

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON FISH & GAME

Call to Order: By CHAIRMAN JIM ELLIOTT, on February 12, 1991, at 3:00 p.m.

ROLL CALL

Members Present:

Jim Elliott, Chairman (D)
John Johnson, Vice-Chairman (D)
Beverly Barnhart (D)
Fred "Fritz" Daily (D)
Orval Ellison (R)
Gary Forrester (D)
Bob Gilbert (R)
Marian Hanson (R)
Vernon Keller (R)
Bea McCarthy (D)
Bruce Measure (D)
John Phillips (R)
Ted Schye (D)
John Scott (D)
Wilbur Spring (R)
Bill Strizich (D)

Members Excused: Roger DeBruycker (R)

Staff Present: Doug Sternberg, Legislative Council
Ginger Puntenney, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

HEARING ON HOUSE BILL 594

Presentation and Opening Statement by Sponsor:

REP. R. BUDD GOULD, House District 61, Missoula, said this bill would establish the first week of March as an official week of observance in Montana of the right to keep and bear arms. His hope is this tradition would continue to be a part of our heritage.

Proponents' Testimony:

Robert VanDerVere said this is a good bill.

Opponents' Testimony:

Linda Saul is opposed to HB 594. EXHIBIT 1

Closing by Sponsor: REP. GOULD asked support of this bill.

HEARING ON HOUSE BILL 613

Presentation and Opening Statement by Sponsor:

REP. ORVAL ELLISON, House District 81, McLeod, said hunting in Montana has received bad publicity the last 2 years and an antihunting sentiment is growing throughout the United States. The value of hunting in Montana needs to be preserved and publicized by establishing the third week of September as an official week of observance of Montana's hunting heritage.

Proponents' Testimony:

Pat Graham, FWP, voiced support of HB 613. EXHIBIT 2

Opponents' Testimony: none

Questions From Committee Members:

REP. VERNON KELLER asked if landowners should be included. REP. ELLISON said landowners are dependent upon sportsmen. REP. BEV BARNHART said the bill should be amended to read "sportsmen and sportswomen".

Closing by Sponsor:

REP. ELLISON agreed to amend HB 613 and asked support of the bill.

HEARING ON HOUSE BILL 598

Presentation and Opening Statement by Sponsor:

REP. ROBERT CLARK, House District 31, Ryegate, said this bill is an act providing for the protection of certain albino wild animals by prohibiting the possession, transportation, or killing of an albino wild bird, mammal, or fish that exhibits 75% or more white coloration or albino characteristics. Albino animals do not blend in with their surroundings, so they need protection.

Proponents' Testimony:

REP. ELLISON supports this bill. Albino animals are a rarity.

Opponents' Testimony:

Pat Graham, FWP, is opposed to HB 598. EXHIBIT 3

Questions From Committee Members:

REP. GARY FORRESTER asked if it would be more harmful to increase or decrease the albino gene pool. REP. CLARK said he did not feel the albino gene would dominate because these animals are easier to see and therefore easier to shoot. This bill is protection from hunters, not nature. CHAIRMAN ELLIOTT asked about FWP's policy. Mr. Graham said the department has not implemented this legislation but has authority at local levels to stop hunting. The Fish and Game Commission can adopt regulations annually to prohibit hunting of albino animals in certain geographic areas. Restrictions are printed in FWP's hunting regulations. REP. FORRESTER said this bill could cause enforcement problems.

Closing by Sponsor:

REP. CLARK said the Fish and Game Commission has the authority to control hunting on local levels, but control needs to be done on a statewide basis. These albino animals should not be hunting trophies. Percentage was changed from 50% to 75% in order to better judge the coloration and albino characteristics.

EXECUTIVE ACTION ON HOUSE BILL 594

Motion/Vote: REP. MARIAN HANSEN MOVED HOUSE BILL 594 DO PASS.
Motion carried 14 to 2 with Reps. Barnhart and Johnson voting no.

EXECUTIVE ACTION ON HOUSE BILL 613

Motion: REP. ELLISON MOVED HB 613 DO PASS.

Motion/Vote: REP. ELLISON moved to amend HB 613. EXHIBIT 4
Motion carried unanimously.

Vote: HB 613 DO PASS AS AMENDED. Motion carried unanimously.

EXECUTIVE ACTION ON HOUSE BILL 598

Discussion:

CHAIRMAN ELLIOTT said the department already has enough authorization to protect these animals. This is an unnecessary piece of legislation. REP. JOHN SCOTT said it would be hard to regulate albino fish.

Motion/Vote: REP. FRED DAILY MOVED HB 598 BE TABLED. Motion carried 13 to 3 with Reps. Ellis, Keller, and Hanson voting no.

EXECUTIVE ACTION ON HOUSE BILL 390

Discussion:

The "Gray Bill" and amendments that the subcommittee and FWP drafted were explained by Mr. Sternberg. EXHIBITS 5 and 6

REP. BEA MCCARTHY asked if the bill referenced testing of bison for brucellosis. Mr. Sternberg said the Department of Livestock already has that authority and is mentioned in the statement of intent. This bill does not affect their present authority. REP. FORRESTER said transporting bison is not a viable option. REP. DAILY voiced his opposition of the bill as Yellowstone National Park (YNP) would still feel no obligation to manage these bison. Bison should not be removed as a big game species and should continue to be hunted due to overpopulation. To continue the hunt would increase pressure on YNP to do its job in order to stop bad publicity. REP. KELLER said a management plan is needed. REP. SCOTT asked if there was a way to force YNP to manage the bison. REP. FORRESTER said taking bison off the big game list does not solve the problem. It is a dangerous precedent to pass a bill due to news media's bad publicity. Bison migration is a natural occurrence. REP. BRUCE MEASURE said FWP and public desires are addressed in this bill. It was felt we could not influence or enforce YNP's management plan. CHAIRMAN ELLIOTT said FWP thinks this will force the hand of YNP as we can't dictate to the federal government. Agencies are working together to implement a management plan with the federal government. Do not oppose this bill only for the sake of not being able to hunt bison in Montana. REP. DAILY said the need for the bill is due to the bison hunt.

Motion: REP. ELLISON MOVED HB 390 DO PASS.

Motion/Vote: REP. MEASURE moved to amend HB 390. Motion carried 12 to 4. EXHIBIT 7

Motion/Vote: REP. MEASURE MOVED HB 390 DO PASS AS AMENDED. Motion carried 10 to 6. EXHIBIT 8

EXECUTIVE ACTION ON HOUSE BILL 359

Discussion:

Mr. Sternberg explained the "Gray Bill" and the amendments. The two sets of amendments were adopted February 7, 1991. The committee wanted to look at a final version of the bill. EXHIBITS 9 and 10

Motion: REP. SCOTT MOVED HB 359 DO PASS AS AMENDED.

Discussion:

REP. FORRESTER said the bill is already covered in present statutes. REP. SPRING said this bill is unnecessary. REP. SCOTT asked whether presently it is illegal to cross a stream with a motorized vehicle if not on an existing roadway. Isn't this bill to clarify going the shortest route to prevent people from driving up and down the stream? Mr. Sternberg said written permission of the landowner is required. REP. SCOTT said this bill is to clarify that written permission isn't needed. Mr. Sternberg said subsection (1) is the essence of the bill. It says a person may not operate a motor vehicle or an off-highway vehicle below the ordinary high-water mark of Class 1 or Class 2 waters on state or federal lands or below the ordinary high-water mark of Class 1 waters flowing through private lands, within that portion of the streambed that is covered with water. REP. MEASURE said this is a good bill due to protection of streambeds.

Motion/Vote HB 359 DO PASS AS AMENDED. Motion carried 11 to 4.
EXHIBIT 11

EXECUTIVE ACTION ON HOUSE BILL 495

Discussion:

Mr. Sternberg said we were given an unofficial "Gray Bill" by the sponsor. There is no way to tell in this version what changes were made from the original bill. The proposed amendment only pertains to the "Gray Bill", not to the bill itself. CHAIRMAN ELLIOTT said it is the sponsor's responsibility to present a final version of this bill to the committee.

Motion/Vote: REP. MCCARTHY MOVED HB 495 BE TABLED. Motion carried 12 to 3 with Reps. Measure, Strizich, and Barnhart voting no.

ADJOURNMENT

Adjournment: 4:45



Jim Elliott, Chair



Ginger Puntteney, Secretary

JE/gp

HOUSE OF REPRESENTATIVES

FISH AND GAME COMMITTEE

ROLL CALL

DATE 2-12-91

NAME	PRESENT	ABSENT	EXCUSED
REP. JOHN JOHNSON, VICE-CHAIRMAN	✓		
REP. BEVERLY BARNHART	✓		
REP. FRED "FRITZ" DAILY	✓		
REP. ROGER DEBRUYCKER			✓
REP. ORVAL ELLISON	✓		
REP. GARY FORRESTER	✓		
REP. BOB GILBERT	✓		
REP. MARIAN HANSON	✓		
REP. VERNON KELLER	✓		
REP. BEA MCCARTHY	✓		
REP. BRUCE MEASURE	✓		
REP. JOHN PHILLIPS	✓		
REP. TED SCHYE	✓		
REP. JOHN SCOTT	✓		
REP. WILBUR SPRING	✓		
REP. BILL STRIZICH	✓		
REP. JIM ELLIOTT, CHAIRMAN	✓		

CS05FISH&G.MAN

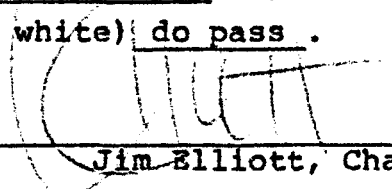
9:05
2-20-91
JDB

HOUSE STANDING COMMITTEE REPORT

February 13, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Fish and Game report that
House Bill 594 (first reading copy -- white) do pass .

Signed: 
Jim Elliott, Chairman

HOUSE STANDING COMMITTEE REPORT

February 13, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Fish and Game report that
House Bill 613 (first reading copy -- white) do pass as amended

Signed: Jim Elliott, Chairman

And, that such amendments read:

1. Page 1, line 17.

Following: "sportsmen"

Insert: ", sportswomen,"

HOUSE STANDING COMMITTEE REPORT

February 13, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Fish and Game report that House Bill 390 (first reading copy -- white) do pass as amended

Signed: Jim Elliott
Jim Elliott, Chairman

And, that such amendments read:

1. Title, line 8.

Following: "DUTIES;"

Insert: "URGING THE STATE AND THE NATIONAL PARK SERVICE TO ENTER INTO AN AGREEMENT FOR THE LONG-TERM MANAGEMENT OF THE YELLOWSTONE NATIONAL PARK HERD; REQUIRING A REPORT ON THE PROGRESS OF BISON MANAGEMENT TO THE 53RD LEGISLATURE;"

2. Page 6, line 25.

Following: line 24

Insert: "(4) The department of fish, wildlife, and parks and the department of livestock are strongly urged to enter into an agreement with the national park service for the long-term management of the Yellowstone national park herd. The department of fish, wildlife, and parks and the department of livestock shall prepare a joint report to the 53rd legislature regarding the present state of bison management in Montana and any progress on an agreement for the long-term management of the Yellowstone national park herd."

2:15
2-17-91
TDB

HOUSE STANDING COMMITTEE REPORT

February 13, 1991

Page 1 of 3

Mr. Speaker: We, the committee on Fish and Game report that House Bill 359 (first reading copy -- white) do pass as amended

Signed: _____

Jim Elliott, Chairman

And, that such amendments read:

1. Title, line 5.

Following: "OF"

Insert: "MOTOR VEHICLES OR"

Following: "VEHICLES"

Strike: "BETWEEN"

Insert: "BELOW"

2. Title, line 6.

Strike: "MARKS"

Insert: "MARK"

Following: "ON"

Strike: "PUBLIC"

Insert: "CERTAIN STATE OR FEDERAL"

Following: "PROVIDING"

Strike: "AN"

3. Title, line 7.

Strike: "EXCEPTION"

Insert: "EXCEPTIONS"

4. Page 1, line 10.

Following: "of"

Insert: "motor vehicle or"

5. Page 1, line 11.

Strike: "between"

Insert: "below"

Strike: "marks"

Insert: "mark"

Following: "on"

Strike: "public"

Insert: "certain state or federal"

February 13, 1991

Page 2 of 3

6. Page 1, line 12.

Strike: "exception"

Insert: "exceptions"

Strike: "subsection"

Insert: "subsections"

Following: "(2)"

Insert: "and (3)"

7. Page 1, line 13.

Following: "operate"

Insert: "a motor vehicle, as defined in 61-1-102, or"

8. Page 1, line 14.

Strike: "between"

Insert: "below"

Strike: "marks"

Insert: "mark"

9. Page 1, line 15.

Following: "23-2-301,"

Insert: "of class I or class II waters, as defined in 23-2-301,"

Strike: "public"

Insert: "state or federal"

Following: "lands"

Insert: "or below the ordinary high-water mark of class I waters
flowing through private lands, within that portion of the
streambed that is covered with water"

10. Page 1, line 16.

Strike: "An"

Insert: "A motor vehicle or an"

Strike: "between"

Insert: "below"

11. Page 1, line 17.

Strike: "marks"

Insert: "mark"

Strike: "public"

Insert: "state or federal"

Strike: "a"

Insert: "an established"

Following: "road"

Insert: "or trail"

Following: "that"

Insert: "enters or"

12. Page 1, line 19.

Following: "shortest"

Insert: "practical or designated"

Following: "road"

Insert: "or trail"

13. Page 1, line 20.

Following: line 19

Insert: "(3) The prohibition in subsection (1) does not apply to:

(a) off-highway or motor vehicle use that occurs on state or federal land that is designated for off-highway or motor vehicle use below the ordinary high-water mark if the use is in accordance with the requirements of the authorization;

(b) off-highway or motor vehicle use conducted on state or federal land pursuant to and in accordance with a specific written authorization from the appropriate land management agency for that use below the ordinary high-water mark; and

(c) operation of an off-highway vehicle by a nonambulatory person who is using the vehicle for recreational use, as defined in 23-2-301, as long as operation of the vehicle is prudent and minimizes destruction.

(4) The state may authorize the use of a motor vehicle or off-highway vehicle on state property below the ordinary high-water mark only when the state has determined that the use will have a minimal impact on the streambed and on the fish and wildlife ecology of the stream or river. Federal land management agencies are requested to apply the same criteria when authorizing use of federal land."

EXHIBIT 1
DATE 2-12-91
HB 594

TESTIMONY PRESENTED TO THE
HOUSE FISH AND GAME COMMITTEE
HB 594
FEBRUARY 12, 1991

My name is Lynda Saul. I come before you today as a private citizen to oppose House Bill 594.

I support and honor our Bill of Rights including:

1. Freedom of religion, speech, and the press;
rights of assembly and petition,
2. Right to bear arms,
3. Right against forced housing of soldiers,
4. Rights against unreasonable search and arrest warrants,
5. Rights in criminal cases,
6. Rights to a fair trial,
7. Rights in civil cases,
8. Rights against excessive bails, fines, and punishments,
9. Rights retained by the people, and
10. Powers retained by the states and the people.

Each of these 10 amendments to the Constitution make this a great and free nation, and gives me the right to come before you today.

However, I cannot support house bill 594 which isolates one of these rights and creates a week of observance in its honor and places it alone in Montana State Law in Chapter 1, Title 1.

Included in the Declaration of Rights of our own Montana Constitution is the right to bear arms. Article Two, Section 12 of the Montana Constitution, entitled Right to Bear Arms states:

The right of any person to keep or bear arms in defence of his own home, person, and property, or in aid of the civil power when thereto legally summoned, shall not be called in question, but nothing herein contained shall be held to permit the carrying of concealed weapons.

What would Montana be saying about how it views other constitutional rights if we make redundant special provisions to recognize the right to bear arms and not any other of our constitutional rights?

I urge you to either amend this bill to recognize and honor all of our constitutional rights with a special week of observance for all of our freedoms, or I urge you to vote no on House Bill 594.

HB 613
February 12, 1991

Testimony presented by Pat Graham, Dept. of Fish, Wildlife & Parks
To the House Fish and Game Committee

Montana -- the very mention of the word fills the mind with visions of the fish and wildlife that characterize this land. We occupy this place in a time blessed with an abundance and diversity of game. This wildlife resource in our custody is the product of sportsmen and women who have long appreciated the need to conserve the state's treasured resources.

The abundance and diversity of wildlife in Montana today is a result of conservation-minded men and women -- most of them hunters -- who addressed the paucity of wildlife with a simple maxim: Let those who stand to benefit be the ones to shoulder the responsibility of restoring the state's wildlife.

We should let no one forget that it was the monetary and political resources of hunters that returned many species of wildlife to healthy populations. Our present abundance of elk, deer, antelope, moose, bighorn sheep, mountain goat, Merriam's turkey and more is a direct result of the leadership hunters have provided for wildlife conservation in Montana.

People annually spend more than 2 million days hunting in this state. Nearly 300,000 people visit here each year to view wildlife species hunters have helped recover. The annual revenue that wildlife-related recreation brings to Montana exceeds \$260 million.

In the end, you can't put a dollar figure on living in a state where you can still be wakened well before dawn by your son, daughter, or grandchild on the morning of their first hunt. I think you'll agree it's priceless.

It is time we celebrate hunting in Montana and honor Montana's sportsmen and women, young and old, past and present, for all they have contributed to the restoration of wildlife and this state's hunting heritage.

It is a worthy achievement and we are proud to support HB 613.

HB 598
February 12, 1991

Testimony presented by Pat Graham, Dept. of Fish, Wildlife & Parks

Extending legal protection to certain animals falls within the authority of both the Fish, Wildlife & Parks Commission and the state legislature.

Factors which should be considered by either the legislature or the commission prior to taking action to protect color phases of wildlife include:

1. Albinism is a genetic defect resulting in absence of skin pigment. Albino animals are usually short lived in the wild because they are more vulnerable to predation.
2. Other genetic defects have been linked with these animals, including hearing impairment and skeletal and heart abnormalities. It is not desirable to perpetuate these abnormalities in the population.
3. There are other genetic variations which affect coloration. The occurrence of white mottling of an animal is called "piebalding." This color variation is not uniform.
4. Enforcement and field identification of animals that are "piebald" would be difficult because of the variable color patterns.

The Department of Fish, Wildlife & Parks believes that legislative action to protect wild animals exhibiting unusual color phases is unnecessary. The Fish, Wildlife & Parks Commission has this authority, and has exercised it on several occasions in response to local public sentiment.

EXHIBIT 4
DATE 2-12-91
HB 613

Amendments to House Bill No. 613
First Reading Copy

Requested by Rep. Ellison
For the Committee on F&G

Prepared by Doug Sternberg
February 12, 1991

1. Page 1, line 17.
Following: "sportsmen"
Insert: ", sportswomen,"

THIS IS A "GRAY BILL". IT HAS BEEN PREPARED AT THE REQUEST OF THE BUFFALO BILL SUBCOMMITTEE FOR CONSIDERATION BY THE HOUSE FISH & GAME COMMITTEE AND IS NOT A FIRST, SECOND, OR THIRD READING COPY OR AN LC DRAFT. THE BILL INTEGRATES THE PROVISIONS OF HOUSE BILL NO. 219 REQUESTING A STATE/FEDERAL AGREEMENT ON A LONG-TERM MANAGEMENT PLAN INTO THE MANAGEMENT SCHEME PROPOSED BY HOUSE BILL NO. 390. ADDED MATERIAL IS INDICATED BY UNDERLINED CAPITAL LETTERS.

HOUSE BILL NO. 390 INTRODUCED BY REAM, ET AL
A BILL FOR AN ACT ENTITLED: "AN ACT ELIMINATING THE SALE OF SPECIAL WILD BUFFALO LICENSES; REMOVING THE WILD BUFFALO FROM DESIGNATION AS A GAME ANIMAL; ESTABLISHING THE WILD BUFFALO OR BISON AS A NONGAME SPECIES IN NEED OF MANAGEMENT; ESTABLISHING DEPARTMENTAL MANAGEMENT DUTIES; URGING THE STATE AND THE NATIONAL PARK SERVICE TO ENTER INTO AN AGREEMENT FOR THE LONG-TERM MANAGEMENT OF THE YELLOWSTONE NATIONAL PARK HERD; REQUIRING A REPORT ON THE PROGRESS OF BISON MANAGEMENT TO THE 53RD LEGISLATURE; AMENDING SECTIONS 87-2-101 AND 87-2-701, MCA; REPEALING SECTION 87-2-723, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

STATEMENT OF INTENT

A statement of intent is required for this bill because [section 3] requires the department of fish, wildlife, and parks to develop rules to implement a program for management of wild buffalo or bison that have not been reduced to captivity and that threaten property or persons in this state. It is intended that the rules be consistent, as far as practicable, with the general nongame wildlife management policy set out in 87-5-103, except that the department may provide for means of controlling or eliminating wild buffalo or bison that pose a potential threat to property or persons in Montana and may adopt other rules specific to wild buffalo or bison as may be necessary for the proper and safe management of the species. It is intended that the authority of the department be exercised in coordination with and complementary to the authority of the department of livestock to regulate, control, and eliminate wild buffalo or bison that pose a threat of the transmission of contagious disease to Montana livestock.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 87-2-701, MCA, is amended to read:

"87-2-701. (Temporary) Special licenses. (1) Any applicant who will be 12 years of age or older prior to September 15 of the season for which the license is issued and is the holder of a resident wildlife conservation license or a nonresident wildlife

conservation license may apply for a special license which, in the judgment of the department, is to be issued and shall pay the following fees therefor:

- (a) moose--resident, \$50; nonresident, \$320;
- (b) mountain goat--resident, \$50; nonresident, \$320;
- (c) mountain sheep--resident, \$50; nonresident, \$320;
- (d) antelope--resident, \$6; nonresident, \$120;
- (e) grizzly bear--resident, \$50; nonresident, \$300;
- (f) black or brown bear--nonresident, \$120+;
- ~~(g) wild buffalo--resident, \$200; nonresident, \$1,000.~~

(2) In the event a holder of a valid special grizzly bear license kills a grizzly bear, he ~~must~~ shall purchase a trophy license for a fee of \$25 within 10 days after date of kill. ~~Such~~ The trophy license shall authorize authorizes the holder to possess and transport ~~said~~ the trophy.

(3) Special licenses ~~shall~~ must be issued in a manner prescribed by the department. (Terminates March 1, 1994--sec. 12, Ch. 598, L. 1987.)

87-2-701. (Effective March 1, 1994) Special licenses. (1) Any applicant who will be 12 years of age or older prior to September 15 of the season for which the license is issued and is the holder of a resident wildlife conservation license or a nonresident wildlife conservation license may apply for a special license which, in the judgment of the department, is to be issued and shall pay the following fees therefor:

- (a) moose--resident, \$50; nonresident, \$300;
- (b) mountain goat--resident, \$50; nonresident, \$300;
- (c) mountain sheep--resident, \$50; nonresident, \$300;
- (d) antelope--resident, \$6; nonresident, \$100;
- (e) grizzly bear--resident, \$50; nonresident, \$300;
- (f) black or brown bear--nonresident, \$100+;
- ~~(g) wild buffalo--resident, \$200; nonresident, \$1,000.~~

(2) In the event a holder of a valid special grizzly bear license kills a grizzly bear, he ~~must~~ shall purchase a trophy license for a fee of \$25 within 10 days after date of kill. ~~Such~~ The trophy license shall authorize authorizes the holder to possess and transport ~~said~~ the trophy.

(3) Special licenses ~~shall~~ must be issued in a manner prescribed by the department."

Section 2. Section 87-2-101, MCA, is amended to read:

"87-2-101. Definitions. As used in this chapter and chapter 3, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Angling" or "fishing" means the taking of or attempting to take fish by hook and single line or single rod, in hand or within immediate control.

(2) "Closed season" means the time during which game birds, fish, and game and fur-bearing animals may not be lawfully taken.

(3) "Commission" means the state fish and game commission.

(4) "Fur-bearing animals" means marten or sable, otter, muskrat, fisher, mink, bobcat, lynx, wolverine, northern swift fox, and beaver.

(5) "Game animals" means deer, elk, moose, antelope,

caribou, mountain sheep, mountain goat, mountain lion, and bear, ~~and wild buffalo.~~

(6) "Game fish" means all species of the family salmonidae (chars, trout, salmon, grayling, and whitefish); all species of the genus stizostedion (sandpike or sauger and walleyed pike or yellowpike perch); all species of the genus esox (northern pike, pickerel, and muskellunge); all species of the genus micropterus (bass); all species of the genus polyodon (paddlefish); all species of the family acipenseridae (sturgeon); all species of the genus lota (burbot or ling); and the species ictalurus punctatus (channel catfish).

(7) "Migratory game birds" means waterfowl, including wild ducks, wild geese, brant, and swans; cranes, including little brown and sandhill; rails, including coots; wilson's snipes or jacksnipes; and mourning doves; however, the open season on mourning doves shall be restricted to the open season on upland game birds as defined in subsection (12) below.

(8) "Nongame wildlife" means any wild mammal, bird, amphibian, reptile, fish, mollusk, crustacean, or other animal not otherwise legally classified by statute or regulation of this state.

(9) "Open season" means the time during which game birds, fish, game and fur-bearing animals may be lawfully taken.

(10) "Person" means individuals, associations, partnerships, and corporations.

(11) "Predatory animals" means coyote, weasel, skunk, and civet cat.

(12) "Upland game birds" means sharptailed grouse, blue grouse, spruce (Franklin) grouse, prairie chicken, sage hen or sage grouse, ruffed grouse, quail, pheasant, Hungarian partridge, ptarmigan, wild turkey, and chukar partridge.

~~(13) "Wild buffalo" means buffalo or bison which have not been reduced to captivity."~~

NEW SECTION. Section 3. Wild buffalo as nongame species in need of management -- policy -- department duties. (1) The legislature finds that the management of wild buffalo or bison as a game animal is not appropriate but that significant potential exists for the spread of contagious disease to Montana livestock and damage to persons and property by wild buffalo or bison. Therefore, it is the purpose of this section to designate wild buffalo or bison, which have not been reduced to captivity, as a nongame species in need of management and to set out specific departmental duties for management of the species.

(2) The department is responsible for and shall develop rules to implement the management of wild buffalo or bison in this state that threaten persons or property other than through the transmission of contagious disease.

(3) The department of livestock shall, within its statutory authority, regulate wild buffalo or bison in this state that pose a threat to Montana livestock through the transmission of contagious disease.

(4) THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS AND THE DEPARTMENT OF LIVESTOCK ARE STRONGLY URGED TO ENTER INTO AN

EXHIBIT 5 pg 4 of 4
DATE 2-12-91
HB 390

AGREEMENT WITH THE NATIONAL PARK SERVICE FOR THE LONG-TERM
MANAGEMENT OF THE YELLOWSTONE NATIONAL PARK BISON HERD. THE
DEPARTMENT OF FISH, WILDLIFE, AND PARKS AND THE DEPARTMENT OF
LIVESTOCK SHALL PREPARE A JOINT REPORT TO THE 53RD LEGISLATURE
REGARDING THE PRESENT STATE OF BISON MANAGEMENT IN MONTANA AND
ANY PROGRESS ON AN AGREEMENT FOR THE LONG-TERM MANAGEMENT OF THE
YELLOWSTONE NATIONAL PARK HERD.

NEW SECTION. Section 4. Codification instruction. [Section 3] is intended to be codified as an integral part of Title 87, chapter 5, and the provisions of Title 87, chapter 5, apply to [section 3].

NEW SECTION. Section 5. Repealer. Section 87-2-723, MCA, is repealed.

NEW SECTION. Section 6. Effective date. [This act] is effective on passage and approval.

-End-

Amendments to House Bill No. 390
Introduced (White) Reading Copy

Requested by the Buffalo Bill Subcommittee
For the Committee on Fish and Game

Prepared by Doug Sternberg
February 7, 1991

1. Title, line 8.

Following: "DUTIES;"

Insert: "URGING THE STATE AND THE NATIONAL PARK SERVICE TO ENTER
INTO AN AGREEMENT FOR THE LONG-TERM MANAGEMENT OF THE
YELLOWSTONE NATIONAL PARK HERD; REQUIRING A REPORT ON THE
PROGRESS OF BISON MANAGEMENT TO THE 53RD LEGISLATURE;"

2. Page 6, line 25.

Following: line 24

Insert: "(4) The department of fish, wildlife, and parks and the
department of livestock are strongly urged to enter into an
agreement with the national park service for the long-term
management of the Yellowstone national park herd. The
department of fish, wildlife, and parks and the department
of livestock shall prepare a joint report to the 53rd
legislature regarding the present state of bison management
in Montana and any progress on an agreement for the long-
term management of the Yellowstone national park herd."

DATE 2-12-91
HB 390

HOUSE OF REPRESENTATIVES

FISH AND GAME COMMITTEE

ROLL CALL VOTE

DATE 2-12-91 BILL NO. HB 390 NUMBER

MOTION: Amendments adopted to HB 390 - motion Carried

NAME	AYE	NO
REP. JOHN JOHNSON, CHAIRMAN	✓	
REP. BEVERLY BARNHART	✓	
REP. FRED "FRITZ" DAILY		✓
REP. ROGER DEBRUYCKER		
REP. ORVAL ELLISON	✓	
REP. GARY FORRESTER		✓
REP. BOB GILBERT	✓	
REP. MARIAN HANSON	✓	
REP. VERNON KELLER	✓	
REP. BEA MCCARTHY		✓
REP. BRUCE MEASURE	✓	
REP. JOHN PHILLIPS		✓
REP. TED SCHYE	✓	
REP. JOHN SCOTT	✓	
REP. WILBUR SPRING	✓	
REP. BILL STRIZICH	✓	
REP. JIM ELLIOTT, CHAIRMAN	✓	
TOTAL	12	4

EXHIBIT 8
DATE 2-12-91
HB 390

HOUSE OF REPRESENTATIVES

FISH AND GAME COMMITTEE

ROLL CALL VOTE

DATE 2-12-91 BILL NO. 390 NUMBER

MOTION:

HB 390 No Pass as Amended

NAME	AYE	NO
REP. JOHN JOHNSON, CHAIRMAN	✓	
REP. BEVERLY BARNHART	✓	
REP. FRED "FRITZ" DAILY		✓
REP. ROGER DEBRUYCKER		
REP. ORVAL ELLISON	✓	
REP. GARY FORRESTER		✓
REP. BOB GILBERT	✓	
REP. MARIAN HANSON		✓
REP. VERNON KELLER	✓	
REP. BEA MCCARTHY		✓
REP. BRUCE MEASURE	✓	
REP. JOHN PHILLIPS		✓
REP. TED SCHYE	✓	
REP. JOHN SCOTT	✓	
REP. WILBUR SPRING	✓	
REP. BILL STRIZICH		✓
REP. JIM ELLIOTT, CHAIRMAN	✓	
TOTAL	10	6

THIS IS A "GRAY BILL". IT HAS BEEN PREPARED FOR CONSIDERATION BY THE HOUSE FISH & GAME COMMITTEE AND IS NOT A FIRST, SECOND, OR THIRD READING COPY OR AN LC DRAFT. THE BILL INTEGRATES THE AMENDMENTS THAT WERE ADOPTED 2/7/91. ADDED MATERIAL IS INDICATED BY UNDERLINED CAPITAL LETTERS.

HOUSE BILL NO. 359 INTRODUCED BY HARPER, ET AL

A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING THE OPERATION OF MOTOR VEHICLES OR OFF-HIGHWAY VEHICLES BELOW THE ORDINARY HIGH-WATER MARK ON CERTAIN STATE OR FEDERAL LANDS; AND PROVIDING EXCEPTIONS."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Operation of MOTOR VEHICLE OR off-highway vehicle BELOW high-water MARK on CERTAIN STATE OR FEDERAL lands prohibited -- EXCEPTIONS. (1) Except as provided in SUBSECTIONS (2) AND (3), a person may not operate A MOTOR VEHICLE, AS DEFINED IN 61-1-102, OR an off-highway vehicle, as defined in 23-2-801, BELOW the ordinary high-water MARK, as defined in 23-2-301, OF CLASS I OR CLASS II WATERS, AS DEFINED IN 23-2-301, on STATE OR FEDERAL lands OR BELOW THE ORDINARY HIGH-WATER MARK OF CLASS I WATERS FLOWING THROUGH PRIVATE LANDS, WITHIN THAT PORTION OF THE STREAMBED THAT IS COVERED WITH WATER.

(2) A MOTOR VEHICLE OR AN off-highway vehicle may be operated BELOW the ordinary high-water MARK on STATE OR FEDERAL lands on AN ESTABLISHED road OR TRAIL that ENTERS OR crosses a stream, but the stream crossing must be by the shortest PRACTICAL OR DESIGNATED route to the road OR TRAIL on the opposite bank.

(3) THE PROHIBITION IN SUBSECTION (1) DOES NOT APPLY TO:

(A) OFF-HIGHWAY OR MOTOR VEHICLE USE THAT OCCURS ON STATE OR FEDERAL LAND THAT IS DESIGNATED FOR OFF-HIGHWAY OR MOTOR VEHICLE USE BELOW THE ORDINARY HIGH-WATER MARK IF THE USE IS IN ACCORDANCE WITH THE REQUIREMENTS OF THE AUTHORIZATION;

(B) OFF-HIGHWAY OR MOTOR VEHICLE USE CONDUCTED ON STATE OR FEDERAL LAND PURSUANT TO AND IN ACCORDANCE WITH A SPECIFIC WRITTEN AUTHORIZATION FROM THE APPROPRIATE LAND MANAGEMENT AGENCY FOR THAT USE BELOW THE ORDINARY HIGH-WATER MARK; AND

(C) OPERATION OF AN OFF-HIGHWAY VEHICLE BY A NONAMBULATORY PERSON WHO IS USING THE VEHICLE FOR RECREATIONAL USE, AS DEFINED IN 23-2-301, AS LONG AS OPERATION OF THE VEHICLE IS PRUDENT AND MINIMIZES DESTRUCTION.

(4) THE STATE MAY AUTHORIZE THE USE OF A MOTOR VEHICLE OR OFF-HIGHWAY VEHICLE ON STATE PROPERTY BELOW THE ORDINARY HIGH-WATER MARK ONLY WHEN THE STATE HAS DETERMINED THAT THE USE WILL HAVE A MINIMAL IMPACT ON THE STREAMBED AND ON THE FISH AND WILDLIFE ECOLOGY OF THE STREAM OR RIVER. FEDERAL LAND MANAGEMENT AGENCIES ARE REQUESTED TO APPLY THE SAME CRITERIA WHEN AUTHORIZING USE OF FEDERAL LAND.

NEW SECTION. Section 2. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 61,

Ex. 9 pg 2 of 2

2-12-91

HB 359

chapter 8, part 3, and the provisions of Title 61, chapter 8,
part 3, apply to [section 1].

-End-

EXHIBIT 10
DATE 2-12-91
HB 359

Amendments to House Bill No. 359
Introduced (White) Reading Copy

Requested by Reps. Harper & McCarthy
For the Committee on F&G

Prepared by Doug Sternberg
February 6, 1991

Title, line 5.
Following: "OF"
Insert: "MOTOR VEHICLES OR"
Following: "VEHICLES"
Delete: "BETWEEN"
Insert: "BELOW"

Title, line 6.
Delete: "MARKS"
Insert: "MARK"
Following: "ON"
Delete: "PUBLIC"
Insert: "CERTAIN STATE OR FEDERAL"
Following: "PROVIDING"
Delete: "AN"

Title, line 7.
Delete: "EXCEPTION"
Insert: "EXCEPTIONS"

Page 1, line 10.
Following: "of"
Insert: "motor vehicle or"

Page 1, line 11.
Delete: "between"
Insert: "below"
Delete: "marks"
Insert: "mark"
Following: "on".
Delete: "public"
Insert: "certain state or federal"

Page 1, line 12.
Delete: "exception"
Insert: "exceptions"
Delete: "subsection"
Insert: "subsections"
Following: "(2)"
Insert: "and (3)"

Page 1, line 13.
Following: "operate"
Insert: "a motor vehicle, as defined in 61-1-102, or"

Page 1, line 14.

EXHIBIT 11
DATE 2-12-91
HB 359

HOUSE OF REPRESENTATIVES

FISH AND GAME COMMITTEE

ROLL CALL VOTE

DATE 2-12-91 BILL NO. 359 NUMBER _____

MOTION: _____

HB 359 do Pass as Amended

NAME	AYE	NO
REP. JOHN JOHNSON, CHAIRMAN	✓	
REP. BEVERLY BARNHART	✓	
REP. FRED "FRITZ" DAILY	✓	
REP. ROGER DEBRUYCKER		
REP. ORVAL ELLISON	✓	
REP. GARY FORRESTER		✓
REP. BOB GILBERT		✓
REP. MARIAN HANSON		✓
REP. VERNON KELLER	✓	
REP. BEA MCCARTHY	✓	
REP. BRUCE MEASURE	✓	
REP. JOHN PHILLIPS		
REP. TED SCHYE	✓	
REP. JOHN SCOTT	✓	
REP. WILBUR SPRING		✓
REP. BILL STRIZICH	✓	
REP. JIM ELLIOTT, CHAIRMAN	✓	
TOTAL	11	4

HOUSE OF REPRESENTATIVES
VISITOR REGISTER

Fish and Game COMMITTEE BILL NO. 613
DATE 2-12-91 SPONSOR(S) Ellison

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
<i>Pat Boh</i>	<i>DFWP</i>		

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS
ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

**HOUSE OF REPRESENTATIVES
VISITOR REGISTER**

Fish and Game COMMITTEE BILL NO. HB 594
DATE 2-12-91 SPONSOR(S) Gould

PLEASE PRINT

[illegible]

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.