

MINUTES

**MONTANA HOUSE OF REPRESENTATIVES
54th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON FISH & GAME

Call to Order: By **CHAIRMAN DOUG WAGNER**, on February 2, 1995, at 3:00 p.m.

ROLL CALL

Members Present:

Rep. Douglas T. Wagner, Chairman (R)
Rep. William Rehbein, Jr., Vice Chairman (Majority) (R)
Rep. Emily Swanson, Vice Chairman (Minority) (D)
Rep. Charles R. Devaney (R)
Rep. Jim Elliott (D)
Rep. Daniel C. Fuchs (R)
Rep. Marian W. Hanson (R)
Rep. Hal Harper (D)
Rep. Chase Hibbard (R)
Rep. Dick Knox (R)
Rep. Rod Marshall (R)
Rep. Brad Molnar (R)
Rep. Robert J. "Bob" Pavlovich (D)
Rep. Bob Raney (D)
Rep. Robert R. "Bob" Ream (D)
Rep. Paul Sliter (R)
Rep. Bill Tash (R)
Rep. Jack Wells (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: None.
Executive Action: HB 122 DO PASS AS AMENDED
HB 195 DO PASS AS AMENDED
HB 196 DO PASS AS AMENDED

{Tape: 1; Side: A; Approx. Counter: 000; Comments: N/A.}

EXECUTIVE ACTION ON HB 122

Motion: REP. BOB RANEY MOVED HB 122 AND AMENDMENTS DO PASS.

Discussion:

REP. RANEY distributed copies of his proposed amendments. The amendments provided an exception for maintenance, weed control, and necessary sanitary and safety measures. **EXHIBIT 1**

Vote: AMENDMENTS DO PASS. Motion carried unanimously.

Discussion:

REP. RANEY distributed a copy of his second set of proposed amendments that addressed the Department of Fish, Wildlife and Park's (FWP) concerns. During the hearing, FWP was concerned that after making an investment in a site to be improved, a simple petition could overturn or stop their decisions. The purpose of these amendments struck the two-year waiting requirement. If the citizens reject the proposed development during the public comment period, FWP would have the ability to work with the public until a mutual arrangement was achieved. Currently, FWP was required to "weigh in" public input; that did not mean it would be observed. REP. RANEY was trying to ensure that the public would have the ultimate voice regarding whether or not a park or fishing access site was developed. **EXHIBIT 2**

REP. CHARLES DEVANEY commented that the people who objected to the development were the ones most likely to be involved in the process. He asked REP. RANEY about the number of people who would have input. REP. RANEY said the input could come from any source, including petitions. He observed that sometimes when people object to development, it was viewed as "bad." Also, sometimes confusion arose over economic development and development. They were two completely different subjects. In the Daily Lake case, the people who disagreed with the further developments were the majority. If HB 122 had been law, the development would not have taken place.

Motion: REP. RANEY MOVED HIS SECOND SET OF AMENDMENTS TO HB 122.

Discussion:

REP. BOB REAM said he had serious problems with the bill. The Montana Audubon Legislative Fund and Montana Wildlife Federation had proposed amendments. He assumed that REP. RANEY did not like the amendments. REP. RANEY said he was correct. Those amendments would return the situation as it currently existed and that was "weighing" public input. If the FWP did not like the public input, they would proceed with their plans anyway. REP. REAM asked if a petition was submitted, would it be one comment

or would each signature count for one comment. **REP. RANEY** said it was his intent that each signature would signify one comment. However, he did not know if this would be the case under existing rules and laws. **REP. REAM** referred to page 2, line 7, and asked about the definition of an "entity." **REP. RANEY** referred the question to **Doug Sternberg, Legislative Council**. **Mr. Sternberg** replied corporations, foundations, clubs, and other legally established organizations were included under the definition of entity. **REP. REAM** expressed concerns with the proposed process because it was difficult to involve the public in a fair manner. It may become a popularity contest of who can obtain the most votes. If a person signed the petition as a club member and as an individual, that would count as two votes.

REP. RANEY stated that there were problems with the current process which demonstrated a need for the bill. The citizens did not get to control developments at the parks. Instead, FWP controlled improvements as long as they met Montana Environmental Policy Act (MEPA) requirements. **REP. REAM** said FWP admitted guilt for not thoroughly listening to public input regarding the Daily Lake project. However, the current process should not be disposed of because of one event. The public should be involved in potential developments and a compromise should be reached. It should not be a popularity vote with petitions.

REP. ROD MARSHALL asked **Pat Graham, Director, Fish, Wildlife and Parks Department**, to describe the manner in which FWP gathered public opinion. **Mr. Graham** explained that notices of the projects were published and Environmental Impact Statements were completed. Depending on the nature of the project, surveys were used. Public meetings and open houses were sometimes held. Most projects did not have the same level of interest as the Daily Lake project. People can also request hearings under MEPA guidelines. **REP. MARSHALL** asked how it could be ascertained who was voicing interest in the project whether it was a minority group or general public who were actually using the recreation area. **Mr. Graham** said that was always a challenge. Any government agency has to try and figure out exactly what they were hearing in terms of public comment. As much as possible, FWP determined the nature of the comments, whether they were technical or general, and assessed them in terms of the proposed project. Each comment was evaluated based on the merit of what it could offer to the process. If there was substantial opposition to the project, FWP tried to determine the reasons and address it through meetings, forums, or work groups.

REP. CHASE HIBBARD spoke in favor of the amendment; it improved the bill. However, he would still vote against it.

Vote: **REP. RANEY SECOND SET OF AMENDMENTS.** Motion carried unanimously.

Motion: **REP. RANEY MOVED HB 122 DO PASS AS AMENDED.**

Motion: REP. BILL REHBEIN MOVED TO AMEND THE BILL.

Discussion:

Mr. Sternberg explained the amendments. Language would be added that stated, "Comments received by the department pursuant to subsection (3) must be weighed by the department and figured into the total number of comments received according to the following scale: (a) Comments received from persons who own or manage property adjacent to the park or fishing access site must receive a weight of 3 to 1; (b) Comments received from users of the park or fishing access site and other persons who live in the immediate area of the park or fishing access site must receive a weight of 2 to 1; and (c) Comments received from any other persons receive a weight of 1." Comments would be weighed to provide a basis of evaluation.

REP. REHBEIN said he felt that people who lived in the immediate area and local users should have more influence on the proposed development.

REP. DAN FUCHS asked for clarification saying that the amendment related to local control. REP. REHBEIN said yes.

REP. JACK WELLS said a potential problem may be the "entities" in the local area.

REP. PAUL SLITER stated if the organization was located in the area, their individuals would carry that weight. REP. REHBEIN said if the people were currently living in the area and using the park, it would carry the weight of 2. Mr. Sternberg commented that REP. RANEY's amendments added the language "residing in the state of Montana." This language limited public comment to Montana.

REP. RANEY did not object to the amendment. However, he questioned if it could be accomplished legally. It may be not be legal weighing one person's opinion over another.

REP. DICK KNOX also questioned the legality of the amendment. Mr. Sternberg explained that as long as no comments were excluded, it was not selective legislation. All comments would still be received and considered regardless of the source.

REP. REAM was concerned about the same issue. He stated there was also a problem defining who qualified as a local person. The concerns were directed to Bob Lane, Attorney, Fish, Wildlife and Parks Department. Mr. Lane said he wanted an opportunity to examine the issue more thoroughly. He had similar concerns regarding a weighted system of evaluating comments. There may be equal protection, legal, and constitutional concerns if the process became a voting procedure.

REP. JIM ELLIOTT expressed concern over neighbors controlling his property. The proposed amendment was similar to zoning in determining acceptable and not acceptable uses of land. All Montanans' owned the property. In saying that, he inquired how any one person should have more input than another. He had difficulties with the weighted system of reporting because he believed a person from across the state should have just as much as input as the local person. Comments of the local people should be taken slightly more into consideration. **REP. ELLIOTT** stated a weighted system was not workable and had serious constitutional concerns.

REP. WELLS agreed with **REP. ELLIOTT** and felt that it was unnecessary to weight the comments. People that live adjacent to the park would be the most interested along with frequent users of the area.

REP. REHBEIN hoped that the amendment would give more say to the locals.

{Tape: 1; Side: B; Approx. Counter: 000; Comments: Lost 5 seconds.}

Vote: **REP. REHBEIN AMENDMENT.** Motion failed 17 to 1 with **REP. REHBEIN** voting yes. **REP. BRAD MOLNAR** was absent for the vote.

Discussion:

REP. KNOX said he supported the bill and its concepts. Election procedures were workable and he had confidence in the public to conduct the election. The proposed procedure appeared to be fair. People in the local area were entitled to this type of input.

REP. EMILY SWANSON spoke in to opposition HB 122. It was not really an election but rather a contest of who could collect the most support. The "applause meter" method of decisionmaking was the least democratic manner to handle the issue. She read an article regarding the Daily Lake issue that was given to the committee to examine. It said that the regional supervisor was going to establish a committee to examine the Daily Lake project and produce the Environmental Assessment (EA) to try to remedy some of the users' concerns. In the beginning, FWP misunderstood the desires of the public. After the most recent meeting, FWP did not feel that the public was being unreasonable. Committee recommendations were expected in about one month. **REP. SWANSON** stated that if the process was used properly as it was meant to be used, problems would not arise. However, FWP was responsive and did desire to please the public. There was a mistake made at Daily Lake, but the whole system should not be changed because of that mistake.

CHAIRMAN DOUG WAGNER said the proposed procedure may not follow MEPA guidelines. He asked **REP. RANEY** to respond. **REP. RANEY** explained that FWP would still need to complete an EA. In the

case of Daily Lake, the department overlooked that process, and in doing so, public opinion was also neglected. No present law required that the wishes of the people be followed. HB 122 did not change the EA process but mandated that the people's requests be observed. If the public cannot be convinced to develop the park or fishing access site, the development would not occur. On the other hand, if the development was approved, the public could be involved in arranging the improvement plans before the project actually started. **CHAIRMAN WAGNER** said the MEPA process currently gathered public input. He asked about the results if public comment generated outside of the local area was more than what was obtained in the local area. **REP. RANEY** said that one of the amendments excluded out-of-state people. **CHAIRMAN WAGNER** clarified his question saying that he was referring to Montana citizens that did not live in the area of the park or fishing access site. **REP. RANEY** said if other Montana citizens gave more input than local residents, FWP would have to abide by their requests; however, the chances of that happening were slim.

REP. HIBBARD agreed with **REP. KNOX**; he had faith in the people. However, he was not sure the public would actually be represented. It seemed to him that the process would be subject to "mob rule" in who could gather the most signatures and support. He questioned whether the "true will of the people" would be reflected in the process. He expressed opposition to the bill.

REP. BILL TASH opposed the bill. He was concerned if the process would really be in the best interest of the public. He agreed with **REP. ELLIOTT**. In the case of Daily Lake, the department failed. The current process should be allowed to work.

REP. MARSHALL stated that the bill was the result of some angry people. Had the project at Daily Lake followed the correct procedures, the bill would not have been proposed. During the hearing, **Mr. Graham** expressed that it was a mistake and that the department was trying to rectify the problem. He felt that HB 122 was "overkill."

REP. SLITER commented that last year the "mob signatures" repealed the proposed income tax increase. The petition process was used. He believed that people resorted to these methods to compel the government to listen to them. The government taught people to use these methods. In order for the government to listen, some people feel that many signatures on a piece of paper were required to represent their requests. Ownership meant responsibility. The department did not own the land, Montanans do. When government people were not responsive to the requests of the people, they have to be told that they were wrong. The government has indicated that "mob signatures" was the most effective way to accomplish objectives. He had concerns about HB 122, but had changed his mind to support it.

REP. REAM said **REP. MARSHALL** made a good point. It was not desirable to micromanage the Department of FWP. HB 195 was a good example of the consensus process rather than a popularity process. In the case of Daily Lake, FWP should have worked more closely with the local community in building consensus. He stated that he could support the bill with the addition of the Montana Wildlife Federation's amendment. It maintained the intent of the bill but mandated written and oral comments be published for public information. The final decision would be reserved for FWP.

REP. FUCHS said in some departments in the government, "too many things slip through the cracks." The current public fervor was for accountability. HB 122 was a property rights bill. Montana owned the property. When FWP wanted to make improvements and not listen to the public, sometimes the necessary steps needed to be taken to rectify the problem. He expressed support for HB 122.

REP. HAL HARPER commented that the discussion had centered around Daily Lake. HB 122 raised a much larger issue which was determining the best manner for the public to interact with FWP before it made decisions. He asked if committee members believed that the current method was adequate. If the people who did not agree with the improvements had an opportunity to voice their opinion, FWP might have gained a clear sense of the public desires. HB 122 stated that if the majority of people were against the project, the development would not take place. The bill allowed the public to stop or reduce unwanted improvements or developments to their recreational areas. He inquired whether it was more prudent to speed up development or to slow down and question the proposed development. There may be a better process of making these decisions than the method used currently.

REP. RANEY said the current process would remain unchanged with the exception that FWP would be required to seek public input and participation prior to the start of new projects. Currently, the law stated that public input must be considered. HB 122 required more than just considering public opinion but also respecting it. It was not his intent to micromanage the department. From discussions with people, a large majority wanted parks to remain more natural. Developments should be endorsed by the majority of the public before FWP was able to proceed.

Vote: DO PASS AS AMENDED. Motion carried 10 to 7 with REPS. SWANSON, ELLIOTT, HANSON, HIBBARD, MARSHALL, REAM, and TASH voting no. REP. MOLNAR was absent for the vote.

EXECUTIVE ACTION ON 195

Motion: REP. SWANSON MOVED THAT HB 195 AND AMENDMENTS DO PASS.

Discussion:

REP. SWANSON distributed a copy of proposed amendments and explained them. The Statement of Intent would be updated to say that any additional revenue would be reinvested into the program. The language "general ranch maintenance, conservation efforts" would also be added to clarify that if a landowner received payments under the program, the use of those funds would be solely at their discretion. Amendments three and four stated that the department could not make rules that would interfere with this program. Amendment five allowed a landowner to participate in either one or both programs. Amendment six and seven dealt with setting fees for the variable pricing of outfitter-sponsored Class B-10 and B-11 licenses. Some latitude would be given to outfitters to ensure that the system would not return to a "lottery" for licenses.

{Tape: 2; Side: A; Approx. Counter: 000; Comments: Lost 5 seconds.}

Amendment eight required that a review committee be established to help oversee the hunter management and hunting access enhancement programs. Amendments nine through ten addressed concerns regarding the programs being funded with out-of-state resident license fees. In the future, consideration must be given to providing expanded funding through increases in resident hunting license fees. Amendments 11 and 12 concerned the moratorium. The language in Section 11, subsection (2) was stricken because it was determined that it was not feasible.

EXHIBIT 3

REP. RANEY asked about the cost of implementing the review committee. **REP. SWANSON** explained that approximately \$15,000 had been appropriated in the Department of FWP budget. **REP. RANEY** asked about the source of the money. **REP. SWANSON** referred the question to **Mr. Graham**. **Mr. Graham** said the money would come from licenses and the new program's revenue.

REP. RANEY asked the reason the report to the legislature was stricken. **REP. SWANSON** stated that she did not want to eliminate the report. However, she did not want the report to involve just the department and the governor. Her intent was to have the review committee report to the governor and he would report to the legislature.

REP. RANEY asked for further clarification about amendment 10, increasing resident hunting license fees. **REP. SWANSON** explained that the variable priced license served two purposes. The first objective was to give the outfitting industry stability; the second objective was to potentially generate new money. The council believed using variable priced license fees for funding payments to the landowners who opened their land to public access was a good way to begin the program. The question was raised about the reason resident sportspeople were not contributing to the program. Discussions after the bill was submitted led them

to the conclusion that resident sportspeople could assist in the funding the program in the future. As the program grew, rather than placing an additional fee on nonresident sportspeople, increases in resident licenses could provide additional funding. **REP. RANEY** asked if the resident fee increase would need to be reviewed by the legislature. **REP. SWANSON** said yes.

REP. BOB PAVLOVICH asked **REP. SWANSON** if the landowners, sportspeople, and outfitter groups agreed to the amendment. **REP. SWANSON** said yes. **REP. PAVLOVICH** asked about the number of people that would be on the review committee. **REP. SWANSON** replied that no specific number had been stipulated. During the last session when HJR 24 was drafted, no specific number of people were designated for the forming of the council.

Vote: **REP. SWANSON AMENDMENTS. Motion carried unanimously.**

Motion: **REP. SWANSON MOVED HB 195 DO PASS AS AMENDED.**

Discussion:

REP. FUCHS asked **REP. SWANSON** about the moratorium. **REP. SWANSON** said it had been discussed after the hearing. She understood that the largest concern regarding the issue was that no one wanted to create a bad situation. However, there were huge differences between the outfitting industry and a private enterprise. The outfitting industry has a limited clientele while private businesses do not. The purpose of the moratorium was to allow the proposed system a chance to work. A short-term moratorium would help the system stabilize and give the Board of Outfitters an opportunity to regroup and devise better management plans. Notices would be provided to prospective outfitters that a moratorium was in place. **REP. SWANSON** said she was willing to reconsider the issue of the moratorium continuing five years.

REP. RANEY said an outfitter has leased land and has an outfitter's license. If that outfitter decided to sell the licenses, it would be for the area in which he operated. **REP. SWANSON** said no. The outfitting license was a business license acquired through the Department of Commerce. It had nothing to do with the area that an outfitter operated in. When the outfitter applied for a license, those details would be provided for public information. If the outfitter wanted to sell his business, he could not sell the license because it belonged to the state. He could sell his equipment and business reputation. **REP. RANEY** said if that outfitter closed his business in the area where he operated, an outfitter license would be available. When that license was purchased, the new outfitter may decide to not operate in the same area. As a result, that area would have no outfitter. **REP. SWANSON** said he was correct. She commented that amendments would be offered on the companion bill, HB 196, to further clarify the issue. **REP. SLITER** had expressed concerns regarding the issue. The length of the moratorium cannot be reduced too far because there would be insufficient time to allow

the program to work. The program was not scheduled to begin until the hunting season of 1996. She suggested that the moratorium include at least three hunting seasons.

REP. SLITER stated that the beginning of the moratorium depended on when the bill was signed by the governor. If it was signed before March 15, the deadline for issuing outfitter licenses, the 1995 hunting season would be included. However, if it was signed after March 15, the moratorium would not be effective until the 1996 hunting season. **REP. SWANSON** said if the moratorium was effective this season, no information would be available about the program's success until the variable priced license program was in place. That program was not scheduled to begin until the fall of 1996, regardless of when the governor signed the bill.

REP. RANEY stated that the moratorium could only be reduced to two or four years so that the legislature could review it. Two years was not acceptable because there would not be enough data. The only alternative was to reduce it to four years. **REP. SLITER** confirmed his statements. However, reducing the moratorium to four years reduced the number of hunting seasons affected. If the 1999 legislative session reviewed the program, there would be three seasons affected. **Mr. Sternberg** explained that the moratorium was effective upon passage and approval of the bill. There would be no new licenses issued after the effective date of this act. The remaining provisions of the bill become effective October 1. An outfitter's license expired on the last day of the license year for which it was issued. They were issued on an annual basis. All licenses issued in 1995 expired in 1996. The moratorium would be effective immediately and be in place for the 1995 season through the year 2000. **REP. SWANSON** further explained that if the five-year moratorium was left in place, the first opportunity the legislature would have to review it would be in 2001. **Mr. Sternberg** said that date would correspond to the termination of the act. **REP. SWANSON** said in some respects it may be good that it ended before the legislature reviewed it so that results of occurrences after the moratorium ended could also be reviewed. **REP. RANEY** said if the moratorium were to end between legislative sessions, many people could "flood in" and become outfitters. He believed that a four-year moratorium was the most appropriate so that the 1999 legislature could review the program.

REP. HIBBARD agreed with **REP. RANEY**. If the end of the moratorium was to coincide with the convening of the 1999 legislature, it would be a good time to review the whole program.

CHAIRMAN WAGNER asked if the legislature could review the program at any time. **REP. SWANSON** said yes.

Motion: **REP. RANEY** MOVED TO CHANGE THE FIVE-YEAR MORATORIUM TO A FOUR-YEAR MORATORIUM.

Discussion:

REP. PAVLOVICH asked the reason it was being changed when it could be changed at any time, including in the next legislative session. REP. SWANSON said she understood the date change was only occurring on the moratorium and not on the sunset date.

REP. RANEY responded that the date only referred to the moratorium. REP. SWANSON hoped that the bill would be in an acceptable form so that it would not need to be reassessed in the next legislature.

REP. SLITER originally felt that the moratorium should be eliminated totally. However, it was part of the consensus decision and should be respected. He wanted to mandate that the program was examined at the appropriate time. He asked Mr. Graham for clarification. Mr. Graham said in order that enough seasons were included for review, specific dates should be given so that there was no question about the moratorium's start or finish. He suggested having the season end in either July or October so that it would not end in the middle of a drawing.

REP. RANEY withdrew his motion.

{Tape: 2; Side: B; Approx. Counter: 000; Comments: Lost 15 seconds.}

Motion: REP. SWANSON MOVED THAT ON PAGE 11, LINE 3 TO STRIKE THE WORDS "FIVE YEAR" AND ADD "EXPIRING JUNE 30, 1999."

Discussion:

REP. FUCHS stated that the 1999 legislature would have to review the programs because of the pending sunset date and suggested no further changes be made. REP. SWANSON said the problem was that if the governor signed the bill on March 1 and the licensing drawing was on March 15, there would be a two-week period in which many outfitters could obtain licenses. If a specific date was chosen, it would not matter when the bill was signed.

REP. SLITER asked when the drawings ended. Mr. Graham replied that they ended about the third week of April. REP. SLITER wanted to be sure that there was no "slack time." He was very uncomfortable with the drawing date and the expiration date occurring at different times. He felt that the moratorium had some problems that needed to be addressed before the bill became law.

REP. PAVLOVICH remarked that the three groups compromised and the bill should be "left alone." He stated that he may vote against the bill if it continued to be amended.

REP. SWANSON said the five-year moratorium was the council's idea. She wanted committee members to feel comfortable with the contents of the bill. It was acceptable to change this portion

of the bill dealing with the moratorium to be sure everyone's concerns were addressed.

REP. SLITER stated he would leave the issue alone if the committee desired to keep the moratorium in the form in which it was presented. He commented that it would "be a pretty big I told you so" when outfitters protested the release of the moratorium because of the amount of money they had invested in their license.

Vote: JUNE 30, 1999, EXPIRATION DATE. Motion carried 8 to 6. No record of specific representative's votes was recorded.

Discussion:

REP. SWANSON asked **Mr. Sternberg** to provide the correct form of wording for the bill regarding the expiration date.

Motion: **REP. SWANSON** MOVED HB 195 DO PASS AS AMENDED.

Motion: **CHAIRMAN WAGNER** MOVED TO AMEND HB 195. ON PAGE 8, LINE 7, "5,500" WOULD BE STRICKEN AND REPLACED WITH "5,600." ON PAGE 8, LINE 29, "11,500" AND REPLACED WITH "11,400."

Discussion:

REP. SWANSON said the figures presented in the bill were hard fought compromises. Outfitters had explained in council meetings that there was a major game problem in eastern Montana. There was more demand for eastern Montana deer hunting than allowed by nonresident licenses. People were buying B-10 elk/deer combination licenses and throwing the elk portion of the license away. The compromise was to provide more deer licenses and reduce the number of B-10 combination licenses for clients of outfitters. She expressed opposition to the amendment.

REP. MARIAN HANSON said the eastern Montana elk herd had grown significantly. A biologist from Miles City had told her that the number of licenses could be raised to 10,000, and it would not negatively impact the resource. She expressed support for the amendment. **REP. SWANSON** explained that it may not impact the resource, but the number of licenses had been determined through compromise at council meetings for the benefit of resident hunters. **REP. HANSON** said she knew her area and the dilemma of game overpopulation. She supported the bill but felt that the proposed amendment numbers were acceptable.

REP. WAGNER said he understood that there was an idea to split the B-10 elk/deer combination licenses because of the amount of elk tags being thrown away. People were only using the deer tag. As a result, many elk tags were wasted. However, the only way the B-10 license could have been split was through a cap or moratorium to control the growth of outfitters. It was determined that it was unconstitutional to place a cap on the

number of outfitters. **REP. SWANSON** said splitting the B-10 license was one of the least popular ideas proposed at council meetings. The idea of providing more licenses to try and equalize the competitive framework was ultimately the compromise reached. Nonoutfitted hunters needed to receive some benefits from the compromise, not just outfitted hunters. This was the reason 300 B-11 licenses were added, and 100 were removed from the B-10 outfitted licenses and reclassified into the nonoutfitted category. Nonoutfitted sportsmen had the least statistical advantage in obtaining a license.

REP. RANEY asked, out of the three groups involved, who would agree and disagree with the amendment. **REP. SWANSON** said outfitters would appreciate the amendment. Nonoutfitted, resident and nonresident hunters would not like the amendment.

CHAIRMAN WAGNER asked **REP. SWANSON** the reason resident sportspeople would not like the amendment. **REP. SWANSON** said the reason was because more licenses would be given to clients of outfitters leading to more land being leased and an increase in the number of outfitters. Ultimately, there would be less land available for general public access. **CHAIRMAN WAGNER** said the numbers he proposed existed currently in regulations. **REP. SWANSON** said yes. However, 600 new licenses were created for nonresidents; 300 of those new licenses were for clients of outfitters. **REP. HANSON** asked if all 600 new licenses were for nonresidents. **REP. SWANSON** said yes.

CHAIRMAN WAGNER stated that he received a letter from the Montana Outfitters and Guides Association clarifying their position and feelings about HB 195 and HB 196. Outfitters were making compromises and sacrifices to have a peaceful coexistence with landowners and sportspeople. **EXHIBIT 4**

Vote: **REP. WAGNER AMENDMENT.** Motion failed 11 to 6 on a roll call vote with **REPS. WAGNER, REHBEIN, HANSON, HIBBARD, SLITER,** and **TASH** voting yes.

Motion: **REP. MOLNAR MOVED TO RETURN THE NUMBERS 5,500 AND 2,300 TO 5,600 AND 2,000 RESPECTIVELY AND ALSO TO REDUCE 11,500 TO 11,400.**

Discussion:

REP. MOLNAR said the reason for the amendment was to return amounts to where they were before the bill was proposed. The outfitters would not lose or gain anything, and there would not be an additional 300 licenses available in his part of the state.

REP. HANSON expressed opposition to the amendment. The proposed amendment reduced the number of game that could be hunted. In eastern Montana, there was a severe game overpopulation problem. **REP. MOLNAR** said there may be game to support 10,000 licenses, but he did not know how much public toleration there was for

outfitted hunters. He believed the numbers should be returned to their prior state before the bill was introduced.

REP. HIBBARD stated that the bill could be "tweaked all day and find good reasoning and rationale for it." However, HB 195 was the result of 18 months of compromise and consensus. The final product had benefits and sacrifices from each group involved. The consensus nature of the document and all the hard work that went into it must be acknowledged. He urged the committee to resist further changes.

REP. MOLNAR believed everyone's concerns were valid. No document, including this one, was "chiseled in stone." He wanted to return the numbers to their prior state.

Vote: **REP. MOLNAR AMENDMENT.** Motion failed 17 to 1 with **REP. MOLNAR** voting yes.

Motion: **REP. SWANSON MOVED HB 195 DO PASS AS AMENDED.**

Discussion:

CHAIRMAN WAGNER spoke of a person who operated a safari in which people traveled through different parts of the wilderness areas taking pictures. **REP. SWANSON** said the term "hunting outfitter" addressed those concerns.

{Tape: 3; Side: A; Approx. Counter: 000; Comments: Lost 15 seconds. A portion of CHAIRMAN WAGNER's comments were lost.}

Vote: **DO PASS AS AMENDED.** Motion carried 17 to 1 with **REP. PAVLOVICH** voting no.

EXECUTIVE ACTION ON HB 196

Motion: **REP. SWANSON MOVED THAT HB 196 AND AMENDMENTS DO PASS.**

Discussion:

REP. SWANSON distributed a copy of the amendments. They were "friendly" amendments negotiated through the three groups involved in the process. The word "master" was stricken and replaced with "professional" because the Board of Outfitters felt that was a more appropriate term. The other amendments changed "operating area" to "operations plans." Instead of the Board of Outfitters regulating on the basis of an operating area, outfitters would be regulated based on operations plans. Net client use would be utilized to evaluate whether or not there were land use conflicts. The amendments ensured that private property owners rights were not being infringed on.

REP. TASH asked **REP. SWANSON** about the effect on permits on federal land. **REP. SWANSON** said there was no effect. When an

outfitter submitted their plan, it must describe the area to be outfitted and whether they have the proper federal permits. **REP. TASH** asked about the relationship between federal permits and the operating plan. **REP. SWANSON** said the whole operating plan must be submitted. It was not two separate plans. The outfitter was licensed through the state to operate in a designated area.

REP. MOLNAR said he understood that HB 196 halted the horizontal growth of outfitters. If outfitters want to increase their size, they could do so through an agreement. He asked **REP. SWANSON** about the manner in which horizontal growth was controlled. **REP. SWANSON** said the control would be through the net client base, not through the area that was outfitted. It would not be cost effective for an outfitter to lease more land if he was not allowed to increase net client use. **REP. MOLNAR** said that as a result, hunting would be improved and the outfitter would charge more. He believed this would be horizontal growth.

REP. SWANSON said the horizontal growth referred to in HB 196 included increases in the amount of leased land and in the number of guides who work for outfitters. Most outfitters expand horizontally through hiring more guides and placing them in different camps. In doing this, the net client base expanded. If an outfitter cannot expand the net client base, it was not worthwhile hiring more guides or leasing more land. **REP. MOLNAR** maintained that if an outfitter could charge more for a better quality hunt, it would be horizontal expansion. As these expansions took place, the public was supposed to have input. However, the public cannot have input as to whether or not a landowner could lease his land. As a result, there would not be public input. He believed there was no public toleration for horizontal growth.

REP. SWANSON said he was making the assumption that the outfitter would charge more and as a result have more guides per client which would be considered as horizontal growth. She disagreed. The public comment was valid on the operations plan as well as on the operating area plan. **REP. MOLNAR** said currently there was a public hearing to determine if an outfitter could lease additional land. Under HB 196, the outfitter could make an agreement with the landowner and the public would be left out. Therefore, it was economically feasible to expand and the public would have nothing to review. **REP. SWANSON** said if that agreement contained the outfitter's and landowner's names, the public really should not have the right to determine the manner in which a landowner handled his property. **REP. MOLNAR** agreed.

REP. MOLNAR asked how the horizontal growth could be stopped when there was unlimited money. If an outfitter was able to have one guide per person, he would lease more and more land. Nothing would be accomplished. **REP. SWANSON** stated that if there was one guide per client, there would be no point in leasing more land. **REP. MOLNAR** said leasing more land provided a higher quality hunt.

REP. KNOX agreed with **REP. SWANSON**. He remarked that the idea of unlimited money and that there would always be somebody who would pay unlimited fees was a fallacy. The largest percentage of outfitter's clients were people of moderate means. A one-on-one guide situation was the exception. He did not anticipate that would be the case in the future. The vast majority of people cannot afford a one-on-one situation with a guide.

REP. HIBBARD understood **REP. MOLNAR's** concerns; however, there was a limited number of hunting licenses. Only a minimal amount of expansion could occur. Basically, a cap was placed on the industry and there was no reason to fear that minute growth.

REP. RANEY agreed that outfitter growth was arrested; however, no limits were placed on the number of guides. If an outfitter was doing well, he could hire more guides which in turn could require more leased land. This would result in more land taken out of public opportunity. **REP. SWANSON** said that possibility did exist. This was the crux of the problem with the outfitting industry. HB 196 was the best plan to begin to get control. The balance in the plan was to control the net client base thereby reducing the amount of leased land. It would not be acceptable to mandate that a landowner could not lease his land nor could they mandate that an outfitter could not hire more guides. HB 196 attempted to regulate an industry out of control. One of the reasons for the moratorium was to allow the plan in HB 196 an opportunity to work.

REP. MARSHALL said everyone was in the hearing and not one outfitter came forward objecting to HB 195 and HB 196. He requested no further changes or all could be lost.

REP. MOLNAR said the operations plan attempted to describe an operating area. There was latitude given on the vertical growth. He believed that a geographic limit could be placed on an outfitter's business license. Almost every other business has a geographic area that they were allowed to operate in. He expressed opposition to the amendments.

REP. WELLS agreed with **REP. MOLNAR**. An operating plan should be designated. In the beginning he felt that the number of licenses would provide regulation. However, increased amounts of money would lead to growth. His son was a guide. Currently, he was guiding one person at a time and getting paid more money than when he was guiding three people at a time. There may be a limit to the money, but he did not like the thought of how high that limit would be. An operating plan should be specified and regulated through the outfitter's board. It could be a generous plan. **REP. SWANSON** stated that it would be feasible for an outfitter to lease directly from the landowner and bypass the Board of Outfitters. An operating plan would eliminate this possibility. It was controversial to get involved in private property owner's rights. This became the overriding issue

bypassing whether or not it was a good idea to control the outfitter's operating area.

REP. HARPER emphasized that it was a consensus bill. He asked **Lance Melton, Attorney, Department of Commerce**, to respond to the committee's discussion. **Mr. Melton** reassured that the amendments were "friendly amendments" reached through consensus between the regulatory board and private associations. It was a consensus between groups that have different ideas and agendas. All of the groups were in complete agreement on the bill and amendments. Net hunting client use was chosen because of the great concern over infringing on landowner's rights. If they had chosen to limit the geographical area, property rights could have been infringed upon. Utilizing net hunting client use as a measurement of expansion should discourage uncontrolled outfitter growth. There needed to be some latitude regarding growth so that quality hunting could be maintained.

REP. MOLNAR stated his major concern was that outfitters would provide a higher quality hunt that would "command a higher dollar" and as a result could lease more land. He asked who would have the authority to regulate an outfitter plan and wondered where property rights violations occurred. **REP. SWANSON** said everyone was speculating the results of the program. She did not want to interfere with private property rights.

REP. WELLS asked for clarification from **Mr. Melton** about sportspeople's reaction to the amendments. **Mr. Melton** said HB 196 was a companion bill to HB 195. HB 196 was a regulatory bill and was presented by the Board of Outfitters. The consensus that was gained was between the Board of Outfitters and private association representatives of the outfitting industry. There were no opponents to the bill at the hearing despite the fact that the Montana Wildlife Federation, Montana Stockgrowers, and members of the private sportsmen's associations were present at the hearing.

{Tape: 3; Side: B; Approx. Counter: 000; Comments: Lost 15 seconds. The vote on the amendments was not recorded.}

Vote: **REP. SWANSON AMENDMENTS.** Motion carried 13 to 5 with **REPS. DEVANEY, MOLNAR, PAVLOVICH, RANEY, and WELLS** voting no.

Discussion:

REP. HIBBARD emphasized that HB 195 was the product of the 18-month council. HB 196 was not the product of that council but dealt with a similar subject; therefore, it was considered a companion bill.

REP. SWANSON stated that the 18 month council had many recommendations. Many of the recommendations were not included in HB 195. The idea of giving the Board of Outfitters more authority to regulate the industry and encouraging greater

regulation was a recommendation of the council. She agreed to carry the bill and urged it be considered as a companion bill to HB 195. If the outfitting industry did not become regulated, nothing much would be solved.

Motion: REP. SWANSON MOVED HB 196 DO PASS AS AMENDED.

Discussion:

REP. TASH asked REP. SWANSON about the fiscal note. REP. SWANSON explained that a few FTE's would be given to the Board of Outfitters to provide greater enforcement capabilities. The money used was strictly outfitter license fees. REP. TASH asked about the source of the fees. REP. SWANSON said the money was only from outfitting license fees.

Motion/Vote: REP. MOLNAR MOVED THAT ON PAGE 4, LINE 23, TO ADD, "RULES ADOPTED PURSUANT TO THIS SECTION MUST PROVIDE FOR SOLICITATION AND CONSIDERATION OF COMMENTS FROM SPORTSMEN IN THE AREA TO BE AFFECTED BY THE PROPOSAL WHO DO NOT MAKE USE OF OUTFITTED SERVICES." Motion carried 13 to 5 with REPS. KNOX, HANSON, HIBBARD, SLITER, and PAVLOVICH voting no.

Motion: REP. MOLNAR MOVED THAT ON PAGE 2, LINE 27, TO STRIKE THE WORD "VARMINT."

Discussion:

REP. RANEY said previous discussion from the department related that it was difficult to discern if a person was actually hunting a varmint or was with an illegal guide who was just saying he was hunting varmints.

REP. HANSON said in the spring of the year in her area, outfitters took clients prairie dog hunting. Prairie dogs were considered varmints and she believed that word should be stricken.

REP. KNOX agreed with REP. HANSON. It was a viable business.

CHAIRMAN WAGNER asked REP. MOLNAR about the reason for striking the word, "varmint." REP. MOLNAR stated that it did not suggest that outfitters could not continue taking people prairie dog hunting. However, it meant that an outfitter's license was not required if a person took a person to shoot varmints for a tank of gas or lunch. If a person took compensation, he would be a criminal. His amendment would allow people to go and shoot varmints such as coyotes, prairie dogs, and gophers without an outfitting license.

REP. TASH expressed opposition to the amendment. As a landowner, he had people who came and shot varmints. Outfitters should also be allowed to do this.

CHAIRMAN WAGNER asked **Mr. Sternberg** about **REP. MOLNAR's** concerns. **Mr. Sternberg** referred to the definition of an outfitter. A person who, for consideration, provided for any person to hunt, trap, capture, take, kill, pursue, or retrieve any varmint was considered an outfitter. If a person received consideration and provided a hunting service, that would be considered outfitting. Consequently, that person would be considered outfitting without a license. **CHAIRMAN WAGNER** said he would be considered an outfitter without a license if he took a group of people on a floating trip and they provided him with beer. **Mr. Sternberg** said yes, if he provided that service for consideration. The definition of an outfitter was related to the definition of consideration.

REP. FUCHS stated that was not the intent of the bill.

REP. MOLNAR said if he came across someone needing help to drag an elk to their truck and was offered \$50 for the help, it would be illegal to help him. Watercraft were also included in the bill. This area of the bill was extremely broad and was government regulation "at its finest."

CHAIRMAN WAGNER asked **Mr. Melton** to address some of the concerns expressed by committee members. **Mr. Melton** said the language in the bill that was not underlined was existing language. He referred to the second half of the definition of an outfitter, "and who accompanies that person either part or all of the way on an expedition for any of these purposes or supervises a licensed guide or master guide in accompanying that person." A person would have to provide all of the equipment and vehicles as well as providing the services in order to be regarded as an outfitter. The other exception regarded a person who took people hunting on his own land. If a person approached a ranch owner and gave him \$50 for allowing him to shoot a few gophers, no license would be required.

REP. WELLS mentioned that the word "retrieve" concerned him. It was new language.

Substitute Motion: **REP. MOLNAR MOVED TO STRIKE THE LANGUAGE ON PAGE 2, LINES 24-29.**

Discussion:

CHAIRMAN WAGNER asked if it would be easier task to redefine the word "consideration." **REP. MOLNAR** said no. This section received no comment and it appeared as if they were trying to "slide it through." He gave several instances of where he would need an outfitters license just to hunt varmints. It was this type of incremental growth that brought the bill before the committee. He believed it would not help, and the 1997 legislature would be reexamining the issue.

CHAIRMAN WAGNER asked **Mr. Melton** about the reason for the new language. **Mr. Melton** said that the old language could have been construed in ways that it was not intended. They attempted to draft specific language in order to give a clear idea of the criteria required for a license. Unlicensed outfitting has grown significantly. The updated definition was not intended to seize the person who was given a six pack of beer to help pull an animal out of the woods. He did not know how else language could be constructed so that loopholes would not be opened.

CHAIRMAN WAGNER said the committee appeared to have a few concerns about the bill and suggested action be deferred. **Mr. Melton** said "varmint" and "predator" language was not significant to the Board of Outfitter's intent. They wanted to identify the items and services that would be provided that would classify a person as an outfitter. The reason for that language was to close a loophole used by people claiming to be hunting those creatures when they were actually on a guided hunt. Another reason was for safety. More bullets were flying around when a person was hunting varmints.

REP. HARPER said the addition of the words, "facilities; camping equipment; vehicle, watercraft, or other conveyance" did not expand the definition of an outfitter. With this language, everyone was included. The language of "varmint" and "predator" was an expansion. **CHAIRMAN WAGNER** said that he had people offer to pick up the beer if he would take them on a float trip down the river. This could be construed as outfitting under the new language. **REP. HARPER** said that was not the intent.

REP. MOLNAR said that the underlined language was new, and some of it provided clarification. If this language was stricken, the definition would not be significantly changed. **Mr. Melton** said the additional language in the section was condensed from three or four other subsections. "Retrieval" could be an expansion but also could be construed as someone assisting another person locate an animal. "Varmint" and "predator" language was an expansion. The remaining language was clarification.

{Tape: 4; Side: A; Approx. Counter: 000; Comments: Lost about 2 minutes; had to get more tapes.}

REP. MOLNAR said one of the problems was identifying the rogue outfitter. Adding the language of varmints and predators would not help identify illegal outfitters. It could never be determined whether a person has a game animal tag in their pocket or not.

REP. HIBBARD asked **REP. MOLNAR** to clearly state his concern. **REP. MOLNAR** said his first amendment struck the word "varmint." After discussion with **Mr. Melton**, he decided to strike all of underlined language in lines 24-29 on page 2. He was very concerned that the definition of an outfitter was being expanded so that there were more things people could not do without a

license. **REP. HIBBARD** restated the concern saying that **REP. MOLNAR** was concerned that the activities he normally conducted for a six pack of beer or \$50 would need an outfitters license. **REP. MOLNAR** said yes. **REP. HIBBARD** said the problem should be addressed directly and possibly draft a better definition of consideration. **REP. MOLNAR** said that was part of the problem. The definition was understood, but he expressed concern over the words used to describe it.

REP. HIBBARD asked **Mr. Melton** for comments regarding the definition of consideration. **Mr. Melton** said he did not know how to draft language that would permit some activities but not others. There were serious cases of unlicensed outfitting practices, more than enforcement could handle currently. He assured committee members there was no intent to pursue somebody exchanging beer or gas. The notion of providing professional services for consideration was the basis of every license requirement in the state, especially in professional and occupational licensing. He suggested that if there was concern over the broad definition of consideration, lines 8-9 that contained the definition should be stricken.

REP. WELLS knew of a few instances where a hunter paid another man \$100 to drag his elk out of the woods by horse. He suggested that a \$100 limit be placed in the definition of consideration. Locating was the same as hunting and he was still opposed to the word "retrieve" in the definition.

REP. SLITER said an assessment must be made of whether or not a person was making a business of hunting varmints. He wanted the record to show that it was not the committee's intent that consideration include the \$50 or \$100 one time a year occurrence. The intent of the legislation was that if someone wanted to open the business of hunting varmints and charge a fee for it, then an outfitter license would be needed.

REP. HARPER said it did not make sense to totally rewrite the codes of the state of Montana. The word consideration was used throughout the codes. He asked **REP. MOLNAR** to explain precisely the content of his amendment.

Substitute Motion/Vote: **REP. MOLNAR** MOVED TO STRIKE THE WORDS, "RETRIEVE," "VARMINT," AND "PREDATOR" FROM THE BILL. Substitute motion failed 11 to 7 with **REPS. WAGNER, REHBEIN, DEVANEY, FUCHS, MOLNAR, RANEY,** and **WELLS** voting yes.

Motion: **REP. SWANSON** MOVED HB 196 DO PASS AS AMENDED.

Discussion:

REP. SLITER asked if a motion was needed to show the intent of the committee.

Motion: REP. SLITER MOVED THAT THE RECORD SHOW THAT THE COMMITTEE'S INTENT WAS TO DEAL WITH PROFESSIONAL OUTFITTERS OPERATING A BUSINESS AND NOT AMATEURS EXCHANGING A FEW DOLLARS, BEER, OR GAS ON INFREQUENT OCCASIONS.

Discussion:

CHAIRMAN WAGNER asked Mr. Sternberg for comments. Mr. Sternberg said it was the committee's decision. It could be made in the form of a motion.

REP. HARPER commented that the minutes would reflect the entire discussion, including the motion. He said the record had been made throughout the discussion; a motion was not necessary to record the minutes.

Motion: REP. SLITER MOVED THAT ON PAGE 2, LINE 20 TO ADD "AND WHO IS A PROFESSIONAL DOING BUSINESS."

Discussion:

REP. SWANSON stated that the words "professional" and "business" would need to be defined. She suggested that the language be included in a preamble. REP. SLITER said that if the record showed their intent; that would be acceptable.

REP. HARPER said that the record would clearly show that "someone floating friends down the river or transporting their boat for beer or a tank of gas" was certainly not considered a professional outfitter.

REP. HIBBARD said the record would follow the entire committee discussion on the issue and indicate clearly the legislature's intent.

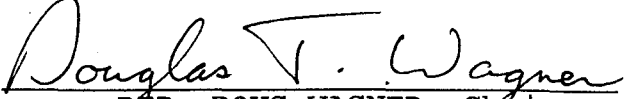
REP. SLITER withdrew his motions.

REPS. SWANSON and HIBBARD thanked Mr. Sternberg, Mr. Melton and the council members in the audience for all their work.

Motion/Vote: REP. SWANSON MOVED HB 196 DO PASS AS AMENDED. Motion carried 16 to 1 with REP. PAVLOVICH voting no. REP. MOLNAR abstained from voting.

ADJOURNMENT

Adjournment: 6:37 p.m.



REP. DOUG WAGNER, Chairman



MARY RIITANO, Secretary

DW/mr

HOUSE OF REPRESENTATIVES

Fish and Game

ROLL CALL

DATE February 2, 1995

NAME	PRESENT	ABSENT	EXCUSED
Rep. Doug Wagner, Chairman	✓		
Rep. Bill Rehbein, Vice Chairman, Majority	✓		
Rep. Emily Swanson, Vice Chairman, Minority	✓		
Rep. Charles Devaney	✓		
Rep. Jim Elliott	✓		
Rep. Daniel Fuchs	✓		
Rep. Marian Hanson	✓		
Rep. Hal Harper	✓		
Rep. Chase Hibbard	✓		
Rep. Dick Knox	✓		
Rep. Rod Marshall	✓		
Rep. Brad Molnar	✓		
Rep. Bob Pavlovich	✓		
Rep. Bob Raney	✓		
Rep. Bob Ream	✓		
Rep. Paul Sliter	✓		
Rep. Bill Tash	✓		
Rep. Jack Wells	✓		



HOUSE STANDING COMMITTEE REPORT

February 3, 1995

Page 1 of 2

Mr. Speaker: We, the committee on Fish and Game report that House Bill 122 (first reading copy -- white) do pass as amended.

Signed: Douglas T. Wagner
Doug Wagner, Chair

And, that such amendments read:

1. Title, lines 8 and 9.

Following: "DEVELOPMENT" on line 8

Strike: remainder of line 8 through "COMMENTS" on line 9

Insert: "UNTIL CERTAIN CONDITIONS ARE MET"

2. Title, line 9.

Following: "COMMENTS;"

Insert: "PROVIDING AN EXCEPTION FOR MAINTENANCE, WEED CONTROL,
AND NECESSARY SANITARY AND SAFETY MEASURES;"

3. Page 2, line 4.

Following: "(3)"

Insert: "(a)"

4. Page 2, line 5.

Following: "entity"

Insert: "residing in the state of Montana"

5. Page 2, line 7.

Strike: "If"

Insert: "(b) When"

6. Page 2, lines 9 through 11.

Following: "development" on line 9

Strike: remainder of line 9 through "comments" on line 11

Insert: "until the provisions of subsection (3)(c) are met."

Committee Vote:

Yes 10, No 7.

(1 Member absent)

291539SC.Hbk

Maintenance, weed control, and necessary sanitary and safety measures are exempt from the public approval requirements of this subsection (3).

(c) If the department wishes to pursue the improvement or development of a state park or fishing access site when the majority of persons and entities submitting written or oral comment to the department is opposed to the proposed improvement or development, the department shall work with the interested users of the state park or fishing access site to redesign the improvement or development. The department shall submit the redesigned improvement or development for public comment and may not proceed until a majority of persons or entities commenting on the proposed improvement or development supports the proposal"

-END-



HOUSE STANDING COMMITTEE REPORT

February 3, 1995

Page 1 of 3

Mr. Speaker: We, the committee on Fish and Game report that House Bill 195 (first reading copy -- white) do pass as amended.

Signed: Douglas T. Wagner
Doug Wagner, Chair

And, that such amendments read:

1. Title, line 15.
Strike: "A"
2. Title, line 16.
Strike: "DATE"
Insert: "DATES"
3. Page 2, line 23.
Following: "that"
Strike: "the"
Insert: "any"
4. Page 5, line 9.
Following: "with"
Insert: "general ranch maintenance, conservation efforts,"
5. Page 5, line 17.
Following: "in"
Insert: ", but application is not limited to,"
Following: "manner"
Strike: "or"
6. Page 5, line 18.
Strike: "other manner allowed by rule"
7. Page 5, line 28.

Committee Vote:
Yes 17, No 1

291541SC.Hbk

Strike: "and"
Insert: "program or"
Strike: "programs"
Insert: "program, or both"

8. Page 8, line 6.
Following: "sell"
Insert: "as close to but"

9. Page 8, line 9.
Following: "unsold"
Insert: ", up to 5,500 Class B-10 licenses and 2,300 Class B-11 licenses,"

10. Page 8, line 12.
Following: "required"
Insert: "-- review committee. (1) The governor shall appoint a committee of persons interested in the hunter management program, the hunting access enhancement program, or other issues related to private lands and public wildlife to review the success and progress of the hunter management program and the hunting access enhancement program. The committee must have equal representation of landowners and sportspersons and be broadly representative of the various geographical areas of the state. The department may provide administrative assistance as necessary to facilitate the efforts of the review committee.
(2)"

11. Page 8, line 12.
Following: "The"
Strike: "department"
Insert: "review committee"
Following: "governor"
Strike: remainder of line 12 through "legislature" on line 13

12. Page 8, line 16.
Following: "programs."
Insert: "If the review committee determines that expanding funding for programs for hunter management and hunting access enhancement is desirable, consideration must be given to providing the expanded funding through increases in resident hunting license fees."

13. Page 9, line 26.
Strike: "4,300"
Insert: "2,300"

14. Page 11, line 1.
Strike: "(1)"

15. Page 11, line 3.
Strike: "5-year"

16. Page 11, lines 8 through 11.
Strike: subsection (2) in its entirety

17. Page 12, line 3.
Strike: "[This act] terminates"
Insert: "(1) [Sections 1 through 10 and 12 through 16] terminate"
Following: line 3
Insert: "(2) [Section 11] terminates June 30, 1999."

-END-

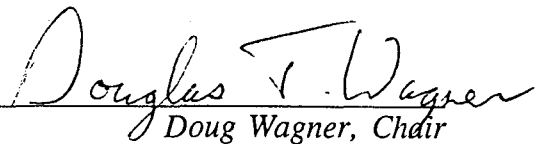


HOUSE STANDING COMMITTEE REPORT

February 3, 1995

Page 1 of 4

Mr. Speaker: We, the committee on Fish and Game report that House Bill 196 (first reading copy -- white) do pass as amended.

Signed: 
Doug Wagner, Chair

And, that such amendments read:

1. Title, line 6.
Strike: "MASTER"
Insert: "PROFESSIONAL"
2. Title, line 7.
Strike: "AREA OPERATING"
Insert: "OPERATIONS"
3. Title, line 9.
Strike: "MASTER"
Insert: "PROFESSIONAL"
4. Page 1, line 21.
Strike: "operating area" in two places
Insert: "operations"
5. Page 1, lines 22 and 24.
Strike: "master"
Insert: "professional"
6. Page 1, line 26.
Strike: "operating area"
Insert: "operations"
7. Page 1, line 27.
Strike: "commercial"

Committee Vote:

Yes 16, No 1.

(Record shows >

291542SC.Hbk

Insert: "hunting"
Following: "will"
Insert: "cause undue"
Following: "existing"
Insert: "hunting"

8. Page 2, line 6.

Strike: "any"
Insert: "some"

9. Page 2, lines 17 and 18.

Strike: subsection (7) in its entirety
Re-number: subsequent subsections

10. Page 3, line 13.

Following: line 12
Insert: "(10) "Professional guide" means a guide who has met
experience, training, and testing qualifications for
designation as a professional guide, as set by board rule."
Re-number: subsequent subsection

11. Page 3, line 25.

Strike: "master"
Insert: "professional"

12. Page 4, lines 4 and 8.

Strike: "master"
Insert: "professional"

13. Page 4, line 11.

Strike: "operating area"
Insert: "operations"

14. Page 4, line 16.

Strike: "master"
Insert: "professional"

15. Page 4, line 17.

Strike: "operating area"
Insert: "operations"
Following: "plans"
Insert: "involving hunting use"

16. Page 4, lines 18 and 19.

Following: "of"
Insert: "net client hunting use under"
Following: "an"
Insert: "outfitter's"

Following: "existing"
Strike: "operating area"
Insert: "operations"
Following: "will"
Strike: remainder of line 18 through "or" on line 19

17. Page 4, line 19.
Following: "with existing"
Insert: "hunting"
Following: "area"
Insert: ", constituting a threat to the public health, safety, or
welfare"

18. Page 4, line 20.
Strike: first "operating area"
Insert: "operations"
Following: "of"
Strike: "an"
Insert: "net client hunting use under the"
Following: "existing"
Strike: "operating area"
Insert: "operations"

19. Page 4, line 21.
Following: "existing"
Insert: "hunting"

20. Page 4, lines 22 and 23.
Strike: "operating area"
Insert: "operations"
Following: "another licensed outfitter"
Strike: remainder of line 22 through "area" on line 23
Insert: "Rules adopted pursuant to this section must provide for
solicitation and consideration of comments from hunters and
sportspersons in the area to be affected by the proposal who
do not make use of outfitter services."

21. Page 4, lines 25, 29, and 30.
Strike: "master"
Insert: "professional"

22. Page 5, lines 4, 6, and 16.
Strike: "master"
Insert: "professional"

23. Page 5, lines 17 through 20
Strike: subsection (8) in its entirety

24. Page 6, lines 11, 26, 27, and 29.

Strike: "master"

Insert: "professional"

25. Page 6, line 30.

Following: ";"

Insert: "and"

26. Page 7, lines 10 through 12.

Strike: "; and" on line 10 through "agency" on line 12

27. Page 7, lines 14, 19, and 29.

Strike: "master"

Insert: "professional"

28. Page 7, line 22.

Following: "~~shall~~"

Insert: "forms the basis for the outfitter's operations plan and"

29. Page 8, lines 2, 3, and 4.

Strike: "master"

Insert: "professional"

30. Page 8, line 13.

Strike: "an operating area plan that specifies"

31. Page 10, lines 2 and 10.

Strike: "master"

Insert: "professional"

32. Page 11, lines 11, 18, 20, and 29.

Strike: "master"

Insert: "professional"

33. Page 12, lines 8, 10, 15 in two places, 24, 25, 26, and 29.

Strike: "master"

Insert: "professional"

34. Page 13, lines 1, 2, 8, 10, 11, 12, 14, 15, 18, 19, and 25 in
two places.

Strike: "master"

Insert: "professional"

-END-

HOUSE OF REPRESENTATIVES

ROLL CALL VOTE

Fish and Game Committee

DATE FEB 2, 1995 BILL NO. 122 NUMBER 1

MOTION: DO PASS AS AMENDED

NAME	AYE	NO
Rep. Doug Wagner, Chairman	✓	
Rep. Bill Rehbein, Vice Chairman, Majority	✓	
Rep. Emily Swanson, Vice Chairman, Minority		✓
Rep. Charles Devaney	✓	
Rep. Jim Elliott		✓
Rep. Daniel Fuchs	✓	
Rep. Marian Hanson		✓
Rep. Hal Harper	✓	
Rep. Chase Hibbard		✓
Rep. Dick Knox	✓	
Rep. Rod Marshall		✓
Rep. Brad Molnar	GONE	
Rep. Bob Pavlovich	✓	
Rep. Bob Raney	✓	
Rep. Bob Ream		✓
Rep. Paul Sliter	✓	
Rep. Bill Tash		✓
Rep. Jack Wells	✓	

HOUSE OF REPRESENTATIVES

ROLL CALL VOTE

Fish and Game Committee

DATE FEB 2, 1995 BILL NO. 195 NUMBER 2

MOTION: DOUG W. AMENDMENTS

NAME	AYE	NO
Rep. Doug Wagner, Chairman	✓	
Rep. Bill Rehbein, Vice Chairman, Majority	✓	
Rep. Emily Swanson, Vice Chairman, Minority		✓
Rep. Charles Devaney		✓
Rep. Jim Elliott		✓
Rep. Daniel Fuchs		✓
Rep. Marian Hanson	✓	
Rep. Hal Harper		✓
Rep. Chase Hibbard	✓	
Rep. Dick Knox		✓
Rep. Rod Marshall		✓
Rep. Brad Molnar		✓
Rep. Bob Pavlovich		✓
Rep. Bob Raney		✓
Rep. Bob Ream		✓
Rep. Paul Sliter	✓	
Rep. Bill Tash	✓	
Rep. Jack Wells		✓

Doug
You have my proxy on any
amendments to ^{HB} 196 and also the
bill

Bill Rehbein

You might have to put this in
a sub committee

HB-195- NO

~~HB-195- SWANSON~~

~~ADAM SWANSON
ADAM SWANSON
ADAM SWANSON~~

HB-196- SWANSON

YES- AS IS.

NO - IF ADMENDMENT.

Parbovich

Amendments to House Bill No. 122
Introduced Reading Copy

EXHIBIT 1
DATE FEB 2, 1995
HB 122

Requested by Rep. Raney
For the Committee on Fish & Game

Prepared by Doug Sternberg, Legislative Council
January 17, 1995

1. Title, line 9.

Following: "COMMENTS;"

Insert: "PROVIDING AN EXCEPTION FOR MAINTENANCE, WEED CONTROL,
AND NECESSARY SANITARY AND SAFETY MEASURES;"

2. Page 2, line 11.

Following: "comments."

Insert: "Maintenance, weed control, and necessary sanitary and
safety measures are exempt from the public approval
requirements of this subsection."

Amendments to House Bill No. 122
Introduced Reading Copy

EXHIBIT 2
DATE FEB 2, 1995
HB 122

Requested by Rep. Raney
For the Committee on Fish & Game

Prepared by Doug Sternberg, Legislative Council
January 24, 1995

1. Title, lines 8 and 9.
Following: "DEVELOPMENT" on line 8
Strike: remainder of line 8 through "COMMENTS" on line 9
Insert: "UNTIL CERTAIN CONDITIONS ARE MET"
2. Page 2, line 4.
Following: "(3)"
Insert: "(a)"
3. Page 2, line 5.
Following: "entity"
Insert: "residing in the state of Montana"
4. Page 2, line 7.
Strike: "If"
Insert: "(b) When"
5. Page 2, lines 9 through 11.
Following: "development" on line 9
Strike: remainder of line 9 through "comments" on line 11
Insert: "until the provisions of subsection (3)(c) are met.
(c) If the department wishes to pursue the improvement or development of a state park or fishing access site when the majority of persons and entities submitting written or oral comment to the department is opposed to the proposed improvement or development, the department shall work with the interested users of the state park or fishing access site to redesign the improvement or development. The department shall submit the redesigned improvement or development for public comment and may not proceed until a majority of persons or entities commenting on the proposed improvement or development supports the proposal"

EXHIBIT 3
DATE FEB 24 1995
HB 195

Amendments to House Bill No. 195
Introduced Reading Copy

Requested by Rep. Swanson
For the Committee on Fish & Game

Prepared by Doug Sternberg, Legislative Council
January 18, 1995

1. Page 2, line 23.

Following: "that"

Strike: "the"

Insert: "any"

2. Page 5, line 9.

Following: "with"

Insert: "general ranch maintenance, conservation efforts,"

3. Page 5, line 17.

Following: "in"

Insert: ", but application is not limited to,"

Following: "manner"

Strike: "or"

4. Page 5, line 18.

Strike: "other manner allowed by rule"

5. Page 5, line 28.

Strike: "and"

Insert: "program or"

Strike: "programs"

Insert: "program, or both"

6. Page 8, line 6.

Following: "sell"

Insert: "as close to but"

7. Page 8, line 9.

Following: "unsold"

Insert: ", up to 5,500 Class B-10 licenses and 2,300 Class B-11 licenses,"

8. Page 8, line 12.

Following: "required"

Insert: "-- review committee. (1) The governor shall appoint a committee of persons interested in the hunter management program, the hunting access enhancement program, or other issues related to private lands and public wildlife to review the success and progress of the hunter management program and the hunting access enhancement program. The committee must have equal representation of landowners and sportspersons and be broadly representative of the various geographical areas of the state. The department may provide administrative assistance as necessary to facilitate the

efforts of the review committee.
(2) "

9. Page 8, line 12.

Following: "The"

Strike: "department"

Insert: "review committee"

Following: "governor"

Strike: remainder of line 12 through "legislature" on line 13

10. Page 8, line 16.

Following: "programs."

Insert: "If the review committee determines that expanding funding for programs for hunter management and hunting access enhancement is desirable, consideration must be given to providing the expanded funding through increases in resident hunting license fees."

11. Page 9, line 26.

Strike: "4,300"

Insert: "2,300"

12. Page 11, line 1.

Strike: "(1) "

13. Page 11, lines 8 through 11.

Strike: subsection (2) in its entirety

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

**Clarification points for HB 195 and HB 196
as presented by the Montana Outfitters and Guides Association
February 2, 1995**

- Yes, the variable priced license is a "guaranteed" license for those nonresidents who are willing to pay the price, and yes, the outfitter's greatest need is a license for his booked client. There is a price to pay, however:

- An expensive license is a bitter pill for the nonresident hunter who choses to hunt with an outfitter. These folks feel "used" and often resent the fact that their numbers have been at the same limit for the last 20 years. They know their license dollar funds a large share of the habitat acquisition program, and they know they are subsequently restricted from using any lands acquired under that program.

- Many outfitters will lose repeat clients. The repeat client is a preferred client: the level of communication and expectation between outfitter and client was established with the first trip. The outfitter doesn't have to worry about a "wreck in camp" because he knows everything he needs to know to provide a quality service to the customer.

- For every repeat client/friend that is lost, money must be spent to advertise and find the new client to take his place.

- An expensive license is a bitter pill for the outfitter who ultimately bears the cost: either through lowering his own price to accommodate the repeat client/friend who just won't (or can't) pay the increased cost of the license, or by losing the ability to raise the price of his hunt to accommodate his own increased costs. Outfitters will go out of business with HB 195. What we don't know now is just how many that will be.

- Every business hopes and needs to grow to levels of economic viability in order to offer a quality service to the clients. By supporting HB 196 (the Board of Outfitter's bill), **outfitters are giving up the ability to grow their business.** While HB 196 carries the grant of authority to restrict sideways growth, the mandate for that comes from the Private Lands/Public Wildlife Advisory Council.



— Many outfitters are afraid that the current high demand for a Montana hunt will continue as a result of pressures beyond the state's control: i.e. cost and availability of licenses and restricted seasons in neighboring states, coupled with the abundant resource in Montana and the Dept. of Commerce's excellent marketing program. A high demand can have the effect of sending the cost of the licenses through the roof. That's when hunting becomes a "rich man's sport" and when the hunter decides it just isn't worth the hassle, we all lose.

- It is important to understand that nonresidents don't "burn the elk portion of their B-10 license" because there are too many B-10 licenses. They burn the elk portion because they only want to hunt deer and their odds of getting a deer license (B-11) run about 73%. Nonresidents wanting to hunt deer in eastern Montana spend the extra \$200 and apply/purchase the B-10 because the odds in the B-10 pool were 91% in 1993.
- The moratorium is critical to the success of the variable-priced license. **111 individuals are standing in the wings, poised to take the outfitter's test in April.** If we lose the moratorium (effective upon passage and approval) in HB 195, then we must depend upon the Montana Board of Outfitters to control the growth. If that happens, our ship will sink under the weight of the new people who come on board **before the MBO can work its way through the Administrative Rules process (an estimated 18 months to two years!)** and define just what it is that restricts the growth.
- 360 outfitters used the set-aside privileges in 1992. 390 outfitters used those same privileges in 1993. What caused the increase? In April, the Montana Outfitters and Guides voted to go to the 1993 Legislature and *ask for a cap on new outfitters.*
- Is there a way to do a moratorium for three years and instruct the Montana Board of Outfitters to inform every applicant that if he wants to get into the business during that period of time, he runs the risk of investing money on "blue sky" which may or may not retain its value once the moratorium is lifted? Then the individual is free to make the decision, based on good and accurate information, that he believes to be best for him — or her.

EXHIBIT 5
DATE FEB 2, 1995
HB 196

Amendments to House Bill No. 196
Introduced Reading Copy

Requested by Rep. Swanson
For the Committee on Fish & Game

Prepared by Doug Sternberg, Legislative Council
January 18, 1995

1. Title, line 6.

Strike: "MASTER"

Insert: "PROFESSIONAL"

2. Title, line 7.

Strike: "AREA OPERATING"

Insert: "OPERATIONS"

3. Title, line 9.

Strike: "MASTER"

Insert: "PROFESSIONAL"

4. Page 1, line 21.

Strike: "operating area" in two places

Insert: "operations"

5. Page 1, lines 22 and 24.

Strike: "master"

Insert: "professional"

6. Page 1, line 26.

Strike: "operating area"

Insert: "operations"

7. Page 1, line 27.

Strike: "commercial"

Insert: "hunting"

Following: "will"

Insert: "cause undue"

Following: "existing"

Insert: "hunting"

8. Page 2, line 6.

Strike: "any"

Insert: "some"

9. Page 2, lines 17 and 18.

Strike: subsection (7) in its entirety

Renumber: subsequent subsections

10. Page 3, line 13.

Following: line 12

Insert: "(10) \"Professional guide\" means a guide who has met
experience, training, and testing qualifications for
designation as a professional guide, as set by board rule."

Renumber: subsequent subsection

11. Page 3, line 25.

Strike: "master"

Insert: "professional"

12. Page 4, lines 4 and 8.

Strike: "master"

Insert: "professional"

13. Page 4, line 11.

Strike: "operating area"

Insert: "operations"

14. Page 4, line 16.

Strike: "master"

Insert: "professional"

15. Page 4, line 17.

Strike: "operating area"

Insert: "operations"

Following: "plans"

Insert: "involving hunting use"

16. Page 4, lines 18 and 19.

Following: "of"

Insert: "net client hunting use under"

Following: "an"

Insert: "outfitter's"

Following: "existing"

Strike: "operating area"

Insert: "operations"

Following: "will"

Strike: remainder of line 18 through "or" on line 19

17. Page 4, line 19.

Following: "with existing"

Insert: "hunting"

Following: "area"

Insert: ", constituting a threat to the public health, safety, or welfare"

18. Page 4, line 20.

Strike: first "operating area"

Insert: "operations"

Following: "of"

Strike: "an"

Insert: "net client hunting use under the"

Following: "existing"

Strike: "operating area"

Insert: "operations"

19. Page 4, line 21.

Following: "existing"

Insert: "hunting"

20. Page 4, lines 22 and 23.

Strike: "operating area"

Insert: "operations"

Following: "another licensed outfitter"

Strike: remainder of line 22 through "area" on line 23

21. Page 4, lines 25, 29, and 30.

Strike: "master"

Insert: "professional"

22. Page 5, lines 4, 6, and 16.

Strike: "master"

Insert: "professional"

23. Page 5, lines 17 through 20

Strike: subsection (8) in its entirety

24. Page 6, lines 11, 26, 27, and 29.

Strike: "master"

Insert: "professional"

25. Page 6, line 30.

Following: " ; "

Insert: "and"

26. Page 7, lines 10 through 12.

Strike: "; and" on line 10 through "agency" on line 12

27. Page 7, lines 14, 19, and 29.

Strike: "master"

Insert: "professional"

28. Page 7, line 22.

Following: "~~shall~~"

Insert: "forms the basis for the outfitter's operations plan and"

29. Page 8, lines 2, 3, and 4.

Strike: "master"

Insert: "professional"

30. Page 8, line 13.

Strike: "an operating area plan that specifies"

31. Page 10, lines 2 and 10.

Strike: "master"

Insert: "professional"

32. Page 11, lines 11, 18, 20, and 29.

Strike: "master"

Insert: "professional"

33. Page 12, lines 8, 10, 15 in two places, 24, 25, 26, and 29.

Strike: "master"

Insert: "professional"

34. Page 13, lines 1, 2, 8, 10, 11, 12, 14, 15, 18, 19, and 25 in
two places.

Strike: "master"

Insert: "professional"