

MINUTES OF THE MEETING OF THE FISH AND GAME COMMITTEE  
February 12, 1981

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

HOUSE BILL 669

Representative Aaron Andreason, sponsor of HB 669, is sponsoring this bill at the request of some of his constituents. He said this bill will change the opening day of hunting season from Sunday to Saturday.

Representative Andreason said game hunting should be for the convenience of Montana hunters. He feels this change will result in a higher success rate for hunters. Representative Andreason said the Department of Fish, Wildlife, and Parks (F, W, & P) can pick any Saturday they want. He also told the committee that some of the neighboring states to Montana have Saturday as the opening day for hunting.

Robert Van Der Vere, a concerned citizens lobbyist, spoke in support of HB 669.

Chairman Ellison told the committee that F, W, & P has indicated they are neither proponents nor opponents of HB 669.

Jim Flynn, Director of F, W, & P, told the committee there is no biological justification for saying Saturday or Sunday would be the better opening day.

Mr. Flynn read a prepared statement to the committee. (EXHIBIT 1)

Chairman Ellison told the committee the opening day hunting dates are set in March of each year. The Fish and Game Commission holds a meeting and the public is invited to come and testify. He said there were a lot of ranchers who had input on the opening day being changed from Saturday to Sunday previously.

Representative Andreason closed by saying this bill would be a flexible opportunity for more people to get out and hunt for a longer period of time.

The hearing on HB 669 was closed.

HOUSE BILL 650

Representative John Ryan, sponsor of HB 650, said this bill is

an act to deposit money in the general fund that was previously deposited in various earmarked revenue fund accounts to the credit of the Department of Fish, Wildlife, and Parks.

Proponents

Bob Robinson, representing the Legislative Fiscal Analyst's Office, spoke in support of HB 650. (EXHIBIT 2)

Opponents

Jim Flynn read a prepared statement to the committee. (EXHIBIT 3) He said the supposition that "this bill may save the department some time and money" as stated by Mr. Robinson, is not correct. Mr. Flynn feels that determination should be made by the Executive branch after looking into the process in detail.

Mr. Flynn also said any department head, in F, W, & P, who expressed an opinion to Mr. Robinson, is strictly their opinion and not the opinion of the department.

Mervin Finstad, a member of the Lewis and Clark County Parks Board, testified in opposition to HB 650. (EXHIBIT 4)

Robert Ryan, President of the Lewis and Clark County Parks Board, testified in opposition to HB 650. (EXHIBIT 5)

Bill Howell, President of the Montana Snowmobilers Association, spoke in opposition to HB 650. He said the association favors earmarked funds so that money spent on the snowmobiling sport comes back to that sport. He said continuity of the program is important. If earmarked funds are lost, so will the continuity.

Mr. Howell, also a tour operator, said this past week a chartered plane with 150 people came to West Yellowstone and because of their experience in Montana, they have booked tours for the next four years.

Mr. Howell said the snowmobilers have an advisory council that meets with F, W, & P to make decisions on how earmarked funds will be spent.

Ken Hoovestall spoke for Pete Jackson who wanted to go on record as being in opposition to HB 650.

Mr. Hoovestall, also representing the Montana Marine Trade Association, said the legislature has determined that these funds were generated for these sports and should be put back into the sports.

Mr. Hoovestall said the question is whether or not these earmarked funds are being properly administered. He said the Montana Marine Trade Association has been happy with the way the parks division has administered these funds. Mr. Hoovestall said, in comparing other states, Montana has been blessed with some very fine people. Mr. Hoovestall urged opposition to HB 650.

Representative Manuel asked if the coal tax park trust fund would be destroyed by this bill. Mr. Robinson said one-third of the interest goes to historical sites, two-thirds of the interest goes to acquisition of parks and the operation and maintenance of those parks. He said the LFA is not critical of acquisition but those funds could be appropriated to the general fund and then the long-range building committee could make the decisions on acquisition.

Representative Phillips apologized to the opponents of HB 650 for his name being on this bill. He thought the bill did something different than what it is doing.

Representative Phillips asked how this bill would assure that the money that goes into the general fund will be spent in the area in which it is earned. Mr. Robinson said if that money went into the general fund, it would still be monitored by the source to which it was received. He said there will be a monitoring effect to see where revenue was collected and spent.

Mr. Robinson said he thinks the current accounting system is too complicated. (It is by region, park, etc.) He feels F, W, & P could account for a total amount easier than a lot of separate amounts.

Mr. Ron Holliday, Administrator of the Recreation and Parks Division, said he does not agree with Mr. Robinson. Mr. Holliday devised the current accounting system. The system is not necessarily to keep track of earmarking but to keep track of the activities within that account. He thinks this is the best management technique F, W, & P can have. He said F, W, & P knows exactly where the money is coming from and where the money is going to.

Representative Devlin asked what would be the limit of the number of earmarked funds Mr. Holliday's division could handle. Mr. Holliday said if it is the legislature's desire, his division could handle more or less earmarked funds. There is not a limit on the number of funds that could be handled.

Representative Devlin asked what affect this pooling in the general fund would have on F, W, & P federal funds. Mr. Holliday

said there would be no affect on the federal funds in the parks division but there would be in other divisions in F, W, & P.

Representative Devlin asked if the bill passed, would the long-range building committee be responsible for the decisions on acquisitions. Mr. Robinson said the bill is more comprehensive in the parks division than the LFA had intended. Mr. Robinson said the proposal would be knocking out acquisitions of additional parks and if this committee does not see that desirable, the committee could amend that section out.

The hearing was closed on HB 650.

At this time, the committee went into EXECUTIVE SESSION.

HOUSE BILL 251

Russ Josephson, legal counsel for this committee, explained that a committee bill was necessary because the desired changes were too great to do by amendment and still be within the title and intent of the bill. He told the committee he took HB 251 and reworked it to fit the intent of this committee. The changes would be:

Title, line 4.  
Following: "REQUIRE"  
Strike: "LEGISLATIVE"  
Insert: "GUBERNATORIAL"

Page 2, line 5.  
Following: "or"  
Strike: "\$10,000"  
Insert: "\$100,000"  
Following: "the"  
Strike: "legislature"  
Insert: "governor"

Page 2, line 25.  
Following: "or"  
Strike: "\$10,000"  
Insert: "\$100,000"  
Following: "the"  
Strike: "legislature"  
Insert: "governor"

Representative Burnett moved this committee make a committee bill out of the revised version of HB 251, which was killed in committee.

The motion was voted on and PASSED unanimously.

Representative Nilson said there has been talk of having an interim study to look into the affairs of F, W, & P. He asked for the committee's feelings on having an interim study.

Chairman Ellison said there has been a resolution introduced in each of the last three legislative sessions to have an interim study on F, W, & P but that has not been a high enough priority to get the funding to do the study.

Representative Nilson asked what the cost is. Representative Manuel said between \$7,000 and \$12,000.

Representative Robbins said he thought it would be a good idea to have an interim study done because every time he turns around he hears comments on the F, W, & P. He thinks F, W, & P is a very necessary part of Montana government.

Representative Nilson moved this committee approve a joint resolution for an interim study into the matters of F, W, & P.

Representative Feda said that would be a cost efficient way to get a lot of answers on F, W, & P.

Chairman Ellison said the study might settle a lot of controversy on F, W, & P.

Representative Nilson's motion was voted on and FAILED because the vote didn't get two-thirds of the committee's votes.

Chairman Ellison suggested Representative Nilson draft a resolution of his own and bring it to this committee for study.

#### HOUSE BILL 441

Representative Jensen moved the following amendment to HB 441:

Page 2, line 2.

Following: "~~receive~~"

Strike: "are entitled to receive upon request"

Insert: "shall receive"

The motion was voted on and PASSED. Representative Phillips voted "no" and the rest of the committee voted "yes".

Representative Jensen moved the following amendments to HB 441:

Page 2, line 9.

Following: "sold"

Strike: "if the agent has"

Page 2, line 10.

Following: line 9

Strike: "requested compensation"

The motion was voted on and PASSED unanimously.

Representative Jensen said he would like to define a sporting goods dealer as one who sells hunting and fishing supplies.

Representative Feda made a motion to TABLE HB 441.

The motion was voted on and PASSED unanimously.

The meeting was adjourned at 2:00 p.m.

  
\_\_\_\_\_  
ORVAL ELLISON, Chairman

vml

COMMENTS ON HB - 669

Statement by Department of Fish, Wildlife, and Parks

Mr. Chairman, members of the committee, my name is Jim Flynn. I appear today on behalf of the Montana Department of Fish, Wildlife, and Parks to offer background information to the committee concerning HB-669.

Over time, the Fish and Game Commission and Department have received many suggestions from many different groups regarding when game animal seasons should open. Some of these suggestions follow:

- . Persons employed in the mining or smelting industry favored Sunday openings because they worked on Saturday.

- . The Ministerial association sent a letter opposing the Sunday opening (they did not suggest an alternate day of the week).

- . Some sportsmen favored a Saturday opening because it allowed them two days in a row to hunt and be able to hunt with their sons and/or daughters.

- . Some ranchers and farmers resisted a Saturday opening because that would be two days in a row of (opening day) hunting pressure where they would have to contend with high numbers of hunters.

The Fish and Game Commission apparently felt that the Sunday opening satisfied the majority as reflected in the following motions:

October 23, 1956 - Commission meeting minutes, Item 31 - favorable consideration was given to Sunday openings for future big game seasons.

Motion, Mr. Hanson: " I move that hereafter it will be the purpose and intent of the Montana Fish and Game Commission to open the general big game hunting season on October 15, if a Sunday, or the first Sunday following this date."

Seconded by Mr. Skibby. Carried.

January 18, 1966 Commission meeting minutes, Item 39. Tauck - " I move to adopt the following general opening season dates for big game for three years:

Back country seasons - Sept. 15  
General antelope - Third Sunday in October  
General big game - Fourth Sunday in October"

Seconded by Leipheimer. Carried.

At the January 20, 1971 Commission meeting the department recommended the fourth Saturday in October as the opening date of the general big game season. Commissioner McCaffery made the following motion:

"Antelope - Third Saturday in October  
General big game - Fourth Saturday in October  
Back country - September 15"

Seconded by Mr. Clausen. Carried.

The matter was settled for only three months and in April 1971 the issue was again a major topic of discussion at the Fish and Game Commission meeting. Item 11 of the April 12, 1971 meeting states: Big Game Opening Dates -- Chairman Jones asked for discussion of the big game opening dates. The tentative regulations listed October 23, the fourth Saturday in October, as the general big game opening date.

The testimony and discussion that followed centered as much around whether the season should open the third weekend, the fourth weekend or sometime on or around October 15 as it did on the Saturday vs. Sunday opening. The Montana Stockgrower's Association favored a fourth Saturday in October opening.

The discussion prompted Mr. Arnold Rieder, Commission member to make the



following motion: "...opening dates shall be as follows: general big game season - first Sunday following October 16; antelope season, one week preceding big game season; back country season - September 15." Seconded by Mr. Emmons. Carried. (April 13, 1971 Commission Minutes, Item 64 - p. 109).

This policy was subsequently adopted in 1972 as an Administrative Rule of Montana (ARM 12-2.10(2)-S-1060). Following the public hearing procedure, the rule was repealed on February 15, 1980 to allow for the inclusion of the Thanksgiving weekend with the standard five and four week seasons.

Currently the Commission and Department are using a five-week season framework in the western one-third of Montana and a four-week season in the eastern one-third. Both have Sunday openings (Oct. 26 & Nov. 1, 1981) and include Thanksgiving weekend. Season lengths vary to accommodate particular situations. Beginning a year ago, the Commission has been setting season dates one and one-half years in advance.

Biologically it doesn't make any difference whether a game animal hunting season opens on Sunday or Saturday. (Game animal as defined in Sec. 87-2-101 means deer, elk, moose, antelope, caribou, mountain sheep, mountain goat, mountain lion and bear).

There are three important items I would like to call to the attention of the committee in its consideration of this bill:

1. As stated in several of the excerpts I just read from past Commission meeting minutes, the back country opening date of September 15 was established a long time ago and has become traditional. People accept this as a "standard" opening date and often make their hunting plans a year or two in advance. This opening date should be retained.

2. The 1981 opening dates were established by the Fish and Game Commission at its March 1980 meeting. Hunters have made vacation plans and outfitters have booked clients based on those dates. It would be very difficult and disruptive to change these dates at this time.
3. The Fish and Game Commission approved the tentative 1982 hunting season dates at their January 1981 meeting and have sent them out for public review. These seasons include Sunday opening days. The final 1982 season dates are scheduled to be set March 15, 1981 following a public hearing on March 14, 1981. We believe it would be unfair to change the opening day without proper notice for public review.

I appreciate the opportunity to comment on this bill and bring these three situations to your attention.

NAME B. H. Robinson BILL No. 650  
ADDRESS Legislative Fiscal Analysis Off. DATE 2/12/81  
WHOM DO YOU REPRESENT \_\_\_\_\_  
SUPPORT ✓ OPPOSE \_\_\_\_\_ AMEND \_\_\_\_\_

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

*Brief discussion on problems earmarking carries  
in the parks division ~~and~~ from the budgetary point of  
view.*

## Notes for Testimony

a - Currently the parks division establishes 59 separate project budgets to monitor costs. They could get by with 30 project budgets; nearly a 50 percent reduction in accounting detail.

c - Accounting is more complicated in the parks division as revenue estimates of appropriated earmarked funds must be monitored to be assured that sufficient financing will be available;

2) Additional staff is required to monitor parks division.

b - The amount of staff time spent coding vouchers and preparing payment documents could be reduced considerably by regional secretarial staff with a lower number of project budgets.

3) General fund is required to make up for the fact that certain earmarked revenues are not keeping pace with rising costs.

a - Snowmobile gas tax and motorboat gas tax receipts are projected to level off at best and will probably decline over the coming biennium.

b - The allocations for snowmobiles and motor boats are a percentage of total gas tax receipts. As people drive less miles and more efficient cars the revenue to parks may decline. Yet the water based parks and snowmobile facilities will require just as much maintenance at ever inflating costs the difference of which will have to be picked by the general fund.

4) Accounting for time spent on each project creates unnecessary work by field staff.

a - Each field person has to maintain a diary to verify the amount of time and money directed toward each project.

b - Number of hours <sup>spent</sup> on each project will determine the source of funds used to pay the individual. To be technically ~~correct~~ each payroll period would require adjustments in the source of funds paying an individual.

c - There is a tendency to falsify daily diaries to comply with available funding.

5) Earmarking is complicating and hindering management of parks division.

a - Most importantly, the administration of the division is hamstrung by the requirements that various earmarked dollars be spent on a project related to the source of funding.

*politics*  
b - Often work that needs to be done at a particular park or site cannot be completed because funds related to that type of project are running out.

c - The work either is not done or the reports get falsified.

d - Legislative intent can also be stymied by the proliferation of earmarked revenues just as administration is because effort must follow the funding rather than the needs perceived by the legislature.

- Concern of lawmakers & Board members - that their funds be traceable
- Revenue into JF can be monitored.
- Dept can show project budgets relative to expenses & benefit areas.

Presented by: James W. Flynn, Director  
Department of Fish, Wildlife & Parks

February 12, 1981

HB 650

Mr. Chairman, members of the committee, my name is Jim Flynn. I appear today in opposition to House Bill 650 which would de-earmark certain department revenues used mostly for state park purposes.

I feel strongly that a "user pay" concept is valid. It seems fair, reasonable and equitable that direct beneficiaries of our park system should pay their own way as much as possible. User groups such as boaters and snowmobilers have backed this concept and have strongly supported a good deal of the legislation House Bill 650 would dismantle.

These earmarked revenue sources have provided a consistent base level of funding for providing a wide variety of recreation opportunity and for preserving and making available to people many of Montana's historic and natural jewels. I fear a total dismantling of these traditional dependable funding sources will jeopardize these programs.

I do not believe de-earmarking will save manpower in our department. I think it is naive to assume we will not be required to track revenue from camping fees, Lewis and Clark Caverns fees, cabin site rentals, and other income to substantiate our budget request from the general fund.

While I support the user pay concept, the income from the present earmarked sources pays for about 70% of our park system operations. The department has vigorously pursued raising user fees over the past biennium, but the earmarked income falls short of a reasonable operations level by about 30%. This amount is made up by general fund allocations. My

point is, because we are only at about 70% self-sufficiency and are likely to stay that way, the general fund will not "profit" from de-earmarking.

The coal tax park trust fund has provided for the purchase of seven park sites and provides for their maintenance. These sites include Roche Jaune (Row-Shawn) Recreation Area, Custer County, Bannack State Park addition, Beaverhead County, Council Grove State Monument, Missoula County, Rosebud Battlefield, Big Horn County, Makoshika State Park addition, Dawson County, Giant Springs State Park addition, Cascade County, and Lake Josephine Recreation Area, Yellowstone County. Without the earmarked coal severance tax these areas may never have been made available for public use and enjoyment - now and in the future.

In compliance with the present law governing the parks coal tax - trust fund, citizens from throughout the state have proposed the acquisition of eleven areas to the 47th Legislature. These proposals are outlined in the booklet you received during the hearing on House Bill 180 - the Lake Elmo acquisition bill. House Bill 650 would eliminate this entire program which I believe is a mistake. The present law maximizes citizen and legislative involvement in the construction of the state park system which I believe is healthy. As with all the earmarked funds addressed by House Bill 650, the Legislature is the final authority - we cannot spend the funds until they are appropriated.

Although I speak in opposition to House Bill 650, I am not apposed to a thorough examination of the earmarked fund question. As my earlier testimony to the appropriations sub-committee dealing with our budget attests, I pledge to give this matter close study during the next two years. I may propose some de-earmarking to the 48th session. I ask you to give House Bill 650 a do not pass recommendation and give me the opportunity to thoroughly examine this question.



Presented by:

Mervin H. Finstad  
Member - Lewis & Clark County Park Board

February 12, 198

HB 650

Mr. Chairman, members of the committee, my name is Merv Finstad, a member of the Lewis & Clark County Park Board, and I appear in opposition to House Bill 650.

It seems reasonable to bring recreation close to the people of Montana because of the energy crunch and to provide better accessibility.

While its true anyone can submit a park proposal, if there is not a dedicated source of funding it will seem futile to submit park proposals. The people of Montana will get involved if they know there is a good chance their proposal will be funded and there is money to set aside for park development. This has in fact happened over the last biennium with the fact that park proposals were submitted and funded.

"The Treasure State" has had a history of "rape and run" and some of this is evident in our communities around the state. I believe the concept of setting aside a portion of mineral extraction taxes in a perpetual trust to preserve our recreational and cultural heritage is sound from a moral and fiscal perspective.

Our Lewis & Clark County Park Board has identified a real need for additional water-based recreational facilities close to Helena and have proposed to this legislature a site called Spring Meadow Lake for acquisition under the "Coal Tax Park Trust Program."

We are one of eleven proposals that have been advanced from throughout the state, the total request of which is approximately \$7 million dollars.

Our project will obviously meet with severe competition. However, we

believe this is good since it has resulted in maximizing involvement of citizen and legislator participation. The law, as it is structured now, provides for park acquisition and for the development and maintenance of these parks. It has the potential for meeting the recreational needs of our expanding population, both now and in the future without a drain on the states general fund.

The Lewis & Clark County Park Board urges the committee to recommend a "DO NOT PASS" for H.B. 650.

Thank you!

February 12, 1981

Ms. Diana Dowling, Executive Director  
Legislative Council  
Room 138  
State Capitol  
Helena, Montana 59601

Dear Ms. Dowling:

The House Fish and Game Committee voted unanimously, this day, to request drafting of a committee bill to require gubernatorial approval of land acquisition by the Department of Fish, Wildlife, and Parks; amending sections 23-1-102 and 87-1-209, MCA.

Sincerely,

ORVAL ELLISON, Chairman  
House Fish and Game Committee

OE:vml

House Bill # 650 Fish & Game Committee 4th Floor 12:30 P.M.

Mr. Chairman, members of the Committee:

My name is Robert Ryan President of the L. & C. County Board of Park Commissioners:

I am here today to testify against House Bill # 650 to set aside Coal Tax money for the purchasing of property and building of State Parks for the people of Montana because —

The passage of this bill would have a devastating social and financial impact on Parks and Recreation in the State of Montana. Without this funding you are making the individual Counties responsible to the people to satisfy their need for Parks and Rec. facilities, but in turn you provide no perminate funding source to accomplish this. State law is not clear giving Counties the taking authority to impose a mill levy to support Parks + Rec. on a county level. Passage of this bill would not only shift the burden of responsibility to provide the service to the people of Montana from the State to the Counties, which would be an impossible task because of funding, you would be depriving the people of Montana a service you are now obligated to provide through the State Park System.

We all know there are many departments and institutions and agencies trying to get a hand in the pocket of the Coal Tax Fund that do provide an indirect and a repeat

an indirect service to the taxpayer.

They build Highways, State Buildings and Prisons all of which are an indirect service to the taxpayer because he may never personally use these services, he feels a personal loss of his tax dollar.

On the other hand State Parks and Recreational Facilities give the taxpayer a direct service from which he can derive a personal good from his tax dollar.

I would just like to point out that for every tax dollar spent on recreation is a dollar well spent for the youth and adults of the State of Montana. The youth of today will be the leaders of your communities and State tomorrow so let's all help in developing better people to meet this task.

I urge you to defeat this bill for the good of the people of the State of Montana and direct your energy towards legislation to improve the State Parks System and give Counties the funding authority needed to provide the Rec services the public are demanding.

Thank You