

MINUTES OF MEETING
FISH AND GAME COMMITTEE
MONTANA STATE SENATE

February 12, 1981

The executive session was called to order by Chairman Smith at 12:40 p.m. in Room 402 of the Capitol.

ROLL CALL: All members were present with Senator Jacobson arriving at 12:45 p.m.

ACTION TAKEN ON SENATE BILL 459, "An act defining the scope of liability for outfitters and guides and the responsibility and risk borne by participants; amending Section 87-4-101, MCA."

Senator Galt moved do pass. Senator Berg spoke against the motion. A roll call vote was taken with six voting yes and one voting no.

ACTION TAKEN ON SENATE BILL 103, "An act to make the trafficking in body parts of unlawfully taken wildlife protected by the State of Montana a felony punishable by \$10,000 fine or one-year imprisonment, or both, amending Section 87-3-111, MCA."

Senator Severson moved do pass. Senator Lee seconded the motion. A roll call vote was taken; the motion carried with all members voting yes.

ACTION TAKEN ON SENATE BILL 51, "An act to provide compensation for qualifying fish and game wardens for hours worked in excess of 40 hours per week by paying a premium in 26 equal parts annually over and above the warden's normal salary;..."

Senator Galt moved do pass. Senator Severson spoke against the bill. Senator Lee made a substitute motion that the bill do not pass. After discussion, Senator Smith suggested two separate actions--first, act on the bill; second, authorize the drafting of a letter of intent to the Department of Fish, Wildlife and Parks. Senator Galt said a motion to indefinitely postpone would be proper. Senator Lee withdrew his substitute motion that the bill do not pass and moved that the bill be reported out of committee as indefinitely postponed. A roll call vote was taken and the motion carried with five voting yes and two voting no.

Senator Severson moved that a letter of intent be written and signed by all members of the committee. The letter should be addressed to Jim Flynn, Director of the Department of Fish, Wildlife and Parks, with a copy to Jim DeBoer, President of the Montana Association of State Game Wardens. Some of the points to be considered in drafting the letter were specified as follows:

- (1) No adverse action will be taken against the wardens who appeared and/or testified at the hearing February 10, 1981.

- (2) Wardens are to be allowed to take the issue of premium pay to the bargaining table.
- (3) The committee does not want to tie the hands of the department on the premium pay issue because there might be a better way to deal with the situation.
- (4) Wardens are highly respected for the jobs they perform.
- (5) The Senate Fish and Game Committee sympathizes with the problem.
- (6) The committee believes that legislation is not the proper way to solve the issue.

The motion carried unanimously.

ACTION TAKEN ON SENATE BILL 18, "An act to provide for the regulation of private game animal shooting preserves."

Chairman Smith said that it was the governor's intention to appoint a task force to study, during the coming biennium, the issues involved in regulating game farms so that legislation could be introduced in the next session of the legislature. The task force would include two representatives of the governor's office, two from each of the Departments of Livestock and Fish, Wildlife and Parks, two game farm operators, and two legislators; one from the Senate and one from the House of Representatives.

Chairman Smith recognized Jim Flynn, Director of the Department of Fish, Wildlife and Parks. Mr. Flynn stated that he understood two representatives would be appointed from sportsmen's groups, also.

Senator Galt moved that Senate Bill 18 be indefinitely postponed. Senator Lee seconded the motion. A roll call vote was taken and the motion carried unanimously.

ACTION TAKEN ON HOUSE BILL 123, "An act to allow discharge of firearms at shooting ranges located in towns or cities or located in private dwellings under certain conditions;...."

Senator Severson moved House Bill 123 do pass. A roll call vote was taken and the motion carried unanimously.

ACTION TAKEN ON HOUSE BILL 103, "An act to permit a special archery season in the Teton-Spring Creek Bird Preserve;...."

Senator Berg moved House Bill 103 do pass. A roll call vote was taken and the motion carried unanimously.

That concluded the executive session and Chairman Smith opened the public hearing of bills at 1:05 p.m.

CONSIDERATION OF SENATE BILL 320, "An act to provide for the sale of regular deer and elk tags to residents who are 62 years of age or older at a price not to exceed one-half of that paid by residents who are 15 years of age or older...."

Chairman Smith called on Senator Michael Halligan to explain the bill. He said he had been approached by several elderly people and organizations representing elderly people and asked to introduce SB 320. He stated that the states of Oregon, North Dakota and Idaho have adopted a similar program. He said that with the cost of food, energy and transportation, it is difficult for elderly people with fixed incomes to provide for their households. He believes one of the few ways to alleviate this situation is to allow elderly people to hunt deer and elk at a reduced rate. He said in most cases he believed the elderly would be accompanying younger relatives on hunting trips, thus further reducing their expenditure. He said the bill does not affect any other animals except deer and elk. Senator Halligan's testimony is marked as Attachment #1.

PROPOSERS OF SENATE BILL 320. Mr. Robert VanDerVere spoke in favor of the bill. He felt that those people who have paid taxes and supported the department for so many years should be allowed to buy deer and elk tags at a reduced rate. He said for those elderly people who wanted to pay the full price, there is no provision that would disallow that.

OPPOSERS OF SENATE BILL 320. Mr. Jim Flynn, Director of the Department of Fish, Wildlife and Parks, spoke in opposition to the bill. His testimony is marked Attachment #2.

Chairman Smith called on Senator Halligan to make his closing remarks.

There was discussion concerning the department's budget and the loss of revenue to the department if the bill passes.

CONSIDERATION OF SENATE BILL 276, "An act to eliminate the condemnation power of the Department of Fish, Wildlife and Parks;"

Chairman Smith called on Senator Galt to explain Senate Bill 276. Senator Galt said that this was a simple bill taking one word out of the codes which will take away the power of condemnation of the Department of Fish, Wildlife and Parks. He said the department used the threat of this power one time and he believes it is not necessary for the department to have such power.

PROPOSERS OF SENATE BILL 276. Mr. Franklin Grosfield, a rancher from Sweet Grass County and representing four agricultural organizations--Stillwater County Agricultural Legislative Association, Sweet Grass Preservation Association, Park County Legislative Association, and the Agricultural Preservation Association of Gallatin County--spoke in favor of the bill. His testimony is marked Attachment #3.

Mr. Peter Jackson of Helena, representing WETA, spoke in favor of the bill.

OPPONENTS OF SENATE BILL 276. Mr. Jim Flynn, Director of the Department of Fish, Wildlife and Parks, spoke in opposition to the bill. His testimony is marked Attachment #4.

Mr. Noel Rosetta, representing the Montana Wildlife Federation, read into the record the testimony of Wilbur Reimann, opposing SB 276 (Attachment #5).

Chairman Smith called on Senator Galt to make his closing remarks. There was a brief discussion.

CONSIDERATION OF HOUSE BILL 122, "An act to amend Section 6, Chapter 632, Laws of 1979, to correct an incorrect reference; providing an immediate effective date."

Chairman Smith called on Representative Hal Harper to explain the purpose of HB 122. He said that in the 1979 session, Representative Dassinger introduced House Bill 63 which provides an additional one cent per gallon tax on gasoline, diesel fuel, and volatile liquids to raise funds for three purposes: (1) to fund the accelerated interstate highway construction program; (2) to fund highway patrol costs; (3) to provide funds to cities and counties for the construction, reconstruction, maintenance and repair of streets and roads. He said that the wrong sections were repealed in that bill and the bill before the committee today, House Bill 122, corrects the deficiency by amending Section 6, Chapter 632, and correcting an incorrect reference.

PROPOSERS OF HOUSE BILL 122. Mr. Mike Stephen, representing Montana Association of Counties, spoke in favor of the bill.

ACTION TAKEN ON HOUSE BILL 122. Senator Severson moved do pass. The motion carried unanimously.

ACTION TAKEN ON SENATE BILL 320. Senator Lee moved do pass. After some discussion, a vote was taken; the motion carried with five voting yes and two voting no.

Chairman Smith recognized legislative researcher Andrea Merrill. She said it appeared to her that SB 320 as written might require an amendment.

Senator Lee withdrew his motion. Senator Galt moved that the committee reconsider its action on SB 320 for amendment purposes. The motion carried unanimously.

Chairman Smith asked Ms. Merrill to research the question of an amendment and present her findings to the committee.

There being no further business the meeting adjourned at 2:00 p.m.

After adjournment it was determined that it was not proper for a committee to indefinitely postpone a bill and report it out of committee in that manner. Therefore, the actions taken on Senate Bills 18 and 51 were nullified and those bills will be considered for action by the committee at a later date.

Ed B. Smith

Senator Ed B. Smith, Chairman

jt



The Big Sky Country

MONTANA STATE SENATE

February 12, 1981

Senator Mike Halligan
Senate District 48
435 University Avenue
Missoula, Montana 59801
Phone: 725-2004

Committees:
Judiciary,
Public Health,
Bills and Journals

HELENA ADDRESS:
2212 Choteau
Helena, MT 59601
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FISH & GAME COMMITTEE TESTIMONY - SB 320 by Senator Mike Halligan
Senator Ed Smith Chairman

Hunting and fishing discounts for Senior Citizens is not an original concept. This idea has taken the form of legislation traditionally in several states in our region. The states of Oregon, North Dakota, and Idaho have approached this discount in varying ways. Each one of their programs is generally more extensive and significant than what I have proposed in this legislation. Yet Idaho's Fish and Game estimates their lost annual revenue amounts to only \$37,734. North Dakota loses \$48,260 annually for this service. There is no doubt that there will be some lost revenue to Montana's Agency of Fish, Wildlife and Parks if this bill passes. The legislatures of California and Oregon, in the passage of discounts of this type, recognize that this policy is one of social merit and, thus, their respective Fish and Game agencies should not have to bear the financial burden of the lost revenue. These states have directed that the agencies be reimbursed their lost revenue from the state General Fund, claiming the entire population ought to bear the burden of lost costs as this is a social program. Recognizing the unique needs of the elderly, the popularity of this policy has been overwhelming in Idaho. I talked to a man from Fish and Game in

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Boise, and he expressed the widespread gratitude of many Seniors on fixed incomes and minimal benefits. As a public relations measure, Idaho's Senior Citizen's Discounts have been popular and productive for the Fish and Game Departments.

PRESENTED BY: James W. Flynn, Director
Dept. Fish, Wildlife, & Parks

February 12, 1981

SB 320

Mr. Chairman, members of the committee. My name is Jim Flynn and I appear today on behalf of the Montana Department of Fish, Wildlife, & Parks. I speak in opposition to SB 320.

The Department of Fish, Wildlife, & Parks is concerned about the revenue impact of SB 320. This bill would authorize half price deer and elk tags for those persons 62 years of age or older. The department estimates that \$110,004 would be lost annually if this bill were passed. It would be extremely difficult for the department to absorb this financial loss over the next biennium when budgets are so tight.

It should be pointed out that senior citizens can currently fish and hunt birds with no license other than a conservation license after the age of 62. This privilege already results in a revenue loss to the department. Passage of this legislation would result in further revenue loss. The revenue loss from reduced licenses would not present a difficulty if those losses were made up from some other funding source - possibly the general fund. With funding from the general fund sufficient to meet the revenue loss resulting from this bill, the department would have no opposition to reduced license fees for senior citizens. As currently funded, I would recommend a do not pass on SB 320.

PRESENTED BY: James W. Flynn, Director
Dept. Fish, Wildlife, & Parks

February 12, 1981

SB 276

Mr. Chairman, members of the committee, my name is Jim Flynn. I appear today on behalf of the Montana Department of Fish, Wildlife, & Parks. I am speaking in opposition to SB 276.

SB 276 is a bill which removes the power of condemnation from the Department of Fish, Wildlife, & Parks for its acquisition of parks land or wildlife, fishery, or other habitat acquisition purposes. In most instances when legislation is introduced, it is designed to correct some wrong or meet some problem that has arisen in the past under the statute in question. That does not appear to be the case in this instance. In reviewing this subject of condemnation, I find that these powers of condemnation have been utilized only once in the history of the department. That one time was at the direction of the 1971 Legislature for the protection of a historic landmark which, had the power not been exercised, would have been reduced to rubble. That monument is now Beaverhead Rock State Monument, located a few miles north of Dillon. This purchase was directed by the legislature in the 1971 session by Senate Joint Resolution 16. The department paid for that condemnation, some \$72,500 plus \$17,700 in attorney's fees to the defendant in the matter.

The department has been involved in the land acquisition program since the 1940's. This acquisition has been for wildlife habitat to develop wintering grounds for elk, summer and winter ranges for deer, antelope, elk, and other game and nongame species. Since 1965, the department has also been involved in land acquisition under the state parks system program. During all of those years and in all the land dealings to which we have

been a party, only once has the agency used its powers of condemnation.

While in many instances the department's activities have been controversial, they have also been supported by sportsmen, recreationists, and others throughout the state. The authority for condemnation has been on the books throughout that entire period. Except for Beaverhead Rock, at no time has the commission or the department exercised or even attempted to exercise that authority. The benefit of having the authority is the availability of the power in the remote possibility that it becomes essential for the protection of irreplaceable sites such as Beaverhead Rock. It is, in effect, an ace in the hole which the state may use if all other alternatives are closed to it. It might even be compared to the "way of necessity" which a private landowner may use to cross other lands when the private landholding is entirely cut off from access. Thus, I see no valid reason for stripping the department of this authority, and I urge you to vote a do not pass on this bill.

Testimony of Franklin Grosfield on S.B. 276
Before the Senate Fish, Wildlife & Parks Committee
Feb 12, 1981

Mr. Chairman, members of the committee, I'm Franklin Grosfield, I'm a rancher from Sweet Grass County, and I'm testifying in favor of SB 276 in behalf of four county agricultural organizations. These are The Stillwater County Agricultural Legislative Association, Sweet Grass Preservation Association, Park County Legislative Association, and the Agricultural Preservation Association of Gallatin County.

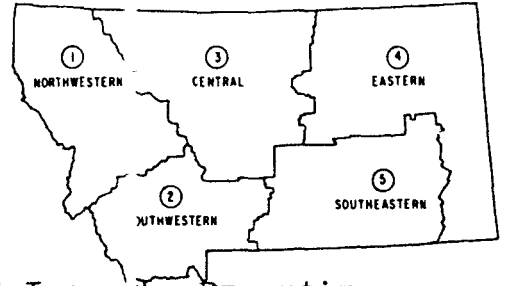
The Dept. of FWP is already one of the major landowners in Montana with about 213,000 acres of land and I think they already have plenty of legitimate ways to acquire land without resorting to condemnation.

For this department to have condemnation powers is just like a mugger having a knife; they don't have to use it to be effective. As long as the potential victim knows they have it, he has to assume they might use it and this is very intimidating.

It is already hard enough to hold a ranching operation together to produce food, and we don't need the additional worry about FWP threatening to condemn our land. so I ask your support of S.P. 276.

Montana Wildlife Federation

AFFILIATE OF NATIONAL WILDLIFE FEDERATION



Mr. Chairman, my name is Wilbur Rehmann and I am the Executive Director of the 2000 member Montana Wildlife Federation and I speak on their behalf.

Mr. Chairman, the Montana Wildlife Federation opposes SB 276 because it seems to be either an extreme case of paranoia or legislative overkill.

The Department of Fish, Wildlife and Parks has now been abusive by any stretch of the imagination of its power of condemnation. In fact, in the entire history of the Department the power of condemnation has only been used once, to protect a national monument, the Beaverhead Rock. Such one time only use is not an abuse of power.

The Montana Wildlife Federation understands the concerns of landowners about the land acquisition programs of the Department, but this legislation suggests that the remedy for a headache is to cut off your head.

The Montana Wildlife Federation strongly urges a do not pass on SB 276 because there is not either documented abuse or even a documented problem. thank you

Wilbur Rehmann



NAME: Noel Rosetta DATE: 2/12/81

ADDRESS: 1100 Missoula, Helena 59601

PHONE: 442-9695

REPRESENTING WHOM? for Wilbur Rehman Wildlife Federation

APPEARING ON WHICH PROPOSAL: # 276

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? X

COMMENTS: Appose removal of "condemnation" ~~for~~ authority for

FWIP: see testimony

SENATE FISH AND GAME COMMITTEE
February 12, 1981

INFORMATION SHEET--

Senate Bill 276 (Galt)

This bill would eliminate the Department of Fish, Wildlife and Parks' power of condemnation. This power enables the department to condemn an area, site, or object that, in the department's opinion, should be held, improved, and maintained as a state park, recreation area, monument, or historical site. This power has been exercised only once in the department's history.

Senate Bill 320 (Halligan)

This bill will allow persons 62 years of age or older to purchase resident deer and elk tags at half the price paid by other residents. The current elk license tag is \$8.00 and a deer license tag is \$7.00. Seniors would pay one-half that amount.

This bill will need an amendment to change "15 years of age" to "12 years of age" in the title and amended section to conform with Title 87, Chapter 2.

SENATE COMMITTEE FISH AND GAME

Date 2-12-51 Senate Bill No. 154 Time 12:42 p.m.

NAME	YES	NO
Smith, Ed, Chairman	✓	
Galt, Jack, Vice Chairman	✓	
Severson, Elmer	✓	
Lee, Gary	✓	
Eck, Dorothy	✓	
Berg, Harry		✓
Jacobson, Judy	✓	

Jeanette G. Thornton
Secretary

Ed B. Smith
Chairman

Motion: No pass

(include enough information on motion—put with yellow copy of committee report.)

STANDING COMMITTEE REPORT

February 12

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MR. **PRESIDENT**.....

We, your committee on **SENATE FISH AND GAME**.....

having had under consideration **SENATE** Bill No. **159**.....

Respectfully report as follows: That..... **SENATE** Bill No. **159**.....

DO PASS

Ed. G. Smith *GA*
.....

Chairman.

SENATE COMMITTEE FISH AND GAME

Date 2-12-51 Senate Bill No. 103 Time 12:45 p.m.

NAME	YES	NO
Smith, Ed, Chairman	✓	
Galt, Jack, Vice Chairman	✓	
Severson, Elmer	✓	
Lee, Gary		
Eck, Dorothy		
Berg, Harry	✓	
Jacobson, Judy	✓	

Jeanette G. Thornton
Secretary

Ed B. Smith
Chairman

Motion: See Pass

(include enough information on motion—put with yellow copy of committee report.)

STANDING COMMITTEE REPORT

FEBRUARY 12

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MR. PRESIDENT

We, your committee on SENATE FISH AND GAME

having had under consideration SENATE Bill No. 103

Respectfully report as follows: That SENATE Bill No. 103

DO PASS

E. K. Smith *Ch.*
.....
Chairman.

SENATE COMMITTEE FISH AND GAME

Date 2-12-81 Senate Bill No. 51 Time 1:00 pm.

NAME	YES	NO
Smith, Ed, Chairman	✓	
Galt, Jack, Vice Chairman		✓
Severson, Elmer	✓	
Lee, Gary	✓	
Eck, Dorothy	✓	
Berg, Harry		✓
Jacobson, Judy	✓	

Jeanette G. Thornton
Secretary

Ed B. Smith
Chairman

Motion: Postpone indefinitely

(include enough information on motion--put with yellow copy of committee report.)

SENATE COMMITTEE FISH AND GAME

Date 7/27/54 Senate Bill No. 157 Time 1:02

NAME	YES	NO
Smith, Ed, Chairman	✓	
Galt, Jack, Vice Chairman	✓	
Severson, Elmer	✓	
Lee, Gary	✓	
Eck, Dorothy	✓	
Berg, Harry	✓	
Jacobson, Judy	✓	

Jeanette G. Thornton
Secretary

Ed B. Smith
Chairman

Motion: motion tabled - postponed

(include enough information on motion--put with yellow copy of committee report.)

SENATE COMMITTEE FISH AND GAME

Date 2-12-51 House Bill No. 123 Time _____

NAME	YES	NO
Smith, Ed, Chairman	✓	
Galt, Jack, Vice Chairman	✓	
Severson, Elmer	✓	
Lee, Gary	✓	
Eck, Dorothy	✓	
Berg, Harry	✓	
Jacobson, Judy	✓	

Jeanette G. Thornton
Secretary

Ed B. Smith
Chairman

Motion: As Pass

(include enough information on motion--put with yellow copy of committee report.)

SENATE COMMITTEE FISH AND GAME

Date 2-12-81 House Bill No. 103 Time 1:04

NAME	YES	NO
Smith, Ed, Chairman	✓	
Galt, Jack, Vice Chairman	✓	
Severson, Elmer	✓	
Lee, Gary	✓	
Eck, Dorothy	✓	
Berg, Harry	✓	
Jacobson, Judy	✓	

Jeanette G. Thornton
Secretary

Ed B. Smith
Chairman

Motion: Let Pass

(include enough information on motion--put with yellow copy of committee report.)

STANDING COMMITTEE REPORT

FEBRUARY 12

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MR. **PRESIDENT**

We, your committee on **SENATE FISH AND GAME**

having had under consideration **HOUSE** Bill No. **122**

Respectfully report as follows: That **HOUSE** Bill No. **122**

BE CONCURRED IN.

DO PASS

[Handwritten signature] **BA.**
Chairman.

STANDING COMMITTEE REPORT

FEBRUARY 12

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PRESIDENT

MR.

We, your committee on **SENATE FISH AND GAME**

having had under consideration **HOUSE** Bill No. **103**

Respectfully report as follows: That **HOUSE** Bill No. **103**

BE CONCURRED IN.

DO PASS

[Handwritten Signature] P.A.
.....
Chairman.