#### MINUTES

#### FISH AND GAME COMMITTEE

#### MONTANA STATE SENATE

March 13, 1979

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The twentieth meeting of the Fish and Game Committee was called to order by Chairman Smith at 1:05 P.M., in Room 402 of the State Capitol Building.

ROLL CALL: All members were present.

CONSIDERATION OF HB 575, A BILL FOR AN ACT ENTITLED:

"AN ACT TO ESTABLISH A PROPERTY DAMAGE REIMBURSEMENT PROGRAM WITHIN THE DEPARTMENT OF FISH AND GAME AND PROVIDE

FOR THE MANNER AND METHOD OF ADMINISTRATION OF THAT PROGRAM; AND PROVIDING AN EFFECTIVE DATE AND PERIOD OF APPLICATION."

Representative William Day, Chief Sponsor, explained the bill. He said that at the present time, 51 percent of private land in Montana is closed to hunters. The purpose of this bill, he continued, is to entice landowners to open their lands to hunting; he thought it might be a way to ease some of the pressures being put on landowners. However, he said, it won't deal with forcing access to state or public land.

Mr. John Poston, representing the Landowner-Sportsman Advisory Council appointed by the Governor, said the Council's makeup is a cross section of people from all walks of life. He explained the damage schedule on page 4 of the bill. He said this is an experimental endeavor and has never been tried in another state to his knowledge. This law, if enacted, would expire automatically in three years if the legislature didn't do something to reenact it. He mentioned the annual \$2 fee for this liability insurance, saying he didn't feel if was exorbitant, since a couple of containers of worms cost that much and ammunition, equipment, transportation, etc. are all very expensive.

Mr. Zach Stevens of Bozeman, representing the Farm Bureau and other farm organizations, testified in support

of the bill.

Mr. Bob Biggerstaff of Helena, representing the Montana Association of State Grazing Districts and the Montana Association of Conservation Districts, testified in support of the bill.

Mr. Hugh Zackheim of Missoula, Executive Director of the Montana Wildlife Federation, testified in support of the bill. He said his organization feels \$2 is a small price to pay for improving landowner-sportsman relations.

There being no further proponents, Chairman Smith called for opponents to speak. There being none, he asked Representative Day to close. Representative Day asked if the Committee members would allow Dr. Robert Wambach, Director of the Department of Fish and Game, and Mr. Joseph J. Klabunde, Chairman of the Montana Fish and Game Commission, to answer questions, which was allowed by Chairman Smith.

Senator Anderson feels that the Fish and Game Department should not adjust these losses. He asked if anyone had considered using independent adjusters.

Representative Day said most Fish and Game personnel are in constant contact with landowners, and we need personal contact. He felt the money received from the fees would go further this way. Senator Anderson asked what would happen if a person has insurance with another firm. Representative Day said that person would be covered by both insurances. Senator Anderson's feeling was that people should not be making a profit from a property loss.

Senator Goodover said he did most of his fishing from a boat on a lake and, since he would not be on private property, he asked if he would be required to have this insurance. Representative Day replied that he absolutely would; the insurance is taken out at the time a person purchases a Conservation License, which is a prerequisite to buying any other fish and game license.

At 1:25 P.M., Senator Van Valkenburg entered the meeting.

Chairman Smith asked Mr. Stevens if so many polls had been conducted by the Farm Bureau and other farm groups, of which he and his wife are members, why then had he not been polled about this bill.

Mr. Stevens replied there had not been a formal poll, but the bill had been discussed at various meetings and conventions, and the people all seemed in favor it.

Chairman Smith asked Mr. Zackheim what made him think this bill would insure access. Mr. Zackheim replied that it might not insure it, but he felt it would be a step toward improving access by enhancing landowner-sportsman relations.

PROPOSED AMENDMENT: Senator Manley proposed an amendment to the bill that would have Section 1. (a) read: "improve landowner-sportsman relations for the purposes of hunting and fishing."

It would remove the wording "to and across private lands within the state" and the word "trapping." (page 1, lines 13 through 15.)

Senator Manley felt that, as written, the bill insinuates that if a person pays \$2, he has a right to hunt on private land without permission. Representative Day said he had no objection to changing the bill to conform with Senator Manley's request.

Senator Goodover proposed the word "may," instead of "shall," on page 2, line 5. This would amend the bill so people who wished to buy the insurance could, and those who did not would not be required to. Representative Day said since this is a trial measure, he felt we should see how it works for four years.

Senator Anderson asked why there was not a statement of intent with this bill, since it involves rule-making authority. Representative Day said it would be satisfactory with him to have this done.

Senator Anderson said if Fish and Game Wardens are going to enforce this bill and handle claims, he would expect they will be paid approximately the same amount as would an independent insurance adjuster.

Mr. Woody Wright, attorney for the Department of Fish and Game, said Dr. Robert Wambach, Department Director, has made a statement that, if the monies received from this fund were not sufficient, other monies from the Department would be provided to carry out the program.

Senator Anderson wanted to know details about a fiscal note. Mr. Wright said approximately 320,000 to 350,000 Conservation Licenses were sold during the past year. Thus, the income generated from this would be in

the area of \$640,000 to \$700,000 annually.

Senator Galt made a motion MOTION FOR AMENDMENT: that we change the date on page 5, line 24 from "1979" to "1980." Senator Goodover opposed the amendment. It carried by a voice vote.

Senator Goodover stated he felt this bill would be very difficult to police and enforce. Senator Manley stated, although he didn't think the bill would work, perhaps we should give it a try. However, he didn't think it should apply to trappers.

MOTION FOR AMENDMENT: Senator Manley made a motion to accept the amendments he had proposed on page 1, line 13 and leave the trappers in the bill. (This decision followed a lengthy discussion about trappers.)

SUBSTITUTE MOTION FOR AMENDMENT: Senator Galt made a motion to amend line 13 on page 1 to read: "(a) improve landowner-sportsman relations, and to improve access to and across private lands within the state for the purposes of hunting, fishing, and trapping; and".

The motion to adopt Senator Galt's amendment was carried 5-2, following a roll call vote, with Senators Goodover and Manley voting "no."

There being no further questions from the Committee, Chairman Smith closed the hearing on HB 575.

DISPOSITION OF HB 623, A BILL FOR AN ACT ENTITLED: "AN ACT TO ESTABLISH A TRAPPER EDUCATION PROGRAM; TO RE-QUIRE EVIDENCE OF COMPLETION OF SUCH COURSE, A COMPARABLE COURSE, OR PRIOR POSSESSION OF A VALID TRAPPER'S LICENSE BEFORE ISSUANCE OF A CLASS C TRAPPER'S LICENSE."

Senator Manley made a motion that HB 623 BE NOT CONCURRED IN.

Chairman Smith called for questions.

Senator Stimatz asked if the bill had been amended in our Committee or if it was as shown in the bill book. Chairman Smith and Debbie Schmidt, Legislative Council Researcher, reported it had not been amended.

Senator Van Valkenburg spoke against the motion, saying - as Dr. Wambach pointed out - there is a real need to keep in touch with trappers and do this in a proper manner. He said in looking back at the hearing on this bill,

it appeared that the majority of trappers wanted this bill. Senator Manley stated he had contacted many trappers, and they were not even aware of the bill.

A roll call vote was conducted and the motion that HB 623 BE NOT CONCURRED IN carried 5-2, with Senators Stimatz and Van Valkenburg voting "no."

DISCUSSION OF PROPOSED JOINT RESOLUTION TO BE SPONSORED BY THE SENATE FISH AND GAME COMMITTEE, ENTITLED: "A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRE-SENTATIVES URGING THE STUDY OF FUNDING FOR AND OPERATION OF THE MONTANA DEPARTMENT OF FISH, WILDLIFE, AND PARKS." (Attachment #1)

It was decided to discuss this proposed resolution on an informal basis on Thursday, March 15, at 1:00 P.M.

CONSIDERATION OF HB 575: (Refer to page 1 of these minutes for definition.)

Chairman Smith asked the Committee what its wishes were in regard to disposition of this bill. Senator Anderson said he wanted time to work on it and make a good bill out of it. Senator Van Valkenburg felt that \$640,000 per year was too much for this bill. Senator Goodover said he definitely agreed it was.

Chairman Smith said executive action will be taken on the bill at the Thursday meeting.

CONSIDERATION OF HB 420, A BILL FOR AN ACT EN-"AN ACT TO REVISE THE STATUTES RELATED TO HUNTING AND TRAPPING LICENSES TO MODIFY CERTAIN DEFINITIONS, MAKE PERMISSIVE THE INFORMATION INCLUDED ON BIG GAME LICENSES, MAKE CONSISTENT WORDING OF AUTHORITY UNDER A LICENSE, DE-LETE CERTAIN LICENSES, PROVIDE INVIDIDUAL GAME SPECIES LICENSES FOR NONRESIDENTS, MAKE RESTRICTIONS NOW APPLICA-BLE TO NONRESIDENT GAME ANIMAL LICENSES APPLICABLE TO ALL HUNTING LICENSES, PERMIT THE DEPARTMENT TO DETERMINE GAME ANIMAL SEASONS FOR WHICH THE BOW AND ARROW LICENSE IS APPLICABLE, INCREASE FEES FOR CERTAIN NONRESIDENT HUNTING LICENSES, DECREASE THE FEE FOR RESIDENT B-TAG DEER LICENSE, AND MAKE SUCH OTHER MODIFICATIONS TO THE STATUTES NECES-SARY TO CARRY OUT THIS REVISION."

Debbie Schmidt stated she would like to offer some amendments to the bill. She said on page 3, lines 22 and 23, which had been stricken previously should be reinstated in the bill. She also said that on page 5, Section 3 should be removed and the subsequent sections renumbered.

MOTION FOR AMENDMENT: Senator Van Valkenburg made a motion to accept the amendments proposed by Debbie Schmidt. The motion carried by voice vote.

Senator Galt asked about the second deer license proposed for nonresidents. Mr. Woody Wright, attorney for the Fish and Game Department, explained that under current law the Class B-7 (nonresident Deer A-Taq) is obtainable two ways: 1) included in the B-10 nonresident big game combination license (which costs \$225 and also includes the Conservation License, an elk tag, black bear tag, and authorizes fishing and upland game bird hunting); 2) if authorized by the Department, by purchase of a B-7 license for \$50 provided the purchaser possesses a B-2 license (nonresident combination bird/fish license) which costs \$50 and is a prerequisite for the B-7. The B-8 license (nonresident Deer B-Tag) also costs \$50 and, when authorized, can be purchased by holders of either B-2 or B-10 prerequisite licenses. In any case, the fees for either the B-2 (\$50) or B-10 (\$225) are NONREFUNDABLE.

No nonresident deer licenses, B-5, B-7 or B-8 have been issued the past two years, primarily because of restrictive language in the law (87-506-MCA; formerly 26-201.1). This section states that "....no number limit shall be placed on B-7, B-8 and B-10 licenses by area except in major hunter concentration areas .... This stipulation was applied to the B-5 license and simply did not allow the Department to utilize nonresident deer-only hunters where and when they might be needed, especially in southeastern Montana, for deer damage situations.

In order to make the best and most efficient use of nonresident deer-only hunters, the revision of Chapter 2 (HB 420) proposes to:

- eliminate the nonresident Class B-5 deer-only licenses; a)
- eliminate the Class B-2 nonresident bird/fish combinab) tion license and thereby eliminate it as a nonrefundable prerequisite for the nonresident Class B-7 (\$100) and B-8 (\$50) deer-only licenses. The B-7 (Deer A-Taq) would continue to be a part of the B-10 license and nonresident season fish (Class B for \$20) and bird (Class B-1 for \$30) licenses would still be available; and,
- change the prerequisite for the B-7 and/or B-8 licenses c) from the nonrefundable \$50 B-2 to the \$1.00 nonresident conservation license (the nonresident Class B-10- \$225 would also be a valid prerequisite for the B-8).

Mr. Wright said the general authority is the first license, the B-7. If the Commission decides it wants the people to do so, they may be allowed to have the second-deer license. (Refer to Attachment #2, outlining the present and proposed license fee structure.)

DISPOSITION OF HB 420: Senator Manley made a motion that HB 420, AS AMENDED, BE CONCURRED IN. This includes the proposed amendments of Senator Manley previously adopted by the Committee. (Attachment #3)

Senator Anderson made a motion to amend the bill to say that "dead animals cannot be transported with hide and hair sooner than the first hunting season or after the last hunting season."

Mr. Joseph Klabunde, Chairman of the Fish and Game Commission said he did not think these amendments were needed, because the Bighorn court case decision holds in any dealings with game farms.

Senator Manley asked Mr. Klabunde why he didn't feel the landowners should have control over their own property. Mr. Klabunde said there have been cases where people are taking down fences and letting in state animals.

Senator Stimatz said he thought Senator Manley's amendments were premature. He said right now he agrees with Mr. Klabunde that "poachers" could come in and, in effect, say to the Fish and Game Department, "We can do anything we want -- you have no control over our activities." He felt the Bighorn court case was a very narrow decision and that it applies only to that set of circumstances. Senator Stimatz also pointed out that particular case applied only to 10 acres.

Debbie Schmidt said she wanted to emphasize that the legislature can reverse any decision of the court and enact a law stating that.

Senator Manley left the meeting at 2:30 P.M.

<u>ADJOURNMENT:</u> Senator Goodover made a motion to adjourn. The motion carried by voice vote and Chairman Smith adjourned the meeting at 2:35 P.M.

NOTE: It was decided after Senator Manley left the meeting to take no further action on his motion until the Committee met next.

SENATOR ED B. SMITH, CHAIRMAN

Date 3-19-179

#### ROLL CALL

### FISH AND GAME COMMITTEE

#### 46th LEGISLATIVE SESSION - 1979

<del> </del>	EXCUSED

Each Day Attach to Minutes.

SENATE Just Dome COMMITTEE

DATE 3-13 VISITORS' BILL REGISTER Please note bill no. (check one) BILL # REPRESENTING NAME SUPPORT OPPO SENATE Just Dom COMMITTEE

DATE 3-13-29 VISITORS' REGISTER BILL\_\_\_\_ Please note bill no. (check one) BILL # ||SUPPORT | OPPOSE REPRESENTING NAME

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# FOR DISCUSSION ONLY

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attachment

INTRODUCED BY Senate Fish and Game Committee, E. Smith, Chairman

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES URGING
THE COMMITTEE ON PRIORITIES TO ASSIGN TO AN INTERIM LEGISLATIVE SUBCOMMITTHE STUDY OF FUNDING FOR AND OPERATION OF THE MONTANA DEPARTMENT OF FISH,
WILDLIFE, AND PARKS.

WHEREAS, the protection, preservation, and propogation of Montana's fish and wildlife are funded almost entirely through collection of fees for fishing, hunting, and trapping licenses; and

WHEREAS, there are certain restrictions on the use of money derived from hunting and fishing license fees that determine Montana's eligibility to receive substantial federal matching funds for fish and wildlife management; and

WHEREAS, management of Montana's state parks and recreation areas is funded primarily through general fund money; and

WHEREAS, the adequacy of these funding sources to support proper management and supervision of these fish, wildlife, park and related resources has been questioned; and

whereas, the Department of Fish, Wildlife, and Parks' efficiency and effectiveness in using these funding sources for proper management of fish, wildlife, and parks has been the subject of considerable debate among legislators, agriculturalists, and sportsmen; and

WHEREAS, the 47th Legislature as well as recent past legislatures have seen the introduction of a number of bills and resolutions relating to the above issues, none of which has adequately addressed the problems involved; and

WHEREAS, there is insufficient revenue for the Department to meet all its statutory responsibilities; and

WHEREAS, resolution of these problems is necessary to assure

strong and effective program for management of Montana's fish and wildlife in order to prevent further encroachment by federal interests.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVE OF THE STATE OF MONTANA:

That the Committee on Priorities is urged to assign to an appropriate legislative committee, consisting of equal representation of both houses and both parties, the study of funding for and operation of the Department of Fish, Wildlife, and Parks.

BE IT FURTHER RESOLVED,

That the committee shall study:

- (1) hunting, fishing, and trapping license fees and their adequacy to meet the department's management and statutory responsibilities;
- (2) fees and other funding sources for parks, recreation areas, state monuments, historic sites, and other recreational sites;
  - (3) funding sources and responsibility for land acquisitions;
- (4) potential revenue sources for management and statutory responsibility for nongame wildlife;
- (5) the requirements and eligibility for participation in federal and private grant and other funding programs;
  - (6) the relationship between resident and nonresident fee structures;
  - (7) the compensation of license agents;
- (8) the use of interest derived from all moneys earmarked for use by the Department;
- (9) the revenue derived from a specific fee source as it relates to the program or other activities funded by that source;
- (10) the adequacy of earmarked funding sources to meet the department's responsibilities with regard to snowmobiles and motorboats;
  - (11) the use of moneys derived from fines, forfeitures, and sale of

confiscated game;

- (12) the long-range capital development of buildings and facilities and
- (13) other related funding problems.

  BE IT FURTHER RESOLVED that the committee shall report its findings, recommendations, and any remedial legislation to the regular session of the 47th Legislature.

BE IT FURTHER RESOLUED, That the committee shall hold some of its meetings outside of Heleva in various portions of the state

FUNDING - FROM FISH & GAME

INDEPENDENT STAFF?

COMPENSATION OF LEGISLATED

Alachment #1

#### LICENSE STRUCTURE AND COST

	Current	Proposed
Conservation (Res. and NR)	1.00	1.004
NR Combination bird-fish (B-2)	50.00 <sup>1</sup>	eliminate
NR deer B-5	50.00 <sup>2</sup>	eliminate
NR deer A, B-7	$50.00^3$	100.00
NR deer B, B-8	50.00 <sup>3</sup>	50.00
NR bird	$30.00^2$	30.00
NR fish	$20.00^2$	20.00
NR black bear, spring	$35.00^2$	eliminate
NR black bear, season	50.00 <sup>3</sup>	100.00
NR, grizzly	$125.00^3$	150.00
NR mountain lion	$25.00^3$	100.00
NR antelope	50.00 <sup>3</sup>	100.00
NR goat	$75.00^{3}$	150.00
NR moose	$125.00^3$	150.00
NR sheep	$125.00^3$	150.00
NR big game combination - B-10 (deer A, elk, birds, fish, black bear)	225.00 <sup>1</sup>	225.00
Resident deer B tag	12.00	5.00

<sup>&</sup>lt;sup>1</sup>Non-refundable, serves as prerequisite for many other licenses; includes conservation license.

<sup>&</sup>lt;sup>2</sup>Requires \$1.00 conservation license as prerequisite.

 $<sup>^3</sup>$ Requires \$50.00 B-2 or \$225.00 B-10 license as prerequisite.

<sup>&</sup>lt;sup>4</sup>The \$1.00 non-resident conservation license would be the only prerequisite for all other licenses.

#### SENATOR MANLEY'S PROPOSED AMENDMENTS

Proposed amendments to HB 420

Amend HB 420, Third reading copy:

1. Title, line 9.

Following: "LICENSES,"

Insert: "PROVIDE THAT LICENSING AND OTHER RESTRICTIONS ON HARVESTING DO NOT APPLY TO CERTAIN GAME ANIMALS,"

2. Page 16, line 25. Following: line 24

Insert: "NEW SECTION. Section 20. Restrictions on harvesting game farm animals. A person holding a game farm or fur farm permit under this part may harvest or dispose of game animals for which he holds title without regard to laws or rules of the department or commission pertaining to licenses, bag limits, or seasons.

Section 21. Codification. Section 20 is intended to be codified as an integral part of Title 87, chapter 4, part 4, and the provisions contained in Title 87, chapter 4, part 4, apply to section 20."

Renumber: subsequent sections

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GALT, Jack E., Vice Chairman			
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STIMATZ, Lawrence G.			
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## STANDING COMMITTEE REPORT

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PRESIDENT			
We, your committee on	FISH AND GAME		
naving had under consideration		NOUSE	Bill No 623

Respectfully report as follows: That.....

BE NOT CONCURRED IN

Chairman,

STATE PUB. CO. Helena, Mont.

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SMITH, Ed, Chairman			
GALT, Jack E., Vice Chairman			
ANDERSON, Mike			
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(include enough information on motion—put with yellow copy of  $\operatorname{\text{\it committee}}$  report.)