

MINUTES OF THE MEETING  
FISH AND GAME COMMITTEE  
MONTANA STATE SENATE

February 19 1987

The ninth meeting of the Senate Fish and Game Committee was called to order at 1:00 P.M. on February 19, 1987 by Chairman Ed Smith in Room 402 of the Capitol Building.

ROLL CALL: All members were present at roll call.

CONSIDERATION OF SENATE BILL 352: Senator Joe Mazurek, Senate District No. 23, sponsor of the bill, stated the purpose of the bill is to reserve up to 10 percent of the authorized Class A-7 antlerless elk licenses for nonambulatory disabled persons. Mazurek suggested the bill is appropriate for the fact that the definition is restrictive in the fact that nonambulatory hunters can not walk. Access into the elk hunting areas is difficult. In most cases, cow permits are available only by special permit, although some areas allow cows to be taken without the special permit. This bill recognized problems particular to the nonambulatory group in hunting elk, particularly bull elk. Mazurek stressed the intent of the bill is to assist a narrow, but eager group of hunters in an effort to complete successful elk hunts.

PROPONENTS:

Director Jim Flynn, Fish, Wildlife and Parks, submitted written testimony in support of SB 352. (Exhibit 1)

Robert Vandervere, concerned citizen lobbyist, stated that a disabled bill was passed last session and allowed the disabled to shoot from a motor vehicle. If preference is shown in hunting permits, the preference should go to the disabled.

Joel Hunt, Helena, stated that approximately 1,700 handicapped permits were distributed by the Fish, Wildlife, and Parks Department in 1985. Approximately 900 were for hunting and 800 were for fishing. Hunt stated that holding a cow elk permit does make a difference when it comes to accessing an area. Confined to a vehicle this past hunting season, Hunt observed only two bull elk which were out of range, but observed over 600 cow elk in the 380-hunting area. Senate Bill 352 will benefit the non-ambulatory hunter by bolstering morale and providing incentive to do something important for themselves.

Roland Cheek, Montana Outfitters and Guides Association, stated that the association supports disabled legislation and stands in support of SB 352.

Russ Greenwood, an Outfitter from Eastern Montana, stated that he provides hunts for Disabled Vietnam Veterans for antelope. Greenwood stated that he supports SB 352.

There were no further proponents to SB 352.

OPPONENTS:

There were no opponents to SB 352.

QUESTIONS FROM THE COMMITTEE:

Senator Bengtson questioned Director Jim Flynn concerning the proposed ten percent of the authorized Class A-7 licenses. Flynn reported that the Department does not have an exact percentage rate, but when the drawing takes place, there is an accumulative impact that shrinks the pool because of the growing amounts of set-aside. This reduction concerns the department.

Senator Smith asked if when the permits increase in number, some kind of percentage could be taken so that the department would have more latitude in making set-aside decisions. Some years, the population of the game fluctuates, and the latitude would work for the betterment of game management. Director Flynn stated that the commission sets the quota for deer and antelope, but during the last hunting season, landowners received preference because of the large game population of deer and antelope. Flynn stated that the proposal reads that the percentage can be up to 10 percent. Mazurek replied that it would be to the discretion of the Department of Fish, Wildlife and Parks.

Senator Severson asked how many permits were distributed last year. Joel Hunt replied that 20,000 permits were given out last year. Senator Smith asked how many of the permits were distributed to the handicapped person. Hunt stated that there were 1,700 permits given out in 1984 throughout the state for fishing and hunting handicapped licensees. Mazurek stated that the amount of 1,700 stated was for handicapped, not nonambulatory.

Senator Mazurek closed the hearing on SB 352 by expressing appreciation for the support of handicapped legislation.

The chairmanship was handed over to Senator William Yellowtail in order for Senator Smith to present SB 331.

CONSIDERATION OF SENATE BILL 331: Senator Ed Smith, Senate District No. 10, sponsor of SB 331, stated that the proposed bill will establish a pheasant enhancement program to be administered by the Department of Fish, Wildlife, and Parks, and will be funded through an increase in license fees. The legislation is similar to the Ducks Unlimited, according to Smith. Yet, the

Sheridan County Ducks Unlimited organization is folding and the energy will now be directed towards enhancement of pheasants in that particular area of the state. The amount of money specified in the enhancement sale section from the sale of each hunting license listed must be used exclusively by the department to preserve and enhance pheasant populations in Montana in accordance with the proposed law, and subject to the appropriation by the legislature. The Class A-1, resident game bird license will be increased by \$2, The Class B-1, nonresident game bird license will be increased by \$23. The nonresident hunters will "flock" to Montana as this program is developed, thereby benefiting the tourist industry of Montana. The license increase will put the license at a par with the North Dakota pheasant license fee. Sportsmen do not object to the \$2 increase in the license fee since it will benefit the set-aside program. The other increases to benefit the pheasant enhancement set-aside are the Class AAA, sportsman's increase of \$2 and the Class B-10 nonresident big game combination increase of \$23. Not more than 10 percent of the money generated under the law may be used by the department for administrative costs. The purpose of the administrative costs will be to prepare and assimilate information to land-owners and organizations concerning the pheasant enhancement program, and to review potential pheasant release sites. Other purposes are to assist applicants in preparing management plans for the project areas, to evaluate the pheasant enhancement program, and provide restriction concerning the use of the revenue generated through the program.

Smith offered tips on the raising of pheasants. Game bird feed must be used to prevent cannibalism. The use of blue lights instead of a white light provides needed darkness variation in the building. Also, places to hide must be made available. Such information must be provided to the potential pheasant raisers. The new federal conservation reserve program, recently implemented, states that land will be seeded back to grass. The Fish, Wildlife and Parks department will work with the federal government in putting together a workable program that will benefit the wildlife habitat. Seed varieties will be recommended, easements on land, as well as leases will be implemented. The Fish, Wildlife and Parks will share up to \$3 per bird in the cost of releasing pheasants in a suitable habitat in such numbers and other conditions determined by the department. Smith stated that after cost of the purchase of the birds and the feed, the earnings will be approximately \$2 per bird, an incentive for the FFA or the 4-H participant to raise the birds and become educated in raising pheasants. The 4-H Program has a game management project that is new in 1987.

Smith gave eligibility qualification data concerning habitat requirements.

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Smith stated that landowners will not be required to let everyone come onto the private property to hunt. In Sheridan county, landowners put up signs that read there is no hunting within one-half mile of the sign which is near the building where the pheasants had been raised. Within a month, the pheasants find suitable habitat up to two miles away. The landowner should have the option of **restricting** the hunter to the radius of one-half mile within certain areas. Senator Smith addressed winter kill of the pheasants. Smith stated that each year, a new batch of birds will be introduced to the area and will eliminate the winter kill problem.

PROPOSERS:

Jim Flynn, Director of the Fish, Wildlife and Parks, submitted written testimony in support of SB 331. (Exhibit 2)

Robert Vandervere, a concerned citizen lobbyist, recollected when Detective Smith found the flaws in the Warm Springs bird hatchery that resulted in a \$40 per bird overexpenditure. The bird farm was closed because it was costing the taxpayers too many dollars, thereby saving the Montana sportsmen' many thousands of dollars. Vandervere expressed support of SB 331.

Bob Lucas, Big Sky Upland Bird Association, Missoula, MT, stated that the association is committed to the improvement of habitat for game birds, especially pheasants. Lucas stated strong support for the goals of the pheasant enhancement, and will gladly pay increased license fees that ultimately will promote pheasants in Montana. Lucas stated concern of the amendment of the bill which removes habitat improvement, which turns the bill essentially into a pheasant stocking effort. Lucas stated that pheasant habitat has deteriorated into tiny "islands" in the Mission Valley and Nine Pike areas. Lucas expressed concern for the planting of stock birds in this area without suitable habitat. Lucas encouraged the committee to reconsider the removal of all habitat improvement; and not to rely on the crop land reserve program. Lucas reported that land could be leased with minimum time limitation: five years period was suggested. The minimum of 160 acres for improvement projects would be too limiting due to the size of the farms. An area in various areas would be beneficial to the project of pheasant reproduction. Habitat practices should be broadened to meet pheasant populations in the Fairfield area. Winter cover and nesting cover is needed.

Jack Pucket, Big Sky Upland Birds Association, Missoula, stated that testimony today in behalf of the pheasants is "for the birds." The Association supports the raise in the license fees, which in

turn promotes management on the land and supports landowners in their work. There needs to be clarification concerning the bill. The association views the bill as a stocking bill and urges that the bill be changed to improve pheasant management. Pucket stated that wholesale grazing in the state is the largest cause of decreased pheasant populations. Most of the areas in the Bitterroot, Flathead Valley and Eastern Montana are grazed down considerably. There is plenty food for winter, but the pheasants are in desperate need of winter cover. The association urges part of the bill to address cover management in small parcels of land. Fencing the stream bottom, leaving a fence row cover, or leaving an uncut strip are various suggestions to improve cover. Field covers could be planted to shrub cover instead of leaving that ground to go to weeds. Pucket asked if the ten percent enhancement revenue applies to the total amount in the game bird license, or does the amount just apply to the raise in the license. Smith stated that it would be just for the pheasant enhancement program. Pucket suggested that the application amount would be the total amount in the game-bird license. Until recently, there had been very limited licence revenue used for game enhancement purposes.

Esther Stenberg, Montana Wildlife Federation, stands in support of the Pheasant Enhancement Program.

Russ Greenwood, an Eastern Montana Outfitter, stated he is in favor of the concept of SB 331. Several years ago, entire pheasant populations were lost in Eastern Montana due to blizzard conditions. Greenwood expressed concern if the 80 to 90 percent of the money is lost from the nonresident license fees.

#### OPPONENTS:

There were no opponents to Senate Bill 331.

#### QUESTIONS FROM THE COMMITTEE:

Senator Yellowtail questioned the intention of the project concerning restriction of who could hunt on the private land. Senator Smith stated that the right of the landowner to decide who hunts on private land should not be taken away from the landowner. The pheasants scatter from place to place.

Bengtson asked if other habitat could be sought. Senator Smith stated that city 4-H members would be able to place pheasants in desired habitat.

Senator Jacobson stated that latitude to determine that smaller area would be more beneficial in determining land size.

Smith stated that there are different conditions in the various areas of the state. This enhancement program is an "experiment" to determine how the program should develop, and what changes should take place.

Senator Yellowtail closed the hearing on SB 331, and returned the gavel to Chairman Ed Smith.

EXECUTIVE ACTION:

DISPOSITION OF SENATE BILL 331:

Senator Bengtson made a motion that Senate Bill 331 DO PASS. Bengtson asked for an explanation as to why the habitat section was deleted. Smith stated that the entire revenue amount could be used for habitat and there would not be revenue for the pheasants. Under the license fee increase, 2,000 to 3,000 pheasants could be planted. The Fish, Wildlife and Parks has the authority to provide suitable habitat at present. The motion carried unanimously.

DISPOSITION OF SENATE BILL 352:

Senator Bengston made the motion that Senate Bill No. 352 DO PASS.

Senator Severson asked if 10 percent was on the high side. Senator Bengtson stated that the department can go up to 10 percent and as low as one percent. The motion carried unanimously.

DISPOSITION OF SENATE BILL 331:

Senator Bengtson moved the Statement of Intent on SB 331. BE ADOPTED. The motion passed unanimously.

DISPOSITION OF SENATE BILL 219:

John Hoyte, stated that he understands that the hunting districts for elk and deer are the same. Generally speaking, Flynn replied yes. Landowners that support the elk population are very few in numbers; far less than 10 percent of the landowners. The 320 areas amount is too small. Hoyte asked for an amendment that the landowner own 40 acres. Hoyte asked for another amendment to read: "provided, however, that if a landowner is unsuccessful in obtaining an elk permit, as herein provided, he may obtain a permit to hunt elk on his own land only." This would affect only the landowners who are the one that should have the benefit. Also, a corporate landowner may designate an employee to be issued the permit should be addressed.

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Senator Severson stated that Senator Meyers, sponsor of the bill, did not have these amendments in mind when drafting the bill. The intent of the bill was to give the landowner preference only on the private land. Therefore, the acreage is not important.

Senator Severson made a motion to recommend to the committee that SB 219 DO PASS. The motion passed unanimously on the bill in the original form.

Senator Yellowtail, acknowledging the problem of earmarking so many licenses will move the public from fair access to the licenses, declined to vote for this bill.

DISPOSITION OF SENATE BILL 265:

Senator Al Bishop moved that Senate Bill 265 DO PASS. A roll call vote was taken on SB 265. The motion failed with Senators Yellowtail, Jacobson, Severson, Jergeson and Bengtson voting no on the bill that included amendments.

ADJOURNMENT:

There being no further business before the committee, Chairman Ed Smith closed the hearing at 2:38 P.M.



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SENATOR ED SMITH, Chairman

ROLL CALL

SENATE COMMITTEE--FISH AND GAME

50TH LEGISLATIVE SESSION - 1987

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Date: Feb 19, 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		



DATE

*February 19, 1987*

COMMITTEE ON

*State Fish & Game*

VISITORS' REGISTER

NAME	Complete Address REPRESENTING	BILL #	Check One	
			Support	Oppose
<i>Robert C. Lucas</i>	<del>5050</del> <i>Big Sky Upland Bird Assoc., P.O. Box 9005, Missoula</i>	<i>331</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<i>John V. Puckett</i>	<i>Big Sky Upland Bird Assoc. P.O. Box 9005 Missoula MT.</i>	<i>331</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<i>Robert Van Deuren</i>	<i>Helena</i>	<i>331</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<i>Henry Greenwood</i>	<i>Broadius MOGA</i>	<i>331</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<i>Alan Christ</i>	<i>Col. Falls MOGA</i>	<i>352 <sup>331</sup></i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<i>Esther Stenberg</i>	<i>MT Wildlife Fed.</i>	<del>352</del> <i>331</i>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
<i>Hanna Beck</i>	<i>Dew Lodge</i>	<i>331</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<i>Ruth</i>	<i>Helena</i>	<i>352 + 331</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<i>Arnie (Lena)</i>	<i>Helena</i>	<i>331/352</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<i>JEFF HERBERT</i>	<i>HAENA</i>	<i>331</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

(Please leave prepared statement with ...)

ROLL CALL VOTE

SENATE COMMITTEE -- FISH AND GAME

DATE: Feb 19, 1987 BILL NO. SB 265 TIME: \_\_\_\_\_

NAME:	YES	NO
Senator Ed Smith, Chairman	X	
SENATOR WM. YELLOWTAIL		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

Mary Florence Root  
Secretary

Senator Ed Smith  
Chairman

MOTION: Do Pass on SB 265

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## SENATE FISH AND GAME

EXHIBIT NO. 1DATE 2-19-81BILL NO. SB 352

SB352

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

The Department supports SB 352 as it currently impacts elk management; however, there are several concerns regarding its implementation that we would like to note. The A-7 license is an elk license that allows the taking of an antlerless elk in a designated area. The holder of an A-7 license cannot hold an A-5 general elk license and, therefore, gives up the opportunity to hunt elk of either sex anywhere else in the state.

Currently there is only one hunting district in the state, HD 443, which has 100 A-7 licenses available on a permit or drawing basis. This bill would mean that 10 of these would go to nonambulatory handicapped individuals.

The A-7 concept, however, has been under discussion for broader statewide application which could result in 10 percent of all cow permits eventually being converted to the A-7 license group. There begins to be a substantial cumulative impact on the general hunting public when bills such as SB219 giving 15% preference to landowners for elk permits and HB 379, giving permits directly to landowners under a private management plan option are considered.

The cost for the department to implement a preference system for an estimated 200 non-ambulatory disabled is about \$8,000 or \$40 for each potential applicant.

Elk permits or licenses are considered a valued commodity by most Montanans and demand exceeds supply by a greater margin than for more common deer or antelope. The potential implications of this bill should clearly be understood prior to its passage. However, this is a policy decision and should the Legislature decide to approve it, we can and will implement it.

SB 331  
February 19, 1987

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

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

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

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

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

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

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

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

We urge favorable consideration of SB 331.

## STATEMENT OF INTENT

\_\_\_\_\_ Bill No. \_\_\_\_\_

This bill requires a statement of intent because section 4 requires the department of fish, wildlife, and parks to adopt rules to administer the pheasant enhancement program established by the bill. It is intended that the rules:

(1) provide for eligibility criteria for project applications consistent with the general requirements established in the bill;

(2) be consistent with general requirements of the conservation reserve program under the 1985 Food Security Act and the agricultural conservation program, so that landowners participating in those federal programs may also be eligible to participate in this program;

(3) specifically indicate conditions under which pheasants will be released on project areas under the program, including habitat requirements, number to be released, health requirements, banding requirements, time for release, age of pheasants to be released, and other matters determined necessary by the department;

(4) provide guidelines concerning when areas of less than 160 acres may qualify as project areas; and

(5) establish procedures for application for project funding and review and approval or denial of such applications.

# STANDING COMMITTEE REPORT

February 19 ..... 19 37

MR. PRESIDENT

## FISH AND GAME

We, your committee on.....

### SENATE BILL

219

having had under consideration..... No.....

**First**

**White**

\_\_\_\_\_ reading copy ( \_\_\_\_\_ )  
color

## LANDOWNER PREFERENCE FOR SPECIAL ELK PERMIT

### SENATE BILL

219

Respectfully report as follows: That..... No.....

DO PASS

~~DO NOT PASS~~

SENATOR ED SMITH

Chairman.

# STANDING COMMITTEE REPORT

February 19, ..... 1937

MR. PRESIDENT

We, your committee on FISH AND GAME  
having had under consideration SENATE BILL No. 265  
First reading copy ( White )  
color

## ALLOW FISH AND GAME COMMISSION TO APPOINT DIRECTOR OF DEPARTMENT

Respectfully report as follows: That SENATE BILL No. 265

be amended as follows:

1. Title, line 8.  
Strike: "AND"
2. Title, line 9.  
Following: "MCA"  
Insert: "; AND PROVIDING FOR THE IMPLEMENTATION OF THE ACT"
3. Page 2, line 23.  
Strike: "One"  
Insert: "TWO or more"
4. Page 4.  
Following: line 9.  
Insert: "NEW SECTION. Section 5. Implementation. This act is to be implemented upon the election of a governor other than the current governor or the vacancy of the position by the current director of the department."

~~XXXXXX~~  
DO PASS

AND AS AMENDED

DO NOT PASS

SENATOR ED SMITH

Chairman.

# STANDING COMMITTEE REPORT

February 19

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MR. PRESIDENT

**FISH AND GAME**

We, your committee on .....

**SENATE BILL**

having had under consideration..... No. **331**

**First** reading copy ( **White** )  
color

**ESTABLISH PHEASANT ENHANCEMENT PROGRAM**

**SENATE BILL**

**331**

Respectfully report as follows: That..... No.....

DO PASS

~~EXCESS~~

**STATEMENT OF INTENT ADOPTED AND ATTACHED**

**SENATOR ED SMITH**

Chairman.



# STANDING COMMITTEE REPORT

February 19, 1987

19.....

MR. PRESIDENT

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

having had under consideration..... **SENATE BILL** No. **352**

First reading copy ( White )  
color

## RESERVE 10% OF ANTLERLESS ELK LICENSES FOR DISABLED PERSONS

Respectfully report as follows: That..... **SENATE BILL** No. **352**

DO PASS

~~DO NOT PASS~~

.....  
**SENATOR ED SMITH**

Chairman.