

## MINUTES

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

#### JOINT SUBCOMMITTEE ON LONG-RANGE PLANNING

**Call to Order:** By Rep. Ernest Bergsagel, Chairman, on March 11, 1993, at 7:00 PM.

#### ROLL CALL

**Members Present:**

Rep. Ernest Bergsagel, Chair (R)  
Sen. Bob Hockett, Vice Chair (D)  
Rep. Francis Bardanouve (D)  
Sen. Ethel Harding (R)  
Sen. Eleanor Vaughn (D)  
Rep. Tom Zook (R)

**Members Excused:** None

**Members Absent:** None

**Staff Present:** Jim Haubein, Legislative Fiscal Analyst  
Jane Hamman, Office of Budget & Program Planning  
Sandra Boggs, Committee Secretary

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

**Committee Business Summary:**

Hearing: NONE  
Executive Action: HB 7, RECLAMATION AND DEVELOPMENT GRANTS; DEPARTMENT OF CORRECTIONS AND HUMAN SERVICES, and DEPARTMENT OF ADMINISTRATION; AND DEPARTMENT OF FISH, WILDLIFE AND PARKS

#### EXECUTIVE ACTION ON HB 7, RECLAMATION AND DEVELOPMENT GRANTS

Tape No. 1:A:006

#### BUDGET ITEM FLATHEAD RIVER BASIN COMMISSION:

Tape No. 1:A:006

Jim Haubein, Legislative Fiscal Analyst, stated that he and Ms. Hamman have looked over HB 2 and both agree that the Flathead River Basin Commission is funded in HB 2.

**Motion/Vote:** REP. FRANCIS BARDANOUVE moved to reconsider action on HB 7 with regards to the Flathead River Basin Commission.  
**MOTION CARRIED UNANIMOUSLY.**

**Motion/Vote:** REP. BARDANOUVE moved to remove the Flathead River Basin Commission appropriation from HB 7. **MOTION CARRIED UNANIMOUSLY.**

**EXECUTIVE ACTION ON DEPARTMENT OF CORRECTIONS AND HUMAN SERVICES  
and DEPARTMENT OF ADMINISTRATION**

**Tape No. 1:A:050**

**BUDGET ITEM MEN'S PRISON/WOMEN'S CORRECTIONAL FACILITY:**

**Tape No. 1:A:050**

**Discussion:** Mr. Haubein presented language related to the conceptual amendment previously enacted by the subcommittee. The language was to authorize \$500,000 in bonding authority for architectural and engineering design of a downsized women's correctional facility, to be located in Billings, that would meet the needs of a community based correctional program for the Department of Corrections and Human Services.

**CHAIRMAN ERNEST BERGSAGEL** stated that the subcommittee must also complete payment on the design and engineering done to date on the previously planned women's correctional facility. That motion must include language that would cease planning and design of that previous facility.

Mr. Haubein explained the total cost is \$700,000.

Tom O'Connell, Architectural and Engineering Division, Department of Administration, estimated that \$535,000 is due for the previously planned women's correctional facility. That figure is not exact, but would be enough to cover any outstanding costs on that project.

**Motion/Vote:** REP. BARDANOUVE moved to authorize \$500,000 of the \$10,075,600 in bonding authority in HB 5, to be used for architectural and engineering design of a downsized women's correctional facility, to be located in Billings, that would meet the needs of a community based correctional program for the Department of Corrections and Human Services. **MOTION CARRIED UNANIMOUSLY.**

**Motion/Vote:** REP. BARDANOUVE moved to strike the language for bonding authority of \$10.07 million for construction of a new women's correctional facility, and replace it with bonding authority for \$535,000 to repay the general fund loan for design of the original new women's facility.

**Discussion:** SEN. ELEANOR VAUGHN asked whether, if this language is changed, bonding authority will have to be sought again in two years for this facility to be built. **CHAIRMAN BERGSAGEL** replied that is correct.

**Vote:** **MOTION CARRIED WITH SEN. BOB HOCKETT AND SEN. VAUGHN VOTING NO.**

Motion: REP. TOM ZOOK moved to increase the bonding authority from \$6.8 million to \$6.965 million for the correctional system upgrades to the Men's Prison and the women's facility.

Discussion: SEN. BOB HOCKETT asked the reason for the \$6.965 million figure.

Mr. Haubein stated that it would be easier for the Architectural and Engineering Division if the \$260,000 for improvements to the women's prison was separate from the funds for improvements to the men's prison.

CHAIRMAN BERGSAGEL asked for members to withdraw their motions.

REP. ZOOK withdrew his motion.

CHAIRMAN BERGSAGEL stated that a motion is needed to authorize \$260,000 for the women's correctional facility upgrade.

Motion/Vote: REP. BARDANOUVE moved to authorize \$260,000 for upgrades to the women's correctional facility at Warm Springs. MOTION CARRIED WITH SEN. VAUGHN AND REP. BARDANOUVE ABSTAINING.

CHAIRMAN BERGSAGEL stated that a motion is needed to authorize construction and remodelling of the men's correctional facility for \$6,705,000.

Motion: REP. ZOOK moved to authorize \$6,705,000 in bonding authority for the construction and remodelling of the men's correctional facility.

The motion died for lack of a second.

Motion: REP. ZOOK moved to authorize \$6,705,000 in bonding authority for the construction and remodelling of the men's correctional facility.

SEN. VAUGHN stated that it is hard to give so much to the men's prison and so little to the women's facility. She know it needs upgrading, but this is difficult to do.

Jane Hamman, Office of Budget and Program Planning, stated that since the consolidated laundry facility is really a corrections and human services facility it might be easier to carry the bill on the floor if the funds for that project were listed as a department laundry service.

REP. BARDANOUVE stated that Ms. Hamman has a very good point. There is some opposition to the bill. The consolidated laundry will be used largely by Warm Springs and Boulder.

REP. ZOOK pointed out that it may also be beneficial to the bill.

CHAIRMAN BERGSAGEL stated that these construction and improvement projects are based on the inmate labor bill passing. If that bill does not pass, DCHS will have to prioritize projects. If this committee separates the laundry from the other projects; it provides the opportunity for the legislature to begin prioritizing the projects which could impact the operations of the prison.

SEN. HOCKETT agreed with CHAIRMAN BERGSAGEL.

Mr. O'Connell stated that the request makes him nervous because the funds needed to repay the General Fund loans are tied to the \$6.8 million being authorized. He suggested that the committee separate the \$165,000 from the \$6,965 million because it is an existing commitment.

Ms. Hamman stated that another option is to place contingency language in the bill that states if the \$6.8 million is not passed, the \$700,000 is re-authorized to pay off the general loan.

CHAIRMAN BERGSAGEL stated that he needs a substitute motion to authorize \$6.705 million with language to authorize debt payments of approximately \$700,000 for General Fund loans.

Mr. Haubein stated that language would be included to authorize the loan in the event the larger appropriation fails. He suggested that this language could be put in a section that will not fail, if other sections of the bill fail to get passed.

CHAIRMAN BERGSAGEL stated that it is the intention of this committee to insure that any costs incurred for these facilities be paid for. A way will be found to do that depending on what happens.

**Motion/Vote:** REP. ZOOK made a substitute motion to authorize \$6.705 million in language to authorize debt payments of approximately \$700,000 for outstanding General Fund loans by the Department of Administration. **MOTION CARRIED WITH REP. BARDANOUVE VOTING NO.**

#### ANNOUNCEMENTS/DISCUSSION

SEN. HOCKETT stated that he was told by the National Guard that there is \$57,000 of federal money that has already been expended on that project, besides the \$26,000 of bond authorization. Mr. O'Connell stated that the federal money is not due from the federal government unless the project proceeds. If it proceeds, the amount of money already authorized will cover those costs. The state does not have a commitment until the project proceeds and is bid.

EXECUTIVE ACTION ON DEPARTMENT OF FISH, WILDLIFE AND PARKS

Tape No. 1:B:003

BUDGET ITEM WILDLIFE HABITAT ACQUISITION PROGRAM:

Tape No. 1:B:011

**Discussion:** CHAIRMAN BERGSAGEL stated that past committee action did not authorize funding for this program. The original hearing for this program was held with only himself and REP. ZOOK present. This is the opportunity to provide a fair hearing with all members present.

CHAIRMAN BERGSAGEL briefly stated that he views land acquisition as detrimental to communities due to the reduced income capacity on ranches involved in the program. It seemed to him that existing habitat was being acquired, as opposed to enhancing and increasing wildlife habitat. In addition, the department's requirement to spend so much money in each region may not be in the best interest of habitat in that region.

Pat Graham, Department of Fish, Wildlife and Parks, introduced three commissioners who have come to the meeting to speak on behalf of this program. He provided information on the Habitat Acquisition Program. EXHIBITS 1, 2, AND 3.

REP. ZOOK stated that he was opposed because he thinks it is harmful to FWP's interest to approach this program from a purchase point-of-view. An opportunity has been missed by not pursuing the leasing and easement options of this program. In addition, if the terms could be shortened for the easement program and the in-perpetuity requirement wiped out, more people would negotiate for easements. Easements can be a cloud on a future sale. A penalty for early withdrawal from the program could be negotiated. This approach would benefit sportsmen greatly and create good will among landowners.

REP. BARDANOUVE stated that FWP should have the opportunity to provide areas for hunters and sportsmen. Ranchers are becoming a minority as the population shifts to the cities. If ranchers and farmers say no and fight sportsmen, the ranchers and farmers will eventually lose.

SEN. ETHEL HARDING stated that agriculture is still the number one industry in Montana and should be treated as such. The state needs both and priorities need to be addressed. All sides need to get along.

Jim Rector, Glasgow, Fish, Wildlife and Parks Commissioner, talked briefly concerning acquisitions in the past two years. The program does not create new habitat, but acquires habitat as it is needed and is threatened. The program is not a sportsmen versus agriculture program or bill. The process has always involved trying to get an easement first, and fallen back on acquisition when the landowner would not cooperate in the

easement process or an easement was not possible. He further stated that the department is not required to spend a certain amount of funds per region, but is required to develop a statewide program.

**Mr. Rector** stated that the easement program is in-perpetuity because there is a substantial outlay of money to buy a portion of land. The landowner has gotten his cash and has received a gain from the program. There is nothing left to sell if ten years later he wants to sell the land. The Habitat Acquisition Program is a good program and is not a hunter access program. The purpose is to preserve, protect and enhance important wildlife habitat in Montana. The non-resident hunter is the funding source. He urged the committee to release the funds.

**Elaine Allested, FWP Commissioner,** stated that every one of the acquisition decisions in the past two years were difficult for her to make. She agrees with CHAIRMAN BERGSAGEL'S philosophy of purchasing land that will affect the income of the community. She stated that this could be a win/win situation if landowners sit down with conservationists and work out habitat problems. She does not think purchases are just win/lose situations.

**Don Childress, Administrator, Wildlife Division, FWP,** spoke briefly concerning the Waterfowl Enhancement and Upland Game Bird Habitat Enhancement programs.

**Mr. Graham** stated that easements are not always possible, but recently an easement was purchased due to the department holding the line and refusing to discuss purchasing the land. Hopefully, future easements will be more comfortable to citizens. In fact, the department may be approached for more easements than can be afforded. This would mean competition for easement funds which could bring the costs down. The program is required by law to distribute funds across the state. The department will work with conservation groups that have experience in working with landowners and educating them about easements.

**Proponent's Testimony: Jim Richards, Montana Wildlife Federation,** spoke on behalf of sportsmen of Montana. He told the committee of one instance when habitat was acquired and the landowners used their revenue to purchase better agricultural land for themselves nearby. In this case the land purchase was beneficial to wildlife, sportsmen and the agricultural producer. He stated that only 106,000 acres have been dealt with by FWP under the Habitat Acquisition Program. Only 44,000 of those acres have been purchased. He stated that a letter from the Bowhunters Association and the Audubon Council has been drafted to support the use of Habitat Acquisition funds to contract for experts in leasing and easement programs. He stated that sportsmen see this as their program, not a FWP department program. It is their opportunity to invest in wildlife and a sport they care about. The long-term investment is important.

**SEN. HOCKETT** stated that he is a farmer and a rancher and has worked with the department on this program.

Tape 2:A:003

**SEN. HOCKETT** stated that this program is a positive cooperative program between farmers, ranchers and sports people. He would rather the land go to FWP than to the Japanese who are buying up a lot of land. He commented that FWP needs to be sensitive to concerns of ranchers and commends FWP for their work on this program. He stated FWP does need to put more emphasis on easements.

**SEN. VAUGHN** stated that an awful lot of land in Montana is owned by the federal government. Her constituents are concerned about roads being closed off and access being cut off.

**REP. BARDANOUVE** commented that a tremendous influx of out-of-state people moving in has inflated the price of ranches in western Montana. Often the new landowners shut off access to hunters, fishermen and others. He fears that eventually hunting and fishing will be only for the privileged who can afford to pay for guides and hunting rights.

**REP. ZOOK** stated that much of **REP. BARDANOUVE'S** concerns are true. He agreed that this program can be a win/win situation, but believes that priorities should be directed toward acquiring more easements. The department's own consultants have said the same thing. Mr. Richards sees the program as an investment in sports but does not see the landowners damage as a result of higher game populations. Often it seems that there is no concern about what the ranchers and farmers suffer.

**Mr. Richards** stated that communication needs to be continued to increase the public's understanding of easements.

**Stan Meyer, Chairman, Commissioner**, stated that he believes the committee's comments have been positive toward the direction FWP has been going. More education has to be done concerning easements and he is delighted to have learned the committee's concerns and suggestions.

**CHAIRMAN BERGSAGEL** stated that he agreed with **REP. BARDANOUVE'S** comments concerning ranchers and farmers losing a fight against sportsmen. The 36,000 farmers and ranchers in Montana have virtually no impact on what is shoved down their throats. Over 50% of the land in his region is owned by the federal government, and they now want to buy more land which they say will benefit the community economically. When he looks at the decline in rural populations and rural communities he does not see the justification for that land purchase. A rural citizen gets suspicious when a state department begins working with the Audubon Society, the Wildlife Federation, and the Nature Conservancy. Those same organizations support programs that would

like to introduce the wolf or the black-footed ferret. It would be to the mutual benefit of both sides if a level of trust could be established. He does not know how that could happen because ranchers and farmers are doomed due to their low numbers and lack of impact.

**CHAIRMAN BERGSAGEL** stated that one of the reasons people go to the department is because they are giving up trying to make a living farming or ranching. Farmers and ranchers cannot support paying the government to exterminate their livelihood. He can't wait for the day when ranchers and farmers are such a minority that they have majority rights. It is already happening as counties begin to require a local planning board review before land can be acquired. That type of activity is not in the department's best interest and, in his opinion, not in his best interest. There is enough bureaucracy as it is. In conclusion, he would love to increase the habitat on his land although he has high game populations at this time. He is open to suggestions concerning increasing the level of trust between those wishing to promote wildlife habitat and those who must live on the land and live with the results of increased habitat.

**SEN. HOCKETT** stated that a large percentage of the members of local sports groups are farmers and ranchers. Attending those meetings is one of the best ways to develop trust.

**Motion:** **REP. BARDANOUVE** moved to approve \$5,365,000 in funds for the Habitat Acquisition program.

**Discussion:** **REP. ZOOK** asked for assurance that FWP intends to proceed with more leasing and easements and fewer purchases. **Mr. Graham** gave his assurance that the department planned to do just that.

**Vote:** MOTION CARRIED UNANIMOUSLY.

**Discussion:** **Mr. Graham** asked that spending authority be transferred from an unfunded State Special Fund account to federal authority for a project at Hell Creek State Park. The existing state funds will then be matched with federal funds.

**Motion/Vote:** **SEN. HOCKETT** moved approval of the amendment that would transfer \$62,000 of unfunded state special authority to federal funding authority. MOTION PASSED UNANIMOUSLY.

**Discussion:** **Mr. Graham** presented an amendment to HB 5 to the committee. **EXHIBIT 4.** The amendment would allow the use of in-kind services as a match for federal funds for fish hatchery construction projects.

**Motion/Vote:** **SEN. HOCKETT** moved approval of the amendment as presented. MOTION CARRIED UNANIMOUSLY.




HOUSE LONG-RANGE PLANNING SUBCOMMITTEE

March 11, 1993

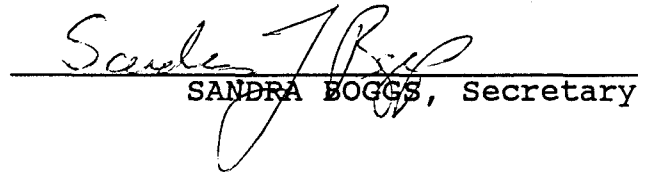
Page 9 of 9

ADJOURNMENT

Adjournment: 9:10 PM



ERNEST BERGSAGEL, Chair



SANDRA BOGGS, Secretary

EB/sb

# HOUSE OF REPRESENTATIVES

LONG - RANGE PLANNING

SUB-COMMITTEE

ROLL CALL

DATE

3/11/93

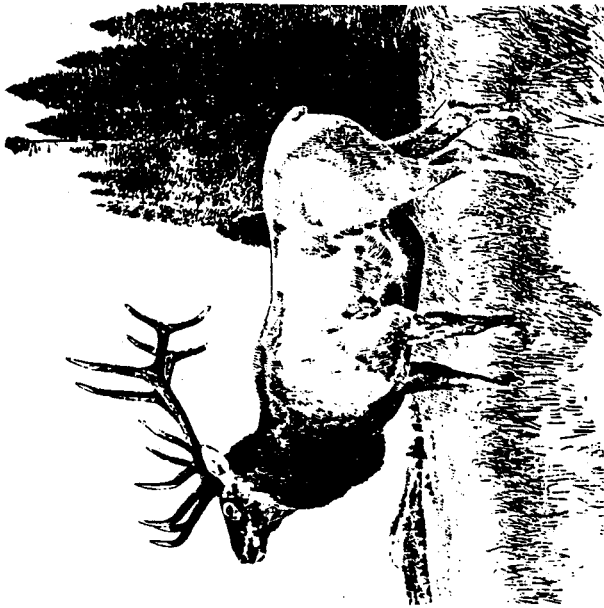
NAME	PRESENT	ABSENT	EXCUSED
SEN. BOB HOCKETT, VICE-CHAIR	✓		
REP. FRANCIS BARDONOUVE	✓		
SEN. ETHEL HARDING	✓		
SEN. ELEANOR VAUGHN	✓		
REP. TOM ZOOK	✓		
REP. ERNEST BERGSAGEL, CHAIR	✓		

EXHIBIT

DATE

5-11-13

# **MONTANA'S WILDLIFE HABITAT PROTECTION PROGRAM**



The Montana Wildlife Habitat Protection Program is a unique program developed and advocated by Montana sportsmen and conservationists.

The Habitat Program is a means for sportsmen and women to make long term investments in wildlife habitat, and thus to help secure the future of wildlife and hunting in Montana.

*Montana Wildlife Federation*

## **WILDLIFE HABITAT PROJECTS**

<u>PROJECT</u>	<u>ACRES</u>		<u>COST</u>	<u>TAX IMPACT*</u>		<u>COUNTY</u>
	<u>Purchase</u>	<u>Lease/Ease</u>		<u>DFWP</u>	<u>Other</u>	
reyer	2,960	18,650	\$1,471,000	\$3,100	\$2,210	Powell
Brewer	17,845	16,416	\$1,119,100	\$7,135	\$ 484	Cu/PR/Car
Mt Silcox (Wilson)	1,552		\$ 687,465	\$1,274		Sanders
ome Mtn (Nelson)	2,098	160	\$1,630,310	\$ 441		Park
Waples	656		\$ 457,150	\$ 383		Carbon
Grady Ranches		16,317	\$ 350,000			Lew/Clark
ogers	1,893		\$ 785,650	\$ 363		Jud Basin
Robb Ledford	17,290	10,657	\$2,042,000	Not Avail		Madison
<b>TOTAL</b>	<b>44,294</b>	<b>62,200</b>	<b>\$8,572,675</b>	<b>\$12,696</b>	<b>\$2,694</b>	

DFWP makes payments to the county and school districts in lieu of taxes on land and improvements. "Other" represents property taxes that would have been paid on livestock and machinery if the property had remained as private agricultural.

## MONTANA WILDLIFE HABITAT PROTECTION PROGRAM

● **OVERVIEW:** A portion of sportsmen's hunting license dollars are placed in a trust fund, administered by the Department of Fish, Wildlife and Parks, for use in leasing or purchasing land or acquiring easements for wildlife habitat. The program operates within the free market system, in which a willing buyer and willing seller reach an agreement on a lease, easement or purchase.

● **BENEFITS TO WILDLIFE AND SPORTSMEN:** Throughout Montana, private properties provide habitats that are essential as security, wintering, and calving areas. Many of these crucial private properties face threats from land development, logging, mineral extraction and other activities that would diminish the land's value as wildlife habitat. Securing habitat through leases, easements or purchases helps ensure protection of habitat into the future. Also, in most cases, secured habitat offers the opportunity for public hunting and recreation access.

### ● **BENEFITS TO LANDOWNERS:**

- Land available for public hunting relieves private landowners of some pressure from hunters seeking access;
- The program enhances property values, both because the market is expanded and because the presence of wildlife makes land more attractive and valuable.

-Unlike the situations with foreign, celebrity or out-of-state buyers, landowners have some control over the management of wildlife management areas because of they can participate in Fish, Wildlife and Parks policy setting.

### ● **EXAMINING ARGUMENTS OPPOSING THE PROGRAM:**

The agriculture community historically has held an ideological opposition to public agencies owning land. In particular, ranchers and farmers have stridently objected to DFWP owning land. The common arguments against this program include:

- Tax revenues are lost as private land becomes public;
- Adjacent landowners suffer loss and damage by wildlife;

Loss of Property Tax Revenues is Negligible. Each year, the DFWP makes payments in lieu of property taxes equal to the assessments by the county and local school districts on land and improvements. The only potential for lost tax revenues is the assessments on livestock and machinery. Because of reductions on taxation on livestock, a cow represents a total tax payment to the county and school districts of approximately \$5 per head. Most farm machinery and equipment has been depreciated and represents little taxable value.

Adjacent Landowners May Suffer Loss or Damage. Forage loss and property damage by wildlife can be real problems for landowners adjacent to or near wildlife areas. These impacts can, and should be, dealt with on a case-by-case basis, using applicable management measures or easements. The potential for these problems is not sufficient reason to undermine or discontinue the wildlife habitat program.

The following page shows a list of the projects that have been protected under the wildlife habitat program. A total of only 106,000 acres are involved, and of those less than 45,000 total acres have been purchased. The net loss in tax revenues to counties and school districts totals only \$2,700.

*Long Range Planning  
Subcommittee*

EXHIBIT 2  
DATE 3-11-93  
SL

# Report to 53rd Montana Legislature Wildlife Habitat Protection An Interim Report

Prepared by  
Montana Department of Fish, Wildlife and Parks  
January 1993

The original is stored at the Historical Society at 225 North Roberts Street,  
Helena, MT 59620-1201. The phone number is 444-2694.

*Public Committee*

EXHIBIT 3  
DATE 3-11-93  
BY EC

# Public Participation In Wildlife Habitat Programs

A Report to the  
Montana Department of Fish, Wildlife and Parks

Canyon Consulting, Inc.  
221 North Higgins  
Missoula, MT 59802  
(406) 543-6700

September 1992

Project Team: G. Jon Roush, Joyce L. Chinn, Kent A. Curtis

The original is stored at the Historical Society at 225 North Roberts Street, Helena, MT 59620-1201. The phone number is 444-2694.

Proposed Amendment  
HB5--Introduced Bill  
Long Range Building Committee

Background

The Department of Fish, Wildlife and Parks' capital budget includes hatchery construction projects to be funded in part with federal Dingell-Johnson (D-J) funds. These federal funds must be matched at a ratio of 25% state funds to 75% federal monies.

Purpose of the Amendment

This amendment would allow FWP to use all federal D-J money to pay for the cost of several construction projects, thereby conserving state license money. The department can use 100% federal money only if the U.S. Fish and Wildlife Service approves use of "in-kind" matching values.

Use of "In-Kind" Matching Values

In-kind match is a special technique for fulfilling the requirement to contribute state resources to a project. Specifically, this technique recognizes the need for having a site before undertaking a construction project. The technique also recognizes that the state may have already spent money on related improvements at that site. In-kind match, therefore, is a means by which the state can receive credit for its previous contributions to a construction project.

To claim these contributions as the state's share of the project's cost, FWP must determine values of the land and prior improvements.

Conclusion

Although this method has not yet been used in Montana or any other nearby state, FWP believes it is worth pursuing, especially for the Washoe Park and Giant Springs Hatcheries.

Amendment

Page 5, following line 18,

Insert: (3) For the purposes of using in-kind matching values, the amounts listed under State Special Revenue may be decreased and Federal Special Revenue increased by a like amount for those projects listed under the Department of Fish, Wildlife and Parks.

HOUSE OF REPRESENTATIVES  
VISITOR'S REGISTER

Long Range Planning

COMMITTEE

BILL NO. \_\_\_\_\_

DATE 3/11/93 SPONSOR(S) \_\_\_\_\_

PLEASE PRINT

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Jim Richer	MT. Wildlife Fed		
Jim Rector Glasgow	FW&P Commission		
Pat Graham	DFWP		
Hugh Jesse	U of M		
James E. Todd	State of Montana		
Elaine K. Allstad	DWP		
Stanley	F.W.P. Comm.		
Chuck Manning	Dept Military Affairs		
JOHN F. WALSH	DEPT MIL. AFFAIRS		
JOHN E. PRENDERGAST	DEPT MILITARY AFFAIRS		
Jim Jacobsen	Veterans Affairs Division		
Robert Lashaway	MSU		
Bill Lannon	MT Univ System		
Janet Ellis	Montana Audubon Legislative Fund		

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