

MINUTES OF THE MEETING
FISH AND GAME COMMITTEE
MONTANA STATE SENATE

February 10, 1987

The sixth meeting of the Senate Fish and Game Committee was called to order at 1:00 P.M. on February 10, 1987 by Chairman Ed Smith in Room 402 of the Capitol Building.

ROLL CALL: All members of the committee were present at roll call with the exception of Senator Judy Jacobsen, who was excused.

CONSIDERATION OF SENATE BILL 177: Senator William Yellowtail, Senate District No. 50, sponsor of the bill stated that the purpose of the bill to to revise and continue the nongame wildlife checkoff program and to remove the requirement that checkoff contributions replace license fee funding for the nongame wildlife program. The wildlife account was established ten years ago to provide a means for the Fish, Wildlife and Parks Department to conduct programs for research and education on nongame wildlife in Montana and to create a management program for nongame species that needed management. Currently, there are no species designated for said management. The law made a provision that the department was prohibited from using money for the purpose of purchasing real property, or in any way that would interfere with the production on or management of private property. The nongame wildlife checkoff for the Montana income tax form was established in 1983. which provided a means by which Montanans could voluntarily donate to the nongame program by designating their donations on part of the income tax forms. SB 177 removes the sunset provision slated for December 31, 1987, removes the provision prohibiting the use of license dollars being used for nongame wildlife program purposes and makes a provision in law should there be a sunset policy. That policy would would revert to the use of the use of license dollars to fund the program and would permit the department latitude to supplement the nongame wildlife program conducted with license dollars as the department saw fit with the approval of the Legislature. The proposed bill would also remove the department of revenue administrative fees. The 1985 checkoff program raised approximately \$431,000. The administrative fee is approximately one-sixth of the total amount, which amounted to approximately \$5,000. The rationale for deleting the administrative costs is that there are other income tax checkoff lists, and the Department of Revenue does not charge administrative costs for these checkoffs.

Director Jim Flynn offered support of SB 177 and distributed written testimony to each member of the committee. (Exhibit 1)

Janet Ellis, Audubon Legislative Fund of Montana distributed information packets and a summary of revenue generated by the checkoffs with a fact sheet. Ellis pointed out that SB 177 is a funding bill and listed the animals that are not protected. Ellis stated that eagles, hawks and owls destroying livestock and poultry can be killed. Animals such as rodents that become pets can be controlled by the Department of Livestock. If an animal is protected under Montana law, the Department of Fish, Wildlife and Parks has authority to destroy the animal that is causing damage to property and crops. The only way to manage nongame animals is by legislative approval. Presently, no animals have been designated for said management. Crows and magpies are nongame animals and are allowed to be destroyed. The package funding allows the reauthorization of the checkoff, and allows for the potential use of hunting and license fees. Prior to 1983, the hunting and fishing license fees were the sole revenue of the nongame program. The 1983 statutes states that the hunting and fishing license fees cannot be used to fund the program. This was a compromise with the agricultural groups. The department wishes more latitude so that if the hunting and fishing fees become available, the funds could be used with discretion. Exhibit 2.

Robert Boulau, National Audubon Society and president of the Montana Audubon Council stated that the nongame wildlife program marks a significant step forward in the conservation of Montana resources. The program demonstrated that the people of Montana recognize that wildlife has value and a place in the ecological environment. Wildlife contributes to man's well-being. Boulou stated that SB 177 gives permanency to the program's funding and removes the charges by the Department of Revenue for the administration costs. Since other checkoff programs have not been charged, neither should the Wildlife Nongame Checkoff Program be charged. SB 177 allows the department to supplement funds received by the tax return checkoff. The money presently derived from the fund does not fund the program. (Exhibit 2-A)

Stan Bradshaw, Montana State Council of Trout Unlimited, stands in support of SB 177.

Jean Ray Souvieng, Montana Chapter of the Sierra Club, stated support of SB 177. The program provided positive support for education and research of nongame animals. Souvieng stated that the bill does not provide added protection for nongame wildlife.

Dan Hines, Bozeman, a private sportsman, stated that he is a lifelong hunter. He spent twenty-five years in the U.S. Forest Service managing hunters, as well as wildlife. Hines stated that sportsmen can receive real benefits from a solid nongame program. There is real potential in developing non-consumptive wildlife use among all sportsmen. Hines gave examples of active sportsmen's participation in the use of blinds. Hunters, according to Hines, that participate in the off season enjoyment of wildlife will quickly develop into true sportsmen sensitive to land and people who use the land. (Exhibit 2-B)

James Phelps, Billings, MT, stated that the voluntary checkoff of state income tax forms represent a convenient method to fund nonwildlife programs. This method is authorized in most states that have a state income tax in order to fund the programs. Phelps stated that in 1973 he took part in the study group that put together the method of the checkoff funding. This method was chosen because it was voluntary on behalf of the taxpayer and represented an efficient method to complete the funding need. (Exhibit 2-C)

Virginia Walton, a retired Helena Librarian, stated that she returned to Montana for the Mountain streams, clean air, clean water, and wildlife. Mrs. Walton believes in the checkoff system because it creates citizen awareness. The education process is far from being over; education is a lifelong issue. Montana must maintain the protection of all good things because everything is connected up: An ecological truism.

Esther Stenberg, representing the Montana Wildlife Federation offered written support of SB 177. (Exhibit 3)

Robert Vandervere, a concerned citizen lobbyist, stated that when the bill went into effect, the Department of Revenue was getting their fingers into honest money. The money should fund the nongame program, not administrative costs.

Tresha Blazavitch, a hunter, fisherwoman and a biologist, stands in support of SB 177.

OPPONENTS:

Ken Morrison, Administrator, Income Tax Division, Department of Revenue stated the department is not opposed to the wildlife checkoff program. The Department is opposed to the deletion of the language that provides administrative cost. The Department believes that it is good public policy to continue the checkoff program, but asks that the program carries it's own weight by generating the administrative costs incurred by the

program. Currently, there are three checkoff programs that are not carrying their own weight. The child abuse checkoff and the agricultural checkoff originally provided for administrative costs, but due to an interpretation of legislative intent during the final hours in the 1985 Legislature, the Finance and Claims Committee deleted administrative funding. Morrison explained that new legislation concerning veteran checkoffs provides definite language for the funding of the program's administrative costs. The Department makes a definite effort to keep the costs of administration to a minimum. The actual expenses of the nongame checkoff were less than had been allowed in the appropriation process. The charge was \$5,400. The cost included putting the information on the return, putting the information into the computers, and accounting for the data needed to meet the legislative Auditor's provision concerning the administrative costs. Morrison urged the committee to amend the bill and leave the provision allowing administrative costs for the program.

QUESTIONS FROM THE COMMITTEE:

Senator Smith asked how many returns opted to use the checkoff procedure for the Nongame Wildlife Checkoff. Morrison replied that 41,046 returns participated in the checkoff program. The average donation was \$7.69.

Senator Bengtson asked for an account of the accomplishments of the program. Janet Ellis replied that the program is a small, but since other checkoff programs were not charged, then the Wildlife Program should not be charged administrative costs.

Senator Bengtson stated that if all the checkoff programs had funding language concerning administrative costs, would the objection be as severe. Ellis stated that equal treatment is preferred, should that be the wisdom of the committee.

Morrison was asked to comment on the budget office's position concerning the administrative costs funding during the final hours of the 1983 Legislature. Morrison stated that the original bill provided an exact revenue figure of funding the checkoff program, but the committee felt that it was the intent of the program not to account for the funding. If the department does not take the revenue from the checkoff programs, the money must be taken out of the General Fund.

Senator Jergeson inquired about the language concerning the Agricultural Checkoff Program. Morrison stated that the language was retained in the statutes.

Senator Severson asked what the money is being used for within the program. Ellis reported that the program allows only for research and education at this point, but an effort is being made to establish a complete list of the nongame wildlife animals of Montana. Other projects are bluebird conservation programs, raptor surveys, publications of a wildlife brochures, and nature trails.

Senator Smith gave an overview of the fiscal note. Senator Bengtson asked Director Flynn how many people are employed for the wildlife checkoff program within the department. Flynn replied that there are approximately 1.20 FTE. Bengtson asked if the program would sunset, what funding would be available for the nongame animal programs. Flynn replied that in FY '89, the department spent \$52,500 for nongame related programs. The revenue was appropriated by license revenue. The budget for FY '89, as approved by the sub-committee appropriation and the checkoff program, will be \$55,161. The amount includes \$35,000, the estimated revenue collection for the checkoff program. The people who are backers of SB 177 have donated many volunteer hours.

Senator Yellowtail stated the bill asks for uniformity in treatment in the checkoff program concerning administrative fees. Also, the Department of Revenue does not seek to provide legislation that would clarify legislative intent. Sixteen percent of the entire program has gone to pay administrative costs. \$8,200 in administrative costs for FY '88 appears to be a significant amount. The nongame checkoff program has a proven track record in Montana and should continue. In closing, Senator Yellowtail stated every effort should be maintained to fund the program and to cut administrative costs within the program.

CONSIDERATION OF SENATE BILL 243:

Senator Eleanor L. Vaughn, Senate District No. 1, sponsor of the bill, stated that the bill would require temporary permits for operation of out-of-state boats on Montana waters and to provide for enforcement penalties and disposition of permit fee revenue. Lincoln County has not been able to provide adequate numbers of boat ramps for use by sportsmen and recreationists. The revenue generated from this legislation would provide revenue to build boat ramps and to make other improvements. Many nonresident boaters use Montana waters. In some instances, Montana boaters are charged when they boat in out-of-state waters. The money generated from this legislation could provide approximately \$5,000 to be used for improvements, while \$9,000 could fund the maintenance and development of public boating and access ways. The \$10 fee is for a 30 day temporary license, and the permit would be in the form of a decal to be affixed to the boat.

Senator Vaughn stated the legislation would not cause extra problems for the administration of the program. The check could be made at the same time as the Fish, Wildlife, and Parks Department checked fishing licenses.

PROPONENTS:

Directory Jim Flynn, Fish, Wildlife and Parks Department gave written testimony to the committee. (Exhibit 4)

Bob Holding, 501 Monroe, Helena, MT, supports SB 243. Mr. Holding stated that he has witnessed the problems which are addressed in this legislation and stated there were over 1,000 out-of-state boats on Lake Kootenousca alone. This is a bill that will generate revenue for the counties. Mr. Holding supports the amendments made by the Department to be a county option.

Robert Vandervere, a concerned, citizen lobbyist, suggested a \$10 fee for one year period of time. Each time the out-of-state boater comes to use Montana waters and four weeks have elapsed since the previous trip, the boater would have to purchase a new license. This suggestion would make it easier for the boater.

J.P. Winslow, Lincoln County resident, Troy, MT, supports SB 243. Mr. Winslow stated that he has witnessed many problems and that most of the out-of-state boaters do not spend money in Montana. The gas, food and supplies are purchased before they travel to the lake. The lake is in dire need of boat facilities due to the overcrowding situation. Mr. Winslow supports an annual fee.

There were no further proponents to SB 243.

OPPONENTS:

There were no opponents to SB 243.

QUESTIONS FROM THE COMMITTEE:

Senator Bengtson asked if Lake Kootenousca attracts many Canadian boaters. Senator Vaughn replied that most of the boaters are from out-of-state, not from Canada.

Senator Smith asked if there is a current requirement for boats coming from out-of-state. Senator Vaughn stated there are no fees for out-of-state boats at present. Mr. Flynn stated the Fish Wildlife and Parks Department participates with the U.S. Coast-guard in a nation wide licensing system for boats. The licenses

are purchased on a county level. A current license for Montana enables a Montana to boat in another state. The state of Idaho gave the counties the option of accessing boats. The eastern counties of the state of Idaho have implimented the option.

Senator Smith asked Mr. Flynn if the Department could define what counties have opted for the accessing policy in Idaho. Mr. Flynn addressed subsection C on SB 243 and encouraged the county option should the committee deem proper. The only problem seems to be with Idaho since the other bordering states do not have such legislation.

Senator Severson asked Bob Holding if the Idaho permit is a yearly permit. Yes, and the enforcement is very strict.

Senator Smith asked if there is a fine for not having the permit, and whether the boater has a chance of buying the permit before the fine is given. Mr. Holding stated that the fine is approximately \$25. Senator Vaughn stated that the Fish, Wildlife and Parks Department have patrol boats in the Lake Kootenusca area and the officials could check for decals when they check for fish licenses.

Senator Severson asked Director Flynn if the department would take the responsibility of enforcing the decal legislation. Directory Flynn stated that the department does not view the action as additional responsibility because the waters are patrolled at present. This would be another check in the normal process of patrolling the waters.

Senator Smith stated that he is concerned with "where is our good neighbor policy." Senator Smith does not want retaliatory action taken against each state. Senator Smith recognizes the problem, but hopes that bigger problems are not created by the legislation.

Senator Smith asked Senator Vaughn if Lincoln County has approached the Fish, Wildlife and Parks Department to get additional money for building boat ramps. Senator Vaughn stated that she has not personally approached the Department and knows of no others who have either.

Senator Vaughn closed by confirming the previous testimony. The boat ramps are very congested, motor homes come to Montana fully gased and supplied with gceries. The state does not receive revenue, except for the fishing license. The licensing fees for boats in Idaho are so much cheaper in Idaho many Montanans have licensed their boats in Idaho. The legislation is not meant to be retaliatory, but will provide a vehicle so revenue can be generated to pay for the boat ramp improvements.

Senator Vaughn stated that she will present the committee an amended form of the legislation to combine the proper answers to the questions that have been addressed at the hearing.

Senator Smith closed the hearing on SB 243. Senator Smith requested Andrea Merrill, Senator Vaughn and Director Flynn to draft amendments for SB 243.

DISPOSITION OF SENATE BILL 177:

Senator Bengtson stated that the administrative costs must be put back into the language of the bill. Senator Bengtson said it is her intention that the other checkoff programs abide by the law, also. Senator Smith asked Mr. Morrison if the administrative costs could be accomplished on a individual basis rather than a flat fee.

Senator Severson stated that any figure concerning the checkoff administrative costs is an estimate, and stated that a uniform figure is needed to compute the charges. Senator Severson moved the bill be amended to include a \$1 per donation fee for administrative costs.

Senator Jergeson stated that the language should be "not to exceed \$1" because it may be done for less than \$1. Senator Bengtson asked Mr. Morrison how the figure of \$8,200 was arrived at. Mr. Morrison replied that the department allocates a portion of time required to process the tax return data. The primary cost is from the processing time needed for computer input. Each return must be accessed for either a yes or no participation entry.

Senator Severson moved the committee to reinsert so that the language would read "the Department of Revenue may deduct from collections an amount not to exceed \$1 per tax check off contribution for administering the voluntary checkoff program. The committee discussed other areas of the legislation that would have to be reworded in order to comply with the intent of the committee. The motion carried unanimously. Senator Smith stated that because of the cooperation of the Fish and Game Committee, the Livestock Industry and the Wildlife Federation were able to compromise and gain support for the original checkoff efforts.

DISPOSITION OF SENATE BILL 171:

Andrea Merrill submitted technical amendments to aid in the proper language of the bill. Senator Anderson made a motion that the committee recommend a DO PASS on the amendments. The motion carried unanimously.

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Senator Yellowtail moved the committee to recommend a DO PASS
AS AMENDED. The motion passed unanimously.

ADJOURNMENT:

There being no further business to come before the Senate
Fish and Game Committee, the Chairman closed the hearing
at 2:36 P.M.



SENATOR ED SMITH, Chairman

ROLL CALL

SENATE COMMITTEE--FISH AND GAME

50TH LEGISLATIVE SESSION - 1987

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Date: February 10, 1987

NAME	PRESENT	ABSENT	EXCUSED
Senator Ed Smith, Chairman	X		
Senator John Anderson	X		
Senator Judy Jacobson			X
Senator Elmer Severson	X		
Senator Greg Jergeson	X		
Senator Al Bishop	X		
Senator Esther Bengtson	X		
Senator Wm. Yellowtail Vice-Chair	X		

COMMITTEE ON

DATE

February 10, 1987

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Vernon Livingston	18 S. Montana Ave., Helena	SB 177	✓	
Paul Long	"	SB 242	✓	
Dan Heinz	Self	SB 177	✓	
Cary B. Zund	426 S. California #201 Self Helena	SB 177	✓	
J. P. Bender	Self	SB 177	✓	
Robert H. H. H.	Self	SB 243	✓	
Janet Ellis	Audubon	SB 177	✓	
Esther Sterberg	MT Wildlife Federation	SB 177	✓	
Lachyn Phelps	MT Wildlife Federation	SB 177	✓	
Theodore Smith	Self 1020 Ave F Billings 102	SB 177	✓	
Robert Ballou	MT Audubon Council	SB 177	✓	
Robert A. Haver	SELF	SB 177	✓	
Ken Martin	DOR	SB 177		Amend
W. P. H. H.	Self	SB 243	✓	
W. P. H. H.	SELF 2110 BRADDOCK BILLINGS MT 59102	SB 177	✓	
Theresa J. Blaylock	Clancy, MT	SB 177	✓	
VIM FLYNN	DEPT FLWP HELENA	SB 177	✓	
VIM FLYNN	DEPT FLWP HELENA	SB 243	✓	
BOB HEDDING	501 MONROE HELENA	SB 243	✓	
Joanne-Marie Soudrey	MT Sierra Club	SB 177	✓	
Stan Bradshaw	Trust Unlimited	SB 177	✓	
Bob Hall	Bates Ranch	SB 177		
W. H. T. T.	MT H. H. H.	SB 177		

SB 177
February 10, 1987

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

The Department of Fish, Wildlife & Parks is the principal wildlife management agency in Montana, and has the responsibility for nongame wildlife species in our state.

Nongame species account for 83% of the vertebrate species which occur in Montana, yet they receive a small percentage of the funds budgeted for wildlife conservation. A nongame program allows the status of many species to be monitored and thus provides an overall status of the entire fish and wildlife composition of our state.

The tax checkoff, as it is currently administered, has had the effect of complicating and potentially lowering our nongame efforts due to the number of taxpayers participating in the program.

Therefore, renewal of the tax checkoff program is needed, with the flexibility to use license dollars if and when they are available as utilized prior to the original checkoff legislation, as SB 177 accomplishes.

In addition, the termination of deductions by the Department of Revenue would benefit the program, since the nongame checkoff is the only checkoff out of three now in effect which bears this loss.

The attention to nongame species is an ongoing responsibility which we cannot ignore. In order to meet those demands, we support this bill.

WHAT IS A NONGAME ANIMAL ?

These animals are not nongame

Game*

Elk
Ducks
Geese
Trout
Bear
Deer

Furbearers

Mink
Marten
Fisher
Otter
Bobcat
Canada Lynx
Beaver
Northern Swift Fox
Wolverine

Predators

Coyotes
Skunks
Weasils
Civet Cats

Endangered Species

Whooping Crane
Black-footed Ferret
Timber Wolf
Peregrine Falcon

These animals are nongame

Nongame*

White Pelican
Pika
Grasshopper Mouse**
Raccoon
Masked Shrew
Snowshoe Hare**
Bison
Big Brown Bat
Western Big-eared Bat
Woodpeckers
Black-tailed Prairie Dog**
Sagebrush Lizard
Golden Eagle***
Western Toad
Yellow Perch
Pumpkinseed
Osprey
Great Blue Heron
Western Meadowlark
Flying Squirrel
White-tailed Cottontail
Least Chipmunk
Sagebrush Vole
Great Horned Owl***
Painted Turtle

*These are not complete lists of animals--they are only examples.

**The Department of Livestock controls these animals when they become pests under 81-1-401 MCA.

***These animals can be destroyed if they destroy livestock or poultry under 87-5-209 MCA.

SENATE FISH AND GAME

EXHIBIT NO. 2

DATE 2-10-87

BILL NO. SB 177

History: En. Sec. 3, Ch. 309, L. 1971; amd. Sec. 34, Ch. 511, L. 1973; amd. Sec. 1, Ch. 34, L. 1974; amd. Sec. 39, Ch. 9, L. 1977; amd. Sec. 13, Ch. 417, L. 1977; R.C.M. 1947, 26-501.1(10), (11).

87-5-208. Nonresidents allowed raptors in state. Nonresidents who are working, attending schools, or otherwise living temporarily in the state of Montana may obtain a Montana falconry license and bring raptors, legally acquired in other states or countries, into the state of Montana. Such nonresidents shall be allowed to hunt with falcons in the state of Montana subject to all Montana laws and rules.

History: En. Sec. 3, Ch. 309, L. 1971; amd. Sec. 34, Ch. 511, L. 1973; amd. Sec. 1, Ch. 34, L. 1974; amd. Sec. 39, Ch. 9, L. 1977; amd. Sec. 13, Ch. 417, L. 1977; R.C.M. 1947, 26-501.1(16).

87-5-209. Destruction of eagles or predatory hawks and owls. Predatory hawks and owls destroying livestock or poultry may be killed at any time by the livestock or poultry owners. Eagles may be killed in compliance with federal law and regulation.

History: En. Sec. 3, Ch. 309, L. 1971; amd. Sec. 34, Ch. 511, L. 1973; amd. Sec. 1, Ch. 34, L. 1974; amd. Sec. 39, Ch. 9, L. 1977; amd. Sec. 13, Ch. 417, L. 1977; R.C.M. 1947, 26-501.1(17).

Part 3

Grizzly Bear and Wild Buffalo

87-5-301. Policy toward grizzly bear. It is hereby declared the policy of the state of Montana to protect, conserve, and manage grizzly bear as a rare species of Montana wildlife.

History: En. Sec. 1, Ch. 134, L. 1969; R.C.M. 1947, 26-307.2.

87-5-302. Commission regulations on grizzly bear. The commission shall have authority to provide open and closed seasons; means of taking; shooting hours; tagging requirements for carcasses, skulls, and hides; possession limits; and requirements for transportation, exportation, and importation of grizzly bear.

History: En. Sec. 2, Ch. 134, L. 1969; R.C.M. 1947, 26-307.3.

87-5-303. Wild buffalo protected. It is unlawful to hunt, shoot, kill, capture, or possess wild buffalo except as permitted by rules adopted by the department.

History: En. Sec. 4, Ch. 167, L. 1973; amd. Sec. 13, Ch. 417, L. 1977; R.C.M. 1947, 26-301.1.

87-5-209. Under this section eagles, hawks & owls destroying livestock or poultry may be killed.

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of the federal veterinary inspectors. With the department of agriculture, the department of livestock may appoint federal veterinarians or federal lay inspectors stationed in this state, as deputies or agents for the department. All federal officers so appointed as deputies or agents of the department possess the powers and duties of regular deputies or agents of the department, but they shall act without compensation and hold office only at the pleasure of the department.

History: En. Sec. 6, Ch. 262, L. 1921; re-en. Sec. 3265, R.C.M. 1921; re-en. Sec. 3265, R.C.M. 1935; amd. Sec. 54, Ch. 310, L. 1974; R.C.M. 1947, 46-206.

Part 4

Rodent Control

81-1-401. Department to operate rodent control program. The department may establish and operate organized and systematic programs for the control and suppression of jackrabbits, prairie dogs, ground squirrels, pocket gophers, rats, mice, and other rodents and related animals in this state when they are injurious to agriculture, other industries, and the public health. For this purpose, the department may enter into written agreements with appropriate federal agencies, other state agencies, counties, associations, corporations, or individuals covering the methods and procedures to be followed in the control and suppression of these noxious rodents and related animals, the extent of supervision to be exercised by the department, and the use and expenditure of funds appropriated, when this cooperation is necessary to promote the control and suppression of noxious rodents and related animals.

History: En. Sec. 1, Ch. 136, L. 1949; amd. Sec. 44, Ch. 310, L. 1974; amd. Sec. 1, Ch. 242, L. 1975; R.C.M. 1947, 3-2701.

81-1-402. Expenditures authorized. The department may make expenditures for equipment, materials, supplies, and other expenses, including expenditures for personal services, which are necessary to execute the functions imposed on it by this part.

History: En. Sec. 2, Ch. 136, L. 1949; amd. Sec. 45, Ch. 310, L. 1974; R.C.M. 1947, 3-2702.

81-1-403. Purchase and sale of rodent control supplies. In addition to the expenditures authorized in 81-1-402, the department may purchase rodent control supplies, including rodent baits, for the use of cooperating governmental agencies, counties, associations, corporations, or individuals in the control of noxious rodents and related animals and to make these supplies and baits available to the cooperators at approximate cost.

History: En. Sec. 4, Ch. 136, L. 1949; amd. Sec. 105, Ch. 147, L. 1963; amd. Sec. 46, Ch. 310, L. 1974; R.C.M. 1947, 3-2704.

CHAPTER 2

DISEASE CONTROL

Part 1 — General Administration

Section

81-2-101. Authority of department agents.
81-2-102. Powers of department.

81-1-401. Under this section, animals that become pests can be controlled by the Department of Livestock.

En. Sec. 1, Ch. 136, L. 1949
En. Sec. 1, Ch. 242, L. 1975
DATE 2-10-57
BILL NO. 515 177

87-1-225 Regulation of wild animals damaging property. Upon the request or complaint of any landholder or person in possession and having charge of any land in the state that wild animals of the state, protected by the fish and game laws and regulations, are doing damage to the property or crops thereon, the department shall investigate and study the situation with respect to damage and depredation. The department may then decide to open a special season on the game or, if the special season method be not feasible, the department may destroy the animals causing the damage. The department may authorize and grant the holders of said property permission to kill or destroy a specified number of the animals causing the damage. No wild ferocious animal damaging property or endangering life shall be covered by this section. History: En. Sec. 1, Ch. 60, L. 1957; and, Sec. 13, Ch. 417, L. 1977; R.C.M. 1947, 26-135.

87-1-226 Disposition of meat of animals damaging property. The meat of all animals killed or destroyed pursuant to 87-1-225 by the department or the authorized landholder shall be conserved and given to state institutions, school lunch programs, or the department of social and rehabilitation services. The department shall provide transportation and distribution of the meat. History: En. Sec. 2, Ch. 60, L. 1957; and, Sec. 22, Ch. 511, L. 1973; R.C.M. 1947, 26-136.

87-1-227 Hunting rights on adjoining federal wildlife preserves. (1) The department shall negotiate for and enter into written agreements with owners, lessors, lessees or others having control of areas, tracts, or parcels of land adjoining or contiguous to any United States federal wildlife preserves, including any wildlife refuge for migratory waterfowl in any section of Montana, for the purpose of securing equal hunting and shooting rights for all resident holders of fish and game licenses in Montana on such adjoining and contiguous lands and preventing such preserves from being surrounded by lands whereon such licensees may not enter. The department shall, further, open or cause to be opened to public hunting and shooting of migratory waterfowl on any roads, lanes, and trails not a part of the traveled portion of any federal-aid highway system within a 1-mile limit from the boundaries of any such preserve or refuge. The department shall cause any such area, tract, road, lane, or trail to be plainly posted with clear signs showing the boundaries of the areas, tracts, roads, lanes, or trails open to shooting and hunting by licensees.

(2) The department is hereby authorized to negotiate the payment of a reasonable sum to landowners, lessors, or lessees for the right of the department to create a public shooting area upon their lands. The amount that may be paid for such purpose shall rest in the discretion of the department. History: En. Secs. 1, 2, Ch. 224, L. 1943; and, Sec. 13, Ch. 417, L. 1977; R.C.M. 1947, 26-1120, 26-1121.

87-1-228 Agreement with Indians concerning hunting and fishing. (1) Whereas, by treaty of July 16, 1855, between the United States of America, represented by Isaac L. Stephens, governor and superintendent of Indian affairs for the territory of Washington, and the chiefs, headmen, and delegates of the confederated tribes of the Flathead, Kootenai, and Upper Pend Oreille Indians, the said Indians were given the exclusive right to fish and hunt on the Flathead Indian reservation and the

87-1-225 If an animal is "protected" under Montana law, this section gives the Department of Fish, Wildlife & Parks the authority to destroy an animal that is causing damage to property or crops.

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"person" means any individual, firm, corporation, association or partnership.
"Take" means to harass, hunt, capture, or kill or attempt to harass, hunt, capture, or kill wildlife.
"Wildlife" means any wild mammal, bird, reptile, amphibian, fish, mollusk, crustacean, or other wild animal or any part, product, egg, or offspring of the dead body or parts thereof.
History: En. Sec. 2, Ch. 461, L. 1973; amd. Sec. 12, Ch. 417, L. 1977; R.C.M. 1947, 26-1802(3); (part (4)); (5) thru (10).

2-5-103a--LEGISLATIVE-POLICE: The legislature finds and declares that it is the policy of this state to manage certain nongame wildlife for human enjoyment, for scientific purposes, and to insure their perpetuation as members of ecosystems;

2-5-103b--LEGISLATIVE-POLICE: That species or subspecies of wildlife indigenous to this state which may be found to be endangered within the state should be protected in order to maintain and to the extent possible enhance their numbers;

2-5-103c--LEGISLATIVE-POLICE: That the state should assist in the protection of species or subspecies of wildlife which are deemed to be endangered elsewhere by prohibiting the taking, possession, transportation, processing, sale or offer for sale, or shipment of such species or subspecies of wildlife unless such actions will assist in preserving or propagating the species or subspecies.
History: En. Sec. 3, Ch. 461, L. 1973; R.C.M. 1947, 26-1803.

2-5-104--LEGISLATION: The department shall conduct investigations on nongame wildlife in order to develop information relating to population, distribution, habitat needs, limiting factors, and other biological and ecological data to determine management measures necessary for their continued ability to sustain themselves successfully. The department shall conduct ongoing investigations of nongame wildlife.
History: En. Sec. 4, Ch. 461, L. 1973; amd. Sec. 13, Ch. 417, L. 1977; R.C.M. 1947, 26-1804(part).

2-5-105--LEGISLATION: On the determinations made pursuant to 87-5-104, the department shall issue management regulations. Such regulations shall set forth species or subspecies of nongame wildlife which the department deems in need of management pursuant to 87-5-104 through 27-5-106, giving their common and scientific names by species and subspecies. The department may from time to time amend such regulations on the approval of the legislature by adding or deleting therefrom species or subspecies of nongame wildlife.
2-5-106--LEGISLATION: The department shall by such regulations establish proposed regulations relating to taking, possession, transportation, processing, sale or offer for sale, or shipment of such species or subspecies of nongame wildlife. The department may make such changes in the proposed regulations as are consistent with effective management of nongame wildlife as designated by the legislature.
History: En. Sec. 4, Ch. 461, L. 1973; amd. Sec. 13, Ch. 417, L. 1977; R.C.M. 1947, 26-1804(part).

2-5-107a--UNLAWFUL-ACTION: Except as provided in regulations issued by the department, it shall be unlawful for any person to take, possess, transport, export, sell, or offer for sale nongame

87-5-104 (1). Under this section the Department of Fish, Wildlife and Parks can issue management regulations for nongame animals listed as "in need of management." The last sentence in this section clearly states that animals are listed as "in need of management by legislative approval only. After the Legislature reclassifies an animal from a "nongame animal" to "a nongame animal in need of management" the Department can pass regulations. It takes Legislative action to reclassify these animals. As of 1983, no animal is listed as "a nongame animal in need of management." The Wolverine is the only animal that has been on this list. That animal was taken off the list an reclassified as a "Furbearer" in the 1970's.

SEN. JOE PETERSON - BUREAU
EXH. BIT NO. 2 - page 5
DATE 2-10-87
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(5) Money derived from tax checkoff contributions to the account will replace license fee funding for nongame wildlife programs after June 30, 1985, and may not be used to replace money that would otherwise be appropriated for nongame wildlife programs.

(6) The department of revenue may deduct from collections an amount not to exceed \$7,884 in fiscal year 1986 and \$7,884 in fiscal year 1987 for administering the voluntary checkoff program. The department is authorized to spend the amounts and hire necessary personnel and shall provide an itemized accounting to the legislative finance committee of the cost of administering the checkoff program during fiscal years 1986 and 1987. (Terminates December 31, 1987--sec. 7, Ch. 627, L. 1983.)

History: En. Sec. 2, Ch. 627, L. 1983; amd. Sec. 48, Ch. 281, L. 1983; amd. Sec. 2, Ch. 436, L. 1985.

87-5-122. (Temporary) Duties of commission. (1) The commission shall review and approve annually the nongame wildlife programs 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 87-5-121; and

(b) the review and approval process set forth in subsection (1). (Terminates December 31, 1987--sec. 7, Ch. 627, L. 1983.)

History: En. Sec. 4, Ch. 627, L. 1983.

87-5-123. (Temporary) Report. The department shall report to the 50th legislature the results of any program using money from the nongame wildlife account and shall list in detail how the money collected was used. [Terminates December 31, 1987--sec. 7, Ch. 627, L. 1983.]

History: En. Sec. 5, Ch. 627, L. 1983.

Part 2

Wild Birds -- Regulation of Raptors

87-5-201. Protection of wild birds and their nests and eggs. (1) It is unlawful for a person to hunt, capture, kill, possess, purchase, offer or expose for sale, ship, or transport any wild bird, other than a game bird, or any part of the plumage, skin, or body of the bird, irrespective of whether the bird was captured or killed within the state, or to take or destroy the nest or eggs of a wild bird, except under a certificate, falconer's license, or permit issued by the director.

(2) This section does not apply to:

(a) the hunting, trapping, or killing of house sparrows, crows, starlings, rock doves, blackbirds, magpies, and other birds the department designates or to the taking or destruction of their nests and eggs;

(b) the possession or transportation of parts or plumage of eagles used for religious purposes by a member of an Indian tribe when possessed or transported as permitted by 16 U.S.C. 668a.

History: En. Sec. 41, Ch. 173, L. 1917; re-en. Sec. 3723, R.C.M. 1921; amd. Sec. 18, Ch. 77, L. 1923; amd. Sec. 20, Ch. 59, L. 1927; re-en. Sec. 3723, R.C.M. 1935; amd. Sec. 16, Ch. 224, L. 1947; amd. Sec. 2, Ch. 309, L. 1971; amd. Sec. 33, Ch. 511, L. 1973; amd. Sec. 38, Ch. 9, L. 1977; amd. Sec. 13, Ch. 417, L. 1977; R.C.M. 1947, 26-501; amd. Sec. 1, Ch. 301, L. 1983.

87-5-201. Under this section it is made clear that the hunting and killing of depredating birds such as crows and magpies is allowed.

SENATE FISH AND GAME

EXHIBIT NO. 2 - Page 6

DATE 2-10-87

BILL NO. SB 177

THE NONGAME WILDLIFE FUNDING BILLDATE 2-10-84FILE NO. - those SB 177

Nongame wildlife is also known as "Watchable Wildlife" - those animals not usually hunted or fished. The Mountain Bluebird and Flying Squirrel are two examples of more than 600 kinds of nongame animals in Montana. Game, furbearers, predators and endangered species are excluded from the definition of nongame animals. (87-5-102 (4) MCA).

The 1973 Montana Nongame and Endangered Species Act requires the state to manage nongame wildlife "for human enjoyment, for scientific purposes, and to insure their perpetuation as members of ecosystems." (87-5-103 MCA).

The 10 year old Nongame Wildlife Program is housed in the Montana Department of Fish, Wildlife & Parks (DFWP). Like all state programs, the Legislature must review and approve the budget of the nongame program every two years.

SB 177 does three things:**1. THE CHECKOFF:**

*This bill reauthorizes the nongame wildlife checkoff on the Montana state income tax form. The checkoff was established by the 1983 Legislature and is scheduled to sunset after this year if not reauthorized. Interested Montanans donate via the checkoff to support a state program they believe in.

*In 1986, 4146 Montanans contributed \$31,869 to the nongame program.

*The donations do not reduce the General Fund. The donation is a donation - it reduces your tax refund or increases the amount of money you pay the state.

2. OTHER FUNDING:

*This bill removes a provision prohibiting the use of hunting and fishing license fees for the nongame program. SB 177 does not guarantee that the nongame program will get license dollars. It is the Legislature - and sportsmen - who will have the final say in how much (if any) license money will supplement the nongame program.

*If the nongame wildlife checkoff sunsets this year, the program automatically reverts back to using hunting and fishing license fees. It is clearly unfair for sportsmen to bear the entire cost of the nongame program. The DFWP would like to supplement the checkoff dollars with hunting and fishing license fees on a limited basis. SB 177 will allow the DFWP to expand the nongame program, but with the support of checkoff dollars.

*Nongame wildlife is so intertwined with game, that a small supplement would go a long way for a nongame program - and it would also benefit game. Wildlife managers have learned that it is virtually impossible to take action that will benefit only one species or one group of users. This philosophy carries through in a unique way on the federal level: Pittman-Robertson dollars, raised by a tax on the sale of hunting equipment, are allowed to be used for all wild birds and mammals - not just game.

*The nongame program is guaranteed funding from checkoff money through June, 1989. If hunting and fishing license fees are to be used for the program, the DFWP will have to propose the amount to the 1989 Legislature.

3. ADMINISTRATIVE COSTS:

*Currently the Department of Revenue charges the nongame wildlife program \$5094 annually for administering the program. That amount is a large chunk of a \$31,869 program! The nongame wildlife checkoff is the only checkoff charged these administrative costs. Until other checkoffs are charged, SB 177 removes Dept. of Revenue charges to this small program.

THE CURRENT NONGAME PROGRAM:

Six main projects are currently being undertaken by the nongame program:

- *Nongame Program Funding Development: this project will keep the checkoff before the public eye and continue solicitation of funds.
- *Statewide Raptor Survey Route System: this project survey 17 species of raptors as they migrate in the spring. Volunteers help run 46 survey routes.
- *Bluebird Conservation Project: this project promotes the placement of nest boxes by members of the public. Bluebirds have lost much of their native nesting sites. They are a bird that lives on insects.
- *Publication of Wildlife Brochures: this public information effort will provide valuable information to interested people. A state bird list has been published and natural history information will be made available.
- *Nature Trail Development/ Enhancement: interpretive signs will be placed at key locations throughout the state, such as Lewis & Clark Caverns State Park.
- *Nongame Inventory on Selected Department Lands: this project will continue to identify species composition of wildlife communities around the state.

AND TO CLARIFY....

*SB 177 is a funding bill only. It doesn't affect existing state laws protecting land management practices of the agricultural community. Here's why:

- *The DFWP has very little regulatory authority under the 1973 Nongame and Endangered Species Act. Before a nongame animal can be "managed" (should that ever become desirable), DFWP must first obtain legislative approval to reclassify the animal as "in need of management." The legislature has the final word (87-5-104).
- *The Dept. of Livestock has authority to control pest rodents and related animals that are "injurious to agriculture, other industries and the public health" (81-1-401). No DFWP regulation could conflict with the landowner's rights to control pest rodents because of Dept. of Livestock regulations.
- *Depredating birds can be controled under 87-5-209 and 87-5-201.

*The nongame wildlife program is set up for "research and education programs for nongame wildlife in Montana (87-5-121)." This small program is designed to help us understand our own environment better. Besides, appropriate nongame management will help assure that there are no more animals listed as endangered. Expensive recovery programs can be avoided if an effective nongame program is in place.

Nongame and Montana

*Every year an estimated \$1 billion is generated for Montana through resident and nonresident enjoyment of Montana's enjoyment of Montana's scenic resources. Among these scenic resources, nongame wildlife is an important part: Pelicans and Great Blue Herons, Woodpeckers and Osprey, Pika and Hummingbirds. Although the exact contribution - in dollars - is difficult to determine, the presence of over 600 nongame species adds a sense of wholeness to the wildlife population of this state - a value hard to overlook.

A FINAL WORD...

With a better understanding of what wildlife resources Montana has, the balance that exists today can be maintained as Montana continues to grow.

SB 177 is a positive step.

SENATE FISH AND GAME

EXHIBIT NO. 2-A

DATE 2-10-87

BILL NO. SB 177

Testimony to the Senate Fish and Game Committee in Support of

SB-177, the Nongame Wildlife Program Funding Bill.

February 10, 1987

Robert M. Ballou

Mr. Chariman and Committee Members, I appreciate this opportunity to testify in support of SB-177. My name is Robert Ballou. I am representing the 3000 plus members of the National Audubon Society in Montana as president of the Montana Audubon Council. I am also representing myself as a hunter and fisherman.

The nongame wildlife program marks a significant forward step in the conservation of Montana's natural resources. It demonstrates that the people of Montana recognize that all wildlife have a place in the scheme of things, that all wildlife have value, and that all wildlife may at some time contribute in a vital way to man's well being. The horned lark may hold the key to a better understanding of the laws of aerodynamics, or may provide clues to the development of drugs in the cure of disease. Small as it is, the nongame program has made a start towards obtaining a better understanding and securing preservation of all the wildlife species that are not hunted, fished, trapped, or endangered.


In our view, SB-177 does exactly what is needed for the future of the nongame program. It gives it funding permanency. As important as this small program is to the longterm wellbeing of our state and to the quality of life we cherish in Montana, it deserves a permanent

funding mechanism.

SB-177 removes the inequitable charges by the Department of Revenue for administering the voluntary checkoff program. Since other checkoff programs are not so charged, neither should the nongame program be charged. This is only just.

SB-177 allows the Department of Fish, Wildlife and Parks to use its funds to supplement those received from the tax return checkoff, if necessary. As an avid hunter and fisherman, I applaud this provision. Experience with the checkoff has shown that, to date, monies derived from it alone are not enough to even fund the very modest nongame program. I welcome the extremely small part of my license fees that may be used for nongame projects. It will help assure the enjoyment of my total outdoors experience in that I will know that measures are being taken in behalf of all the wildlife I enjoy seeing and hearing when I hunt and fish, and on which the game I am pursuing may depend in some way. I am sure most sportsmen in Montana share my view.

Thank you Mr. Chairman and Committee members for your time and attention.


Robert M. Ballou, President

Montana Audubon Council

SENATE FISH AND GAME
EXHIBIT NO. 2-A page 2
DATE 2-10-87
BILL NO. SB 177

My name is Dan Heinz. I live in Bozeman. I am testifying today as a concerned individual sportsman.

I have been a lifelong hunter. I also spent 25 years with the US Forest Service. I have had considerable experience both as a hunter and outdoorsman and as a public servant responsible for managing wildlife resources.

I am supporting the non-game renewal bill that Audubon is sponsoring this session.

Sportsmen can receive real benefits from a solid non-game program within the Department of Fish Wildlife and Parks.

There is some real potential to develop non-consumptive wildlife use among sportsmen. We had unbelievable response to a viewing blind we placed above a heron nesting colony on the Nebraska National Forest. Sportsmen came for miles to sit in that blind and watch spring activities of those herons. We also had very heavy use of viewing blinds we placed on sharp-tail dancing grounds.

Those of you who are land owners know well the problems caused by slob hunters.

I feel very strongly that hunters who get into off season enjoyment of wildlife develop quickly into true sportsmen. Sportsmen that are sensitive to both to the land and to other people who own or use that land.

The nongame wildlife funding bill will give sportsmen an opportunity we do not have now to influence the type of program and the amount of money spent

SENATE FISH AND GAME

EXHIBIT NO. 2-C

DATE 2-10-87

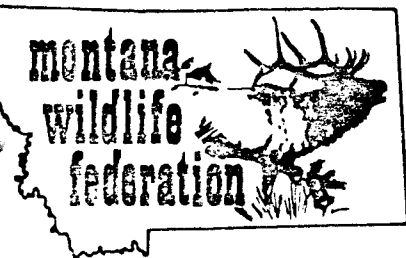
BILL NO. SB 177

Statement of
JAMES PHELPS
2110 Bradbrock Ct.
Billings, MT 59102

Senate Bill 177

I first became aware of what we legally term "nongame" in those years I spent days hunting or fishing. The voluntary "check-off" to the state-income tax (or "add-on") represents a convenient method, now authorized in most states having a state income tax, to fund the program. There haven't been any problems and I believe it should be re-enacted.

February 10, 1987



EDUCATION - CONSERVATION

Montana Wildlife Federation

AFFILIATE OF NATIONAL WILDLIFE FEDERATION

SENATE FISH AND GAME

EXHIBIT NO. 3

DATE 2-10-87

BILL NO. SB 177

Testimony on SB 177

Senate Fish & Game Committee

February 10, 1987

Mr. Chairman, members of the Committee, my name is Esther Stenberg. I stand before you today on behalf of the Montana Wildlife Federation in their support of SB 177.

The Montana Wildlife Federation is a conservation organization, comprised of 4600 members, dedicated to promoting wildlife, wildlife habitat, and sportsmen's interests.

We also support the "Watchable Wildlife", those non-game animals that are not usually hunted or fished. The hunted species benefit from non-game and vice-versa in our ecosystems.

We support a healthy non-game program and therefore ask for your support of continuing the non-game checkoff program.

The Montana Wildlife Federation urges this committee to vote do pass on SB 177. Thank you.

I Am Kathryn Stecker

SENATE FISH AND GAME

EXHIBIT NO. 9

DATE

I have relatives in several non adjacent states and visit them several times a year

I can really appreciate the diversity of wildlife in Montana - no other state is so privileged.

I support the non game wildlife funding bill whole heartedly.

I have personally donated time to wildlife inventories and appreciate the dedication of Dennis Kach and his staff and their frugal use of funds to accomplish so much.

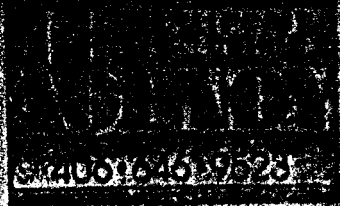
The people of Montana have demonstrated a willingness to donate to the fund and each year as the word travels, more want to be involved.

There is no reason to discriminate against this fund by charging an administration fee.

It has been estimated that a billion dollars a year is generated by residents and non resident enjoyment of our wildlife. The presence of our 600 species of non game wildlife adds a sense of wholeness to the wildlife population of our state.

This funding bill is an important step to secure the diversity we now enjoy here.

I recommend that you vote for this Bill. I also recommend that you check the box on 152 of your tax form. Make a conscious decision.



Now that that has been said, I offer two comments. I support wholeheartedly your proposed elimination of accepting power-of attorney. Applications should be made and signed only by the applicant. Secondly, begin the process of mailing applications, accepting applications, notifying successful applicants, etc. as absolutely as early in the calendar year as possible. The benefits on this point are so obvious they need not even be discussed. I am not aware as to why this cannot happen but I am sure the obstacles can be overcome.

Thank you for the opportunity to comment.

Sincerely,

John B. Costello

SENATE FISH AND GAME

EXHIBIT NO. 3-42-10

DATE 1-10-77

BILL NO. Public Measure

JOHN H. COSTELLO, BROKER 803 CANYON • BOX 648 WEST YELLOWSTONE, MT 59734

Montana Department of
Fish, Wildlife & Parks

RECEIVED
NOV 26 1985
DIRECTOR'S OFFICE

Office Memorandum

TO : Jim Flynn

DATE: November 25, 1985

FROM : Jim Heck

SUBJECT: Comments on Proposed Procedures for Selling Non-Resident Licenses

I have some serious reservations about the proposed non-resident license sale procedures. I realize that being in the field, I am not aware of all the problems and considerations surrounding this issue, but I would like to express my concerns based on my understanding of the situation.

The major problem appears to be that there are so many applicants for the limited number of licenses that a "first-come, first-served" sale is no longer practical. Each year it will continue to get more impractical. Any solution to the situation needs to address this situation as the primary concern. We owe it to the public to provide a fair, equitable, and reasonably workable system of dispensing licenses.

The proposed system would continue the "first-come, first-served" approach and, therefore, do little to alleviate the major problem. While it might help some to have a staggered mailing this is not a long term solution. We have applicants in foreign countries that take weeks to receive mail. The mail has never been so reliable that you can pick zones and estimate accurately when mail will arrive. We will continue to have the annual scramble to get applications in. Relatives and outfitters will be calling themselves private mail carriers and filling out applications for other people as in the past. We will still have people who fill out their applications immediately and don't get a license.

What is needed is a system in which applications are sent out and people have a reasonable amount of time to apply. The only long term solution is to go to a drawing. When a person applies for a drawing and is unsuccessful, they can understand that. They had a fair chance and lost. What is not acceptable is to send in an application as soon as you receive it and still be told you were too late. "First-come, first-served" simply does not work when the demand far exceeds the supply. If we fail to go to a drawing now, we will in all likelihood have to do it in a few years anyway. I believe it would be better to do it now rather than waiting and changing the system again in a few years.

I am fairly certain that the main reason we are proposing this system is to accommodate outfitters. They have always been opposed to the drawing concept because it would limit their ability to insure that their clients always get licenses. This is a valid concern from their point of view. A drawing would mean that they could not guarantee their clients a license. The question to be asked here is, should a hunter who hires an outfitter be guaranteed a license ahead of a hunter who does not hire an outfitter?

FISH AND GAME

EXHIBIT NO. 5 Page 10

DATE 1-10-87

For years outfitters have wanted to operate as middlemen in the licensing system. They would like to tie up licenses for distribution to their own clients. The Department has always resisted this concept and kept licensing between the department and the sportsman. This proposal will represent the first time that outfitters have been acknowledged as having some type of standing in the issuance of licenses, (with the exception of our attempt to require non-residents to hire an outfitter, which was ruled unlawful). If we set aside 5,600 licenses for outfitters clients, we will have to deal with them on an annual basis wanting to raise the number allotted to them. It is also doubtful if this system would withstand a court challenge from an unsuccessful hunter who did not retain an outfitter.

I am also wondering just how the proposed system will benefit outfitters. If we have determined that one out of three non-residents presently retain an outfitter and we are proposing to set aside 1/3 of the licenses for outfitters, I can't see that anything has been accomplished. It seems as if the same situation will result whether we do this or not.

The major difference will be that we will now have to handle the administrative problems of verifying whether a person actually has an outfitter or not. We will become embroiled in all of the squabbles where clients fire their outfitters before hunting season, clients that cancel out due to alleged illness or personal problems. There will probably be people signing with outfitters just to qualify and then quitting. There will probably be outfitters taking a fee just to send someone a certificate. Checking outfitter reports will be a time consuming and unproductive undertaking. Many outfitters only record a small percentage of their hunters on their records to save time and avoid problems at tax time.

We will be going to a lot of trouble and we will still have the same problem as that we did before, namely a "first-come, first-served" drawing with panic buying and irritated people. This proposal fails to address the major problem.

PROPOSAL

I realize that it is easy to pick apart a plan and difficult to propose one. I would, however, like to offer the following proposal as an alternative.

1. Some time in December applications would be mailed to everyone on our lists.
2. They would have to be returned by January 15.
3. A drawing would be held immediately and a list of successful hunters produced by February 1.
4. Copies of the list would be made available at that time to outfitters.
5. As soon as possible licenses and an outfitter listing would be mailed to all hunters.

SENATE FISH AND GAME

EXHIBIT NO. S - Page 12

DATE 1-10-17

BILL NO. Public Bill

Results

1. Applicants would have 1-14 months to apply.
2. Outfitters would have a list of hunters in early February for advertising purposes.
3. All hunters would have an outfitter listing with which to contact outfitters.
4. Hunters would have licenses in time for fishing season, spring bear hunting, etc.

This system would not allow an outfitter to guarantee someone a license, but it would offer them a reasonable chance to procure customers early in the year. This system would continue to work even when the volume continues to increase. It might not be exactly what the outfitters would want, but it would be much more equitable to the public.

JH:jh

SENATE FISH AND GAME

EXHIBIT NO. 3-Page 43

DATE 1-10-87

BILL NO. Little Discussion

SB 243
February 10, 1987

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

SB 243 is an act requiring that out-of-state boaters who use Montana waters obtain a temporary permit. The act further requires that the Department of Fish, Wildlife & Parks provide the temporary permit and its enforcement officers enforce compliance.

The department is aware that the number of motorboats from other states and provinces who use Montana's waters has been continually increasing during the past several years. Nearly all states now extend limited reciprocity to allow out-of-state boaters to operate on in-state waters if their home state registration number is current. This bill would require an additional use permit for out-of-state boaters using Montana waters.

There have been complaints relative to a neighboring state requiring an additional permit. Currently Idaho is the only neighboring state where out-of-state motorboats must obtain a temporary use permit before operating on Idaho waters.

This is a county option in Idaho, and is generally used only in the northeastern counties of that state. We support the concept of giving similar authority to Montana counties who might wish to reciprocate.

I apologize to the committee in that the department does not have amendments to allow this authority to rest with the counties. We have discussed this with the sponsor, and request the committee allow us time to prepare adequate amendments for your consideration.

Thank you.

1. Title, line 7.
Following: "87-2-401"
Strike: "AND"
Insert: ", "
Following: "87-2-402,"
Insert: "87-4-504, AND 87-5-204,"

2. Page 2.
Following: line 5
Insert: "Section 3. Section 87-4-504, MCA, is amended to read:
"87-4-504. Bird license required. All persons hunting
on shooting preserves must have a valid resident or
nonresident upland game bird license."
Section 4. Section 87-5-204, MCA, is amended to read:
"87-5-204. License and rules for falconry. (1) The
department may adopt specific rules for the keeping of
records and for the trapping, taking, possession, or
training of raptors used in the practice of falconry and may
authorize the issuance of licenses to persons for the
practice of falconry. Except as provided in 87-5-210, it is
unlawful for any person to possess a raptor or to train a
raptor in the practice of falconry without a license.
(2) The fee for a falconry license is \$3 a year or any
part of a year. A license expires April 30 each year.
(3) A license may not be issued to a person under the
age of 12 years.
(4) Licensees shall have in possession a valid
falconer's license when engaged in the practice of falconry.
In addition, falconers loosing raptors at game birds shall
have in possession a valid resident or nonresident upland
game bird license or waterfowl stamp, as appropriate.
(5) Falconry licenses or permits are not transferable
and may be revoked for due cause at any time by the
department."

Renumber: subsequent sections

THE PUBLIC LAND ACCESS ASSOCIATION, INC.

THE PUBLIC LAND ACCESS ASSOCIATION, INC., is a member supported corporation organized and operated under the Montana Non-profit Corporations Act:

1. to promote the restoration, maintenance, and perpetuation of public access to the boundaries, both internal and external, of federal and state lands in Montana, and
2. to promote and support public use of public lands.

National Forest and BLM Lands

Historically, the public lands (National Forests and BLM), were open and free for use by both residents and non-resident users. It was assumed that it was a God-given right for any person to get to these lands and obtain the necessary wood, water, and forage for sustaining life, and to hunt, fish, trap and recreate as needed. Access by long established routes was seldom an issue. Private lands were later created surrounding these public access routes as homesteading occurred.

In about 1900, big game animals in the west were at their lowest point in numbers. The establishment of the National Forests in the early 1900's started giving some protection to big game animals and they increased accordingly. Gradually, as big game animal numbers increased on both public and private lands, more and more people wanted access to the back country, primarily for hunting purposes.

Also, starting in about the early 1950's, fuel oil and natural gas began replacing wood for home heating, and fewer people needed to get up the nearest forest canyon to get wood. Yet, the increasing use of 4-wheel drive vehicles in wet weather started causing damage to roads and/or trails. Some private landowners started closing and locking gates to roads and/or trails traditionally used for public access to public lands.

The State of Montana also initiated advertising campaigns promoting big game hunting and fishing in the state. This commercialism of the hunting-fishing resource encouraged and rapidly increased the number of commercial interests who make their living from the commercialism of the state's outdoor resources. These commercial interests (i.e. - dude ranchers, outfitters, etc.) look to the affluent non-resident as their primary source of income, and they do not want any competition from residents or non-residents who choose not to hire outfitters and guides. The Montana Department of Fish, Wildlife, and Parks also derives a major portion of its operating income from high non-resident hunting and fishing fees. Yet its primary constituents are (or should be) the Montana resident hunter and fisherman. Why doesn't the Montana Dept. of Fish, Wildlife, and Parks sponsor a program to obtain access to public lands?

During about the last 15 years, the leadership of the Montana Wildlife Federation and the Montana Wilderness Association have been for all practical purposes, one and the same. Consequently, their goals have been to push for maximum wilderness. This effort just happens to coincide with the economic goals of the commercial interests (dude ranchers, outfitters, etc.) that are capitalizing on Montana's outdoor resources...and, this also generates maximum revenue and minimum kill for the Montana Dept. of Fish, Wildlife, and Parks. The affluent non-resident hunter gets to use the best hunting areas, and the less affluent hunters are being progressively shut out.

This paradox has created some tough problems:

1. The commercial users (dude ranchers, outfitters, etc.) naturally want exclusive use of the public lands where they operate because it enhances their income. The resident or less affluent non-resident forest user "interferes" with this commercial use.
2. In many instances, the commercial user controls private lands over which traditional public access roads/trails cross to get to public lands. By closing and locking these longtime access points, the resident and the less affluent non-resident forest user is eliminated. The commercial user then not only controls his private land, he also controls all the public lands behind his private land.
3. Although both the Forest Service and the BLM have programs for attaining better access to public lands, they are underfunded and their efforts are generally opposed by the commercial recreation industry (dude ranchers/outfitters) and the Montana Wilderness Association.
4. In 1984 there were 563 licensed outfitters and 1,086 guides (including 79 fishing outfitters) in the state of Montana, and over 200,000 licensed resident hunters. The 563 dude ranchers/outfitters had far more influence on the actions of the state legislature and the Montana Dept. of Fish, Wildlife, and Parks than the 200,000 resident sportsmen. This should be reversed.

State Lands

1. State lands that have been purchased by the Montana Dept. of Fish, Wildlife, and Parks are open to hunting. (about 225,000 acres) They also lease about another 170,000 acres.
2. State School Lands in Montana are leased to the highest bidder to generate maximum revenue for the state school system. The lessee can prohibit hunting since his lease gives him the right to post the lands according to Montana's interpretation of the statutes. (about 4.6 million acres)

1. Yet, some western states, such as Arizona, have firmly established the right of the hunter to hunt on Arizona's school lands and he leases is strictly informed that he must keep the lands open to hunters. Why cannot this be accomplished in Montana?

Other Actions

In addition to looking at the above Forest Service - BLM - State land access problems, the PUBLIC LANDS ACCESS ASSOCIATION, INC, will support the resident and less affluent non-resident public land user in the following ways:

1. Solicit and collect funds to support legal efforts to maintain, attain or reinstate reasonable public access routes by:
 - a. searching federal, state and county records for evidence of early public rights-of-way to public lands, and
 - b. hiring an attorney to take specific cases to state court to reinstate public access routes.
2. Become a spokesperson for public access by:
 - a. requesting specific and realistic plans for public access from District Forest Rangers, Forest Supervisors, and the Regional Forester,
 - b. requesting specific and realistic plans for public access from BLM District and State Directors,
 - c. requesting specific and realistic plans for public access by Regional Directors and the Director of the Montana Department of Fish, Wildlife, and Parks, and the Montana Fish and Game Commission,
 - d. seeking help and federal appropriations from Senators Baucus and Melcher for the construction and/or maintenance of public access routes to public lands,
 - e. seeking help and federal appropriations from Representatives Marlenee and Williams for the construction and/or maintenance of public access routes, and
 - f. seeking help and state appropriations from the Governor and the state legislature for the construction and/or maintenance of reasonable public access routes.

Note - There are over 200,000 resident hunters and/or fishermen in Montana. There are only some 563 licensed commercial outfitters in Montana. If the residents present their needs and wants in a coordinated and reasonable manner, we believe our senators and representatives will give us full support.

3. Become a monitor of public access routes for the resident and less affluent non-resident by:
 - a. identifying specific and reasonable public access points that are being blocked by:
 - (1) dude ranchers/outfitters,

- (2) Outfitter, and
- (3) absentee owner ranchers,
- b. encouraging the Forest Service, the BLM, and the MFWP to deny outfitter permits where they are in conflict with residents or less affluent non-resident needs and are being used as a reason to deny public access
- c. suggesting and supporting legislation for a moratorium on any more outfitter permits,
- d. encouraging the phasing out of commercial recreation permits where they are no longer needed to serve the needs of the public and more specifically, the resident public, and
- e. establishing one central organization (the PUBLIC LANDS ACCESS ASSOCIATION, INC.) to further represent resident access needs by:
 - (1) becoming a spokesman for public access needs,
 - (2) monitoring and collecting complaints of residents and non-resident forest users when they have been denied access, and,
 - (3) following up on such complaints and taking appropriate action when necessary.

In carrying out the above mentioned activities, it must be stressed that THE PUBLIC LANDS ACCESS ASSOCIATION, INC. fully supports and will defend valid private property rights. We do however, intend to help identify, reinstate, and maintain those historical public access routes to the present public lands that were established and extensively used prior to homesteading and/or sale of the surrounding public lands into private ownership.

All worthwhile efforts do not happen without some pain, sweat, tears, and money. To counteract the further closing down of public access points is going to take money, organization and perseverance. To reinstate public access points is going to take even more money, organization, and perseverance by the resident and less affluent non-resident forest user.

Please come and join a coordinated group whose major goal is to look out for the long term rights of the average forest user. No one else will do it.

For financial support, THE PUBLIC LANDS ACCESS ASSOCIATION, INC., has set up the following membership and dues classifications.

<u>REGULAR</u>	<u>STUDENT</u>	<u>SUSTAINING</u>	<u>RETIREE</u>	<u>INSTITUTIONAL</u>
25.00	10.00	50.00	15.00	100.00
<u>FAMILY</u>		<u>CORPORATE</u>		
<u>FIRST TWO MEMBERS</u>	<u>EACH ADDITIONAL</u>	<u>SUPPORTING</u>	<u>CONTRIBUTING</u>	
50.00	5.00	250.00	500.00	
<u>INDIVIDUAL LIFE MEMBERSHIP</u>	<u>NOTE - ANY DONATION WILL BE APPRECIATED</u>			
500.00				

...the Public Land Access Association for exemption
...under section 501 (c)(3) of the Internal
Revenue Code.

Please remember, legal action for maintaining your traditional
public land user privileges is going to be expensive. We urge you to
join the PUBLIC LAND ACCESS ASSOCIATION, INC., and put your money
into an excellent cause. Complaining will not maintain your access
rights, but a well financed organization can maintain your rights.

Revised 8/1/85 J.F.H

MEMBERSHIP APPLICATION
PUBLIC LANDS ACCESS ASSOCIATION, INC.

I, _____ of _____
(name) (street address)

_____ (city/town) _____ (state, zip) _____ (telephone)
want to actively support the PUBLIC LANDS ACCESS ASSOCIATION, INC., in
its efforts to protect my rights for access to public lands.

I hereby apply for (circle membership type desired)

REGULAR STUDENT SUSTAINING RETIREE INSTITUTIONAL
25.00 10.00 50.00 15.00 100.00

FAMILY CORPORATE
FIRST TWO MEMBERS EACH ADDITIONAL SUPPORTING CONTRIBUTING
50.00 5.00 250.00 500.00

INDIVIDUAL-LIFE
500.00

NOTE - ANY DONATION WILL BE APPRECIATED

membership. Enclosed is \$ _____ () check or () cash for the
type of membership I have circled, for the year 19____.

By: _____ (signature of applicant) _____ (date)

Notes on membership types:

STUDENT memberships are available to anyone attending classes
fulltime for at least three months of the current year.
RETIREE memberships are available to anyone 65 years of age or
older.

If you are applying for membership by mail, or need additional
information on the PUBLIC LANDS ACCESS ASSOCIATION, INC., please mail
your application and/or information request to one of the following:

Louis E. Nauha
16 Clontinger Lane
Boseman, MT 59715
(406) 587-2736

Perry W. Nelson
4371 Sourdough Rd.
Boseman, MT 59715
(406) 587-1577

-----PLEASE WRITE ANY ADDITIONAL INFORMATION OR COMMENTS BELOW-----

4. 11. 1985 5:40 PM
ASSOCIATE 4.512
0.1. 1985 5:40 PM

excepted of payment for several years, these collected funds are currently restricted to use in the conservation and rehabilitation of wildlife habitat. My bill would expand use of these funds for acquisition of access to public lands for hunting, fishing, or trapping."

"I believe my amendment is a first step in addressing this problem, the legislation would allow states to use funds collected under the authority of the Sikes Act to acquire access across private lands for hunting, fishing or trapping on public lands."

We agree with and commend Senator Mautus for this first step because it could (if passed) give the Montana Department of Fish, Wildlife, and Parks some money and incentive to initiate a program for access to public lands. Much more effort, however, will be required.

Consequently, P.L.A.A.I. is helping to make significant progress towards identification of the access problem and the development of ways and means to solve the problem. In addition, we have actually been directly responsible for the opening of three roads to public lands in the last year. We are not "just talking." We have the knowledge, experience, training program, and legal expertise to move ahead with a statewide program if we can get the support of enough average Montana sportsmen (that's you and me).

All of the above actions have required the expenditure of funds for typing, travel, copy work and attorney fees. We need to replenish these funds if we are to continue to be an effective voice for the average sportsman in Montana. We need all the financial help we can get if we are to continue the above types of action.

Please come and join a coordinated group which is off to a good start, and whose major goal is to look out for the long term rights of the average public land user. No one else will do it for you. For financial support, P.L.A.A.I. has set up the following membership and dues classifications:

REGULAR	STUDENT	DISABLED	SUSTAINING	RETIREE	ASSOCIATE	INSTITUTIONAL
\$5.00	10.00	\$5.00	\$50.00	15.00	15.00	100.00
FAMILY			CORPORATE			
FIRST TWO MEMBERS			SUPPORTING			
\$5.00			\$50.00			
EACH ADDITIONAL			CONTRIBUTING			
\$5.00			\$30.00			
INDIVIDUAL-LIFE			NOTE: ANY DONATION WILL BE APPRECIATED			
\$50.00						

If you would like to join and support P.L.A.A.I., please cut off, fill out, sign, and mail the following to P.L.A.A.I., P.O. Box 3902, Bozeman, Montana 59715-3902.

MEMBERSHIP APPLICATION PUBLIC LANDS ACCESS ASSOCIATION, INCORPORATED

I, _____ of _____ (name) _____ (street address) _____ (city/town) _____ (state, zip) _____ (telephone)

want to actively support the PUBLIC LANDS ACCESS ASSOCIATION, INC., in its efforts to protect my rights for access to public lands.

I hereby apply for (list membership type desired) _____ membership. Enclosed is \$ _____ () check or () cash for the type of membership I desire for the year 19 _____.

By _____ (signature of applicant) _____ (date)

Notes on membership types:

STUDENT memberships are available to anyone attending classes fulltime for at least three months of the current year.

SENIOR memberships are available to anyone 65 years of age or older.

Please make all checks payable to Public Lands Access Association, Inc., and mail application and check to P.L.A.A.I., Box 3902, Bozeman, Montana 59715-3902. (Note: we would also like your comments on any access problem you may have encountered, and the 1981 dues are \$5.00 as of December 1, 1980.)

Best regards,

Barb
Barb (C.O. Hedges) West
P.L.A.A.I.

DATE
FILL IN
NO. IN
DATE
FILL IN

Trespass Fees for Hunting and Access to Public Land: The Over-Commercialization of Montana's Wildlife Resources

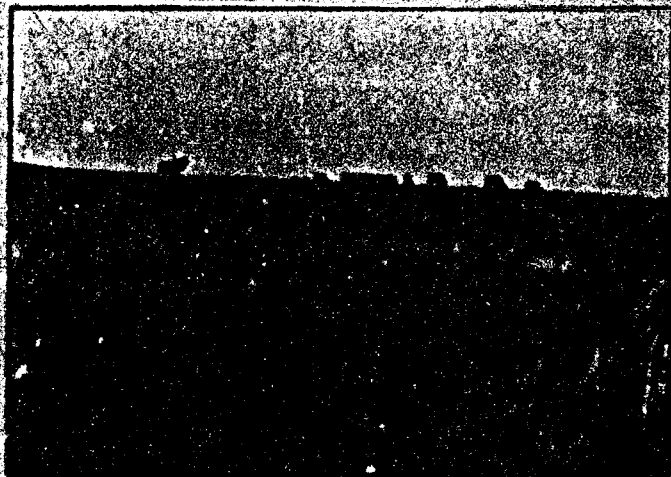
Levin E. Hawkes

In the decade between 1990 and 1991, the number of big game animals in the West was at its lowest point. The vast herds of buffalo, elk and deer that originally populated the foothills and plains had been decimated by over-hunting, but remnant herds remained in the most inaccessible wooded areas.

It is a common concept at this time that big game hunting would disappear in the West. And why not? It had disappeared in every state east of Montana. The Yellowstone area was considered the last refuge of big game hunting. Many early westerners packed horses from the Cheyenne Mountains area in the northwest end of the park, about 100 miles, to shoot elk in the remnant herds.

Established in 1872, Yellowstone was originally designed to include all of the known prehistoric features, and wildlife was not a major factor in establishment of its boundaries. From 1872 to 1906, parties of tourists hunted and fished at will. "Stay and eat" was the motto, and there were about 15 to 20 people employed to supervise tourists in the park.

Early park superintendents became concerned about the decline of wildlife in Yellowstone, and the army assumed responsibility for park administration and control until 1906. They eventually halted agricultural pasturing in the park. Big game animals, particularly elk, began to increase and prosper in larger numbers on their traditional winter ranges, including those at Canyon and the upper Gallatin Canyon upon boundaries were later expanded to the northwest from Canyon to provide additional protection.



Yellowstone Park

Big game animals were severely threatened by a predator driven into extinction by the extermination of wolves. In the 1920s, the Roosevelt Game Preserve, located between the town of Jackson and the Snake and Teton Parks, The creation of "closed seasons" by presidential proclamation between 1906 and 1908 established the first areas outside of Yellowstone National Park where big game populations could recover.

Conservation concerns about elk populations reached a peak in the early 1930s when some feared that the species would disappear. In 1934, a national survey of the remaining elk herds was undertaken by the Forest Service and the Game Department Bureau of Biological Service. The survey predicted that about

10,000 elk remained in the U.S. and Canada. About 10,000 elk were estimated to remain in the United States. The survey also predicted that about 10,000 elk remained in the United States. The survey also predicted that about 10,000 elk remained in the United States.

Levin E. Hawkes is a member of the Public Lands Action Movement, a non-profit organization promoting public lands in public lands. He served from the U.S. Forest Service. He has been actively involved with the administration of public lands for a career spanning 30 years and more. He served as superintendent of the National Forest Service, the U.S. Forest Service, the U.S. Forest Service, and the U.S. Forest Service.

ronicle

The Big Sky

Leverich Canyon Road ordered open for forest access

AGHEY
Writer

entitled to use Leverich Canyon Road to reach Gallatin National Forest, Judge Thomas Olson has ruled.

His finding in a case brought by the U.S. Forest Service against Earl L. Clark and other so-called Clark property.

It allows through the Clark property access to the general public.

Question is about five miles south of where road is used by the public for many years. It was made to stop passage through

the Clark property. The road also was used as access to the Harris property.

Olson, in a decision released Friday afternoon, ruled that the right of access resulted from the "open, notorious, continuous and uninterrupted use of said roadways by plaintiffs, their predecessors, and by members of the general public from the late 1800s and continuing until defendants made attempts to control the use of the roadway."

Olson found that the defendants' attempts at shutting down the use of Leverich Canyon Road "had the effect of reserving public lands for their exclusive use."

Tedimony at the non-jury trial detailed a long history of public use of the canyon roadway for hunting, berry picking, picnicking, cutting wood and horseback riding, according to Olson's findings of fact.

One woman testified she had used the road for 50 years before hearing of a locked gate blocking passage in the early 1960s.

The main reason the Clarks gave for blocking the road was that "times have changed, and people are different," Olson found.

However, "Although defendants claimed they limited access to Leverich Canyon because of a fear of trouble with the increasing populace, they have taken

advantage of, and contributed to, the numbers of people moving from the area, and their property into the area, and dedicated roads," he wrote.

Olson ruled that the defendants' actions "are hereby forever enjoined from interfering with the free use of the roadway by plaintiffs, their successors and the general public."

The plaintiff's attorney, Michael J. O'Connell, said the decision removed an "unjustified barrier" to the public's right of access to the area.

7-10-30

SENATE FILE AND NAME
EXHIBIT NO. 6
DATE 7-10-30
BILL NO. 1000

Mr. Chairman & Committee

A few short comments

Over Price for License are very
competitive & actually a bargain
Deer Elk Bird - Fish - Bear 350 in
Moose 400 300 1 Tag.

Wyoming went to a licensing system
the industry except for Wildlife
where they have a Guide Law for Wildlife.

75% of my business is Repeat
Clients - if a drawing is at hand by -

ALASKA - Has Guide Laws

British Columbia Has Guide Laws

Land Owner: charge Trespass Fee's
Not out-fitters

Outfitter & Guide
John C. Cargill
RT. 1 Box 1164
Whitehall Mt
59759

Western Montana Fish and Game Association

MISSOULA, MONTANA



Jan. 10, 1964

Senate Fish & Game Committee
State Capitol Building
Helena, Montana

SENATE FISH AND GAME

EXHIBIT NO. 8

DATE

BILL NO.

Dear Mr. Smith and Committee Members:

The Western Montana Fish and Game Association is a third class sportsman organization with some 250 members. We are interested in the management of Montana's big game herds. We would like to see all available big game ranges set on a regular surveying report and a management strategy. This would optimize hunting opportunities.

Optimization of hunting opportunities, to us, does not mean maximization of hunter numbers, especially non-resident hunters. We realize that a large portion of license revenue comes from non-resident visitors. We support this concept, for resident pay for their privileges twelve months a year.

On the other hand, we feel that our non-resident hunting partners should have the chance as to whether they wish to employ a guide or outfitter. In fact, we feel this means was settled over 10 years ago when we in fact had a rule that non-resident hunters had to be accompanied by a guide or Montana resident, and this rule was challenged in court and thrown out.

We therefore would like to go on record as opposing the proposal by the Montana Outfitters and Guides Association to reserve half of the 17,000 non-resident big game combination licenses to their clients or potential clients. In addition, we oppose that proposal that 6,000 non deer kill licenses be issued in Region 4, 5, 6, 7 and that one half of these be reserved for clients of Outfitters and guides. Our non-resident hunting partners should be afforded a choice, just as residents are, as to whether they wish to employ an Outfitter, let them choose, let's not legislate it and open the state up to another potential lawsuit.

Sincerely,

Steve Burt, Chairman
Big Game Committee

THE REGULAR EXECUTIVE BOARD MEETING IS THE FIRST THURSDAY OF EVERY MONTH

Gary S. Marbut

SENATE FISH AND GAME

CURRENT NO. _____

DATE _____

BILL NO. _____

January 9, 1987

Senator Ed Smith
Chairman, Fish and Game Committee
Capitol Station
Helena, Montana 59620

Dear Senator Smith,

The Western Montana Fish and Game Association has appointed me as the Chairman of their Legislative Committee. I understand that you are conducting a hearing concerning allocation of out-of-state hunting licenses among Guides and Outfitters, and other applicants. I would like to apprise you of the opinion and position of the Western Montana Fish and Game Association on this issue.

The Montana Wildlife Federation has come up with a method of allocating out-of-state hunting licenses which we believe is quite fair. This system would have applicants check one of two boxes on the application form to indicate whether or not the applicant intends to hunt with a Guide. Once all applications are received, the percentage of the total number of applicants desiring to hunt with a Guide would be determined. This percentage would then be applied to the number of licenses available, which would establish the number of out-of-state licenses allocated to the Guide and Outfitters industry.

I support this method of allocation of licenses. I oppose the granting of some arbitrary and large percentage of licenses to the Guide and Outfitting industry on the grounds that the arbitrary method is unfair to all of those out-of-state hunters who wish to hunt in Montana.

On behalf of the Western Montana Fish and Game Association, I request that you seriously consider our position, and that you enter a copy of this letter as testimony in hearings of your committee concerning this issue.

Thank you for your interest and attention to this matter.

Sincerely yours,

Gary S. Marbut
Gary S. Marbut

SENATE FISH AND GAME

EXHIBIT NO. 10

DATE February 10, 1937

BILL NO. 10

SEN. 10, 976

Mr. Chairman:

including by some acts necessary
 Henry Madison (incidentally) has relatives and friends
 who have left the state because of ~~from~~ limited
 economic opportunities. It is not fair
 that these people should have to leave and
qualify in order to receive their chance
 to draw now out - in state license and to
 return to the state (license) to hunt.

Here Preserving

505 Frank Road

Members: Madison Wildlife Service. Eagle, MT. 57714



Montana Wildlife Federation

AFFILIATE OF NATIONAL WILDLIFE FEDERATION

P.O. Box 1122
Bozeman, MT 59711
Tel. 581-1211

SENATE FISH AND GAME

EXHIBIT NO. 11

DATE January 21, 1968

BILL NO. 11

The Montana Wildlife Federation, in cooperation with the Montana State Department of Fish, Wildlife and Parks (FWP), has been studying the possible diversion of hunting and fishing license revenues from the State of Montana. After considerable consultation and discussion of this potential diversion problem with Game, Wildlife and Fishery of the National Wildlife Federation, we have decided to ask for an opinion from the Fish & Wildlife Service.

In 1963, the MWF established a Budget Oversight Committee (BOC) of five from the membership to analyze the budgets and accounting of the Montana State Department of Fish, Wildlife and Parks (FWP). The purpose was to determine exactly how and where hunting and fishing license revenues were being used in the State of Montana. The FWP budget and accounting systems appear to account for funds received and allocated to various Divisions, but are not designed to provide an explanation of where and why license revenue is used.

Basic to the problem is that in 1963 the Montana State Fish and Game Department, now FWP, was given management responsibility for all outdoor recreation in the State of Montana by the Montana Legislature.

Since 1963, a series of legislative directives have enhanced opportunity for license revenue diversions: (1) FWP now includes a Parks program with management responsibility for State Parks, State Recreation Areas, State Monuments, Sportsmen's Access, Recreational Waterways, Boating, Snowmobiling, Community and Statewide Recreation, Recreation Roads & Trails and State Capitol Complex grounds; (2) the State Legislature assigned supervision of Montana outfitters and guides along with the Montana Outfitters Council to FWP; (3) the State Fish & Game Commission was stripped of much of its authority and designated a quasi-judicial board appointed by the Governor; (4) the FWP Director was made a political appointee by the Governor; and, (5) in recent years the State Legislature has decreased appropriations from the State's General Fund for the Parks programs. This year, at a special legislative session, the general fund appropriation was taken from the FWP budget,

January 27, 1967

WHY THE METHOD OF ALLOCATING NON-RESIDENT HUNTING LICENSES IS OF CONCERN TO ALL MONTANA SPORTSMEN

In 1975 the Montana Legislature put an upper limit of 17,000 on the number of non-resident big game combination hunting licenses which could be sold each year by the Department of Fish, Wildlife and Parks (FWP). The demand for these licenses has increased since that time making it impossible to issue a license to all non-residents who apply. Last year there were 22,019 applications.

In 1985 the Director of FWP, in the absence of any guidelines from the Legislature, set aside 5,600 of the 17,000 authorized licenses for allocation to non-residents who would contract to hunt with a State licensed outfitter. By attaching a copy of a deposit receipt for an outfitter booking to his application, a non-resident hunter could be assured that his application for the 1986 hunting season would be placed in a pool separate from the other 11,400 applicants.

For the 1986 hunting season the non-resident big game combination hunting licenses were sold on a first-come first-served basis. The 11,400 licenses not allocated to outfitters' clients were sold out on the first day. The demand was not as great for the 5,600 licenses set aside for non-residents who booked a hunt with an outfitter and these licenses were not sold out until the 17th day. This would indicate the chances of getting a combination big game hunting license were much better for those non-resident hunters who booked a hunt with an outfitter.

It has been proposed that a set-aside system of allocating non-resident big game combination hunting licenses should be given statutory authority through action of the Legislature. Montana sportsmen should oppose this action for several important reasons.

Many Montana sportsmen hunt regularly with friends and relatives from out-of-state. We all know of sons, daughters, relatives and friends of sportsmen, including farmer and rancher landowners, who have moved out-of-state for various reasons. A number of these individuals are willing to pay the \$350 required for a non-resident license in order to come back to Montana to hunt big game and enjoy fellowship with relatives and friends. It is unreasonable that they should also have to book their prospective hunt with an outfitter in order to increase their probability of receiving a license.

Perhaps a more important reason for opposing the set-aside system is that it contributes to over-commercialization of hunting. If non-residents can be assured of access to hunting Montana's game animals by paying fees to outfitters it will

POOR
COPY

become ever more lucrative to isolate prime hunting areas, whether on private or public lands, from the general public. Outfitters assured of getting licenses for wealthy non-resident hunters, will be in a position to pay huge sums of money for exclusive rights to trespass on private property for the purpose of providing their clients with hunting or for the purpose of crossing private land to reach wild game on public lands. This is an indirect way of selling game animals to the highest bidder. As more non-resident money flows into the outfitting industry, more pressure will be exerted to isolate larger hunting areas from the general public. Outfitters will have more funds to pay trespass fees which will attract more private land into contracts between outfitters and landowners which exclude access by the public.

Montana has a tradition of treating hunting as a public good even though we have always had some constraints placed on the sport due to our private property conventions. This is appropriate and consistent with the general values held by Montanans, including sportsmen. The present balance between public and private hunting, however, is seriously threatened by concentrating more economic power in the hands of wealthy non-residents.

The proposal of the Montana Wildlife Federation (H.B. 104) regarding allocation of non-resident combination hunting licenses is aimed at maintaining the traditional balance between public hunting and commercialized hunting. It provides an opportunity for outfitters and guides to sell their services to prospective non-resident hunters who wish to have their assistance. In addition it gives all non-residents a fair opportunity to obtain a Montana combination big game hunting license.

Gene Guenemoen
606 Frank Road
Bozgrade, MT 59714

NAME: Joe Gutkoski Pres. DATE: 2-12-87

ADDRESS: 304 N. 18th Bozeman MT 59715

PHONE: 406-587-3242

SENATE & HOUSE OFFICE

EXHIBIT NO. _____

REPRESENTING WHOM? Gallatin Wildlife Assoc

DATE 2-

BILL NO. 265

APPEARING ON WHICH PROPOSAL: _____

DO YOU: SUPPORT? ☒ AMEND? _____ OPPOSE? _____

COMMENTS: through the years there have been a number of
types of wildlife organizations taken into account and the only
functioning one is represented by the state.

This method would further remove the Department from the
pressure of political parties and result in a better, business
professionally oriented department.

Many national committees state in the organization of State
Fish Game Departments recommended that the governor have a
department and appoint the director.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

THE CURRENT NONGAME PROGRAM:

Six main projects are currently being undertaken by the nongame program:

- *Nongame Program Funding Development: this project will keep the checkoff before the public eye and continue solicitation of funds.
- *Statewide Raptor Survey Route System: this project survey 17 species of raptors as they migrate in the spring. Volunteers help run 46 survey routes.
- *Bluebird Conservation Project: this project promotes the placement of nest boxes by members of the public. Bluebirds have lost much of their native nesting sites. They are a bird that lives on insects.
- *Publication of Wildlife Brochures: this public information effort will provide valuable information to interested people. A state bird list has been published and natural history information will be made available.
- *Nature Trail Development/ Enhancement: interpretive signs will be placed at key locations throughout the state, such as Lewis & Clark Caverns State Park.
- *Nongame Inventory on Selected Department Lands: this project will continue to identify species composition of wildlife communities around the state.

AND TO CLARIFY....

*SB 177 is a funding bill only. It doesn't affect existing state laws protecting land management practices of the agricultural community. Here's why:

- *The DFWP has very little regulatory authority under the 1973 Nongame and Endangered Species Act. Before a nongame animal can be "managed" (should that ever become desirable), DFWP must first obtain legislative approval to reclassify the animal as "in need of management." The legislature has the final word (87-5-104).
- *The Dept. of Livestock has authority to control pest rodents and related animals that are "injurious to agriculture, other industries and the public health" (81-1-401). No DFWP regulation could conflict with the landowner's rights to control pest rodents because of Dept. of Livestock regulations.
- *Depredating birds can be controled under 87-5-209 and 87-5-201.

*The nongame wildlife program is set up for "research and education programs for nongame wildlife in Montana (87-5-121)". This small program is designed to help us understand our own environment better. Besides, appropriate nongame management will help assure that there are no more animals listed as endangered. Expensive recovery programs can be avoided if an effective nongame program is in place.

Nongame and Montana

*Every year an estimated \$1 billion is generated for Montana through resident and nonresident enjoyment of Montana's enjoyment of Montana's scenic resources. Among these scenic resources, nongame wildlife is an important part: Pelicans and Great Blue Herons, Woodpeckers and Osprey, Pika and Hummingbirds. Although the exact contribution - in dollars - is difficult to determine, the presence of over 600 nongame species adds a sense of wholeness to the wildlife population of this state - a value hard to overlook.

A FINAL WORD...

With a better understanding of what wildlife resources Montana has, the balance that exists today can be maintained as Montana continues to grow.

SB 177 is a positive step.

STANDING COMMITTEE REPORT

February 10, 1987

MR. PRESIDENT

Fish and Game

We, your committee on.....

having had under consideration..... Senate Bill..... No. 171

First reading copy (White)
color

SEPARATE UPLAND GAME BIRD AND WATERFOWL LICENSES

Respectfully report as follows: That..... Senate Bill..... No. 171

1. Title, line 7.

Following: "87-2-401"

Strike: "AND"

Insert: ", "

Following: "87-2-402,"

Insert: "87-4-504, AND 87-5-204,"

2. Page 2.

Following: line 5

Insert: "Section 3. Section 87-4-504, MCA, is amended to read:

"87-4-504. Bird license required. All persons hunting on shooting preserves must have a valid resident or nonresident upland game bird license."

Section 4. Section 87-5-204, MCA, is amended to read:

"87-5-204. License and rules for falconry. (1) The department may adopt specific rules for the keeping of records and for the trapping, taking, possession, or training of raptors used in the practice of falconry and may authorize the issuance of licenses to persons for the practice of falconry. Except as provided in 87-5-210, it is unlawful for any person to possess a raptor or to train a raptor in the practice of falconry without a license.

(2) The fee for a falconry license is \$3 a year or any part of a year. A license expires April 30 each year.

DO PASS

DO NOT PASS

Chairman.

(3) A license may not be issued to a person under the age of 12 years.

(4) Licensees shall have in possession a valid falconer's license when engaged in the practice of falconry. In addition, falconers loosing raptors at game birds shall have in possession a valid resident or nonresident upland game bird license or waterfowl stamp, as appropriate.

(5) Falconry licenses or permits are not transferable and may be revoked for due cause at any time by the department.**

Renumber: subsequent sections

7033d/L:JEA\WP:jj

AND AS AMENDED,
DO PASS

.....
Senator Ed Smith, Chairman

STANDING COMMITTEE REPORT

February 10, 1987

19.....

MR. PRESIDENT

Fish and Game

We, your committee on.....

Senate Bill

177

having had under consideration.....

No.....

First

reading copy (**White**)
color

REVISE AND CONTINUE NONGAME WILDLIFE CHECKOFF

Senate Bill

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Respectfully report as follows: That.....

No.....

be amended as follows:

1. Page 1, line 19.

Following: **"(6)"**

Insert: **" , except as provided in subsection (5) "**

2. Page 2, line 22.

Following: line 21

Insert: **"(5) The department of revenue may deduct from collections an amount not to exceed \$1 for each tax checkoff contribution for administering the voluntary checkoff program. The department is authorized to spend the amount deducted and to hire necessary personnel."**

AND AS AMENDED

DO PASS

~~DO NOT PASS~~

Senator Ed Smith,

Chairman.