hunters Association, and Arkansas Tech University's Biology Department, among others.

According to the meeting minutes Horton kept, Haas said the group had four areas of concern: 1) make plans to obtain petition signatures; 2) undertake the campaign; 3) fund-raising; and 4) develop a new plan for Game and Fish to follow.

The group proceeded to say the listing was backwards -- that the most pressing agenda item was developing a plan. Peck said it needed to be more specific than the one the G&FC offered in 1984 but less specific than Missouri's when it succeeded in adopting a conservation sales tax. Suggestions for a plan were to be submitted to Wilson by September 20, and his staff would have a draft prepared for consideration at the next CCC meeting on September 29.

The productive meeting saw these other decisions: appointment of a committee to hire a political consultant; a decision to rent an office adjacent to the Federation in Little Rock's Tanglewood Shopping Center, and to pay in addition a part of the salaries of Horton and AWF secretary Linda Blackwell for work they did on the campaign; some funds raised would be used to retire the \$15,000 to \$16,000 debt the 1984 campaign still owed Twin City Bank; Al Dalrymple of Little Rock would be asked to be CCC treasurer; and G&FC member Frank Lyon Jr. would be asked to be finance chairman to raise the \$400,000 to \$500,000 needed to pay for the campaign, \$50,000 of which was needed almost immediately.

By October 18, the committee had hired the Politico section of the Little Rock public relations firm of Mangan Rains Ginnaven and Holcomb. Dalrymple had agreed to be treasurer and soon was bonded at \$50,000. The group was still searching for a fund-raising chairman, however.

The G&FC staff had a head start on the plan that was to be developed because division leaders had been calling since July for employees across the state to submit their own suggestions as well as any they had heard through the years from the public about what the G&FC "ought to do." Wildlife Management Division Assistant Chief Jim Spencer went so far as to say he wanted to hear every idea no matter how "far-fetched" or biologically infeasible it might seem to be.

Wilson already had in hand a report from each division about how it hoped to spend revenues from the tax. Most were expansions of existing programs or general goals. In addition, Wildlife Management Division Chief Steve Cole submitted a list of 164 specific ideas he said came from the public. One actually had come from Northeast Arkansas District Biologist David Long and later would prove to be an eye-catching proposal: establishing nature centers in or near major urban areas.

No one appeared to frame the challenge that lay ahead better than Henderson, the Fisheries Division chief, who in a hand-written note to Wilson dated July 19 said, "I think the biggest hurdle is to convince the public that we will be providing something for everyone and at

the same time convince hunters and fishermen that it will also expand and not dilute their programs."

### **Plan Takes Shape**

The CCC spent most of its September 29 meeting going over a draft of a "Plan for Conservation" that Wilson said he had assimilated from comments from conservation groups, AWF surveys, "and numerous other individuals." The draft, however, was almost identical to one he had received from his staff in early September.

After making a few changes, the CCC approved the plan with the understanding the G&FC would adopt it, which it did with two minor changes at its October meeting, and that dollar figures would be added later by Wilson's staff.

It was not until December 20 that Carl Hunter, the G&FC assistant director, began "putting together the financial requirements of the various segments" of the Plan for Conservation and "fitting this into the projected revenue from the sales tax." To do this, he told G&FC Fiscal Officer Ron Byrns, he needed an estimate of the revenues that would be lost by lowering bank fishermen licenses and reducing resident hunting and fishing license "to an average of the SE [southeastern] states and eliminating the need to purchase the lifetime license."

Hunter said he hoped to have the financial part of the plan completed shortly after the new year, which he did. But bickering among G&FC divisions about the amounts assigned to them delayed its release.

Publication of the plan also had to be meshed with other matters, such as the development of a logo for the campaign and the adoption of a new name for the citizens committee. Thus, the plan was not printed and released until March 1986 (Text of plan and membership of Arkansans for Nature is Appendix D).

### **Keeping Morale Up**

Haas was not the only one concerned about the petition drive. In early October 1985, Director Wilson sent a two-page letter to each G&FC employee in which he explained how inflation had obliterated the agency's reserves and even the income from the 1983 license increases. He went on to lay out "the basic premise" of the conservation sales tax drive as: "If everyone in Arkansas benefits from the management of our wildlife resources, it seems logical that everyone should help pay for their conservation and management."

He then told the agency's employees:

I'm afraid we as Game and Fish Commission employees are apt to say 'The CCC or the Wildlife Federation is going to do it this time, so I don't have to.' *THIS IS NOT THE CASE!* If the Conservation tax is going to pass, and I'm convinced it can, we must do at least as much this time as we did last time! We must do our part! We must be active in collecting signatures because the amendment won't get on the ballot without 90,000 signatures. (I would like us to have 100,000 signatures on January 1 and 200,000 by July 1). We must raise a large amount of money because it will probably take \$500,000 to wage an effective state-wide campaign. We must talk to everyone we meet in a positive manner about the benefits to all citizens of voting in the Conservation Sales Tax. We must give it 100% effort, beat the drums, and wave the flag. If we're not excited about it why should anyone else be?

These words apparently spurred the arrival of two memoranda later in the month. Purvis wrote Wilson that he felt to get G&FC personnel involved in the petition drive, "you need to motivate your top eight to ten, [sic] key people in order to set an example for their people. If you can do this I believe you will get the ball rolling."

Purvis said Byrns was a good example of what he was talking about. At Cabot's annual festival, Purvis reported, Byrns and a small group of G&FC employees gathered about 400 signatures.

"They manned a booth, handed out literature and answered questions. Here's a Division chief who worked...on his day off because he believes in the campaign."

David Long, now a regional training officer, told Wilson that Lynn Fair, Doug Golden and Barry McArdle had worked the Arkansas Rice Festival at Weiner and collected about 380 signatures. "They did this on their own time, drove their own vehicles, and collected the signatures out of uniform....As you can see, Northeast Arkansas will not let you down."

### **`Jazzing Up' the Campaign**

While Wilson was worried about motivating G&FC employees, Politico was forging ahead with ideas to make the campaign more appealing to the public.

The name of Concerned Citizens for Conservation was changed to Arkansans for Nature at the suggestion of Politico's Bev Lindsey.\* She explained the creative department at Mangan Rains Ginnaven Holcomb did not feel the old name could be worked easily into logos and other campaign materials. In addition, the new name could be associated with Arkansas' recognition as the "Natural State."

*\*Bev Lindsey is the wife of Bruce Lindsey, deputy counsel to and one of President Bill Clinton's closest friends and advisers. As Arkansas governor, Clinton appointed Bev Lindsey director of the state Department of Arkansas Heritage. She was fired from this post by Mike Huckabee, the Republican who rose from lieutenant governor to governor when Jim Guy Tucker resigned on July 15, 1996.*

A logo was being designed and scripts were being written for videos and a brochure -- all with an understanding Arkansans for Nature would pay in advance. By mid-January 1986, Politico's bill was \$4,669, and this just covered the name change, a fundraising letter, a letter for the G&FC magazine, and research and account supervision. Still to come were charges for the logo design and brochure and video charges, which, Lindsey told Horton, could not be finished without advance payment.

Singer/songwriter Jimmy Driftwood of Timbo ("Tennessee Stud" and "Battle of New Orleans"), who had helped make the Ozark Folk Center at Mountain View a reality, accepted the committee's invitation to be honorary campaign chairman.

After several turndowns from others, Mike Moore, owner of Moore Ford in Little Rock, agreed to be the fund-raising chairman.

Campaign pieces seemed to be falling into place by the end of 1985, and Purvis was able to tell the G&FC staff in January 1986 that "we are better organized and...time is on our side."

Various memoranda show, however, that many were uneasy; no one seemed to be working quite hard enough to collect petition signatures even as plans were laid to make this the focus of the last day of National Wildlife Week in Arkansas on March 22.

It did not make them feel any better to receive word on returning to work from the New Year's holiday that a 1/8th-cent tax for the Game Department in Washington had made it on to that state's 1986 election ballot. "They got 225,000 signatures in three months!!!," Wilson's memo told them.

### **Preparation Continues**

The first quarter of 1986 was devoted to preparing campaign materials, raising money, and trying unsuccessfully to motivate both G&FC employees and conservation group members to do what Missouri's Stegner had warned would be the most difficult task: collecting petition signatures. Major differences that occurred in this period from the previous campaign included:

- To answer those who complained they just could not understand how a 1/8th-cent sales tax would be collected, a one-page handout was prepared containing a schedule merchants would follow. The handout also explained that the state Revenue Division "will send to all merchants and everyone collecting sales tax a new collection schedule" and "Sophisticated, electronic cash registers are simply re-programmed to automatically collect" the tax according to the new schedule.
- Arkansans for Nature began its first fund-raising effort --selling 32,000 pounds of oil (black) sunflower seeds in 32-pound packages costing \$10 each. The group reaped some favorable publicity in the process.
- Instead of fact sheets, those gathering petition signatures were supplied with more than two pages of the most frequently asked questions about the tax and the correct answers.
- A speakers bureau was organized consisting of AFN members who were available to speak at meetings statewide.
- State Rep. Gus Wingfield, D-Delight, told the G&FC at its January meeting that the Pike County Hunters Association could not support the sales tax increase if the panel did not exclude Zone 12a from the early muzzleload deer hunting season. The G&FC capitulated, and Wilson followed up with a letter that, in effect, said, "We did what you wanted. Now here are 25 petitions with fact and instruction sheets. Go get 'em signed."
- Both Horton and Mike Moore swung into fund-raising action by ending letters to potential donors.
- Although Sam Walton personally contributed \$500 to the campaign, Wal-Mart executives Charles Ratliff and future state Rep. Jim Von Gremp stood by a corporate decision that no one, including Arkansans for Nature, would be allowed to circulate petitions in free-standing Wal-Mart stores because the firm was "beseiged" with similar requests from all kinds of groups.
- Arkansans for Nature reaped additional publicity with a press conference March 18 to announce the official beginning on March 22 of something that had been going on for months – the petition drive.

Horton focused at the press conference on the difference that mattered most to him -- the plan designating how the expected \$18 million to \$20 million a year in revenues would be spent that had been worked out between the G&FC and more than 20 conservation groups.

Asked what conservation groups would do if the G&FC changed its mind about how to spend the money, Horton said they probably would not oppose any changes if they were "well

thought out." Also, he said they could lobby the General Assembly because the legislature still retained control over the Commission's appropriation from the Game Protection Fund.

The press conference marked the first time Wilson was quoted as stating publicly that the 1984 defeat of the sales tax was caused in part by a high turnout of "typically conservative, anti-tax voters" brought to the polls by President Reagan's re-election bid.

### **Beginning of the End**

Director Wilson and Purvis met with state Revenue Commissioner Charles Ragland and his staff on April 10, 1986, at which the Department of Finance and Administration officials voiced concerns about an amendment that recently had been attached to the 1977 federal food stamp act (7 USC Sec. 2013). The law (underlining denotes amendment) read:

Subject to the availability of funds appropriated under section 18 of this Act,...the Secretary is authorized to formulate and administer a food stamp program under which, at the request of the State agency, eligible households within the State shall be provided an opportunity to obtain a more nutritious diet through the issuance to them of an allotment, *except that a State may not participate in the food stamp program if the Secretary determines that State or local sales taxes are collected within that State on purchases of food made with coupons issued under this Act...*

The amendment would go into effect October 1, 1987.

Ragland and his staff said they feared Arkansas' \$125 million annual Food Stamp Program would be jeopardized if the state continued to collect a sales tax on items bought with food stamps. The sales tax, as amended through the years, was a creature of statutory laws, which the Arkansas legislature could change at will. But if part of the sales tax was in the constitution, the General Assembly could not change it to conform with federal requirements.

After the meeting with Ragland, it is documented that Purvis called John C. Lessel at the Mitchell, Williams, Selig, Jackson & Tucker law firm to tell him about the food stamp issue. Purvis also asked Lessel to restate the reasons the proposed constitutional amendment was tied to the state laws on sales and use taxes as they existed on January 1, 1986.

Lessel replied that a constitutional issue arises if a constitutional amendment that requires the vote of the people is allowed to be amended by a majority of the legislature. By tying the amendment to the law as it existed on January 1, 1986, the 1/8th-cent tax would not be affected

regardless of how the legislature might amend the law later. "To avoid the possibility of litigation, it was decided that the issue could be avoided by tying the underlying law to a specific date which had already passed," Lessel explained.

Purvis asked Lessel to provide him with a letter explaining this and explore "alternative ways of proceeding in light of" the food stamp difficulties. "No specific date for response was requested and Mr. Purvis did not indicate the matter was one of urgency," Lessel said.

Arkansans for Nature was not advised of the potential food stamp problem, and at the Commission's April 21 meeting, Haas gave an upbeat report on the campaign's progress in which he said May 9 had been set as the target date for a count on how many signatures had been collected. The political party primaries were May 27, he said, and it was "important that the polling places be covered to gather signatures."

When May 9 arrived, Arkansans for Nature and the G&FC learned the petition drive was falling woefully short. Purvis wrote in the agency's new in-house newsletter, "Game & Fish News," that the signature count was "just under 12,000. That's approximately 7 percent of what we need to get the Conservation Sales Tax issue on the ballot. We just have about five weeks to go so EVERYBODY needs to help."

Purvis also began urging the Commission to make a "strong statement" at its May 19 meeting about what would happen if the sales tax did not pass. Some of the consequences he gave were:

- The budget will have to be reduced more than \$20 million over the next four years. To do this, all hiring will stop and the workforce will be reduced by 75 to 100.
- "Practically all land purchasing will end for the foreseeable future."
- All lake building and nursery pond construction will end.
- "In a very few years we will be turning back federal funds because of a lack of state matching funds."
- All licenses will have to be increased in the near future just to keep the Commission operating at a reduced level.

With a sense of urgency bordering on panic, both the G&FC and Arkansans for Nature began mobilizing volunteers to seek signatures, particularly at the polls May 27. Federal Coordination and Support Services Division Chief White told all G&FC employees at its Little Rock headquarters by memorandum May 15 that permissions had been obtained at "eight good

locations" in the capital city to gather signatures each Saturday through June 28, and he drew up a work schedule. He put the same organization into the petition drive for Little Rock's Riverfest celebration May 23-25 and the primaries.

On the day White was sending out his memorandum, the legislative Joint Interim Committee on Revenue and Taxation was meeting at the Capitol where it voted to look into filing a lawsuit to block the federally mandated requirement that purchases made with food stamps be exempt from sales taxes. A report prepared by the Legislative Council staff estimated \$125.3 million worth of food stamps had been distributed in Arkansas in fiscal year 1985. If food stamps had been exempt from the sales tax at the time, the state treasury would have lost about \$5 million in revenue, it said.

### **Dumas Doomsday**

The campaign began to unravel quickly on Sunday, May 18, when one of the state's most respected journalists, Associate Editor Ernest Dumas of the *Arkansas Gazette*, warned in a column that if the G&FC sales tax constitutional amendment passed, Arkansas "likely will have to sacrifice the entire food-stamp program, which brings more than \$130 million annually to the state to assure an adequate diet for about 420,000 poor persons."

Dumas said the legislature intended to repeal the state general sales tax on food purchased with stamps at its 1987 session, but it could do nothing about the 1/8th-cent conservation tax if it passed. "It will remain until the Constitution can be amended again. The legislature could not rescue the food stamp program," he wrote.

Dumas was in the vanguard of intellectuals who opposed inserting any specific tax in the Constitution, saying this should be left to legislatures that could respond to the "changing marketplace and alter the beneficiaries to meet changing needs."

### **Flying Legal Opinions**

Lessel said he had been trying to reach Purvis "to advise him that it was our opinion that the amendment as currently proposed would violate the federal law and that to amend it would require starting the petition over."

Attorney General Steve Clark had said this on Monday, May 19, telling reporters that a proposed constitutional amendment could not be amended. To modify the proposal, he said,

supporters would have to submit a new proposal for his approval and start gathering signatures anew.

The *Gazette* reported in a front page article on Tuesday that Haas had stated the sales tax was important to Arkansans for Nature "but it's not that important that we would jeopardize another program," and the coalition would "back off" if this proved to be the case. He said he had learned of the food stamp problem only as recently as Monday.

Haas, who is an Area Agency on Aging administrator with first-hand knowledge of the importance of food stamps to the poor, also was quoted as saying that between 20,000 and 25,000 signatures had been gathered to that point and "there is no question" the necessary 88,000 signatures of registered voters could be obtained by the July 4 deadline.

Three options were discussed at a May 20 meeting attended by Lessel, his colleague, attorney Tim Grooms, and Purvis, White, and Horton.

First, the petition drive would continue on the proposed constitutional amendment without any changes which involved the risks of jeopardizing the state's participation in the federal food stamp program and of alienating the electorate. The second option was to withdraw the current amendment and rethink, regroup, and try again in 1988. The third and final option was to initiate a new petition and "starting over."

On Wednesday, May 21, the *Gazette* reported the various options that were being considered and said Wilson and Haas had scheduled a news conference for later that day. Meanwhile, Wilson and Haas co-signed a memorandum in which they called for all Arkansans for Nature members to collect signatures at polling places May 27, at shopping centers and special functions, and to mail the signed and notarized petitions to Purvis by June 15.

"By the way," they advised:

...we are working hard to resolve the problem regarding the sales tax on food stamp purchases. We feel optimistic that a solution can be found so the state would not lose its food stamp program in October, 1987. If we do not have this problem resolved by July 4, the date we must submit petitions to the Secretary of State's office, we will drop our efforts to place the issue on the 1986 ballot. We will immediately get to work on the 1988 election.

Wilson reiterated this at the press conference the same day, which he opened by declaring, "We are not going to jeopardize Arkansas's food stamp program. That's the bottom line."

He also was quoted as saying that supporters had considered trying to change the proposed amendment but that getting new petitions ready to be signed by Tuesday's primary election would be "almost impossible." Primary day traditionally is when petitioners have the most success gaining valid signatures of registered voters.

Gov. Bill Clinton weighed in on May 21, telling reporters he was unfamiliar with the problem but that if the amendment would cause the state to lose the food stamp program, "I wouldn't be for it under any circumstances. If that's what it would do, they [proponents] ought to pull it down and save everybody the pain of trying to beat it."

Lessel's official advisory opinion letter was hand-delivered to Mays on Thursday, May 22, even as the *Gazette* was calling editorially for the Commission and Arkansans for Nature to abandon their campaign.

Lessel's letter, which had a strong current of "maybe this mess would not have happened if you had involved us from the first," revealed the G&FC already was backing away from the initiated act route and going forward with the current petition.

After discussing the alternatives being discussed, e.g., the Commission declining to impose the tax if it passed until federal legislation salvaged the food stamp program (can't be done, the lawyer said).

### **Back on Track ???**

Ignoring Lessel, Mays was directed to schedule a meeting with Ray Scott, director of the state Department of Human Services, and his legal counsel, for Friday, May 23, in Wilson's office. Ragland also attended.

After discussing several alternatives, Mays reported, "it was determined that the exclusion of the words 'and in effect on January 1, 1986' in Section 2 (a) and (b) would be sufficient to relinquish the specific time and date requirement and allow the Legislature to amend the two state laws without strict constitutional problems."

The two references to the January 1, 1986, date were deleted and delivered to Clark. True to the attorney general's word, he approved the revised amendment the same day.

The revised amendment said that the 1/8th-cent tax would be levied on items subject to "Act 386 of 1941, as amended" and "Act 487 of 1949, as amended" -- the state's sales and use tax laws.

The *Gazette* reported the next day that the change had invalidated 10,000 to 15,000 signatures that had been collected, and quoted Tom Peterson, the G&FC Information and

Education Division chief, as saying that only petitions notarized after Saturday, May 24, could be submitted to the Secretary of State by July 4.

"We are right back on track in the middle of our petition drive," Peterson said. "That does set us back in the campaign, but it just means we'll have to work harder to get this on the ballot."

Wilson and Haas followed with an undated co-signed memorandum to AFN members and G&FC employees to explain how the amendment had been "fixed."

They went on to caution canvassers to use only new petitions that had been printed or old ones that had been changed and to get them returned to Purvis by June 15.

The revised amendment was advertised in the *Gazette* on May 29, the same day the powerful National Rifle Association announced it was supporting the 1/8th-cent conservation sales tax.

On May 31, reporter Bob Wells of the *Gazette* quoted an unnamed lawyer as saying the revised amendment still had problems because the common legal usage of such phrases as "Act 386 of 1941 as amended" and "Act 487 of 1949 as amended" generally is interpreted to mean the current status of the two laws, not any changes in the laws that might be adopted in the future. And the "current status" covered food purchased with food stamps!

Wells said Mays reacted sharply when questioned about this. "Every lawyer I've talked to says it does," the G&FC attorney was quoted as saying. "Steve Clark said it didn't solve the problem totally, but it did as far as those two acts in question. We did the best we could." He challenged lawyers criticizing the amendment to "come forward and tell us how it should be written."

The *Gazette* did just that in an editorial June 1. The newspaper asserted:

...removing the reference to January 1 hardly changes the meaning of the amendment. It will impose a tax on retail sales covered by 'the Arkansas Gross Receipts Tax Act 386 of 1941, as amended.' It does not say 'the Arkansas Gross Receipts Tax Act 386 of 1941, as it is or may hereafter be amended.' So if the amendment is put on the ballot and ratified it is at least questionable whether the legislature can exempt food-stamp purchases from the game and fish tax, or change the tax in any other way.

According to Mays' after-the-fact memorandum to Wilson, everyone at the agency had begun to wonder about "the quality of legal information given by all lawyers concerned." After several meetings of Commission senior management and Arkansans for Nature, the Friday Law

Firm was asked to review the Mitchell Law Firm letter and "give us a second opinion." Specifically, the G&FC was worried about the point the *Gazette* had raised.

### **June 4 Is D-Day**

The key point in a letter signed "Friday, Eldredge & Clark" dated June 4 was that "if the term 'as amended' were interpreted to include future changes in the present sales tax, the proposed amendment would...operate to confer a broad power on the General Assembly to amend the game and fish tax and might be attacked as an unlawful delegation to the General Assembly of the people's power to draft constitutional amendments." Whether the amendment was interpreted to apply to laws as they existed at the time it was adopted or to future changes by the legislature, it still had problems!

Mays said Wilson told him at this point "to get as much legal assistance as necessary to formulate a plan" and give him advice about what should be done.

Mays sent a copy of the Friday Law Firm opinion to Gene Sayre at the Mitchell Firm almost as soon as it was received. Then he and Sayre, generally regarded as a tax law expert, called Tim Leathers, general counsel for the Department of Finance and Administration, and asked point-blank: "Will the proposed constitutional amendment be challenged by DF&A if it were placed on the ballot and voted upon favorably in November?"

After conferring with Revenue Commissioner Ragland, Leathers returned to the phone to say that the amendment "was not clear-cut" and DF&A "would be compelled to file for declaratory judgment if it passed in order to get a judicial interpretation." He added that DF&A was getting "tremendous political pressure" from both sides and felt it had no choice.

Sayre followed with a letter later in the day in which he said the Mitchell Law Firm agreed the "as amended" phrase could present the problem outlined in the Friday Law Firm opinion.

Mays went home after leaving copies of all the legal exchanges for Wilson to study along with advice to "very carefully analyze the numbers of signatures we had in hand and the probability of acquiring enough to get the proposal on the ballot."

### **Stamped Out**

At a press conference June 5 that originally had been set to announce that John Denver would be giving a benefit concert in Little Rock, Wilson and Haas revealed jointly that the petition drive was being canceled because "extensive legal research showed a greater than 50-50 chance that problems would still arise" and endanger Arkansas' continued participation in the federal food stamp program.

Wilson did not miss the opportunity to explain that the action "leaves the Commission with a financial crisis." Current income from license fees would meet projected expenses "only through 1987," he said, "and in 1988, the Commission will face a \$5 million deficit that will grow to \$14 million by 1990."

### **Eulogies**

Horton said there was "utter disappointment" among Arkansans for Nature when the campaign was canceled. Others, however, made a conscious effort to put a "happy face" on it, including *Democrat* outdoor editor Shepherd, who wrote the cancellation "may have drawn more attention" to the Commission's financial situation "than it got when it announced the petition drive."

Until the food stamp problem arose, he noted, the petition drive had received "relatively little publicity." He speculated the publicity might make it easier to get signatures when a new petition drive began. And one would begin again, he added, "unless the commission comes up with a new source of funding."

Hope-based G&FC Biologist Gregg Mathis penciled a two-page letter to Wilson in which he put the gain this way: "20% of the people knew what was going on and 80% did not" in the 1984 campaign. "This time 80% knew and only 20% did not. There was a positive attitude getting around in the public ranks."

Even Purvis was not as downcast as in 1984 as he cited "positive aspects" about the aborted campaign in a June 19 memorandum to Wilson that included the "long-lasting effect" of 30 conservation organizations coming together as Arkansans for Nature to support the agency. The effort also "got the Commission's financial needs before the public and legislature" and "thousands of people learned for the first time that the Commission receives no general revenues," he said.

The Commission's critics did not let up, however.

Perrin Jones editorialized in the Searcy *Daily Citizen* that when the G&FC gained its independence in 1945, it gave up the right to claim general revenues. Now, he said, "if Game and

Fish wants general revenues for operation, it should give up its independence and come back under the authority of the governor and the legislature."

Syndicated columnist Paul Greenberg said it had taken the "political, legal, journalistic equivalent of a two-by-four" to get the G&FC's attention. He predicted the agency would be back, "with hands out. Its tactics have been irresponsible, poorly researched and secretive." The speed with which the G&FC revised the amendment after the food stamp issue arose "says a disturbing lot about how fast, how sloppy, and how unheeding this commission can be when a tax empire of its own beckons," he continued. At the same time, Greenberg said Arkansas does need "to do more to conserve its invaluable natural heritage, which includes a lot more than game and fish."

The thoughtful Joe Mosby wrote in the *Gazette* that the cancellation had "given us some thinking and planning time." He called on Clinton to create a small task force that might include prominent Arkansans such as hunter and fisherman Sheffield Nelson and quail hunter Sam Walton. "But it should also include somebody with callused hands, maybe dirty fingernails and with worries about the next mortgage and car payments."

Mosby went on to point out:

Since 1975 our hunting and fishing license costs have risen by 300 percent, from \$3.50 to \$10.50. Another raise in license fees, say to \$12.50, would get Game and Fish by a year, two years with frugality, then we're right back with the same problem.

It is time, he concluded, to come up with other ways to finance the Game & Fish Commission.

That more legislative trouble lay ahead became apparent July 23 when Knox Nelson, the politically powerful Pine Bluff senator, lectured Wilson at a meeting and said Arkansas needed a law that would prohibit state agencies from proposing initiated measures to get additional funding. Drives for such funding "could really hurt our state budget system," Nelson complained, adding, "When I have a shortfall in revenues in business, I cut back my spending. This doesn't seem to be your case."

Wilson responded the Commission had underspent its projected budget by about \$3 million through "prioritizing."

The *Gazette's* J.O. Powell jumped on board, agreeing with Nelson that a law was needed to stop agencies from initiating funding measures. He charged the G&FC was "simply out of control, answerable to nobody."

## Taking Stock

Some cold realities began to surface by August. For example, Purvis sent Wilson a memorandum on the "final count" on petition signatures. He had only 25,087 signatures on hand of the 88,655 needed, and this was without verification that each came from a registered voter.

The *Democrat's* Shepherd had picked up on this earlier, writing that G&FC employees had not worked as hard as they did in 1984. He presumed the conservation organizations had "picked up the slack." They had not.

About 20 representatives of the groups that made up Arkansans for Nature met August 3. Their first concern was how to retire the \$8,000 campaign debt, most of which was owed to Twin City Bank, by December 31. There was \$3,000 in cash in the treasury, and this was put toward the debt. Member organizations of the coalition were called on to raise funds, and AFN discussed sponsoring "a few bass tournaments" with volunteers for these urged to contact Horton.

Attention at then turned to future funding options for the G&FC. Seven of those present said they favored asking the 1987 General Assembly to approve a "broad-based" 1 percent sales tax to support conservation programs in several state agencies, including the G&FC, Parks and Tourism Department, Forestry Commission, Soil and Water Conservation Commission, and the Department of Pollution Control and Ecology. This reveals that even among Arkansans for Nature, the education effort was not complete because at least seven did not understand Amendment 35 barred the G&FC from receiving general revenues.

This also revealed budding support for something G&FC officials had resisted to this point -- sharing tax proceeds.

Sunderland had been promoting this for years within the bosom of the G&FC, but he limited his sharing vision to the "browns" or the Conservation Districts under the Soil and Water Conservation Commission, and did not include the "greens" such as the Parks and Tourism Department.

On the heels of the AFN meeting, the *Gazette* editorially made its first positive contribution to the discussion by suggesting the G&FC seek an increase in the state's severance tax on natural resources: natural gas, oil, timber, ores and stone.

The newspaper reasoned:

There is a symmetry about collecting a tax on the loss of these natural resources and investing it in the preservation of other natural resources for future generations. The harvesting of

natural resources, whether timber or gas or barite, diminishes the natural environment in some way and a severance tax invested in conservation would be some compensation.

The editorial went on to concede that the odds of getting such a severance tax increase were long because a 1934 amendment to the state constitution would require an "extraordinary majority" vote of both houses of the legislature -- 75 in the House and 27 in the Senate. Not likely to happen, and the G&FC knew it. Further, the *Gazette* continued to display ignorance of Amendment 35's constraint on funding the agency. Obviously, the *Gazette* was not alone.

### **Postscript**

Initiative 90, the 1/8th-cent sales tax proposed for the Washington State Department of Wildlife, failed at the polls in November 1986 by a wider margin than the amendment for the Arkansas G&FC had been defeated in 1984.

Later, an intense survey of Washington State Department of Wildlife employees about the proposal led study author Sharon Cawley Morse to reach these conclusions:

It was management's decision to attempt the increase on the sales tax as a funding source, which would have created new programs and jobs. It appears, though, that management did not 'sell' the field level employees on the benefits of the proposed program.

Increased effort could be made by the management level to keep the field employees more informed on major programs and concerns of the Department, particularly when management perceived a need for support throughout the department. Management might get more support from the field level staff if the field level employees were included more in the decision making process.

There are many factors involved in deciding whether...a nontraditional funding source for wildlife agencies will be approved by the general public; the same can be said concerning staff support. But if any agency doesn't have the full support of its staff, can it expect full support from the public?

## IV

### 1994: GATEHATER'S REVENGE

#### Introduction

Instead of making another drive for a fractional sales tax, the Game & Fish Commission decided to give the 1987 General Assembly the chance to help that some lawmakers felt should have been the agency's first course of action anyway.

Wilson, the G&FC director, does not recall renewing the campaign for a 1/8th-cent sales tax even being mentioned during the fall of 1986, and he attributed this to a combination of "feeling so badly" about what had happened in June and chief fiscal officer Ron Byrns' insistence that the agency's financial situation was so severe that immediate relief was needed in the form of a license increase, which only the legislature could provide.

It was a fateful decision because it produced what many had thought since 1945 eventually would happen -- a constitutional showdown between the Commission and the General Assembly.

At its meeting on February 16, 1987, the Commission voted to ask the legislature to raise the cost of basic resident hunting and fishing licenses by \$4 -- to \$14.50 from \$10.50. Not thinking this also would require legislative approval, the Commission also indicated it might raise the fee for the Sportsman's Permit to \$25 from \$17.75. These and other changes would yield about \$2.2 million annually instead of the \$18 million that a 1/8th-cent sales tax would have produced.

When the lawmakers learned Gov. Bill Clinton thought a 38 percent license fee increase was too much, the bill plummeted like a mallard over Bayou Meto during duck season. Its sponsor, the late veteran Sen. Clarence Bell, D-Parkin, finally withdrew the measure, saying, "I don't believe anything will pass for Game & Fish." Instead of Clinton, he blamed "legislative resentment" about the Commission's independent constitutional status.

The Commission was equally resentful about the legislature's refusal to help. At the panel's March 16 meeting, Commissioner Frank Lyon Jr., who despised politics and thought Amendment 35 was "omnipotent," moved to raise the Sportsman's Permit fee to \$25, and it was approved. Further, the Commission switched the two deer tags from the basic resident hunting license to the Sportsman's Permit. Wilson had pressed to no avail to delay this action until after the legislative session.

Enraged the Commission would take such action, especially in the middle of a legislation session when lawmakers would get the heat from their constituents about it, the General Assembly passed a bill putting the two deer tags back on the resident hunting license and rolling back the Sportsman's Permit fee to \$17.75. The law also restricted Commission contracts for professional and consulting services, required that specified contracts be reviewed by the Legislative Council, which acts for the General Assembly between sessions, and limited expenditures on the agency's magazine.

The Commission did more than just refuse to back down; it filed a suit to keep the state treasurer and others from carrying out the law on grounds the legislature had no authority to set the price of the Sportsman's Permit or tell the agency how to spend its money by reviewing contracts and other means. As legislators petitioned successfully to intervene in the lawsuit, the Commission began selling \$25 Sportsman's Permits; however, there was no appropriation to spend the money and it went into an escrow fund.

Director Wilson also announced the Commission had carried out a reduction-in-force and reorganization designed to save \$3.5 million over the next four years.

After a lower court judge rendered a thoroughly political decision on the lawsuit, the case went to the Arkansas Supreme Court. In October 1988, the Supreme Court ruled the legislature had the power to set license and permit fees but could not review the agency's contracts or otherwise dictate how its money must be spent. The case was sent back to the lower court for refund and other distribution of the fee money that had been collected illegally.

The air was cleared, but could the Game & Fish Commission ever repair its relationship with the Arkansas General Assembly?

Eventually, what can only be regarded as a miraculous turnaround occurred -- so much so that in 1993, the General Assembly itself put a 1/8th-cent conservation sales tax on the November 1994 general ballot as one of three constitutional amendments it is allowed to offer the voters every other year. The revenues from this sales tax increase, however, would have to be shared with three other agencies.

The campaign for the sales tax was in high gear with polls showing it likely to pass when, through no fault of the Commission or the other agencies, the issue was struck from the ballot by court order.

The second half of this history is the story of how the G&FC built a relationship with the legislature that survived the heartbreak of the 1987 debacle.

### **Finding a Few Friends**

The Commission had collected and placed in escrow about \$4.4 million in 1987 and 1988 from fee increases the Supreme Court said were illegal and from interest earned on the account. Within weeks after the ruling, the Commission and an ad hoc group of interested legislators were haggling about how to let Arkansas hunters obtain refunds and how to spend any money that was unclaimed.

The legislature wanted to specify that the unclaimed funds would be spent principally on hardwood reforestation, building shooting ranges, land acquisition, and the North American Waterfowl Management Plan, among others. G&FC wanted more flexibility and argued the legislature was trying to do what the Supreme Court had said it couldn't -- tell it how to spend to manage wildlife.

The argument continued well into the 1987 legislative session until two legislators, Rep. Jodie Mahony, D-El Dorado, and Sen. Allen Gordon, D-Morrilton, exerted the leadership necessary to resolve the matter and bring it to Pulaski County Chancellor John Earl, the lower court judge, for a hearing. Judge Earl struck a balance between the two, telling the lawmakers to appropriate the funds for "hardwood reforestation, habitat rehabilitation and land acquisition or capital improvements thereon," without being overly specific. This satisfied the G&FC.

Ironically, the 1987 General Assembly also gave the G&FC what previously had been denied -- an increase in the Sportsman's Permit fee with two deer tags attached! Wilson said in a 1997 interview that this was "the beginning of the change" in the relationship between the legislature and the agency. It may have been the beginning for the G&FC, but 1991 events show it was not the start of a new era for the legislature.

Carl Hunter had retired in 1987 as the Commission's assistant director and was replaced by Scott Henderson, promoted from Fisheries Division chief. "Scott dealt more effectively with the legislature than Carl," Wilson recalled, and added, "He and I worked hand-in-hand and developed a close relationship with Mahony, Gordon, [Rep.] Bobby Hogue and [Sen.] Steve Bell, and some others. That led us to think there was hope working with these people."

### **The People Factor**

The importance of one key personnel change already has been noted. There were others - - several others.

Lyon was a Republican who had been appointed by a GOP governor, and the legislature was overwhelmingly Democratic. Perhaps this explains some of his discomfiture in the political

arena. Regardless, when Lyon left the Commission in 1989 on the expiration of his seven-year term, three other members -- all of them appointees of Democrat Bill Clinton -- became more assertive in saying the agency needed to learn how to work with the General

Assembly and made it a point to do their part. Those three were Perry Mikles of Booneville, William E. Brewer of Paragould and Maurice Lewis, Jr. of Magnolia.

"We turned our thinking around, too," Wilson recalled. "We were becoming more responsive to individual legislators and to the committees."

During a special legislative session in late 1989, former House Speaker John E. Miller, D-Melbourne, "carried the mail" for Clinton, meaning he handled the major bills the governor wanted, and was rewarded by having his son, David E. Miller, also of Melbourne, appointed to the G&FC.

This was a fortuitous appointment in Wilson's eyes. John Miller had been a House member since 1959, which meant his son had grown up with the legislature.

"It brought us some inside credibility with the legislature...it was almost as if they had one of their own on the Commission," Wilson explained.

Another significant change took place in 1990. House and Senate seats were redistricted to reflect population changes shown by the federal census. Sen. Knox Nelson, the G&FC's chief nemesis, and Sen. Jay Bradford were thrown into the same Pine Bluff/Lonoke County district. Bradford beat Nelson in the Democratic primary, paving the way for a major restructuring of the Senate in 1991.

### **Hogue Takes the Lead**

Because of its new-found respect for the legislature, the G&FC prepared with unusual thoroughness for the 1991 session by listing its needs and possible revenue sources.

At its December 1990 meeting, the Commission adopted David Miller's motion to ask the General Assembly for a 5 percent excise tax on hunting and fishing equipment and supplies sold in Arkansas. Legislative Council budget experts estimated the tax would raise about \$1 million a year, which the G&FC thought was conservative.

Communications apparently remained a problem, because Miller said the legislature would want to know how the money would be spent, and he had specified it was for continued "habitat development." Moments before, Assistant Director Henderson had explained that \$1

million in additional revenue would be needed just to fund a 2.5 percent pay increase under the state pay plan the General Assembly was expected to pass.

The man who took the lead on G&FC legislation was Bobby Hogue, D-Jonesboro, a bowhunter and outdoor enthusiast who had been in the House since 1979 but had not particularly distinguished himself to that point.

Why Hogue? Wilson said he "sensed" Hogue was a "comer" in legislative leadership. Perhaps the most telling point, however, was that "he was willing" to take on the challenge.

Hogue was a comer. He ran for 1993 Speaker of the House during the 1991 session. Though he was considered one of the chamber's junior members, he ran a strong but losing race against veteran Rep. L. L. "Doc" Bryan of Russellville.

In 1993, Hogue mounted a full-scale challenge to the "Old Guard" and won the 1995 Speakership with the help of freshmen and other relative newcomers who felt they had been "locked out" by the veterans. Hogue was aided by the fact Arkansas voters had adopted a constitutional amendment in 1992 limiting House members to three two-year terms and senators to two four-year terms. Hogue set about to reorganize the House and disperse power so that the newcomers who soon would be flooding the chamber would have some experience in the legislative process. In 1995, he was rewarded for his effort by becoming only the second person in the 20th Century to be elected to back-to-back terms as Speaker of the House.

### **Laying the Groundwork**

The House Revenue and Taxation Committee gave Hogue's 5 percent excise tax bill for the G&FC a "do pass" recommendation on a 12 to 6 vote, but he soon withdrew it because he said he was encountering "growing opposition" from lawmakers who already had passed a half-cent sales tax and had put the entire 4.5-cent state sales tax on used cars costing more than \$2,000 for the first time. All of the new revenue was pledged to education.

Hogue raised the possibility of increasing the \$10.50 fee for resident hunting and fishing licenses to \$12 and the \$25 Sportsman's Permit cost by \$2 to \$27. At a special meeting February 4, 1991, Commissioner Mike Cornwell of Danville vigorously opposed any license increase, but opinions from Attorney General Winston Bryant ruling out any possibility the agency could receive general revenues under Amendment 35 led Hogue to amend his excise tax bill to provide for the license increases anyway.

Again, Hogue's bill made it out of the House Revenue and Taxation Committee only to encounter stiff opposition from what he described as a "deep reservoir of resentment" toward the

G&FC. Needing 75 votes to pass the House, the bill received only 44 with 35 against and 5 abstentions. Hogue had to abandon this approach, too.

He put out a call for interested legislators to meet during the session in hopes of finding both short-term and long-term solutions to the agency's funding problems. The group came up empty-handed. In the end, Hogue had to settle for a law creating a special 14-member Game & Fish Commission Funding Study Committee that would meet in the interim and make recommendations to the 1993 legislative session.

Hogue recalled he also took Wilson and other G&FC officials aside and told them privately that "you need to get out of your shell...get over here in these [Capitol] halls" and talk to legislators. Steve R. "Wildman" Wilson and Marcus Kilburn, called "very talented" by Hogue, began doing this in subsequent sessions, "and that had a lot to do" with the General Assembly's about-face in the 1990s, he said.

### **A Committee of `Guns`**

Because Hogue was now feared by the "Old Guard," it deprived him of the House co-chairmanship of the committee created by the 1991 law. The honor went to House Speaker John Lipton, D-Warren, who was not known to have any particular interest in the G&FC. Lipton, however, was a close friend of the man Hogue eventually defeated for Speaker -- Bobby Newman, D-Smackover.

In addition to Hogue, Lipton, and Newman, House members on special committee were the late William F. Foster Sr. of England; Jim Holland of Knobel (Clay County); Gus Wingfield of Delight; and James Jordan of Monticello.

Gordon was the Senate co-chairman. His colleagues on the panel were Jack Gibson of Dermott; Cliff Hoofman of North Little Rock; Jonathan Fitch of Hindsville (Madison County); Steve Luelf of Mountain Home; Steve Bell of Batesville; and Jean Edwards of Sherrill (Jefferson County).

The original motive for establishing the committee was "to patch up the relationship between the commission and the legislature," Gordon said. He had chaired a special committee in 1988 that led a year later to enactment of a 2 percent sales tax on hotels/motels, restaurants, and entertainment tickets to fund tourism promotion, which gave him experience in how to make such changes happen.

Hogue said it was this committee in combination with a more responsive G&FC that produced the turn-around. Gordon agreed and recalled the G&FC was "fairly humble through this whole process."

### **Amazing Support**

The new committee decided it first needed to hold meetings throughout the state to gauge public support for the G&FC and to learn if any major unknown problems existed. Gordon knew such meetings also tended to generate support.

As a starting point for the committee's work, the G&FC hired the Little Rock research/marketing firm of Sygnis to do a survey on some key questions. Sygnis interviewed 401 registered voters by telephone between August 15 and 20 (providing a 5 percent margin of error) and found these results that were presented to the legislature in late August 1991:

- Fifty-seven percent hunt, fish, or do both; 43 percent do not fish or hunt. But 70 percent of the respondents said they participated in activities involving enjoyment of wild animals and fish. Eighty percent of those who hunt and fish were male; 20 percent were female. Big game was the choice of 80 percent of the hunters. Catfish drew the most anglers.
- Seventy-five percent said they knew there was a state agency responsible for fish and wildlife, and three-quarters of them even got its name right!
- Twenty percent said the G&FC was doing an "excellent" job and 57 percent said its performance was "good." Thirteen percent rated it "fair," 3 percent said "poor," and 8 percent said they had no opinion or did not know.

This result prompted then Senate President Pro Tempore Jerry Bookout, D-Jonesboro, to comment that the G&FC's approval rating was "higher than I ever dreamed."

Asked where the G&FC should put its emphasis in time and money, those surveyed gave their greatest support to stronger enforcement of wildlife laws, protecting endangered species, land acquisition for wildlife, and public education, in that order.

Sixty-five percent said the G&FC needed more money. But where should it get that money?

It came has no surprise that the preferred way was for "voluntary purchase" of stamps and licenses or to dedicate a portion of the existing sales tax to the G&FC. As every public official knows, Americans have an insatiable appetite for "more" -- provided they do not have to pay for it.

By the time the committee held its first out-of-Little Rock meeting in September 1991 at Morrilton, a requested attorney general's opinion was in hand and it was sobering. Attorney General Winston Bryant unshakably reaffirmed what he had told the legislators during the 1991 session and what his predecessor, Steve Clark, had said:

Amendment 35 locks the G&FC into operating exclusively on what it receives from licenses and permits, fines for violating wildlife regulations, and matching federal monies. It cannot receive general revenues,...

Bryant was dubious even about the legality of a state excise tax on hunting and fishing equipment as Hogue had proposed at the G&FC's request.

With the 1991-92 hunting seasons and winter weather out of the way, the committee resumed its work, holding hearings in Hamburg, Jonesboro and Bull Shoals in the spring and summer of 1992. Most of the lawmakers said they were surprised about the support they found for the G&FC.

By mid-summer 1992, a consensus had developed: the committee would have to recommend to the 1993 legislature that one of the three amendments it placed on the 1994 general election ballot be for a fractional sales tax increase with all or part of the proceeds going to the G&FC.

The consensus was so strong the author could report in the September 1992 issue of *Arkansas Fish & Wildlife* magazine that only two questions remained to be resolved: whether the recommended sales tax increase should be 1/8th or 1/10th of 1 percent and whether some of the proceeds should be earmarked for one or more additional natural resource agencies such as the state Parks Division, which said it was \$120 million short over the next 10 years of having what it needed to maintain and equip and make capital improvements at existing facilities and to acquire and develop new parks already authorized by the legislature.

Gordon heard people talking about the needs of parks, and he realized the G&FC would "touch a whole new constituency and tap a great reservoir of good will" if Parks and Tourism became a major part of the mix.

At Gordon's suggestion, G&FC Director Wilson sat down in a Capitol room later in the fall with Parks and Tourism Department Director Richard Davies. They hammered out an agreement under which the legislature would be asked to raise the state's 4.5-cent sales tax by 1/8th-cent, which the Department of Finance and Administration said would produce about \$30 million in revenues the first year. State Parks would start receiving its share right away while the

rest was held in a trust fund for the G&FC pending voter approval of a constitutional amendment in November 1994.

The G&FC was optimistic its funding woes would be worked out -- so optimistic, in fact, that in December 1992, a handbook on the agency's budget, its financial situation, and what additional monies were needed was sent with a cover memorandum from Wilson to each of its employees.

The memorandum reveals the agency had been holding employee meetings across the state throughout the summer and fall "to advise you about the legislative funding sub-committee and additional funding opportunities for our agency."

"We promised you a handbook" with the facts and figures that had been given at the meetings, the memorandum said. "Well, here it is," Wilson said. He went on to explain the handbook was to be used as "a resource -- before you speak to civic clubs or hunting groups or after you have been asked a question you don't know the answer to....Your role in the next few months is vital to assure public and legislative support for the Commission and our need for more funding."

Arkansas was euphoric as never before at this point because a native son had just been elected President of the United States. When Bill Clinton resigned as governor in mid-December to go to the White House, Lt. Gov. Jim Guy Tucker rose to succeed him. Tucker's first act was to call a special legislative session to solve a funding crisis for Medicaid, the federal/state medical program for the poor and disabled.

G&FC member Maurice Lewis prowled the Capitol halls during the session, saying, "We're dead" if the sales tax was raised to save Medicaid. When the session ended, the G&FC was still alive because Tucker had proposed and the General Assembly had passed a special soft drink tax for the Medicaid Trust Fund.

### **1/4th-Cent Tax Proposed**

That the G&FC and the Parks Division would share any new revenues brought in by a sales tax was the only understanding that had been reached when the legislative study committee gathered at the Capitol January 5, 1993 -- six days before the General Assembly was to convene.

Committee newcomer Rep. Lacy Landers, D-Benton, who had filled the vacancy created by Foster's death, appeared to come in from left field with a motion the panel adopted to recommend raising the sales tax by 1/4th-cent with G&FC and Parks getting 45 percent of the revenues each and the remaining 10 percent going to other as-yet unspecified agencies. Unlike

the rest of the existing 4.5-cent sales tax, groceries would be exempted from Landers' 1/4th-cent increase. The second part of his plan envisioned a separate step -- proposing a constitutional amendment to allow the G&FC to receive its share of the proceeds.

Wilson revealed in a 1997 interview that, after the meeting, he and Davies called Joan Baldrige, director of the Department of Arkansas Heritage, and offered her agency most of the remaining 10 percent of the revenues. She was surprised but grateful, he recalled. He and Davies reasoned that including her Department, which housed the Natural Heritage Commission and the Historic Preservation program, among others, would bring another constituency to the table that neither the G&FC nor Parks touched.

Meanwhile, no opportunity to call favorable attention to the G&FC was overlooked as Bell introduced Senate Resolution 1 commending Steve N. Wilson on being the first Arkansan in 50 years to be designated as president of the International Association of Fish and Wildlife Agencies.

Answers Unlimited of Beebe, reported polling 800 registered voters between February 4 and 6 and finding 48 percent approved a 1/8th-cent tax split equally between the G&FC and Parks and Tourism. An equal percentage said "no" to a 1/4th-cent tax with food exempted. The poll, paid for by the G&FC Foundation, also found that any tax was more likely to be approved if the legislature endorsed it and if parks were included.

A new organization calling itself the Arkansas Hunting Association, which was based on the anger engendered by the timber companies posting their land and leasing the hunting rights to clubs in the mid-1980s, announced its opposition to any sales tax for the G&FC. The group had just lost a lawsuit in Pulaski County Chancery Court in which it had challenged the G&FC's authority and the leasing rights of International Paper Co. A label was attached by GF&C to this new organization, "gate-haters."

### **Gloom Is Great**

At any rate, Landers' proposal was a "no sale" to the legislature, primarily because of its food exemption. G&FC supporters were gloomy. Batesville's Bell, for example, said he had no intention of getting his name in the newspapers advocating a tax increase if there was no chance the legislature would pass it. He said he wanted the G&FC to do a better job of generating public support that translated into pressure on the legislature.

The study committee regrouped February 15 and recommended a 1/8th-cent sales tax constitutional amendment with no exemption on food. The estimated \$30 million first-year year

revenues would be split 45/45 percent between the G&FC and Parks, 9 percent would go to the Department of Arkansas Heritage and 1 percent to Keep Arkansas Beautiful, the anti-litter program.

Separate but identical constitutional amendment resolutions were introduced in the House and Senate two days later (House Joint Resolution 1011 sponsored by Holland, et al, and SJR 7 sponsored by Bell, et al).

### **A Better Job Than Ever**

G&FC and Parks records show agency representatives concentrated on lobbying members of the two committees that would consider all proposed constitutional amendments and recommend three to the legislature -- the House and Senate Committees on State Agencies and Governmental Affairs. Tally sheets with "yes" or "no" written by each member's names reflect their work.

The two committees actually had little difficulty agreeing that the 1/8th-cent conservation sales tax should be one of the amendments offered to the voters. HJR 1011 was forwarded to the full House with a "do pass" recommendation, and it did with surprising ease, getting 74 votes for, 9 against, and 17 not voting (51 votes needed) on March 26. Even the House curmudgeon and long-time G&FC critic, Rep. Owen Miller, D-Marked Tree, supported it.

The resolution then went to the Senate where 33 of the 35 members voted for it.

"The Game and Fish Commission and Parks and Tourism did the job," Bell said. "They lobbied, and they picked up support. I am very well pleased."

Hogue and Holland worked "one-on-one" with fellow House members to gain support. It did not hurt that two-thirds of the way through the long and grinding session, Hogue was elected Speaker for 1995, thereby lending prestige to any cause associated with him. Bell said it also did not hurt that the ballot proposal came in a year when there were no other "earth-shattering" constitutional amendments to be considered.

"I am surprised," Hogue confessed. "I'm very, very pleased-- but surprised." He lauded the G&FC for sending staff members with strong "people skills" to the Capitol to persuade lawmakers.

"Game and Fish did a better job than it ever has," Rep. Jodie Mahony of El Dorado declared. He was not on the study committee but was one of the tactical battle commanders. Mahony also said the key to the success of the proposal was bringing in Davies of Parks and Tourism.

Davies and his agency had spent years cultivating the House and Senate Agriculture and Economic Development Committees, the panels that oversee his Department. Davies agreed five years later this was so, but noted G&FC was the one with "the big guns" in the legislature working in its behalf.

And Wilson, the G&FC director, said in 1997 he did not think either his agency or Parks and Tourism working alone could have succeeded.

To keep their hand in the upcoming election campaign, the General Assembly made the G&FC Funding Study Committee permanent by law and expanded its membership to nine from each chamber.

The lawmakers also were free with their advice about what lay ahead.

"The support is out there. We [the study committee] found that out when we held those public hearings and large crowds of vocal supporters showed up. But you've got to organize it," Bell said. The private, nonprofit foundations that support both the G&FC and Parks and Tourism must be brought in early to help with the campaign financing, he added.

"Don't just look at the people who hunt and fish for support," Hogue advised. "Get the business people and the hospitality people who will benefit involved." Hunting, fishing, and tourism are big revenue-producing industries, he noted.

Gordon was not sanguine about the election ahead. He had long ago picked up on the fact some sportsmen feared a G&FC with money would be a problem to them. "With money comes additional independence -- that seems to bother some. They seem to think the commission is more manageable if it's kept in a financial squeeze."

Gordon said in a 1997 interview that the fear a well-funded G&FC would become "too regulatory and restrictive" was "short-sighted." A well-funded agency is needed if sportsmen are going to have places to hunt and fish because the fight between them and private landowners "has really just begun."

### **Wasting No Time**

Unlike 1984 and 1986, there was no significant lull before campaigning planning began in earnest. In response to their commissions, legislators and other supporters already asking what they were doing, Davies, Wilson and Baldrige met about a month after the General Assembly adjourned and put together a list of things to be accomplished. They concluded unilateral decisions must be prevented, and this could be achieved only if they made up an executive committee to "quarterback" the upcoming campaign.

The three decided they first needed to meet with the Little Rock public relations firm that held the advertising contract with the Parks and Tourism Department -- Cranford Johnson Robinson Woods (CJRW). The meeting took place May 18, 1993.

Ron Robinson followed up the next day with a three-page letter to the three directors that recapped what had been discussed. Because the letter is a methodical, almost textbook-like agenda of what must be done to organize a campaign, major parts of it are presented here.

The first steps are to ensure that all legal hurdles are addressed and a campaign committee established properly. A meeting was scheduled May 26 with Rob Shafer of the Friday, Eldredge and Clark law firm, at which he would present a briefing on general campaign legal considerations as well as issues specific to state agency involvement in a campaign.

Other points addressed were:

- The campaign must be a coordinated effort of all groups involved. To achieve this, each organization should outline the issues of importance, arguments for and against the tax increase, and the benefits the new money will provide. That information could then be merged into a White Paper\* that would serve as the basis for the campaign message. To further coordination, it was important to employ a campaign operative who would assist with development of the campaign plan, oversee campaign activities, and serve as a spokesperson for the issue.

*\*Obviously, both the Game & Fish Commission and Parks and Tourism already had done much of this spadework. The job at hand was to meld their needs and their benefits from the tax into a single coherent public message.*

- Obviously, fund-raising would be critical to the success of the campaign. Potential major contributors had to be identified and a system developed to raise money from smaller donors as well. "We must determine possible positive and negative considerations related to accepting large contributions from major retailers or manufacturers who might have a particular interest in one or more of the agencies that will benefit from the tax increase."
- Benchmark research should be conducted very quickly, with tracking studies to be done throughout the campaign period. The Nature Conservancy has funded such research in other states, and Steve Wilson agreed to discuss with Nancy DeLamar possible support from the Arkansas Nature Conservancy. Cost for research of this kind will likely be \$50,000 to \$80,000. Issues to be addressed, in addition to major contributors, including possible campaign chairmen, arguments in support of the tax increase, and equity of the Department directors involved in the project should be included.
- Broad groups of supporters can be identified easily. Mailing lists for these groups should be obtained and entered into a database for use in fund-raising and 'get-out-the-vote' efforts. Computer software is available for this kind of list management, and various options should be investigated to ensure that the list can be manipulated for different uses.
- ...volunteers will be critical to this effort. It is believed many willing volunteers are available and simply need to be organized. It is recommended county organizations be developed to

allow local volunteers the opportunity to become involved in the campaign effort. In addition, state agency employees who want to be involved must be informed of the regulations related to their work on behalf of the tax. Rob Shafer will advise on the best way to achieve this.

- To gain the support of various groups, it will be important to develop lists of projects to be funded with the new money generated. Tax increases are traditionally very difficult to pass, but money earmarked for specific projects allows voters to see something that is important to them as they make a decision on tax issues.
- ...groups opposed to the tax increase will form. ...begin immediately to identify potential opponents and determine how to neutralize their opposition. One method for overcoming opposition is to develop a strong organization very early. This often discourages many opponents.
- ...a communication plan will be a part of the overall campaign strategy. The group specifically discussed the paid advertising component of the communications effort....paid advertising would not begin until Fall 1994, with the specific timeframe and media recommendations to be determined by budget.

With his letter, Robinson sent each director a list of campaign organization steps that needed to be taken within 30 to 45 days and information forms to be completed by each agency on contributors, supporters and opponents, campaign chairmen, and other issues before the May 26 meeting. The task list, elements chart, and form for contributors make up Appendix E.

### **Acting Legally**

Shafer gave the group a legal overview at the May 26 meeting, including something new for the G&FC: when the issue is placed on the ballot by the legislature, the Secretary of State is responsible for developing and certifying the ballot title.

But the group can help, and Shafer recommended it ask Secretary of State W.J. "Bill" McCuen to seek the attorney general's help.

Arkansas had some new campaign disclosure laws on the books that required the committee working for the issue to identify itself and file financial reports every 30 days. There were no donation limits, Shafer said, but all contributions of \$100 or more had to be itemized. To the Internal Revenue Service, the committee would be a 501(c) (4) organization, meaning contributions would not be tax deductible but the group itself would be tax-exempt. As a precaution, Shafer said a letter should be sent to the IRS.

Because four state agencies now were involved, Shafer spent much of his time reviewing the campaign "dos and don'ts" for their employees. For example, no literature could be placed on

state-owned vehicles and intimidation or pressure on employees for political purposes was prohibited. Campaign literature and stickers legally could be distributed in state offices, but Shafer advised against it for public relations reasons. CJRW's Skip Rutherford recommended preparing a list of "dos and don'ts" to give to employees.

Shafer said employee time and reimbursed expenses for speeches related to the campaign would be a "reasonable expense," but warned that direct expenditure of appropriated funds on the campaign would not be acceptable. He also said state employees should not accept campaign contributions while on state time.

Other matters discussed were possible campaign treasurers, consultants, and research firms, and the next meeting was scheduled for June 3 with specific tasks to be accomplished by then.

By June 3, the agency directors had settled on Hogue and Edwards to be the campaign committee co-chairmen, and Bruce Engstrom had agreed to donate his time as treasurer with expenses to be reimbursed. (Engstrom turned out to be an invaluable member of the committee.)

A news conference was held July 7 at Pinnacle Mountain State Park to announce the campaign leadership. An outline for holding this or any other press conference was prepared, and it is Appendix F.

For initial filing purposes, the campaign organization would be called the Conservation Campaign Committee with other names to be tested with focus groups and other research methods. This changed, however, and papers were filed for a group with the technically correct but uninspiring name of the "House Joint Resolution 1011 Exploratory Committee." The directors agreed at least one person from each of Arkansas' 75 counties had to be on the committee. The group's name was not changed to "The Natural State Committee" until May 1994.

CJRW's Kay Stebbins was concerned about developing a uniform format for the white paper, and told each director she wanted their agencies to provide information on these points to be added to introductory material about the amendment and any similar provisions that might exist in other states:

- General benefits of the amendment;
- Specific benefits to your target audience;
- Plans for use of revenue over a 10-year period; and
- What happens if amendment fails and money is not available.

Four market research firms and three political consultants submitted proposals. Each firm and consultant was interviewed at the group's June 15 meeting. The group was not sure of what it

needed, and consultant Bill Paschall was chosen. Selection of a research firm was delayed so that the consultant could have a hand in the decision.

By June 23, a contract for communications services had been developed with CJRW.

Continuing the methodical, professional approach that had been adopted so far in sharp contrast to the 1984 and 1986 campaigns, the group had set the specific times and dates for all of its meetings through September.

By the end of September, just over \$15,000 in contributions had been received, but outgo already had been heavy with payments to Paschall and to CJRW, among others, leaving the committee with \$1,111. Substantial help came on October 20 with a \$10,000 gift from Stephens Inc., the investment banking firm, and another \$10,000 in November from Arkansas Power & Light Co., now Entergy.

A revised campaign budget was prepared in December 1993 in which projected expenditures were lowered to \$500,000 from \$600,000. Of this, 64.4 percent or \$322,000 was earmarked for "message delivery" in the form of production, paid media (advertising) and collaterals. The next largest percent was 9.66 for administration -- an office, utilities/equipment/phone, campaign managers, and support staff. The budget was pure fantasy.

### **Worries Surface**

At the campaign committee's first meeting in 1994, Engstrom reported fund-raising was slow and "much work needs to be done." Urgency was injected into the situation with the reminder that during the spring and summer, other campaigns would start buying all the television slots available during the last few weeks before the election, which could leave nothing for the conservation sales tax. Money needed to be raised *now* in order to compete for the time. The group committed to put 60 percent of all future contributions in escrow to buy TV ad time.

Paschall had met with the Farm Bureau Federation and organized labor and found both would be neutral on the 1/8th-cent tax because they had "bigger things to worry about." He also said Arkansas teachers "have no idea about the tax" and "We should try to make inroads here."

But Paschall also had learned the soft drink industry was planning to spend up to \$2 million to repeal by referred act the tax that was placed on it in December 1992 to bail out the state's Medicaid program. The industry's campaign, Paschall explained, would be anti-tax and "will try to paint state government as bloated, wasteful and corrupt. In other words, they will be

working directly against us." Wilson said this made it "imperative" that "we define our campaign before they have a chance to define it for us."

Wilson also said it was time to get the grass roots effort moving, and Davies said a campaign director was needed in each county. No movement on either took place for months.

### **Critical Research**

As Wilson had requested, Nancy DeLamar was able to persuade the national office of her employer, The Nature Conservancy, to pay for public opinion research by Bennett, Petts & Associates, Inc., a top-notch Washington-based firm.

Bennett, Petts & Associates, Inc., surveyed 600 registered voters in Arkansas' four congressional districts between January 11-13 with an eye toward developing a strategy to pass the conservation sales tax.

Some results were encouraging. For example, 91 percent recognized the name of the Department of Parks and Tourism, and 72 percent of the respondents had a favorable impression of it. The Game & Fish Commission had 80 percent name recognition with a 59 percent favorable rating and only 10 percent unfavorable.

Sixty-six percent of those who responded said park rangers did an "excellent to good" job, and wildlife officers were not far behind at 63 percent. The "fair/poor" rating was 21 percent for park rangers and 24 percent for wildlife officers.

Because of the healthy respect this showed Arkansans held for those in uniform, park rangers and wildlife officers were featured prominently in all campaign videos developed after the survey.

This was the end of the good news.

Reducing crime, improving education, and a better economy in that order topped the list of issues and problems concerning Arkansans. Preserving and maintaining Arkansas' natural lands was an extremely low priority, even among "heavy" users, being rated important by only 9 percent of all voters surveyed.

Sixty-seven percent of respondents said the amount of money being spent on state parks was "about right." In spite of a decade in which the G&FC had told Arkansans of its financial plight, 58 percent said they thought spending on game and fish lands was "about right." But 64 percent and 68 percent said education and the police, respectively, needed more money.

However, 61 percent said they thought Parks and Tourism was doing a good job with the money it received, which was slightly ahead of how the local sheriff and police were rated on this point, whereas only 57 percent said the G&FC was doing a good job with its funds. Only the Department of Arkansas Heritage had more people (31 percent) saying it was doing a fair/poor job than an excellent/good job (26 percent).

After going through all of the positive arguments that had been developed to date for the 1/8-cent tax, the survey showed that the levy still ended up losing by 44 percent to 50 percent, which was on target with what the measure received in 1984 when the proceeds were targeted just for the G&FC.

The election would be difficult to win, Bennett, Petts & Associates advised, but establishing the need for the money and demonstrating it would be well spent were necessary to strengthen the existing base of support. These two points could be established simultaneously, the firm said.

The strongest case tested for the conservation tax was "a direct rebuttal of the strongest negative charge: the conservation tax is constitutionally earmarked for these specific purposes and is guaranteed to make it into the field, not go to Little Rock." Each received a 48 percent approval response.

As a corollary, Bennett, Petts & Associates continued, the campaign must assure voters there will be spending oversight and that the money will go where it is needed, not to the bureaucrats in Little Rock.

In short, the agencies first had to convince voters the new money was needed and that existing funds were being used well. Then, if the tax had any chance of winning, the campaign would have to play the "anti-Little Rock card" by emphasizing that by being put in the constitution, the money would be beyond the reach of politicians and bureaucrats.

Nature Conservancy staff members visited Washington on January 24, 1994, for a briefing on the survey findings. Based on a post-meeting memorandum, at least one came away from it with some optimism.

The staff member concluded that "all bets are off, we may win by a mile or by a hair. At this point, the poll indicates the outcome isn't predictable." If the vote were held that day, the tax would not win, but she saw avenues available to change this.

Among other things, the memorandum advised:

Most people think we have enough money and are spending it well.

WE NEED TO CREATE THE NEED! Otherwise, the waste in government issue [to be raised by the soft drink industry--Ed.] can cut into the support for this initiative, even among the strong supporters.

....

The park wardens [sic] and game wardens...[can] deliver the message. We need to do it park by park and acre by acre. We know our best messengers are local people.

It also advised: "Tie the message to the emotions [at the local level]. Pride, outdoor ethic. Tie this to the constitution so it can never be changed. Build on need. People aren't convinced places are at risk. This money will protect OUR ethic. It is what makes Arkansas. Without this heritage, it wouldn't be Arkansas. We must make the case it is about to change. Once this tax is passed, it is set in the constitution, not controlled by the legislature. Make it clear what will happen to the money. Paint the picture `Next year it won't be there.'"

### **Local Verification**

The G&FC already knew this based on a series of meetings with its employees held around the state during the 1993 legislative session. The agency had sent green binders full of information to its employees, but based on memoranda that recapped reactions and concerns, this was not enough. They still wanted and needed to know:

- Who are our supporters and opponents, and who are the non-committed so that we can concentrate our efforts on them?
- It is hard to convince some voters the agency is broke when it keeps spending money on new projects such as building regional offices and on acquiring. "We've been telling people we're going broke for so long nobody believes it," one commented.
- Are the commissioners really supporting the tax?
- We feel threatened because of Commissioner Hal Hunnicutt's remarks about laying off employees. (There was a strong desire that the commission stop threatening and start threatening the public with program and service cutbacks.)
- More details are needed about how the tax money will be spent in particular parts of the state. "People in Benton County don't care how much money we're spending on swampland (wetlands) in east Arkansas. These people want to know what Game and Fish is doing in Northwest Arkansas," Marcus Kilburn reported in his memorandum.

- Expanding on the above, one employee said different were needed to hand out to the public because "Hunters don't give a rip about bluebirds and urban wildlife, and the Audubon Society doesn't want to hear about the best place to deer hunt. We need one package aimed at hunting and fishing groups and another...for groups that don't hunt and fish."
- Just how much "campaigning" can employees do on agency ? Will employees be reprimanded if they're reported?
- How much is and will Parks and Tourism help with the effort?
- Counties will do more to help us if we turn back fines to them from convictions of wildlife violations.

Another employee asked for clarification about whether he could ask private hunting clubs to contribute to the campaign without jeopardizing their nonprofit status.

The answer from J. Lee Brown at The Friday Law Firm was that tax-exempt organizations regarded as charities under Section 501 (c) (3) of the Internal Revenue Service Code precluded "substantial" political campaign activities on their part, but:

I suspect that most hunting clubs, if tax-exempt at all, would fall under Code Section 501 (c) (7) relating to social clubs. As long as 'substantially all' of the activities... [of such groups] are conducted for pleasure, recreation or other non-profitable purposes, then it should be acceptable for a relatively insubstantial amount of club money to be used for influencing legislation.

With respect to individuals making contributions or otherwise supporting political activities, the hunting club charter or any rules relating to tax-exempt organizations should not affect an individual's personal decision to support or participate in any political activity.

With respect to the hunting club itself, there is no law which says that a club or corporation may not support a particular state political activity.

In fact, Brown pointed out, the law allows nonprofit organizations to be created for political purposes.

### **Thoughts From Within**

Throughout 1993, the G&FC had been honing its message about why it needed additional money. A draft with the first year of spending emphasized surfaced in late January 1994 in preparation for a meeting on February 4 of what Wilson called his "Natural Team" at the agency.

The draft started with the need for additional wildlife officers and stated specifically where many of them would be stationed.

Ray Sebren, the agency's new Fiscal Division chief, was concerned. The plan totaled more than \$20.6 million with 116 new employees. "*We* have to cut \$6,623,000," he declared in a memorandum to the team, expecting \$14 million to be the projected estimate of revenues to the G&FC in the first year.

Sebren was full of other needs as well: "We need to finish this first year...so we can plan the next four years. We need to update the criteria in our land acquisition policy. We need to make contingency plans in case the tax fails. We need to consider increases on resident license fees to take to the legislature in January '95 in case the tax fails."

A well-marked copy of a draft dated February 4 showed the Natural Team succeeded in slashing the proposed spending in the first year of the tax to \$14 million. But the most significant point was that an unidentified staff member penciled this in on Page 6: "D. Urban nature centers -- ? Little Rock Fort Smith Pine Bluff Jonesboro Prob. one every 2-4 years." This addition, which became formalized in subsequent drafts, later became a major selling point for the conservation tax in urban areas and even precipitated a fight about which city would get the first one.

On March 24, the Department of Finance and Administration estimated the tax would yield \$32.8 million in its first year, with G&FC and Parks receiving \$14.3 million each.

The G&FC issued its 1994 "Plan for Conservation" in May (Appendix G). It contained these amounts: Law Enforcement, \$2.3 million, which was a 33 percent increase; Land acquisition and improvements, \$4.5 million or a 234 percent increase; Conservation Education, \$2 million, a 132 percent hike; and Endangered Species/Habitat Protection, \$1 million or a 506 percent increase. A private lands program for fish and wildlife was to receive \$3 million, and \$1.5 million was earmarked to restore current programs.

In many instances, however, it was impossible for the G&FC to be as specific as its own employees seemed to demand. After all, no crystal ball existed to say what lands would be put up for sale in the future by their owners.

However, Parks could be specific with their plans. They developed a detailed 10-year spending plan for each of their state parks with specific amounts attached for maintenance and repairs, for capital improvements and for acquisitions.

On April 1, Director Wilson put out the call for a new round of statewide joint meetings with G&FC and Parks and Tourism employees to bring them up to date on the campaign and to distribute new information materials -- a video, brochures, speeches. "These meetings should

serve as the official unleashing of the troops equipped with adequate artillery to charge forward and properly inform and educate the public about our efforts," he said in his memorandum to all G&FC employees.

### **Manager Needed**

Returning to The Nature Conservancy memorandum on the January meeting in Washington, it shows the organization's staff had realized that "The first short term goal is to hire a manager to run the grass roots campaign. We have to build and strengthen our base of support. We can't wait to do this, have to begin the process now."

Campaign leaders were realizing they needed a manager to do the things the agency directors could not -- pick up the phone and call people in the counties. Paschall could not do this, because he was a consultant who saw his role as advising what needed to be done and not actually doing it.

By March 2, Davies was writing to Engstrom to say that he, Wilson, and Bev Lindsey as the new director of the Department of Arkansas Heritage, had met with Paschall the previous day. As of the end of February, the committee had severed its deal with Paschall. "Bill will submit a budget to use as a maintenance budget until we can get an office set up for the campaign. After that, his services will be on a per project basis with a price agreed upon in advance," Davies wrote. He ended the letter by asking Engstrom for an up-to-date financial report for the campaign and a promise that he would forward the new budget with Paschall as soon as an agreement was reached.

By the end of May, Paschall was out of the picture.

The directors also were concerned about the mounting bills from CJRW and the lack of money to pay them. Davies finally told Shelby Woods that a "beans and wienies" rather than a "steak and potatoes" campaign was wanted, and CJRW assigned a new account executive to the effort. His name was Ron Blome, and he quickly proved to be as dedicated to the cause as anyone, Davies said. Blome was "a believer."

By May 4, Blome had synthesized all the material prepared by the agencies into "a definitive Q & A sheet" to go to reporters, volunteers, and employees. He also was at work on a one-page fact sheet (Appendix H).

## May Madness

Other than Blome's work, nothing else happened in April. Although the amendment had been published with a ballot title by the Secretary of State and assigned a number (#2) in early May, the campaign was stalled; it was a souped-up stock car on the track with no fuel (money) in the tank and no driver (manager). It was time for a war council, and one was held May 11 at The Nature Conservancy's office.

There it was learned that through the efforts of Steve Smith of the Game & Fish Commission Foundation, Bob Shults of the campaign finance committee had agreed to provide office space in west Little Rock. Southwestern Bell Telephone Co. had come through with a \$5,000 donation, which was expected to cover the cost of telephone installation and use. The office was in business by May 20, though there was no manager yet.

The Arkansas Game & Fish Foundation and the Arkansas Tourism Development Foundation had committed \$5,000 each to start and run the campaign office and do a 5,000-piece mailing to solicit support and donations from the tourism industry. Jim Gaston, president of the Tourism Development Foundation, had the letter ready by May 13, and it was mailed May 24. It emphasized the word "crisis," particularly in reference to Arkansas' decaying state parks.

The name of the campaign committee was changed to "The Natural State Committee" at the meeting, and a formal campaign kickoff was scheduled for 10 a.m. June 2 at the Old State House in downtown Little Rock, the Greek Revival structure Bill Clinton had made familiar to TV viewers worldwide by announcing his candidacy for president and acknowledging victory in front of it in 1992. The building is one of several properties under the the Department of Arkansas Heritage.

The search for a campaign manager/coordinator was going forward, a revised campaign plan and budget were adopted calling for a minimum of \$140,000 (Appendix I), and specific assignments of people and organizations were made to be contacted for support and contributions by the department directors.

The Nature Conservancy had become fixed on the need for "local empowerment" and pressed for county-by-county spending plans to be prepared by the agencies. The G&FC followed through to the extent it could.

Wilson also had drafts of letters to campaign finance committee members and for Sen. Edwards and Speaker-Elect Hogue to send to the General Assembly prepared by May 12, the day after the war council. The finance committee letters were mailed May 25 on new "The Natural State Committee" letterhead. Wilson also sent letters May 18 seeking support from every business on his agency's mailing list.

## **Re-Energized**

The energized committee was buoyed May 16 when Tucker endorsed the proposed tax during an G&FC employee appreciation program at which he said:

This tax can only be imposed by the people of Arkansas if they want to provide additional revenue to the Game and Fish Commission to try to preserve for future generations the abundant wildlife and fish that we now have in this state.

That is a choice for them. I am one of the people, and when I go to the polls in November, I'm going to vote for preserving those fish and wildlife and all of our future.

Checks began arriving almost immediately in response to the new round of Wilson's letters. On June 8, the committee reported to the Secretary of State and the Arkansas Ethics Commission that it had received more than \$3,500 in donations since May 10, had spent only \$1,815, and had about \$7,000 in cash on hand. During the entire campaign, the committee reported, slightly more than \$61,000 had been received and \$50,206 spent.

Edwards received good news June 2 from his colleague, Sen. Bill Walters, R-Greenwood, who pledged support from western Arkansas now that the G&FC was going to fulfill the promise it made during the 1993 legislative session to get his vote to put the amendment on the ballot: that the area's new fishing lake, originally named for Clinton Chief of Staff Betsey Wright, would be renamed Lake Jack Nolan in memory of Sebastian County's deceased long-time wildlife officer.

Of course, there were some "downsides." The Arkansas Municipal League voted to oppose to the tax, and the Arkansas Chapter of the Sierra Club, before agreeing to endorse the amendment, was chewing into staff member Jane Rice's time to provide answers to its complaints about various G&FC policies and practices.

## **A Big Break**

Though highly respected in the Arkansas House of Representatives, lawyer John Parkerson was virtually unknown outside his home territory of Hot Springs when he decided to run in the 1994 Democratic primary for Arkansas' Fourth Congressional District seat. He did not win, but his wife, Sandra, was impressed with the organizational skills and general know-how of Mary Klaser, the Hot Springs advertising and public relations specialist who worked her husband's campaign. Knowing The Natural State Committee was seeking a campaign manager, Sandra recommended Klaser to Steve Smith of the G&FC Foundation, and he passed the word along. Although she had no previous experience with a statewide campaign, her enthusiasm carried the day, and she was chosen from among three persons interviewed for the job.

Klaser and Davies signed a contract June 10 for her to coordinate the office, the Natural State Committee, and the finance committee from June 13 until November 11, 1994.

This time the Committee put down in writing exactly what it expected from the coordinator, including recruit volunteers for the office, think constantly about what could be obtained for "free" (such as lumber, stencils, paint for signs), become "totally familiar" with campaign law requirements and when reports had to be filed and what state agencies could or could not do, be a one-source clearinghouse for all questions about the campaign, and create a master schedule.

After organizing the office, Klaser focused first on getting county campaign committees organized even though the "work list" did not mention this. A successful campaign party and fundraiser was held in Chicot County, and on the basis of this, she put together a one-page model to use to stage similar functions for organizing all other counties.

Klaser quickly realized the job was not "doable" unless she had some clerical assistance. Her memoranda to the committee on this point became increasingly urgent in tone until the group in late August relented, but said the aide had to be willing to work on contract at not more than \$5 an hour!

### **On the Move Again**

July was consumed by nitty-gritty campaign work as Klaser, with no clerical help at the office, concentrated on getting committees organized in the state's 20 most populous counties and furnishing them with copies of videos and written materials. As questions came in, she funneled them to whichever agency could answer. Wilson, who was sidelined temporarily by a crushed

leg received in a one-car accident, was tasting some success in getting attention from national sportsmen's groups and publications.

He also made a pre-emptive strike against the Hunting Association by sending a letter to every deer camp member who could be identified in which he warned that opponents of the amendment would be misrepresenting its impact on the G&FC's independence. He wrote:

They will claim that if we begin receiving the tax money which everyone pays, the anti-hunters and animal rights activists will take over the Commission. **THAT WON'T HAPPEN** - Here's why! The strength and independence of the Arkansas Game and Fish Commission comes from the very clear and strong language of Amendment 35, which established the Game and Fish Commission in 1944 [sic]. Amendment 35 reserves the *sole* responsibility for managing all the wildlife in Arkansas to the Arkansas Game and Fish Commission. Amend-2 *does not* change Amendment 35 in any way!

A lesson can be learned from our neighbor to the north - Missouri. Missouri has an independent Game and Fish Commission established in 1935 by an amendmeent in their constitution. The people of Missouri in 1976 passed an 1/8th cent tax which has generated over \$750 million for their wildlife program. Animal rights and anti-hunter groups have not gained any more influence on the Missouri Commission since the tax because their enabling amendment wasn't changed either.

The executive committee began meeting weekly in August and spent much time discussing fund-raising. Letters were prepared for doctors, lawyers, engineers, architects and other professionals to send to their colleagues. High-profile northwest Arkansas businessmen, particularly those in the poultry industry, received a special mailing, and Blome was working on getting environmentally related businesses to donate in exchange for public recognition in print advertising.

As of August 19, contributions had totaled \$90,908, but expenses had consumed \$64,304 of this, leaving \$26,714 in cash on hand -- nowhere near enough to make a major media buy.

Model letters to the editors were written for distribution throughout the state -- one for a prominent businessman or Republican to sign to help emphasize the nonpartisan nature of the campaign, and the others for a teacher, a state parks user (average citizen or well-known outdoor enthusiast), one about litter to be signed by a member of a local beautification commission or environmentalist, one from a hunter, one about heritage/historic preservation, and one to be signed by a local Chamber of Commerce officer. Alice Hogsett, wife of G&FC Fisheries Chief

Allen Carter, wrote an editorial on the success of Missouri program that was distributed to local papers.

There finally was a sense the campaign had begun to move-- that perhaps some momentum was building. But neither the committee nor Klaser had any real sense of how the issue was doing, whether true progress was being made, and where efforts needed to be concentrated. A public opinion survey was a must, but no money was available for it. Perhaps a friendly candidate or the supporters of another issue on the ballot would permit the conservation sales tax crusade to "piggyback" and include some questions about Amendment 2.

This proved to be the case. Oaklawn Park, sponsor of an initiated casino gambling amendment on the ballot and another of CJRW's clients, included Amendment 2 questions in a survey it commissioned from Opinion Research Associates, Inc., of Little Rock (Ernest J. and Zoe Oakleaf, social scientists), which sampled 608 registered voters from August 15-20. The results were stunning because the survey found that if the election were held the day of the call, this would have been the outcome:

|                            |      |
|----------------------------|------|
| Definitely vote for it     | 51 % |
| Probably vote for it       | 16 % |
| Probably vote against it   | 6 %  |
| Definitely vote against it | 20 % |
| DK/Undecided/Refused       | 7 %  |

The Natural State Committee issued a euphoric public statement. "To say we are encouraged is an understatement...we have yet to spend a dime in advertising. We have just worked very diligently to get the message out through speakers bureaus, county fairs, etc., and it seems to be working. Also, this office has successfully organized over 40 of the most populous counties, and our county leaders are working hard in the field."

In a later in-depth analysis, Blome called the results "almost too good to be true" because "we have strong support across many demographic areas. Although there are spreads in the numbers, neither party affiliation nor political outlook nor religious affiliation seems to take away from our positive support."

The analysis also showed:

- Amendment 2 scored well with women and among blacks. The higher the education level, the more support there was for the issue.
- White males with a high school diploma or less aged 34 to 64 were a concern. "This sounds like 'Bubba' to me, and we need to go to work on it," Blome said.

- More people were inclined to support the amendment than believed a true crisis existed. "There is more work to do to spread the word about the crisis. Although women support the tax by a 71-21 percent margin, they also have the highest undecided figure (20 percent) when it comes to understanding that there is a crisis. We should target women for our crisis message," he advised.
- The Second Congressional District (Pulaski, Saline, Perry, Faulkner, White, Conway and Yell Counties) showed the most weakness. The highest against figure (31 percent) was in this area, as was the highest "don't believe there's a crisis" (35 percent).\* "We can make up ground," Blome said, because 18 percent of the Second District was undecided on a crisis.

*\*As Missouri's Stegner pointed out in Part 1, the county in which the state's capital, Jefferson City, is located never supported the 1/8th-cent conservation tax, which he attributed to jealousy by employees of other state agencies.*

"We need a Bubba strategy!" Blome told the committee. As part of it, he continued, "I think Game and Fish should use their [sic] anniversary events to shore up this area. We also need a Second District strategy. This will probably involve some Little Rock based media events as well as grass roots organization."

"Push the Crisis" also needed to be stepped up, Blome said, perhaps by the Heritage Department and the G&FC using Commission meetings "to announce the impending consequences of a *no* vote."

Finally, Blome cautioned the committee, the survey did not represent any votes that had been cast yet. Further, "the full weight of TV ads against the Soda Tax have not hit. The [Sheffield] Nelson\* TV ads have not hit. We have very strong support among young people who may not vote this year. Voter turnout can have a drastic effect on our measure."

*\*Nelson was the Republican nominee for governor; he opposed Amendment 2, but that did not stop him from soliciting its active supporters for donations to his campaign.*

### **Perception vs. Reality**

On the whole, the campaign seemed to be gelling in August, but there were problems.

Jim Guy Tucker was a governor who believed that to the extent possible, users of a state service or program should pay for it rather than it being financed from tax revenues collected from everyone. He persuaded the 1993 General Assembly to cut general revenues for the Parks and Tourism Department by \$4.5 million, and in January 1995, the Parks, Recreation and Travel Commission put a \$2 entrance fee on most parks that had not known a charge before and lowered

the 50 percent senior citizen camping discount by half. Davies and Parks Director Greg Butts were quoted in the media repeatedly as saying the entrance fees and discount cut were unrelated to the conservation sales tax and were an exclusive result of the general revenue loss.

In spite of this, the public linked the fees with the tax. The Commission was aware of this public misperception and tried to capitalize on it in mid-August by voting to repeal the entrance fees and reinstate the 50 percent discount if the tax passed on November 8.

In fact, the fees and reduced discount were miserable failures. Through July, the entrance fees had produced only \$315,805. Either people had cut their use of the parks drastically or they were refusing to honor the "honor system" fee boxes.

Building and manning check points would not have been cost effective at facilities with numerous entrances and where foot traffic could defeat the system, Davies explained.

Further, senior citizens "made a statement" with their feet. Parks officials rented 35,275 campsites to seniors through January 1993 compared to only 16,262 for the same period in 1994.

Max Brantley, editor of the *Arkansas Times*, popped the Commission for dishonesty in its August promise to discontinue the fees if the tax passed. On the August 19 broadcast of "Arkansas Week," a 30-minute program on the Arkansas Educational Television Network (AETN) watched primarily by political activists and politically aware opinion-makers, Brantley said there was "some dishonesty in this thing because when the fees were instituted, Parks officials said, 'Listen, this is to keep us above ground. The 1/8th cent is for needed improvements. We actually need both those revenue sources, not just one or the other.' And they've had to back away from that because of political reality."

Brantley's criticism stung, and the Commission's action left a bad taste in the mouths of those who "knew better."

On the whole, however, the favorable survey results and endorsements from entities ranging from the Arkansas Industrial Development Commission to the Arkansas Cattleman's Association made August an encouraging month.

### **Legal Time Bomb**

Though there were individuals associated with the campaign who could have given a "heads up" to The Natural State Committee, none told the directors or the manager about a legal land mine that had been filed August 9, 1994, in Pulaski County Chancery Court.

Former state Sen. Bill Walmsley of Batesville and others associated with organizations close to Oaklawn Park asked the court to enjoin Secretary of State McCuen from putting

Amendment 3 on the November 8 ballot, or if votes were cast on the issue, to order him not to count or certify them.

Amendment 3 was one of the three the 1993 General Assembly put on the ballot. It would have removed "from the definition of lottery [prohibited by the constitution] certain charitable games of bingo and charitable raffles."

Walmsley and his fellow plaintiffs contended McCuen did not comply with Section 22 of Article 19 of the state's 1874 Constitution that the proposed amendment be "published in at least one newspaper in each county, where a newspaper is published, for six months immediately preceding the next general election..."

McCuen had published a "Public Notice" on May 6 containing the number, popular name, and ballot title of each of the three amendments submitted by the legislature along with a statement that the full text would be published at a time and date to be announced. He was complying with Section 7-9-113 (b) (2) of the Arkansas Code as amended by Act 798 of 1991, which provides that "Publication of the notice for amendments proposed by the General Assembly shall commence six (6) months...before the election." Subsection (c) of the statute stated: "At least one (1) notice shall contain the number, the popular name, the ballot title, and a complete text of the measure to be submitted...."

There were three proposed amendments on the ballot to alter Arkansas' constitutional ban on gambling. Amendment 3 came from the legislature. The other initiated amendments proposed casino gambling; one was sponsored primarily by Oaklawn and the other came from Mississippi County planter Mike Wilson.

People were constantly asking: what happens if all three pass? The answer was: the one receiving the most votes – even if the margin was a single ballot -- would be enacted. Polls showed none was winning but that Amendment 3 had the best chance.

Some conservation sales tax campaign leaders theorized Oaklawn felt it could not stand by and take the chance of being beaten by Amendment 3. Therefore, the thoroughbred track hired lawyers to find some way to get Amendment 3 kicked off the ballot. Thus the lawsuit.

### **Going Full Blast**

Klaser paused in early September to take stock of the campaign's finances and put together a revised budget for the remaining two months. Through September 2, cash and in-kind contributions had totaled \$105,717, including \$10,000 Wilson's contacts had brought in from the

Western Association of Fish and Wildlife based in Sacramento, California. Expenditures totaled \$67,636. With interest earned on its account, the campaign had \$38,219 in cash -- not enough for even a modest television ad "buy."

Within a matter of days, however, the committee began focusing on raising enough for a media "buy." On September 8, Wilson sent a thank you letter to the Western Association in which he said its gift combined with two other \$10,000 contributions from the Southeastern Association of Fish and Wildlife Agencies and the International Association of Fish and Wildlife Agencies would be used for television ads.

Davies sent an urgent letter for a donation to Tommy Hillman of the Winrock Group, saying, "The good news is that some recent polling shows that just over half the people of the state are convinced we have a crisis and are willing to help. The bad news is that we are operating a campaign with hardly any financial resources and the amendment cannot pass unless a modest informational campaign is mounted in the closing weeks."

With computer-savvy Aimee Richards now on board as Klaser's office assistant, the staff was able by September 14 to determine where the committee was getting the bulk of its contributions -a vital point because of the correlation between monetary support even eventual poll results. The tally showed absolutely nothing had been received to date from 28 of Arkansas' 75 counties.

State and local campaign supporters scheduled 500 talks and other appearances across the state in September. Fund-raiser socials continued as well, including one in Baxter County that raised \$3,000, which the local newspaper said "reportedly was the biggest show of financial support the committee's received so far from such events."

County organization work continued with some "stars" emerging. For example, Rick Evans, general manager of the Calion Lumber Co., sent a letter to 92 hunting clubs in his area, prompting Klaser to tell The Natural State Committee, "Personally, I think this guy would make one hell of a commissioner. He is self-motivated, and is going to help us immensely with Bubba. If only the rest of my county leaders were this good..."

Evans was rewarded for his work late in the year when Tucker appointed him to fill the vacancy on the G&FC created by the abrupt resignation of Hal Hunnicutt of Conway.

John W. Stokes Jr. of Memphis was another "star" for writing and sending a letter for The Conservation Plan - 1994 at his own expense to 700 members of the Horseshoe Lake Lessees and Land Owners Association in Crittenden County.

The G&FC did its part on the "crisis" point as Ray Sebren, its chief fiscal officer, reported to the panel September 19 that if the agency continued to operate at a regular level of activity, a \$7.6 million deficit would occur in the next five years.

"The bottom line is we can't make it through the next biennium without some program cuts, without new revenue, or a combination," he said, going on to explain how he reached this conclusion:

We started with our 1994-95 budget and assumed that revenues would remain the same. I don't have anything to base an increase on at this point. We assume that expenses will grow 3 percent annually, and unlike the federal government, we can't deficit spend.

Meanwhile, Pulaski County Chancellor Robin Mays held a hearing September 9 on the lawsuit challenging the Secretary of State's advertisement of Amendment 3. She declined to issue an injunction against McCuen as requested.

Chancellor Mays relied on statutory law rather than the Constitution in making her ruling, but acknowledged there had to be at least one publication of the entire text of the amendment. She McCuen would have time to comply with this requirement before the general election.

Walmsley and the other plaintiffs filed an immediate appeal with the Supreme Court and asked for an expedited schedule, which was granted.

On October 3, the committee listed confirmed new contributions totaling \$52,500 -- \$10,000 each from the International Association, Ducks Unlimited, the Game & Fish Commission Foundation, and Commissioner Kirk Dupps' collections from Peterson Industries, Frito Lay/Arkansas, J.B. Hunt, Hudson Foods, Tyson Foods and Cooper Communities, plus \$5,000 each from the Parks and Tourism Development Foundation and PRADCO, a Fort Smith fishing lure manufacturer, \$1,000 each from former Commissioner Frank Lyon Jr. and Twin City Bank, and \$500 from Weyerhaeuser Co.

With this list as a source of comfort, the committee that day bought \$43,895 worth of ad time or a total of 181 spots on four Little Rock television stations.

Wilson told his commissioners the next day the "buy" gave the campaign "733 gross rating points (1000 is optimum), 94.5 reach (% of voters reached), and 8.5 frequency (number of times voter will see the spot)" in Central Arkansas. "We think it's a very good buy considering that there wasn't much left and we didn't have much money," he continued. "We still must raise about \$20,000 to pay for this. So, if you know of prospects, ask for money. Thanks."

### **Avoiding a Trap**

The Natural State Committee turned down 30 minutes of free time on AETN and managed to capitalize on the situation.

AETN Public Affairs Producer Casey Sanders had assured Wilson the planned program was not a debate format, yet a panel that included the state Republican Party chairman was going to explore both sides of the Conservation Sales Tax issue.

Wilson originally accepted an invitation to participate on the program, but when he consulted his Natural State Committee colleagues, they asked how the appearance of a debate could be avoided if partisans from both sides were going to discuss the issue.

The committee declined to appear, and Klaser gave AETN Director Susan Howarth these reasons:

- AETN shifted the focus from an informational discussion about the needs of the state agencies into a partisan debate by inviting the chairman of one of the state's political parties. Amendment 2 is a non-partisan issue.
- The AETN format will not accommodate all four agencies represented in this issue to participate in the taping.
- The format, as suggested, is inappropriate because the agency directors who are providing information about this amendment are prohibited by law from asking for votes, while the opposition to this issue is free to ask for a negative response from voters.

A statement explaining the refusal was prepared for the show in which the directors emphasized that "Amendment 2 is not about republicans and democrats. It is about saving our state parks, wildlife, scenic rivers and cultural and historic resources for our children and grandchildren."

### **Politics Everywhere**

Politics were inescapable. During the summer, the G&FC had bowed to pressure from Arkansas sportsmen by giving them a longer hunting season rather than an extra duck. Then rumors began to surface that national wildlife refuges, including Felsenthal near El Dorado, were going to be closed to hunting.

Secretary of the Interior Bruce Babbitt came to Arkansas October 11 to stump for state Sen. Jay Bradford of Pine Bluff, the Democratic challenger to U.S. Rep. Jay Dickey, R-Pine Bluff. Babbitt vowed at a news conference that "as long as I'm Secretary of the Interior, Felsenthal and all of the rest of the waterfowl refuges are going to be used for hunting." But he added he would be unable to keep this promise if his department received additional budget cuts.

The *Arkansas Democrat-Gazette* published a picture on page 1 of its state section October 12 showing Wilson sitting in a chair listening to Babbitt expound on the refuge issue. The reaction was immediate and harsh from some Dickey supporters. But Wilson is known to give at least as well as he gets, and he told critic Robby Selph of Texarkana:

My sole purpose for being anywhere near the Babbitt press conference was to meet with Secretary Babbitt regarding hunting, fishing and trapping on National Wildlife Refuges.

It has been my practice to meet with any Secretary of Interior regardless of party affiliation whenever they visit Arkansas. I was there to try to impress upon Secretary Babbitt the seriousness of the refuge issue. I was not there at the request of Jay Bradford or in support of him.

Amendment 2 is far bigger than partisan politics, it's far bigger than me or any political candidate. I'm sorry your mis-interpretation of my purpose lead [sic] you to a different view.

Steve Bowman, outdoor editor of Arkansas' only statewide newspaper, oxygenated the fire by writing October 13 that Babbitt's "babble" had done nothing to allay sportsmen's fears. While thoroughly versed in "hooks and bullets," Bowman often is susceptible to being swept up in and thereby contributing to the political hysteria that sometimes besets sportsmen. He roundly criticized Wilson for not meeting in private with Babbitt to discuss the refuge situation. (The sportsmen's fears concerning the U.S. Fish and Wildlife Service in Babbitt's department never came to pass.)

### **Alive -- Then `We're Dead'**

Friday, October 14, dawned with the beauty of the *Arkansas Democrat-Gazette* publishing the results of a poll it had commissioned by Mason-Dixon Political/Media Research,

Inc., of Columbia, Md., which showed 64 percent voter support for the 1/8th-cent conservation sales tax! Twenty-seven percent were opposed and 9 percent were undecided.

Mason-Dixon conducted telephone interviews from October 5-7 with 816 registered voters who regularly participate in state elections, giving the survey a margin of error of plus or minus 3.5 percent.

What grabbed the headline, however, was that the poll showed both initiated casino gambling amendments on the ballot failing by substantial margins. Amendment 3, the proposal the legislature put on the ballot to legalize charitable bingo and raffles, was still closer to winning with 48 percent of those interviewed favoring it.

Amendment 1 proposed by the legislature, which would allow the governor to fill legislative vacancies and a vacancy in the lieutenant governor's office, had 48 percent support to 35 percent saying "no" and 17 percent undecided.

The only other issue on the ballot -- repeal of the soft drink tax -- was supported by 47 percent, opposed by 37 percent, and had 16 percent undecided. Ultimately, this is the only issue on which Arkansans voted November 8, and the tax was not repealed.

Within hours, the spirits that had soared on the results of the Mason-Dixon poll results plummeted to earth on a 6-1 Supreme Court decision that reversed and remanded Chancellor Mays' ruling on the advertising of Amendment 3.

Associate Justice David Newbern said the Constitution was clear, and the 1991 law the legislature had enacted involving advertising amendments conflicted with it.

"We hold that an amendment referred to the electors in accordance with art. 19, Section 22, must be published 'for six months' prior to the general election to which it is subject. By failing to publish the amendment at any time prior to September 9, 1994, Mr. McCuen has not complied with the requirement with respect to an amendment to be considered at the November 8, 1994, general election."

Associate Justice Steele Hays was the only dissenter, saying the Constitution was not as clear as the majority asserted. Article 19, Section 22, he declared, "is manifestly inexplicit in the number of times a proposal must be published and in whether the publication of the entire text must precede the election by six months."

Despite Justice Hays, Amendment 3 was off the ballot on a ruling that it had not been advertised constitutionally by the Secretary of State.

If Amendment 3 was flawed for this reason, so were Amendments 1 and 2. Klaser said her immediate thought on hearing about Amendment 3 was, "We're dead."

This would be true only if someone went to court to challenge Amendment 2. To even hope this wouldn't happen was a pipedream.

Ironically, the night after the Amendment 3 decision, G&FC's Jane Rice and her husband, Tourism Director Joe David Rice, held one of the most successful fundraisers of 1994 (it netted over \$6,000) at their home. Those there noted a palpable dread among the campaign principals.

### **The `Gatehater' Strikes**

On the raw, windy, soggy first day of 1991, the author drove to the Sheridan area to interview a retired logger, Clarence Harris, and some of his hunting buddies. The visit yielded a magazine article that began:

When Clarence Harris was a farm-fresh Arkansas teenager, he served on an aircraft carrier in the South Pacific where he and his shipmates dodged Japanese suicide or kamikaze pilots...

...

While at sea for the United States, Harris thought he was defending his right to continue living as he had grown up -- hunting deer and other game belonging to all Arkansans on vast stretches of land he didn't own and that were inhabited only by pines, an occasional hardwood stand, and his prey.

It hasn't been this way since some of Arkansas' big timber companies found a way six years ago to make an extra buck for their stockholders or private owners by leasing hunting rights on their property, and Harris is furious about it...

While he and the author drove through the countryside, Harris conceded his anger really came from changes he saw taking place that he did not like and felt helpless to stop. Situations like this scream out for scapegoats, and Harris found his in the Arkansas Game & Fish Commission.

He and his chums, organized as the Arkansas Hunting Association, lost a lawsuit in Pulaski County Chancery Court in early 1993 in which they challenged International Paper Co. and the G&FC on management of the Lafayette Wildlife Management Area.

Harris got his revenge on October 19, 1994, when his attorney, David O. Bowden, filed a lawsuit in his name to enjoin McCuen from putting Amendment 2 on the November 8 ballot (that already had been printed) because of improper advertising. The action gave Harris a forum for airing his grudges against the G&FC, particularly in coverage by the *Arkansas Democrat-Gazette*.

It was no solace to Amendment 2's distraught supporters that on the same day, an independent gubernatorial candidate who had been tossed off the ballot earlier by a court, filed suit to stop McCuen from putting the legislature's Amendment 1 on the ballot for the same advertising miscue.

### **Fighting Back**

The Natural State Committee immediately hired constitutional law expert Leon Holmes of the Little Rock law firm of Williams & Anderson to represent it in defending Amendment 2.

"We're going to go down fighting if we're going to go down," Davies told the world.

Wilson immediately dispatched a memorandum to all G&FC employees, informing them about Holmes and explaining that to help the lawyer, "we need to make sure all our efforts to 'get the word out' on Amendment 2 are documented. If you have newspaper clippings or Informational Program reports from your area, please send them...right away. As things stand, we're still on the ballot, and we are proceeding full speed ahead."

Wilson also considered it important to show the legislature and those who had been working diligently that if Amendment 2 was kicked off the ballot, the G&FC would not be giving up. On October 21, he sent a popular name and proposed ballot title for an initiated 1/8th-cent conservation sales tax constitutional amendment to Attorney General Winston Bryant with a request that it be approved and that instructions be furnished for canvassers and signers of the proposed petition.

A week later, Holmes filed a motion by Klaser and The Natural State Committee to intervene in Harris' lawsuit. It said the committee had distributed more than a million pieces of literature in an effort to educate the voters about Amendment 2, had recruited volunteers in every county, and had spent more than \$100,000 so far. The motion also asserted that Harris' action was too late -- that he had "slept on his rights" to challenge the amendment.

Bowden filed an objection the next day, charging that because Hogue, Edwards and Wilson were members of the legislative and executive branches of government, respectively, and also were members of The Natural State Committee, their intervention was a violation of the

separation of powers. Holmes shredded the objection in a reply October 27, and Pulaski County Chancellor Ellen B. Brantley granted the motion to intervene. Three legislators (Sens. Nick Wilson, D-Pocahontas, and Vic Snyder, D-Little Rock, and Rep. Mark Pryor, D-Little Rock) also were allowed to intervene as they had on the challenge to Amendment 1.

The stage was now set for a November 2 hearing on Harris' request for a preliminary injunction. By the time the parties assembled in Judge Brantley's tiny Pulaski County courtroom on the afternoon of November 2, Amendment 2 was the only issue other than the soft drink tax still left on the ballot.

To stop a preliminary injunction, the state had to prove three points: that such an order would cause irreparable harm; that it would be against the public interest; and that the state was likely to prevail when the merits of the case were tried.

Judge Brantley indicated from the bench that the state won the first two points but lost the last one.

Holmes argued a preliminary injunction against McCuen would cause irreversible harm to the state because it would lose about \$70 million without the tax.

On the public issue matter, testimony from Union County Coordinator Rick Evans and his Baxter County counterpart, Sam Speer, focused on how volunteer groups like theirs had worked to inform voters about the issue. Further, campaign officials told the judge they had collected \$181,085 in contributions and had \$125,286 in known expenses.

The most disturbing aspect of the hearing came when Holmes cited the case of *Ellis v. Hall*, in which the Supreme Court had refused on October 20, 1952, to strike a question from the ballot because the lawsuit had not been filed in time for the case to be heard fully before the election.

Judge Brantley admitted she was unfamiliar with the case, and said if it had been offered as a precedent before the Supreme Court on the bingo amendment, she might not have to grant Harris' plea.

"I have his constitutional rights on one side, and I have \$70 million on the other. How do you weigh that?" she asked. The defining legal issue was whether Harris would be likely to win when and if the case was heard on its merits. Based on the Supreme Court's bingo amendment, he would win, and Judge Brantley said she felt she had no choice but to grant the preliminary injunction.

## Vote Anyway

Judge Brantley issued the preliminary injunction the next day, and attorneys for the state and The Natural Committee went directly to the Supreme Court and filed an appeal, an abstract, a brief, and a motion for an expedited hearing. One point on appeal was that Judge Brantley's ruling in effect gave the Secretary of State a veto power over the General Assembly's constitutional right to refer constitution amendments to the people for a vote. *Ellis v. Hall* was cited in the brief.

On Friday, November 4, the court issued a per curiam order denying the request for an expedited hearing. It explained the case was not like the "bingo amendment" because:

There, we were able to order a reasonable briefing schedule which would not be prejudicial to either party. Here, we are asked to require the appellee [Harris] to present a brief in time to hold arguments on Monday, November 7, 1994, so that the case will be decided prior to the election. To do so would not only be unfair to the appellee, it would also not give this Court the time needed for deliberation of the issue or issues to be presented. We, therefore, must deny the motion for expedited consideration.

Associate Justice Steele Hays issued a dissent, saying that yes, it was the eleventh hour, but this was not the fault of Amendment 2's proponents. "It is the appellee who waited until the eve of the election itself to challenge the proposal in court,...and effectively eliminating appellate review, to the incalculable loss of the proponents."

Judge Hays also picked up on the fact that different issues were involved than had been presented in the bingo amendment case.

As soon as the Supreme Court spoke, Blome went to the telephone and canceled all of the weekend television spots and those that could be canceled among the newspaper ads that had been placed. This allowed The Natural State Committee to put about \$40,000 in a certificate of deposit as a war chest for a 1996 campaign.

Klaser and Engstrom, the treasurer, sent letters a few days later to those to whom the committee owed the largest bills, urging them to forgive whatever amount they could because of the "fundamental unfairness of which we were victims and realizing that we will have to again wage the campaign in two years."

Each letter noted that four polls showed Amendment 2 with voter approval in excess of 60 percent before November 8.

The letter to CJRW said Blome was considered "a genius in this circle" because:

His incredible insight and grasp of the political process led to the development of a cohesive message and a plan of action that would have carried us to victory. He should also be commended for his ability to keep us focused on the important issues during our committee meetings which often times wandered astray.

In a last-ditch effort, Holmes went back to Judge Brantley on election eve and pleaded with her to dissolve the injunction, saying the late filing of the lawsuit did not give him and Senior Assistant Attorney General Angela Jegley adequate time to respond or to take further legal action. The judge said no, explaining she thought the Supreme Court would still find the amendment had not been advertised correctly.

Holmes told a news reporter that voters should mark their ballots anyway on Tuesday, November 8. Both Amendments 1 and 2 were on the printed ballots, he argued, "and the election judges in each county have a statutory duty to count those votes." He noted only McCuen and not the election judges had been enjoined.

Arkansas voters were furious at the Arkansas Supreme Court about the wholesale dumping of issues from the ballot. State Sen. Lu Hardin of Russellville picked up on this anger. On the first day for pre-filing bills and resolutions for the approaching 1995 legislative session, he submitted a proposed constitutional amendment to prevent ballot questions from being removed fewer than 45 days before an election.

Meanwhile, many voters did mark their ballots on November 8, and the votes on Amendment 2 were counted but not certified in all but 10 counties. In the counties where ballots were counted, Amendment 2 was passing by 53 percent! Once again, Craighead County was the champion with 65.8 percent voting for the tax, followed closely by Greene County at 61.8 percent. (Results -Appendix K.)

Could the agencies get the 1995 General Assembly to put Amendment 2 on the 1996 general election ballot?

On November 15, Gov. Tucker, who had won a four-year term in his own right at the polls, told Charles Yeargan, chairman of the Parks, Recreation and Travel Commission:

...I think the public support I heard fully justifies an effort to place the 1/8th Cent Conservation Amendment back on the ballot in 1996. The voters told me this is something they want to do for Arkansas' future. I agree and will do all I can to help make it happen.

He went on to urge the Commission to eliminate the park entrance fees and to restore the senior citizen 50 percent discount, saying at last, "I understand and appreciate the critical funding needs that the parks face." The Commission did as he recommended at a meeting in Mountain View two days later.

And on November 21, the G&FC adopted a resolution in which it noted Tucker's support and the 53 percent victory margin in the counties where ballots were counted, and said, in effect, "Let's do it again!"

## V

### DO OR DIE

#### Introduction

Passionate.

This word best describes the 1996 conservation sales tax campaign. Passion and its emotional cousin, desperation, set the campaign apart from any other public endeavor in which Donna Kay Matteson had ever been involved.

"Everyone was so passionate because they realized this was the last chance we were going to have to save our parks and our natural areas -- those things that make Arkansas what it is -- for our kids and our grandchildren," she recalled.

Matteson, who lives in the small, far southwest Arkansas city of Foreman (Little River County), was 1996 chair of the Parks, Recreation and Travel Commission, the policy-making body for the state Parks and Tourism Department.

Mary Klaser, now with the title and authority of campaign director rather than "manager," tapped Matteson to co-chair the campaign finance committee with Game & Fish Commission member Bill Bridgforth, a Pine Bluff lawyer. In 1994, no one had the title of finance committee chair or co-chair, which meant everyone and no one had ultimate responsibility for anything.

House Speaker Bobby Hogue of Jonesboro and Sen. Jean Edwards of Sherrill remained co-chairmen of The Natural State Committee, and accountant Bruce Engstrom contributed more than \$13,000 of his time and expertise as its treasurer. Matteson said Engstrom was the "unsung hero" of the campaign because "he is the one who told us how we could and must raise money and stay out of the penitentiary doing it." Ron Blome was back from Cranford Johnson Robinson Woods, joined by Jonathan Askins.

Klaser and the committee set about to do earlier, better and bigger everything that had brought them so close to what appeared to be certain victory in 1994.

The first job, however, was to persuade the 1995 Arkansas General Assembly to make the 1/8th-cent conservation sales tax one of the three constitutional amendments it placed on the November 1996 ballot. Some felt this would be no problem because of the "sympathy factor" generated by being booted off the 1994 ballot by a technicality, but The Natural State Committee took nothing for granted and earmarked \$1,500 to cover expenses of lobbying the legislature.

Klaser worked from her Hot Springs office, contacting and getting supporters in the districts of members of the Senate and House State Agencies and Governmental Affairs Committees to call their legislators. These are the committees that recommend constitutional amendments to the full House and Senate. Meanwhile, officials of each agency that would benefit from the tax converged on the Capitol, ready to answer any question a lawmaker might toss their way.

County committees were organized earlier than in 1994. Money was still hard to raise, though it was easier than in 1994 (and more fun, too). Clarence Harris went to court again and lost in the first round. This time there was no appeal. The polls were showing 60-plus percent support again. All was going well.

Perhaps too well.

As election day loomed, Matteson was listening to what county judges and small town elders were saying at their morning get-togethers in local cafes to sip coffee and dissect the latest news. The hair began rising on the back of her neck at what she heard. Matteson warned more radio advertising was needed, and some \$12,000 was pumped into this in the last week as a result.

Later she recalled that no one thought the 1/8th-cent tax would carry the mostly rural south Arkansas Fourth Congressional District that includes Foreman and her native city of Nashville, "but we couldn't afford to lose it in a landslide either." The strength of Matteson's commitment and personality were summed up in Klaser's reference to her as "the force of nature from Foreman" in a letter responding to a contribution received through her efforts.

As it was, the statewide vote was so close The Natural State Committee was the last group or candidate to learn its results. At 2 p.m. the day following the election, word came that the conservation sales tax had won by a mere 8,284 votes of the 802,148 cast.

Passion and desperation were replaced by elation and relief because, as Gertrude Stein might have said, a win is a win is a win.

### **Can You Spare A Dollar?**

The conservation sales tax was introduced in the 1995 General Assembly as House Joint Resolution 1007. The House voted to put it on the November 1996 general election ballot by a 90-1 vote with Rep. Charles Stewart, D-Fayetteville, casting the only no consistent with his steadfast view that no tax revenues should for earmarked for a specific agency or purpose.

A week later, Sen. Allen Gordon, D-Morrilton, steered the resolution to a unanimous (35-0) victory in the Senate. Supporters wanted and got the Secretary of State to assign the same number to the amendment that it had in 1994 -- Amendment 2 -- to reduce confusion and minimize campaign material reprinting costs.

The other two legislative amendments that were stricken from the 1994 ballot did not make it back for a vote in 1996 because lawmakers found other issues they considered more critical, including one that would make equalized state aid to public schools possible. This was a complicated amendment that some tried to represent as levying a new tax -- a possibility that was worrisome for Amendment 2 backers.

Estimates of what the conservation tax would generate annually in revenues ranged from \$32 million to \$39 million initially and eventually settled at \$37 million. This was calculated to be a cost of just under \$10 a year for the average Arkansan. The new estimate forced the agencies to update their spending plans, though not by much because of the inflation factor.

Amendment 2 was not the G&FC's only business before the 1995 legislature.

The Commission underscored its financial problems by asking the General Assembly to raise the cost of resident hunting and fishing licenses and the Sportsman's License by \$1 each for two years. More substantial increases were sought in fishing trip licenses. The Commission already had acted to raise nonresident license fees and to boost the subscription cost for its magazine.

Director Wilson said the increases, expected to produce about \$2.3 million over the next two years, would allow the G&FC to hire 12 additional wildlife officers and replace about 120 wornout and unsafe vehicles.

Commissioner Dupps said "everyone knows we have no choice" about seeking the increase, but he objected to it ending after two years.

Chairman David Miller explained the so-called "sunset" provision would make the increase easier to pass, and he added that if the 1/8th-cent sales tax did not get on the 1996 ballot or was defeated, "\$1 won't cut it anyway." The G&FC, he said, then would be looking at \$5 to \$6 license increases.

The two-year license increase bill passed, though getting the extraordinary vote (75) needed in the House was a close call.

Meanwhile, the Parks, Recreation and Travel Commission in January repealed the new \$2 entrance fee at parks and reinstated the full senior citizen camping discount while hoping that those in the public who had linked these with Amendment 2 would not take the action to mean the parks no longer needed money.

But it did have some negative effects as an anecdote from Matteson illustrates. She tells of approaching a man for a campaign contribution in 1994. He had a \$200,000 recreation vehicle in which he and his wife frequented state parks. The man said no to a donation, saying he was angry about the entrance fees and the reduced senior discount. After these were repealed in January 1996, Matteson returned to the man for a campaign contribution. This time he said no because "If you really needed the money, you wouldn't have done that!"

Failure of the 1/8th-cent tax, however, would have been devastating to the state parks -- probably the closure of some of them, and "that was no empty threat," Matteson declared.

### **Relative Respite**

The Natural State Committee began meeting monthly again in May 1995 at The Nature Conservancy's headquarters where Klaser presented a draft plan for the entire campaign (Appendix L).

According to the report the committee filed with the Arkansas Ethics Commission on May 10, its assets totaled \$44,424 -- most of it in certificates of deposit.

This time Klaser and the committee were determined to put together a realistic budget -- no more \$600,000 or \$500,000 campaigns!

By June 12, the committee decided the job could be done in 1996 with a total budget of \$263,800. Then the amount of money needed was put into a timeline for fundraising purposes.

Fund-raising had proven to be so difficult in the previous campaigns that an early start was made in 1995 with a series of four district meetings for the 56 members of the Finance Committee at which they were given a one-page description of procedures and a one-page list of fund-raising rules and guidelines (Appendix M).

These early meetings proved successful with Bruce Phillips hosting one at the Whitetail World Museum in Clarksville on October 10; Knox Bradford and Mike Gibson staging the Fourth Congressional District fete at Bradford Marine in Hot Springs on October 11; the First Congressional District gathering at Newport Federal Savings & Loan with Kaneaster Hodges as host on October 12, and then Bruce Engstrom hosting the Second Congressional District at Mexico Chiquito in Little Rock on October 17.

Enough of the glow generated by these had faded by mid-December that Klaser was calling for another round of meetings "to wine, dine and cajole" Finance Committee members into reaching their fund-raising goals -- at least \$5,000 each.

Klaser also told the agency directors to have their updated spending plans and county-specific plans ready by January 1 to help with fund-raising, to send to county chairs, to help get endorsements, to put in press releases, and to "counter any opposition."

Much of Klaser's time on the campaign in 1995 was spent recruiting county chairs. She also spent a good amount of time worrying about the rising sentiment against new funding programs in the state citing the \$3.5 billion highway bond issue on which Arkansans voted January 9, 1996. Only 13 percent of those who went to the polls voted for the ambitious program, which was to have been paid off by higher motor fuel taxes. The anti-tax, anti-government mood that swept the country except for Arkansas and Missouri in 1994 appeared to have arrived.

The El Dorado *News Times* said this was so February 13, 1996, in an editorial about taxes in which it cited the highway bond defeat and noted G&FC Director Wilson had been in town to talk to a local civic club about yet another tax -- Amendment 2.

"Maybe there are enough hunters and fishers in the state to provide a constituency for such a tax. But we doubt it," the newspaper said, going on to chastise Wilson:

...the usual effort to minimize impact of such taxes by relating them to how little an individual would pay, as the speaker did last week, may no longer be the best tactic to win support. The speaker said such a game and fish tax would cost each person only about \$10 a year.

But that may be precisely the problem. Voters don't want to spend another \$10 a year. A lot of people -- yes, we've heard them -- are paying all the taxes they feel they can, no matter the possible benefits of additional taxes or how tiny the additional burden.

By January 1996, The Natural State Committee had opened its campaign office at 900 S. Shackleford Road, again near the interchange of Interstates 630 and 430, and Klaser was singing the praises of Game & Fish Foundation Director Steve Smith to G&FC member W.R. "Witt" Stephens, Jr.

...He arranged for our office space to be donated. He saw that we have furniture. He negotiated to get a fax machine and copier donated. And he purchased top-of-the-line computers with excellent data management capabilities.

Additionally, Steve has developed innovative ways for fundraising including the 'Natural State'

spring water project and the boat ticket program. He is planning a large fundraiser in Little Rock for May. He already has the location, music and food donated for that event.

It would be a gross understatement to say that Steve is considered an asset to the campaign. It's more fair to say that he is indispensable.

As this and Klaser's words about Rick Evans in 1994 show, she was rich in her praise of those who went all-out for Amendment 2, but could dog others relentlessly.

### **Have a Little Fun, Too**

She again was urging Finance Committee members to stage local grassroots fund-raising events. She pointed to efforts in Monticello where a group organized as Arkansans for Amendment 2, and led by G&FC's Levi Davis, was planning a large event at the fairgrounds in May 1996. "They have arranged to have food and drink donated, have lined up volunteers to sell tickets, have gotten local businesses to donate items for door prizes, and have lined up speakers including [former G&FC member] Pat Stephens Johnson and [Congressman] Jay Dickey."

The event raised \$17,946. Before disbanding on June 10, 1996, Arkansans for Amendment 2 had spent \$2,423 to raise \$20,200.

"The good thing about large events is how inclusive they are," Klaser explained. "A person will make a contribution of, say, \$5 for a ticket. That person will then have an investment in the amendment and will tell their friends and so on. The support base builds quickly."

Klaser also said "a phone call or letter to individuals or businesses asking for contributions from someone locally often generates better results than if the request comes from Little Rock."

Robert Moore, director of the Alcoholic Beverage Control Board, used his contacts as a member of a prominent Southeast Arkansas family to host a party in late April at Arkansas City where Davies and Wilson were the honored guests. Thirty persons paid \$200 to attend and enjoyed crayfish, chickens, steaks, drinks and fellowship.

Illustrating the range of fund-raising events held were a two-man scramble at Quapaw Golf Links in North Little Rock; a Ducks Unlimited-type dinner and auction organized by Craighead County chair Rohn Craft at the Jonesboro Elks Lodge where Hogue spoke and participants bid on fishing trips, jewelry, prints, and guns; a wild game dinner at the home of Chicot County chair Freddie Black that raised \$8,000; a crayfish and frogleg dinner for Prairie,

Lonoke and Arkansas Counties held at Slovak; and a skeet shoot competition sponsored by Remington Arms at Lonoke.

Early in 1996, Klaser asked Finance Committee members to repeat a successful 1994 effort of meeting with corporate officials personally to ask for donations. To keep from being overwhelmed by the task (most people absolutely hate to ask for money for any cause), she recommended dividing the goal into sections -- designating March as "Corporate and Finance Committee Month" and April as "Northwest Arkansas Month" and so on.

In mid-January, the campaign put \$60,000 in a certificate of deposit to be used for television advertising costs, and ad space was reserved for the fall. This left at least \$135,000 to be raised, and Klaser hoped it would be in hand by the end of May because with money left over from 1994, the campaign had a cash balance of only \$35,000.

Particular attention was focused on the Second Congressional District (Central Arkansas), the wealthiest in the state. By late February and March, Klaser was writing that fundraising efforts in the district had "slowed to a distressing pace" because only \$4,500 had been received since the first of the year (and only \$13,000 from the whole state, not including \$15,000 from the G&FC Foundation).

A special Second District finance committee meeting was held February 27, one that prompted Klaser to observe "people love to talk about how to run a campaign -- they just don't like to face the reality of financing a campaign." After the meeting, she sent letters to Finance Committee members reminding them of the potential contributors they had agreed to contact.

"Right now," she told the members, "we have enough money to keep the campaign office open for six months. That's just the bare bones operation...No money for polls, printing, mailings, newspaper or radio advertising -- no money to implement our campaign plans."

Klaser asked The Natural State Committee to devote its entire March 13 meeting to "how to get our fundraising efforts out of first gear." Other campaign areas needed to be discussed, she conceded, but explained, "...folks, we can't plan much of anything without the money to implement...spring festivals are coming up. It would be to our benefit to have campaign literature that asks for volunteers, votes and money available for distribution. However, we do not have any money to print new brochures and other collateral materials."

In a note at the bottom of her memorandum, however, she also wrote:

The county packets are being mailed tomorrow. Endorsement packets are going out to local chambers, the state sheriff's association, and the Association of Arkansas Counties later this week. The videos are being duplicated. The

information brochures are being printed.  
Coalitions are being built. Appearances are  
being scheduled.

The note did not do justice to the outpouring of letters, "tips" and other aides Klaser generated or had prepared for campaign supporters to use.

The more strategic documents included:

County chairman letter (Appendix N)  
County Action Plan (Appendix O)  
Tips for Door-to-Door (Appendix P)  
Tips for Phone Banks (Appendix Q)  
Generic letter seeking endorsements (Appendix R)  
Form Letter to Editors (Appendix S)  
Guidelines for State Agencies (Appendix T)  
Speaking Points About Amendment 2 (Appendix U)

Klaser also took over the thank you note writing that Wilson had handled in the 1980s. From available files, it appears every donation of every kind was acknowledged with a "thank you."

By July 9, contributions from Pulaski County totaled \$67,921. Craighead County had raised the second largest amount at \$21,250. However, not even a nickel had been received from 18 counties.

### **Subtle Shifts**

Some subtle shifts of emphasis were beginning to appear in the campaign by early 1996.

A poll of 500 Arkansans done for The Natural State Committee in late September 1994 by Kitchens, Powell & Kitchens of Orlando, Florida, revealed that if there was one prevailing reason voters were persuaded to support Amendment 2, it was to "save something for the children."

Arkansans, Klaser told Chris Chaffin at the Idaho Fish & Game agency, "are very proud of our designation as 'The Natural State,' and they want it to be that way for their children and grandchildren. Outdoor activities are ingrained in our rural state's heritage, and that heritage is something people are willing to pay for to preserve."

The sentiment was a part of the 1994 campaign, but it became a focal point in 1996 through the slogan, "Save It For the Kids."

Speaker Hogue long had emphasized billing Amendment 2 as an "investment" because hunting and fishing were "industries." Letters seeking contributions for the 1996 campaign

pointed out for the first time that, "Fishing alone is a \$770 million per year industry....Hunting generates almost \$300 million in economic activity per year...[and] Visits to State Parks adds another \$220 million. A separate document outlining the economic impact of the conservation agencies in Arkansas was prepared and distributed to business groups (Appendix V).

Parks and the G&FC had equal billing in the 1994 effort, but parks took the lead in 1996, playing on the fact it had more general "good will" among the public than the regulatory wildlife agency. In cooperation with Arkansas broadcasters, the Parks, Recreation and Travel Commission had been running ads for years featuring various state parks, always ending with the question: "Aren't you glad we've got 'em?" The ads had heightened the awareness and popularity of Arkansas' parks.

Matteson confirmed that parks positioned itself to organize the campaign while the G&FC emphasized fund-raising. She kept Commission members immersed in the campaign by scheduling 7:30 a.m. breakfasts preceding the group's regular monthly meetings. "I don't think this endeared me to my fellow commissioners," she said later, but not in a tone of regret.

Parks also were aided by an *Arkansas Democrat-Gazette* reporter, Michelle Hillier, who had been allowed to stay on a beat long enough to become completely conversant with the subject. On February 14, 1996, the newspaper published a knowledgeable Hillier article that was widely reprinted. In it, Parks Division Director Greg Butts graphically likened the system's problems to someone trapped in deep water: "We're at nostril level -- and standing on our toes." The only relief in sight, he said, was the Conservation Sales Tax.

### **Benchmark Established**

To establish a benchmark for the 1996 campaign, The Nature Conservancy came through with another important poll by the Florida firm that now was calling itself The Kitchens Group. Five hundred random sample Arkansas voters were interviewed by telephone April 29-30, and the results became known in May. The sample was balanced according to all known demographic factors, the company said, and the margin of error was plus/minus 4.3 percent with a 95 percent confidence level.

The April survey found 61 percent support for Amendment 2 compared to 62 percent in the September 1994 poll done by the same firm. The favorable response was particularly strong from sportsmen, those who visit or go camping in state parks, Second Congressional District voters, 18- to 34-year-olds, and men. In April 1996, 31 percent were against the proposal compared to 28 percent in 1994. Ten percent were undecided when asked in 1994, but only 7

percent were this way in 1996. The firm warned that Amendment 2 seemed unlikely to pick up much of the undecided vote.

There were only two demographic differences between the 1994 and 1996 polls, The Kitchens Group pointed out. First, a higher percentage of voters identified themselves as hunters or fishermen in the 1994 survey (62 percent) than the one in 1996 (57 percent).

Second, the 1994 electorate had a slightly higher representation of blacks (15 percent) than in the 1996 profile (11 percent).

For several months, Amendment 2 leaders had worried about reports of a petition drive underway for an amendment that would establish 11 gambling casinos and a state lottery system. Food bought in grocery stores would be exempted from the state sales tax. The sponsor, in a move Klaser had criticized as a crass move "to capitalize on our popularity," had included a section under which part of the taxes the casinos paid to the state would be earmarked for parks and the Game & Fish Commission.

The survey showed Amendment 2 leaders had good reason to be worried. If both proposals were on the ballot, support for Amendment 2 fell to 46 percent, and only 3 percent said they would like to see both pass; 38 percent favored the casino gambling/lottery proposal over Amendment 2. The Kitchens Group speculated this was because the gambling proposal would exempt food from the sales tax.

However, the Supreme Court tossed the amendment off the ballot for a faulty ballot title. In fact, three gambling proposals were booted from the ballot, and one to outlaw even the existing thoroughbred and greyhound parks was withdrawn. One gambling amendment survived a court test but was defeated easily at the polls.

In sharp contrast to what was said in the wake of the highway bond issue's failure in January 1996, The Kitchens Group said it could not find a strong anti-tax sentiment in the electorate. Sixty-three percent said they would be more likely to support the amendment even knowing it would cost them \$10 a year, and 55 percent disagreed with the statement that they would not support a tax increase for any reason.

The Kitchens Group also tested what it called a series of "positive messages" to see which ones would have the most impact. The findings bore out what Klaser and The Natural State Committee already had sensed: "that Arkansas' mountains, woods, wildlife, and rivers are a part of our heritage, and we owe it to our children and grandchildren to protect them" was the strongest point available. This could be coupled with a message saying "nature centers will be built so Arkansas school children can learn about the outdoors and how to protect it" because 73 percent of the voters responded positively to it, The Kitchens Group noted.

Other favorable messages were:

- "If we do not save the woods, mountains and great outdoors of Arkansas now, they will be lost forever." Eighty-four percent responded positively, 57 percent strongly.
- "Part of the money will be used to increase the number of enforcement officers." Seventy percent responded positively, 51 percent intensely. This bore out what the G&FC had found in its earlier tests of public sentiment.
- "By law, the money will be used for improving state, outdoor recreation, and preserving our natural and cultural heritage in Arkansas." This had a 78 percent positive response, 59 percent strongly. A key phrase here, the firm said, may be "by law" because there is a certainty to the language that the money will be spent the way people are being told it will.

The Kitchens Group said these messages were "critical to shoring up the campaign's current support base" and warned that "It will be very important for these core voters to turn out on election day for Amendment 2."

As in 1994, a "Crisis Video" was developed built around the messages the research indicated would be the most persuasive. The video was 12 minutes long -- the optimum time for showing to civic clubs and other organizations.

By early June, Klaser was certain the campaign was "light years ahead" of where it was at the same point in 1994. There was a campaign coordinator in each county. Aimee Richards Robertson was again in the campaign office to handle the data bases, mailings and telephone calls, which allowed Klaser, often with Matteson, to travel the state to meet with county coordinators, to hold seminars for and provide information to an expanded Speakers Bureau, and to help organize events, particularly in 15 targeted populous counties.

About \$130,000 had been raised, which put this part of the campaign almost on target. Davies, Matteson and others were making calls to Municipal League board members in June to neutralize this organization's opposition if its support was unachievable. At least the campaign was going to be able to make a presentation at the League's convention, which was an opportunity it was not given in 1994.

### **Growing the Grassroots**

Because of the past campaigns, the Game & Fish Commission knew who in its ranks were the "movers and shakers" -- the articulate employees in the field who understood the political and socioeconomic aspects of their territories as well as the land and its wildlife. These

were employees like biologist David Long in Northeast Arkansas who not only had proven their dedication to the conservation sales tax but had demonstrated their ability to persuade others.

Parks and Tourism searched its ranks, particularly those outside Little Rock, for its best "movers and shakers." When those in both agencies had been identified, they were asked to make up a Speakers Bureau and to retreat to the state 4-H Center at Ferndale (Pulaski County) for two days of intensive training in late spring 1996. Their leader was Steve R. "Wildman" Wilson, a man who, like George M. Purvis, had singular identification with the G&FC in the public's eye because of long-time consistent television exposure.

At the Ferndale retreat, 36 state employees were brought up to date on every aspect of the campaign, were coached on how to speak to civic clubs and other groups, and were given sample speeches. Then they divided into regions, each of which chose its own coordinator. A list of all the civic clubs in a county, when they met, and their officers was given to the appropriate region with the expectation that a presentation would be made to each before the election. The regions also were told they would be responsible for providing Amendment 2 information at all county fairs. Each coordinator was furnished as well with a list of county campaign committee members in his region.

Wilson said he and others emphasized that the employees, because they were local and knew their situations better than someone sitting in Little Rock, would be responsible for the scheduling in their areas and for determining whether they could handle a presentation by themselves or more "firepower" needed to be brought in, such as an agency director. "We told them we would be there if they needed us, and we were," he said, noting that he made presentations to 100 civic clubs over three months.

"In 1994," Wilson said, "we tried to do it out of the Little Rock office, but it's got to be done locally. You've got to localize it."

In another lesson learned from past mistakes, Wilson said the G&FC's top echelon met face-to-face periodically with field employees, bringing them up to date on the campaign, answering questions, and "squenching rumors." This gave G&FC employees "a degree of comfort about how far they could go in promoting the amendment that they had not had before," he explained. The meetings also helped the campaign identify "hot button issues" in specific localities, and if necessary, to disseminate accurate information before rumors could turn brush fires into wildfires.

This approach, however, was not enough late in the campaign when "talk radio" began a concerted attack on the amendment.

## Deja Vu

With the exception that fewer school children participated, the fully scripted kickoff for the 1996 campaign held June 10 was almost a carbon copy of the one in 1994. Both were staged in front of the Old State House -- arguably Arkansas' most famous landmark. This time, however, the building was closed because the legislature had appropriated funds being used on an emergency basis to repair its crumbling foundation.

Matteson presided and both Hogue and Edwards spoke. Four of the 75 county campaign coordinators were there to represent their regions of the state.

Craighead County's chairman, Rohn Craft of Jonesboro, played to the overall campaign theme by saying he wanted more public lands for hunting, wanted the fish hatcheries to continue operating, nature centers built in urban areas, and adequate enforcement of wildlife laws so his sons and theirs could have the same thrill he did landing his first fish or taking his first deer.

Dee Carroll's remarks were poignant because they recalled the tornado that had killed four, heavily damaged a historic area in his home city of Fort Smith, and destroyed subdivisions in nearby Van Buren in April.

With funding assistance and elbow grease, Carroll said, Fort Smith will be able to save the historic buildings. "I don't think we fully realized what we had until it was almost lost," he admitted.

Structures such as the Old State House and the 1874 Courthouse in Old Washington face an even more sinister fate from age and decay, Carroll warned. "We can't do anything about a tornado, but we can head off disaster" by voting for Amendment 2, he said.

Henry Kinslow of El Dorado talked about how much money hunting, fishing, and the state parks pump into state and local economies, and Blaine Smith of Arkadelphia discussed the plight of the parks, reminding the audience that each was "really a small city" with all of the needs this implied.

Matteson and G&FC Director Wilson told reporters that at least one statewide candidate had included a question about Amendment 2 in his poll and had found 62 percent support for it. They made no mention of The Kitchens Group survey for The Nature Conservancy that found 61 percent in late April. Wilson also told reporters the campaign's fund-raising goal was \$300,000.

Reporters asked Matteson if the campaign was worried about the anti-tax, anti-government mood vented by voters in defeating the highway bond issue in January and a

constitutional convention proposal in December 1995 -- both by astounding margins. "No, because this is a totally separate issue," she replied.

The kickoff was followed by a spate of feature articles in newspapers around the state spotlighting the conditions and needs of local facilities that would benefit from the tax. A few newspapers that had been critical in the 1980s, such as *The Benton Courier*, had become champions of the cause. The *Courier* said editorially that even if Amendment 2 failed in 1996, it hoped another measure would be forthcoming "because our state's natural resources are too precious to squander. If we wait much longer, it will be too late."

### **A Shocking Month**

On May 28, a federal court jury convicted Gov. Jim Guy Tucker, a lawyer, of two of four felony conspiracy and mail fraud charges in connection with private business transactions in the 1980s when he was not in politics. The charges were part of a net cast by Independent Counsel Kenneth Starr, who had been appointed to investigate President Bill Clinton on an Arkansas land development project-gone-sour called "Whitewater."

Tucker, a Democrat, promised to resign on July 15, at which time the Republican elected to succeed him as lieutenant governor, Mike Huckabee, would take the oath of office as governor -- if he chose to give up his front-running campaign for the U.S. Senate seat from which Democrat David Pryor was retiring. Huckabee chose to rise to governor.

When the time came on July 15 for Tucker to make good on his promise, he told a joint session of the Arkansas House and Senate that he was only stepping aside temporarily under the "disability" provision in the state Constitution. He had been persuaded by his attorneys that new information about alleged jury irregularities was strong enough to get his conviction overturned. It was not.

The state as represented by its elected officials and others gathered at the Capitol was in shock and then outraged. Within six hours, Tucker finally resigned; Huckabee took the oath of office. Tucker's actions had the effect of galvanizing support for his successor.

Klaser and Matteson had spent that day meeting with Labor leaders and had secured a promise of neutrality on the Amendment. But, they too were taken by the drama of the day. Klaser's letter the following day to Bobby Hogue, co-chair of The Natural State Committee, speaks to the events of July 15, how they were received by the public, and possible ramifications for Amendment 2. She wrote:

As the tumultous events of yesterday finally came to closure, I'm sure I was joined by thousands of Arkansans in my feelings of gratitude that we had you as our Speaker of the House.

When you stepped to the mike and informed the citizenry that you and [President Pro Tem] Senator [Stanley] Russ had confronted Governor Tucker with the unpleasant truths about the eminent impeachment proceedings, you conducted yourself with both dignity and courage.

Speaking for the Natural State Committee, I want to tell you we are all very proud of your actions and equally proud to have our committee chaired by you.

With the upcoming political races that are sure to be contentious, we are fortunate that our amendment enjoys support from both sides of the aisle. Governor Huckabee is on the record as being in favor of our amendment, and for that we are grateful. This is one issue that we can all agree on, and frankly, it's nice to know that we don't have to be drawn into the partisan wars.

### **A Key Endorsement**

Under Arkansas' constitution, lieutenant governor is a part-time position at best. His or her principal job is to preside over the Senate when it is in session, but even this role is overshadowed by the presence of a President Pro Tem chosen on the basis of seniority by the chamber's majority membership. When the governor is out of state, the lieutenant governor steps in as "acting governor" but traditionally does little unless there is an emergency.

In short, the lieutenant governor is almost ignored, and this did not change when Huckabee was elected, first in a special election and again in 1994. The Southern Baptist minister's star had risen so quickly in the Republican Party that few could claim they really knew him. The public did not know, for example, that Huckabee's single greatest recreation passion was bass fishing, and that his wife had marked his fortieth birthday with the gift of a bass boat he named *State Business!*

But Klaser and the Natural State Committee knew this because they had been heavily courting his support for Amendment 2 since February when Steve Smith, Davies, Wilson and Witt Stephens, Jr. had met with him at a luncheon arranged by Stephens, and the future governor already had told them he was in their corner in spite of his general anti-tax views.

The Committee was prepared, therefore, when Huckabee first told *Arkansas Fish & Wildlife* magazine in a July interview for publication in August that he supported Amendment 2. He made his endorsement public July 27 in West Memphis at the Arkansas Press Association's annual summer meeting where he replied in response to a question from Harrison *Daily Times* publisher Jeff Christenson whose wife, Jane, is a member of the Parks, Recreation and Travel Commission:

I know I'm probably the biggest anti-tax guy in the room, or perhaps I am for the most part, but the unique factor is...this tax is not imposed by the legislature upon the people, but it will be voted on by the people for themselves.

Our future might be in starry skies and the views off the top of Mount Magazine, being able to sit down along the banks of the Buffalo River and put one's feet in and be run over by a tourist canoe spending lots of money.

The ability to take a kid out into the woods and let him see nature, the ability to catch a 5 1/2-pound bass on the end of a line out in the Arkansas River -- I don't know what those things do for you, but they rev my engine and really charge my batteries.

Klaser and Matteson were elated. The director sent Huckabee a note on July 29, thanking him profusely and saying:

Your eloquent and sincere response to the question at the Press Association's convention was better than anything I could have imagined. Donna Kay and I practically floated back to Little Rock with the realization that our campaign had just experienced the single most important development to date. We thought it just could not get any better. Then, the Sunday papers arrived [in which his endorsement was the lead on stories about the APA meeting].

Matteson said Huckabee's endorsement was the highlight of the campaign for her.

Also on July 29, Klaser fired off a memorandum to Natural State Committee members saying, "We really need to capitalize on the momentum this should generate for our campaign. Governor Huckabee's approval ratings are in the high 80s, and his endorsement will surely help us expand our support base."

She need not have worried about capitalizing. Huckabee had another surprise in mind -- one that would make the fall even busier than anyone had imagined it would or could be.

### **Harris Tries Again**

The political events had been so mesmerizing that few seemed to notice when a cloud crept over the Amendment 2 campaign in the form of Clarence Harris' return to court.

As Arkansans were still reeling from the debacle that occurred at the Capitol two days before, lawyer David Bowden went to the Pulaski County Courthouse and filed a new lawsuit in behalf of the retired Sheridan logger who had succeeded in depriving Arkansans of voting on Amendment 2 in 1994.

Harris complained in the suit that Amendment 2's ballot title was misleading "to the point of being a manifest fraud upon the voting public" because it failed to specify that the Game & Fish Commission would receive funding from a source other than license fees and fines for violators, thereby indirectly changing Amendment 35.

His greater complaint, however, was that the tax would be split among four agencies. To him this violated the constitutional prohibition against putting more than one subject into an amendment even though only one tax was involved.

"The legislature," Bowden said, "has the ability to refer only three amendments at a time to the public. And each amendment can only address one subject. This amendment addresses at least two subjects, and possibly four. It's called log-rolling. It's when you take something that's unpopular [to Harris, that would be the Game & Fish Commission] with the voters and link it with something else the voters might like."

Because the agencies had been lumped together to receive revenues from the fractional sales tax, Harris said he would be required to vote to amend Amendment 35 or face "the Hobson's choice of voting `no' on the proposed amendment, thereby denying altogether funding to other important functions...with which he may have no qualm."

G&FC Director Wilson told the *Arkansas Democrat-Gazette* he was not worried about Harris' lawsuit because "We have talked with very good and the best constitutional lawyers around the state and they say it's fine. I'm confident that the amendment will appear on the ballot in November. And I'm confident the people we checked with are better constitutional lawyers than Clarence and his lawyer."

His attitude reflected that of the campaign committee. G&FC member Bridgforth, a lawyer, also said he had studied Harris' lawsuit and could find no legal merit in it.

Technically, Harris' lawsuit sought to enjoin Secretary of State Sharon Priest from spending any more money to publish Amendment 2 and from putting it on the November election ballot. It was filed as a class action "illegal exaction" suit.

Within a week after Harris' filing, The Natural State Committee had agreed to retain Leon Holmes of the Williams & Anderson Law Firm to represent it and to file a motion to intervene as Klaser and the group had done in 1994.

No one could do anything, however, until the lawsuit had been served on Priest, which had not occurred. Even after service had taken place, Harris and Bowden seemed in no hurry to bring the case to a hearing. Were they trying to wait until five days before the election again?

The delay earned Bowden a royal scolding in open court September 17 from Judge Robin Mays during a hearing on a motion to dismiss by Priest and the intervenors. "There are seven weeks until the election, and we're booked (with other cases) until December," she declared. "I want to know what we're doing here. This was filed in July...and no one's even asked for a preliminary injunction."

Bowden said "other events" had prevented him from seeking a preliminary injunction.

"I think you're playing games with this and I don't like it, and I don't think the Supreme Court is going to like it," Judge Mays added. She told all the parties to be in court for a hearing September 27 on two motions filed for summary judgment. A summary judgment is issued when a judge can find "no genuine issue of material fact" to be decided.

Holmes concentrated on obtaining and filing affidavits from individuals attesting to the similarity of missions and work of the four agencies.

Dayle McCune, director of capital and planning giving for The Nature Conservancy, said the "common thread" that bound the agencies together was "the protection of the heritage of Arkansas. Each of these agencies has as its charge the protection of elements of the most precious, unique and irreplaceable qualities that Arkansans value most -- our own heritage, the essence of what makes Arkansas the place that it is."

G&FC Assistant Director Scott Henderson, Barbara W. Heffington from the Historic Preservation Office, Parks and Tourism Director Richard W. Davies, and Anita Middleton and Bob Boggess, a director and incorporator of Keep Arkansas Beautiful, described the missions of their agencies and how they frequently worked together.

Bowden virtually threw in the towel at the September 27 hearing, telling Judge Mays "I don't know how to refute what's subjectively in the minds of these people" as presented in the affidavits.

In creating Amendment 2, Judge Mays responded, "The function of the legislature is to determine whether these agencies are closely related and whether their functions...relate and correlate to the overall purpose of the tax. The logrolling argument has to be presented and shown by the plaintiff, and it is the finding of the court that the plaintiff failed to show that."

Judge Mays also said the ballot title was not misleading as Harris had complained, and she awarded a summary judgment to Priest, Klaser and The Natural State Committee.

As the courtroom cleared, Bowden told reporters no appeal would be filed with the Supreme Court. "We'll let the voters appeal it," Harris said. He added, however, that he knew opposition was building to Amendment 2, and he would rely on this.

### **Nuts-and-Bolts**

With the exception of Harris' lawsuit and "talk radio," a phenomenon that will be discussed later, most of the summer of 1996 was spent in traditional campaign work.

For example, Klaser told Fred Harrod of Hermitage she was working on obtaining stencils for 4 x 4 and 4 x 8 signs, and asked him if he could get "a quantity of plywood" donated for them. A Little Rock paint manufacturer would be approached about donating materials, she said, and "Then we'll just need volunteers to paint them."

Proofs were read, word changes ordered, and specifications drawn for a flyer to be handed out at fairs, a color brochure, a bumper sticker, and window posters. Some of the changes involved the slogan, "Save It for the Kids," while others required only substituting the new election date of November 5 in materials that had been prepared for 1994, or switching the word "Yes" to "For."

The fair flyer had to be put on diskette and forwarded to Bass Pro Shop to use in its catalogs and magazines.

As for handling the logistics of distributing the materials to all 75 counties, G&FC Foundation's Steve Smith saw to it. His office was often referred to as the supply depot.

There were other details, too. For example, newspaper ad slicks were sent to county supporters such as former state Rep. Jim Holland of Knobel (Clay County), who intended to sponsor their publication in his local newspapers.

Favorable newspaper articles continued, most of them based on what improvements would take place at a local or nearby park if Amendment 2 passed. Even J.E. Dunlap, long-time owner of the Harrison *Daily Times* and Christenson's father-in-law, saw fit to endorse the

amendment after years of opposing it. Then came Richard Allin, the "Our Town" columnist at the *Arkansas Democrat-Gazette*, who, on July 27, confessed to his readers:

There are so many proposed constitutional amendments and initiated acts slated for the November general election ballot that I think I'll have to vote against all of them. I don't believe I can figure out what havoc, if any, they would drop on us should any pass.

The column irked Klaser, and she fired off this rejoinder:

...Makes me wonder sometimes how in the world the Natural State Committee can differentiate our worthy cause, Amendment 2, from all the other proposed amendments...

Especially when a widely read columnist of the state's largest daily suggests he might just vote against ALL the amendments because there are so many.

...

We are counting on our grass root supporters to spread the word about Amendment 2, and, I might add, on an occasional nice word from our friends in the newspaper business.

Klaser included a two-page explanation of Amendment 2, and urged him to take the time to review it, adding, "Maybe you could give me some ideas on how best to set our amendment apart from all the others."

### **Fund-Raising Forever**

Fund-raising was a never-ending grind, buoyed by periodic events that served multiple purposes, including publicity. The Conservation Committee for Amendment 2 headed by Griffin Park, Greg Mathis and Linda Knighton, for example, held a fund-raiser August 10 at Hope's air-conditioned Fair Park Coliseum where there were door prizes, silent and live auctions, a smoked chicken dinner, live country western music, a speech by U.S. Representative Jay Dickey, and games for the kids. Park's committee reported to the Arkansas Ethics Commission that by the time it was dissolved on May 1, 1997, it had raised and spent \$20,428.

As of August 26, the campaign had \$150,267 on hand, but it was looking at known expenses totaling \$121,759 through November 5. Unfunded expenses of \$64,634 would put the campaign \$36,126 in the hole unless additional money came in. The Committee continued to

hold its own, however, because by September 9, it still had \$142,571 on hand with a projected deficit of \$35,504.

A new budget was worked up and reworked September 9 to carry the campaign through November; it reflected a need for \$37,000 in additional funds.

The Natural State Committee's September filing with the Ethics Commission reported contributions of \$188,134, of which \$78,433 had been spent. The campaign was at the point at which expenditures were picking up, the bulk of them going to television stations for advance payment on ads. By October 7, the targeted fundraising need also had dropped to \$25,000, which looked possible, particularly after the Arkansas Tourism Development Foundation headed by CJRW's Shelby Woods came forward with a \$10,000 contribution.

From September 6 through October 5, the Committee told the Ethics Commission, cumulative contributions at this point were \$205,977, and the Committee had \$106,641 on hand.

From October 9 through October 29, the Committee raised \$28,732, of which more than \$7,700 came from a fish fry at Mammoth Spring that was organized by G&FC's Gary Mullins and Melissa Jones. Total contributions for the entire campaign through October 29 were \$234,709, but \$221,888 had been spent, the Committee told the Ethics Commission.

Engstrom dissolved The Natural State Committee on May 1, 1997, at the same time telling the Ethics Commission contributions to the campaign had totaled \$247,004. Expenditures were \$280,960, a difference made up by the fact the Committee began with this much cash on hand left over from the 1994 effort. Of the total raised for the 1996 campaign, \$235,122 came in contributions of \$100 or more.

No budgets, particularly early ones, are cast in stone. They must be adjusted periodically to meet changing needs and conditions. After the election, Klaser reported 60 percent of the expenses went into advertising -- television, radio, and print. Planning for an unexpected "river trip" by the governor boosted travel costs, which helped bring the amount spent on campaign office expenses to 30 percent of the total. The remaining 10 percent was for professional and legal services, including a reduction in the amount paid to CJRW.

### **Enhancing Themes**

As always, Bobby Hogue and Rohn Craft were taking care of of Northeast Arkansas. The Northeast Arkansas Natural State Committee filed its final report with the Ethics Commission on October 28, 1996, saying it had raised and spent \$24,200.

Northeast Arkansas also helped reinforce the nonpartisan character of the campaign October 10 when U.S. Representative Blanche Lambert Lincoln, the Democrat from Arkansas' First Congressional District (and now a U.S. Senator), announced her support of Amendment 2 at a news conference with state conservation and local officials at Craighead Forest Park.

Lincoln had given birth during the summer to twin boys, and the news conference was a prime opportunity to plug the "Save It for the Kids" theme, which she did, telling the audience the phrase had more meaning for her than ever. "I want my twin sons, Bennett and Reece, to have the opportunity that I had as a child to enjoy the natural beauty of this magnificent state."

### **The River Trip**

Outdoor Editor Steve Bowman introduced *Arkansas Democrat-Gazette* readers to Huckabee the fisherman in a lengthy article August 18 in which the governor revealed that had he stayed in the U.S. Senate race, he would have done what the newspaper writer called a "whistle-stop tour with a twist" -- launching his boat at Fort Smith and motoring the Arkansas River to Dumas with campaign stops along the waterway.

Huckabee abandoned the Senate race, but he still had the yen to travel the river, so he planned to turn it into something even more appropriate: a campaign trip to promote Amendment 2!

Though the river trip was revealed at the end of Bowman's article, Klaser took note of it and immediately sent a memorandum to the members of Amendment 2's Speakers Bureau.

Huckabee's office would work with the G&FC and the Parks and Tourism Department to work out the trip's logistics, she advised the members, and she would be back in touch when the details had been worked out. "We will need help in getting supporters out to the ports-of-call to greet the governor and to be waving Amendment 2 signs."

Huckabee formally announced the 267-mile river trip September 6 at a meeting with Donrey Media Group editors at the Governor's Mansion. He said then he would spend four days on the river, starting at Kelly Park in Fort Smith with stops for rallies to promote Amendment 2 tentatively planned for Ozark on Thursday, October 17; Dardanelle, Morrilton and Conway on Friday, October 18; Little Rock and Pine Bluff on Saturday, October 19, and end on Sunday, October 20, at Pendleton near Dumas.

And, oh yes, he intended to do some fishing along the way. The governor said nothing at the time about First Lady Janet Huckabee being a part of it. But she was -- in a big way -- making the trip on a jet ski!

Matteson and Klaser already were at work. They had retreated to Matteson's "cabin" at Lake Greeson, where they rolled out butcher paper across the living room floor. The paper became the river on which they mapped the trip, developing a timeline with estimates of how long it would take for Huckabee's bass boat to get through each lock. Eight stops along the river mushroomed into 22.

Even without the increased stops, Matteson and Klaser discovered that what they had was a logistical nightmare, particularly for a crew that had not done anything quite like this before!

The map became a campaign symbol for those who prepared it. Several months after the election, Matteson confessed in a letter to Klaser that the campaign may have been "the world's first ten-month group stress test," but her only regret was "the loss of the Butcher Paper map."

Klaser quickly responded that the map was not lost because it had been unearthed "somewhere in the depths of [the] Game and Fish [building]." She said the map was in her Hot Springs office, "and you have a standing invitation to visit it whenever the notion strikes you."

Could Huckabee's bass boat and the party barge with the pink-striped tent top that Zack McClendon of SeaArk had volunteered to haul the press really dock at these places? How do you get the word out and assure that crowds will be on hand to greet the governor and First Lady at each location? How can land and water travel be coordinated? If the dock was not appropriate for a rally, how do you find a site and get participants from the flotilla to it? What about meals? What about restrooms? The questions went on and on.

"Thank goodness for Richard's military experience," Matteson said, referring to Davies, a lieutenant colonel in the U.S. Army Reserve whose job at the time was assistant chief of staff of the 90th Regional Support Command. For the purposes of the river trip, he became "the general." G&FC Director Wilson became "the Navy," and "Mary and I were the infantry," Matteson said with a laugh.

"The Navy" included bass boats donated by Forrest Wood of Ranger Boats, then a member of the Game & Fish Commission Foundation and later appointed by Huckabee to serve as a Game & Fish Commissioner. Smith and the Foundation also came through with banners and props for the rallies, "and most important for us river rats, they helped supply our traveling hospitality room!" Klaser said.

And what did the "infantry" do? Between them, Matteson and Klaser "scoped out" the river, rally sites, and worked with local Amendment 2 campaign leaders to turn out crowds. An

example of the "scoping" was set out in a memorandum Klaser sent to Gary Underwood on Huckabee's staff:

While in the Delta yesterday, I scouted for a church that Governor Huckabee could attend Sunday, October 20, while on the river trip.

The best place on the river to stop is at Rising Star Park near Tamo. The park has a boat ramp, a dock, bathhouse facilities for him to change clothes, a rain shelter, and lots of lawn.

As luck--or providence--would have it, the Kindling Star MB [Missionary Baptist--ed.] Church is directly across the road from it. Services are at 11 a.m., I drove by at 11:20 and counted 27 cars -- the largest congregation of all the churches I checked out...

If that church does not work out, the Marzell MB Church is just 1.3 miles south of the Tamo River Road (the road from Rising Star runs 4.5 miles to 65) on Hwy. 65...The number of cars there was about 20.

...After services the Governor will need to lock through Harden L&D #3 and head to Pendleton for a 3 p.m. arrival.

Detailed plans for the four-day event, which Matteson likened to "Wagons West," eventually filled a loose-leaf binder.

The river trip began auspiciously the night before with a fund-raising party at which The Natural State Committee's "cooking team" prepared a wild game dinner at the Fort Smith home of Butch and Sherri Edwards. Other members of the host committee were Dee Carroll, Polly Crews, and Ann Dawson. In addition to the Governor and Mrs. Huckabee, guests who made \$100 donations were able to mix and mingle with Wilson, Davies, Keep Arkansas Beautiful's Anita Middleton, and Matteson. "Fort Smith was wonderful to us," Matteson said later.

There were some scary moments on the trip but no major mishaps. Both Matteson and Klaser recalled a high-speed car trip from Ozark to Russellville on Interstate 40 that neither wants to repeat. And then there was the morning of October 19 when the governor and McClendon's boat, which was hauling the press, had to maneuver through thick fog to reach Wayne Woods' home on County Farm Road in Pulaski County for an 8 a.m. breakfast he was hosting. Finally, as the fog started to lift, McClendon's party boat eased into view to the relief of those waiting "on shore."

"It was cold," Matteson recalled later, and at one point, she put her feet too close to a heater. When she smelled smoke and looked down, a large hole had burned in her tennis shoe.

Ordinarily, this would not have bothered her, but within a few hours, she was boarding Charles Meyers' yacht at Little Rock and greeting members of the National Advisory Board of First Commercial Bank.

"I don't know how, but we stayed on schedule," and the crowds did show up for the rallies, Matteson said.

Klaser and company referred to themselves as the "proud survivors" of "The Great Amendment 2 Arkansas River Fishing Trip," and had the commemorative T-shirts to prove it. Klaser illuminated the value of the expedition in the thank you letter she sent the day after the trip ended to Huckabee and the First Lady when she observed: "Never in our wildest dreams could we have hoped to buy the exposure generated by the endeavor."

### **'Talk Radio Hell'**

"I submit that the new rise in government mistrust is generated from here."

This statement, the phrase "Talk Radio Hell," and the phrase "Property Rights Paranoia" were found scribbled in Klaser's Amendment 2 files. They speak graphically to the frustration that began building in her during the summer of 1996 as "talk radio," particularly on stations owned by libertarian Pat Demaree\* of Fayetteville, began blasting Amendment 2, using lies, rumors, innuendos, and any other mind game that could be concocted. Klaser regularly received a full dose of the mania because Demaree owns two radio stations in her home city of Hot Springs. He also has stations in Fayetteville and Searcy. Three stations, one in each market, have been converted to the talk format.

*\*Demaree delivered an anti-government tirade before the Governor's Task Force on Private Property Rights and Regulatory Takings at the Capitol on March 26, 1996. He complained specifically about a G&FC regulation requiring landowners whose property is surrounded by a wildlife management area or a WMA and a navigable waterway to adhere to the WMA's rules. He and his brother own 96 acres border-ed on three sides by a WMA and on the west by the White River, making the rule applicable to their land. He was furious. His testimony before the Task Force was laced with inaccuracies, but no one challenged his statement that the "loathing and rage" expressed on Talk Radio played a major role in the 1994 nationwide elections, and in the December 12, 1995, and January 9, 1996, special elections in Arkansas. "They will play a role in the '96 elections as well," he declared. Demaree also asserted "the public will never, in any way, be allowed access to our land."*

"Talk radio" became a phenomenon in the United States in the early 1990s because it was what one broadcast expert called "the salvation" of AM radio. Music sounds better on FM, and AM was dying until it found "a niche" in talk. Rational discussion of issues is seen as a bore that

would fail to entertain and draw an audience; therefore, the outrageous designed to stimulate confrontation prevails.

As Steve R. "Wildman" Wilson was preparing for a debate in July on Demaree's talk station in Hot Springs, Klaser told him that even some talk show hosts could go too far. In fact, one "crazy lunatic" on the Hot Springs station had gone "a tad too far in her ravings" and had just been fired, she said. The other talk show hosts "are all on our side," she continued, but could not say so over the air because their owner had "handed down an edict expressly forbidding them to say anything positive about Amendment 2."

She added:

The regular callers to all the shows are the same dozen people. They are anti-tax, anti-state agencies, anti-government, anti-everything. I will admit there are a very few nice, sane people who call in, but they are rare.

Klaser told Wilson to expect callers to make such claims as "We are overtaxed in this state. We are the highest in income taxes. We are taxed to death in this state."

To this she said he could respond that according to the U.S. Census Bureau, Arkansas ranks "dead last" (51st) in total tax burden among all the states. "And when you look at per capita income, we rank 44th in tax burden....the \$10 additional dollars Amendment 2 will cost the average Arkansans will do nothing to affect our status as last in tax burden." The answer assumes, of course, that the listener would believe anything generated by a government agency such as the U.S. Census Bureau.

Two weeks after the Hot Springs radio talk debate, Klaser sent a policy directive on debates to all Speakers Bureau members. Offers to debate should be declined, she advised, because "We have nothing to gain by engaging in debates and much to lose." She said:

Generally, when someone wants to debate a representative of the amendment, they have a particular bone to pick. Be it over a ticket from a wildlife officer or the development of a new state park or a concern over property rights, they will usually be approaching the amendment from a single-issue viewpoint. It would be unfair to all involved to let them reduce our amendment to a single issue.

The situation worsened as fall arrived. To the amazement of those who knew the history of the Conservation Sales Tax and the spending plans that had been developed by the four state agencies, Amendment 2 became linked in the minds of anti-government conspiracy theorists with

a Man and the Biosphere program and black United Nations helicopters descending in the night to take people's property from them!

The linkage was ingenious, for the rumors and allegations apparently started in northwest and northern Arkansas, principally in the Buffalo River country where resentment of the federal government still burns over the National Park Service's condemnation of land to protect the waterway after Congress designated it America's first national river in 1972.

Further, some residents of Newton, Boone and Marion Counties had been fighting attempts to have Crooked Creek designated an "Extraordinary Resource Water" in the state's water quality standards. Such a designation would stop commercial gravel mining in the renowned smallmouth bass stream. Depriving landowners along the creek of the right to lease the streambed for gravel mining was a government taking without compensation in their eyes.

Claims that Amendment 2 was a conspiracy to facilitate the Man and the Biosphere program had spread as far east as the West Memphis area by election day. And they did not die after the election, as shown by the fact Buffalo National River Superintendent John D. Linahan felt compelled to write this article, which was published December 12, 1996, on the *Arkansas Democrat-Gazette's* Voices page:

We at the National Park Service/Buffalo National River have been involved almost since the beginning in working to establish an Ozark Highlands Regional Biosphere.

The U.S. Man and the Biosphere program, or MAB, has been in existence nationwide since the 1970s and now involves approximately 40 sites in 23 states. Why is this natural resource program receiving so much misinformation attention? I would like to address these misconceptions and rumors that have gone unchallenged these past few months.

The Man and the Biosphere program does not have and never has had any regulatory authority, force of law, ability to acquire land--much less confiscate--private land or alter existing uses of public land.

It is strictly a voluntary, cooperative program to recognize areas that are of unique biological or cultural significance worldwide. It encourages both government and private efforts to improve the management of natural resources for long-term human benefit.

The program has no authority or means to impose restrictions on private land or eliminate existing uses of public land.

The term 'core areas' is being grossly distorted. Property owners and Ozark residents are led to believe that large areas of private land would be taken by government or that existing uses of public land would be severely restricted.

In the proposed Ozark Highlands MAB, existing wilderness areas within present federal lands serve as core areas, identifying existing areas without development.

These areas, by legislation, allow for hunting, fishing, camping and horseback riding. The Wilderness Act of 1964 even permits continued livestock grazing and mining on pre-existing claims within designated wilderness areas on national forests. They are not off limits to humans, nor would they have been with a MAB designation.

Rumors abound that an Ozark Highlands nomination for MAB designation is continuing. Most of the agencies participating in the Ozark Highlands nomination have declined further participation in MAB because of the impact of the associated controversy on their existing programs. Based on their response, Buffalo National River will take no further action on this program.

The Ozark Highlands Regional Biosphere was an attempt to organize a non-regulatory cooperative conservation program with private and public partners in support of a unique biological resource. Nothing else. Instead, it is attacked using fabricated claims of an impending government -- U.S. and international -- takeover, Linahan concluded.

In her analysis of why the vote November 5 was unexpectedly close, Klaser said talk radio hurt in Garland, Washington, Pulaski, and White Counties, the locations of Demaree's stations and of KSYG in Little Rock. Garland had carried for the tax in the unofficial 1994 count, but went down in 1996. No votes were counted in White in 1994, and the amendment lost by only 49.7 percent there in 1996. Washington and Pulaski Counties supported Amendment 2 in the unofficial 1994 count and stayed in the win column in 1996, but by smaller margins.

"Maybe we should have attacked back and not stayed positive and on message," Klaser mused.

Matteson disagreed. "I don't think we could have answered because there's no way to fight somebody who's convinced a plot exists. To have denied it would have just fueled their 'conspiracy' fantasy," she said. A scientist cannot prove a negative and neither can four state government agencies accused of plotting with the United Nations, which flies black helicopters that can't be seen -- not because they aren't there -- but because they come only at night! No matter how many times such people are told that Amendment 2 had nothing to do with the Man and the Biosphere program, and it did not, they would not have believed it, she said.

### **A Really Long Night**

With the river trip successfully over, campaign leaders began to turn their attention to get-out-the-vote efforts. Klaser sent a memorandum to all county chairs that said, in part:

As you know, the only poll that counts is the one on election day.

We need your help. Please organize some people to stand at the polling places with our signs, make calls to your friends, colleagues and neighbors and remind them to vote. Or organize some door-to-door campaigning. We should do everything we can to get our vote out.

She and Matteson also worked to set up phone banks to contact voters on the Sunday afternoon preceding the election.

Though this cannot be proven, there appeared to be a perceptible energy sag. Passion had burned so brightly for so long that a dull exhaustion had crept into the campaign fabric. Perhaps it would not matter because five days before the election, polls were still showing 62 percent support for Amendment 2.

Klaser said later, however, she felt the "too good" poll numbers made their get-out-the-vote efforts "too soft." She said "we were not worried enough, felt too secure, and therefore did not demonstrate sufficient aggressiveness in GOTV [get-out-the-vote] efforts." Perhaps everyone should have been reminded what Jim Thompson and Thedford Collins told George Purvis after the 1984 loss (Part 2 - The 'Impetuous' Campaign for Amendment 67) – that polls must show at least 60 percent support before a tax can even be expected to have a chance on election day!

Even before the river trip, an election night watch party had been planned for the Capital Hotel with financial help from the G&FC Foundation and the Tourism Foundation. Proving that

nothing came easy, even this was complicated by the fact President Bill Clinton would be a block away in front of the Old State House where he expected to – and did -- declare victory.

"Because Downtown Little Rock will be so crowded with people there to see the President and to attend all the other watch parties, we are issuing special lapel stickers that will be required for entry to our party," advised the flyer sent to Amendment 2 campaign workers. They had to respond by October 21 to get a sticker.

What was to be a celebration turned into what Klaser later called "the most excruciating election night imaginable" and a "night of misery" that extended until 2 p.m. the following day. This is when The Natural State Committee finally learned Amendment 2 had passed with 50.6 percent of the vote (Results - Appendix W).

Victory was claimed at a hastily called news conference in a room adjacent to the Department of Parks and Tourism headquarters in the Multi-Agency Complex (Big MAC Building) on the Capitol Mall.

### **Summing Up**

Missouri's Stegner had warned of the virtual impossibility of passing a conservation sales tax in a state's rural areas, and the author drove this home in the December 1996 issue of *Arkansas Fish & Wildlife* magazine:

Voters surrounded by abundant wildlife, forests, streams and fresh air apparently take them for granted, whereas those living in concrete jungles or where the land has been given over almost exclusively to growing food and fiber tend to appreciate what they don't have.

This is one way the ballots on Amendment 2 can be interpreted because voters in Arkansas' largest cities and in some of the most heavily farmed areas generally were the ones who supported the 1/8th-cent conservation sales tax.

...In all, Amendment 2 carried in only 31 of the state's 75 counties, but they happened to be the most populous ones. [Pulaski County or Little Rock/North Little Rock; Washington County or Fayetteville/Springdale; Sebastian County or Fort Smith; Craighead County or Jonesboro, and Jefferson County or Pine Bluff--Ed.]

Union County (El Dorado) and Miller County (Texarkana) also supported the measure. In fact, Crittenden County (West Memphis) was the only

metropolitan area that balked.

The author also was struck by this point:

With a notable exception, the voting pattern also suggests a correlation between areas that supported the amendment the most and the presence of strong higher education institutions, including Faulkner and Clark Counties, both of which have two universities or colleges within their borders.

As long as the Game & Fish Commission was financed by hunting and fishing license sales and fines from those convicted of violating wildlife laws, the agency had only one true constituency: sportsmen. With the sales tax in effect, the Commission belongs to all Arkansans. This is why some hunters and anglers candidly admitted they did not support the amendment: it meant a loss of "control" to them.

Wilson recognized this change at the victory news conference, imploring Arkansans in his statement to "Let us know your feelings and your desires on all sorts of issues involving wildlife. You are the reason we're here and the reason we've been handed more responsibility."

The most striking feature of Wilson's victory statement, however, was the degree to what he anticipated having to deal with public impatience. "We will have more money to work with, but we also have to do quite a bit of catching up," he said. Levees and even bulldozers and backhoes needed to be repaired and overhauled. "Some of this type of work has to come first before we can launch the innovative projects we laid out in our Plan for Conservation."

His final words, however, were: "Be patient; we'll get there."

While elated by the victory, the closeness of the outcome continued to haunt those who had worked the hardest for Amendment 2's passage.

In addition to citing the effects of "Talk Radio Hell" and the "softness" of the get-out-the-vote effort because of high favorable poll numbers, Klaser added these reasons for the narrow win:

- Length of Ballot: two full sides front and back; the electorate either voted no on all, did not vote on amendments, got confused as to which amendment was the 1/8-cent.
- Gambling Amendments: the organized opposition mobilized to vote NO; the enormous amount of negative advertising had an effect on us, too. [The lone gambling amendment that survived a court challenge lost big.--Ed.]
- The Sky Didn't Fall: parks did not close after 1994 and Game & Fish got new trucks. We obviously didn't do the best job explaining those .

- Persuasive Negative Editorials: core belief that messing with [the] constitution is imprudent and opens the door for more tampering, regressive nature of sales tax, domino effect of other agencies getting in line for designated taxes.

But the most significant of the reasons Klaser listed --predicted more than 10 years earlier by experts -- was this one: **IT'S A FOREVER TAX, STUPID!**

After all, she said, "we did put a tax in the Constitution, and when it came time to vote to tax themselves, many balked. With the statewide, even nationwide, movement to reduce the tax burden, it's a miracle we passed at all!"

It is Steve R. "Wildman" Wilson's nature to be upbeat, and even the closeness of the outcome could not squelch this. He noted (and can anyone argue it is not so?) that the closeness meant that "what really made the difference was every little thing that everybody did."

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## APPENDIX A

### TEXT OF AMENDMENT 67 PROPOSED IN 1984

Be it resolved by the People of the State of Arkansas that the Constitution of Arkansas be amended:

#### SECTION 1. STATEMENT OF PURPOSE

The people of the State of Arkansas find that fish and wildlife constitute a major economic and natural resource of the State and they desire to provide additional funds to the Arkansas Game and Fish Commission to be used for such purposes as are presently authorized.

#### SECTION 2. IMPOSITION OF SALES AND USE TAX

- (a) A sales tax of an additional one-eighth of one percent is hereby levied and imposed upon the sale of tangible personal property and the rendering of taxable services at retail in this state, as provided in the Arkansas Gross Receipts Tax of 1941, as amended and in effect on January 1, 1984.
- (b) A Use Tax of an additional one-eighth of one percent is hereby levied and imposed for the privilege of storing, using or consuming within this state any article of tangible personal property as provided in the Arkansas Compensating Use Tax of 1949, as amended and in effect on January 1, 1984.

#### SECTION 3. USE OF PROCEEDS

All monies collected hereby shall be deposited in the State Treasury in the Game Protection Fund to be used exclusively by the Arkansas Game and Fish Commission, as appropriated by the General Assembly.

**APPENDIX W**

**AMENDMENT 2 VOTE**

**1966**

(became Amendment 75 to the Arkansas Constitution)

\*Won

| <b>COUNTY</b> | <b>FOR</b> | <b>AGAINST</b> |
|---------------|------------|----------------|
| *Arkansas     | 3,443      | 3,048          |
| Ashley        | 2,868      | 3,638          |
| *Baxter       | 7,962      | 6,979          |
| *Benton       | 21,470     | 21,084         |
| Boone         | 4,818      | 6,625          |
| Bradley       | 1,688      | 1,782          |
| Calhoun       | 1,005      | 1,233          |
| Carroll       | 2,822      | 5,537          |
| *Chicot       | 2,142      | 2,063          |
| *Clark        | 4,047      | 3,739          |
| *Clay         | 2,821      | 2,421          |
| Cleburne      | 3,846      | 4,839          |
| Cleveland     | 1,419      | 1,525          |
| Columbia      | 3,191      | 3,682          |
| Conway        | 2,896      | 3,278          |
| *Craighead    | 14,284     | 9,126          |
| *Crawford     | 8,464      | 6,411          |
| Crittenden    | 4,346      | 5,400          |
| *Cross        | 2,954      | 2,611          |
| Dallas        | 1,324      | 1,826          |
| *Desha        | 1,686      | 1,201          |
| *Drew         | 3,037      | 2,391          |
| *Faulkner     | 10,289     | 10,037         |
| *Franklin     | 2,995      | 2,930          |
| Fulton        | 1,811      | 2,098          |
| Garland       | 15,941     | 16,695         |
| Grant         | 2,402      | 3,027          |
| *Greene       | 5,859      | 5,175          |
| Hempstead     | 3,364      | 3,546          |
| Hot Spring    | 4,168      | 5,647          |
| Howard        | 2,047      | 2,295          |
| Independence  | 5,106      | 5,273          |
| Izard         | 2,165      | 2,456          |
| Jackson       | 2,803      | 2,942          |
| *Jefferson    | 11,056     | 8,185          |
| Johnson       | 2,826      | 3,757          |
| Lafayette     | 1,674      | 1,772          |
| Lawrence      | 2,928      | 3,031          |
| *Lee          | 2,093      | 1,889          |
| *Lincoln      | 1,858      | 1,349          |
| *Little River | 2,428      | 2,341          |
| Logan         | 3,570      | 4,030          |
| *Lonoke       | 8,159      | 7,286          |
| Madison       | 1,485      | 2,906          |
| Marion        | 1,974      | 2,634          |

|               |                |                |
|---------------|----------------|----------------|
| *Miller       | 6,309          | 5,552          |
| *Mississippi  | 5,806          | 5,750          |
| *Monroe       | 1,722          | 1,507          |
| Montgomery    | 1,256          | 2,012          |
| Nevada        | 1,602          | 1,862          |
| Newton        | 933            | 2,480          |
| *Ouachita     | 5,084          | 5,044          |
| Perry         | 1,285          | 1,601          |
| Phillips      | 3,394          | 4,435          |
| Pike          | 1,489          | 2,321          |
| *Poinsett     | 3,826          | 3,367          |
| Polk          | 2,615          | 3,782          |
| Pope          | 7,650          | 10,180         |
| Prairie       | 1,486          | 1,748          |
| *Pulaski      | 59,438         | 52,528         |
| *Randolph     | 2,786          | 2,435          |
| *Saline       | 14,842         | 13,258         |
| Scott         | 1,752          | 2,318          |
| Searcy        | 980            | 2,160          |
| *Sebastian    | 19,593         | 14,216         |
| Sevier        | 1,863          | 2,290          |
| *Sharp        | 3,298          | 3,184          |
| St. Francis   | 3,785          | 4,533          |
| Stone         | 1,745          | 2,362          |
| *Union        | 6,646          | 6,348          |
| Van Buren     | 2,928          | 3,391          |
| *Washington   | 25,442         | 19,268         |
| White         | 10,230         | 10,359         |
| Woodruff      | 1,228          | 1,254          |
| Yell          | 2,689          | 3,683          |
| <b>TOTALS</b> | <b>405,216</b> | <b>396,932</b> |

NOTE: For the third time (1984, 1994, 1996) Craighead County led in supporting the Conservation Sales Tax among the counties. Its 1996 support percentage was 61 percent.

