

MINUTES OF THE MEETING OF THE FISH AND GAME COMMITTEE
February 3, 1981

The meeting was called to order at 12:30 p.m. by Chairman Ellison. All committee members were present.

HOUSE BILL 417 (Copy Attached)

Representative Nilson, sponsor of HB 417, told the committee this bill would give game wardens the authority of a law enforcement officer in cases of trap thefts.

There were 5 proponents and 2 opponents who testified on HB 417.

Proponents

Edd Nentwig, representing the Montana Trappers Association, told the committee during the last legislative session, his association tried to get a similar bill passed and were told trap theft enforcement was already covered under the statutes. His association found out that information was false. He said this bill would give wardens from the Department of Fish, Wildlife, and Parks (F, W, & P) authority to make arrests during the course of fur-bearer management.

Wayne Harmon, Vice President of the Montana Trappers Association, also testified in support of HB 417.

Gary Jensen, representing Mr. and Mrs. Jack White of Townsend, read a letter from the Whites. Some questions asked by the Whites were: "How would this proposal accomplish prohibition of trap thefts?" and "What would the penalty be for violation of this act?"

Bob Gilbert, representing the Montana Woolgrowers Association, said the association supports HB 417.

Mons Teigan, representing the Montana Stockgrowers Association and the Montana Cowbells Association, testified in support of HB 417.

Opponents

Lawrence Ward, an independent trapper, spoke during the opponent's time. He said he quit trapping three years ago because of the great number of traps that were stolen from him. He said he didn't want to testify for or against HB 417.

Jim Flynn, Director of F, W, & P, gave copies of written testimony to committee members and then read the testimony to the committee. (See EXHIBIT 1.)

Questions were accepted from the committee at this time.

Chairman Ellison asked if there wasn't some kind of agreement between the F, W, & P game wardens and law enforcement officers on the enforcement of F, W, & P laws. Irwin Kent, Administrator of the Law Enforcement Division, F, W, & P, said there is not a formal agreement. In the smaller communities the wardens and law enforcement officers work together.

Chairman Ellison asked if it was correct to assume that at the present time it is outside the jurisdiction of a game warden to make the arrest in trap theft cases. Mr. Kent said that was correct.

Representative Jensen said this bill would place additional responsibility on the F, W, & P wardens and asked Mr. Flynn if it would be that much of an extra burden. Mr. Flynn told the committee that if the legislature directs F, W, & P to do a specific thing, emphasis would be placed on that direction. He cited an example where if there was a five-mile trap line and a F, W, & P warden had to check the entire trap line, the work load for that warden would increase tremendously. He told the committee if they would appropriate the extra funding to handle the additional work load, F, W, & P would provide the services.

Representative Jacobsen asked if game wardens got the same training as a law enforcement officer. Mr. Kent said the wardens have to attend the law enforcement academy in Bozeman and F, W, & P also provides training.

Mr. Nentwig said the trappers are now being told to contact deputy sheriffs concerning trap thefts. He said the sheriffs are busy with law enforcement problems and the sheriffs are being asked to enforce something with which they are not familiar.

Representative Jensen said he doesn't read anything in the bill saying a warden should neglect other duties and just enforce the trap theft problem. Mr. Flynn said this bill would create expectations that when traps or contents of traps are stolen, a warden will go and find out where it is and who stole it. Mr. Flynn said if the legislature wants the F, W, & P to enforce this problem, they will have to appropriate the money to handle the extra work loads.

Mr. Nentwig said the problem is not one of the priorities of the F, W, & P. He said the trappers are just asking for their rights to be protected.

Representative Mueller asked Mr. Nentwig if he thinks a game warden would be in a better position to make an arrest than a

sheriff. Mr. Nentwig said if you are to build a court case you have to obtain proper evidence. The sheriff's department personnel are not able to comprehend all the factors needed to build a good court case concerning trap thefts. He said a deputy sheriff might not know the differences between species and would not be able to assess the value of the furs, so he might not collect the right type of evidence.

Representative Nilson said this bill is obviously a "common sense" bill. Wardens are more capable of enforcing these types of violations than anyone else.

The hearing on HB 417 was closed.

HOUSE BILL 454 (Copy Attached)

Representative Herb Huennekens, sponsor of HB 454, told the committee that F, W, & P funds are invested and the interest earned from those investments is placed in the general fund. This bill would leave the interest in the F, W, & P fund on which the interest was earned.

Representative Huennekens said the interest amounts will not be huge. He said the interest money will have to be appropriated by the legislature.

There were 2 proponents and 1 opponent testifying on HB 454.

Proponents

Jim Flynn, Director of F, W, & P, gave committee members copies of his prepared testimony on HB 454. (EXHIBIT 2) He read the testimony to the committee.

Wilbur Rehmann, Executive Director of the Montana Wildlife Federation, told the committee that all across the state, he has heard the question: "Why can't we get interest from the fees and use it for activities that benefit sportsmen of Montana?" He feels this bill would be a long-term measure to deal with the financial problems of the F, W, & P.

Opponents

Morris Brussett, Director of the Department of Administration (D of A), said he does not disagree with the philosophy that interest should accrue back to the funds which generated the investment activity. He said there are a number of agencies in central government that provide central services that are paid out of the general fund (i.e. purchasing, accounting, personnel, central payroll, warrant writing, etc.). These services are paid for from the general fund and are provided to all agencies

free even though they are operated from earmarked funds. He said it is only fair to charge other agencies for the total costs. He said at one time, there was a pro rata plan in which the D of A charged back to the non-general fund agencies, the costs involved with those services. That plan was disbanded a few years ago and in lieu of that plan, the D of A said they would take the interest earned from the agencies' money held in the state treasury, which would basically be a trade-off. He said if the F, W, & P get their interest put back into the F, W, & P funds, all the other state agencies will want to do that too.

Representative Phillips asked if this bill proposes setting up a fund for game ranges. Representative Huennekens said he isn't sure how game ranges got into this bill, that was not his intention. He said the committee could use its own good judgement but he doesn't see any reason to restrict the use of these funds for game ranges, considering the funds are coming from fishermen, etc. He thinks the funds should be usable throughout the F, W, & P programs.

Representative Phillips said he doesn't see where the bill says the funds would be appropriated by the legislature. Representative Huennekens said the funds would have to be appropriated by the legislature.

Mr. Brussett said if this bill passes, D of A would identify this money as F, W, & P money on the investment and there would have to be a charge for investing the money.

Representative Huennekens said he cannot conceive the cost of investment services equalling the interest from the investments.

Representative Huennekens said when F, W, & P funds consist of money that sportsmen from Montana provide, he feels those funds should be held within the various accounts and available for future use.

Representative Huennekens said the committee could have the legislative council change the last section of the bill so that the interest money is maintained within each individual account.

The hearing on HB 454 was closed.

At this time, the committee went into EXECUTIVE SESSION.

HOUSE BILL 323

Representative Feda moved HB 323 DO NOT PASS.

Representative Nilson made a substitute motion that HB 323 BE TABLED UNTIL THE 90th LEGISLATIVE DAY. He said the committee might want to address HB 323 in HB 200.

Representative Mueller agreed HB 323 should be tabled until the end of the session because this committee might want to come back to the bill for a need of revenue and if this committee kills the bill outright, this committee could not change any amounts in HB 200.

Representative Bennett asked if this committee has to keep HB 323 alive and asked if this same section, 87-2-505, wasn't being addressed in HB 200.

Russ Josephson, legal counsel for this committee, said the same section is addressed in HB 200 but it might be wise to table HB 323 rather than kill it. Representative Nilson said he talked to the sponsor of this bill, Representative Huennekens, and he agrees.

The motion was voted on and PASSED unanimously.

HOUSE BILL 200

Chairman Ellison appointed a subcommittee to deal with issues of HB 200. Chairman, of that subcommittee, will be Representative Devlin and Representatives Ryan and Roush will also serve on the subcommittee.

HOUSE BILL 152

Representative Devlin made a motion to RECONSIDER PREVIOUS ACTION on HB 152. He said he feels this committee overlooked the most important part of the bill - reducing rabies. He feels the bill could be cleaned up. Representative Jacobsen agreed with Representative Devlin.

The motion was voted on and PASSED unanimously.

HOUSE BILL 454

Representative Jensen moved HB 454 DO NOT PASS.

Representative Jensen said Mr. Brussett had testified that F, W, & P was charged for all services rendered to that agency, not just the service of investing their money.

Representative Mueller said he agreed with the motion and added if you take money from somewhere, you have to make it up somewhere else.

The motion was voted on and PASSED. Those voting "no" were Representatives Robbins, Hart, Nilson, Daily and Phillips. All other committee members voted "aye". (Representative McLane did not vote because she was excused at the time of voting.

The meeting was adjourned at 2:45 p.m.

Orval E. Ellison
ORVAL ELLISON, Chairman

vm1

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

February 3, 1981

HB 417

Mr. Chairman, members of the committee, my name is Jim Flynn. I appear today on behalf of the Montana Department of Fish, Wildlife, & Parks, and I speak in opposition to HB 417.

The department understands the concerns and frustrations of those who lose traps and furs to unscrupulous persons. However, the theft of those furs and traps is already a violation of state law. (MCA 45-6-¹⁰¹~~202~~ and 45-6-203) Placement of this violation in the Fish, Wildlife, & Parks' statutes is, in our opinion, redundant.

This bill would also expand the enforcement responsibilities of the Department of Fish, Wildlife, & Parks outside the traditional wildlife area and into the area of theft - an area now enforced by county sheriffs and city police.

As you are well aware, the department is under severe budget constraints. I am particularly concerned with these budgetary constraints as they affect our enforcement division. More and more demands, in the normal course of business, are being placed upon our wardens, and I am mindful that new duties and responsibilities are going to require more people and thus more funds. Any expansion of responsibilities for the department must recognize and provide for funding to fulfill those responsibilities; otherwise, it will not be possible to fulfill them.

I would point out that the department, in the performance of its regular duties, will assist local authorities whenever possible in the reporting and investigation of illegal acts.

I urge a do not pass vote on HB 417. Thank you.

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

February 3, 1981

HB 454

Mr. Chairman, members of the committee, my name is Jim Flynn. I appear today on behalf of the Montana Department of Fish, Wildlife, & Parks, and I speak in support of HB 454.

Legislative proposals similar to HB 454 were introduced in the 1975 and 1977 sessions, but were not successful. This issue has been a common concern of sportsmen over the last few years who feel the interest on their license fees should be used for programs which directly benefit them.

Funding for the department's various programs comes from a variety of sources, but the single largest source is from the sale of hunting and fishing licenses. Over 45% of our total department income (about 8.7 million dollars last year) is from hunting and fishing license fees.

At the present time, as licenses are sold throughout the year, the money is deposited in the state treasury. After the money is deposited, it is then treated the same as other state revenues (except certain funds of the Dept. of Agriculture and Dept. of Livestock) and eventually, is invested by the Board of Investments with the interest accruing to the state's general fund.

The department receives no benefit from the interest revenues on its hunting and fishing license income. The Park's Division receives a general fund appropriation, but this money is used solely for the state parks system. The point here is that license fees generate considerable income for the state's general fund, but the sportsmen who buy these licenses receive no tangible return from the interest on those fees.

We have made some rough calculations of potential earnings from the interest accrued on license dollars for future years. These estimates are derived from a somewhat simplified scenario, but we feel they are adequate to indicate future significance of this source of money from sportsmen's pockets. Calculations assume (1) an "average" cash balance per fiscal year in our license account (minus a \$750,000 balance we must maintain to finance federal projects); (2) an average annual interest rate of 12% for FY82 and FY83; and (3) interest compounded monthly. Also, the fiscal impact of this bill is reduced by an estimated 15% of possible interest earnings due to direct payments to Dept. of Administration. With these assumptions, the following amount of additional money could be available for fish and wildlife conservation uses.

FY82 and FY83 ---- \$87,687

The projected amount does not include any interest on the \$750,000 minimum balance in the license account, nor any interest on fishing license funds which are earmarked for fishing access acquisition. A 12% interest rate was used in the calculations, although the state's investment office recently indicated that the daily interest on large sums of money would bring a 19% interest rate.

This committee is considering the department's request for a license fee increase. As structured, that increase will meet department funding needs for only a few years. Any other source of funding that does not require regular license increases should be considered. Like the trust account considered earlier as HB 102, this bill will provide a source for partial funding for some department activities, a method that will assist in holding the line on license fees.

I strongly urge a do pass recommendation on HB 454. Thank you.

STATE OF MONTANA**DEPARTMENT OF****FISH AND GAME**

TO: Orval Ellison, Chairman
House Fish, Wildlife, & Parks Committee

February 3, 1981

FROM: Jim Flynn, Director
Dept. Fish, Wildlife, & Parks J.F.

SUBJECT: HB 417

In my testimony on this bill on February 3, I cited Sections 45-6-102 and 45-6-203. That reference is in error; the correct citation is 45-6-101.

Would you please show this correction on my testimony.

FWW/nk