

MINUTES OF THE MEETING
FISH AND GAME COMMITTEE
MONTANA STATE SENATE

March 22, 1983

The meeting of the Fish and Game Committee was called to order by Chairman Ed B. Smith on March 22, 1983 at 1:05 P.M. in Room 402, State Capitol.

ROLL CALL: Roll was called with all members present.

Chairman Smith pointed out to the committee that Senator Jacobson would not be at the hearing the full time due to another commitment, but that she had furnished him with her proxy vote and that would be included in the record.

DISPOSITION OF HOUSE BILL NO. 345: Senator Smith said this bill would provide for the sale or donation of animal meat or parts confiscated or otherwise acquired by the Department of Fish, Wildlife and Parks, and the money received would be used for a reporting system. You would receive a reward to turn someone in if they are poaching or violating Fish and Game law. The amendment adopted by the committee at our previous meeting deleted the section of the bill relating to the reward program.

Senator Jacobson made a motion to reconsider the action on the amendments previously adopted.

Senator Smith asked Jim Flynn if he would make a comment in regard to the granting of rule making authority to the Department of Fish, Wildlife and Parks.

Mr. Flynn said he believed that amendment to the title was instigated in the House and he presumed it was to establish the rule making authority for establishing the reward system. In other words, the level of reward which might be reimbursed for a specific type of violation involved.

Senator Smith said the appropriations subcommittee he serves on did allow the expenditure of funds, collected by donation, for a reward system on reporting poaching or game law violations, but the bill, on page 4, lines 10-19, allows the Fish and Game Department to use funds that are collected from confiscated animals to be used for the reward.

A Roll Call Vote was taken on Senator Jacobson's motion to reconsider the amendments previously adopted by the committee. The motion passed by a vote of 4-3. See attached Roll Call Vote sheet.

Andrea Merrill reviewed the amendments attached as Exhibit 1 which were previously adopted by the committee.

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Senator Smith asked Senator Severson if the money was donated for the reporting system on poaching or violations of state laws, would you still be just as opposed.

Senator Severson said he is opposed to the bounty hunter concept. He thinks a person, if he is a good hunter and sportsman, will report violations when needed without a reward to do it.

Senator Lane asked Representative Spaeth if he would explain how this would tie in with the control situation.

Representative Spaeth said the Department of Livestock is looking at this same kind of a program. His understanding is that they have been in contact with the Department of Fish, Wildlife and Parks and they are working on a cooperative venture in that they would use the same 800 number and the same reporting personnel. The programs would be interwoven to a certain degree. Both programs would operate more effectively if both were in existence. This would be an advantage to the livestock rustling problems in the state.

Senator Severson said you are talking about a privately owned and a public animal and he does not think they relate.

Senator Smith asked if the Department of Livestock was implementing this kind of a reporting system.

Representative Spaeth said yes and hopefully there will be no problems getting it through. People that are involved in wildlife violations are the same kind of people that would be involved in livestock rustling problems. The Department of Livestock bill is an appropriation measure using \$15,000 from the sale of unclaimed livestock. This is why the two programs would go nicely together.

Senator Mohar said he did not want to reiterate all the debate that the committee has had on this bill. Representative Spaeth gave a couple of good points, that it is not necessarily just a sportsman who would participate in the crime stoppers program, it is people that are friends of or indirectly know of someone that has caused a violation and that 80% of the people that have participated in these type of programs would not have done so without the reward program. This is an experimental program which can be instituted at a cost savings to taxpayers to get some additional enforcement. It may not be much of a problem in the Bitterroot but he lives 10 miles from the Yak and they have problems with the poaching of moose. This is such a large, remote and at times wild state, that he thinks we need to give the law enforcement personnel another tool to bring some enforcement in the state. Programs have been effective in other states and could help cattlemen and ranchers. The \$30,000 might be a one time appropriation. It might just be something to get the program started but after that donations will be enough.

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Senator Mohar made a motion that HB 345 be concurred in.

Senator Severson is opposed to this bill. He is the person that started calling this a bounty hunter bill. The underlined section on page 4 tells you that is exactly what this bill is. Anytime you would get to the point where you would report a friend for a dollar he is opposed to it. He certainly has nothing against reporting crime but objects to putting it into this prospective.

Senator Smith believes the action of the subcommittee was that \$30,000 of money from donations could be used for a reward program. He asked Mr. Flynn if that was right.

Mr. Flynn said \$30,000 of spending authority for conducting this reward program.

Senator Mohar said he does not think we will see very many close friends turning close friends in or brother turning father in or that type of thing. He is not worried about that. He thinks there is a lot of disrespect for a lot of our laws and this would help that problem.

Senator Smith said the appropriations subcommittee was for \$30,000 by donations. That is what the minutes show. We authorized \$30,000 of reward money by donation.

A Roll Call Vote was taken on Senator Mohar's motion that HB 345 be concurred in. The motion failed by a vote of 4-3 and HB 345 was not concurred in. A copy of the Roll Call Vote is attached.

DISPOSITION OF HOUSE BILL NO. 836: Senator Mohar made a motion that HB 836 be concurred in.

A Roll Call Vote was taken and is attached. The motion passed with a vote of 6-1.

DISPOSITION OF HOUSE BILL NO. 377: Senator Mohar referred to Jim Flynn's testimony and stated that Mr. Flynn indicated that if the Department got the increased amount of funding from this bill, that they did not anticipate adding any more staff to the existing personnel. One of the things that would be conducted is research with the Department of Agriculture on environmentally safe methods of vertebrate pest control. He asked Mr. Flynn what type of vertebrate pests he was referring to.

Mr. Flynn said the ground squirrels. The Department of Agriculture does conduct research on the control of ground squirrels in conjunction with MSU. He would hope, if they had some extra money, to involve the Department financially in that process so that more alternatives could be looked at.

Senator Smith said we know what happened with the predator program when 10-80 was taken away for the use of coyote control because nontarget species were being killed. Is this opening the door so that no type of animals that need control can be controlled because we would be killing nontarget species. He wonders if Jim Flynn, Director, Department of Fish, Wildlife and Parks, recognizes if this legislation creates a problem, and we are disallowed to control some rodents and predators, that we could close up the last remaining private hunting source in Montana. This could create more problems than benefit people if they continue pursuing this bill. What he is afraid of is opening the door to other problems and expansion of the list. Colorado started out with a few on the list and they now have approximately 3,000. He is concerned this same thing will happen in this area. In Colorado you can kill a rattlesnake within a municipality but they are protected in the state. You can use 10-80 to kill rats within a city but you can't use it to kill a coyote that is killing your sheep.

Senator Mohar said what you are referring to is if a species gets the "need of protection" status. The only time that the Department can move to protect wildlife under this bill is if one is already in the need of management status, or the legislature acts to put that species on the need of management list. He asked Jim Flynn if that was correct.

Mr. Flynn said that is correct.

Senator Mohar said the only way they could go in that need of management status would be to have a majority of the Legislature's approval.

Mr. Flynn said they would have to go before the legislature.

Senator Smith questioned who makes the decision what species of animals should be protected and what species should not. The ranchers putting up with the problem species or the people in whatever walk of life. He wonders how much longer agriculture will have much say in the state legislature. With this bill there may come a time when we won't be able to kill a rattlesnake or a prairie dog on our own ranch.

Senator Lee presented to the committee some amendments and a statement of intent to this bill which he thinks cleans up the bill. Everyone has been in favor of the amendments. Of course, the farm groups want to kill the bill. What the amendments do is to make it so the Fish and Game Commission will decide this and they will have a hearing for the public to attend and give their comments. He made a motion that the amendments and statement of intent be adopted. Senator Lee's amendments and statement of intent are attached as Exhibit 2.

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Senator Severson said basically your amendments are just approval by the Fish and Game Commission.

Senator Lee said he did not ask Mr. Flynn for approval of the amendments. If this bill does pass, there should be some means for the agriculture community to put some impact into the hearing. The Department would go to the Commission and the Commission would hold a hearing for all interested parties. They would still have to come to the legislature for approval. This would be one more vehicle for the agricultural groups to air concerns.

Senator Smith said his concern is not that the Fish and Game Department will declare the prairie dog a nongame species. What is happening in Wyoming today is if you poison a prairie dog and the ferret, a nongame species, eats it and dies then there are problems. We are not afraid of them declaring the prairie dog a nongame species, but of the nongame species eating a poisoned prairie dog and dieing and what the solution for controlling the prairie dog would then be.

Senator Lee said that is something you could bring up at the hearing.

Jo Brunner said you are overlooking a couple of things. Federal law says that anything that is not a game animal or not an endangered animal is a nongame species. Nongame species fall under management category. The federal law says that rodents can be considered manageable nongame. Concern of ours is you don't have to worry about changing status and nongame are manageable. She pointed out that federal law supersedes unless the state law so states.

Senator Mohar said he does not like ground squirrels and prairie dogs either and we are not trying to protect pests. There is a lot of discussion on state law and federal law. I was elected to write state law. He does not always agree with what federal people do but nothing is going to keep them from coming into Montana to protect what needs to be protected if the federal government has decided that. We are not encouraging that type of thing in this bill. What we want to do with this program is not to protect different animals but to study them. Some of the information from other states will help us to control some pest animals. We are trying to get more knowledge about animals. He thinks this bill helps agriculture and protects them.

Senator Smith said the fear in his mind is that this bill will open the door so that further down the line we could have many more species of nongame added to the list, the same as they have in Colorado at this time. He asked Janet Ellis to comment on that point of view.

Janet Ellis said this is a funding bill and does not protect anything at all. The only way you can protect an animal is through legislative approval. She can't say that down the road some animal

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might be threatened and they may come to the legislature for approval to make that animal an endangered species. This bill is not a foot in the door, it is a funding bill. That is all it does.

Betsy Spettique pointed out to the committee that we can learn from the mistakes of the other states that have set up this program. If this bill were to pass we would have approximately 2 years to work to get something done before it comes up for a sunset review.

Senator Smith said this bill is in fact a copy of what other states are doing; are we also going to protect species as Colorado has done.

Janet Ellis said we would need legislative approval to do that. This program will go on whether this bill dies.

Senator Lee said he does not see any way this bill is anti-agriculture the way it is written right now.

Senator Severson asked Jim Flynn if the Department received donations for this program could the Department accept them.

Mr. Flynn said we could accept the donations but the chances of that money being used for this program is remote. To process say \$20.00 through the bureaucracy is very difficult.

Senator Smith said it could be handled just as any other program through the appropriation subcommittee and account for how the money is being spent.

Betsy Spettique said the advantage to this funding is that there is a continuity and people annually have an ability to donate out of their own pocket

Ken Knutson said the funds for this program will not be that much bigger than what they are funded now. Now they receive \$50,000 and they anticipate receiving \$80,000 from the check-off program. The ability that this program will cause harm to agriculture is rather remote. We are talking about a program that will try to seek out ways to make it popular.

Senator Smith said the people in agriculture have had some very bad experiences with the use of 10-80. We can't protect our own property. He appeared before an EPA hearing in Denver and some of the comments by the Audubon National Society and Friends of Animals made him realize they never even understood the problem that ranchers are having and that is the thing that scares him. He has never used a more selective poison than 10-80 and they have banned that. We used 10-80 on the ranch and we never found a dead animal other than a hound dog which was bought for chasing

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coyotes.

Jo Brunner said we have a law on the books and this bill further implements that law by adding funding to bring that law into its fullest effect and that is our concern. What happens when it is financed further? That is the portion that is harmful to us.

Senator Mohar said we have had this program for 10 years and there hasn't been problems with it. Montana's agriculture is the number one industry and we are going to protect it.

Jo Brunner said it is not the endangered species that bother us. It is the management portion when you go to managing species.

A Roll Call Vote was taken on Senator Lee's motion to adopt his amendments and statement of intent. The motion passed with a vote of 4-2. See attached Roll Call Vote sheet.

Senator Mohar made a motion that we adopt the amendments submitted by the Department of Revenue. A copy of these amendments is attached as Exhibit 3. Their feeling was that the money to implement this program should come out of the program rather than the general fund.

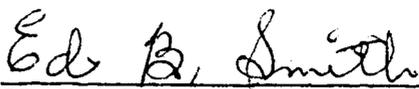
Senator Mohar's motion passed unanimously.

Senator Tveit does not support this bill. He sees it as driving another wedge between the sportsmen and the landowners. He feels it is a mandate we will not like down the road.

Senator Mohar made a motion that HB 377 be concurred in as amended.

A Roll Call Vote was taken and is attached. The motion failed with a vote of 3-4. HB 377 was not concurred in.

ADJOURNMENT: There being no further business the meeting adjourned at 2:15 P.M.


ED B. SMITH

1. Strike: statement of intent in its entirety
2. Title, lines 8 through 11.
Strike: line 8 through "PARKS;" on line 11
3. Title, line 12.
Strike: "THROUGH 87-1-513"
Insert: ", 87-1-512,"
4. Page 3, line 11 through line 19 on page 4.
Strike: section 3 in its entirety
Renumber: subsequent section

Exhibit 2
Submitted by Senator Lee
March 22, 1983

STATEMENT OF INTENT
House Bill 377

A statement of intent is required of this bill because rulemaking authority is granted to the Fish and Game Commission in section 4 for the use of the nongame wildlife account and for the review and approval process for nongame wildlife management projects.

It is intended that the rules promulgated by the Commission would include adequate provisions for public notice and comment during the review and approval process.

Amendments to HB 377
(Third Reading Copy)

1. Title, line 10.

Following: "MONTANA;"

Insert: "TO PROVIDE FOR FISH AND GAME COMMISSION APPROVAL
OF THE USE OF SUCH FUNDS;"

2. Page 3, line 20.

Following: "department"

Insert: ", upon the approval of the commission as
determined under [section 4],

3. Page 5, line 3.

Following: line 2

Insert: "NEW SECTION. Section 4. Duties of commission.

(1) The commission shall review and approve annually the
nongame wildlife management projects recommended by the
department for funding from the nongame wildlife account.
The commission shall provide for public comment during
the review and approval process.

(2) The commission may adopt rules governing:

(a) the use of the nongame wildlife account set
forth in [section 2]; and

(b) the review and approval process set forth in
subsection (1)."

Renumber: subsequent sections

4. Page 5, line 4.

Strike: "49th"

Insert: "50th"

5. Page 5, line 8.

Strike: "Section"

Insert: "Sections"

Following: "2"

Strike: "is"

Insert: "and 4 are"

6. Page 5, line 10.

Strike: "section"

Insert: "sections"

Following: "2"

Insert: "and 4"

7. Page 5, line 17.

Strike: "July 1"

Insert: "December 31"

Amendments to House Bill 377

Page 3, Line 18

Following: "Account"

Insert: "Except as provided in subsection (4)"

Page 4, Line 5

Insert: "(4) The department of revenue may deduct
from collections an amount not to
exceed \$9,638.00 in fiscal year 1984
and \$6,238.00 in fiscal year 1985 for
administering the voluntary checkoff program.
The department is authorized to spend the
amounts and hire necessary personnel."

STANDING COMMITTEE REPORT

March 22, 19 83

MR. PRESIDENT

We, your committee on FISH AND GAME

having had under consideration HOUSE Bill No. 345

SPAETH (SMITH)

Respectfully report as follows: That HOUSE Bill No. 345

BE NOT CONCURRED IN
~~EXCESS~~

Ed B. Smith

ED B. SMITH,

Chairman

HC

SENATE COMMITTEE Fish & Game

Date March 22, 1983 Bill No. HB 345 Time 1:20 P.M.

NAME	YES	NO
Senator Severson		✓
Senator Lee		✓
Senator Tveit		✓
Senator Lane	✓	
Senator Mohar	✓	
Senator Jacobson	✓	
Senator Smith	✓	

Agnes Hamilton
Secretary

Senator Ed Smith
Chairman

Motion: To reconsider the amendments previously adopted by
the committee.

The motion passed.

(include enough information on motion--put with yellow copy of committee report.)

SENATE COMMITTEE Fish & Game

Date March 22, 1983 Bill No. HB 345 Time 1:30 P.M.

NAME	YES	NO
Senator Severson		✓
Senator Lee		✓
Senator Tveit		✓
Senator Lane	✓	
Senator Mohar	✓	
Senator Jacobson	✓	
Senator Smith		✓

Agnes Hamilton
Secretary

Senator Ed Smith
Chairman

Motion: That HB 345 be concurred in.

The motion failed.

(include enough information on motion--put with yellow copy of committee report.)

STANDING COMMITTEE REPORT

March 22, 19 83

MR. **PRESIDENT**

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

having had under consideration **HOUSE** Bill No. **836**

J. JENSEN (JACOBSON)

Respectfully report as follows: That **HOUSE** Bill No. **836**

BE CONCURRED IN
~~RELAXX~~

Ed B. Smith
.....
ED B. SMITH, Chairman

HC

SENATE COMMITTEE Fish & Game

Date March 22, 1983 Bill No. HB 836 Time 1:35 P.M.

NAME	YES	NO
Senator Severson	✓	
Senator Lee	✓	
Senator Tveit	✓	
Senator Lane	✓	
Senator Mohar	✓	
Senator Jacobson	✓	
Senator Smith		✓

Agnes Hamilton
Secretary

Senator Ed Smith
Chairman

Motion: That HB 836 be concurred in.

The motion passed.

(include enough information on motion--put with yellow copy of committee report.)

STANDING COMMITTEE REPORT

March 22, 19 83

MR. **PRESIDENT**

the Majority of
We/your committee on **FISH AND GAME**

having had under consideration **Statement of Intent, HOUSE** Bill No. **377**

FABREGA (SMITH)

Respectfully report as follows: That **Statement of Intent, HOUSE** Bill No. **377**

be adopted.

STATEMENT OF INTENT RE: HB 377

A statement of intent is required of this bill because rule-making authority is granted to the Fish and Game Commission in section 4 for the use of the nongame wildlife account and for the review and approval process for nongame wildlife management projects.

It is intended that the rules promulgated by the Commission would include adequate provisions for public notice and comment during the review and approval process.

SEVERSON

TVEIT

LANE

ED B. SMITH, Chairman.

HC

~~XXXXXX~~

STANDING COMMITTEE REPORT

MARCH 22, 19 83

MR. **PRESIDENT**

the Majority of **FISH AND GAME**
We/your committee on

having had under consideration **HOUSE** Bill No. **377**

FABREGA (SMITH)

Respectfully report as follows: That **HOUSE** Bill No. **377**

third reading, be amended as follows:

1. Title, line 10.
Following: "MONTANA;"
Insert: "TO PROVIDE FOR FISH AND GAME COMMISSION APPROVAL OF THE USE OF SUCH FUNDS;"
2. Page 3, line 18.
Following: "account"
Insert: "except as provided in subsection (4)"
3. Page 3, line 20.
Following: "department"
Insert: ", upon the approval of the commission as determined under [section 4],"

EXCERPTS (cont.)

Ed B. Smith
.....
Chairman.

HC

4. Page 4, line 6.
Following: line 5

Insert: "(4) The department of revenue may deduct from collections an amount not to exceed \$9,633 in fiscal year 1984 and \$6,238 in fiscal year 1985 for administering the voluntary checkoff program. The department is authorized to spend the amounts and hire necessary personnel."

5. Page 5, line 3.
Following: line 2

Insert: "NEW SECTION. Section 4. Duties of commission. (1) The commission shall review and approve annually the nongame wildlife management projects recommended by the department for funding from the nongame wildlife account. The commission shall provide for public comment during the review and approval process.
(2) The commission may adopt rules governing:
(a) the use of the nongame wildlife account set forth in [section 2];
and
(b) the review and approval process set forth in subsection (1)."

Remember: subsequent sections

6. Page 5, line 4.
Strike: "49th"
Insert: "50th"

7. Page 5, line 8.
Strike: "Section"
Insert: "Sections"
Following: "2"
Strike: "is"
Insert: "and 4 are"

8. Page 5, line 10.
Strike: "section"
Insert: "sections"
Following: "2"
Insert: "and 4"

9. Page 5, line 17.
Strike: "July 1"
Insert: "December 31"

SEVERSON

TVEIT

LANE

And, as so amended,
BE NOT CONCURRED IN

STANDING COMMITTEE REPORT

March 22,

19 83

MR. PRESIDENT

the Minority of
We/ your committee on FISH AND GAME

having had under consideration Statement of Intent, HOUSE Bill No. 377

FABREGA (MOHAR)

Respectfully report as follows: That Statement of Intent, HOUSE Bill No. 377

be adopted.

STATEMENT OF INTENT RE: HB 377

A statement of intent is required of this bill because rule-making authority is granted to the Fish and Game Commission in section 4 for the use of the nongame wildlife account and for the review and approval process for nongame wildlife management projects.

It is intended that the rules promulgated by the Commission would include adequate provisions for public notice and comment during the review and approval process.

MOHAR

LEE

JACOBSON

Handwritten signature

Chairman

~~DO NOT~~

STANDING COMMITTEE REPORT

March 22,

19 83

MR. PRESIDENT

the Minority of
We/your committee on FISH AND GAME

having had under consideration HOUSE Bill No. 377

FABREGA (MOHAR)

Respectfully report as follows: That HOUSE Bill No. 377

third reading, be amended as follows:

1. Title, line 10.

Following: "MONTANA;"

Insert: "TO PROVIDE FOR FISH AND GAME COMMISSION APPROVAL OF THE
USE OF SUCH FUNDS;"

2. Page 3, line 18.

Following: "account"

Insert: "except as provided in subsection (4)"

3. Page 3, line 20.

Following: "department"

Insert: ", upon the approval of the commission as determined under
[section 4],"

(cont.)

DO PASS



Chairman.

4. Page 4, line 6.

Following: line 5

Insert: "(4) The department of revenue may deduct from collections an amount not to exceed \$9,638 in fiscal year 1984 and \$6,238 in fiscal year 1985 for administering the voluntary checkoff program. The department is authorized to spend the amounts and hire necessary personnel."

5. Page 5, line 3.

Following: line 2

Insert: "NEW SECTION. Section 4. Duties of commission. (1) The commission shall review and approve annually the nongame wildlife management projects recommended by the department for funding from the nongame wildlife account. The commission shall provide for public comment during the review and approval process.

(2) The commission may adopt rules governing:

(a) the use of the nongame wildlife account set forth in [section 2];
and

(b) the review and approval process set forth in subsection (1)."

Renumber: subsequent sections

6. Page 5, line 4.

Strike: "49th"

Insert: "50th"

7. Page 5, line 8.

Strike: "Section"

Insert: "Sections"

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Strike: "section"

Insert: "sections"

Following: "2"

Insert: "and 4"

9. Page 5, line 17.

Strike: "July 1"

Insert: "December 31"

MOHAR

LRE

JACOBSON

And, as so amended,
BE CONCURRED IN

SENATE COMMITTEE Fish & Game

Date March 22, 1983 Bill No. HB 377 Time 2:05 P.M.

NAME	YES	NO
Senator Severson	✓	
Senator Lee	✓	
Senator Tveit		✓
Senator Lane	✓	
Senator Mohar	✓	
Senator Jacobson	Absent	
Senator Smith		✓

Agnes Hamilton
Secretary

Senator Ed Smith
Chairman

Motion: To adopt the Statement of Intent and amendments presented
by Senator Lee.

The motion passed.

(include enough information on motion--put with yellow copy of committee report.)

SENATE COMMITTEE Fish & Game

Date March 22, 1983 Bill No. HB 377 Time 2:10 P.M.

NAME	YES	NO
Senator Severson		✓
Senator Lee	✓	
Senator Tveit		✓
Senator Lane		✓
Senator Mohar	✓	
Senator Jacobson	✓	
Senator Smith		✓

Agnes Hamilton
Secretary

Senator Ed Smith
Chairman

Motion: That HB 377 be concurred in as amended.

The motion failed.

(include enough information on motion--put with yellow copy of committee report.)