

MINUTES OF THE MEETING  
FISH AND GAME COMMITTEE  
50TH LEGISLATIVE SESSION  
HOUSE OF REPRESENTATIVES

March 17, 1987

The meeting of the Fish and Game Committee was called to order by Chairperson Marian Hanson on March 17, 1987, at 1:00 p.m. in Room 312 of the State Capitol.

ROLL CALL: All committee members were present with the exception of Reps. Ellison, Moore, Pavlovich and Daily who were excused.

SENATE BILL NO. 53: Senator Ed Smith, District #10, sponsor, stated SB 53 was at the request of the Department of Fish, Wildlife and Parks. He stated the bill is slightly misleading. It talks about property rights which all came about in 1983 when the game farm bill was finally passed. When the bill was printed and passed, they took out "fur-bearing animal." The original bill stated all game animals cannot be captured for the purpose of starting a game farm. They must acquire those from the private sector. All SB 53 does is makes it unlawful for someone to capture a fur-bearing animal from the wild and use it for the purpose of game farm operations.

PROPONENTS: Ron Marcoux, Deputy Director, Department of Fish, Wildlife and Parks submitted testimony (Exhibit 1). He stated at the request of the 1981 legislature, the Governor created a committee to review the game far bird farm, and fur farm statutes. Upon the committee recommendation, the 1983 legislature repealed the existing game bird, and fur farm statutes enacting individual laws for game, fur, and game bird farms. The original law allowed the capture of fur farm foundation stock from the wild. This provision was intentionally omitted in 1983 at the recommendation of the select committee. The committee found that fur farm stock is available from private sources. Allowing the capture of wild foundation stock is inconsistent with the game farm and game bird farm statutes. To ensure that the most recent legislative action prevails, SB 53 repeals Sections 70-2-112 and 70-2-113, MCA. To further clarify the subject, SB 53, as amended, specifically prohibits the use of wild captured furbearers on fur farms. This bill now makes the legislative intent quite clear. Mr. Marcoux recommended passage of the bill.

DANA FIELD, representing the Montana Audubon Legislative Fund, submitted testimony (Exhibit 2). She stated repealing these two sections would make the law regarding the taking

of wild animals for the purposes of commercial farming much more clear and consistent. The language added by the Senate Committee directly addresses the inadvertent omission of furbearers from the original game farm rules. MALF believes Montana's wildlife is a public resource which should not be commercialized. SB 53 clearly brings furbearers under the same rules that apply to capture of birds or game animals, and eliminates any confusion over their property rights. She urged the committee to support SB 53.

NO OPPONENTS

NO QUESTIONS FROM THE COMMITTEE

SENATOR SMITH closed by stating SB 53 simply comes about because of an omission in the original bill, and urged the committee to give the bill favorable passage.

SENATE BILL NO. 331: Senator Ed Smith, District 10, sponsor, stated SB 331 is an act to establish a pheasant enhancement program to be administered by the Department of Fish, Wildlife and Parks providing funding through increased license fees. He stated in his area, there have been several wildlife organizations interested in this including Ducks Unlimited and Walleyes Unlimited. He stated the organizations felt this was a good time to get something initiated, especially with the amount of conservation reserved acres that can be input for this kind of program. It is one area also, that can provide additional recreation. Not only for local hunters, but for out-of-state hunters as well, which will bring additional revenue into the state. Senator Gage then went through the bill section by section stating the one particular part of the bill he felt was important was New Section 2. This section regards the authorized use of funds which, up to this point, they have received no opposition to this license increase for the different classes of game birds. He stated his plan is to ask for an amendment to the bill omitting subsections (b) and (c). He felt this was an experimental program. At present, subsection (b) of the bill which deals with habitat enhancement, is not necessary. There is adequate habitat for these pheasants. The problem is there are not enough pheasants reared and released so they can increase the numbers. He stated subsection (c) is not needed due to the fact that this information can be obtained at the Fish and Game office. The importance of getting these birds out there should be their number one priority. He stated the effective date of the bill, upon passage, is March 1, 1988. The reason for this date is it will take that much time for the department to implement all of the rules and regulations that must be prepared; especially for the people involved in

4-H and the people considering raising them in order to release them and in turn, become part of the program.

PROPOSERS: Ron Marcoux, Deputy Director, Department of Fish, Wildlife and Parks, submitted testimony (Exhibit 3). He stated from 1953 to 1973, the ring-necked pheasant was harvested by sportsmen at the rate of about 160,000 birds annually in Montana. Since that time, harvest dropped to a low of about 52,000 birds in 1985. Available habitat, weather conditions, and natural cyclic events have been factors limiting pheasant populations in Montana. In 1983, a pheasant habitat enhancement program was established to assist and advise sportsmen's groups, landowners or special associations in their effort to improve pheasant habitat in areas with potential for supporting self-sustaining game farm-reared pheasant populations. This program included habitat improvement, rearing, and releasing of those pheasants into suitable habitat. The program outlined in SB 331 complements the federal farm programs and focuses on areas with the highest probability of success, and long-term benefits based on pheasant habitat potential and quality. It has potential for success and could accelerate an increase in pheasant populations, particularly when natural cyclic events begin to improve. DFWP supports the aspects of the bill which provide for thorough department review of eligibility, the ineligibility of commercial enterprises, and the requirement of some public hunting for viable applications. We also favor helping landowners identify good habitat that can be used as enhancement areas and evaluation to determine program success.

ROBERT VAN DERVERE, a concerned citizen lobbyist, stated he is in full support of SB 331.

BOB LUCAS, representing the Big Sky Upland Bird Association, stated this is a fairly new organization which started in January, 1987. He stated their organization was concerned about the decline in the upland bird population. They strongly support SB 331. He stated they are glad to pay more for the bird licenses. Even with the increase, the license will be substantially less than buying one box of shotgun shells.

CHRIS NELSON, Vice-President of the Upland Bird Association, stated the reason for the start of their organization was because the concern expressed by many of the individuals, who are members of the group, regarding the deterioration of upland bird hunting in Montana. He stated there is a problem with lack of birds and lack of habitat which must be addressed. He felt SB 331 will accomplish this. He urged the committee to give a favorable recommendation to this bill.

NO OPPONENTS

REP. RAPP-SVRCEK had concerns with the amendments proposed by Sen. Smith of taking out subsection (b) and (c). He stated subsection (b) seemed to be the only area that provided for pheasant habitat enhancement, and stated if they were to pull it out, it would end up to be an expensive stocking program which was what many people feared was going to happen.

SENATOR SMITH stated he felt this is somewhat of an experiment at the present time. The revenue from SB 331, without the habitat part in, would only be allowing the planting of from two to 300,000 birds in the State of Montana. He felt with the size of the state, and the amount of habitat they presently have, there is plenty of habitat out there to accommodate these birds.

REP. JENKINS had questions about Section 4. He questioned why the department would not be able to establish rules for all these new categories.

MR. MARCOUX stated the department would establish rules for all the categories, setting up various criteria for the applicants, along with all the general administrative functions.

REP. JENKINS questioned if there was anything in the bill to address predator control since they are enhancing these areas.

MR. MARCOUX stated, as the bill is written, there is no provision for predator control.

SENATOR SMITH stated the person they felt should be responsible for predator control is the one that acquires the birds. He should see that they are not eliminated by predators. He stated in his area, they do hunt the coons from time to time and in many cases, the horned owl takes care of a lot of these predators for them.

REP. BRANDEWIE had questions regarding subsection (c) and referred to the assistance mentioned in planting seed mixtures and lands designated. He questioned if this would work for grouse in western Montana.

MR. MARCOUX stated they could envision this being used. They have been working particularly with the people on the environmental side of the issue with regard to putting in various grasses and shelter belts to improve these areas. Generally, when you are dealing with pheasants, you are going to be associated with some fairly heavily covered

areas. Not only for pheasants, but also for sharp-tailed grouse and some of the blue grouse also.

REP. COBB asked Senator Smith if he would have an objection to including an amendment to the bill stating they have to formally report back to the Fish and Game two years from now letting them know how they did. He stated in past years, this has not been a requirement so no one really knew if it was successful or not. Plus not being able to look at the programs to determine if any changes were necessary.

SENATOR SMITH had no objections. He stated it was an excellent idea especially since this was an experimental program. It would be a valuable requirement to be aware of.

REP. BRANDEWIE asked Senator Smith if he would have an objection to amending the bill to include grouse.

SENATOR SMITH stated he would leave that up to the committee; however, it would demand a title change.

SENATOR SMITH closed by thanking the committee for their time and consideration and urged a favorable passage for SB 331.

HEARING CLOSED ON SB 331.

SENATE BILL NO. 320: Senator Bob Brown, District 2, stated SB 320 is an act to establish a fish and wildlife mitigation trust fund to establish the Department of Fish, Wildlife and Parks as trustee. He stated the Federal Northwest Power Act required that any habitat destroyed by hydroelectric power be mitigated for by the projects that have been damaged. Such as the reservoirs and other types of facilities. The bill is the result of an agreement between the Bonneville Power Administration and the Department of Fish, Wildlife and Parks. The agreement states BPA will pay the legislature to pay DFWP approximately \$1 million a year for ten years. The money will then be accumulated in a trust and will be used in the enhancement of wildlife habitat on public forest land in northwestern Montana.

PROPOSERS: Ron Marcoux, Deputy Director, Department of Fish, Wildlife and Parks, submitted testimony (Exhibit 4). He stated SB 320 would establish a trust fund for fisheries and wildlife mitigation from construction of hydropower projects. The Northwest Power and Planning Act and the Federal Power Act contain provisions for the mitigation of impacts to fish and wildlife resulting from the construction and operation of hydroelectric facilities. DFWP has entered into negotiations regarding this trust fund, and negotiations have identified a mitigation trust as the appropriate

means to finance certain mitigation projects. SB 320 would authorize the department to receive mitigation trusts and assure that these trusts are used solely for their intended purpose. The department is not requesting appropriation authority for expenditure of trust revenues at this time, but would anticipate doing so in the 1989 legislative session. The Department of Administration has recommended an accounting change in fund classification. As written, SB 320 creates an account within the expendable trust fund. D of A believes a better classification would be a trust account within the special revenue fund. The attached amendment addresses their consent (Exhibit 4).

STAN BRADSHAW, appearing on behalf of Trout Unlimited, voiced support for SB 320.

DANA FIELD, representing the Montana Audubon Legislative Fund, submitted testimony (Exhibit 5). MALF supports SB 320 and believes SB 320 provides for another option for funding such programs. Mitigation of development impacts on fish and wildlife is often required by statute. Accepting gifts for enhancement of wildlife resources would relieve the pressure on other sources of funds. SB 320 allows the Department to accept gifts for these purposes in a variety of forms. By whatever mechanism of contribution, the Department should be allowed to negotiate the terms and specific purposes of such an agreement. Giving the Department this authority may also act to encourage contributions to fish and wildlife enhancement.

#### NO OPPONENTS

REP. RAPP-SVRCEK had questions regarding how the trust accounts work.

MR. MARCOUX explained the Department would enter into this agreement directing how the money will be used for the mitigation.

SENATOR BROWN closed stating in the 16 years he has been a legislator, this is his first appearance in front of the House Fish and Game Committee. He thanked the committee for their time and consideration of SB 320 and urged their approval.

HEARING CLOSED ON SB 320.

#### EXECUTIVE SESSION

SENATE BILL NO. 320: Rep. Rapp-Svrcek moved SB 320 BE CONCURRED IN. Rep. Grady moved the amendments to SB 320. Question was then called on the amendments. The motion

CARRIED unanimously. Rep. Rapp-Svrcek moved SB 320 BE CONCURRED AS AMENDED. Question was then called. The motion CARRIED unanimously. See Standing Committee Report #1.

SENATE BILL NO. 53: Rep. Peterson moved SB 53 BE CONCURRED IN. Question was then called. The motion CARRIED with Rep. Giacometto voting NO.

SENATE BILL NO. 331: Rep. Ream moved SB 331 BE CONCURRED IN. Rep. Jenkins moved the amendments to SB 331. Rep. Giacometto then explained the proposed amendments stating he felt what they were trying to get at is, if the money is going to be put up now, they should use it to get birds instead of putting money into building up the habitat because there is plenty of habitat out there at the present time. They want to get some birds out there.

REP. JENKINS stated in his area, there have been people who have tried to get help in planting pheasants. They have discussed it with the Fish and Game and felt SB 331 will help these people.

REP. HANSON stated her interpretation was that he wanted to leave this small, as a pilot project, thus the suggestion for his amendments.

REP. REAM stated he would argue to keep subsection (b) in. He felt some areas certainly have those critical factors in whether or not any birds planted would succeed. If we do not have the opportunity to help people, this could be a limiting factor. He had no objection to eliminating sub (c).

REP. REAM then moved to amend out item (c). Question was called on the amendment. The motion CARRIED with Rep. Bulger voting NO.

REP. GIACOMETTO moved to amend SB 331 by striking subsection (b).

REP. RAPP-SVRCEK stated he felt this section should be left in. He was concerned that it will end up like some of the department's fish stocking programs which the only time the fishing is good is when they go in and dump fish. The habitat is not there to support them. Every year they end up spending money and dumping fish and nothing is done to provide for the long term propagation of the species. If they leave this in, that will signify to them they want the habitat helped as well.

REP. GRADY felt this should remain as well. However, it could be getting them into a lot of money problems, but as

Senator Smith stated, this is just a pilot program. The main concern is in getting the birds back. He did bring out there is a lot of grass and habitat out there, but the bird numbers are down. This is the whole problem.

REP. RAPP-SVRCEK moved to make a substitute motion to amend by deleting the words on line 16, page 2, "purchase of" and "cost of", so that section (b) would now read: "to provide assistance to applicants with the recommended seed mixtures and planting lands designated for the development of pheasant habitat".

REP. GIACOMETTO wanted to know if it could be amended to state "informational" in front of "assistance" to clarify that.

REP. COBB pointed out that in the first part of the bill, 10% of the money goes to assist applicants in preparing management plans for project areas. He felt it would direct assistance there.

REP. JENKINS stated in his area, they do have the habitat. They are not worried about that. His major concern is they have such a problem with the predators resulting in not enough birds for the habitat.

REP. REAM stated he would argue that there are probably other places in Montana that do have this habitat cover. However, in western Montana, the limiting factor is habitat and he felt it is a waste of money to spend \$3 a bird, to put them out in the field if they are just not going to survive. Part of the reason they are susceptible to predators is due to lack of coverage.

REP. RAPP-SVRCEK then withdrew his substitute motion.

Question was then called on the amendment to remove section (b). The motion CARRIED with Reps. Ream, Bulger, Rapp-Svrcek and Grady voting NO.

REP. COBB then moved to amend stating he would leave it up to Dave to draft. It would require they report back to the Fish, Wildlife and Parks Committee informing them how the program went. At that time, it could be determined if changes were necessary. Question was then called. The motion CARRIED, with Rep. Ream voting NO.

REP. PETERSON stated she would move to amend on page 3, line 2, that 160 acres was questionable and it was suggested smaller acreage. She stated if on line 1, placed a period after population and strike the remaining, the area would



either be feasible or not feasible with the rest of Section 3 if they strike (a) on line 1 and lines 2, 3, 4, and 5.

REP. HANSON asked Rep. Peterson, in her motion, if she would strike Section 4 in the Statement of Intent which covered the same thing.

REP. PETERSON stated yes, this should be included as well.

Question was then called on the Peterson amendment. The motion CARRIED unanimously.

REP. HANSON stated there was one more amendment needed which would require tying this into the B-11 license that has been created, in case HB 535 goes through process.

REP. JENKINS moved the codification instructions to address the B-11 license and left it up to the discretion of Dave to draft the amendment.

DAVE COGLEY, Staff Researcher, explained that the coordination instruction would only be effective if HB 535 passed. It would raise the fee of the B-11 license by \$23 which is the amount of the non-resident fee in the bill. It would allocate that \$23 increase to the the pheasant habitat fund.

Question was then called on the amendment. The motion CARRIED with Rep. Cobb voting NO.

REP. COBB moved to amend SB 331 by raising the fee to \$30. In turn, reducing the cost of a B-10 license.

Question was then called on the amendment. The motion FAILED unanimously.

REP. RAPP-SVRCEK moved that SB 331 BE CONCURRED IN AS AMENDED. Question was then called. A roll call vote was taken. The motion CARRIED 13-3. See Standing Committee Report Nos. 1-9.

ADJOURNMENT: There being no further business to come before the committee, the hearing was adjourned at 2:36 p.m.

Marian H. Hanson  
MARIAN HANSON, Chairperson

DAILY ROLL CALL

FISH & GAME

COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date March 17, 1987

NAME	PRESENT	ABSENT	EXCUSED
ORVAL ELLISON, CHAIRMAN			✓
MARIAN HANSON, VICE CHAIRMAN	✓		
RAY BRANDEWIE	✓		
TOM BULGER	✓		
JOHN COBB	✓		
FRITZ DAILY		✓	
GENE DEMARS	✓		
JERRY DRISCOLL	✓		
LEO GIACOMETTO	✓		
ED GRADY	✓		
LOREN JENKINS	✓		
VERNON KELLER	✓		
JANET MOORE			✓
BOB PAVLOVICH			✓
MARY LOU PETERSON	✓		
JOHN PHILLIPS	✓		
PAUL RAPP-SVRCEK	✓		
BOB REAM	✓		
STAFF: DAVE COGLEY			

# STANDING COMMITTEE REPORT

MARCH 17

19 87

Mr. Speaker: We, the committee on FISH AND GAME

report SENATE BILL NO. 53

do pass  
 do not pass

be concurred in  
 be not concurred in

as amended  
 statement of intent attached

ORVAL ELLISON

Chairman

**THIRD**

reading copy ( BLUR )  
color

**REP. KELLER WILL CARRY**

# STANDING COMMITTEE REPORT

MARCH 18

19 87

Mr. Speaker: We, the committee on FISH AND GAME

report SENATE BILL NO. 320

do pass  
 do not pass

be concurred in  
 be not concurred in

as amended  
 statement of intent attached

ORVAL ELLISON

Chairman

1. Page 1, line 14 and 15.

Strike: "in the expendable trust fund type"

THIRD reading copy ( BLUE )  
color

REP. PETERSON WILL CARRY

# STANDING COMMITTEE REPORT

MARCH 19

19 87

Mr. Speaker: We, the committee on FISH AND GAME

report SENATE BILL NO. 331

do pass  
 do not pass

be concurred in  
 be not concurred in

as amended  
 statement of intent attached

ORVAL ELLISON

Chairman

## Statement of intent

1. Page 1, line 23.

Following: "department;"

Insert: "and"

## Statement of intent

2. Page 1, line 24 and 25.

Strike: line 24 and 25 in their entirety

Renumber: subsequent subsection

3. Page 2, line 10 and 11.

Strike: "in the following manner:"

4. Page 2, line 12.

Strike: "(a)"

5. Page 2, line 14 through line 20.

Strike: ";" through "cover" on line 20

6. Page 3, line 1 through line 5.

Following: "population."

Strike: remainder of line 1 through line 5

7. Page 5,

Following: line 12

Insert: "NEW SECTION. Section 9. Report. The department shall report to the fish and game committee of each house of the legislature concerning pheasant enhancement activities undertaken pursuant to [sections 1 through 4] during the preceding biennium, together with any recommendations concerning the operation of the program."

Renumber: subsequent sections

8. Page 5, line 17.

Following: "instruction."

Insert: "(1)"

THIRD reading copy (BLUE color)

REP. KELLER WILL CARRY

9. Page 5.

Following: line 20

Insert: "(2) If House Bill No. 535 and the provision therein creating a Class B-11 license is passed and approved:

(a) the fee established in House Bill No. 535 for the Class B-11 license is increased \$23; and

(b) a new subsection (5) is added to section 1 of this act that reads: "Class B-11, nonresident deer combination, \$23."

ROLL CALL VOTE

HOUSE COMMITTEE FISH & GAME

DATE MARCH 1, 198

BILL NO. SB 331

TIME 2:33 p.m.

NAME	EXCUSED	AYE	NAY
ORVAL ELLISON, CHAIRMAN	✓		
MARION HANSON, V. CHAIRMAN			✓
RAY BRANDEWIE		✓	
TOM BULGER		✓	
JOHN COBB		✓	
FRITZ DAILY			
GENE DEMARS		✓	
JERRY DRISCOLL		✓	
LEO GIACOMETTO			✓
ED GRADY		✓	
LOREN JENKINS		✓	
VERNON KELLER		✓	
JANET MOORE		✓	
BOB PAVLOVICH		✓	
MARY LOU PETERSON		✓	
JOHN PHILLIPS		✓	✓
PAUL RAPP-SVRCEK		✓	
BOB REAM		✓	

TALLY

13 3

*W. H. [Signature]*  
Secretary

*Marion W. Hanson*  
Chairman

MOTION: Rep. Rapp-Svrcek moved SB 331 BE CONCURRED AS AMENDED.

Question was then called, the motion carried, 13-3.

EX-101 (1)  
DATE 3-17-87  
SB 53

SB 53  
March 17, 1987

Testimony presented by Jim Flynn, Dept. of Fish, Wildlife & Parks

At the request of the 1981 legislature, the Governor created a committee to review the game farm, bird farm and fur farm statutes. Upon recommendation of that committee, the 1983 legislature repealed the existing game, bird and fur farm statutes, 87-4-401 through 87-4-405, and enacted individual laws for game farms, fur farms and game bird farms.

The original law allowed the capture of fur farm foundation stock from the wild. This provision was intentionally omitted in 1983 at the recommendation of the select committee. The committee found that fur farm stock is available from private sources and that allowing the capture of wild foundation stock is inconsistent with the game farm and game bird farm statutes.

While this change has generally been well accepted and understood, at least one county attorney has determined that the wording of Sections 70-2-112 and 70-2-113, defining furbearers as personal property, are sufficiently conflicting to cloud the legislative intent on this subject. Sections 70-2-112 and 70-2-113 were enacted in 1933, and were not a part of the 1981 interim committee deliberations.

To ensure that the most recent legislative action prevails, SB 53 repeals Sections 70-2-112 and 70-2-113, MCA. To further clarify the subject, SB 53, as amended, specifically prohibits the use of wild captured furbearers on fur farms.

This bill now makes the legislative intent quite clear and we recommend passage of this bill.



Montana  
Audubon Legislative Fund

P.O. Box 924  
Helena, MT. 59624

EXHIBIT (2)  
DATE 3-17-87  
SB 53

March 17, 1987

Mr. Chairman and Members of the Committee;

My name is Dana Field and I am representing the Montana Audubon Legislative Fund in support of SB 53. The Audubon Fund is composed of members of the National Audubon Society, which has 2500 members in nine chapters throughout Montana.

Repealing these two sections would make the law regarding the taking of wild animals for the purposes of commercial farming much more clear and consistent. The language added by the Senate committee directly addresses the inadvertent omission of furbearers from the original game-farm rules. Audubon believes that Montana's wildlife is a public resource which should not be commercialized. SB 53 clearly brings furbearers under the same rules that apply to capture of birds or game animals, and eliminates any confusion over their property rights status.

The Audubon Fund urges your support of this bill.

Thank you.

DATE 3-17-87

SB 331

SB 331  
March 17, 1987

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

From 1953 to 1973 the ring-necked pheasant was harvested by sportsmen at the rate of about 160,000 birds annually in Montana. In the ensuing years, and up to 1981, harvests were still averaging about 100,000 birds per year. Since that time, harvests dropped to a low of about 52,000 birds in 1985. Available habitat, weather conditions, and natural cyclic events have been factors limiting pheasant populations in Montana.

Attempts to bolster populations have been made through restrictive hunting regulations, closed seasons, establishment of refuges, predator control and stocking game farm-reared pheasants. As the figures indicate, these activities have not halted the downward trend of hunter harvest.

In 1983, a pheasant habitat enhancement program was established to assist and advise sportsmen's groups, landowners or special associations in their efforts to improve pheasant habitat in areas with potential for supporting self-sustaining and huntable pheasant populations. This program included habitat improvement, rearing and releasing of those pheasants into suitable habitat.

This program has really been used by only one group, the Ravalli County Fish and Wildlife Association. In working with local citizens, their program includes planting shrubs and grains, as well as reducing the burning of ditches and fence rows.

They have worked with landowners regarding livestock distribution and grazing intensity. In addition, the association, with the financial support of this department, has provided pheasants raised by 4-H students as an incentive. In addition to raising and caring for the birds, the 4-H students learn about good pheasant habitat needs and management.

The program outlined in this bill complements the federal farm programs and focuses on areas with the highest probability of success and long-term benefits, based on pheasant habitat potential and quality. It has potential for success and could accelerate an increase in pheasant populations, particularly when natural cyclic events begin to improve.

We support the aspects of the bill that provide for thorough department review of eligibility, the ineligibility of commercial enterprises and the requirement of some public hunting for viable applications. We also favor helping landowners identify good habitat that can be used as enhancement areas and evaluation to determine program success.

EXHIBIT CS  
DATE 3-17-87  
~~BB~~ 331

We would like to bring to the attention of the committee that HB 535, if passed, provides for a new class of license, a B-11 which includes nonresident deer, upland bird and fishing licenses combined. We feel that the B-11 should be raised \$23 along with the other nonresident bird licenses as described in Section 1 of this bill and would recommend an amendment to accomplish this contingent upon HB 535 passage.

312.11

SB 320  
March 17, 1987

Testimony presented by Jim Flynn, Dept. of Fish, Wildlife & Parks

This bill would establish a trust fund for fisheries and wildlife mitigation from construction of hydropower projects.

The Northwest Power Planning Act and the Federal Power Act contain provisions for the mitigation of impacts to fish and wildlife that result from the construction and operation of hydroelectric facilities. Pursuant to these acts, the Department of Fish, Wildlife and Parks has entered negotiation with the Northwest Power Planning Council, Bonneville Power Administration, federal and private hydroelectric operators, and representatives for the utilities throughout the Pacific Northwest to secure appropriate fish and wildlife mitigation in Montana.

The negotiations have identified a mitigation trust as the appropriate means to finance certain mitigation projects. Creating a trust provides a secure funding base and reduces the overall cost and long-term financial obligation of the hydroelectric operator and its rate payers.

The department has received a commitment from Montana Power Company for use of a trust to purchase water to enhance streamflow in the Bitterroot River. In addition, wildlife mitigation plans for Hungry Horse and Libby reservoirs are nearing approval by the Northwest Power Planning Council. The Bonneville Power Administration is considering the use of a trust to fund those projects. The concept is endorsed by the Montana Rural Electric Cooperatives. The department is negotiating with Montana Power Company for wildlife mitigation at Thompson Falls. A trust may be included in the final agreement. Further, the department expects to participate in additional mitigation projects during the next decade as relicensing procedures are initiated for existing facilities.

Senate Bill 320 would authorize the department to receive mitigation trusts and assure that these trusts are used solely for their intended purpose.

The department is not requesting appropriation authority for expenditure of trust revenues at this time, but would anticipate doing so in the 1989 legislative session.

The Department of Administration has recommended an accounting change in the fund classification. As written SB 320 creates an account within the expendable trust fund. The DofA believes a better classification would be a trust account within the special revenue fund. The attached amendment addresses their concern.

We recommend your approval of SB 320  
121/38

(4a)  
DATE 3-17-87  
BB 330

Amendment to SB 320  
Third Reading (Blue) Copy  
Proposed by Department of Fish, Wildlife and Parks

Page 1

Line 14 and 15

Following "Fund" on Line 14

Strike "in the expendable trust fund type"

121/38

Montana  
Audubon Legislative Fund

P.O. Box 924  
Helena, MT. 59624

March 17, 1987

Mr. Chairman and Members of the Committee;

My name is Dana Field and I am representing the Audubon Legislative Fund. The Audubon Fund is composed of members of the National Audubon Society, which includes 2500 members in nine chapters throughout Montana.

The Audubon Fund strongly supports SB 320.

Mitigation of development impacts on fish and wildlife is often required by statute. SB 320 provides for another option for funding such programs. Accepting gifts for enhancement of wildlife resources would relieve the pressure on other sources of funds.

This bill allows the Department to accept gifts for these purposes in a variety of forms. By whatever mechanism of contribution, the Department should be allowed to negotiate the terms and specific purposes of such an agreement. SB 320 simply gives the Department the latitude to enter into such agreements as may be necessary to accept these contributions. Giving the Department **this** authority may also act to encourage contributions to fish and wildlife enhancement.

Thank you.



VISITORS' REGISTER

FISH AND GAME

COMMITTEE

BILL NO. SB 320

DATE MARCH 17, 1987

SPONSOR BROWN

NAME (please print)	REPRESENTING	SUPPORT	OPPOSE
DANA FIELD	MT AUDUBON LEGIS FUND	X	
ROBT. VANDER VERE	SELF	X	
Esly Stenberg	MT Wild. Fed	X	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FOR  
PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.



VISITORS' REGISTER

FISH AND GAME

COMMITTEE

BILL NO. SB 331

DATE MARCH 17, 1987

SPONSOR SMITH

NAME (please print)	REPRESENTING	SUPPORT	OPPOSE
Robert C. Lucas	Big Sky Upland Bird Assoc.	X	
CHRIS E. NELSON	BIG SKY UPLAND BIRD ASSOC.	X	
ROBT. VANDER VERE	SELF	X	
INT Wild Fed Esther Steenberg		X	

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.