#### MINUTES

# MONTANA SENATE 53rd LEGISLATURE - REGULAR SESSION

#### COMMITTEE ON FISH & GAME

Call to Order: By Senator Bob Pipinich, Chair, on February 16, 1993, at 1:00 p.m.

#### ROLL CALL

#### Members Present:

Sen. Bob Pipinich, Chair (D)

Sen. Gary Forrester, Vice Chair (D)

Sen. Tom Beck (R)

Sen. Don Bianchi (D)

Sen. Chris Christiaens (D)

Sen. Bruce Crippen (R)

Sen. Gerry Devlin (R)

Sen. Judy Jacobson (D)

Sen. Terry Klampe (D)

Sen. Kenneth Mesaros (R)

Sen. Dennis Nathe (R)

Members Excused: None.

Members Absent: None.

Staff Present: Andrea Merrill, Legislative Council

Kathy Collins, Committee Secretary

**Please Note:** These are summary minutes. Testimony and

discussion are paraphrased and condensed.

#### Committee Business Summary:

Hearing: SB 341, SB 355, SB 317

Executive Action: SB 216, SB 220

## **HEARING ON SB 341**

# Opening Statement by Sponsor:

Senator Bill Yellowtail, Senate District 50, stated SB 341 reflects the fact that in Montana there is increasing pressure on our waterways for recreational uses; a large portion of that usage is commercial use by outfitters. Senator Yellowtail stated SB 341 is a vehicle to address the difficulty and would propose to give the Fish, Wildlife & Parks Commission (FWPC) the authority to respond to situations of pressure in particular areas of the state and, where necessary, limit commercial use on Montana's waterways. Senator Yellowtail stated Section 3 of SB

341 proposes to place a moratorium on the further issuance of fishing-only outfitter licenses.

## Proponents' Testimony:

Representative David E: Wanzenried, House District 7, stated he is particularly interested in page 3, lines 17-21, which would give the FWPC the rule-making authority to deal with user conflicts. Representative Wanzenried stated he had a bill draft request that was much narrower in its application than SB 341, and since SB 341 addresses his concerns, decided to put his request on hold to support SB 341. Representative Wanzenried stated that in Flathead County, there are a number of individuals interested in utilizing the waterways there for a number of recreational uses. Representative Wanzenried stated SB 341 would put into place a mechanism by which conflicting uses can be brought together and negotiated on to solve some of these problems, and for this reason he supports SB 341.

Robin Cunningham, representing the Fishing Outfitters Association of Montana (FOAM), spoke from prepared testimony in favor of SB 341 (Exhibit #1).

Clay Landry, representing Montana Trout Unlimited (MTU), stated MTU supports SB 341 with amendments. Mr. Landry stated FOAM should be commended for their efforts to resolve water recreational user conflicts; however, MTU believes that both the outfitted and non-outfitted recreationists should be involved in developing the resolution process. Mr. Landry stated both sides should come up with a solution that is agreeable. Mr. Landry stated MTU supports the moratorium on outfitters, believing this to be a good-faith attempt by the fishing outfitters to protect and enhance the quality of the fishing resource and the quality of the recreational experience. Mr. Landry stated MTU supports a joint study of the conflicts between water users; this study would provide tangible implementations to deal with these conflicts. Mr. Landry stated in place of the rest of the bill, and keeping the moratorium, MTU would propose the study. Mr. Landry stated the point of SB 341 is well taken, but this sort of proposal needs the support of everyone involved. Mr. Landry supplied the Committee with written testimony (Exhibit #2).

Max Chase, Chairman of the Board of Outfitters, stated the Board strongly supports SB 341.

Jim Richards, representing the Montana Wildlife Federation, stated he supports MTU amendments. Mr. Richards stated there is a growing degree of conflict, and this is a good time to try and resolve some of the conflicts in a thoughtful environment.

Pat Graham, Director, Department of Fish, Wildlife & Parks (DFWP), spoke from prepared testimony in favor of SB 341 (Exhibit #3).

Bob Van Der Vere, representing himself, stated he supports SB 341.

# Opponents' Testimony:

Tony Schoonen, representing the Medicine River Canoe Club in Great Falls, Skyline Sportsman's Club in Butte and the Anaconda Sportsman's Club, stated the only thing he agrees with in SB 341 is Section 3. Mr. Schoonen stated there was no public input from the small, independent outfitters in the drafting of SB 341. Mr. Schoonen stated he does support the MTU amendments, and the interim study would be beneficial in solving the problems faced by waterway users.

Al Wind, representing himself, stated the outfitter has an important place in Montana, but all the users of the water resources in Montana must work together to efficiently utilize those resources. Mr. Wind stated he is opposed to any specialuse permit system, and that is why he is opposed to some of the language in SB 341.

Phil Smith, Melrose, stated he does not oppose SB 341 in its entirety and is in support of MTU's amendments. Mr. Smith stated the outfitters are a benefit to Montana's waterways and should not be punished by limiting the outfitting permits.

Allen Schallenberger, representing himself, stated he opposes the language on page 2, line 13, which refers to the commercial use permits being similar to U.S. Forest Service commercial use permits. Mr. Schallenberger stated he would like to see the small outfitter continue their businesses, and the small outfitter should not be limited to one river.

Bill Sanders, representing himself, stated he would support SB 341 if it was amended so that if any regulation should come due to pressures from any direction, the people who live in the area of concern are allowed to voice their opinions. Mr. Sanders stated that problems experienced by one part of the state may not necessarily be experienced in another area.

# Informational Testimony:

None.

## Questions From Committee Members and Responses:

Senator Christiaens asked Mr. Sanders which amendments he was referring to in his testimony. Mr. Sanders stated he was referring to MTU's amendments.

Senator Christiaens asked Senator Yellowtail if he would like to address access in SB 341. Senator Yellowtail stated it was not his intention to tamper with the language in the stream access law and he did not mean to suggest that the public's access

should be limited. Senator Christiaens asked Senator Yellowtail if he saw anywhere in SB 341 where the public's access would be limited. Senator Yellowtail stated he did not, but if the DFWC were to make rules which would limit public access, it could be interpreted as limiting the public's rights under the stream access law.

Senator Bianchi asked Clay Landry if he was suggesting a resolution instead of SB 341. Mr. Landry stated MTU was proposing SB 341 be passed with the moratorium only, and in accordance with SB 341, a committee bill be drafted for the study.

Senator Jacobson stated this Committee had previously passed SJR 2 out of committee and asked Pat Graham if the study referred to by Mr. Landry would fit into SJR 2. Mr. Graham stated the focus of SJR 2 is on land base, the access issue, and the concerns of hunters. The study suggested by Mr. Landry is a different set of issues than those covered by SJR 2.

Senator Jacobson asked Pat Graham if the Department could handle two, full-blown studies as has been suggested. Mr. Graham stated there have been river management plans done on many waterways in Montana, so lack of information is not a problem. Mr. Graham said each area in Montana has its own set of issues that need to be dealt with and should be taken care of on a case-by-case basis.

Senator Klampe asked Senator Yellowtail if the U.S. Forest Service commercial use permits are similar to the permits that have been given to the four outfitters on Rock Creek. Senator Yellowtail stated they are similar in concept.

Senator Klampe asked Senator Yellowtail if existing outfitters could hire more guides and expand their businesses under the moratorium put forth by SB 341. Senator Yellowtail stated under existing provisions, outfitters can hire as many guides as they wish, but he would like to leave this type of matter to the Commission.

Senator Pipinich asked Senator Yellowtail how he would feel about an interim study to look at the problems being faced by outfitters, sportspersons, and waterway users for the purpose of coming up with legislation that would address all the issues being discussed. Senator Yellowtail stated he would not object to an overall study, but each management plan has to be tailored to the individual areas being addressed.

#### Closing by Sponsor:

Senator Yellowtail stated SB 341 addressed a difficult situation and he would trust the Committee's judgement in the handling of that situation.

## HEARING ON SB 355

#### Opening Statement by Sponsor:

Senator Ethel Harding, Senate District 25, stated SB 355 would continue the 50 cent motorboat fee established by HB 833, which was passed last session, making the fee permanent.

# Proponents' Testimony:

Ken Hoovestol, representing the Montana Boating Association, stated he supports SB 355.

Dave Seyfert, representing Flathead Sports in Kalispell and the Montana Boating Association, stated there have been three dump stations established on Flathead Lake, with two additional stations being planned. Mr. Seyfert stated the extra 50 cent fee would allow for the building of the two extra stations and the maintenance on the stations. Mr. Seyfert urged the Committee's support of SB 355.

Pat Graham, Director, DFWP, spoke from prepared testimony in favor of SB 355 (Exhibit #4).

## Opponents' Testimony:

None.

## Informational Testimony:

None.

#### Questions From Committee Members and Responses:

Senator Christiaens asked Pat Graham if there are going to be federal funds available to complete the additional dump stations. Mr. Graham stated there would be federal funds available.

Senator Beck asked Pat Graham if he anticipated dump stations being built on other waterways in Montana. Mr. Graham stated there would be, but at the current time, Flathead Lake demonstrated the most immediate need. Senator Beck asked Mr. Graham if SB 355 would sunset in two years or if it would be permanent. Mr. Graham stated it would be permanent.

Senator Beck asked how many boats are utilizing the dump stations on Flathead Lake. Mr. Seyfert stated at one time, there was an estimate of 100 boats utilizing the stations.

Senator Beck asked Pat Graham if the boatowners could dump their waste at the time of filling up with gas and be charged a service fee at that time. Mr. Graham stated if SB 355 did sunset, that could be a consideration.

Senator Forrester asked Pat Graham why the dump stations are all located on Flathead Lake, stating he did not think all the boat owners in Montana should be paying for the stations located only on Flathead Lake. Mr. Graham stated SB 355 is not restricted to Flathead Lake. Through the comprehensive plan being developed for Canyon Ferry, the need for dump stations is being identified.

Senator Forrester asked Dave Seyfert if the other two dump stations referred to earlier were going to be on Flathead Lake. Mr. Seyfert stated at the time HB 833 was passed, it was intended for Flathead Lake to have five dump stations. Senator Forrester asked Mr. Seyfert if he envisioned the funds generated by HB 833 always going to Flathead Lake. Mr. Seyfert did not reply.

Senator Forrester asked Pat Graham how much of the funds are used to develop and maintain the existing facilities on Flathead Lake and how much is needed each year. Mr. Graham stated when HB 833 was passed, the use of the money was limited to dump stations, and those dump stations have not been completed yet, so there are no statistics on the figures Senator Forrester referred to. SB 355 opens the funds to matching federal funds in order to build various boating facilities, not just dump stations.

#### Closing by Sponsor:

Senator Harding stated SB 355 is not intended just for Flathead Lake, but Flathead Lake is a big part of Montana and of Montana's tourist attraction. SB 355 helps not only Flathead Lake but other large bodies of water in Montana as well, thereby enhancing Montana's tourism across the state.

#### **HEARING ON SB 317**

#### Opening Statement by Sponsor:

Senator Bernie Swift, Senate District 32, stated SB 317 provides the opportunity for outfitters and guides to gain an additional 500 B-11 deer licenses, and it provides for a freeze on the issuance of any additional outfitter's licenses. Senator Swift stated Montana has a sufficient deer population to support the additional B-11 licenses.

#### Proponents' Testimony:

Jean Johnson, representing the Montana Outfitters and Guides Association (MOGA), spoke from prepared testimony in favor of SB 317 (Exhibit #5).

Kelly Flynn, representing MOGA, spoke from prepared testimony in favor of SB 317 (Exhibit #6).

Jack Rich, representing MOGA, spoke from prepared testimony in favor of SB 317 (Exhibit #7).

LaMonte Schnur, representing himself, spoke from prepared testimony in favor of SB 317 (Exhibit #8).

Max Chase, Chairman of the Board of Outfitters, stated he supports the moratorium on outfitters.

The following people submitted written testimony in favor of SB 317:

Barb McDonough, McDonough Outfitters (Exhibit #9).

Dean Parks, First National Bank of Ekalaka (Exhibit #10).

Milton Markuson, Chairman, Board of County Commissioners, Carter County (Exhibit #11).

Ross Childen (Exhibit #12).

Jamie Byrne, J & J Guide Service (Exhibit #13).

#### Opponents' Testimony:

Jim Kehr, representing Prickly Pear Sportsman's Club, stated the outfitters already have two-thirds of the 6,000 deer licenses available. Mr. Kehr stated there is a need for more licenses, but the need lies on the side of the non-outfitted hunter. Mr. Kehr stated SB 317 is not based on fairness, and the outfitters will continue to approach the Legislature with requests for more licenses. Mr. Kehr stated that while the matter of the additional licenses is not a biological matter, it is a social matter. Mr. Kehr stated the moratorium on the outfitters says nothing about the number of guides an outfitter can hire to expand their existing business.

Gary Sturm, representing himself, spoke from prepared testimony in opposition to SB 317 (Exhibit #14).

Tony Schoonen, representing Skyline Sportsman's Club in Butte and the Anaconda Sportsman's Club, stated he opposes SB 317, but he does support the moratorium on outfitters and MOGA's amendment dealing with fishing and floating outfitters. Mr. Schoonen stated there is an access problem in Montana, and any more setasides for the outfitters would only compound this problem.

Jim Richard, representing the Montana Wildlife Federation, stated he opposes SB 317 because he would like to see the whole issue addressed in a more thoughtful form. Mr. Richard stated the Federation is committed to seeing SJR 2 through to develop an environment in which these particular issues can be addressed.

Stan Bradshaw, representing the Montana Bowhunters Association, stated he opposes SB 317 for reasons stated in previous testimony.

Bob Van Der Veer, representing himself, stated he opposes SB 317 because of the access issue.

## Informational Testimony:

Pat Graham, Director, DFWP, spoke from prepared testimony for informational purposes (Exhibit #15).

# Questions From Committee Members and Responses:

Senator Klampe asked Kelly Flynn what percentage of guided hunts are non-residents. Mr. Flynn stated probably over 90%, but that figure was an estimate. Senator Klampe asked Mr. Flynn what percent of deer kills by non-residents are done by guided hunters. Mr. Flynn stated he did not have that information.

Senator Bianchi asked Kelly Flynn at what point the outfitters would be satisfied with the number of set-asides. Mr. Flynn stated he hoped the study will address that issue and determine what the practical number of set-asides should be.

Senator Klampe asked Bob Lane, DFWP, if placing a moratorium on outfitters was a constitutional prerogative of the Legislature. Mr. Lane stated moratoriums, or limits, can constitutionally be done for new businesses; it would be more difficult to put a limit on established businesses.

# Closing by Sponsor:

Senator Swift stated the big game herds in Montana are in good shape and could support the additional licenses. Senator Swift stated if the Committee felt it necessary to increase the number of resident licenses, the deer population would be able to support that as well. Senator Swift said SB 317 is not based on the economic benefits to Montana, rather it is based on the continuation of the hunting heritage of Montana, both for resident and non-resident hunters. Senator Swift stated if the Committee wanted to change the effective date on the moratorium on outfitters, he would not be opposed to changing it to the date of passage of SB 317. Senator Swift urged the Committee's support of SB 317.

# EXECUTIVE ACTION ON SB 220

Andrea Merrill distributed copies of the amendments to SB 220 (Exhibit #16).

#### Motion:

Senator Jacobson moved SB 220 DO NOT PASS, stating she did not believe SB 220 was necessary.

## Motion:

Senator Devlin made a substitute motion to TABLE SB 220. The motion CARRIED with Senator Crippen voting NO.

# EXECUTIVE ACTION ON SB 216

Andrea Merrill distributed copies of the amendments to SB 216 (Exhibit #17 and Exhibit #18).

# Discussion:

Senator Klampe stated if there is an undercover operation going on, and the person involved is committing a fish and game felony operation, perhaps the person should have their vehicle confiscated.

Senator Pipinich stated the way SB 216 was written, there was some concern that persons who are not involved in serious fish and game felonies would be hurt. Senator Christiaens stated in that sense, the Committee is talking about degrees of crime.

#### Motion/Vote:

Senator Beck moved the first set of amendments to SB 216 (Exhibit #17). The motion FAILED with Senators Nathe, Beck and Pipinich voting YES.

#### Motion/Vote:

Senator Jacobson moved the second set of amendments to SB 216 (Exhibit #18). The motion CARRIED with Senators Pipinich and Crippen voting NO.

#### Motion/Vote:

Senator Forrester moved SB 216 be TABLED. The motion CARRIED by Roll Call Vote.

SENATE FISH & GAME COMMITTEE February 16, 1993 Page 10 of 10

# **ADJOURNMENT**

Adjournment: 3:00 p.m.

SENATOR BOB PIPINICH, Chair

ATHY COLLINS, Secretary

BP/kc

# **ROLL CALL**

SENATE COMMITTEE Fish		_ DATE 2	2-16-93
NAME	PRESENT	ABSENT	EXCUSE
Genator Jacobson			
Lenator Gacobson Lenator Beanchi	<b>/</b>		
Gratos Christiaens	<u></u>		
Irrator Cripper	/		
Lenston Beck	<b>/</b>		
Senator Mesoros	V		
Lenator River	V	, -	
Scrato Mathe			
Senator Klampe			
Lenator Fourester			
Senator Pipinick	$\checkmark$		
,			
		`	
			·
		·	

# ROLL CALL VOTE

SENATE COMMITTEE FISH & Game	BILL NO.	<u>5B21L</u>
DATE 2-16-93 TIME /100	A.M	. P.M.
NAME .	YES	S NO
Senator Jacobson		X
Senator Bianchi	X	
Semtor Christiaens		X
Senator Crippen	<u>X</u>	
Senator Beck	- X	
Senator Mesaros	X	
Senator Devlin	X	
Senator Nathe	$\frac{1}{X}$	
Senator Klampe Senator Forsester	_	X
Senator torrester		X
Senator Pipinich		×
	· ·	
Kothy Collins Secretary  MOTION: TABLE	CHAIR	unich
MOTION: TARIE		
	<del></del>	

SEMATA	E 2653	ลสบ	GAME	
EXHIBIT	NO	1		
DATE	2 -	16	<u>-93</u>	
DH I NO	SF	२ ⇒	41	

Testimony before Senate Fish and Game Committee regarding SB 341
Tuesday, February 16, 1993

Recreational use of Montana's waters grows every year. This shouldn't be surprising, considering that the state is host to some of the best blue-ribbon waters in the West. If we focus on fishing alone, in the last 5 years an average of 220,000 resident and 115,000 nonresident anglers tested their skills on state's rivers, streams, lakes, and reservoirs. This number will surely grow: there are 1.8 *million* fly-fishermen (persons?) nationwide who fish more than 25 days a year. Montana will get its share. Proper management of this popular fisheries resource requires innovation and persistence, compromise and cooperation.

The Fishing Outfitters Association of Montana, FOAM, has always recognized the importance of resource management - we depend on quality waters and abundant fisheries for a living. Our outfitting role on Montana's waters often demands a greater commitment to management and self-regulation than that of the resident and nonresident public who use them. At the same time, FOAM is pledged to create and maintain the opportunity for our members to provide their services to the public in a responsible, professional manner. These two goals - proper resource management and continued responsible service - are certainly compatible, if not actually interdependent when you consider that the majority of our clientele is nonresident, that over 60% of the Fish, Wildlife, and Parks budget is generated by nonresident license fees, and that the fisheries resource nets Montana about \$90 million a year.

Sen. Yellowtail's SB 341 establishes a framework that will achieve the goals of resource managment and responsible service in two stages, as outlined in the Statement of Intent:

First, it allows the Fish, Wildlife, and Parks Commission to make rules for criteria that determine what waters, if any, are threatened with resource degradation or social conflict over recreational use.

Second, it allows the FWP Commission to make rules to reasonably control public recreational use on identified "problem" waters and allows the Montana Board of Outfitters to make rules to regulate outfitting and guiding activities on the same waters.

FOAM recognizes the rulemaking process as a reasonable way to develop the machinery of implementation within this framework. We also hold that the FWP Commission, when coordinated with the Fisheries and Parks divisions of the FWP, is the correct body to identify trouble areas and, if necessary, regulate public use. And who else but the Montana Board of Outfitters should develop and administer regulations for outfitters and guides? This bill makes use of established rules and administrative bodies to guide the management of Montana's recreational waters. No "new" government is needed.

We also know that for resource management to work, all user groups - resident, nonresident, outfitted and non-outfitted - must be recognized as parts of any identified problem, as well as possible sources for solutions. All involved can pitch in and help; cooperation and compromise can ensure that no one group suffers at the hands of another.

In that spirit of cooperation, FOAM encourages the following points of coordination:

- This Fish and Game Committee's vote is needed to endorse and create this framework your legislative initiative can lay the foundation.
- FWP's separate Fisheries and Parks divisions should provide biological studies, research teams, and management expertise to help the FWP Commission in their determination and implementation process.
- The Montana Board of Outfitters should work with FOAM to maintain the professionalism of the fishing outfitting industry by considering a rule to establish minimum and continuing education standards and another to develop guide classification and appropriate testing.
- FOAM is working on a regional level, drainage by drainage, to start committees with representatives from the public, outfitters, sportsmen's groups, agricultural interests, state and federal land management agencies, FWP biologists, the American Fisheries Society, Trout Unlimited, the Montana Wildlife Federation, and others concerned with resource and wildlife issues. A pilot group is being established in the Dillon area for the Beaverhead and Big Hole rivers, another is forming in the Bozeman, Livingston area to deal with the Madison, Gallatin, and Yellowstone rivers, and we are looking for volunteers in the Big Horn and Missouri river areas. We think this regional, multi-representational approach is the best way to develop reasonable criteria to assist with the FWP Commission's determination process.
- FOAM is enrolling members in courses provided by various management agencies that study the ROS (*Recreational Opportunity Spectrum*) and the LAC (*Limits of Acceptable Change*) processes as future management tools.

As for the cap on fishing outfitter licences, our members feel this is necessary to allow the FWP Commission time to initiate the determination process without starting a stampede of indivdiuals who want to "get under the wire" before possible regulations take affect. We are offering an amendment that would not penalize those who have shown serious intent to become outfitters. We expect there will be a number of guides making application before the effective date of this proposed legislation, but the normal process of testing and qualification will pare that number down to a reasonable onc-time increase in the overall number of fishing outfitters. Keep in mind that our outfitter numbers are roughly one-half of those who provide hunting and packing while we service an equal, if not greater, number of clientele.

FOAM members share a variety of opinions as to the "proper" or "adequate" number of fishing outfitters and the degree of competition necessary to keep our standards high, even though all agree the resource comes first.

Finally, FOAM wishes to emphasize that while quotas on commercial and recreational use may be necessary as a last resort in acutely troubled areas, a wide spectrum of lesser rules and regulations can address conditions present on specific waters. Regulations applied to separate sections of a lake or stream, targeted months of the year, or even days of the week may well prove to be adequate and suitable for individual rivers, streams, lakes, or reservoirs in order to resolve identified problems without the need for proscriptive quotas.

#### A note on our amendments:

FOAM wishes to keep the well-established diversity of outfitters who currently provide services; this is reflected in the language added to the Statement of Intent. The ratio of individual, independent one-outfitter-and-one-guide businesses to larger, flyshop-and-multiple-guide outfits should remain the same, no matter what restrictions are in place. Competition is the core of free enterprise and quality of service is not dependent on size or location.

Other amendments strike a balance between the public and commercial sectors when addressing restrictions, underscoring our belief that, in resource matters, all user groups should be considered equally, even though eventual regulations may be applied proportionately.

When it comes to "commercial use permits," we have trimmed down the original definition with an eye to some industry-wide concensus of what this permit should accomplish, rather than take a Federal model at face value.

That's about it.

Remember that FOAM is urging your support in order to develop a framework for balanced determination and reasonable control while recognizing that the value of Montana's fisheries and recreational resource can be maintained hand in hand with the tourism revenues generated by FOAM's continuing professional and personal standards of good business.

We urge you to support and pass Senate Bill 341.

EXHIBIT 1 SB 341

# Amendments to Senate Bill No. 341 White Reading Copy

Requested by Senator Yellowtail For the Committee on Fish & Game

Prepared by Doug Sternberg, Council Staff February 11, 1993

1. Page 2, line 12. Strike: "state"

2. Page 2, lines 13 and 14.

Following: "permits" on line 13

Strike: remainder of line 13 through "permits" on line 14

Insert: "in order to provide protection and enhancement of the
 resource and preserve the diversity of fishing outfitters
 that now exists"

3. Page 2, line 15.

Following: "restrictions"

Insert: "that the board considers adequate"

4. Page 3, line 19.

Following: "streams"

Insert: ", including but not limited to the establishment of restrictions on or quotas for recreational use,"

5. Page 5, line 10.

Following: "for"

Insert: "both recreational and"

6. Page 5, line 18.

Strike: "individual or overall"

7. Page 5, line 19

Strike: "natural resource"

8. Page 6, line 4.

Following: "."

Insert: "The limitation in this section does not apply to applications for new fishing outfitter licenses submitted to the board prior to [the effective date of this act]."

A joint resolution of the Senate and the House of Representatives of the state of Montana requesting a joint study by the Department of Fish Wildlife and Parks and the Department of Commerce to determine user conflicts between recreational and commercial use of public fishing reservoirs, public lakes, rivers and streams; and requiring a recommendation for conflict resolution methods, including, if necessary, legislative proposals.

Whereas, recreational and commercial recreational uses on water within the state of Montana has increased in recent years;

Whereas, conflicts between various recreational water users has increased in recent years;

Whereas, the Department of Fish, Wildlife and Parks has the responsibility to manage recreational use on state water and the Department of Commerce is responsible for managing commercial uses on state waters:

Whereas, commercial outfitting and noncommercial outfitting are both important uses of Montana's waters;

Whereas, these uses are not mutually exclusive uses;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENATIVES OF THE STATE OF MONTANA:

That in order to resolve user conflicts:

- (1) The Department of Fish, Wildlife and Parks and the Department of Commerce are urged to undertake and complete a joint study of recreational and commercial use conflicts on state waters, including, but not limited to:
  - (a) soliciting names from concerned and interested outfitters and non-outfitted recreationists.
  - (b) establishing a committee comprised of two outfitters and two non-outfitted recreationists from the names solicited.
- (2) The duties of the committee include, but are not limited to:
  - (a) identifying and locating user conflicts
  - (b) identifying the date, duration and frequency of the conflicts.
  - (c) identifying the type of effect the conflict has on the users,

be it congestion, financial or quality of experience.

- (d) identifying the effects the conflict has on the resource, be it water quality, the health of the fishery, or adjacent lands.
- (e) soliciting public opinion on how to resolve the user conflict.
- (3) The committee will report back to the Fish, Wildlife and Parks commission and the Board of Outfitters with resolution methods, which would include, but not be limited to proposed legislation. The committee will report back to the commission and the board by September 30, 1994.

Prepared by Clay Landry, Montana Trout Unlimited.

SENATE FICH AND GAME

ENGLISH NO. 3

DATE 2-16-93

RMI NO. 5B341

SB 341 February 16, 1993

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

The Department of Fish, Wildlife and Parks recognizes the rapidly increasing conflicts among the many different recreational uses of our states waterways. Areas that were once used by a few bank fishermen are often now receiving heavy use by shore and boat anglers, recreational boaters, jet skis, commercially guided anglers, and white water boaters. The growing social conflict in some areas is a problem that has significant implications for the future enjoyment and expectations of individual recreationists.

The existing statutes authorize the commission to adopt and enforce rules that are in the interest of public health, public safety and protection of property in regulating a wide range of water related recreation. In many instances, however, conflicts exist that do not fall within commission authority. The commission and/or the department are often asked by the public to resolve these issues, but our authority is limited. We have reduced some conflicts through use of fishing regulations, but in general this is limited and inadequate.

SB 341 provides an opportunity to adopt rules that will protect these aquatic resources, minimize social conflict and preserve the opportunity for a diversity of recreational opportunities. We support the concept of allowing the commission to limit use of the river, including commercial use. We also feel specific allocation among commercial users should be the responsibility of the Board of Outfitters.

To accomplish the goals of this legislation, it will be necessary for the department and commission to anticipate areas of potential social conflict prior to actual problems. We would be required to gather data from recreational users during our normal river/reservoir management planning process and carefully assess the needs for all user groups before entering into rule making. We would not plan a statewide inventory as suggested in the statement of intent.

We offer one technical amendment to clarify the language regarding Board of Outfitter responsibilities and to clarify that our commission would set restrictions or quotas on commercial use and non-commercial use when necessary.

We support the concepts embodied in this legislation.

# PROPOSED AMENDMENT TO SB 341 FIRST (WHITE) COPY

Page 5, line 10.
Following: "establishes"
Strike: "the need for" 1.

"the need for"

EXHIBIT 3 SB 341

SENATE FISH AND GAME
EXHIBIT NO. 4

DATE 2-14-93

BOLL HO. SB 355

SB 355 February 16, 1993

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

The 1991 legislature passed HB 833, raising the motor boat registration fee from \$2 to \$2.50. This increase generated approximately \$36,752 in biennium 92/93 which was used for boat safety education, decibel meters to monitor noise guidelines in the bill and marine dump stations to lessen the impacts of unwanted discharge.

\$21,000 of HB 833 funds were matched with \$81,000 of federal Dingle Johnson funds to provide for three marine dump stations around Flathead Lake, which will be constructed this spring.

The funding provisions of House bill 833 sunset at the end of this biennium, although the other provisions continue.

If SB 355 is passed, the existing fee would continue at the same rate and the bill would generate approximately \$40,000 per biennium. These funds would be used for the operation, maintenance, and construction of state park motorboat facilities including additional marine dump stations, boat launching ramps, courtesy docks, and other boating facilities. These funds would also assist the department in meeting its requirements under the Americans with Disabilities Act. Revenue generated by HB 355 is eligible to be matched on a 3:1 basis with Federal Dingle Johnson

motor boating funds, which will help provide additional boating improvement potential. Given the assistance HB 355 would provide in meeting some of the overall funding needs throughout the state park system, the department supports SB 355.



"Where respect for the resource and a quality experience for the client go hand in hand."

# SB 317 — Senate Fish and Game Committee February 16, 1993

SENATE FIRST AND GAME

SENATE FIRST AND GAME

DATE 10. -16-93

ROLL NO.5B 317

# History:

March 15: Realization of over-sell

April 9: MOGA spring convention; membership resolution to request 3,000 deer

licenses driven by anxiety

April 24: License draw — 298 booked clients lost

May 14: Met with Fish, Wildlife and Parks. Request is biologically sound.

# Responsible and reasonable request:

- In response to public clamour of too many outfitters, we are offering an 18-month hold on the number of new licenses issued to hunting outfitters. Furthermore, we are willing to offer an amendment to include float and fishing outfitters, if that group wishes to be included.
- We are asking for 500 new deer B-11 combination licenses because of the pressure on the 5,600 B-10 reserve. This figure represents a considerable compromise from where we started at the beginning of the session (1,000).
- We are offering a sunset on both for December 31, 1994, to coincide with the results of the study as put forward by SJR 2, sponsored by Senator Kennedy.

#### **Benefits:**

- Besides the economic benefit in the local communities, sportsmen benefit by realizing \$105,000 in one year alone for the Wildlife Habitat Program.
- For the outfitter, 500 new deer B-11 licenses issued statewide means a little better chance of filling out the holes in his camp.

# Rational:

• MOGA surveyed 3,000 nonresidents who applied for the 5,600 B-10 big game combination licenses in 1992. We had a 14% response, and 16% of those people said they spent the extra money just to increase their chances of getting a deer license. Extrapolated over the entire reserve, it comes to just over 900 applicants with an interest in deer only.

SB 317 — Senate Fish and Game MOGA testimony page 2

#### Comments:

• You will hear that "more licenses just means more outfitters and more private land leased up", but 500 licenses can be absorbed by 360 hunting outfitters with a minimum impact. 500 new licenses averages out to less than two clients per outfitter. No outfitter can afford to lease additional private land just to serve one or two new clients.

# Questions:

- Can you legally limit the number of outfitters? In a letter dated April 16, 1992, John McMaster, an attorney with the Legislative Council, said: "Yes, you can legally cap the number of hunting outfitter licenses issued. The bill could simply state that the Board may not issue more than x number of licenses."
- Why would MOGA want to limit the number of outfitters? We don't, and the association has resisted the suggestion for years. The absolute limit on the number of nonresident licenses available appears to have the effect of controlling growth in the industry. Also, land agencies such as the Forest Service, and now the Dept. of State Lands, effectively limits the numbers of outfitters through their permit system. And the Bureau of Land Management is in the process of implementing its own program to regulate outfitters.

# Summary:

• SB 317 is a reasonable request. It temporarily limits the number of new outfitters licensed. It calls for 500 additional B-10 deer licenses. It sunsets both to coincide with the study provided by SJR 2. The additional deer licenses gives the experience of 2500 outfitted deer hunters and that's important information for the study.

# SB 317 — Senate Fish and Game Committee Feb. 16, 1993

# Montana Outfitters and Guides Association Amendments to SB 317, White Copy

1. Title, line 6.

Following: "ISSUED;"

Insert: "PROVIDING EXCEPTION"

2. Page 2, line 4.

Following: (4)

Strike: .

Insert: ", except as provided by (4)(i)."

3. Page 2.

Following: Line 13

Insert: (i) Anyone having completed the application process on or before June 1, 1993 is exempt from the provisions of (4).

Mr. Chairman, members of this committee. My name is Kelly Flynn and I am a 4th generation rancher and outfitter from Broadwater County. Today I am also representing the Montana Outfitter and Guides Association.

We rise in support of Senate Bill 317.

This bill has several parts. First of all, we will address the portion of the bill that caps outfitter numbers. Across the years, there has been a perception that licensed outfitter numbers have increased dramatically. The fact is there is a slight increase since 1986 in the outfitters who are licensed to offer hunting services, but there is a dramatic increase in the number of licensed outfitters who may offer fishing services. We offer the temporary cap to help answer the concerns in outfitter numbers.

We ask for the issuance of 500 more deer combination licenses to be sold to nonresidents who wish to use the services of outfitters. We know that opponents to this bill will say that outfitters are constantly to the legislature asking for increases in license numbers and they are right. Since 1976 the legislature has limited the number of nonresidents wishing to hunt in our state and the legislature is where we must go in order to ask for increases in the numbers of combination licenses issued to nonresidents.

Why do we ask for more? We ask for more because there are increasing requests for the services that outfitters provide and there are no longer licenses available to meet these requests.

Is the number we ask for an acceptable number? Based on testimony from past Fish, Wildlife, and Parks personnel, the 500 deer tags are biologically acceptable.

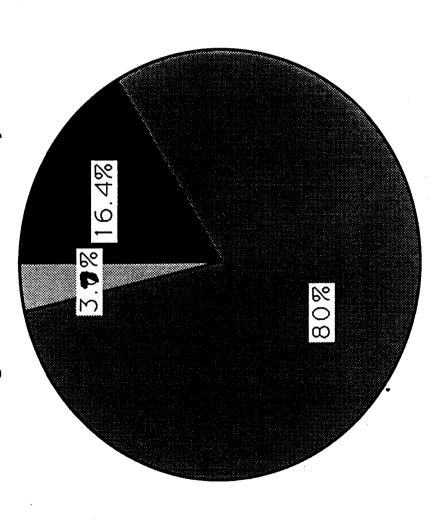
How would this affect the total harvest of elk & deer by unguided hunters in Montana? Based on Commerce Department statistics, guided hunters in 1991 took about 3.7% of the harvest in Montana. (approximately 6500 deer & elk taken by guided hunters versus 169,500 by unguided hunters) If every one of these 500 hunters harvested an animal, guided hunters as a group would still take under 4% of the harvest in Montana. In fact, guided hunters would have to harvest 2500 more animals just to attain over 5% of the harvest.

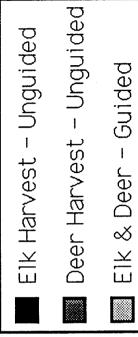
What will 500 more guided nonresidents do economically for Montana? Based on a current questionairre to guided nonresident combination license holders, SB 317 will put over FIVE MILLION DOLLARS OF ECONOMIC IMPACT OUT TO MAIN STREET, MONTANA AND ITS RURAL BASED ECONOMY. . YEARLY. In a time of budget deficits in the hundreds of millions of dollars, this means dollars to the bulk gas deliverer, grocery stores, taxidermy shops, gift shops, hardware stores, meat processors, lumberyards, airlines, feed stores, farmers & ranchers, county governments, schools, and many other businesses. Economically, SB 317 gives a boost to Main Street Montana and its rural based economy during these rugged economic times.

In total, SB 317 helps quell some concerns about possible large scale increases in licensed outfitter numbers. The number of deer licenses asked for are biologically supportable and there are the requests for these services. According to Commerce Department data, even if all these licensees harvest an animal, it will not drastically alter the percentage of game harvested by unguided hunters. Economically, this bill will provide a boost to Main Street, Montana and its rural based economy.

Service of the servic

Fact: The guided hunter took only 3.6% of the total deer and elk harvest in 1991.





Elk Harvest – Unguided Deer Harvest – Unguided   Elk & Deer – Guided	arvest – Unguided	Elk & Deer – Guided
29,373	140,157	14 <b>0</b> ,157 6,488
	,	



"Where respect for the resource and a quality experience for the client go hand in hand."

SENATE FISH AND GAME

7

2-16-93

Reals NO. 5-15-51-7

Senator Pipinich and members of the committee:

My name is Jack Rich and I represent my family business and Montana Outfitters and Guides Association. I rise in support of SB 317.

Montana's deer population continues to increase. The demand for non-resident licenses to hunt Montana is also increasing.

The biological data supports more than the 500 deer tags we are asking for. This number is a compromise, and represents an increase of less than two hunters per licensed hunting outfitter.

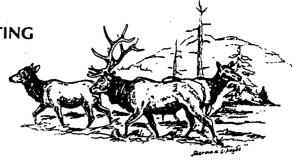
In 1992, there were over 170,000 deer hunters in Montana. 500 additional hunters will have minimal impact on our state biologically and socially. However, on an economic note, it will generate over \$5 million dollars to our state's struggling economy.

I urge your support of SB 317.

MONTE'S GUIDING & MOUNTAIN OUTFITTING

LaMonte J. Schnur 16 North Fork Road Townsend, Montana 59644 406-266-3515

February 16, 1993



Members of the Senate Fish & Game Committee:

We support SB 317. A temporary cap on issuance of outfitter licenses will allow development of greater professional standards within the industry, and will alleviate public concerns about too-rapid growth in the industry.

Increasing the number of nonresident deer licenses is biologically sound. It is also economically sound, in that the demand for outfitted deer hunts far exceeds the supply of deer licenses. Because \$200.00 of each nonresident deer license goes toward habitat enhancement programs in Montana, Montanans will benefit by the issuance of the additional 500 deer licenses proposed in SB 317.

Sincerely,

LaMonte J. Schnur

Mary Ellen Schnur

zaristellen L

SENATE FICH AND GAME

DATE 2-16-93

BILL NO. 5B 317



SENATE FIGH AND GAME TOOK OF THE PROPERTY OF T

#### SENATE BILL # 317

My family has been in the Outfitting business since 1947.

Taking away the set aside for Outfitters is like taking the Appointment book away from Doctors and Dentists.

Last year we lost 2 Hunters because their were only 5600 hunters in our set-aside. This amounts to over \$5000 in our pocketbook.

Without the right amount of set-aside applications available to the Outfitters you have to overbook, and that is not a good practice. We are proud of our Business and do not want to overbook or underbook, as we hire just so many guides and our cook, and this is done well in advance, like a year ahead.

I am in favor of Senate Bill 317.

McDonough Outfitters

Barb McDonough Wolf Creek, MT 59648

14 acl

.

E FISH AND GAME



P.O. Box 45 - Ekalaka, MT 59324 - (406) 775-8724

February 16, 1993

Members of the Fish & Game Committee Montana Senate Room 412 Helena, MT.

Att'n: Cathy Collins

By this letter please be informed that we are in favor of Senate Bill 317. We feel this bill will be good for the outfitters of the State of Montana as well as the aconomy of all of Montana.

Your consideration will be greatly appreciated.

Yours truly,

President

2m. 412

# Board of County Commissioners Carter County, Montana

Ekalaka, Montana

February 15, 1993

ATTN: Kathy Collins

Room 412 State Capitol Helena, MT 59620

Please distribute to the Senate Chambers

Dear Members of the Senate:

We the Carter County Commissioners request your attention to S3 317.

We support this bill and wish that each of you give it due consideration.

Thank you for your attention to this matter.

Sincerely,

Carter County Commissioners

Carter County, Montana

Milton T. Markuson, Chairman

Att. Cathy Collins Room 412
I strongly support S.B. 317; as it will give stability to outfitter industry. I would like a copy given to each fish and Game committee.

Brush mt



# J&J GUIDE SERVICE

Jamie & Juanita Byrne HC 51, Box 962 Mill Iron, MT 59324 (406) 775-8891

SENME	POS A	HD GAM	E
EXCLET		13	
DATE	2-	16-9	93
EILL HO	SB	31	7

THIS CONCERNS SB 317

We strongly urge you to support SB 317 for the following reasons.

Guiding has enabled us to stay in the ranching business with the extra income it has provided. We need the stability that this bill would provide to the outfitting industry. This concerns our livelihood and should not affect the local sportsman in any way. We have facts and figures to prove the importance of this bill where the sportsman only has his emotions and self interest.

This bill would not only mean more income for us but also more income for our whole community as we buy 95% of our supplies from local businesses.

Respectfully yours;

SEMATE FISH MY	GAME	4
DATE 2-16-	13	
MI NO SBS	317	

NAME Gary L: Sturm
ADDRESS 146 Briggwood
HOME PHONE 442-5484 WORK PHONE 442-3050
REPRESENTING Se 14
APPEARING ON WHICH PROPOSAL? 58 317.
DO YOU: SUPPORT OPPOSE X AMEND
COMMENTS:
This bill is blatently discriminatory favoring
This bill is blatently discriminatory favoring the wealthly non-resident who can afford to pay an outfiller over the average "Joe-Q-Public" non-
an outfiller over the average "Toe-Q-Public" non-
resident who would just like an apportunity to
hunt deer in our State.
Additionally this bill completely ignored the biological basis of sound game management in that
it demends the Department of Fish, Wildlife & Parks
to issue additional deer licenses without regard to
deer populations. Yes it is true that today deer populations
are up in most of the State, but just a few short
years ago there were areas in the State where the
Department Selieved it necessary to completely close Mule
Deer back hurting to protect the resource. WITNESS STATEMENT
OVER PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

FII

Finally arthe proposed cap on outfitting licenses, my initial feeling was that anything that would reduce the number would be a sood thing. But upon reflection, I realized that a cap is just another method for the outfitting industry to monopolize our hunting

In summary this bill is not good for the resource, not good for the average Montanan, end is just enother exemple of how greedy the Montene out fifting industry has become,

SB 317 February 16, 1993 SEMATE FISH AND GAME

ENGLISH NO. 15

DATE 2-16-93

BALL NO. 58 317

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

SB 317 proposed to add an additional 500 B-11 nonresident deer combination licenses to the category reserved for nonresidents who intend to use the services of an outfitter. The bill also proposes to place a temporary cap on the number of licensed outfitters.

There are currently 6,000 B-11 nonresident deer combination licenses which allow the holder to hunt deer, upland birds and to fish. There are three subquotas for outfitters, landowners and the general public with 2,000 licenses in each category.

We would like to provide the committee with the following information:

- 1. The 1987 legislature authorized the 6,000 deer combination licenses for nonresidents, allocating 2,000 of these permits to the licensed outfitter industry, 2,000 to landowner sponsors and 2,000 to the general public.
- 2. In 1992, there were only 2,167 applications for the 2,000 outfitter licenses, which represents a 93% success rate; there were 2,459 applications for the 2,000 landowners licenses, for a success rate of 81%. There were 7,088 applications for the 2,000 general licenses, for a success rate of only 28%.

- 3. It is unlikely that the additional 500 licenses would have an adverse effect on the deer population. However, there would be additional competition for the male segment of the population among various resident and nonresident hunters.
- 4. The addition of 500 nonresident deer combination licenses for the outfitting industry may result in additional private land being leased.
- 5. Based on Board of Outfitter data, there currently are about 669 licensed outfitters in Montana, of which about 440 offer hunting services. In 1992, there were also in excess of 1600 licensed guides. In addition, there were approximately 450 landowner sponsors for deer combination licenses, many of whom provide unlicensed outfitting services.
- 6. Placing a cap on the number of licensed outfitters will not necessarily result in a leveling off of the outfitting industry. An individual outfitter can employ as many guides as he needs. As an example, a moratorium placed on the number of float fishing outfitters on the Madison River in the late 1970's did not impact commercial use of the river because it did not also limit the number of guides.

A proposed joint study of the outfitting industry by the departments of Fish, Wildlife & Parks and Commerce (SJR 2) will help define the facts surrounding these issues and develop alternatives to reduce problems and conflicts.

# Amendments to Senate Bill No. 220 1st Reading Copy

Requested by Committee
For the Committee on Fish and Game

Prepared by Andrea Merrill February 11, 1993

SENATE FION AND GAME

1. Title, line 7. Following: "LICENSES"

Insert: "AND PERMITS"

2. Page 2, line 3.
Following: "nonambulatory"
Insert: ", the person is reliant upon portable ambulatory oxygen,"

3. Page 3, lines 10 through 13.

Strike: lines 10 through 13 in their entirety

# Amendments to Senate Bill No. 216 1st Reading Copy

Requested by Senator Figure Senator Figure For the Committee on Fish and Game SENATE FIGURE GAME

# February 16, 1993

1. Page 2, line 7.

Strike: "(1)"

2. Page 2, lines 9 and 10. Following: "device" on line 9

Strike: remainder of line 9 through "conveyance" on line 10

3. Page 2, lines 11 and 12.

Following: "taking"

Strike: remainder of line 11 through "conveying" on line 12

Following: "unlawfully" on line 12

Strike: "taken"

4. Page 2, line 21 through page 3, line 1. Strike: subsection (2) in its entirety

5. Page 3, lines 3 through 15.

Following: "(1)" on line 3

Strike: remainder of line 3 through "(3)(a)" on line 15

6. Page 3, line 19.

Strike: "(b)" Insert: "(2)"

7. Page 3, line 22.

Strike: "(i)"

Insert: "(a)"

8. Page 4, line 1.

Strike: "(ii)" Insert: "(b)"

9. Page 5, line 17.

Strike: "(1)"

# Amendments to Senate Bill No. 216 1st Reading Copy

The first term of the state of the first of the second of the second of the second of the second of the second

Requested by Department of Fish, Wildlife, and Parks For the Committee on Fish and Game 

> Prepared by Andrea Merrill February 15, 1993

> > and the same

- 1. Page 2, line 10. Following: "operated" Strike: "illegally"
- 2. Page 2, line 11.
  Following: "operated" Strike: "illegally"
- 3. Page 4, line 11. Following: "owners"

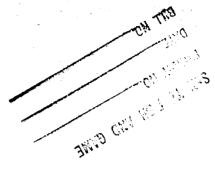
Insert: ", secured parties."

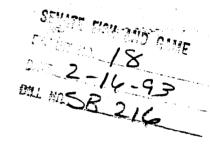
4. Page 4, line 14. Following: "owner"
Insert: ", secured party,"

5. Page 6, lines 12 through 17.

Following: "claimant"

Strike: remainder of line 12 through "charged" on line 17 Insert: "shall state by verified answer that the security interest is bona fide and that it was created without the secured party having knowledge of or giving consent to a violation of 87-3-118"





DATE 2-16-93			
SENATE COMMITTEE ON	h? Same		
BILLS BEING HEARD TODAY:	SB 317, SB 341	, SB3	355
Name	Representing	Bill No.	Check One Support Oppose
Sherry Carall	self Tell mon Tailung	317	V
David Kozy	Self outlitter	317	
Death Carestof	sell trall into Tus	3/7	
Inthiaten ampson	self Mossy Horn Cuttite	es 317	
Sordon W Jampson	Self Mussy Horn Outsellers Self	317 317	X
Clay Landry Trout unlimited		341	w/ Anind
lin Prelies	MWF 317	317 341	V X
Tong Schoonen Concelle	Skyline Sportson	341	_
Phil Smith	Mostan, Traphy Aylor-	341	_
Ken Hoovestol	MT. Booting Assn.	355	~
Trace Seyfort	not Bosting ass	355	V
Russell Chemwood	Dovien Geles adulter	317	V .
Han Palerna	Sandry Flesting Deep Creek Odttitles Creet Fall c	34//www.	i
Long Concorne	1 1-4-4/ 1-4/1	/ / نه	

# VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE	2-16-93	
SENAT	TE COMMITTEE ON FISHE Gam-	<u>e</u>
BILLS I	BEING HEARD TODAY: 537	B341.5B355

Name	Representing	Bill No.	Check	One
Can Olivson	MT Outflitters a Carias	317	~	
Chin Rehm	PRICKY PER Sponsmon	317		レ
Kuly Hym	moss	/	/	
May Rom	Board at Outsetter	317	~	
Jack Rich	Mont Oufilters	3/7	V	
Arvie Osen	MDFWP	355		
Allen Schellenberger	Sclf- AMended	341	V	
ACWIND				
Kurt Hughes	MOGA	317		
Back MD anagh	Self	317	V	
Roll fay Terren	Helf	341	0	
Add Jan Gester	Seff	317	2	
Mipo Daismo	MOCA	317	L	
Monty Johner	MOGA	317	V	
Sol merell	MOGA	317	L	
John Cargell	1106 A	317	~	
Stan Bradshaw VISIT	OR REGISTER	317		

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY