

MINUTES OF THE MEETING  
FISH AND GAME COMMITTEE  
MONTANA STATE SENATE

March 12, 1983

The meeting of the Fish and Game Committee was called to order by Chairman Ed B. Smith on March 12, 1983 at 1:00 P.M. in Room 402, State Capitol.

ROLL CALL: Roll was called with Senator Tveit excused and all other members present.

CONSIDERATION OF HOUSE BILL NO. 764:

AN ACT TO ALLOW THE POSSESSION AND TRANSPORTATION OF  
EAGLE PARTS AND PLUMAGE FOR RELIGIOUS PURPOSES BY  
MEMBERS OF INDIAN TRIBES WHEN SUCH POSSESSION OR TRANS-  
PORTATION IS PERMITTED BY FEDERAL LAW

Representative Nilson, District #37, presented this bill to the committee. A copy of his statement is attached as Exhibit 1.

Representative Hanson, District #57, is in favor of this bill. She feels the Indian tribes should be allowed to possess and transport eagle parts as it is a part of their culture which means very much to them.

Joseph Filsman, representing CS&K Tribes, supports this bill. This bill would allow the use of eagle feathers for religious purposes. It would eliminate a lot of harassment and confusion. The feathers in question have been in Indian families for hundreds of years and are an important part of their religious culture.

Representative Howe, District #58, is in favor of this bill. She is an enrolled member of the Crow Tribe. She can testify that the parts and plumage of the eagle serve as a significant purpose to the Indian tribes and have since the beginning of time. The plumage is passed from generation to generation.

Jim Flynn, Department of Fish, Wildlife and Parks, supports this bill.

Jon Contway, Montana Assistant Coordinator of Indian Tribes, stated this bill is touching on religion and something that we have been using for years and years. This will help cement relationships between Indians and non-Indians.

John Winter Boy would hope that this bill would be passed because the feathers are used for our religious ceremonies.

Representative Kennerly, District #13, stated this bill brings the state law into conformity with the federal law, allowing native American's to possess eagle feathers.

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David Small, representing the Montana International Policy Board and also representing the tribes that aren't here today, gave testimony in support of this bill. A copy of his statement is attached as Exhibit 2.

Representative Ellison, District #73, supports this bill. One thing that hasn't been mentioned is that if this bill passes the Indians will not start killing eagles. The feathers that they have, they have had them for generations. They have to have a federal permit to have these. The Indians will not be killing eagles.

There were no opponents.

Chairman Smith asked for questions from the committee.

Senator Smith said he attended an Indian ceremony at Fort Kip and it was one of the most beautiful ceremonies he has ever seen. It was stated in testimony that they have to stay on the reservation with the eagle parts. How then were some of the Indians able to participate in the ceremony, some were from North Dakota, Canada and all states of the nation.

Representative Nilson said it is illegal to go from one reservation to another.

Senator Smith asked why this bill didn't go a little bit farther.

Representative Nilson said this brings us in compliance with the federal laws.

Mr. Flynn said his understanding of this bill is that with the federal law this will take care of all of the problems.

Representative Nilson closed by stating there is a feather bank in Pocatello, Idaho where dead eagle feathers and parts are collected for the Indians to use.

DISPOSITION OF HOUSE BILL NO. 764: Senator Lee made a motion that HB 764 be concurred in. The motion passed unanimously.

CONSIDERATION OF HOUSE BILL NO. 94:

AN ACT TO AUTHORIZE THE DEPARTMENT OF FISH, WILDLIFE AND  
PARKS TO ISSUE PERMITS FOR THE TAKING AND HOLDING OF RAPTORS  
FOR CAPTIVE BREEDING PROJECTS

Representative Ellison, District #73, presented this bill as sponsor. He stated this is a simple bill and if you will turn to Section 3 you will see what the bill does. It allows for the captive breeding of raptors and allows for the Department of Fish, Wildlife and Parks to promulgate rules in this regard. At the

present time there is licensed breeding in Montana but the maximum birds, per falconer, is three. You obviously cannot enter into an intensive breeding program with a limit of three birds. These birds are hard to obtain and a trained bird is quite valuable.

Jim Flynn, Department of Fish, Wildlife and Parks, gave testimony in support of this bill. A copy of his statement is attached as Exhibit 3.

Jeff Woldum, Montana Falconers Association, stated this piece of legislation would allow us to breed, in captivity, some of the rare and hard to obtain species of birds. He read and furnished the committee with his testimony on this bill which is attached as Exhibit 4. We appreciated that Mr. Woldum brought his falcon to the committee for us to see.

Craig Campbell, Montana Raptors Propagators, supports this bill. He does not feel there will be very many people actively in the breeding of the birds and that it would be easy to regulate.

Thomas Nygard, Bozeman, Montana, would like to go on record in support of this bill.

Ted Winsell, Butte, Montana, is a wildlife biologist and would like to go on record in support of this bill.

There were no opponents.

Chairman Smith asked for questions from the committee.

Senator Mohar asked if someone would explain about the peregrine falcon and why their populations have been severely impacted. Also, would it be their intention, in the future, to release any of the birds into the wild to help reestablish their population.

Craig Campbell said the reasons for the population declines were the use of pesticides, DDT and other types. He worked for the Fish and Game Department for a couple of years on how birds of prey were affected. Any accumulation of pesticide weakens the egg shell. That is one of the main reasons why the peregrine falcon is so rare. As far as releasing the birds for the state, currently the Fish, Wildlife and Parks has grants, through oil companies, and they are releasing birds in the state. We would be raising a limited amount of birds for our own use. We are not allowed to let the birds go. Occasionally we will lose them. No, we wouldn't be raising the birds to release in the state. The state already is taking care of that.

Senator Smith asked if there were predators that bother the peregrine falcon.

Craig Campbell said gray horned owls and eagles can catch young birds before they learn how to fly and skunks and raccoons get into the nests and destroy the eggs. There is also a problem with people moving into the breeding areas and the birds will leave.

Senator Smith said he had watched a program on TV where they removed the egg from the nest, replaced it with a plastic egg, incubated the egg and hatched it and then placed the chick back in the nest. The parent would take over immediately with feeding the chick.

Craig Campbell said they do not recognize the young as their own. It is their instinct to take care of the baby.

Senator Smith said DDT has not been used for 20 years. He asked where the birds are picking this up.

Craig Campbell said it was banned in 1970 but the shelf life is 100 years and in the environment it will last 10 to 15 years. Birds fly to Mexico and pick it up and there are farmers who still have a surplus.

Senator Smith said he would hope we wouldn't use a pesticide because of one bird.

Craig Campbell said the environment has been cleaned up and the use of pesticides now has been compatible. That is why there has been more success with the peregrine.

Ted Winsell said they have collected prey species around the state and tested for DDT. They are picking DDT up in Mexico or wherever they migrate. Prey species seem to be relatively free of DDT now and he would hope they will recover in the state fairly soon.

Senator Smith said the Fish and Game Department have found considerable amounts of DDT in ducks. It is surprising that there would be this amount of residue in these birds when there is such a small amount of DDT being used. We should investigate where they are picking this up and should put some pressure on the companies that are manufacturing it. There is a lot less problem with the chemicals we are now using.

DISPOSITION OF HOUSE BILL NO. 94: Senator Lee made a motion that HB 94 be concurred in. The motion passed unanimously.

ADJOURNMENT: The meeting adjourned at 1:36 P.M.

  
ED B. SMITH, Chairman

ROLL CALL

FISH & GAME

COMMITTEE

48th LEGISLATIVE SESSION -- 1983

Date 3-12-83

[illegible]



(This sheet        be used by those testify g on a bill.)

NAME: Craig Campbell DATE: 3-12-83

ADDRESS: Rt 2 Box 90 Manhattan, Mt.

PHONE: 282-7450

REPRESENTING WHOM? Montana Raptor Propagators

APPEARING ON WHICH PROPOSAL: H.B. 94

DO YOU: SUPPORT? X AMEND?        OPPOSE?       

COMMENT:       

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

(This sheet be used by those testifying on a bill.)

NAME: Joseph J. Filomen DATE: 3-12-83

ADDRESS: Box 192 St. Ignace Mt.

PHONE: 745 3771

REPRESENTING WHOM? CS & K Tribes

APPEARING ON WHICH PROPOSAL: HB 764

DO YOU: SUPPORT? X AMEND?        OPPOSE?       

COMMENT:       

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.



(This sheet be used by those testify g on a bill.)

NAME: Jeff Walden DATE: 3-12-83

ADDRESS: Box 13, Brooming, Mt.

PHONE: 338-7866

REPRESENTING WHOM? Montana Falconer Assoc.

APPEARING ON WHICH PROPOSAL: HB 94

DO YOU: SUPPORT? X AMEND? \_\_\_\_\_ OPPOSE? \_\_\_\_\_

COMMENT: \_\_\_\_\_

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

(This sheet be used by those testify g on a bill.)

NAME: David Surot DATE: \_\_\_\_\_

ADDRESS: 2303 Grand Ave. Billings MT. 59102

PHONE: ph. 652-3113

REPRESENTING WHOM? Montana Inter-Tribal Policy Board

APPEARING ON WHICH PROPOSAL: Bill # 769

DO YOU: SUPPORT? X AMEND? \_\_\_\_\_ OPPOSE? \_\_\_\_\_

COMMENT: please see written testimony

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

March 12, 1983

HB 764 allows native Americans who are Tribal members to possess eagle feathers.

these feathers are an extremely important part of their culture and heritage. the significance of the eagle feather, to an Indian, is parallel with the Holy Cross in the Christian religion.

However, under existing law, the feathers can be possessed only on Federal Lands, in other words, on a reservation. If an Indian, with these feathers, should leave the reservation to attend a ceremony in southern part of Montana then that

Indian is outside the laws of Montana

Another problem that exists is with members of tribes who do not live on a reservation. Those members can't even possess something that is a part of their culture!

This bill is in compliance with Federal law and is very important to a large number of Montanans.

I hope you "Do Concur" with HB 764. Thank you.

Lex Nelson

DAVID SMALL  
**Montana Inter-Tribal Policy Board**

2303 Grand Ave., Suite 5 • Billings, MT 59102 • (406) 652-3113

**MEMBER TRIBES**

March 12, 1983

Blackfeet  
Crow  
Flathead  
Fort Belknap  
Fort Peck  
Little Shell  
Northern Cheyenne  
Rocky Boy

Honorable Senator Ed B. Smith, Chairman  
Senate Fish and Game Committee  
Montana Senate

Mr. Chairman and Committee Members, this bill before you represents a number of critical issues of which the Montana Inter-Tribal Policy Board wishes to address.

Since the beginning of Statehood, Montana has recognized the various tribes living within her boundaries. These Tribes in return have recognized Montana as a State. With this recognition each party also realizes that each has a religion, culture, and tradition that is inherent in its claim that the people of each society have the freedom to exercise not only how they live, but to have the freedom to choose their respective culture, tradition, and religion without bias judgment on either side.

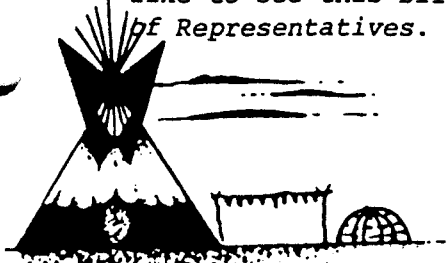
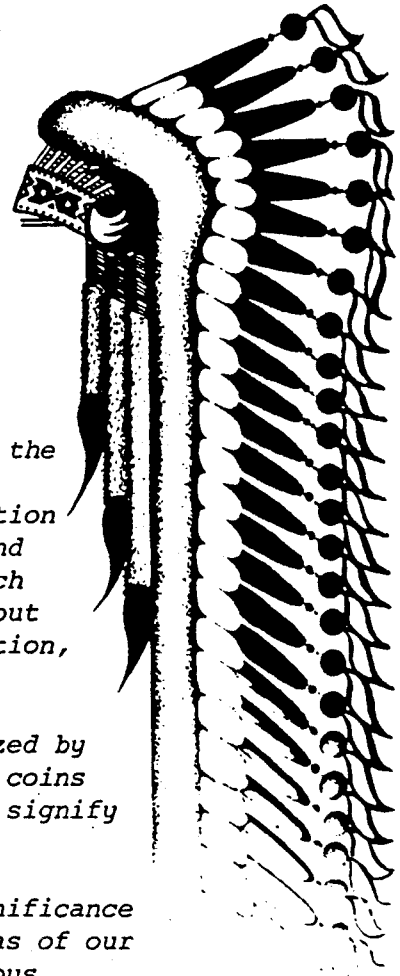
The eagle has long been a symbol of significance recognized by both Indian and non-Indian alike. We have this symbol on our coins and flags -- the President of this nation uses this symbol to signify his office.

The Indian people of this state also place a special significance on this symbol. We use the eagle and his feathers in all areas of our culture, but nowhere is more emphasis placed as in our religious ceremonies.

We realize this may seem foreign to those of you not familiar with our culture and traditions. However, would you have a Priest arrested for displaying the cross? Or have a Rabbi arrested for wearing the Star of David? Under current law, this is a reality for our people.

We cannot practice our religion with other tribes. We cannot go to social gatherings of other tribes. We cannot follow the traditions of our people. And, we cannot even leave our reservations without the risk of having our eagle feathers confiscated. A wise man once said: "Let me be a free man, free to choose the religion of my fathers, free to go where I choose, free to live as I choose." If a white man breaks the law, punish him by the law. If an Indian breaks the law, punish him by that same law.

Mr. Chairman, we want this freedom to follow the religion of our forefathers, without bias judgement on both, or either side. We would like to see this bill passed with even better results than in the House of Representatives. With this Committee's support, we believe it will.



HB 94

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

March 12, 1983

This bill, as amended by the House, would allow the Department to issue permits for the taking and holding of raptors for captive breeding projects. The House has incorporated a number of amendments to the original bill which will allow the Department to carefully monitor and regulate the use of raptors for captive breeding purposes.

Because of the complexity of raising raptors for captive breeding, the Department does not expect very many permits to be sought. Nonetheless, to the extent that such activities are necessary, this bill provides the legal mechanism to allow captive breeding.

Further, federal law currently allows captive breeding of raptors to occur. However, because Montana does not specifically allow the keeping of raptors for captive breeding purposes, people in Montana cannot currently initiate captive breeding projects. Thus, this bill will bring Montana law in line with the federal requirements for raptors.

Again, given the amendments made in the House to this bill, which will allow the Department to keep close tabs on such projects, the Department supports the passage of House Bill 94.

Exhibit 4  
Submitted by Jeff Woldum  
March 12, 1983

October 27, 1982

Ralph Rogers  
Box 63  
Winifred, Montana 59489

Orville Ellison  
Helena, Montana 59602

Mr. Ellison,

Steve Aller has requested that I address several questions and problems concerning the proposed captive breeding law in this state. Since some of these questions aren't related I will simply address them one at a time.

1. Why do we need this law?

Under current Montana law there are only two types of permits under which hawks may be kept: 1. falconry permit and 2. scientific collecting permit. The falconry permit is the only permit available to non-academic persons. The federal falconry law allows a maximum of 3 raptors. We can not change this limit. Assuming a breeder must have a pair of raptors to begin with, this only allows him to raise one young per year. We need a law separate from the falconry law allowing more than three raptors to be kept.

2. How many raptors are we talking about and what will they be used for?

We are talking about raising a very few of the rarest types of falcons. It takes a tremendous investment of time and energy to build and successfully operate a breeding facility. It is a fair assumption that breeders will not go to this trouble to raise falcons which are already common in the wild. The total number of falcons raised in the 50 states this year was less than 250 or about 5 per state. Of this 250, more than 200 were raised by Cornell University. Private breeders (like the ones we would have in Montana) only produced about 50 birds this year.

Our goal, which would take many years to achieve, would be to produce about 20-25 young per year...enough to supply the 40 odd falconers in this state with hunting hawks. We are not going to raise large numbers of common hawks...it just wouldn't be a sensible investment of time.

### 3. How are other states currently handling these activities?

The federal government is in the midst of promulgating captive breeding regulations. They have been more than four years at this time...and may be more than four more. These activities are being handled in other states in two different ways; 1. Scientific collecting permit and 2. captive breeding permit issued in accordance with state law or regulation. At this time the most common method is the scientific collecting permit. Wyoming, Washington, S. Dakota, Texas and many others use this type of permit while waiting for federal captive breedings regs. Montana is extremely stringent with these collecting permits, issuing them only to professors, etc... The normal course of action is for a potential breeder to apply to the federal government for a "Special Purpose Permit". He is then inspected by a federal game warden and the "Special Purpose Permit" is denied or issued. The states then issue a captive breeding or scientific permit. Montana will not issue scientific permits and has no legal authorization to issue captive breeding permits. When the federal captive breeding regulations are finally promulgated then all states will have to comply.

### 4. Is this simple enabling legislation giving the Fish and Game Commission authorization to issue permits and regulation enough? Should we have a more detailed law?

There are two reasons we feel that this simple enabling law followed by complicated Commission regulations is preferable to a complicated law. The Fish and Game Commission is probably the more appropriate body to discuss whether a 12 ft. chamber is adequate for imprints, or at what age the young should be banded, or any of a myriad of other technical problems. A more important reason is the fact that at some time in the future these federal regulations will be out and Montana will have to comply. It would be much easier to change commission regulation at any of six annual meetings than it would be to come back to a legislature which meets only every two years.

### 5. Other information:

In 1981 the Montana Fish and Game Dept. completed an evaluation of this state's falconry program. One of the major recommendations was that this state's falconers and the Dept. itself try to change the law so that captive propagation of raptors would be legal.

During the August 1982 meeting the Montana Fish and Game Commission directed the Department's legal staff to work with this state's falconers and the Fish and Game Sub-committee to insure that any proposed law was properly written and titled and numbered.



In a nutshell, we are a small group of avid sportsmen who hunt with falcons. We would like that state's permission to breed falcons in captivity so that more of us would be able to use some of the more desirable species of hawks.

We greatly appreciate your help...if there are other questions we may answer or things we can do to aid you, do not hesitate to call on us.

Thank you.

A handwritten signature in dark ink, appearing to be "J. R. [unclear]", followed by a horizontal line.

# STANDING COMMITTEE REPORT

March 12, 19 83

MR. **PRESIDENT**

We, your committee on **FISH AND GAME**

having had under consideration **HOUSE** Bill No. **764**

**NILSON (LEE)**

Respectfully report as follows: That **HOUSE** Bill No. **764**

**BE CONCURRED IN**  
**DO PAS**

# STANDING COMMITTEE REPORT

March 12, 19 83

MR. **PRESIDENT**

We, your committee on **FISH AND GAME**

having had under consideration **HOUSE** Bill No. **94**

**ELLISON (SMITH)**

Respectfully report as follows: That **HOUSE** Bill No. **94**

BE CONCURRED IN

~~DOES~~