

MINUTES

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

JOINT SUBCOMMITTEE ON NATURAL RESOURCES

Call to Order: By **CHAIRMAN ROGER DEBRUYCKER**, on February 2, 1995, at 8:00 a.m. in Room 402 of the State Capitol.

ROLL CALL

Members Present:

Rep. Roger DeBruycker, Chairman (R)
Sen. Thomas F. Keating, Vice Chairman (R)
Sen. Judy H. Jacobson (D)
Sen. Loren Jenkins (R)
Rep. John Johnson (D)
Rep. William R. Wiseman (R)

Members Excused: Chairman Rep. Roger DeBruycker and Vice Chairman Sen. Thomas Keating were excused during parts of the meeting, as noted in the minutes text.

Members Absent: none

Staff Present: Roger Lloyd, Legislative Fiscal Analyst
Florine Smith, Office of Budget & Program Planning
Debbie Rostocki, Committee Secretary

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

Committee Business Summary:

Hearing: Department of Fish, Wildlife & Parks
- Conservation Education Division
Department of Agriculture
- proposed committee bills
Executive Action: Department of Fish, Wildlife & Parks
- Field Services Division
- Conservation Education Division
- Fisheries Division
Department of Agriculture
- proposed committee bills

**HEARING ON Department of Agriculture
Proposed Committee Bills**

Mr. Ralph Peck, Administrator of the Agricultural Development Division of the Department of Agriculture, presented to the

committee two proposed committee bills from his department.
EXHIBIT 1 and **EXHIBIT 2**

Regarding **EXHIBIT 1**, the department is requesting that feed lots be exempted from being licensed as commodities dealers. At present, if feed lots purchase more than \$30,000 worth of grain they must be licensed as a dealer. The department does not have enough resources to inspect them as required. The bill would exempt them from the licensing requirement but would still keep them under the penalty provision of the statute if they don't pay for the grain they purchase.

The other proposed bill **EXHIBIT 2** is in response to the farm worker safety issue discussed by the committee during the department budget hearings. Under the bill the state of Montana would be directed not to administer pesticide worker protection standards. The bill would prevent the Environmental Protection Agency (EPA) from mandating the state to enforce the standards and would put this enforcement responsibility with the EPA.

In response to **SEN. KEATING, Mr. Peck** stressed that the first proposed bill would only apply to grain purchased for use in the feed lot. The feed lots were included in the original statute to ensure that the suppliers would be paid for their grain. The position of the agricultural industry is if the department is given an additional auditor position in the budget process the statute would not need to be changed. However, this position was not approved and therefore the bill is being proposed. The department has not been enforcing this requirement for the past several years.

REP. JOHNSON wanted to know, if no one was to administer the federal act, where the workers would get their education. **Mr. Peck** said it would have to be in the form of self-training through private organizations.

Mr. Peck explained that if the first proposed bill were to become law and a feed lot operator failed to pay for his grain, then the department would enforce the penalty section of the law but there would be no bond to fall back on.

Regarding **EXHIBIT 2**, **SEN. JENKINS** wanted to know who was presently covering the cost of carrying out the federal requirements. **Mr. Peck** said the five positions which were removed by this committee were paid for by check-off fees from the Feedlot and Fertilizer Program and part of the cost was paid from fees from the Pesticide Program. Three positions are paid by EPA grant funds. These five positions were targeted for elimination because at the time the FTE allocation "snapshot" was taken they were all vacant and the department was in the middle of reorganization. At present all of these full-time positions are filled, however.

Mr. Gary Gingery, Agricultural Sciences Division Administrator, added that the three EPA-funded positions weren't filled until the grant funds were received. Over the last two years EPA has provided funds to help implement the worker protection rules. For the first four or five years this effort will consist primarily of the department educating people and assisting them with coming into compliance. He outlined some of the new compliance regulations.

Mr. Peck said \$13,000 of additional funds in the operations budget would be available if the federal grant funds are not received. He summarized that the proposed bills are in response to the action the committee has taken regarding employee reductions.

**EXECUTIVE ACTION ON Department of Fish, Wildlife and Parks
Field Services Division**

Discussion: **Mr. Jerry Wells**, Administrator of the Fish, Wildlife and Parks (FWP) Field Services Division, reviewed the Block Management Program. The program has been in effect for about ten years and is aimed at addressing the issue of hunting access on private land. The magnitude of the increase in this budget is reduced when appropriated levels are considered in lieu of actual spending levels.

The proposal for the Block Management Program has three parts: \$30,000 each year for additional FTE, \$50,000 to conduct a survey to find where access problems are and funding for direct grant payments to landowners for enrolling in the program.

Tape No. 1:B:000

In response to **SEN. JENKINS**, **Mr. Wells** explained that Present Law (PL) Adjustment No. 4 on p. C-16 requests \$41,000 for contracting for herding game animals out of damaged areas and PL No. 5 concerns purchasing fencing materials for game damage protection in stack yards.

CHAIRMAN ROGER DEBRUYCKER was excused at 8:30 a.m. and left his proxy vote with **REP. WILLIAM WISEMAN**. **VICE CHAIRMAN THOMAS KEATING** took over the chair.

Motion/vote: **SEN. LOREN JENKINS** moved to accept PL Adjustments No. 4, 5, 6, 7, 8, 10 and 11 on p. C-16; **REP. WISEMAN** seconded the motion. The motion carried unanimously.

Motion/vote: **SEN. JENKINS** moved to accept PL Adjustment No. 9; **REP. WISEMAN** seconded the motion. The motion carried unanimously.

Discussion: **Ms. Florine Smith**, Office of Budget and Program Planning (OBPP), explained new PL Adjustment No. 12, which had been introduced during the Field Services Division hearing on February 1. Inflation for the department Motor Pool charges was

inadvertently left out of the budget request and PL No. 12 will compensate for this.

Motion/vote: SEN. JENKINS moved to accept PL No. 12; REP. WISEMAN seconded the motion. The motion carried unanimously.

Discussion: New Proposal No. 2 (pp. C-17-18) was discussed. Mr. Wells estimated that \$475,000 would be spent in the Block Management program in the current biennium. SEN. KEATING wanted to know if unused funds would revert back to the state. Mr. Wells said the Pittman-Robertson (P-R) portion of the equation can be shifted from one year to the next within the same biennium. If federal funds are not spent in the current biennium, the department needs the authority to spend them in the next. Mr. Dave Mott, Administration and Finance Division Administrator, explained that unspent license dollars reverted back to the account from which they were appropriated. There is a chance that unspent federal money would be reallocated outside the state.

In response to SEN. JENKINS, Mr. Wells said the \$238,601 approved under PL No. 6 did not reflect personal services costs. In FY94 landowner payments amounted to \$142,000 and in the fall of 1994 the level was about \$190,000. He pointed out that the 7.8 FTE in this program were located regionally.

REP. WISEMAN questioned whether the state was getting its money's worth out of this program.

Tape No. 2:A:000

Motion: SEN. JUDY JACOBSON moved to accept New Proposal No. 2 on p. C-17. REP. JOHNSON seconded the motion.

Discussion: SEN. JENKINS pointed out that as more land is added under block management, the cost of administering the program will increase. He expressed concern with the level of the travel and personnel requests. Mr. Pat Graham, FWP Director, spoke up. The Block Management Program involves some "payments in lieu of" contracts with landowners. Some of the owners of larger blocks of land, however, prefer additional services rather than money. This is accomplished by using seasonal FTE to help manage the areas during the hunting season.

In response to REP. WISEMAN, Mr. Wells said if the landowner chooses to negotiate a contract, the price guideline does not exceed \$2,500 in this program. Payments are made at the end of the hunting season. The contracts are for two years.

Vote: The question was called for and the motion carried with (VICE) CHAIRMAN KEATING opposed. CHAIRMAN DEBRUYCKER returned to the meeting and voted "yes" on the motion.

Discussion: VICE CHAIRMAN KEATING continued to preside over the meeting. The committee then discussed New Proposal No. 4 and the

possible closing of the FWP sign shop in Whitehall. **SEN. JACOBSON** was opposed to cutting the sign shop FTE and suggested increasing the number of employees to two full-time FTE. **Mr. Wells** said producing the signs currently being made at the sign shop would have to be contracted out. FWP's experience at doing this indicates that the quality is less and the price is more. A study was done regarding having the prison do this work in addition to the basic signs currently being made there, but it was determined this would not be feasible.

Motion/vote: **REP. WISEMAN** moved to accept New Proposals No. 1, 3 and 4, with No. 4 amended from a reduction of 4.7 FTE to a reduction of 3.2 FTE conservation specialists; **REP. DEBRUYCKER** seconded the motion. The motion carried unanimously.

HEARING ON FWP Conservation Education Division

Mr. Roger Lloyd, Legislative Fiscal Analyst (LFA), gave a brief overview of the division. The decrease in PL No. 4 on p. C-42 is related to the transfer of part of this program out of the division.

Mr. Ron Aasheim, Administrator of the Conservation Education Division, then gave an overview. The division is the primary education and information arm of FWP. The division's five information officers and the Helena office work to keep the public informed. This is accomplished in a number of ways including the printing of the Montana Outdoors Magazine, which has 44,000 subscribers. Industry experts estimate that 120,000 people see this magazine every other month when it is published. In addition, FWP puts out biweekly news releases to the 11 daily and 59 weekly newspapers in the state, monthly newsletters to the over 400 license agents, monthly public service announcements to the approximately 44 radio stations in the state, brochures and special publications. In FY94, division personnel were on radio talk shows over 300 times.

In addition, FWP provides a weekly outdoor report to the state's television stations and it is estimated that potentially 250,000-300,000 people see it. Also, the division is involved in film production and is currently taking part in production of a documentary on grazing. Each region has a film library and it is estimated about 70,000 people view these videos annually.

The division has been spending more time on internal communication as well. The division works with the Office of Public Instruction and the education community in the area of youth natural resource education. In the last year over 1,000 teachers attended FWP workshops. Regarding water education, in the past year through the Extension Service FWP initiated a program called Project Wet (Water Education For Teachers). Through the Hunter Education Program and the Bow Hunter Education Program about 1,000 volunteers have provided instruction to almost 9,000 youth each year. The division is also involved in

educational efforts pertaining to snowmobiles, boating safety and off-highway vehicles. FWP is now implementing a mandatory program under which youngsters ages 12-14 are required to have a certificate to operate a boat.

The division is responsible for the compilation and distribution of all hunting, fishing and trapping regulations.

Tape No. 2:B:000

They also administer shooting ranges. License dollars provide the state's share and the local communities provide a 50% match. The division also operates the FWP Wild Animal Shelter in Helena. They get dozens of animals each year. The public is strongly opposed to euthanizing these animals.

Mr. Aasheim then reviewed the PL Adjustments and New Proposals. Replacement video equipment is being requested partly because the equipment being used is getting dated and is not always compatible with the equipment television stations are now using.

The Legislative Contract Authority (LCA) request has been reduced by \$17,500 (PL No. 8 is now requesting \$20,000 in each year).

Regarding New Proposal No. 1 on p. C-43, they believe that in order to maintain Montana's hunting tradition more work is needed in the area of hunter ethics. Landowner and land respect and respect for other hunters and the animal are all important areas. They plan to help produce a small pocket guide for instructors as well as a supplemental video and teaching guide. \$10,000 would enable the booklet to be purchased for every student that goes through hunter education annually.

New Proposal No. 3 is partly to replace video equipment and partly to upgrade it.

REP. JOHN JOHNSON then briefly took over as Chairman: **SEN. KEATING** and **REP. DEBRUYCKER** were excused.

In response to **SEN. JENKINS**, **Mr. Aasheim** said the Shooting Range Program had been in effect since 1989 and the Off-Highway Vehicle Program has been in effect for two legislative sessions. \$14,000 per year is in the Shooting Range Program and the Off-Highway Vehicle Program budget bases and the adjustments will increase this. **Mr. Lloyd** said \$11,082 was spent in FY94 in the Shooting Range Program. **Mr. Aasheim** stated that "in a nutshell" the \$150,000 biennial appropriation for Shooting Ranges has been spent but most of it is spent in the second year and doesn't show up in the base year.

EXECUTIVE ACTION ON FWP Conservation Education Division

Motion/vote: **SEN. JACOBSON** moved to accept PL Adjustments No. 4, 5, 6, 7, 8 and 9 on p. C-42, with No. 8 amended to \$20,000 in each year; **REP. WISEMAN** seconded the motion. The motion carried

unanimously. **CHAIRMAN DEBRUYCKER** and **VICE CHAIRMAN KEATING** were excused but left no proxy votes.

Motion: **SEN. JACOBSON** moved to accept New Proposals No. 1, 2, 3 and 4 on p. C-43; **REP. WISEMAN** seconded the motion.

Discussion: **SEN. JENKINS** pointed out that the equipment budget was being increased above the FY94 base if New Proposal No. 3 was included. **Tape No. 3:A:000**

Mr. Aasheim clarified that the \$10,000 request under New Proposal No. 1 takes into account the \$2,000 which the Bow Hunters Association has offered to donate.

Vote: The question was called for on **SEN. JACOBSON'S** motion. The motion carried unanimously. **CHAIRMAN DEBRUYCKER** and **VICE CHAIRMAN KEATING** were excused but left no proxy votes.

Discussion: **REP. WISEMAN** complimented FWP's **Vince Yannone** and the presentations he has made on wildlife. **CHAIRMAN DEBRUYCKER** returned to the meeting and took over the chair.

Mr. Pat Graham then brought up several issues. A possible committee bill has been discussed which would address changing the allocation for fishing license fees to provide additional funding in the operations budget for weed control maintenance.

Another issue regards the cost of contracting and the services that go along with doing small projects. At present the limit for going out to bid and hiring engineering consultants is \$25,000. There has been discussion about raising this and FWP has drafted a possible committee bill addressing this.

Another issue is relative to comparing the Montana Environmental Policy Act (MEPA) to **HB 495** as it relates to the requirements for environmental assessments (EA's) at fishing access sites and state parks.

The final issue **Mr. Graham** brought up had to do with whirling disease and FWP's discussions with the Governor's office and others. The effort will require additional expenditures.

Regarding Whirling disease, **Mr. Larry Peterman**, Fisheries Division Administrator, spoke up. This issue has kept FWP very busy since its discovery in Montana in December 1994. They are in the process of holding public meetings to give out information on the disease and the department's future plans. They have had some extensive redirecting of FY95's fiscal resources to try to learn more and do more disease testing to find the limits of the disease. For the next two years there is a limit to how much redirection of funds they are going to be able to do in light of FWP's upcoming increase in fish health testing responsibilities. A budget for the coming biennium has been put together to provide for some of these special needs. **EXHIBIT 3** Additional needs

include another round of public meetings in the coming fall. Item No. 3 on the exhibit is primarily for expenses other than travel. Item No. 4 is in response to the need to increase the frequency of testing. In Colorado a private fishing pond was implicated in the arrival of whirling disease for that state and additional funds are requested to test Montana's private ponds. At present the U.S. Fish and Wildlife Service is doing the state's testing for Whirling Disease but the fish technology center's capabilities have been "maxed out" and FWP would be able to pick up some of this surplus work under Item No. 8 on the exhibit. In addition, either private or university laboratories will have to be contracted with to do the remainder of the testing: this will be the scenario until a baseline can be established. Existing personnel will be redirected and no additional FTE are being requested. The funding source would be license dollars. **Mr. Graham** added that because the Programmatic Environmental Impact Statement (EIS) was not approved, the D-J funding from that project could be redirected to provide 75% of the funding for this effort.

CHAIRMAN DEBRUYCKER wanted to know what happened to the fish in Europe which were the source of this disease. **Mr. Peterman** said Europe discovered the disease when rainbow trout were introduced to those waters and succumbed to it. He added that to his knowledge there are no rainbow or steelhead fisheries in Europe at this time. In response to **SEN. JENKINS**, **Mr. Peterman** said FWP had not identified a hatchery in the state that has had Whirling disease. They did test a private hatchery that received a shipment from an Idaho hatchery which was found to have the disease in the late 1980's. However, the tests found no evidence of the disease. They can pinpoint where the infection started in the Madison River but not how it got there. **SEN. JENKINS** wanted to know who would be paying the costs of having to eradicate diseased fish if they are found in private fisheries. **Mr. Peterman** said initially FWP will bear the cost, and will consider reimbursing private hatcheries for their expenses. \$10,000 has been requested for this. **Tape No. 3:B:000**

Mr. Peterman said they feel it is unlikely the disease is transmitted via boat traffic, based on evidence thus far. **SEN. JACOBSON** questioned whether it was not already established which fish are susceptible to the disease. **Mr. Peterman** replied there is a species susceptibility list of the species that have been tested which includes West Slope Cutthroat, Yellowstone, Arctic Greyling and Whitefish. However, the common fish for Montana other than brown trout and rainbow trout have not yet been tested. They hope to find, out of the twenty or more strains of rainbow trout, some more resistant strains.

In response to **SEN. JENKINS**, **Mr. Peterman** said there were two issues associated with the live transport of fish: a significant increase in illegal introductions from one body of water to another and the transfer of disease by transfer of live fish. The latter is the most likely way Whirling disease is spread.

EXECUTIVE ACTION ON FWP Fisheries Division

Motion/vote: SEN. JENKINS moved to accept the proposed increases for initial whirling disease investigations and control as outlined on EXHIBIT 3; SEN. KEATING seconded the motion. The motion carried unanimously.

EXECUTIVE ACTION ON Department of Fish, Wildlife and Parks proposed legislation

Discussion: Mr. Lloyd distributed a tentative hearing schedule for the Department of Commerce budget hearings. EXHIBIT 4

A comparison of MEPA and HB 495 requirements was distributed by Mr. Graham. EXHIBIT 5 There are some similarities as well as some additional requirements. Regarding MEPA implementation, the departments develop rules. Categorical exclusions (areas identified in an EA which do not require further environmental review) can be made under MEPA but this is not possible under HB 495. CHAIRMAN DEBRUYCKER wanted to know how much money would be saved in FWP by repealing HB 495. Mr. Graham said the total savings for all thirteen fishing access sites as outlined on p. 2 of the exhibit was \$3,393. CHAIRMAN DEBRUYCKER requested that Mr. Graham provide the committee with estimated savings over the biennium if HB 495 was repealed. There was general agreement that it would probably cost more to pass a bill repealing HB 495 than would be generated in savings.

A proposed committee bill to raise the minimum size of state projects for which private consultants must be used was distributed. EXHIBIT 6 If the consulting engineer limit were raised to \$50,000 from the current \$25,000 the total savings in the Fishing Access Sites Program would have been over \$200,000 in 1992-3. CHAIRMAN DEBRUYCKER passed around photos of some \$50,000 outhouses which would have cost considerably less if this bill had been in effect. **Tape No. 4:A:000**

Mr. Graham said the figures had not been adjusted since 1977. Mr. Mott said if the Consumer Price Index was applied to the \$25,000 cut-off currently in law, the figure would have to be amended to \$100,000.

Motion: SEN. JENKINS moved to amend the last line of EXHIBIT 6 from \$50,000 to \$75,000 and to have a committee bill drafted using the exhibit. REP. WISEMAN seconded the motion.

Discussion: Discussion took place regarding what the opposing arguments might be regarding such a change.

Vote: The question was called for and the motion carried unanimously.

Discussion: Mr. Graham distributed another proposed committee bill which would reallocate fishing license fees for the purchase

of recreational facilities. **EXHIBIT 7** Currently the Fishing Access Site Program uses 75% of the earmarked funding for site acquisition and 25% for operation and maintenance. This is misleading because about \$1 million per year is spent on the Fishing Access Sites Program. The operations and maintenance budget is about \$700,000 but only \$100,000 of it comes from earmarked funds. \$600,000 comes from general license fees. \$300,000 goes to acquisition each year. This bill would put up to 50% to be expended for weed management, stream restoration, etc. and would provide an additional \$100,000 per year for those activities. It would reduce by 30% the amount of money available for acquisition. There is a sunset provision in the bill, with the idea being that weed control efforts would be tripled for a four-year period.

SEN. JENKINS wanted to know if FWP was still getting Coal Trust money for fishing access sites. **Mr. Graham** replied that this may have been the case at one time. There is Coal Trust money in the Parks Division which allows for operation, maintenance and acquisition of parks. FWP has not acquired any sites in a decade with that money because it is all going into operation and maintenance of state parks. The Parks Division continues to oversee the operation and maintenance of fishing access sites; the money for operations and maintenance would go into the Parks Division budget. The acquisition and development budget is in the Fisheries Program.

Regarding using matching funds for maintenance, FWP is moving in this direction. Wherever federal Land and Water Conservation money is used other federal funds cannot be used to manage the site. A number of years ago FWP used some of this money on several sites. The only way D-J or other federal matching monies can be used is if the Land and Water Conservation obligation on a project is bought out. FWP is in the process of trying to consolidate all of its Land and Water Conservation interests into one or two properties.

Motion/vote: **SEN. KEATING** moved and **SEN. JACOBSON** seconded to have **EXHIBIT 7** drafted as a committee bill. The motion carried unanimously.

EXECUTIVE ACTION ON Department of Agriculture
Proposed Committee Bills

Motion: **SEN. KEATING** moved to have a committee bill drafted following the outline of **EXHIBIT 2**. **SEN. JACOBSON** seconded the motion.

Discussion: It was brought out that about 40% of farmers hired someone to apply pesticide, vs doing it themselves.

Vote: The question was called for and the motion carried unanimously.

Motion: SEN. KEATING moved to introduce a committee bill as outlined in EXHIBIT 1. SEN. JENKINS seconded the motion.

Discussion: SEN. KEATING cautioned the committee that this bill would be leaving the farmer on his own as far as ensuring that the feed lot operator would pay him for his grain. The point was made that knowing who you are dealing with is more important than whether or not they are bonded.

Vote: The question was called for and the motion carried unanimously.

ADJOURNMENT

Adjournment: 11:00 a.m.



ROGER DEBRUYCKER, Chairman



DEBBIE ROSTOCKI, Secretary

RD/dr

This meeting was recorded on four sixty-minute audiocassette tapes.

54th Legislature

BILL NO. _____

INTRODUCED BY _____

BY REQUEST OF _____

A BILL FOR AN ACT ENTITLED: "A BILL FOR AN ACT TO PROVIDE A COMMODITY DEALER LICENCING EXCEPTION UNDER TITLE 80, CHAPTER 4, FOR THE FEEDING OF LIVESTOCK; AMENDING SECTION 80-4-402, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 80-4-402, MCA, is amended to read:

"80-4-402. Definitions. As used in parts 4 through 7 of this chapter, the following definitions apply:

(1) "Agent" means any person who contracts for or solicits any agricultural commodities from a producer or warehouseman or negotiates the consignment or purchase of any agricultural commodity on behalf of any commodity dealer.

(2) "Agricultural commodity" means any grain, beans, safflower, sunflower seeds, tame mustards, rapeseed, flaxseed, leguminous seed, or other small seed, and other agricultural commodities, designated by rule of the department.

(3) "Bond" means the bond required to be filed by part 5 or 6 of this chapter and includes any equivalent established by department rule, as provided in 80-4-504 and 80-4-604.

(4) "Commodity dealer" means any person who engages in a business involving or, as part of his business, participates in buying, exchanging, negotiating, or soliciting the sale, resale, exchange, or transfer of any agricultural commodity in the state of Montana. The term does not include:

(a) a person engaged solely in storing, shipping, or handling agricultural commodities for hire;

(b) a person who buys agricultural commodities from a licensed commodity dealer;

(c) a person who does not purchase more than \$30,000 worth of agricultural commodities from producers during a licensing year;

however, once a person exceeds the \$30,000 exemption, he shall obtain a license and is not eligible for the exemption for the succeeding year;

(d) a person who is the producer of agricultural commodities that he actually plants, nurtures, and harvests; or

(e) a person whose trading in agricultural commodities is limited to trading in commodity futures on a recognized futures exchange;

(f) a person who buys agricultural commodities, when such commodities are used exclusively for the feeding of livestock, and not for resale.

(5) "Credit sale contract" means a contract for the sale of an agricultural commodity when the sale price is to be paid at a date after delivery of the agricultural commodity to the buyer and includes but is not limited to those contracts commonly referred to as deferred payment contracts, deferred pricing contracts, or price-later contracts.

(6) "Department" means the department of agriculture provided for in 2-15-3001.

(7) "Depositor" means any person who deposits an agricultural commodity in a warehouse for storage, processing, handling, or shipment or who is the owner or legal holder of an outstanding warehouse receipt or who is lawfully entitled to possession of the agricultural commodity.

(8) "Director" means the director of the department of agriculture.

(9) "Grain" means all grains for which standards have been established under the United States Grain Standards Act (7 U.S.C. 71 through 87) and all other agricultural commodities, such as mustard, oil seed crops, or other crops which may be designated by rule of the department.

(10) "Grain Standards Act" means the United States Grain Standards Act (7 U.S.C. 71 through 87).

(11) "Inspector" means any person so designated by the director to assist in the administration of parts 4 through 6 7 of this chapter. The term includes warehouse auditors or examiners.

(12) "Official grain inspectors" means any ¹official personnel who perform or supervise the performance of official inspection services and certify the results thereof, including the grade of the grain.

(13) "Official grain samplers" or "samplers" means any official personnel who perform or supervise the performance of official sampling services and certify the results thereof.

(14) "Official grain standards" means the standards of quality and condition of grain that establish the grades defined by the Grain Standards Act.

(15) "Official grain weighers" means any official personnel who perform or supervise the performance of class X or class Y weighing services and certify the results thereof, including the weight of the grain.

(16) "Person" means any individual, firm, association, corporation, partnership, or any other form of business enterprise.

(17) "Producer" means the owner, tenant, or operator of land in this state who has an interest in and receives all or part of the proceeds from the sale of agricultural commodities produced on that land.

(18) "Public warehouse" or "warehouse" means any elevator, mill, warehouse, subterminal grain warehouse, public warehouse, or other structure or facility in which, for compensation, agricultural commodities are received for storage, handling, processing, or shipment. The term includes facilities which commingle commodities belonging to different lots of agricultural commodities.

(19) "Receipt" means a warehouse receipt.

(20) "Scale weight ticket" means a load slip or other evidence of delivery, other than a receipt, given to a depositor by a warehouseman licensed under the provisions of part 5 of this chapter upon initial delivery of the agricultural commodity to the warehouse.

(21) "Station" means a warehouse located more than 3 miles from the central office of the warehouse.

(22) "Subterminal warehouse" means any warehouse at which an

intermediate function is performed in which agricultural commodities are customarily received from dealers or producers and where the commodities are accumulated prior to shipment.

(23) "Terminal grain warehouse" means any warehouse authorized by a grain exchange to receive or disburse grain on consignment as presented by the rules and regulations of a grain exchange.

(24) "Warehouseman" means a person operating or controlling a public warehouse.

(25) "Warehouse receipt" means every receipt, whether negotiable or nonnegotiable, issued under part 5 of this chapter by a warehouseman, except scale weight tickets."

NEW SECTION. Section 2. Commodity dealer exception; feeding of livestock. For purposes of 80-4-402 (4)(f), any person falling within this exception shall have the duty to pay in full according to the terms of the contract, all amounts due to producers for the purchase of agricultural commodities. Failure to do so shall subject that person to the criminal and civil penalties provided in this chapter.

NEW SECTION. Section 3. Effective date. This act is effective on passage and approval.

-End-

EXHIBIT 2
DATE 2/2/95
HB _____

**** BILL NO ****

INTRODUCED BY _____

A BILL FOR AN ACT ENTITLED: "AN ACT EXEMPTING THE STATE OF MONTANA AND POLITICAL SUBDIVISIONS FROM ADMINISTERING PESTICIDE WORKER PROTECTION STANDARDS."

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

Section 1. Worker Protection Standards: The state of Montana and any political subdivisions may not administer any worker protection educational, training, compliance or enforcement programs established by 40 CFR part 156 subpart K, and 40 CFR part 170 of the Federal Insecticide, Fungicide and Rodenticide Act, as amended. .

Section 2. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 80, chapter 8, part 1.

Section 3. Effective date. [this act] is effective on July 1, 1995.

SPECIAL BUDGET NEEDS
FOR INITIAL WHIRLING DISEASE INVESTIGATIONS AND CONTROL

Background:

The problem requires immediate and simultaneous action on several fronts. At present the disease is known to occur in the upper reaches of the Madison River only. Every effort must be made to prevent movement of the disease to other drainages and, if possible, to slow its movement within the drainage.

	<u>FY 96</u>	<u>FY 97</u>
1. Public information and education	\$ 8,000	\$ 4,000
♦ Preparation and distribution of brochures		
♦ Preparation and placement of signs at FAS		
♦ Conduct public meetings, mail information		
2. Travel and per diem costs for bringing experts from other states to assist Montana fisheries biologists and fish health biologists.	\$10,000	\$ 4,000
3. Monitor the movement of WD in the Madison River	\$12,000	\$12,000
♦ Travel, collection and process samples for histological analysis		
4. Test fish in state and private hatcheries for presence of WD	\$ 8,000	\$ 8,000
♦ Travel, collection, and processing samples		
5. Test fish in selected private ponds for the presence of WD.	\$ 5,000	\$ 8,000
6. Eradication of contaminated fish from contaminated pond or hatchery.	\$10,000	\$10,000
♦ Chemical and application		
7. Test fish in other drainages for the presence of WD.	\$10,000	\$10,000
♦ Travel, collection and preparation of samples from selected streams:		

Madison River near Three Forks
Lower Gallatin River
Jefferson River
Missouri River above Canyon Ferry,
Great Falls and below Fort Peck
Yellowstone River
Big Hole
Beaverhead
Clark Fork
Kootenai
Flathead

FY 96

FY 97

8. Training for Department personnel at laboratories in Utah and Colorado to develop expertise needed to manage whirling disease investigations in Montana \$ 8,000
- ◆ Travel and training

9. Research: Species and strain sensitivity and resistance

It is essential to know which fish species are susceptible to WD infection. Some species are known to be non-symptomatic carriers of the disease while others suffer high rates of deformity and mortality. Individual strains of rainbow trout may be more resistant to WD and therefore offer potential for restoring a fishery. Some rainbow trout in the upper Madison River have survived the initial infection by WD. It is essential to determine if these fish and their progeny might have greater resistance and therefore offer opportunity for restoration of the fishery.

Contract with universities and or private laboratories for the following activities: \$39,000 \$38,000

- ◆ Conduct laboratory tests of sensitivity of selected species, e.g., cutthroat trout, grayling, kokanee, sculpin, whitefish and possibly others.

- ◆ Determine potential resistance of different strains of rainbow trout.

- ◆ Determine if surviving Madison River rainbow trout develop resistance to WD.

- ◆ Hire disease specialists from other states as consultants to develop testing protocol and assist in design of research and monitoring.

- ◆ Develop and construct special equipment for holding test fish in stream.

- ◆ Tubifex - distribution and abundance. \$30,000 \$30,000

TOTAL COSTS

\$140,000 \$124,000

Natural Resources & Commerce Subcommittee

**Department of Commerce
Order of Program Hearings**

1. Montana Science and Technology Alliance
2. Board of Investments
3. Montana Promotion
4. Economic Development
5. Community Development
6. Local Government Services - Audit
7. Local Government Assistance Administration
8. Montana Board of Housing
9. Montana Health Facilities Authority
10. Weights & Measures
11. Financial Division
12. Milk Control Bureau
13. Professional and Occupational Licensing
14. Building Codes Bureau
15. Board of Horse Racing
16. Montana Lottery
17. Indian Affairs Coordinator
18. Director/Management Services

A COMPARISON OF MEPA AND H.B.495 REQUIREMENTS

<u>MEPA</u>	<u>H.B. 495</u>
1) Description of proposed action	Nature of the development (similar to MEPA)
2) Description of benefits of proposed action	
3) List of federal, state and local agencies with overlapping jurisdiction	
4) Impacts on the Physical Environment	Impacts on Physical Environment (similar to MEPA)
a) Terrestrial & aquatic habitats	
b) Water quality & quantity	
c) Geology, soil & stability	
d) Vegetative cover	
e) Aesthetics	
f) Air Quality	
g) Unique environmental resources	
h) Historic & archeological sites	Information on cult. & historic features (similar to MEPA)
i) Demands on environmental resources	
5) Impacts on the Human Environment	Impacts of the Human Environment (similar to MEPA)
a) Social mores	
b) Cultural uniqueness & diversity	
c) Access to quality recreational activities	
d) Tax base & revenues	
e) Ag. & industrial production	
f) Human health	
g) Quantity & distrib. of employment	
h) Distrib. of populations & housing	
i) Demands for Gov't services	Projected O&M costs (additional requirements)
j) Industrial & commercial activity	Impacts on tourism (additional requirements)
k) Locally adopted envir. plans	Department long range plans (additional requirements)
6) Analysis of alternatives	
7) A finding of need for an EIS	
8) Fullest appropriate opportunity for public review	Twice in local & state newspapers, electronic bulletin board & statewide press releases Public meeting on demand. How the project relates to the system as a whole (additional requirements)

The most important difference between these two requirements is that for most of the Fishing Access Site projects (80%+), a "programmatic environmental assessment" could be produced for MEPA purposes. H.B.495 requirements do not allow this time saving approach because these requirements are written into the statute, not the rules.

In the most recent round of Fishing Access Site projects, 16 Environmental Assessment/H.B.495 documents had to be produced. If only MEPA existed and a "programmatic environmental assessment" was completed, only three (3) documents would have had to be produced.

The cost of each of these documents is estimated to be as follows:

Initial draft production	3 hours
Design & Construction	1 hour
Secretarial assistance	1 hour
Editing by regional Parks & fisheries personnel	2 hours
Re-drafting of document	1 hour
Conveying document to printer & commerce	1 hour
Distribution - legals & mailings	<u>1 hour</u>
Total	10 hours (est. cost = \$200)
Printing Costs (40 copies)	\$?
Legal Ad Costs	\$56.00 (minimum)
Mailing Costs (usually 12 plus one large package to the region)	\$ 5.00

The minimum estimate of cost for these 13 additional documents is \$3,393.

Draft Copy

Printed 2:15 pm on January 31, 1995

EXHIBIT 6
DATE 2/2/95
HB _____

**** Bill No. ***

Introduced By *****

By Request of the Department of Fish, Wildlife, and Parks

A Bill for an Act entitled: "An Act to raise the minimum size of state projects for which private consultants must be used; and amending section 18-2-111, MCA."

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 18-2-111, MCA, is amended to read:

"18-2-111. Policy regarding practice of architecture -- preparation of working drawings by department limited. (1) It is the policy of the state not to engage in the practice of architecture; however, this policy may not be construed as prohibiting the department of administration from:

(a) engaging in preplanning functions necessary to prepare a building program for presentation to the legislature;

(b) supervising construction as provided in 18-2-105(7); or

(c) preparing working drawings for minor projects.

(2) The department of administration is expressly prohibited from preparing working drawings for the construction of a bidding, with the exception of repair or maintenance projects, when the total cost of the construction will exceed ~~\$25,000~~ \$50,000."

-END-

[REDACTED]

**** Bill No. ****

Introduced By *****

By Request of *****

A Bill for an Act entitled: "AN ACT CHANGING THE ALLOCATION OF FISHING LICENSE FEES FOR THE PURCHASE OF RECREATIONAL FACILITIES; AMENDING 87-1-605, MCA; AND PROVIDING AN EFFECTIVE DATE AND TERMINATION DATE."

STATEMENT OF INTENT

The amendments in [section 1] will result in the annual shift of approximately \$100,000 from the acquisition of fishing access sites to the operation and maintenance of fishing access sites. It is the intent of the legislature that the department of fish, wildlife, and parks establish the following priority for the expenditure of that \$100,000:

- (a) weed management;
- (b) streambank restoration; and
- (c) general operation and maintenance.

It is further the intent of the legislature that this program sunset on October 1, 1999. The department of fish, wildlife, and parks shall report to the 56th Legislature on the success of the program and the status of weed management and streambank restoration at fishing access sites. After reviewing the report, the 56th Legislature shall determine whether to continue the program for another four years or to sunset the program.

CD Draft Copy

Printed 4:44 pm on January 25, 1995

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 87-1-605, MCA is amended to read:

"87-1-605. Fees used to purchase recreational facilities. (1) One dollar of the fee for Class A resident fishing license, \$1 of the fee for Class B-4 nonresident 5-day fishing license, and \$5 of the fee for the Class B nonresident fishing license shall be used for the purchase, operation, development, and maintenance of fishing accesses; stream, river, and lake frontages; and the land deemed necessary to provide recreational use thereof.

(2) The amount of funds used for operation, ~~development,~~ and maintenance ~~may not exceed 25%~~ must equal at least 50% of the moneys set aside each year under this section and must be expended as provided for in subsection (3). The funds raised under this section may not be used in lieu of any funds or sources of funds currently being used for acquisition or purchase of fishing accesses, stream, river, or lake frontages and the land deemed necessary to provide recreational use thereof but serve in addition to those funds. The moneys used for operation, ~~development,~~ and maintenance may be used only for these purposes on lands acquired with funds under this section after April 30, 1974.

(3) Operation and maintenance money set aside each year under this section must be expended based upon the following priority:

- (a) weed management;
- (b) streambank restoration; and
- (c) general operation and maintenance.

NEW SECTION. Section 2. {standard} Effective date. [This act] is effective July 1, 1995

HOUSE OF REPRESENTATIVES
VISITOR REGISTER

INAT. RES. SUB COMMITTEE

BILL NO. FWP

DATE 2/2/95 SPONSOR(S) _____

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
PAT GRAHAM	FWP		
DAVE MOTT	FWP		
Jerry Wells	FWP		
Ron Ashpim	FWP		
Tom Hinz	FWP		
Larry Peterson	FWP		
Jack Harkes	FWP		
Raymond Lee	Ag.		

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