

**MINUTES**

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

**COMMITTEE ON FISH & GAME**

**Call to Order:** By **CHAIRMAN DOUG WAGNER**, on January 12, 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. 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:** Rep. Dick Knox (R)

**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 62, HB 94

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

EXECUTIVE ACTION ON 62

Motion: REP. MARIAN HANSON MOVED HB 62 DO PASS.

Discussion:

REP. MARIAN HANSON asked if the person who requested her to sponsor the bill could address the committee. The committee agreed.

Proponents' Testimony:

Russell Greenwood, Sportsman, believed hunting turkeys with a rifle was unethical. He handed out a paper showing in which states it is legal to use a rifle in the spring and fall turkey hunting season. Forty-nine states have turkey hunting. Rifles are legal in spring turkey season in only eight states while only thirteen states consider rifles legal for fall turkey season. His primary reason for having the bill drafted is safety factors. Mr. Greenwood also submitted a letter he wrote to Mr. Simpson, Fish and Game Commissioner, requesting the issue be reviewed by the Fish and Game Commission. The commission never acted on his request. EXHIBIT 1 AND 1A

Discussion:

REP. JACK WELLS stated he is an avid turkey hunter and shot his first turkey with a rifle. In the last few years, he has noticed that the popularity of turkey hunting in Montana has increased. When he and a friend were hunting turkeys two years ago with bow and arrows, they witnessed people shooting turkeys with rifles from trucks in the same area he was hunting. Safety is a very valid concern with the increase in the number of people being outdoors. However, it would be acceptable if the disabled were granted a waiver. He supported banning rifles in spring turkey hunting season.

REP. ROD MARSHALL asked REP. HANSON if she would consider an amendment to remove the exception for black powder rifles and also ban slugs from shotguns. He felt black powder rifles and shotgun slugs are as damaging as rifles. REP. HANSON said she would approve of an amendment of that nature.

REP. BRAD MOLNAR said he appreciated the sentiment behind HB 62. However, he believed the bill did not accomplish people's objectives. He compared the damage done by a few different guns and questioned if a hunter's ethics changed just because he changed guns. The first time he hunted a turkey he used an 30.06 rifle and armor piercing shells. It was his choice. He did not think it was right to dictate to a hunter the type of weapon or method to use when hunting. He asserted one type of gun should

be allowed for both spring and fall turkey hunting, rather than allowing one type of gun in the spring and another in the fall. **REP. MOLNAR** believed there were too many regulations for hunting already and declared opposition to HB 62.

**REP. CHASE HIBBARD** appreciated the efforts of the people sponsoring the bill, but questioned if this was the type of issue the committee should be deciding through legislation. The Fish and Game Commission decides the nature and rules used during hunting seasons. Concern was expressed over the precedent the bill may set. He has experienced problems and frustrations trying to accomplish things through the commission. Passage of HB 62 might lead many others to bring their grievances to the legislature rather than to the Fish and Game Commission. **REP. HIBBARD** was not sure that this was the type of issue the committee should be deciding.

**REP. BOB REAM** said that the commission has put restrictions on rifle use in certain areas of the state. The commission is unique and the idea is that the sportsmen have an intermediary between lawmakers and the public. He felt that the commission was the proper place in handling this grievance.

**REP. HAL HARPER** agreed with **REPS. REAM** and **HIBBARD**. If the bill did not pass, he wondered what message would be sent to the Fish and Game Commission. He also agreed with **REP. WELLS** that safety is a big concern. It should be addressed by the commission. He thought the committee could pass a resolution that indicated their preference and opinions on the issue. He offered an amendment to remove the exception for black powder rifles and add handguns, and shotgun slugs in an attempt to address concerns and not reject the bill. **REP. HIBBARD** also suggested a letter or statement of position could be sent to the Fish and Game Commission. As a result, the Department of FWP would not be micromanaged.

**REP. EMILY SWANSON** conveyed her support of **REP. HARPER's** idea and agreed with the idea of sending a letter directed to the Fish and Game Commission outlining the committee's discussion. It should explain that the issue aroused many concerns by the committee, but that these grievances are best handled by the Fish and Game Commission.

**REP. DANIEL FUCHS** thought there should be less government regulation and did not agree with the bill.

**REP. HANSON** stated that the grievance had been presented to the Fish and Game Commission several times with no results. If the commission will not take action, then legislation should solve the problem.

**REP. BOB PAVLOVICH** said he agreed with **REP. HARPER**.

REP. REAM reminded REP. MARSHALL if he wanted to add his proposed amendment, he needed to make a motion. REP. MARSHALL explained that it was a suggestion and not a motion.

**Motion:** REP. HARPER MOVED TO AMEND HB 62 BY STRIKING THE WORDS "EXCEPT BLACK POWDER RIFLES" ON PAGE 2, LINE 14 AND ADDING "HANDGUNS AND SHOTGUN SLUGS."

**Discussion:**

REP. MOLNAR said removing black powder rifles will not help because many other types of rifles are still excluded. The amendment leaves loopholes. He felt the committee could not legislate morality.

REP. HANSON remarked that she did not know whether the issue involved ethics or not. The first turkey she shot was with a rifle. From that experience, she learned to use a smaller gun when hunting turkeys.

**Vote:** Voice vote completed was inconclusive and CHAIRMAN DOUG WAGNER decided it should be a Roll Call Vote. See next Vote.

**Discussion:**

REP. HARPER said that REP. HANSON was in favor of the amendment. He believed it was courteous to allow the sponsor of a bill to get the bill into a desired form. The committee can then vote on it. Committee members could support the amendment and not necessarily support the bill.

CHAIRMAN WAGNER asked REP. HARPER to repeat the amendment. The words "except black powder rifles" would be stricken, and the words "handguns and shotgun slugs" would be added. Corresponding changes would be made to the title.

REP. SWANSON asked REP. HANSON if the amendment helped the bill. REP. HANSON felt it would not adversely affect it.

**Vote:** Motion passed 14 to 3 on a Roll Call Vote with REPS. REHBEIN, MOLNAR, and SLITER voting no.

**Motion:** REP. HANSON MOVED HB 62 DO PASS AS AMENDED.

**Discussion:**

CHAIRMAN WAGNER asked if it was REP. HARPER's intent to send a letter to the commission. REP. HARPER thought it would be a very good idea.

**Vote:** Motion failed 12 to 5 on a Roll Call Vote with REPS. DEVANEY, HANSON, HARPER, TASH, and WELLS voting yes.

**Motion/Vote:** REP. HANSON MOVED HB 62 BE TABLED. Motion passed unanimously.

**Discussion:**

CHAIRMAN WAGNER asked REP. HARPER what type of action he wanted on a letter to the Fish and Game Commission. REP. HARPER indicated the letter was a suggestion. He wanted to ensure the record indicated that the committee demonstrated considerable concern about micromanaging the department. Despite sympathy for the bill and its intent, it was tabled because of this concern.

REP. PAUL SLITER said that with due respect for REP. HANSON, he did not feel sympathy toward the bill. If a letter was constructed, he would choose not to take part in it.

**EXECUTIVE ACTION ON HB 94**

**Motion:** REP. SLITER MOVED HB 94 DO PASS.

**Discussion:**

REP. PAVLOVICH asked for the reason the bill needed to be effective on passage and approval. Doug Sternberg, Legislative Council, explained the land had been procured and system was basically in place. As a result, when the bill was drafted, the people wanted to begin operation as soon as possible.

REP. MOLNAR asked Pat Graham, Department of Fish, Wildlife and Parks, what benefits they will have being a preserve. Mr. Graham explained that there were two basic benefits. They can release birds onto their property for hunting and charge a fee for hunting. The second benefit is that they do not need a bird license to hunt on the property because theoretically hunting involves only released birds. REP. MOLNAR asked if the season would be extended. Mr. Graham said that falconry already has an extended season. They will not get the season advantage because they will not be a regular shooting preserve. REP. MOLNAR asked Mr. Graham if a charge would be levied on disabled falconers to use the preserve. Mr. Graham said he believed that it would be business venture and involve training disabled falconers. He did not get the impression that the birds would be donated to the cause. REP. MOLNAR stated the land had been willed to the falconry organization. It was already fine pheasant country and part of an elk corridor. He asked if additional pheasants were necessary. Mr. Graham said he would comment on the subject indirectly. The organization came to the department to utilize Upland Bird and Habitat Enhancement Funds. The department denied the request because they were not going to allow public hunting. One of the conditions in the use of these funds is that public access must be provided. He assumed there must have been some habitat and birds, otherwise, they would not have requested habitat funds.

REP. HANSON mentioned that the whole focus of the bill was to get underneath the 10-mile restriction. CHAIRMAN WAGNER said that it was his understanding as well.

**Motion:** REP. PAVLOVICH MOVED THE AMENDMENT DISTRIBUTED BY THE FWP DEPARTMENT. EXHIBIT 2

**Discussion:**

CHAIRMAN WAGNER asked Mr. Sternberg to address the amendments distributed by the department. Mr. Sternberg stated that the amendments would change the title on line 5. Following the word "established," the words "and operated" would be inserted. The same would be done on line 19 in the body of the bill.

REP. BILL REHBEIN asked Mr. Sternberg to explain the amendments. Mr. Sternberg explained that the words "and operated" were inserted so that a preserve could only maintain the 10-mile restriction exemption if they continue to operate as a falconry hunting preserve for the disabled. If the preserve operation changed, it would no longer be exempt from the 10-mile restriction. REP. REAM said the department was concerned that a preserve would first be established as a falconry preserve to get underneath the 10-mile limit and later change to a regular shooting preserve.

CHAIRMAN WAGNER asked if the amendment meets with the approval of REP. MATT BRAINARD, the sponsor of the bill. Mr. Sternberg informed the committee that REP. BRAINARD requested it.

**Vote:** Motion was passed unanimously.

**Motion:** REP. SLITER MOVED HB 94 DO PASS AS AMENDED.

**Discussion:**

REP. MOLNAR asked if the committee has addressed the definition of "disabled." Mr. Sternberg said the department, as part of its regulatory process, has devised a definition of a disabled person and it applies to general hunting licenses. The definition is found in administration rules rather than in statute. The department takes recommendations from the medical field to devise definitions. REP. MOLNAR asked if the definition is automatically applied if this bill is passed. Mr. Sternberg presumed the department would apply the same definition to this law.

REP. SWANSON stated that the falconry preserve is already in place and the disabled can fly falcons and hunt birds already. They cannot raise and release birds. In order to do this, they need to become a shooting preserve. Mr. Graham explained that a preserve is not needed to hunt with falcons. They would gain the ability to raise, release birds, and to charge a fee by becoming a preserve.

REP. REAM said there will be relatively few people in Montana that will use the preserve. He believed HB 94 was a simple way to resolve a problem with the existing law. He did not think conflicts would arise with regular shooting preserves. He favored passing the bill.

CHAIRMAN WAGNER said that the department did not have a problem with the amendments but was concerned that other interests would ask for similar changes in future sessions.

Vote: Motion passed 13 to 4 on a roll call vote with REPS. WAGNER, HANSON, HARPER, and PAVLOVICH voting no.

ADJOURNMENT

Adjournment: 3:52 p.m.

  
\_\_\_\_\_  
REP. DOUG WAGNER, Chairman

  
\_\_\_\_\_  
MARY RIITANO, Secretary

DG/mr

# HOUSE OF REPRESENTATIVES

## Fish and Game

ROLL CALL

DATE January 12, 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

January 12, 1995

Page 1 of 1

Mr. Speaker: We, the committee on Fish and Game report that **House Bill 94** (first reading copy -- white) **do pass as amended.**

Signed: Doug Wagner  
Doug Wagner, Chair

### And, that such amendments read:

1. Title, line 5.  
Following: "ESTABLISHED"  
Insert: "AND OPERATED"
2. Page 1, line 19.  
Following: "established"  
Insert: "and operated"

-END-

1/13  
mw

Committee Vote:  
Yes 13, No 4.

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# HOUSE OF REPRESENTATIVES

## ROLL CALL VOTE

### Fish and Game Committee

DATE Jan. 12 1995 BILL NO. 62 NUMBER 1

MOTION: HARPER 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	<del>EXCUSED</del>	
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 OF REPRESENTATIVES

## ROLL CALL VOTE

### Fish and Game Committee

DATE January 12, 1995 BILL NO. 62 NUMBER 2

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	EXCUSED	
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 OF REPRESENTATIVES

## ROLL CALL VOTE

### Fish and Game Committee

DATE January 12, 1995 BILL NO. 94 NUMBER 3

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	EXCUSED	
Rep. Rod Marshall	✓	
Rep. Brad Molnar	✓	
Rep. Bob Pavlovich		✓
Rep. Bob Raney	✓	
Rep. Bob Ream	✓	
Rep. Paul Sliter	✓	
Rep. Bill Tash	✓	
Rep. Jack Wells	✓	

# STATES WHERE RIFLES CAN BE USED FOR TURKEY HUNTING

STATE	SPRING	FALL
AZ		
CO		
FL		
MD		Does allow R. 2 hrs in So
MS		
MT		
OK		
PA		
SD		
TX	 (west TX)	
VA		
* WV	-1996	
WY		

49 states have Turkey Hunting

1992

RIFLES ARE LEGAL TO USE IN <sup>8</sup> STATES DURING THE SPRING TURKEY SEASON AND <sup>13</sup> STATES DURING THE FALL SEASON.

SINCE 1979, <sup>9</sup> STATES HAVE ELIMINATED THE USE OF RIFLES FOR HUNTING WILD TURKEYS.

# National Wild Turkey Federation, Inc.



Wild Turkey Center, P.O. Box 530, Edgefield, South Carolina 29824 (1-803-637-3106)

## FAX

EXHIBIT \_\_\_\_\_

DATE \_\_\_\_\_

HB \_\_\_\_\_

To: Russell Greenwald Date: 1-9-95

FAX #: 406-427-5774

Agency: \_\_\_\_\_

From: Mary Kenamer FAX #: 803-637-0034

Total # pages: 2

Here's the latest list I have for the states where rifle hunting is legal. I'm getting in more current info now that may make some changes. I can give you more recent material in a few weeks.

There's a possibility that other states are in the same process as you.

Hope this helps. Call me in a few weeks if you want any updated info.

Mary Kenamer

EXHIBIT 1A  
DATE January 12, 1995  
HB 62

May 9, 1994

Dear Mr Simpson,

We would like to thank you for attending our spring convention in Billings. Your comments and concerns were well appreciated by our group. I talked with you about the use of rifles during the spring turkey season and I am enclosing a short article we were going to send to the Billings Gazette but thought it might do more good with the commission. I am aware of the concerns of those hunters who are unable to walk into some of the areas turkeys are found. We have in place a law allowing handicaped people special privilages. Under this law we could allow these people the right to continue to use a rifle. I am adamately opposed to anyone using a rifle to blow apart a beautiful bird like the turkey gobbler. To use a high powered rifle to shoot any bird takes the sport out of "Sportsman". Thank you for taking the time to share my concerns.

Sincerely,

Russell Greenwood

cc. Stan Meyer  
Jean Johnson

EXHIBIT 2  
DATE January 12, 1995  
HB 94

Amendments to House Bill No. 94  
White Reading Copy

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

Prepared by Doug Sternberg, Legislative Council  
January 9, 1995

1. Title, line 5.  
Following: "ESTABLISHED"  
Insert: "AND OPERATED"
  
2. Page 1, line 19.  
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Insert: "and operated"