

HOUSE FISH AND GAME COMMITTEE

March 1, 1983

The meeting was called to order by Chairman Les Nilson in room 420 of the Capitol Building at 12:30 p.m., with all members present, except Representative Nisbet, who was excused.

Chairman Nilson opened the meeting to a hearing on House Bill: 891, and Senate Bills: 47, and 132.

HOUSE BILL 891

REPRESENTATIVE HAL HARPER, District 30, Helena, said this bill requires spot testing of fish, and it attempts to set up a framework to recommend that the Department of Health make sure fish which are potentially dangerous to human health are tested. In our society today, we are dependent upon synthetic chemicals for our health and well being. Some of these chemicals are potentially dangerous. When pesticides are misused and dumped into a landfill, problems may result. We can measure aquatic safety in two ways. The department has a program that assesses drinking water every two years. The second way is the assessment of fish. Fish are good indicators because they are very sensitive. They tend to be the first ones to respond to toxins in the water, and they accumulate in their tissue. I think we can use fish for an early warning indicator in the State of Montana, to get an idea of how fish and other areas are endangering the health of Montana citizens. PCB and endrine problems are bringing this into sharp focus. From time to time, hot spots because of spills, and chronic long-term hot spots from mines will cause problems. Drinking water studies show that all of our drinking water is safe. The fish testing has shown that the fish in our waters are safe. In almost all instances, the testings have shown up below the acceptable levels. These acceptable levels are continually being modified, as scientific data progresses. This bill sets up a system whereby we can go and test places where problems may exist.

PROPOSERS

JIM FLYNN, Department of Fish, Wildlife, and Parks, submitted written copies of his testimony to committee members. (see exhibit 1)

STEVE PILCHER, Montana Department of Health and Environmental Sciences, said as a state agency responsible for water quality within the state, we are concerned with the impacts of such things as toxic materials. Montana's surface water quality standards specifically state that concentrations of toxic substances which render the waters harmful, detrimental, or injurious to public health. There is a growing need to monitor the impact on the aquatic environment. Past efforts in this area have been limited because of the costs of performing the chemical analysis.

HOUSE FISH AND GAME COMMITTEE MINUTES
March 1, 1983, page 2

In 1980, as a part of our water quality program, we contracted with the Department of Fish, Wildlife, and Parks, to collect fish at nine routine locations on seven streams within the state, and tissue analysis was advised by the Environmental Protection Agency for 20 pesticides and 16 heavy metals. The results of those samples indicated that no pesticides were found in any of the samples and the heavy metals concentrations were well within public health standards. While we support the concept of the bill, there are a few areas we need clarification on. Is a definition of what constitutes a toxic substance given? The bill must define and list toxic chemicals or must provide our department and the Department of Fish, Wildlife, and Parks, with the responsibility of identifying the chemical analysis and the toxic substances for which the chemical analysis will be conducted. Sample preservation is very critical on toxic materials. Detail needs to be provided as to who will be responsible for the technical preparation of these substances. Those details are not included in this particular bill. Written comments were submitted by Mr. Pilcher. (see exhibit 2)

KEN KNUDSON, Montana Wildlife Federation, said I would like to echo Rep. Harper's statements, and add that in my 10 years as an aquatic biologist, I found that fish sampling was very helpful technique to find out whether or not there are health problems, and to determine where there might be some new facts in the drainage that might be looked at, such as acid waste problems. If you see these problems in the fish tissue, you can go back to the drainage and try to correct those problems, and try to return the streams to maximum benefit as a fishery. You can never really predict when there might be problems with a stream or river.

JANET ELLIS, Montana Audubon Council, presented a copy of her testimony. (see exhibit 3)

OPPONENTS

ROBERT VAN DER VERE, Helena, said we are talking about \$20,000. a year. My children and grandchildren are going to be paying for this. This is nothing but a strict environmentalist bill.

JO BRUNNER, Women In Farm Economics, submitted a prepared statement. (see exhibit 4)

Rep. Harper closed by saying the FDA checks the food that you eat in order to make sure it is somewhat safe. In this state, we consume vast amounts of fish and other game, but there is no such check. The probability is that in some part of this state, people will eat a fish or other game that is poisonous. This is an environmentalist bill. At least people could sit

HOUSE FISH AND GAME COMMITTEE MINUTES
March 2, 1983, page 3

down to a trout dinner with some piece of mind. I don't want to cause a scare. The gaps that exist in the Department of Health's program are basically a lack of funding. I am talking about establishing a basis for an evaluation of the game we eat. I have no objection to the amendments suggested to the bill. All I want to do is get a start. I see a total lack of faith in the Department of Health, exhibited by the opponents. We spend billions of dollars a year to establish an early warning system for our country. Here we are asking for a few pennies for the protection of our health.

Questions from committee. Chairman Nilson asked Mr. Pilcher if there is a toxin in a fish in a small stream, is that going to be diluted by the time the fish gets to the larger bodies of water. The response was it is going to depend on the toxic material involved. Some are stored in the fish tissue. If you find the material in a small tributary, the concentration in the water is going to be higher. When it gets to the larger bodies, the concentration in the water will be less. One of the benefits of monitoring fish tissue is that if you have a spill or a periodic discharge of toxic materials into the aquatic environment, nature has a way of flushing it down to the ocean, but the impacts of that toxic material may be accumulated in the fish tissue. It is helpful to have the fish tissue analyzed.

Chairman Nilson asked Mr. Pilcher what the problem would be with naming what fish ought to be tested. The response was if you are attempting to do this on a widespread basis, I am not sure you want to be that all-encompassing. The Department of Fish, Wildlife, and Parks should be allowed a little flexibility to consider what types of toxic materials might be impacting what types of fish.

Rep. Mueller asked Mr. Pilcher how many samples would you have to take around the state in order to get some sort of a random sampling. The response was given the number of miles of streams and the number of lakes within this state, it would take many times this amount to do a total comprehensive study of every body of water. We are fortunate to have high quality waters to begin with. We would try to select sites with a higher susceptibility to the impact of toxic materials. We don't think we are in that critical of a situation, but we do need some discretion.

Rep. Mueller said you are taking samples of water throughout the state. When you have a situation where you find some questionable things, will you do a fish sampling at that time. Mr. Pilcher replied the cost of doing a fish tissue analysis is very high, and we cannot do that on a routine basis. In such cases, we would do as much as possible to get the total picture.

HOUSE FISH AND GAME COMMITTEE MINUTES
March 1, 1983, page 4

Rep. Ellison asked Mr. Pilcher what the advantage is of starting a new program. The response was by designating funds to this particular task, you are giving our agencies specific direction as to what you need done. I would feel more comfortable identifying specific use of these funds.

Rep. Ellison asked what specific species of fish are you talking about when you say predators. Mr. Knudson replied brown trout, bull trout, rainbow trout, walleye, and pike, are some examples. These fish are the top of the food chain.

Rep. Ellison asked if the predator fish are a large percentage of the total fish population. Mr. Knudson replied they are about 10%. There are a lot more forage fish than there are predator fish.

Rep. Swift asked Mr. Pilcher if they intend to continue monitoring those same locations monitored in 1980, and 1981, in order to assess the changes. The response was over time, yes. Given the fact that the results showed no measurable levels of pesticides or other toxins, it may be five years down the road. The reason we are trying to collect this information now is for base line purposes.

Chairman Nilson closed the hearing at 1:15 p.m.

SENATE BILL 132

SENATOR JUDY JACOBSON, District 42, Butte, opened by stating this is a bill establishing the Montana Outfitters Council. Section 3 on page 7, line 7, allows members of the council to be reimbursed and compensated. Currently, members must pay all expenses while traveling to and from meetings. This bill also establishes a procedure for filling vacancies in the council. The council can recommend the replacement to be selected by the director. Section 4, page 8, line 3, is requiring that written contracts be used by all outfitters. The idea of a simple contract would give the department something to go back and look at, as to what services have been provided. It would give protection to the outfitter and to the people they were serving. Section 5, on page 9, line 3, is allowing the department to establish fees commensurate to the administrative operating program, and specifying the fee amounts in the administrative rules so that these can be changed through the administrative hearing process rather than requiring legislative action.

PROPOSERS

JIM FLYNN, Department of Fish, Wildlife, and Parks, submitted written copies of his testimony to committee members. (see exhibit 5)

HOUSE FISH AND GAME COMMITTEE MINUTES
March 1, 1983, page 5

RALPH HOLMAN, Montana Outfitters Council, submitted a prepared statement to committee members. (see exhibit 6)

TAG RITTEL, Montana Outfitters, submitted written comments. (see exhibit 7)

DAVE KUMLIEN, Fishing and Floating Outfitters Association of Montana, submitted a prepared statement. (see exhibit 8)

SMOKE ELSER, Missoula, submitted written comments. (see exhibit 9)

DUANE NEAL, Montana Outfitters, submitted written copies of his testimony. (see exhibit 10)

KEN KNUDSON, Montana Wildlife Federation, said we support the bill and the outfitters concern for the contracts. At least put a ceiling on it that they could live with.

There were no opponents to Senate Bill 132.

Senator Jacobson closed by saying it was the feeling of the auditing committee, and the Senate Fish and Game Committee, that the contract was meant to help the outfitter and the clients he is serving. Complaints are being directed to the Department of Fish, Wildlife, and Parks. When they receive these complaints, all they have is the word of the outfitter and guide that they are serving. I would urge that the committee leave the contract in.

Questions from committee. Rep. Devlin asked Mr. Flynn what the general complaints are that are received from people who feel they have been taken advantage of. The complaints I am aware of are generally the kind where a client understands he is going a certain place or doing a certain thing, and it turns out otherwise. The complaints have ranged from very small to very drastic.

Rep. Phillips said you are charging \$50. standard fees for the outfitters. Where does this money go? Mr. Flynn replied it goes into the department's revenue funds. We have on staff, a supervisor who is assigned specifically to the outfitting and guide industry.

Rep. Phillips asked Mr. Flynn if he would raise the fees in order to cover this compensation. The reply was it will be a self-supporting operation.

Rep. Spaeth asked Senator Jacobson if the bill as presently drafted, as to the contract, only requires that there be a contract. There is no authority or control given to the actual content of that contract to anyone. I don't see this as solving any of the problems you have indicated that you are trying to solve. The response was

HOUSE FISH AND GAME COMMITTEE MINUTES
March 1, 1983, page 6

the bill as originally drafted, was trying to deal with those by specifically pointing out areas where most of the complaints occurred. It was the feeling of Fish and Game that perhaps rather than eliminate the contracts all together, they just eliminated the wording. This would present some problems unless the department was given some rulemaking authority.

Chairman Nilson closed the hearing on Senate Bill 132, at 1:55 p.m.

SENATE BILL 47

SENATOR JUDY JACOBSON, District 42, Butte, opened by saying Senate Bill 47 was drafted at about the same time Mr. Flynn had another bill drafted equalizing the youth licenses and the senior citizens licenses. You amended the bill so that age 62 for senior citizens would apply to both the hunting and fishing permits. That is exactly what this bill does. We brought it in in case something happened to the other bill.

PROPOSERS

ROBERT VAN DER VERE, Senior Citizens Association, felt the bill should be tabled to see what happens to the House Bill in the Senate. Mr. Van Der Vere submitted a statement of authorization naming him as a principal lobbyist for the Senior Citizens Association, Helena, Montana. (see exhibit 11)

There were no opponents to Senate Bill 47.

There were no questions from committee.

Chairman Nilson closed the hearing on Senate Bill 47 at 2:00 p.m.

Chairman Nilson adjourned the meeting at 2:00 p.m.



Les Nilson, Chairman



Cheryl Fredrickson, secretary

VISITOR'S REGISTER

HOUSE Fish and Game

COMMITTEE

BILL HB # 891

DATE 3/1

SPONSOR Harpes

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

HOUSE Fish and Game COMMITTEE

DATE 3/1

[illegible]

FORM CS-33

HB 891

Testimony presented by Jim Flynn, Department of Fish, Wildlife & Parks

March 1, 1983

There is obvious merit to the sampling proposed in House Bill 891. We agree there is a need to determine if the public has a justifiable concern over the potential danger from the presence of toxic substance in the aquatic environment.

In 1980 we engaged in a similar project which was funded by EPA money passed through the Department of Health & Environmental Sciences. This project enabled us to collect samples from seven waters. We expended about \$1,500 to fund approximately 15 man-days, 750 vehicle miles, purchase of shipping containers, shipping costs, etc. to sample each of these waters one time. Thus to make 30 collections as authorized in HB 891 (10 waters three times per year) would cost approximately \$6,500 per year.

House Bill 891 authorizes general fund monies to DHES for the analysis and we would recommend the addition of the cost of collecting the samples to that authorization.

The seven waters sampled in 1980 were: Flathead River at Columbia Falls, Clark Fork River below Missoula, Missouri River at Toston, Yellowstone River near Livingston, Yellowstone River at Billings, Milk River at Nashua, Tongue River at Miles City. The fish were tested for 16 metals and all were below FDA hazard levels, they were also tested for 20 pesticides and none were detected. Nevertheless, there are many state waters in which fish have never been sampled for contaminants. Recent findings of high residue levels in chlorinated hydrocarbons in Montana game birds have raised valid concerns in the public eye.

We believe that the sampling program should concentrate on one fish species in any given water to ensure a statistically valid sample. Further, an attempt should be made to collect larger, older individuals and preferably a predator species with a high fat content since these are likely to contain the highest concentrations of biologically persistent chemicals.

We recommend a sampling program that would require resampling only on waters where the original sample indicated potential problems. This would allow coverage of more than 10 waters per year if few problems were disclosed and would provide for better definition of any problem areas that were discovered.

As a result, we would suggest that on page 2, line 2 the words "no more than 10" be stricken. Further, on page 2, line 21 between the words "human health." and the words "The Department", insert the

language "However no more than a total of 30 samples shall be taken in any year under the provisions of this Act."

These amendments would allow the Department the flexibility to move its sampling if the results of the first tests indicated no problems.

WITNESS STATEMENT

Name Steve P. [unclear] Committee On _____
 Address [unclear] Date _____
 Representing Mr. Dept. of Health & Human Services Support X
 Bill No. 891 Oppose _____
 Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. support the concept.
 2. need to limit list of substances
or allow DHS/PTPR to determine
which toxic substances should be tested.
 3. details on who has responsibility for sample program.
 4. the health and no given consideration to sample
site location.
- 100,000/year should be used for sample
analysis not agency administrative costs.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

Montana Audubon Council Exhibit 3

Testimony on HB 891

Mr. Chairman and Members of the Committee,

My name is Janet Ellis and I'm here today representing the Montana Audubon Council. The Council is composed of 8 Chapters and has 2400 members located throughout the state.

The Council supports HB 891 because Montana is growing. And with this growth, the presence of toxic substances in our environment is increasing. We realize that a healthy Montana is a Montana that continues to grow. We also realize, however, that a basic privilege of the citizens of this state is to be able to hunt and fish and consume that meat without a fear of affecting a person's health.

HB 891 sets up a program that will keep us abreast of the goings-on in our environment. It seems wise to monitor the toxic substances in our aquatic areas not only to guarantee the fisherman that he is dining on trout rather than lead and cadmium, but also because we will be monitoring a basic link in our food chain. Man is a part of that food chain. With a finger on the pulse of that chain, we can better ensure a healthy ecosystem for generations of Montanans to come.

In summary, as Montana continues to grow, it seems prudent to monitor her lakes and streams to ensure that we are growing in a healthy way. The Audubon Council respectfully recommends that you give this legislation a "De Pass."

Thank you.

WIFE Women Involved In Farm Economics

NAME JO BRUNNER BILL NO. HB 891
 ADDRESS 525 2nd ST. HELENA DATE March 1, 1983
 REPRESENT WOMEN INVOLVED IN FARM ECONOMICS
 REPORT ATTACHED X AMEND

COMMENTS:

Mr. Chairman, Members of the committee, my name is Jo Brunner and I am representing the members of the Women Involved in Farm Economics organization and the Montana Agri-Business Association.

Mr. Chairman, while our organizations do not oppose the importance of a study program to establish existing levels of toxic substances that may or may not harm our aquatic life in Montana waters, we do oppose the methods recommended in HB 891 for conducting those studies.

Should this bill pass, we would like to have all three whereases on page 1 struck and the bill to begin with line 17---it is the intent of this bill to require the Departments---ectera.

We are concerned also, with the lack of inclusion of the Department of Agriculture in any studies to be taken in the area designated. We believe that agriculture as a whole will be targeted in any such studies and we feel that the Department will not only be a beneficial addition as far as personnel are concerned, but through already existing records and studies that might eliminate any duplications. We have noticed that the two Departments listed in this bill, the Fish, Wildlife and Parks and the Health and Environmental Sciences feel the importance of such cooperation between the three departments as they request their participation in any decisions and studies undertaken by the Department of Agriculture where toxic substances are the subject matter and it is our belief that this is an instance where that cooperation is essential.

Overall, it is our opinion that this is a wide-open request for the two departments to take \$20,000 per year out of the general fund to make non-specific studies, where and when they feel like doing so, and to the degree they desire.

For instance page 1, line 2---these 10 bodies could be in one specific area---they do not have to be distributed around the state. There is no direction as to just what does into the decision that there is a

"Hell has no fury like a woman scorned"

WIFE Women Involved in Farm Economics

page 2-----HB 891

scientific likelihood a body of water needs studying in the first place --- paragraph 2 --page 2---line 9 ---that it would contain toxic substances-----how will that decision be reached????

What toxic substances will be looked for??? Will they be able to target in on only Agriculture chemicals? Will they go to waste dumps that might leach? Will they consider sources that come from towns and cities that use a lot of chemicals on lawns and rodent control? Should we not have some idea of what this hunt will be trying to find?

Just how representative will these samples be of the body of water? For instance--say they chose a lake that is fed by several streams, and only one or two of them run through agriculture areas, and that ground is sprayed only early in the spring, perhaps before the fishing season starts. Can all the samples of the entire body of water be taken at the mouths of those streams? Can all the samples be taken within a few days of each other and all samples within a few weeks? Just how representative of the complete body of water will that study be, under those circumstances? Sections 3 and 4, lines 6-22 outline the analysis portion of the request. Line 8 suggests that the Department of Health does not have the equipment available to do all the analysis necessary and will take outside work. But both section 3 and 4 presume that the tests will find some substances harmful to human health, and perhaps they will on occasion.

Not only would we like to see the Department of Agriculture included in on the studies but also on the evaluations of the tests that will take place on passage of such a bill, but we would like to have available to the public all information that comes out of such evaluations. For instance, if a body of water is selected for these tests and are found to be completely or even comparatively free of any toxic substance harmful to the aquatic life and/or to humans, we would like that information made just as available to the public and to the press as if harmful substances

were found. *Especially since the sole purpose of these studies and evaluations seems to be to inform the public. Page 3 - lines 21-22*

We oppose any test programs based on a two year study and not over enough years to make an accurate comparison based on weather conditions, infestation cycles and other pertinent circumstances. Should we have another situation like we had with endrin, two years in a row, and those were the years selected, the information gathered would not be representative of

the true situations. W.I.F.E. and M.A.B.A. do not concur with HB 891.

SB 132

Testimony presented by Jim Flynn, Department of Fish, Wildlife & Parks

March 1, 1983

I appear here today in support of Senate Bill 132. The Department has participated in the Legislative Audit recently conducted and from which this bill emanates.

The matters of reimbursement for Council members for attendance at meetings and for replacement of Council members should a vacancy occur are positive steps which generally make good sense from a management standpoint.

The matter of contracts is one which is more complicated, but nevertheless makes sense.

As introduced, Senate Bill 132 on page 8 had specified certain provisions which were to be included in any contract. These specifications were to be included, but not limiting within the contracts.

Those specifications have been deleted and their deletion presents the Department with a couple of questions. Does the deletion of those specifications indicate legislative intent that those specific items not be considered for inclusion in any contracts? Or does the deletion merely indicate legislative intent to give the Department the broadest authority to include specifics as the rulemaking process might deem appropriate?

The guidance spelled out by the Legislative Audit Committee was the result of attempting to address the most frequent complaints they observed as a result of the recent audit. It would seem that these same considerations would occur in the rulemaking process and therefore it is important for the Department to know the legislative intent regarding the stricken language on page 8 of the third reading copy.

This contract issue is one of some concern amongst outfitters and guides. There will be a great deal of interest in arriving at a standard contract form. It would be unfortunate and detrimental to the process if the deletions on page 8 were left open to individual interpretation amongst those in the industry as to whether they could or could not be included in a contract requirement.

We would suggest that this question surrounding the contract be resolved and Senate Bill 132 then be given favorable consideration.

March 1, 1983

Exhibit 6

House Fish and Game Committee
Montana State Legislature
Representative Les Nilson, Chairman
State Capitol
Helena, Montana

Re: S.B. 132

Dear Mr. Chairman and members:

BACKGROUND:

For many years, before the Council was established, a large number of well meaning Outfitters, including myself, being fully aware that upgrading our profession was necessary, tried different ways to accomplish this. At the time there was very little, if any, effective Outfitter law and just about anyone with a \$10.00 bill could get an Outfitting license and operate with little concern for business ethics. A small bond was required, however, this provided no protection to the client and was therefore ineffective.

The Montana Outfitters Council was established by the 1971 Legislature following near unanimous support from Outfitters, for an advisory Council, elected by Outfitters, to equally represent all members of the industry.

During the mid-sixties a small group of Montana Outfitters decided to follow the example set by a group of Idaho Outfitters to establish an Outfitter Governing Board.* This resulted in a ground swell of opposition due to the many derogatory rumors circulating regarding the Idaho Board's activities. When physical investigation of Idaho's State documents existing at the Idaho Capitol revealed that the majority of said rumors were factual, Montana Outfitters stated loud and clear; "We do not want that in Montana." In order to ascertain that Outfitters were given the opportunity to vote their preference, a letter was mailed to all Montana Outfitters describing the ramifications of a Council versus a Board and asking for their vote by return mail addressed to the Department of Fish and Game. Approximately ninety (90) per cent of written responses strongly favored a Council elected by Outfitters with licensing to remain with the Department. Upon receipt of this decisive information serious negotiations were conducted, Legislation was drafted, passed by the Legislature and we had the basis for today's fair, just and equitable Outfitter law and Outfitter Council.

*Reference to Idaho Outfitter Board is not intended to reflect in any way against Idaho's current Outfitter Board.

DUTIES OF COUNCIL:

It is the duty of the Council to act in an advisory capacity to the Department while representing the Outfitting industry. In addition to being advisory to the Department, Council members participate in Legislative hearings, ammendment of Outfitter law, Department Commission meetings, Administrative appeals, rule ammendments designed to improve experience and other standards, testing proceedures, advertising guidelines, review and recommend action on complaints, advise Department of effect of proposed regulations upon industry, meetings with Department Representatives, assure that

Outfitters are apprised of proposals and circumstances effecting the profession, etc.. The Council participate annually in meetings and Task Force activities in conjunction with Montana Outfitters and Guides Association and Government agencies to resolve Outfitter problems.

INDUSTRY BENEFITS:

Ex. 6
SB 132

The following questions were asked by the Legislative Audit Committee, our answers are as outlined;

QUESTION- #1: Would the absence of regulation significantly harm or endanger the public's health, safety or welfare?

REPLY: Definitely yes! The Council recommended establishment of and currently participate in the "Illegal Outfitter Task Force" consisting of Representatives of the U. S. Forest Service, Bureau of Land Management, State Forester, Department of Livestock, Fish and Wildlife, Burlington Northern, Fish, Wildlife and Parks and Montana Outfitters and Guides Association, designed to reduce unlicensed, uninsured and unregulated illegal Outfitting activities. When first activated the Forest Service estimated that 47% of the Outfitting was being performed illegally. Several illegal operators are now cited annually and illegal Outfitting has been significantly reduced. Legitimate Outfitters currently carry violation report books for reporting suspected illegal operations. Prior to current regulations and Council creation a large number of persons operated without a license, permit, insurance or regard for public health, safety and welfare, the Department and other Government agencies, working with legitimate Outfitters, have largely reduced the unscrupulous operator and their illegal operations.

QUESTION-2: Is there a reasonable relationship between the exercise of the State's police power and the protection of the public's health, safety or welfare?

REPLY: Definitely yes! The state does have the authority to protect State resources. Prior to Legislation establishing the Outfitter Council and amending the Outfitter law, advertising by unethical operators was quite often misleading, some bordered on fraud and some was intended to set the stage for embezzlement. The Department and the Council working together to formulate and establish advertising guidelines have largely reduced or eliminated this problem. In addition the "Sportsmen Alert" and several articles were composed for printing in National Magazines and Newspapers and were printed, pointing out the pitfalls of not contacting State agencies for Outfitter and Fish and Game information. We established complaint investigation procedures designed to provide fair, just and impartial investigation to determine liability and expedite follow-up procedures. Procedures whereby complaints are acted upon by the Council by recommendation, with final action being the responsibility of the Director, (a double check) precludes the possibility of a biased decision.

Many field trips in conjunction with agency enforcement personnel have been conducted resulting in reaching solutions to existing field problems involving Outfitters. Active participation in several Task Force operations. The Council have continually analyzed the need and recommended action, to upgrade the industry, all designed to coordinate State Police authority and assure public health, safety and welfare.

QUESTION-3: Is there another less restrictive method of regulation available which could adequately protect the public?

REPLY: No! Our existing Council and current laws and regulations are the result of approximately seventeen years of extensive study and the efforts of a large number of well intentioned Outfitters and Department personnel who are well aware of the circumstances that existed prior to the Council. The very fact that Council Delegates have

attended numerous meetings, since inception, without compensation, speaks for their outstanding interest in the success of the Council. Only one meeting was called at which a quorum was not present and this due to extremely inclement weather.

Ex. 6
SB 132

QUESTION-4: Does the regulation have the effect of directly or indirectly increasing the cost of any goods or services involved, and if so, to what degree?

REPLY: No and Yes: (No) A prudent operator prior to 1972, who conducted his business on the basis of providing for the protection and safety of clients, would only be slightly effected, if at all.

(Yes) Under the circumstances that existed prior to establishment of our current law and creation of the Council a number of unlicensed, illegal and unethical Outfitters existed who did not provide for the health, safety and welfare of the public. The regulations definitely increased the cost of operation for these Outfitters by either forcing them to go legal or exert more effort and cost attempting to find ways to avoid citation and prosecution. consequently fees charged by these operators would increase to absorb the cost of operating legally or going underground. However, benefits accrued, from legitimate operations, to the public and the resources of Montana outweigh cost.

QUESTION-5: Is the increase in cost more harmful to the public than the harm which could result from the absence of regulation?

REPLY: Definitely not: Without regulations we would be back with the same problems, increased threefold, that we faced seventeen years ago to the severe detriment of the invaluable resources of Montana and the public that we serve. During the past seventeen years extensive consideration and evaluation was given towards minimizing cost, including consideration for an independent Board, or licensing under the Department of Commerce; Professional and occupational licensing, and other factors such as protection of our resource, (a common goal of Outfitters and the Department) our effective and favorable relationship with the Department; Department Wardens implementing the Outfitter law being experienced in law enforcement. Wardens being in the fields, concurrently with Outfitters, while implementing Fish and Game laws. Outfitters in most States favor Fish and Game Department licensing. On the other hand, a Board of Outfitters, who could be extremely biased, and the Department of Professional licensing, do not have representatives or enforcement personnel in the field. Department Wardens would have to involve a second agency for information on Outfitters encountered in the field. Department of licensing or a Board would have to employ qualified outdoorsmen (probably Outfitters or ex-Wardens) experienced in Outfitting and with the ability to conduct tests, field investigations and enforcement in order to license Outfitters and implement regulations. The entire process would result in a duplication of efforts and added costs by involving a second Department. The Department of Fish, Wildlife and Parks employ such qualified personnel who pack their own outfits for enforcement excursions into National Forests, Wilderness or back-country. Another major factor favoring the Department of Fish, Wildlife and Parks is the fact that one agency has sole responsibility eliminating "passing the buck".

QUESTION-6: Are all facets of the regulatory process designed solely for the purpose of, and have as their primary effect, the protection of the public?

REPLY: The regulatory process is designed to protect the public and in addition the resources of Montana. Outfitters are engaged in the business of providing a service

to clients to pursue, hunt, kill or take fish, game birds or game animals and must comply with State and Federal laws, rules and regulations. Outfitters have an obligation and responsibility to advise clients of laws and regulations and are responsible for violations of clients or guides.

Ex. 6 SB 132

Outfitters are responsible to provide food, shelter and transportation to protect the client and to provide guide service for the welfare and safety of the client in the field or afloat.

The Outfitter Council in Legislative and rule proposals and recommendations has strived to protect the client, to protect and perpetuate the wildlife and resource and to promote a legitimate Outfitting industry. I am firmly convinced that the Council are acting as required by law and doing a good job in representing the Outfitting industry.

With special reference to "Areas for Legislative Consideration," Council recommendations are as follows:

1- PROFESSIONAL GUIDE QUALIFICATIONS:

Under current circumstances this would be extremely costly to implement. The turnover in guides is approximately 60 per cent, there is a shortage of potential guide employees and Outfitters are responsible for guide employees. The Department by recommendation of the Council have recently adopted procedures for issuing and revoking guide licenses which should greatly improve guide qualifications, we recommend continuing these procedures.

2- CONTRACT DISCLOSURE FORMS:

There is some merit to a requirement that the Department furnish a basic contract form for Outfitter-Client use. However, ramifications are extensive and if implemented this requirement should be limited to covering only contracts in excess of \$500.00 and major factors such as total cost for services offered, dates of hunting or fishing trip, method of hunting or fishing (horses, Jeeps, foot,) number of clients per guide, type of accomodations, etc..

Important factors to be considered in opposition to the above are; 1- Quite often terms and conditions are worked out via telephone on a last minute basis.

2- If all possible terms of a contract were required to be listed and the Department was required to file copies for future reference, storage space and costs would make this provision prohibitive. 3- The client always has the prerogative of demanding all information and written agreements they may desire prior to paying deposit.

3- PROFESSIONAL STANDARDS:

These were addressed at the last Legislature and also improved by recent arm rule ammendment proposals including liability insurance provisions.

4- COUNCIL MEMBER COMPENSATION:

Several Outfitters have stated that they cannot afford to donate time and expenses. Compensation should create more interest in serving and establish a competitive atmosphere. Also expenditures incurred in public service should be reimbursed. Department should earmark funds to cover anticipated and necessary eight (8) annual meetings or \$6,000.00, possibly more to cover additional expenditures if needed.


5- COUNCIL MEMBERSHIP:

Ex. 6
SB 132

Current Outfitter law does need amending to provide for the appointment of Delegate and Alternate to represent any District that has lost representation. This will assure qualified Outfitter Delegate representation from all Regions and full Council membership.

It has been recommended that all Council Delegates should meet certain qualifications to be eligible to serve.

Respectfully submitted,



Ralph M. Holman, Chairman

Montana Outfitters Council

Department of Fish, Wildlife and Parks

With reference to potential contract requirements a review of legislative audit records will show the following:

LICENSING

1975-76 thru 1980-81	Ave.	428	Outfitters
No. of complaints 1975-81		164	
No. of complaints per yr.		27	
No. of complaints requiring action per yr.		10	
No. of complaints per outfitter		.0428	

Is it justifiable to penalize an industry based on the actions of very few? Would this resolve the problem? This would be the only industry in small business category with restrictive regulation.

The department has promulgated policy and procedure on investigation and requested legislative budgetary funding to provide necessary monies.

WITNESS STATEMENT

Name THE RITTER Committee On H. Fish Game
 Address WOLF CREEK Date MAR 1, 1983
 Representing MONTANA OUTFITTER Support ☒
 Bill No. S.B. 132 Oppose ☐
 Amend ☒

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. M.O.G.A. IS AGAINST THE CONTRACT ON PAGE 8 SECTION 4 AND LINE 1 & 2
2. ON PAGE 9. ALSO LINE 11 PAGE 1
3. NO OTHER BUSINESS FILES A COPY OF A GUEST CONTRACT WITH ANY
4. GOVERNMENT AGENCY AND WE ARE STRONGLY AGAINST THIS IN THIS OUTFITTER BILL

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

WITNESS STATEMENT

Name Dave Kumlien Committee On Fish & Game - House
 Address 2720 W. Main Bozeman Date 8/1/83
 Representing Fishing Floating Outfitters Assoc. of Montana Support reestablishment of council
per diem expense payments
 Bill No. #132-SB Oppose Contract requirement - Section
Amend election process Section to
allow absentee ballots.

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. Support reestablishment of Montana Outfitter Council.

2. Support per diem expense payments for Council members.

3. Amend election process Section to allow absentee ballots as a method of electing council members.

4. Oppose Contract requirement Section 1

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

THE WILD WINGS ORVIS SHOP

2720 West Main Street
Bozeman, Montana 59715
(406) 587-4707

Ex. 8
SB 132

March 1, 1983

House Fish and Game Committee
Mr. Les Nilson
Chairman
State Capitol
Helena, Montana 59601

Mr. Nilson and members of the committee:

My name is Dave Kumlien. I am from Bozeman, Montana. I own and operate a fly fishing specialty shop and wildlife art gallery in Bozeman. I am also an outfitter, primarily operating in the fishing and floating outfitting business, and I am currently president of Fishing Floating Outfitters Association of Montana (F.F.O.A.M.). I would like to present F.F.O.A.M.'s and my position regarding Senate Bill 132.

I support portions of Senate Bill 132. I support the section reestablishing the Montana Outfitters Council and the section providing for council members compensation and expenses.

I would like to see a change made in the procedure for electing council members. Specifically, I would ask that the section describing the election procedure be amended to allow the use of proxy votes or absentee ballots. The reasons I suggest this are as follows. At the time of year the outfitter elections are held, during the month of March, a large number of floating and fishing outfitters are out of the state attending sportsmen and trade shows and preparing for the coming season. It is very difficult for many of them to attend the Outfitter Council election meeting. Floating and fishing outfitters have attempted for some time to gain representation on the Outfitters Council. F.F.O.A.M. feels that the allowance of a proxy vote or absentee ballot would help fishing and floating outfitters to secure representation on the Outfitters Council. The absentee ballot is an accepted method of voting in our federal and state elections. I see no reason why it could not be allowed in the Outfitter Council elections, and I would ask you to so amend this section.



House Fish and Game Committee
March 1, 1983
Page Two

Ex. 8
SB 132

I am also opposed to the section requiring written contracts. I feel the requirement of written contracts puts an unnecessary burden on the outfitter and really does very little to protect the public. The basis for this written contract section was an audit done by the audit office on the Montana Outfitters Council. As part of that audit, the audit office inspected outfitter reports for a five-year period. During that period, 161 complaints concerning outfitters' services were noted. Of these 161 complaints, the audit office felt that 100 complaints could have been dealt with had a contract existed.

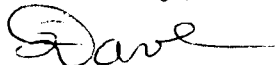
During the five-year period in question, approximately 450 outfitters operated in the State of Montana. Using a conservative number, if each of the 450 outfitters took ten trips per year, which is not a very large number, in a five-year period we would be looking at a total number of trips of approximately 22,500. The 161 complaints during that period represent less than 1% of all trips taken. This can not be considered a significant problem in anyone's book.

Furthermore, the 161 complaints involved hunting outfitted services. Not one of the complaints had to do with fishing and floating outfitting services. Requiring the fishing and floating outfitter to have such a contract would be very unnecessary and an extreme burden. For example, my outfitting service in Bozeman took approximately 200 trips. Senate Bill 132 would require me to write 200 contracts. I am not a small outfitter, but I am definitely not one of the largest. Some of the members of F.F.O.A.M. such as Bob Jacklin of West Yellowstone or Bud Lilly of West Yellowstone would be required to write as many as 1000 contracts per summer. F.F.O.A.M. sees the contract requirement as an unnecessary interference by the State in the operation of a small business.

I would also like to point out that the contract requirement in Senate Bill 132 would create a great amount of extra work for the Department of Fish, Wildlife, and Parks. My estimate of 4500 trips per year by outfitters is, I believe, quite conservative. Possibly there could be as many as 10,000 contracts for the department to file and cross-reference and shuffle. I doubt that the benefits accrued from the contract requirement would offset the costs of keeping track of all this paper.

To summarize, I would urge the committee to amend the section on Outfitter Council elections to allow absentee ballots. I would also urge the committee to delete the section concerning contract requirements. Thank you very much.

Sincerely,



Dave Kumlien

Exhibit 9

WITNESS STATEMENT

H Fish + Game

Name Smoke Elser Committee On ~~S. 132~~
Address 3800 Rattleshake Dr. Date 3/1 83
Representing Self Support X
Bill No. S. 132 Oppose _____
Amend X

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. Amend section 4 out.
2. No other industry is required to provide a contract to the state between
3. The industry & its client.
4. Too much state government in private industry.

What will the required contract gain?

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.



BLACK OTTER GUIDE SERVICE

Duane or Ruth Neal
Box 93

PRAY, MONTANA 59065

Phone 406-333-4362

Licensed Guides and Outfitters

Exhibit 10

Fish and Game Committee
Montana State House of Representatives
State Capitol
Helena, Montana

RE: Senate Bill #132 hearing March 1, 1983

Testimony of Duane Neal

Mr. Chairman and Committee Members.

I am Duane Neal, an Outfitter, from Pray, Montana. I am here today as a proponent of Senate Bill #132.

During the last 15 years I have had opportunity to be a member, director and officer of Outfitting Associations operating in the State of Montana and during that time I have had many opportunities to observe and work with the Montana Outfitters Council. I testified for the Legislation which created the Montana Outfitters Council and since its creation have found it to be a valuable and worthwhile tool for the Outfitting industry of Montana.

I was elected by the Outfitters in Region #3 to represent them on the Outfitters Council and have been serving on the Council since March of 1982. I feel the Outfitters of Montana owe a deep debt of gratitude to the Outfitters who have been representing them on the Council without compensation for either their time or direct expenses incurred in this capacity; therefor, I concur whole heartedly with the provisions in this bill to compensate the members as I feel it will not only help compensate the members for their expenses, but more importantly it may create more competition in the elections as many competent Outfitters in the past simply could not afford the position.

The Outfitters in attendance at a recent Dist. #3 meeting pretty well support this bill with one exception which is the requirement to make written contracts mandatory. Written contracts may be of advantage in some instances but we feel that the additional burden of mandatory contracts are not justified at this time and therefor on behalf of the Outfitters in Dist. #3 I would request that you strike the requirements in the bill for Mandatory written contracts.

The Legislative Audit Committee recommended the use of contracts as a means of reducing the number of complaints filed against Outfitters by their clients; however, the number of complaints filed each year is quite low and of those that a written contract would have resolved would be minimal. Using the 1974 Outfitter Economic impact survey each outfitter has about 55 clients per year and with over 600 outfitters licensed at this time this could mean 33,000 required contracts to resolve a few complaints.

The Council has been trying to draft a standard contract form to be used by Outfitters in the event this bill becomes law with the contract requirement included. We have found that due to the wide range of services offered by Outfitters that it would be practically impossible to draft a standard contract form.

On behalf of the Outfitters in Dist. #3 Please give the bill a "Do Pass" Recommendation with the mandatory contract provisions deleted.

Thankyou.

Sincerely,

Duane Neal
Duane Neal
1975

1975 Impact Study conducted
by the University of Montana Bazerman Chamber
& Montana Outfitters & Guides of Commerce
showed 406 Outfitters handled an average of
clients annually. The 164 complaints
filed during the 76 to 81 ^{6 yr} period which
was studied by the Legislative Audit Committee
would have required 33,800 contracts while
the number of complaints per outfitter
were only .0428.

WITNESS STATEMENT

Ex. 11
FISH GAME
3-1

Name Robert Van Der Vane Committee On _____
 Address Helena Date _____
 Representing MT Senior City State Support X
 Bill No. 47 Oppose _____
 Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

- 1.
- 2.
- 3.
- 4.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.



Statement of Authorization

COMMISSIONER OF POLITICAL
PRACTICES

CAPITOL STATION
HELENA, MONTANA 59620
PHONE: (406) 449-2942

TO BE FILED BY

RECEIVED
MONTANA
PRINCIPAL
JAN 3 2 43 PM '83

FORM

L-2

(Rev. 9/81)

CAN CAMPAIGN
FINANCIAL PRACTICES

Exhibit 11

Note: Registration must be filed within one week of employment and authorization within 10 days of registration of lobbyist (see Sections 5-7-201 thru 5-7-205, MCA). If it is necessary to file registration and authorization at different times, separate copies of this form may be used, with the appropriate portion completed.

Name of Lobbyist ROBERT - VAN DER VERE

Address of Lobbyist 2300 WILDER AVE

Name of Principal ROBERT VANDERVEE - SENIOR CITIZENS ASSN

Address of Principal 2300 WILDER AVE

HELENA, MONTANA 59601

A duly authorized representative of the above named principal, hereby requests that the lobbyist named above be entered on the docket as lobbyist employed for the purpose of promoting the interests of the principal in the following subjects of legislation:

SUBJECT

ANY OR ALL BILLS

The above named lobbyist is hereby authorized to act as lobbyist for the principal named above.

Dated at _____, this _____ day of _____,

_____, 19____.

Signed Robert Van Der Vere
(Authorized representative of principal)

and when further subjects of legislation are introduced or arise which the lobbyist is to promote or oppose, the principal shall make or cause to be made additional entries in the docket referred to above, so that at all times the docket will show all subjects for which the lobbyist is employed.