

**MINUTES**

**MONTANA HOUSE OF REPRESENTATIVES  
53rd LEGISLATURE - REGULAR SESSION**

**COMMITTEE ON FISH & GAME**

**Call to Order:** By CHAIR MIKE FOSTER, on January 12, 1993, at  
3:00 p.m.

**ROLL CALL**

**Members Present:**

Rep. Mike Foster, Chair (R)  
Rep. Chase Hibbard, Vice Chair (R)  
Rep. Bob Ream, Minority Vice Chair (D)  
Rep. Beverly Barnhart (D)  
Rep. Bob Clark (R)  
Rep. Fritz Daily (D)  
Rep. Jim Elliott (D)  
Rep. Duane Grimes (R)  
Rep. Marian Hanson (R)  
Rep. Dick Knox (R)  
Rep. Bea McCarthy (D)  
Rep. Brad Molnar (R)  
Rep. Scott Orr (R)  
Rep. Bill Ryan (D)  
Rep. Emily Swanson (D)  
Rep. Doug Wagner (R)

**Members Excused:** None.

**Members Absent:** None.

**Staff Present:** Doug Sternberg, Legislative Council  
Mary Riitano, Committee Secretary

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

**Committee Business Summary:**

Hearing: HB 110  
Executive Action: None.

**Announcements:**

A fiscal note from HB 69, which has been tabled, was distributed.

**CHAIRMAN MIKE FOSTER** distributed Rules of Procedure for the House  
Fish and Game Committee. **CHAIRMAN FOSTER** emphasized that  
everyone will be treated courteously and respectfully.

HEARING ON HB 110Opening Statement by Sponsor:

REP. CHASE HIBBARD, House District 46, Helena, stated HB 110 was an "act requiring the Department of Fish, Wildlife, and Parks, rather than the court to hold the proceeds from the sale of seized wild animals, game birds, or fish when a prosecution is pending." REP. HIBBARD stated the need for this amendment was discovered during the 1990 audit of the Fish, Wildlife, and Parks. Proceeds received from confiscated game, according to current law, are held by the court. However, the court did not wish to hold the proceeds and gave them to the Fish, Wildlife, and Parks Department. Basically, HB 110 will legalize a practice which has been going on for some time.

Proponents' Testimony:

Mr. Pat Graham, Director of Fish, Wildlife, and Parks provided a written testimony EXHIBIT 1. Refer to EXHIBIT 1 for Mr. Graham's full presentation.

Mr. Craig Hoppe, Montana Magistrates Association stated on behalf of the association and the courts that they endorse HB 110. It will relieve the courts of extra bookkeeping and streamline the procedure with which the courts are involved in prosecuting Fish, Wildlife, and Parks cases. In other jurisdictions, this practice has worked well.

Mr. James Manning, Office of Legislative Auditor stated this recommendation was involved in the 1990 audit report. Passage of this bill would implement the recommendation made.

Opponents' Testimony: None.

Informational Testimony: None.

Questions From Committee Members and Responses:

REP. ROBERT CLARK gave the following scenario to Mr. Graham. Assume that a person poaches a mountain sheep, is apprehended, and the animal is confiscated and sold at an auction. If the violator is found not guilty, do the proceeds received from sale of animal go to the alleged violator? Mr. Graham replied that if the violator is found not guilty then the person is not a violator and the money must be returned. In the case of the Bighorn sheep, it may be held until the yearly trophy auction. If the person is found not guilty after the trophy auction, proceeds or the head, cape, etc. must be returned to the alleged violator.

REP. CLARK stated to Mr. Graham that if the game was killed out of season he felt it wasn't right that someone be rewarded for breaking the law. Mr. Graham responded by saying it wasn't the department's decision.

REP. BOB REAM responded to REP. CLARK's statement, saying that money returned to the alleged violator does not include his fines and restitution money.

REP. REAM asked Mr. Graham what is the fish & game fund and what are the other sources of revenue in that fund. Mr. Graham referred the question to Mr. Dave Mott, Administration & Finance Division, Department of Fish, Wildlife, and Parks. Mr. Mott stated that the proceeds go into the general license account for operations of the department. REP. REAM stated that no special revenue account was needed to comply with HB 110. Mr. Mott agreed. REP. REAM asked Mr. Manning if this was standard practice. Mr. Manning replied the pertinent thing in this bill is who holds the money pending the outcome of the legal case. As noted in the audit report that the department holds the money from the sale. Technically, the district court should retain the money until resolution of the case. Upon resolution if the money goes to the department, it goes into the general license account.

REP. BRAD MOLNAR asked Mr. Graham if he would have any objection to an amendment that if a defendant pleads not guilty and it was a trophy animal that had been confiscated, the defendant may demand the animal be kept until the disposition of the case is determined, with the loser to pay cost of storage. Mr. Graham responded saying he would like to consider it further. The department is not always in the situation where storage is possible. His concern is that the defendant may not want the animal at the end of prosecution and the Department would get the bill for refrigeration. Trophy pieces (cape, horns, etc.) are held until the annual Trophy auction, which is during the hunting season. This may provide the defendant an opportunity to retrieve his trophy pieces. REP. MOLNAR stated he would like to work this into an amendment.

REP. DUANE GRIMES stated to Mr. Mott that line 17 & 18 of HB 110 adds accounting duties to the department. REP. GRIMES asked Mr. Mott if any additional fiscal changes or FTE's would be incurred by HB 110. Mr. Mott said no changes would occur.

Closing by Sponsor:

REP. HIBBARD closed.

Announcement:

CHAIRMAN FOSTER announced a Quick Course in Water Rights is offered Friday, January 15, at 3:00 p.m. in Room 437. The class is also offered today at 4:00 p.m. in Room 312-3.

CHAIRMAN FOSTER stated no executive action will be taken on HB 110 today.

ADJOURNMENT

Adjournment: 3:30 p.m.

  
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REP. MIKE FOSTER, Chair

  
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MARY RIITANO, Secretary

ML/MR

# HOUSE OF REPRESENTATIVES

FISH & GAME

COMMITTEE

ROLL CALL

DATE

*January 12, 1973*

NAME	PRESENT	ABSENT	EXCUSED
VICE-CHAIRMAN CHASE HIBBARD	X		
VICE-CHAIRMAN BOB REAM	X		
REP. BARNHART	X		
REP. CLARK	X		
REP. DAILY	X		
REP. ELLIOT	X		
REP. GRIMES	X		
REP. HANSON	X		
REP. KNOX	X		
REP. MCCARTHY	X		
REP. MOLNAR	X		
REP. ORR	X		
REP. RYAN	X		
REP. SWANSON	X		
REP. WAGNER	X		
CHAIRMAN MIKE FOSTER	X		

EXHIBIT 1  
DATE 1/12/93  
HB 110

HB 110  
January 12, 1993

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

The purpose of this bill is to allow the department to hold money received from the sale of confiscated game until the outcome of a prosecution is determined. Passage of the bill will allow the department to conform to a recommendation in the 1990 financial-compliance audit conducted by the Office of the Legislative Auditor.

The existing statute was enacted in 1917. It requires courts to hold the money. Years ago, when game wardens issued citations they had to immediately take the alleged game law offender and the game to the judge. The game sale needed to take place quickly due to limited refrigeration. This was probably done near the courthouse and possibly under the direction of the judge.

Since then, practices have changed but this law was not updated accordingly. For many years now, wardens have not had to bring the alleged offender or the game directly to the judge. The game is placed in refrigerated facilities until the department holds an auction and sells it to the highest bidder. A prosecution that goes to trial will not normally conclude until well after the game is auctioned.

Court appearances no longer occur immediately, either. If an alleged violator posts bond or is found guilty, the sale proceeds go to the department. However, if the verdict is not guilty or the prosecution is dropped, the person from whom the game was seized receives the money.

The present practice, with the concurrence of the courts, is for the department to hold and account for the money received from sales of confiscated game. Technically, however, the law requires that the money be held by the courts. The courts do not want the extra accounting burden and, through the Montana Magistrates Association, they support the proposed legislation.

Since the department conducts the sale of confiscated game and collects the money, it would be more efficient if we continue the current practice of holding the money until the outcome of the violation is determined by the court.

In closing, this amended legislation will recognize current practice and bring us into compliance with state law and the 1990 Legislative Audit Report.

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0122, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act allowing nonmonetary lease transactions by the Department of Fish, Wildlife & Parks in exchange for services rendered on the leased land.

ASSUMPTIONS:

1. All lease-outs require commission authorization.
2. The only non-cash payment lease arrangements that will be acceptable are where some property use (grazing, farming, etc.) would be exchanged for services (labor). No leases will be approved which involve goods.
3. Services rendered from such arrangements may only be provided on the site where the value was derived.
4. Service payment lease transactions will only be approved if the activity directly relates to maintaining the site in its existing condition.

FISCAL IMPACT:

No fiscal impact.

Dave Lewis 1-13-93  
DAVID LEWIS, BUDGET DIRECTOR DATE  
Office of Budget and Program Planning

Shiell W. Anderson 1-13-93  
SHIELL W. ANDERSON, PRIMARY SPONSOR DATE

Fiscal Note for HB0122, as introduced  
**HB 122**



HOUSE OF REPRESENTATIVES  
VISITOR'S REGISTER

FISH & GAME COMMITTEE BILL NO. 110  
DATE 1/12/93 SPONSOR(S) Chase Hibbard

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PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
CRAIG L. HOPPE 701 PYRITE, SELENA	MT MAGISTRATES ASSOC.	X	
Jim Manning	Office of Legislative Auditor	✓	

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