

1/20/79

MINUTES

FISH AND GAME COMMITTEE

MONTANA STATE SENATE

February 17, 1979

The thirteenth meeting of the Fish and Game Committee was called to order by Chairman Smith at 12:30 P.M., in Room 402 of the State Capitol Building.

ROLL CALL: All members were present.

CONSIDERATION OF SENATE BILL 497, A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR A PERMIT SYSTEM FOR THE AERIAL HUNTING OF PREDATORY ANIMALS; FORBIDDING THE HARASSMENT OF LIVESTOCK BY AIRCRAFT; PROVIDING PENALTIES, INCLUDING FORFEITURE OF PERSONAL PROPERTY, FOR ILLEGAL AERIAL HUNTING OF WILDLIFE; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

Chairman Smith asked Senator Van Valkenburg, Chief Sponsor, to explain it. Senator Van Valkenburg said there had been considerable aerial hunting in his district and his constituents had requested that he prepare and, present the bill. He went on to say there seem to be no regulations in the area regarding aerial predatory hunting. He then asked Mr. Charles Brown, Attorney for the Department of Livestock, to present his testimony. Mr. Brown, proponent of the bill, stated the bill is necessary because of the extensive losses caused by predators.

Mr. Joe Helle, a rancher, stated that, because of predators, the sheep industry has suffered greatly; therefore, he would support the bill, as amended.

Mr. Jerry Devlin, a sheep rancher from Prairie County, said that, because of the permitted pilots, there had been a noticeable loss of predators, and he would support the bill with the addition of the amendments.

Mr. McKamey, a rancher, spoke in support of the bill, saying he would ask that it pass with the amendments.

Mr. Chuck Newsom spoke in favor of the bill.

Chairman Smith asked for proponents; Mr. Hank Fischer, representing "Defenders of Wildlife," testified, stating he did not think this bill would be fair to the wildlife populations of Montana. It is his feeling the bill needs some changes.

Ms. Jean Curry, representing "Friends of the Earth," confronted the Committee with her suggestions to strengthen the bill. She also said nonresident hunters should not be allowed. (Attachment #2)

Mr. Bill Rogers, who is an aerial hunter representing himself and his family, said he has flown aircraft for many years, and he is opposed to the fact that confiscation of planes could occur as a result of this bill and cause less interest in the killing of coyotes.

Mr. Ralph Wright of Billings also spoke regarding the fact that aerial hunting would be reduced.

When Chairman Smith asked for comments from the Committee, Senator Van Valkenburg said that no matter what bill comes out, there would be problems with it. He further stated that, as amended, he would urge passage of the bill.

Senator Manley stated this is a horrible piece of legislation, in his opinion. He felt the bill is just another step toward taking citizens' rights away.

Chairman Smith mentioned that no one's testimony would be ignored. He said all information should be based on facts, and he is certainly aware that predation has been a serious problem.

Senator Goodover said although he is not involved in aerial flying, he is interested in hearing both sides come up with good arguments. He asked whether or not there is any common meeting ground.

Mr. Norton Minor said that because of Judge Battin's ruling, some kind of legislation should be passed.

Mr. Les Graham, representing the Department of Livestock, said there are no problems. He stated they have documented all flying time and the number of hours flown by permitted pilots; all records are very accurate.

The discussion was finished, and Chairman Smith closed the hearing on SB 497.

DISCUSSION OF SB 470, A BILL FOR AN ACT ENTITLED:
"AN ACT TO PROVIDE FOR PUBLIC FINANCING OF POLITICAL CAMPAIGNS FOR THE OFFICE OF STATE SENATOR AND TO PLACE LIMITS ON THE EXPENDITURES OF CANDIDATES ACCEPTING MONEY FROM THE PUBLIC CAMPAIGN FUND FOR STATE SENATE CAMPAIGNS."

Senator Towe stated, as sponsor of this bill, it had nothing to do with predators, but while campaigning, he did kill a coyote with his car.

He said SB 470 has to do with the amount of money spent on campaign funds. He said that, although his own campaign was found to have been most expensive, it had no bearing on his presenting this bill.

Mr. Jim Minor, representing "Common Cause," had been an unsuccessful candidate and testified regarding funding of campaigns.

Chairman Smith found it necessary to limit the testimony due to the short length of time before the session was to begin. Senator Anderson commented that this is a beautiful bill for an incumbent. Chairman Smith closed the hearing on SB 470.

CONSIDERATION OF SB 485, A BILL FOR AN ACT ENTITLED:
"AN ACT TO EXEMPT LICENSED ATTORNEYS FROM THE REAL ESTATE LICENSE ACT OF 1963."

Senator Richard Smith, Chief Sponsor, explained that this is merely a housekeeping bill.

Mr. Tom Honzel, an attorney representing the Montana Association of Realtors, spoke as an opponent, saying the bill is not needed. Mr. Cliff Christian, representing the same association, spoke in opposition to the bill, stating people generally require the services of an attorney when selling land or homes.

Chairman Smith closed the hearing and asked for questions from the Committee. Senator Galt said he would vote for the bill if it were amended.

DISPOSITION OF SB 485: Senator Galt made a motion that SB 485 DO NOT PASS. The motion was seconded by Senator Goodover. Following a roll call vote, the motion carried 5-2, with Senators Van Valkenburg and Anderson voting "no."

CONSIDERATION OF SB 488: A BILL FOR AN ACT ENTITLED:
"AN ACT TO REQUIRE THE ADMINISTRATIVE CODE COMMITTEE TO

REVIEW, DURING THE NEXT FOUR BIENNIALS, RULES ADOPTED BY CERTAIN STATE AGENCIES SUBJECT TO APPROVAL BY THE LEGISLATURE, RULES TO BE CONTINUED OR INVALIDATED."

Senator Greg Jergeson, Chief Sponsor, explained that this legislation is to require the Administrative Code Committee to review rules adopted by certain state agencies.

There being no proponents or opponents, Chairman Smith asked for questions from the Committee.

DISPOSITION OF SB 488: Senator Van Valkenburg made a motion that SB 488 DO PASS AND BE PLACED ON THE CONSENT CALENDAR. The motion carried unanimously by a voice vote.

CONSIDERATION OF SB 461, A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE APPOINTMENT PROCEDURES AND DUTIES FOR CITY ATTORNEYS."

Senator Steve Brown, Chief Sponsor of the bill, explained this legislation would revise appointment procedures for and duties of city attorneys. After some discussion, it was decided the bill would benefit small towns, as well as the larger cities.

DISPOSITION OF SB 461: Senator Manley made a motion that SB 461 DO PASS. Senator Goodover seconded the motion and it carried unanimously by a voice vote.

CONSIDERATION OF SB 501, A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING TRAPPERS TO FILE MAPS OF THEIR TRAPLINES WITH THE DEPARTMENT OF FISH AND GAME AND MAKING TRAPPERS STRICTLY LIABLE FOR ALL DAMAGE DONE TO LIVESTOCK."

Senator Mark Etchart, Chief Sponsor of the bill, explained it. He asked if Mr. Wayne Putts, who is very familiar with snares, could testify in regard to the bill. Permission to do this was granted, and Mr. Putts produced pictures of animals that had been caught in snares, causing such injuries that cattle buyers would only consider buying the animals for dog food. He also mentioned that horseback riders have been thrown from their horses when the animals are caught in these snares. A snare was passed around the Committee for examination.

DISPOSITION OF SB 501: Proposed amendments were discussed. (Please refer to Standing Committee Report.) Senator Manley made a motion that SB 501, AS AMENDED, DO PASS.

The motion carried unanimously by a voice vote.

CONSIDERATION OF SB 504, A BILL FOR AN ACT ENTITLED:
"AN ACT TO MAKE IT A MISDEMEANOR TO LEAVE SNARES AND TRAPS UN-
ATTENDED AND TO WASTE FURS OR FUR-BEARING ANIMALS."

Senator Robert Watt, Chief Sponsor, explained the bill. Following discussion it was decided to amend the bill by removing the word "furs." Mr. Erv Kent, Administrator of the Law Enforcement Division, Department of Fish and Game, stated the Department supported the bill.

DISPOSITION OF SB 504: Senator Van Valkenburg made a motion that SB 504, AS AMENDED, DO PASS. The motion carried unanimously, following a voice vote.

ANNOUNCEMENTS: Chairman Smith announced the Committee would meet on adjournment of the session today to discuss SB 497 and to consider SB 470, SB 440, and SB 475.

ADJOURNMENT: Chairman Smith adjourned the meeting at 12:30 P.M.



SENATOR ED B. SMITH, CHAIRMAN

Date Feb. 17, 1979

ROLL CALL

12130 - 2130 P.M.

FISH AND GAME COMMITTEE

46th LEGISLATIVE SESSION - 1979

Each Day Attach to Minutes.

SB
BILL
497

SENATE

Senate Committee

VISITORS' REGISTER

DATE

1-13-79

NAME	REPRESENTING	BILL #	(check one) SUPPORT	OPPOSE
Ed Tyminich	MT. Trappers Assn.	497	✓	
Fuller Langeman	" " "	497	✓	
Paul O'Gorman	Trapper	497	✓	
Bob Gilkey	MT. Woolgrowers SB 497 with amendments		✓	
Joe T. Fette	Rancher	"	✓	
M.G. Devlin	Rancher	"	✓	
D. (Frank) Cannon	Rancher	"	✓	
Victor P. Gould	myself	"		
Philip C. Caldwell	SELF	"	✓	
John W. Rogers	Self	497	✓	
Dick Todd	Self	497	✓	
Robert Rennette	Self	497	✓	
Hank Fischer	Dealers of Wildlife	497	✓	Amend.
John Bell	self	470		✓
Major Bell	self	470		✓
Dave Mass	Self	497	✓	with Amend.
Jan Curry	Friends of the Earth	497		(amendments)
John H. T. Hall	Washington Natural Resources	497		Amend.
Tom Hoff	Mont. Ranchers Assn	485		✓
Cliff Christensen	MT. Woolgrowers	485		✓

COMMITTEE ON

DATE:

2-17-1949

VISITORS' REGISTER

SB 501
504
BILL

SENATE

SENATE Kirk D. Dorn COMMITTEE
VISITORS' REGISTER

VISITORS' REGISTER

DATE 2/17-184

Attachment #1

PROPOSED AMENDMENTS TO SB 497

Introduced (white) copy

1. Amend page 1 line 25
Following: "prohibited."
Strike: "When a permit is required under [section]"
2. Amend page 2 line 1
Strike: "1], the"
Insert: "The"
3. Amend page 2 line 3
Following: "activities"
Strike: ","
4. Amend page 2, line 5
Following: "done"
Strike: "pursuant to the terms of the permit"
Insert: "by and in accordance with the permit
required by [section 1], the provisions
[section 6] or employees of the state,
its subdivisions, or the federal government
acting within the scope of their employment"
5. Amend page 5 line 7
Following: "sale."
Insert: "Proceeds from the sale of property forfeited under
this section shall be deposited in the state treasury
to the credit of the predatory earmarked revenue
account of the department of livestock."

PROPOSED AMENDMENTS TO SB 497

Introduced (white) copy

1. Amend page 2 line 11
Strike: "near livestock at an altitude of less"
Insert: "closer to livestock"
2. Amend page 3 lines 18 and 19
Following: "only in"
Strike: "Montana counties adjacent to the state line if"
Insert: "areas which"
3. Amend page 3 line 19
Strike: "that such counties are"
4. Amend page 5 line 8
Insert: a new subsection (2) as follows:
"Notwithstanding the penalty provided in subsection (1) of this section, when the personal property convicted under this section has been used in violation of the terms of a permit authorized by [this act], the owner of such property shall be fined \$1000 for a first offense. All further violations by the owner, or by the property shall result in forfeiture pursuant to this section."

Renumber: Existing subsection (2) as subsection (3)

My name is
Dante

Attachment #

SB 497 testimony

Feb. 19, 1979

My name is Jean Curry. I am the Montana Representative for Friends of the Earth, which is an organization surprisingly reflects the conservatism of Montanans in general.

Our organization recognizes the need to be adaptive to regiondom rather than exploitative of an area and that conservative and fiscally prudent approaches to resource management make the most sense for the long term stability of earth communities.

Our members in Montana are both new and native to the state. My daughter is a 4th generation Montanan from the Deer Lodge valley. Her grandfather has told me in many discussions over coffee at the ranch about his concerns ~~for all~~ ~~of~~ the modern & insensitive control of predators.

I have been actively involved in both trying to understand and alter predator policy in Montana. I continue to be confused, frustrated & overwhelmed by what appears to be policy based on myth, speculation, greed, and unscientific assumptions. Montana's predator policy makers tend to dismiss the need for objective, scientific data. What if we tried to implement a

internal combustion engine or even
bake a cake on myth instead of laws
of physics, combustion chemistry
or oven baking temperatures? Being
arbitrary & selective with scientific information
makes little sense to me.

SB 497 is basically a good attempt
to effectuate control over aerial hunting,
but as written it is excessively general,
full of loopholes and will perpetuate
unwise wildlife management without
necessarily meeting a goal of livestock
protection.

I would like to offer the following
suggestions to strengthen this bill:

1. That, at a minimum, all of the
recommendations made by Hank Fisher
of Defenders of Wildlife be incorporated
as amendments to SB 497
2. That predation of game animals be
deleted from this bill; it is highly
inappropriate for the Dept. of Livestock
to be in the business of "protecting"
game animals from predation.
3. That "potential" livestock losses
be deleted as a legitimate reason for
a permit. "Potential" is just far too
easily abused.

5. That Sec. 3 includes wildlife along with livestock regarding prohibition of harassment.
6. That out of state or non-resident hunters not be allowed to exploit the program.
7. That the money generated be enough to properly and fairly enforce the program.
8. That permits be issued for only one year.
9. That a strict qualification ^{be included} requires permittees to demonstrate knowledge of and ability to distinguish endangered or threatened species.
10. 9. a strict, standardized criteria for issuing permits that eliminates discretion of Livestock Dept. personnel.

If these very reasonable amendments are not incorporated into SB 497, we would have to withdraw any support of the bill.

~~I am happy to have~~ Please understand that in speaking for certain wildlife species, we are not ~~automatically~~ speaking against livestock or ranchers or the economic health of Montana communities.

A living planet is a remarkable thing,

and a tenuous experiment at best.
We need all the Company we can
get on our unlikely journey.
One species death diminishes us all
for we are involved in life.

With all due respect to
the committee, why
are Ed Smith, John Morley
et al able to digress
from specifics of the bill,
while we can't?

FIVE VALLEYS AUDUBON SOCIETY



POST OFFICE BOX 8425
MISSOULA, MONTANA 59807

TESTIMONY OF FIVE VALLEYS AUDUBON to Montana Audubon Council concerning SB 497

The Five Valleys Audubon Chapter serves a 4 county area of Western Montana. Our chapter which was formed two years ago now has approximately 400 members. The rapid rate of growth in the size of our chapter along with the formation of other new Audubon chapters in the state of Montana are we feel an indication of the interest among Montanans in non-game wildlife.

We are very disturbed with Judge Battin's ruling. And I as a law student would judge from the precedent existing previous to the case that the decision will not stand. We feel that is is appropriate for Montana to act immediately to control aerial hunting within Montana. We are concerned for the impacts that aerial hunting unregulated will have on our game and non-game animals. Aerial hunting must be controlled strictly in relation to game and non-game animals. No individual should be allowed to feel that he has license to decimate populations of valued animals. We are specifically concerned for the large birds of prey and the rarer mammals.

Unfortunately, this bill from our perspective is very inadequate in protecting the game and non-game animals of the state. We feel that Montana can by drafting and adopting a tough bill present to the other states and the Federal government an effective model for legislation in this area.

Cary B. Lund

Vice-President

CHAPTER OF THE NATIONAL AUDUBON SOCIETY

NAME: Tom Honzel DATE: 2-17-79

ADDRESS: P O Box 1721 Helena

PHONE: 443-5554

REPRESENTING WHOM? Mont Reaffers, Inc.

APPEARING ON WHICH PROPOSAL: 52 485

DO YOU: SUPPORT? AMEND? OPPOSE?

COMMENTS: _____

NAME: Cliff Christian DATE: 3-17

ADDRESS: 501 N. Sanders - Hoboken

PHONE: 443 - 4032

REPRESENTING WHOM? INT Assn of REATORS

APPEARING ON WHICH PROPOSAL: SB. 485

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE?

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: ERWIN J KENT DATE: 2-17-79

ADDRESS: Hebron, N.H.

PHONE: 449-2453

REPRESENTING WHOM? MONT. DEPT. OF FISH & GAME

APPEARING ON WHICH PROPOSAL: SB 504

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

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Ralph Wright DATE: 1-17-79

ADDRESS: Blue Creek Billings, Mont.

PHONE: 259-8261

REPRESENTING WHOM? Self & Family

APPEARING ON WHICH PROPOSAL: Auburne Hunting Act

DO YOU: SUPPORT AMEND OPPOSE

COMMENTS: I feel the bill should be amended
to provide for a larger permit fee
and eliminate the classification of infractions
for trespass violations. It will put a
chilling effect on the illegal hunting
to have strict classification for a trespass.
But in stiffer fines and allow
due process before confiscation.

NAME: Cary B. Lund DATE: Feb 14, 79

ADDRESS: 945 Rinni Ct. Minneapolis, MN

PHONE: 928-7694

REPRESENTING WHOM? Montana Federation Council

APPEARING ON WHICH PROPOSAL: SB 497

DO YOU: SUPPORT? AMEND? ✓ OPPOSE?

COMMENTS:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Kenneth A. Coulter DATE: 7-17-79

ADDRESS: BRUGET, MONT 59315

PHONE: 557-2517 OR 2760

REPRESENTING WHOM? Mont Assoc of Counties & GARFIELD
County Commt.

APPEARING ON WHICH PROPOSAL: 497

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

COMMENTS: WITHHELD SUBJECT OR OPPOSITION UNTIL HEARING DISCUSSION.

I FEEL SOME REASONABLE CONTROL OF AIRCRAFT
HUNTING IS NECESSARY. THE CONFISCATION OF AIRCRAFT
IS EXCESSIVE UNLESS SEVERAL PREVIOUS CONVICTIONS TO
THE OWNER OF AIRCRAFT IN MY OPINION.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Fuller Langeman DATE: Feb 17, 1979

ADDRESS: Box 145

PHONE: 429-4711

REPRESENTING WHOM? Montauk Trappers Assn.

APPEARING ON WHICH PROPOSAL: Senate Bill 494

DO YOU: SUPPORT? AMEND? OPPOSE?

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Keith J. Gregerson DATE: Feb 17, 1979

ADDRESS: 810 First St East Roundup, Montana

PHONE: 323-1791

REPRESENTING WHOM? M.T.A.

APPEARING ON WHICH PROPOSAL: SENATE BILL 497

DO YOU: SUPPORT? AMEND? OPPOSE?

COMMENTS:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Jean Curry DATE: 2-17-79

ADDRESS: 509 Hill St.

PHONE: Missoula, Mont. 59801

REPRESENTING WHOM? Friends of the Earth

APPEARING ON WHICH PROPOSAL: 3B497

DO YOU: SUPPORT? _____ AMEND? OPPOSE? _____

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: PETE JACKSON DATE: 2-17-79

DATE: 2-17-79

ADDRESS: Box 896 Harrison Plaza

PHONE: 685-3347

REPRESENTING WHOM? SELF

APPEARING ON WHICH PROPOSAL: _____

DO YOU: SUPPORT? AMEND? OPPOSE?

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

STANDING COMMITTEE REPORT

February 17

79

19

President

MR.

Fish and Game

We, your committee on

Senate

488

having had under consideration Bill No.

Senate

488

Respectfully report as follows: That..... Bill No.

was unanimously passed and was unanimously placed on the
Consent Calendar.

DO PASS

G.D.

STATE PUB. CO.
Helena, Mont.

ED B. SMITH

Chairman.

STANDING COMMITTEE REPORT

February 17, 1979

MR. President:

We, your committee on Fish and Game

having had under consideration Senate Bill No. 504

Respectfully report as follows: That Senate Bill No. 504, introduced bill, be amended as follows:

1. Title, line 6.

Following: "WASTE"

Strike: "FURS OR"

2. Page 1, lines 11 and 12.

Following: "that"

Strike: "furs or"

And, as so amended,

DO PASS

G.Q.

STANDING COMMITTEE REPORT

February 17

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MR. President

We, your committee on Fish and Game

having had under consideration Senate Bill No. 501

Respectfully report as follows: That Senate Bill No. 501,

introduced bill, be amended as follows:

1. Title, lines 4 through 6.

Following: "ACT"

Strike: "REQUIRING TRAPPERS TO FILE MAPS OF THEIR TRAPLINES
WITH THE DEPARTMENT OF FISH AND GAME AND"

2. Page 1, lines 10 through 14.

Strike: section 1 in its entirety

Insert: "Section 1. Strict liability for damage to livestock.
A trapper is strictly liable for all damage done to livestock
by any trap or snare set by him."

3. Page 1, line 13.

Strike: "or imprisonment not to exceed 6 months or both"

And, as so amended,

DO PASS

ED

Ed B. Smith,

Chairman.

STANDING COMMITTEE REPORT

February 17

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MR. President

We, your committee on Fish and Game

having had under consideration Senate 461 Bill No.

Respectfully report as follows: That Senate 461 Bill No.

DO PASS

Ed.

STANDING COMMITTEE REPORT

February 17

79

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President

MR.

Fish and Game

We, your committee on

Senate

485

having had under consideration

Bill No.

Respectfully report as follows: That.....

Senate

485

Bill No.

DO NOT PASS

XXXXXX

DO PASS

RC

SENATE COMMITTEE FISH AND GAME

Date February 17, 1979 Bill No. SB 485 Time 12:30/2:30 p.m.

Sherri R. Smith
Secretary Louise Fulbright

ED B. SMITH
Chairman

Motion: DO NOT PASS

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