

MINUTES

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

COMMITTEE ON FISH & GAME

Call to Order: By **CHAIRMAN DOUG WAGNER**, on January 26, 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. 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: Rep. Jim Elliott (D)

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: HB 195, HB 196
Executive Action: None.

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

HEARING ON HB 195

Opening Statements by Sponsor(s) and Private Land/Public Wildlife
Advisory Council Members:

REP. EMILY SWANSON, House District 30, Bozeman informed the committee that the bill was the result of a substantial amount of effort. Many people who helped form the bill were present to explain it. She explained that she was present as a proponent for Montana and believed in the traditions of private land, public wildlife, and ample hunting opportunities. Over the past two years, many people from the three groups of outfitters, private landowners, and sportsmen came to the consensus represented in the bill. She extended an invitation to join them in "making a gift to Montana" that was embodied in HB 195 and HB 196. **REP. SWANSON** stated that background would be given for the reasons the three groups came to this point, what brought them to dealing with the issue in this way, and solutions arrived at. She introduced **REP. CHASE HIBBARD**, co-sponsor of HB 195 and one of the authors of HJR 24, who would describe the reasons for them being there.

REP. HIBBARD remarked that being a member of the Fish & Game Committee during the 1993 legislature was an incredibly difficult experience for him. Diverse groups of people cared very much about wildlife resources, hunting, fishing, and Montana land. Many bills presented to the Fish & Game Committee during the 1993 legislature from the three groups of landowners, sportsmen, and outfitters were one-sided and unacceptable to the other groups. Comments from the each group would accuse, challenge, and protest the efforts of one group presenting legislation. A lobbyist summed up the general atmosphere as being "pie in your face." One group would appear with legislation and lob it at one of the other groups. To retaliate, they would come in and lob their legislation back. Several of the committee members began to notice and realized nothing was getting accomplished. On each piece of legislation voting yes or no were the only options. These were complex, philosophical, and emotional issues and it was difficult to deal with them in a black and white fashion. HJR 24 was designed out of these difficulties. It empowered the governor to set up a group that has worked diligently for the past 18 months. He felt it was a proud day to see the results of HJR 24. Each of the major players in these groups, landowners, sportspeople, and outfitters compromised. He believed that the results of this will be seen in Montana for years.

A seven minute video was shown by the Department of Fish, Wildlife and Parks (FWP) providing committee members and the public with additional background on the development of HB 195. Recommendations of the Private Land/Public Wildlife Advisory Council were addressed. Outfitters, landowners, and sportsmen were part of a governor-appointed council as well as

representatives from State Lands, Bureau of Land Management, U.S. Forest Service, and the Department of FWP. Governor Racicot outlined five goals for the council. The five goals were achieving optimum hunter access, protecting wildlife habitat, limiting impacts and inconveniences to landowners, encouraging the continuance of a viable hunting/outfitting industry, and providing additional tangible benefits to landowners who allow hunter access. Council meetings began in August 1993 and were open to the public. Several drafts for a proposal were made and included many recommendations. A few examples of the recommendations were tangible benefits to landowners as incentives to allow public hunting, an advanced hunter education program promoting a higher level of ethics and responsible behavior, and using a market-based system with nonresident licenses set aside for outfitter clients. The overall effort of the three groups worked toward consensus and balance.

REP. SWANSON handed out a graph which showed the three groups involved as well as recommended solutions. Landowners, sportsmen, and outfitters had serious grievances. The package of bills, HB 195 and HB 196, found a balance among each of the parties involved. She also handed out a summary of the major points in HB 195 and helped committee members review each section. **EXHIBIT 1 AND 2**

Nina Baucus, Chairperson, Governor's Private Lands/Public Wildlife Advisory Council, addressed the committee and handed in written testimony. She gave a detailed account of how HB 195 came about from the efforts of sportsmen, outfitters, and landowners. Special note was made that the recommendations did not come from the council or the governor. The recommendations came from the people of Montana. The council listened and melded together their suggestions and concerns. **Ms. Baucus** emphasized that the bill consisted of a fragile set of checks and balances. Changes to its structure could undermine everything the council accomplished. **EXHIBIT 3**

Steve Christensen, rancher and member of the council, testified in favor of the bill and provided additional information regarding HB 195. He submitted written testimony. His testimony involved landowners' concerns. The Montana Fish, Wildlife and Parks Commission was directed to develop rules for determining tangible benefits to be provided to a landowner for allowing public hunting access. Qualifying landowners may apply the benefits to general ranch maintenance and conservation efforts. Under HB 195, a landowner would be protected against liability for injuries occurring while a person was hunting. **EXHIBIT 4**

Kelly Flynn, outfitter and member of the council, strongly supported HB 195 and submitted written testimony. HB 195 provided considerations for the outfitting industry and resulted in a win-win situation for sportspeople and landowners. The bill allowed variable pricing of outfitter-reserved licenses to ensure that a booked client received a license. Another proposal found

in HB 195 lowers B-10 elk/deer combination licenses from 5,600 to 5,500 but increases B-11 deer combination licenses from 2,000 to 2,300. Additionally, HB 195 stated that all permits or tags secured as a result of obtaining a B-10 or B-11 license through an outfitter were only valid when hunting was conducted with a licensed outfitter. A final point covered by **Mr. Flynn** involved the proposed 5-year moratorium on the issuance of land-based hunting outfitter licenses. This would help the industry get a handle on the growth explosion that has occurred over the past few years. **EXHIBIT 5**

Verle L. Rademacher, landowner and member of the council, testified in favor of HB 195 and submitted written testimony. Additional benefits were worked out for private landowners and landowners in the Block Management and Hunting Enhancement Programs to provide more hunting opportunities for both residents and nonresidents. Those who enroll in these programs have the additional benefit of restrictions on liability of the landowner. Funding will be provided through the sale of the variable priced nonresident B-10 and B-11 licenses for outfitter sponsored hunters. **Mr. Rademacher** emphasized the point that the committee should be extremely careful altering the substance of the bill. It represented a delicate balance of compromise between the three groups. **EXHIBIT 6**

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Kathy Hadley, hunter and member of the council, spoke in favor of HB 195 and handed in written testimony as well as nonresident combination license statistics. Over the last ten years, she has been troubled by the growing trend of reduced hunting opportunities in Montana. Most of the private land in her area was open 10 years ago. Today, most of the land was closed or leased to outfitters. Game populations have changed their patterns of behavior in response to the changing hunting pressure. Animals that once sought sanctuary deep in the woods now found sanctuary on closed private lands. Hunting experiences were declining in quality. Resentment has grown because hunting seems to be becoming a sport for the rich. HB 195 represents an opportunity to reverse this trend. **EXHIBIT 7**

Glenn Marx, policy director for Governor Marc Racicot, addressed the committee on behalf of the governor and presented written testimony. The governor watched the council struggle through each painful decision, each difficult issue, and each arduous task. He offered profound compliments and gratitude to **Nina Baucus**, chairperson, and each council member. The council's performance has produced a package of recommendations that resulted in HB 195, which the governor strongly supports. **Mr. Marx** emphasized that most everyone could find one thing or another to oppose or change, but this agreement was extremely fragile. It would be tragic for all people involved if the agreement unravelled. He encouraged passage of HB 195. **EXHIBIT 8**

Pat Graham, Director, Department of Fish, Wildlife and Parks, offered written testimony in support of the bill. The resulting gridlock from different bills introduced during the 1993 legislative session was addressed through HJR 24. HB 195 is the result of over 18 months of remarkable work on the part of a diverse group of citizens. This proposed legislation was the result of a consensus process. It addressed each group's concerns. Nobody obtained everything they wanted and everyone had to give something up. However, this legislation offered significant, positive progress in addressing the concerns of landowners, sportspeople, and outfitters. The department supported the major concepts in the bill. FWP also supported the idea of requiring progress reports to the governor at each regular session. **EXHIBIT 9**

SEN. JOHN HERTEL, Senate District 47, Moore, stated he understood HB 195 but more importantly comprehended all the work that went into it because he was a council member. He emphasized that HB 195 was not the result of ideas and thoughts of the council only, but also from people across the entire state. It was a complete package and he hoped that the committee would only consider it in this manner. Changing anything in the bill would result in other parts being unbalanced. **SEN. HERTEL** stressed that the state needed this bill to make a step in the right direction to solve an old, complex issue.

CHAIRMAN DOUG WAGNER announced that the Fish and Game Committee had been joined by the House Agriculture Committee members in the audience.

Proponents' Testimony:

Susan Reneau, writer and hunter, expressed her support of HB 195. She was impressed with the amount of work the council accomplished. In order to continue writing about hunting, she said people must have access to hunting land to continue hunting traditions. Support must be shown to outfitters and landowners.

Paul Roos, Montana Board of Outfitters, said they worked with the council to help create a cohesive solution to the problems between the outfitters, landowners, and sportspeople. He encouraged passage of HB 195 and submitted written testimony. **EXHIBIT 10**

David Major, President, Montana Wildlife Federation, commended the council for 18 months of intensive work on very contentious issues. He expressed their support of the bill. A key element of the council's recommendations was the variable-priced license for outfitted nonresident hunters. The Montana Wildlife Federation supported the addition of fully trained game wardens to help fulfill the mandates of HB 195. **Mr. Major** submitted written testimony as well as several statistic sheets on game wardens. **EXHIBITS 11 and 12**

Bob Lovgrove, President, Western Montana Fish and Game Association, complimented the council in its efforts to reach the compromises proposed in HB 195. An important accomplishment was getting landowners, outfitters, and sportspeople to stand united on an issue where previously they were divided. Everything must be done to further that objective. This legislation was an outstanding beginning and could serve as a national example of sportspeople, landowners, and outfitters working together.

John Bloomquist, Montana Stockgrowers Association, viewed HB 195 as a positive beginning. Antagonistic legislation has been presented by all three groups in the past. There has also been a great deal of litigation impeding their relationship. However, this was the beginning of a process that should be viewed as a prototype of handling disputes, particularly in this arena. Formal recognition was given to landowner's contributions to wildlife, the impact wildlife has on private landowners, and the concept of tangible benefits to landowners. The program was voluntary but provided another option for landowners in a win-win situation. Improvements in recordkeeping and the liability shield were critical in the success of these programs. Liability was a great concern of landowners. **Mr. Bloomquist** felt that **REP. SWANSON's** amendments were critical. They provided flexibility in the use of the landowner benefits and would be provided without creating another administrative and regulatory process. The addition of independent review is also critical. The review board should represent a broad spectrum of interests. He expressed concern over the funding of the program through variable priced licenses as well as future funding of the program through resident sportspeople contributions. Montana hunters will benefit from increased public access. Hopefully, a partnership will form with landowners. He urged passage of the bill with committee members continuing the process started by the Advisory Council.

Jim Bradford, President, Montana Bowhunters Association, expressed support for HB 195 and submitted written testimony. He stated the council was equally represented by landowners, sportspeople, and outfitters. To undermine any part of the recommendations would be wrong because it represented a delicate compromise between the three groups. **EXHIBIT 13**

Russell Hill, Montana Trial Lawyers Association (MTLA), said he was not in the habit of standing up to support bills which insulate anyone from accountability or liability, but MTLA rose in support of HB 195. MTLA expressed its grudging admiration of the drafters who dealt with the liability provisions in this bill. They carefully, thoroughly, and professionally designed the language and perhaps most importantly provided genuine, tangible, and affirmative benefits to Montana citizens.

Tony Schoonen, Skyline Sportsmen Association and State Lands Coalition, complimented the council on the work they accomplished under the leadership of **Nina Baucus**. He wanted to see an

additional four to six game wardens included along with the two conservation officers that **Pat Graham, FWP** recommended. Without proper law enforcement, it would be difficult to make this program work.

Bill Holdorf, Anaconda Sportsmen Association, declared the organization's support for the bill. The sunset clause would provide ample opportunity to see if the program will work. He agreed that there should be more game wardens. He spoke of an incident last summer when a game warden retired in Dillon. That area had only one game warden from the day he retired until the first day of hunting season. The department does not have a system for substitute game wardens if someone leaves. The last point he made was that this program is not funded through taxpayers' money.

Jack Rich, Montana Outfitters and Guides Association (MOGA), expressed their support of HB 195 with **REP. SWANSON's** amendments and presented written testimony. The support did not come easily. The MOGA debated the issues for many hours before agreeing to support this bill. The amendments were a cornerstone to their support. This legislation, together with HB 196, attempted to achieve a balance. It gave the outfitters a small increase in nonresident deer hunting licenses, a limit on hunting outfitter business licenses, and the ability to control expansion into new areas. The net effect would downsize professional hunting outfitters. Every outfitter will lose clients who are unable or unwilling to pay market price for their license. With this in mind, he asked the committee to support the amendment to reinstate 100 B-10 licenses. The licenses represent a conservative economic loss of \$750,000 to rural Montana. **EXHIBIT 14**

Roy Ereaux, Outfitter and Montana Outfitters and Guides Association, communicated his support of the bill and submitted written testimony. He talked about eastern Montana's variety of fish, birds, small and big game, as well as unbroken miles of prairie. In recent years, some of the residents have begun to feel the crunch of being caught between maintaining growing numbers of game and maintaining a viable livelihood. Outfitters were sympathetic to the concerns of landowners and were willing to compensate them while being accountable to their clients and other guides. Some outfitters felt that they have been a target for false perceptions and accusations which has added to the frustrations of Montana resident hunters. This, coupled with a growing awareness of landowners feeling overwhelmed and unappreciated, caused matters to deteriorate to the point they were at during the last legislature. As an outfitter, he did not see HB 195 as a final solution but a major step in the right direction. He urged the committee to consider the bill as it was presented and to pass it. **EXHIBIT 15**

Jean Johnson, Executive Director, Montana Outfitters and Guides Association expressed support for the bill and handed out written testimony and an amendment. HB 195 was not an outfitter relief bill, but they were also not losing everything either. Many outfitters will give up hunters who came as a new client years ago and have continued to return as a friend. Despite articles printed in the Billings Gazette, most outfitter clients were not "filthy rich." The majority of outfitter's clients were hard working Americans who saved money all year for a Montana hunt with an outfitter. HB 195 was not a final solution. **Ms. Johnson** proposed one amendment. She approached lobbyists and shared the MOGA's two proposed amendments. They dropped one and kept one. The Montana Wildlife Federation indicated they would not offer opposition. Thanks to Governor Racicot's sense of fair play and wisdom in selecting the members of this council, HB 195 emerged from the process and deserved a chance. She urged the committee to pass HB 195 **EXHIBIT 16 and 17**

{Tape: 2; Side: A; Approx. Counter: 000; Comments: Lost about 2 minutes at the end of Jean Johnson's presentation because the original 2nd tape got jammed in the machine.}

Bill Allan, Montana Legislative Audubon Fund, voiced their support of HB 195. Efforts strengthening the relationship between private landowners and the hunting public will benefit wildlife management throughout Montana.

L.F. Thomas, sportsman, urged the committee to pass HB 195.

Opponents' Testimony:

None.

Questions From Committee Members and Responses:

REP. BOB RANEY stated that most of the concerns about HB 195 involved the outfitting license moratorium. No more licenses will be issued and their value may increase significantly. In five years when the moratorium ends, people owning outfitting licenses will protest because their outfitting licenses will lose their value. He asked **REP. HIBBARD** if he wanted to create another permanent quota system that may make outfitting licenses worth \$50,000. **REP. HIBBARD** did not believe it was the council's objective. He referred the question to **REP. SWANSON**. **REP. SWANSON** explained that a moratorium was included in the bill to allow the outfitting industry a period of time to stabilize and effectively use the variable price license system. The outfitting industry was growing rapidly in terms of hiring more guides and in terms of leasing increased amounts of private land. A moratorium would help stabilize the industry as well as keep hunting opportunities available for the sporting public. She explained that the outfitting industry was unlike most private businesses. The state limited outfitting clients by mandating the number of nonresident licenses that can be sold. If the

variable priced license system was successful, a moratorium would be unnecessary. **REP. SWANSON** remarked that if the committee felt the moratorium was unnecessary, it could be reconsidered since it was not critical to the legislation.

REP. BOB PAVLOVICH asked **REP. SWANSON** about amendments for HB 195. **REP. SWANSON** replied that there were amendments.

REP. PAVLOVICH asked **Pat Graham** if there was a way he could incorporate road access concerns from HB 59. **Mr. Graham** responded HB 195 should take care of those concerns.

REP. DICK KNOX commented that he was on the Fish & Game Committee last session. Some members felt they "wanted to wear hard hats because legislative bombs were lobbed back and forth." HB 195 was a quantum leap forward. One of his concerns during the last session was that there were little benefits for landowners who left their land open for public hunting. **REP. KNOX** commended the council for their efforts.

REP. KNOX referred to page 5, line 25-26, "The department may provide assistance in the construction and maintenance of roads, gates, and parking facilities and in the signing of property." He asked **REP. SWANSON** how the council envisioned this would be handled, whether it would be a cash contribution to the landowners or allowing use of FWP equipment. **REP. SWANSON** said lines 25-26 on page 5 referred to an option a landowner had using the money. No contribution from FWP was envisioned.

REP. BRAD MOLNAR believed Section 11, moratorium on issuance of hunting outfitter licenses, attempted to control the vertical growth of the outfitting industry, however, an outfitter could still expand horizontally if he leased more land. He asked **Kelly Flynn** to respond to his concern. **Mr. Flynn** said HB 195 addressed the vertical growth of outfitters. HB 196 addressed horizontal growth through provisions that help control it. **REP. MOLNAR** asked if there were provisions allowing controlled growth. **Mr. Flynn** replied the provisions in HB 196 would not allow a great increase in net client use and land base expansions would be reviewed for user conflicts. **REP. MOLNAR** asked for further clarification. **Mr. Flynn** said the land base could possibly increase. Requests for land base increases would be subject to a review process requiring public. **REP. MOLNAR** asked how the moratorium would be affected if HB 195 passed and HB 196 did not pass. **Mr. Flynn** replied the moratorium would be unaffected because it was included in HB 195. Provisions regarding horizontal growth of outfitting were addressed in HB 196. For this reason, HB 195 and HB 196 were considered companion bills. Both address recommendations made by the Public Wildlife/Private Lands Council.

REP. PAUL SLITER maintained that placing a moratorium on the number of outfitter licenses would invariably boost the price. He asked **Verle Radenmacher** if the legislature should be giving

outfitters the opportunity to greatly increase the value of their license and the ability to oppose others wanting to get a license. **Mr. Radenmacher** remarked that he was a businessman and owned his own business for 28 years. He acknowledged **REP. SLITER's** statements. During their deliberations with the council, it was clear that the outfitting board had to "get their act together" and work on the horizontal and vertical growth of the outfitting industry. A compromise solution was made for a five-year period. It placed responsibility on the outfitting board to strive to control the number of outfitting licenses issued.

REP. PAVLOVICH stated that **REP. HIBBARD** could address the question he asked **Mr. Graham**. **REP. HIBBARD** commented that an important issue had not been talked about and involved the whole process used in reaching consensus. One of the recommendations was to form local working groups. There were nine local working groups in the state that played an important role in the resulting bill. Given the positive work of the groups, the council recommended that the governor formally recognize each local working group and requested that they continue to exist for the purposes of facilitating communication, assisting program initiation, and developing pilot projects. If a local group continued meeting in **REP. PAVLOVICH's** area, his concern of shrinking public hunting access would be an excellent project for them to address.

REP. RANEY asked **REP. SWANSON** if during the period of the moratorium an outfitter wanted to quit his business, could the state of Montana sell that recovered license to whomever they choose. **REP. SWANSON** replied the idea was discussed, but it was determined that it was not a good idea. She emphasized that the moratorium was not a cap on sales; it was a cap on the net increase in the number of outfitting licenses. If an outfitter wanted to sell their license, they could do that. There would not be any more licenses than there is currently. **REP. RANEY** said that was his point. If an outfitter wanted to sell his license and there were 50 people wanting to start outfitting businesses, he would encounter 50 people bidding on his license. **REP. SWANSON** stated that possibility exists. However, variable priced licenses would offset some of the demand for outfitter licenses. As the price of outfitting licenses increases, the need for more outfitters would decrease. A prospective outfitter will need to review a market study to ensure he could operate a viable business. If there was not a thriving market, the prospect may not look attractive. It was presumably a self-controlling system. **REP. RANEY** disagreed. He opened a retail business in Livingston. In the last six years, 11 other businesses similar to his opened in the community. He remarked that he would have liked to have had a moratorium so they could not open their businesses. **REP. SWANSON** said the key difference was that he does not have limited clientele. It was not mandated that only 5,000 people could go to Livingston. However, that was the outfitters situation. There will only be 5,500 clients for

the B-10 licenses, and there will only be 2,300 clients for outfitters in the B-11 licenses.

REP. MOLNAR stated that the Montana Board of Outfitters presented an amendment to return to the 5,600 licenses for the elk combination license. In HB 195 there was an increase of 300 deer combination licenses. **REP. MOLNAR** said that in fairness to the balances made in HB 195, if the elk combination license was returned to 5,600, then the deer license should be reduced back to 2,000. He asked **Ms. Johnson** if she would agree to this change. **Jean Johnson** explained that their amendment returned the elk combination license to 5,600 which was granted by the 1987 legislature. The council recommended the additional 300 deer licenses. The outfitting community believed that if they lost any part of the 5,600 licenses and the proposed program in HB 195 unravelled, outfitters would never get them restored. Returning to the 5,600 licenses provided the incentive to the outfitting industry to sacrifice clients that they have had for years for the variable priced license. She would not favor an amendment that would decrease the 300 deer licenses. There were plenty of deer to support 2,300 licenses. **REP. MOLNAR** stated there may be plenty of deer to support those licenses but wondered if there was public support for the additional 300 outfitter guided licenses which could potentially lead to an increase in the number of leased acres. This occurrence could unravel the agreement in HB 195. If it unravelled, the legislature probably could not get the 2,300 reversed any more than the outfitters could get the 5,600 restored.

In the spirit of compromise, **REP. MOLNAR** offered to move an amendment to return to 5,600 if she would endorse the reduction of the 300 additional deer licenses. **Ms. Johnson** remarked that as a lobbyist for the outfitters, she could agree or disagree. MOGA needed to make that decision. She gave an analogy of a three-legged stool. When the legislative body gave outfitters 2,000 deer licenses, they did not limit the number of people who could apply for them. Hence, the outfitting industry grew to accommodate a set assigned pool of licenses. Two stool legs continued to grow and now 2,000 licenses were not sufficient for eastern Montana outfitters. She could not offer support to **REP. MOLNAR's** suggestion until she conferred with her people. Those outfitters were "hurting badly." Their success rate in 1994 was 73%. She understood that everyone was striving for a balance and felt she must have failed in her testimony to emphasize that the outfitting industry was making sacrifices. It was not a tangible piece of paper. Outfitters were giving up clients; 1,500 were booked in 1994 that the outfitters could not provide for. **REP. MOLNAR** asked **Ms. Johnson** to discuss the idea with her people because the issue was a "bone of contention" with him. As she would have trouble returning to her people with a decrease, he would have trouble returning to his district reporting that there will be 300 additional non-resident outfitters in eastern Montana. He reminded **Ms. Johnson** that outfitters did not currently have 2,300 deer licenses, they have 2,000. He would

consider supporting her amendment if she was willing to accommodate his people. **Ms. Johnson** informed the committee that the PL/PW lands council wanted to add 500 licenses. There were a few people on the council who were not comfortable with 500 and compromised at 300. The council was very supportive of the 300 additional licenses. She stressed that the number of outfitters was not going to increase as a result. HB 196 handled the horizontal outfitter growth to ensure that 300 new outfitters would not begin a business. The 300 additional licenses provide jobs for Montana citizens and allow them to have a viable business. Eastern Montanan outfitters can no longer survive on 2,000 deer licenses. She agreed to carry **REP. MOLNAR's** message to the Board of Outfitters.

REP. HIBBARD restated **Ms. Johnson's** apprehension of what would happen if the agreement in HB 195 unravelled. The outfitters would be left with the 5,500 elk combination licenses set forth in the bill. He asked **Ms. Johnson** if that was correct. **Ms. Johnson** said that was true. **REP. HIBBARD** asked **Doug Sternberg, Legislative Council** to clarify the results in the event the agreement unravelled. **Mr. Sternberg** explained the entire act was scheduled to terminate October 2000. At that point, the law as it presently read would be reinstated. When these sections were codified, it will be indicated that they are temporary. When the termination date was reached, those sections would drop off and those sections of law that were in effect before these sections went into place would be reinstated. **REP. HIBBARD** asked **Ms. Johnson** if that addressed her concern. **Ms. Johnson** said that it did address her concerns and she would relay that message. When the legislature mandated the 5,600 licenses, they did not also limit the number of outfitters who could use that pool. Actually the 5,600 B-10 licenses were not adequate. The Board of Outfitters was not asking for a increase but that the legislature would not decrease the number of licenses.

REP. BOB REAM commended **Ms. Baucus** and the council on the tremendous job. He urged this committee to "not tinker with it" and asked if she had any comments on the issue of 5,500 licenses versus the 5,600 elk combination licenses. **Ms. Baucus** said the 5,500/5,600 was a hard fought battle. It was absolutely a balance. The outfitters in eastern Montana asked for help in controlling their burgeoning deer population. At one of the meetings specifically for outfitters, the outfitters explained that there were 200 elk licenses and 200 deer licenses thrown away every year because people apply for both to have a better chance of getting a license. With that in mind and with the request from eastern Montana, solution was reached which addressed everyone's concern and created balance. In order to grant the 300 new deer tags, elk tags for the outfitted nonresidents were decreased and changed into the nonoutfitted nonresident category. It achieved the best possible balance.

CHAIRMAN WAGNER asked **REP. SWANSON** if it was possible to meld the new HEP program into the existing block management program

without increasing staff people and bureaucracy. **REP. SWANSON** replied that in the fiscal note there are no FTE's requested for additional administrative expenses. It was exactly what was planned.

CHAIRMAN WAGNER submitted four letters into the record in support of HB 195 from **Robert J. Cooney; Dean Armhurst; Dale Williams, Montanans For Multiple Use; and Allen Schallenger**. **EXHIBITS 18, 19, 20, and 21**

REP. SLITER stated that he did not want to belabor the moratorium issue but had several concerns. He gave a scenario involving a person who bought a license during the moratorium. As the sunset date approached, he suspected that the market would demand more outfitters. As the legislature debated removing the sunset date, the person who purchased the outfitting license will adamantly oppose it because of the tremendous decrease in value his license will have. The legislature will be in a dilemma of continuing the moratorium against consumer demands or lifting the moratorium and facing a potential lawsuit by the person who purchased the license during the moratorium. He asked **Ms. Johnson** to respond to his worries. **Ms. Johnson** explained that an outfitter cannot sell his license. It was not like a liquor license. If he sells his business, which "by the time he is done is a bunch of worn out mules and patched tents," his license was good only to place in a frame on the wall. **Ms. Johnson** said that HB 196 contained language to maintain the current size of outfitters as they were currently. She suggested perhaps the idea of a moratorium should be removed. Consider the Board of Outfitters bill, HB 196, as the tool to control the number of new outfitters. HB 195 encompassed the stipulations of having a place to operate that created no undue conflict with the public or wildlife.

REP. SLITER directed **Ms. Johnson's** attention to Section 11, Subsection (2) which read, "An affected outfitter licensed may attempt to sell the outfitting business, but approval of the buyer's license is conditioned on the buyer's ability to meet the licensing criteria." He thought this section was very identical to the liquor license quota. **Ms. Johnson** said she was ignorant of the liquor license quotas. The language in this section was written by her late at night after struggling with many issues at council meetings. She did not know how to craft the language so that it would work. In good faith, the Board of Outfitters took what she thought would work. She did not realize there were outfitters who may have a camp in the Bitterroot Valley and another one over in the Condon area. They were two separate businesses. If the outfitter wanted to sell the Bitterroot camp he would have to surrender his license to do business in the Condon area. She asked **Lance Melton, Attorney, Department of Commerce** who provided services to the Board of Outfitters and assisted drafting HB 196, for help in clarifying the answer. **REP. SLITER** said he was concerned about Section 11, subsection (2). It appeared that the way the language was written in this

section was similar to liquor licensing. **Mr. Melton** said he understood his concerns. He spoke of the distinction made by **REP. SWANSON** earlier between the liquor licensing system and the outfitting business license. There was a limited number of licenses. He did not believe there would be artificially expanded value of businesses when there were limitations placed on outfitters under HB 196 and also with the limitation on the number of licenses available to outfitters.

{Tape: 2; Side: B; Approx. Counter: 000; Comments: Tape was turned over right before Mr. Melton began speaking. Lost 30 seconds.}

Closing by Sponsor:

REP. SWANSON thanked the committee for an excellent hearing. The issue about the 5,500/5,600 licenses was a perfect example of the kind of issues that council people "went around and around with." One of the messages sent to the governor in asking him to set up this council was that the legislative arena was not the appropriate place for dealing with complex controversial issues of this type. It required a group of citizens from all different constituencies to put aside some of their time to sit down together, build consensus, find a balance, and define solutions. She asked the committee to endorse the efforts despite the fact that it may not be the ultimate answer. She was proud to have been a part of the process and was grateful to the people she worked with. The amendments **REP. SWANSON** offered were "friendly amendments" and were the result of people finding discrepancies in the bill after it was drafted. They would be discussed in more detail in executive session along with the proposed fiscal note.

HEARING ON HB 196

Opening Statement by Sponsor:

REP. EMILY SWANSON, House District 30, Bozeman, presented HB 196, a companion bill to HB 195. The Advisory Council was entirely in support of HB 195, however, they did not support HB 196 in its entirety. The Board of Outfitters drafted the bill, brought it to the council and asked for their support. The council reviewed it in relation to the recommendations made to the governor and offered support on a large portion of HB 196. There were a few aspects that were not discussed at council meetings. Council members did not oppose them but could not offer 100% endorsement. **REP. SWANSON** agreed to carry the bill for the Board of Outfitters on behalf of the Department of Commerce. It was not a formal part of the HB 195 package, but she felt comfortable endorsing it. HB 196 gave the Board of Outfitters the ability to police, better control, and better regulate their industry. HB 196 creates a new class of guide, a master guide. Amendments have been offered to change that terminology to a "professional guide." It also created the ability for the Board of Outfitters

to assess the operations plan of an outfitter and determine whether there were conflicts in terms of the health, welfare, and safety of the public. Instead of seeing continual growth of the outfitting industry, HB 196 provided better control over the industry. The bill also approves the addition of a few FTE's. With this, better enforcement will occur. She said **Mr. Lance Melton** would give further details regarding HB 196. **REP. SWANSON** felt positive endorsing HB 196 and encouraged the committee's support.

Proponents' Testimony:

Lance Melton, Attorney, Department of Commerce assisted in drafting HB 196 at the request of the Montana Board of Outfitters. He stated that the bill was accurately represented by **REP. SWANSON**. On page 4, lines 17-23 authorized the Board of Outfitters to adopt rules specifying standards for review and approval of proposed new operations plans and proposed expansions in net client hunting use. This was the companion section to the moratorium proposed in HB 195. It was specifically drafted to avoid the potential problems of having to create a moratorium. The amendments proposed by the Montana Outfitters and Guides Association were friendly amendments and changed some language in this section. The proposed review process would not interfere with a private landowner's ability to lease land or dispose of it. The review process would allow the board to review an operations plan of someone proposing to expand their operation or significantly increase their clients. Rules would be drafted through a public hearing process. This section addressed some of the concerns expressed regarding horizontal expansion of existing outfitter operations. **Mr. Melton** spoke about Section 20 that authorized hiring of investigators and designated them as ex-officio wardens of the Department of FWP. Hiring investigators as employees rather than independent contractors was very important. The Board of Outfitters dealt with independent contractors, licensed private investigators, since 1988. The Board has been fortunate to have highly qualified individuals with integrity. However, the process of working with independent contractors on investigations of unlicensed, unethical activities by licensed outfitters was difficult. The contractor-board relationship was limited in direction and control. At times, supervision and control were necessary in order to complete investigations in a proper manner and avoid liability to the state. If these individuals were hired as employees, there would be a better process of communicating in investigations and it would result in better protection of the public health, safety, and welfare. The Department of Commerce supported this bill and recommended the committee to pass it.

Steve Meloy, Professional & Occupational Licensing Bureau, distributed written testimony as well as a Montana Board of Outfitters Fact Sheet. He expressed their support for the passage of HB 196. He discussed sections of the bill as covered by **REP. SWANSON** and **Mr. Meloy** in their statements. Passage of HB

196 was crucial to the Board of Outfitters ability to effectively manage its industry. **EXHIBITS 22 and 23**

Rita Orr, business owner and public representative of the State Board of Outfitters, expressed her support of the bill and submitted written testimony. Outfitting was one of the oldest and fastest growing industries bringing in about \$93 million per year to the state. The bill would help their investigators issue citations and solicit cooperation from the law enforcement community. She asked the committee to support this legislation. **EXHIBIT 24**

Jack Billingsley, landowner and outfitter, presented written testimony and stressed the need for HB 196. HB 196 would allow the outfitting industry to provide better service with less conflict. Currently, there was no agency responsible for reviewing operation plans. He asked for the committee's support on HB 196. **EXHIBIT 25**

Todd Klick represented his family and the K Bar L Ranch. He voiced their support for HB 196 and distributed written testimony. He spoke of how the industry had grown in size along with the increase in the number of people conducting illegal outfitting. During the last five years, they have gone to the outfitter board, forest service, and FWP for regulations to protect the resources. However, there seemed to be no clear regulations to follow concerning the problems. The outfitting industry needed revitalization from within. HB 196 was a step in the right direction and he urged passage of the bill. **EXHIBIT 26**

Bob Fry, citizen from Livingston, stated he was the enforcement coordinator for the Board of Outfitters until six months ago. He took the day off from his new job to attend the hearing. He expressed support for the bill. HB 196 required hiring investigators as permanent employees. He left the enforcement division, even though he was content, because his new employment offered job security. When he was enforcement coordinator, he questioned where the fine line was between working cases as a contractor and the effect that interaction might have on his business viability. Often, **Mr. Fry** felt mistaken for an employee even though he was a contractor hired by both the Department of Commerce and other agencies. As an investigator, his credibility depended on the status of the relationship with the Department of Commerce. Credibility was built through longevity and permanent employee status. Longevity would only be reached by job security. Many times while working, he would encounter opportunities in the field that would place him in the position of assisting law enforcement. Ex-officio status, along with a permanent position, would provide investigators with the credibility and the resources they needed in the field. He felt the state had asked him to perform a job without adequate resources or authority to accomplish it in a professional manner. He urged passage of the bill.

Robin Cunningham, Fishing Outfitters Association of Montana (FOAM), stated his support for the bill and handed in written testimony. The current proposal was the result of the board's efforts to address necessary statutory housekeeping, tighten up qualifications for outfitters, create an advanced level of guides with appropriate qualifications, and hire additional enforcement personnel. He encouraged the committee to support HB 196.

EXHIBIT 27

Brent Jones, private investigator, believed he was in a precarious position due to his contract status. The investigations he conducted for the Montana Board of Outfitters required him to continually work with state and federal law enforcement. He has had his credibility and loyalty questioned and also been perceived as not having a vested interest in the department for which he worked. If the bill passed, it could jeopardize his contract with the Department of Commerce. However, he urged the committee to pass this bill.

Tony Schoonen, Skyline Sportsmen Association and Coalition for Appropriate Management of State Land, expressed their support of the bill. The only concern that he had was on page 2, line 27, where it appeared that an outfitter was needed to hunt varmints and predators. If some of that language was stricken it would be more acceptable. The strength of the bill existed in reviewing operation plans that would reduce user conflicts.

Jean Johnson, Executive Director, Montana Outfitters and Guides Association, said the industry supported the bill. HB 196 provided regulation for the industry. Compromise was reached between the various groups that worked on the bill. She urged the committee evaluate the bill in its entirety including the proposed amendments. She urged passage of HB 196.

Max Chase, past chairman of the Board of Outfitters, was instrumental in writing HB 196. It has been in the review stage for nearly one year. This bill was the result of the 1993 legislative request and of seven years of experiencing an outdated and unenforceable statutes. Everyone should recognize that this bill was necessary for the Board of Outfitters to better regulate outfitters. **Mr. Chase** believed more regulations were necessary. One additional point he made was that the legislature in 1993 directed us to educate outfitters better. This piece of legislation gave the Board of Outfitters authority to offer a test on one level of guides. It was intended to be an educational process and not a deterrent.

Pat Graham, Executive Director, Department of Fish, Wildlife, and Parks, offered their support for the bill and handed out written testimony. The Board of Outfitters evolved significantly since its creation in 1987 and has taken major steps in increasing its ability to regulate the outfitting industry. FWP believed that HB 196 represented a continuation of the evolution of outfitting and was in the best interest of the public. FWP worked closely

with the board and supported the proposed changes that would allow the board to effectively deal with illegal outfitting and violations of the board statutes. **Mr. Graham** urged the committee to pass HB 196. **EXHIBIT 28**

Jack Rich, Montana Outfitters and Guides Association (MOGA), supported HB 196. Two major components in the bill were necessary for the continued viability of the outfitting industry. The first was to address rogue illegal outfitting operations. The second was the designation of ex-officio status. It addressed the ability to regulate the area of operation that outfitters currently use. It was an important part of stabilizing the outfitting industry and allowing them to survive as a viable operation.

Kelly Flynn, citizen, communicated his support of HB 196.

Opponents' Testimony:

None.

Questions From Committee Members and Responses:

REP. MOLNAR asked if currently a person needed an outfitter license to accept enumeration for the hunting of mountain lions or even to chase lions. **Mr. Graham** said yes. He referred to one of the comments made about varmints and predators. It expanded the definition of the animals that a person could take compensation for. It does not require that a person needed to be an outfitter. **REP. MOLNAR** restated his question and asked him to clarify his answer. **Mr. Graham** replied mountain lions were a game animal. **REP. MOLNAR** questioned the reason why varmint and predator were added. **Mr. Graham** remarked that this was not a FWP bill. He did not know specifics of why the Board proposed to add them. He said that the question should be referred to **Mr. Melton**. **Mr. Melton** answered **REP. MOLNAR's** first question of needing a license in order to pursue a mountain lion for a fee. A license was required. On page 3, line 2, language was included to close some of the loopholes. Currently a person does need a license, if for consideration, they aid or assist any person in locating or pursuing any game animal. The reason for requiring a license for the hunting of varmints or predators was due to the lack of valid hunting and outfitting operations for predators and varmints. Enforcement agents have approached unlicensed outfitters with a client, who happened to have a deer tag in his pocket. When the game warden or investigator questioned the individuals, the reply was that they were hunting coyotes.

REP. MOLNAR said he knew of a school that taught people to trap and use lairs and snares. He asked if they would need an outfitter license. **Mr. Melton** explained that guide schools were licensed by the Department of Commerce under a separate division from the professional and occupational licensing bureau. He needed to complete further research to answer the question

better. **REP. MOLNAR** said the man that operates the school was not a guide. He conducted a trapping school. Under the strict language in HB 196, this person would need a license. However, he would not be able to obtain one because of the moratorium.

Mr. Melton said the Board of Outfitters has traditionally not interfered with schools of instruction. If there were questions regarding that issue, they could be addressed through amendments granting an exemption for individuals providing instructional activities.

REP. MOLNAR referred to page four, subsection (e). An outfitter does not have a plan that showed geographic boundaries. He asked **Ms. Johnson** if that was correct. **Ms. Johnson** said operation plans vary for each operator. The outfitter was not required to give township, section, or required to identify his operating area in layman's terms. **REP. MOLNAR** asked if the language would say something like north of the highway, south of the river, and bordered by the creek. **Ms. Johnson** said she believed that was correct. She referred additional clarification to **Mr. Melton**. **Mr. Melton** said the section of law that currently exists details the type of information that was required to be submitted as part of the operations plan. Under current law, an outfitter must submit a statement of maximum number of clients accompanying him at any one time and written approval of the agency or landowner on whose land the outfitter will provide services or establish hunting camps. On page 8, lines 13-21 further specify the type of information that was necessary and would become part of the operations plan. **REP. MOLNAR** said if the bill passed, he should be able to inspect an outfitter's record and determine exactly where he was operating. If the outfitter obtained another lease he would know that the outfitter expanded horizontally. He asked **Mr. Melton** if these statements were correct. **Mr. Melton** said they were correct. The proposed amendments will be presented in executive session. There was a modification that was important to note on Subsection (d), page 4. Lines 17-23 discussed the rules specifying standards for review and approval of outfitter plans and proposed expansions. The terminology will be added, "net client hunting use." The reason for the modification was to avoid the prospect of interfering in a private landowner's ability to lease his land. The focus was on net client hunting use. If an outfitter planned to expand and add 20 clients to their existing net client hunting use, then the review process would take place. The determination would be based on whether there was a conflict with hunting uses of the area. The intention was to review commercial activity on nonguided sportsmen activities and determine if there was undue conflict or threats to public health, safety, or welfare.

REP. MOLNAR said it was his understanding that outfitters advertise for clients. The clients choose an outfitter and the Board of Outfitters does not have input whether an outfitter guides 10 people this year or 20 next year. He wanted to know how the board could detect an increase if an outfitter advertised for clients. **Mr. Melton** explained there would have to be a

definition drafted by the Board of Outfitters regarding net client hunting use. It would not be totally inflexible and require that if an outfitter had 20 clients one year and because of a bad draw he secured eight the next year, that outfitter could never return to the 20 clients. **Mr. Melton** presumed it would be based on a yearly average. Several different organizations will be involved in the rulemaking process utilizing an informal committee process. It depended upon determinations made in the rulemaking process. **REP. MOLNAR** contended that if an outfitter had 10 clients one year, 20 in the next year, 10 in the next year, and 20 in the next year, the average would be 18 clients. This year, the outfitter has 25 clients and this would be considered a natural fluctuation. He contended this was indeed vertical growth and the Board of Outfitters had no input. In summation, an outfitter was allowed to grow horizontally through land leasing and vertically because of natural fluctuation. **REP. MOLNAR** asserted there were actually no controls at all. **Mr. Melton** said potential increases would need to be reviewed for undue conflicts existing in hunting uses of the area.

{Tape: 3; Side: A; Approx. Counter: 000; Comments: Lost one minute changing tapes.}

REP. MOLNAR asked about the amount of input there would actually be through the adoption of rules determining whether or not there was an increase. **Mr. Melton** could not estimate the amount of public input. He mentioned that the Board of Outfitters had a history of going above and beyond statute requirements for noticing proposed rule changes. If a person was examining whether there was a conflict between guided and nonguided hunting use involving public comment, perhaps sportsmen associations in the area could provide input. It would be one way to obtain different viewpoints. **REP. MOLNAR** asked **Mr. Melton** to draft an amendment that would require public notification and review. **Mr. Melton** said he could prepare such an amendment. However, he would have to first consult with Board of Outfitters to determine if they agreed. He mentioned that the bill was in the committee hands and they could amend it if they wish. **REP. MOLNAR** commented that the bill belonged to the people of Montana as would the law if HB 196 passed, not to the Board of Outfitters. **Mr. Melton** agreed.

REP. REAM asked if **Mr. Melton**, **Mr. Graham**, **Ms. Johnson** would be available in executive session, many of these questions could be deferred until that time. If there were questions for people who have travelled from out of Helena, they would be more appropriate. **CHAIRMAN WAGNER** agreed and requested members to ask those questions now and reserve the technical questions for executive action.

REP. HIBBARD reviewed portions of the bill and commented that the Board of Outfitters would have some jurisdiction over licenses. **Jack Rich** said yes. **REP. HIBBARD** asked if they will be in charge

of licensing outfitters. **Mr. Rich** said that was correct. **REP. HIBBARD** asked about the current price of an outfitter license. **Mr. Rich** replied \$150. **REP. HIBBARD** said currently that license was not saleable. **Mr. Rich** said he was correct. **REP. HIBBARD** asked **Mr. Rich** if the moratorium was imposed, would the license become more valuable. **Mr. Rich** said he did not believe so. Currently, there were over 50 inactive outfitting licenses "sitting on the books" that do not have an operations plan. The Board has the authority to require those licenses either activate or be returned to the Board of Outfitters for reissuance. He suspected that the Board can use that flexibility to make room for additional outfitters without placing a market price on that license. He emphasized that there were outfitter clients that do not have licenses and that there was room for more outfitters. Currently, they were overbooked by about 1,200 clients. Last year there were over 1,500 booked outfitter clients that did not get a hunting license. Consequently, that means the outfitting industry has the capacity to handle 1,500 more clients. **Mr. Rich** did not believe outfitting licenses would greatly increase in value.

REP. SLITER said in light of what **Mr. Rich** said regarding the Board of Outfitters control over these 50 licenses, the moratorium was a moot point. **Mr. Rich** said those licenses cannot be activated without an operations plan. The operations plan cannot be approved without going through the review process in HB 196. That review process would identify whether or not there was undue conflict with other users. **REP. SLITER** said by rulemaking authority if the board could adopt the operations plan and reissue the licenses, a moratorium was inadequate. **Mr. Rich** said he did not follow the line of questions and referred them to **Mr. Melton**. **Mr. Melton** explained the review process was more flexible than a moratorium. The Board of Outfitters has specifically endorsed it. The review process would review those new operating area plans and expansion to existing plans. Whether or not problems existed would be researched before making the determination that there will be no new license. **REP. SLITER** said, for the record, with the horizontal constraints that are in Subsection (d) of Section 5 of HB 196, Section 11 of HB 195 was unnecessary. **Mr. Melton** said he was uncomfortable going that far. However, the review process provided an alternative method.

CHAIRMAN WAGNER asked **Ms. Johnson** about concerns from one of his constituents. **Ms. Johnson** said she was unable to contact the outfitter but would keep trying.

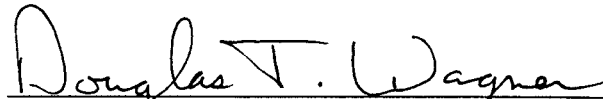
Closing by Sponsor:

REP. SWANSON thanked everyone for "hanging in there." It had been a long afternoon but was really worthwhile. Discussions could be continued in executive session. She spoke of proposed amendments to be discussed in executive session. The questions asked by the committee members allowed everyone to take a deeper look at all the issues involved. Hopefully, some of the issues

would be worked out and the bill would have a successful conclusion.

ADJOURNMENT

Adjournment: 6:35 p.m.



REP. DOUG WAGNER, Chairman



MARY RIITANO, Secretary

DW/mr

HOUSE OF REPRESENTATIVES

Fish and Game

ROLL CALL

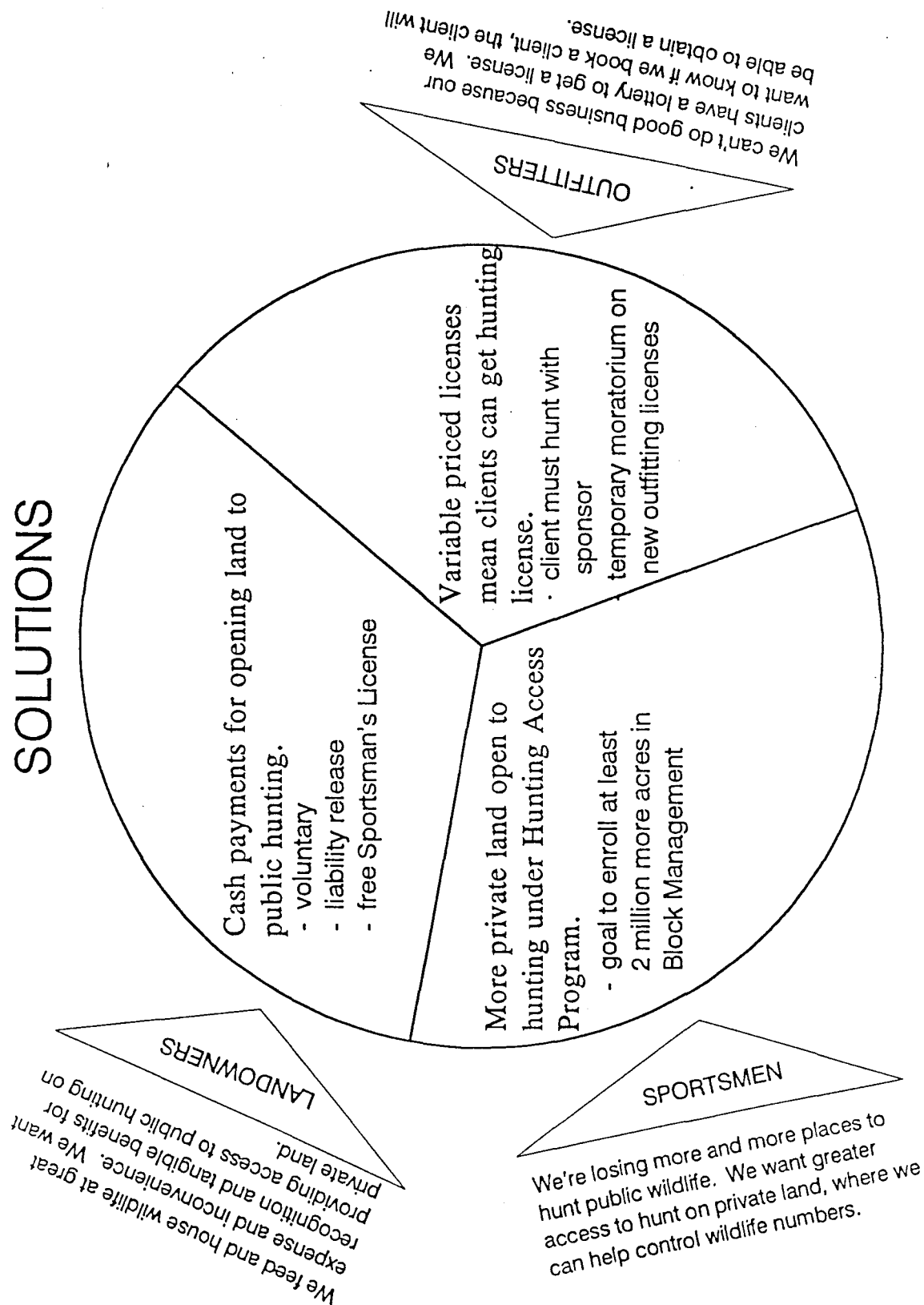
DATE January 26, 1995

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	✓		

PRIVATE LANDS/PUBLIC WILDLIFE

Sponsors: Swanson, Hibbard, Hertel, Pipinich

SOLUTIONS



REP. SWANSON

HB 195 SUMMARY OF MAJOR POINTS:**NEW SECTION. SECTION 1**

- ◀ Establishes hunter access and access enhancement (landowner incentives for access) programs as part of Block Management.
- ◀ Participation is entirely voluntary and based on cooperative agreements made between the landowner and MDFWP in the same manner as Block Management agreements.
- ◀ Assistance cannot be provided to a landowner who charges fees for access to private land enrolled in the program or does not provide reasonable public hunting access to lands enrolled.
- ◀ The FWP Commission shall develop criteria by which benefits are allocated to participating landowners.

NEW SECTION. SECTION 2

- ◀ Resident landowners who enroll land in the program would be eligible to receive a non-transferrable resident sportsman's license
- ◀ Nonresident landowners enrolled in the program could receive a non-transferrable nonresident Big Game Combination license (B-10). Licenses granted in this program would not affect the quota of 11,500 nonresident B10 licenses. Nonresident landowners choosing this incentive would not receive any monetary incentives.
- ◀ The restriction on liability of a landowner, agent or tenant that is provided under 70-16-302(1) MCA applies to a landowner who participates in the hunter management program.

NEW SECTION. SECTION 3

- ◀ Establishes criteria for cooperative agreements.
- ◀ Land is not eligible for inclusion in the hunting access enhancement program if outfitting or commercial hunting restricts public recreation or hunting opportunities.
- ◀ Benefits provided to landowners enrolled in the program will be cash payments to offset potential impacts associated with general ranch maintenance, conservation efforts, public hunting access, weeds, fire, etc.
- ◀ Payments may be received directly by the landowner or directed by the landowner to local weed districts, fire districts, etc.
- ◀ Provides a maximum of \$8,000/yr. in incentives for private landowners to allow public hunting on their property.

HB 195 MAJOR POINTS

- ◀ The restriction on liability of a landowner, agent or tenant that is provided under 70-16-302(1) MCA applies to a landowner who participates in the hunter management program.

SECTION 5.

- ◀ Revenues from the b-10 and b-11 licenses sold at a variable price would be exempt from 87-1-242 MCA directing 20% of license increases to the wildlife habitat fund.
- ◀ Generally a housekeeping section with the exception of language which excludes variable priced license revenues from habitat enhancement account contribution.

SECTION 6.

- ◀ Provides for the variable priced sale of a five-year average of 5500 B 10 (Non-resident big game combination) and 2300 B 11 (Deer combination) outfitter-sponsored licenses. Unsold licenses from these categories would be reallocated for drawing at a price set by the FWP Commission.

SECTION 7.

- ◀ Requires DFWP reporting to the governor and each regular session of the legislature regarding the success of the program. (Offering amendment to have independent group report to Governor and Governor report to legislature)

SECTIONS 8 and 9

- ◀ Outfitter-sponsored non-resident licenses (class B-10 and B-11) will fund these programs through sale at variable rates set annually by the Montana Fish, Wildlife & Parks Commission. Prices will be set at market rate intended to sell not more than an average of 5500 B-10 licenses and 2300 B-11 licenses each year, calculated over a 5-year period. License remaining, if any, after sale may be reallocated by the commission for a drawing at a price set by the commission.
- ◀ The 2000 Landowner-sponsored licenses will be available and sold at rate as provided in 87-2-511.

Section 10

- ◀ A landowner-sponsor may not submit for or receive more than 10 licenses (class B-11) annually.
- ◀ Reiterates current regulation that non-residents hunting with landowner sponsored B-11 licenses must conduct all hunting on the deeded lands of the sponsor.
- ◀ Any permits, or tags secured as a result of obtaining an outfitter sponsored nonresident deer or "combo" license are valid only when hunting with a licensed outfitter.

SECTION 11

- ◀ Provides for a 5-year moratorium on the issuance of new land-based hunting outfitting licenses by the Board of Outfitters.

SECTIONS 12-14

- ◀ These are sections which specify codification (where in the statutes these laws would be placed), severability (deletes any portions not deemed legal from other portions which may be) and Saving (does not affect rights previously in effect before the bill was made law).

SECTION 15

- ◀ Establishes effective dates for Sections 5 through 9 (March 1, 1996) and sections 1-4, 10 and 16 (October 1, 1995).

SECTION 16

- ◀ Establishes a sunset date of October 1, 2001.

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HOUSE BILL #195
PRIVATE LANDS/PUBLIC WILDLIFE
Nina Baucus, Chairman

Mr. Chairman, Committee Members;

My name is Nina Baucus and I had the pleasure of chairing the Governor's Private Lands/Public Wildlife advisory council.

Following the guidelines of HJR 24 Governor Racicot appointed an 18 member advisory council of people from across Montana. Each of these people was chosen because of their expertise and varied interests in matters dealing with issues of importance to Montana's hunting heritage. The council membership included sportsmen, landowners, and outfitters as well as one ex officio member from the Forest Service, Department of State Lands, and the Bureau of Land Management. Each person who accepted a position on the council did so as an individual and not as a representative or spokesman for any special interest group. In addition, all council members made a commitment to each other to work together to find viable solutions to the issues as presented to the council in the Governor's Executive Order #6-93.

The council members chose the decision making process of consent by each member on each decision of the council with the understanding that if, for any reason consent by each member was not reached on any individual decision then they would either work harder to reach consent or throw the suggestion out all together.

At the initial meeting the council members also decided that any recommendation they might arrive at had to come from the people of Montana. With that in mind the council turned to local groups throughout the state for help in the process of gathering input from all people with concerns and interests in the issues of hunting and hunting access. Some of the local groups used by the council were already in existence and others were established. Each group was made up of sportsmen, landowners, outfitters, and department and agency people. All of them were asked to address the hunting and access issues of concern in their area and then to bring that information back to the council. As this initial information was gathered the council put together the first draft of recommendations. This was sent back to the local groups as well as to organizations across Montana for review and revision. The initial mailing list consisted of 145 names of various organizations in Montana which have interests in hunting and access issues. Each organization was asked to share all material from the council with their membership and then to respond back to the council. Copies of the initial draft and each subsequent draft were made available to the public. As individuals throughout the state began participating in the input and review process the mailing list grew to over 800 names. During the 60 day comment period which followed the mailing of the first draft the council held public meetings across the state. At these meetings council members sat down with the people to discuss the issues, the people's concerns and the people's recommendations for addressing those concerns. When the council met following the end of the first comment period copies of all public comments received were given to each council member. After studying these comments the council revisited the initial recommendations revising some, adding new ones and throwing others out so that the second draft better reflected the wishes of the people. These revised recommendations were then sent back to the people for a second

review. As with the first comment period the council again held public meetings across the state and again sat down with the people to discuss the issues and proposed recommendations. During the first public comment period the people were very vocal about the issues, their concerns and their recommendations. They also were not a bit bashful about expressing their skepticism that the council would truly listen to them or pay any attention to their comments. But when the people received copies of the second draft and found that the council did indeed listen to them they were quite surprised and pleased. They expressed a feeling that maybe this time there might be hope for some resolve for the issues dealing with hunting and hunting access in this state.

Following the second comment period the council again reviewed all of the public comments and revised the draft recommendations to reflect the comments received from the people before sending the third and final draft of recommendations out. At the end of the third comment period the council members finalized their recommendations on the issues pertaining to hunting and access in Montana as outlined in the Governor's mandate to the council. These recommendations were then sent to Governor Racicot and are now before this committee as House Bill #195.

Let it be noted that the recommendations presented to Governor Racicot by the advisory council did not come from the council. And let it further be noted that the bill which is now before you does not come to you from the Governor. The recommendations and subsequently the bill now before you come to this legislature from the people of Montana. It was the belief of the council that the only possible means of finding viable solutions to the greatly varied concerns of hunting and hunting access issues in this state was to go to the people, to listen to them, and to put together a package of recommendations from the people. The only part the council held in this process was that of listening to the people and then melding together the responses heard so that each issue was addressed from all points of view. The council took this responsibility to the people of Montana very seriously and gave equal weight to each and every comment received. Because the council was directed to address the issues on a statewide basis and from each point of view the recommendations as presented to Governor Racicot consisted of a package of balances. Every recommendation within the package was achieved in a give and take process in which the council tried to very carefully balance the concerns of all interests. In order to accomplish this all interest parties were asked to do some giving. But in return all interests received something. For this reason there is probably no one in the state who is completely comfortable with everything in HB #195. This is because no one received everything they wanted and everyone was asked to compromise in order to attain the solutions arrived at. HB#195, like the recommendations, is a collection of checks and balances. Nothing within this bill can stand on its own. And if anything is taken away the balance so diligently worked for and carefully achieved will be lost.

To those of you who will now be studying and voting on HB #195 please remember that the entire bill consists of checks and balances that come to you from the people of Montana. And that any changes to this package will upset the delicate balance which has been achieved.

Thank you.

To the Honorable Doug Wagner, Chairman Fish and Game Committee and other Committee Members:

Over the months of deliberation, the council has found that achievement of the goals of the PL/PW is an interconnected process. We the council are trying to present "win-win" solutions to very complex problems. Solutions to one problem can often affect aspects of other issues. We, as council members, want you to understand that not every landowner will want to participate in this program. This program must be VOLUNTARY. There are landowners that will still provide hunting access for nothing but a handshake. There are others that will charge a fee and some will still want to lease their lands.

For the first time in Montana, a landowner/sportsman/outfitting group known as the PL/PW council has presented to you that allowing hunting access and/or providing wildlife habitat has a value to both the sportsman and the landowners, and that sportsmen are willing to recognize landowner contributions through payments up to \$8000 to the landowners enrolled in the hunter management and or hunting access program.

The Montana Fish, Wildlife and Parks Commission will develop the rules for determining the tangible benefits to be provided to a landowner for providing public access to his property. The qualifying landowners, may at their discretion, apply these benefits for general ranch maintenance and conservation efforts that may include, but are not limited to--weed control, fire protection, liability insurance, roads, fences and parking area maintenance. The liability issue is of real concern to the landowners. Under this bill the landowner, as stated, in 70-16-302 (1), feels protected from being sued for injuries incurred on private property while hunting game.

The council is recommending a reevaluation of these proposals in five years. However, if success of the BMP/HEP is clearly evident within a period of five years, (i.e.,

landowner participation in BMP/HEP increases and if the number of acres opened to public hunting increases. and sportspersons support the program), and if funding sources can be identified, then serious consideration must be given to eliminating or increasing the \$8000 limit currently recommended.

The acceptance of this program will be highly dependent on the value set by the different criteria used by the commission. Depending on these benefits will determine the participation of the various landowners.

Pros:

1. voluntary
2. more deer tags in the east to address population increases
3. keep nonresident licenses at 17,000
4. free resident licenses
5. beginning to solve landowner/sportsman problems
6. slow down land leased to outfitters
7. combine with BMP to lessen administration costs
8. limit landowner sponsored licenses to 10

Cons:

1. Montana residents pay no money into this program
(users of the program pay no money)
2. no guarantee for more wardens---the money generated from 600 deer licenses
could go to payment of wardens

Steve Christensen

1-406-961-3310 or 961-5653

HB 195 --- Recommendations from the Governor's Council on Private Lands & Public Wildlife

EXHIBIT 5
DATE January 26, 1995
HB 195

Mr. Chairman, members of this committee. My name is Kelly Flynn. I am an outfitter, landowner, and sportsperson from Broadwater County and a member of the Governor's Council on Private Lands & Public Wildlife. I stand in strong support of HB 195.

Today I come before you not just as that outfitter, or the landowner, or that sportsperson. I stand as one of many dedicated Montanans that has worked with thousands of other Montanans contributing through a consensus process to find win - win solutions for each of those groups.

HB 195 provides vital considerations for the outfitting industry while balancing those incentives with win - win results for sportspeople and landowners.

- ◆ **(1) This bill addresses the most critical issue facing the outfitting industry today --- the industry's inability to secure a license for a booked client and the resulting lack of viability.**

This bill which allows variable pricing of outfitter reserved licenses gives the industry the opportunity to secure a license for each booked client. **Besides answering one of the outfitting industry's concerns, these variable priced licenses for the proposed 5500 B-10 & 2300 B-11 licenses will provide important considerations for both landowners and sportspeople.** Additional funds generated by those licenses will go to the hunter access --- landowner incentive program. The industry must realize that the package of benefits offered to landowners will serve as a option to leasing lands to an outfitter. I wholeheartedly support this meaningful voluntary program for landowners encouraging them to maintain hunter access to their lands and keep their lands in agricultural production.

- ◆ **(2) Next, this bill will provide 200 additional clients for the outfitting industry.** HB 195 proposes to lower the target of B-10 (elk & deer combo) licenses from 5600 to 5500 while increasing the target average of B-11 (deer combo) licenses from 2000 to 2300. Over 18 months of deliberations, the Governor's Council has tried to balance all the recommendations. We were told there was a greater need for more deer combo licenses and we balanced out that increase by suggesting to decrease the number of elk -deer combo licenses. I believe what this bill presents in regards to those licenses is good for the outfitting industry of Montana --- there is a gain of 200 more potential clients for the outfitting industry.. Does it provide a win -win alternative for landowners & sportspeople? Yes, it does. Increased dollars from this increased number of variable priced licenses will go to support the hunter access enhancement & landowner incentive program. Additionally, to address a concern of sportspeople, this bill proposes that all permits or tags secured as a result of obtaining a B-10 or B-11 license through an outfitter sponsor are valid only when hunting is conducted with a licensed outfitter. In summary, this means that once a client finishes hunting with an outfitter, that client may not go out on his own to other parts of Montana and compete with the unguided hunters.

- ◆ (3) **Last, this bill proposes a 5-year moratorium on the issuance of land-based hunting outfitter licenses.** In the mid 1970's, Montana's freemarket system for the outfitting industry ended when a limitation of 17,000 was set into law. For many years, outfitter numbers stayed stable. However, in the past two years, the number of outfitters in Montana has skyrocketed. Sportpeople have become increasingly concerned as they perceived more of the lands they traditionally hunted gulped up by the outfitting industry. The outfitting industry has become increasingly worried about their economic viability and social acceptance as their numbers have skyrocketed. The issue of protection of the **public welfare** has stepped to the front. This moratorium calls a "**timeout**" for everyone to focus on this issue and see how all the changes from HB 195 & 196 would protect the hunting resource, public health, public safety, and public welfare.

There is no doubt that there are individuals --- outfitters, sportpeople, and landowners--- who will stand today and oppose some part of this package . . . and that is all right. I only wish that everyone could have participated in the last 18 months of deliberations . . . and yes, I do know that some of those detractors did share their views. However, I do know that many Montanans have expressed their ideas over the past 18 months and this bill is a carefully blended mix of many of those folk's suggestions.

Mr. Chairman, members of this committee. This bill is that thoughtfully balanced series of recommendations providing win - win provisions for outfitters, sportpeople, and landowners. I strongly urge your support of HB 195.

Testimony in Support of HB 195

by Verle L. Rademacher,
Member, Private Lands/Public Wildlife Council

Members of the House Fish and Game Committee and fellow Montanans:

I am excited to appear before this committee and lend my support to this legislation. As a member of the Private Land/Public Wildlife Council, it was my privilege to see Montanans work together to come up with ideas that will benefit sportsmen and women, landowners and outfitters. This is a win/win solution for us all!

What we have worked out has some important benefits for landowners in the Block Management and Hunting Enhancement Programs. These are voluntary programs with financial benefits to those landowners who enroll in the programs to provide hunting opportunities.

The first common sense courtesy extended to landowners was to make available a resident Class AAA Sportsman's license to those who have enrolled their land in the hunter management program. For nonresidents, as an inducement and as a recognition of their effort to share their lands with resident sportspeople, a nonresident Class B-10 big game combination license will be made available. These do not affect the quota of 11,500 nonresident Class B-10 licenses.

Neither license can be transferred by gift or sale. They are given only to landowners of record and only after a cooperative agreement between the landowner and the department that will guarantee reasonable access for public hunting.

Resident landowners can receive assistance in block management and also the hunting enhancement program. Nonresidents can receive assistance in block management only. They would not be eligible for the added monies of the hunting access enhancement program.

Those who enroll in these programs have an important added benefit—restrictions on liability of the landowner, agent or tenant is guaranteed under Section 70-16-302(1) MCA. That alone can take much of the worry off from a landowner's shoulders who allows hunting under these programs.

Funding? The Council has worked that out. These programs are to be funded through the sale of the variable priced nonresident B-10 and B-11 licenses for outfitter sponsored hunters. The cost over and above the normal B-10 and B-11 license costs will go into a fund to cover the cost of the hunter management and hunting access enhancement program.

In short, landowners have inducements to open their lands to sportsmen, the sportsmen and women obtain more areas to hunt and outfitters have an opportunity to obtain licenses for their guided clients. Win/win solutions for all sides!

These are just a few of the benefits of the legislation before you and the recommendations the Private Lands/Public Wildlife Council sent to Governor Racicot. These common sense solutions were worked out in compromises arrived at by listening to the Montana landowners, sportsmen and outfitters who gave their input into the final agreement.

Let me leave you with an admonition that was relayed to us as we began the process of working on this Council. The time frame for compromise among landowners, sportsmen and outfitters is short. We have only a few years to work these problems out while we can still talk to one another and make compromises. The Council has done the work it was called to do and have put together something that will work. I caution you to be very, very careful in doing anything to this legislation that will upset that delicate balance of compromise that we have arrived at. This is, I believe, the most important piece of fish and game legislation that you will handle this session.

Thank you.

Testimony of Kathy Hadley
431 Boulder Road
Deer Lodge, MT 59722

EXHIBIT 7
DATE January 26, 1995
HB 195

Mr. Chairman, members of the committee, my name is Kathy Hadley and I'm from Deer Lodge, Mt. As Nina mentioned, I have been a member of the Governor's Advisory Council on Private Lands/Public Wildlife for the last 15 months. I have attended monthly meeting where I struggled along with others to try to understand the depth and breath of the complex issues facing all of us and where we all worked together to develop acceptable solutions. The product of our efforts is HB 195.

My role on the Council was a somewhat selfish one. I am deeply interested in trying to preserve the hunting heritage and traditions of Montana because I am an avid hunter. I place a high value on the time each year that I am able to spend out in the mountains and plains, pursuing wildlife, along with my husband and sons.

Over the last ten years, I have been troubled by the growing trend, of reduced hunting opportunities in parts of Montana....including the valley I live in. Ten years ago, most of the private lands were open to hunting in the Deer Lodge valley. Today, most of these private lands are closed...leased to outfitters. We now have fewer places to hunt, with more and more hunters turning to Forest Service lands. The local game populations have changed their patterns of behavior in response to the changing hunting pressure. Animals that once sought sanctuary in the dark recesses of the forest, now find sanctuary on closed private lands. The few landowners who do allow public hunting are swamped with requests for access and the entire hunting experience is becoming poorer, as more hunters are forced on fewer acres. Finally, there is a growing resentment that hunting is becoming a sport for the rich....that access is only for those with money and that the harvest of bull elk and buck deer are reserved for outfitter clients.

The legislation before you, from the perspective of one hunter, represents an opportunity to turn the tide against this trend. I believe that sportsmen will benefit if this legislation is passed.

1. First, we are proposing a new program for landowners that will provide specific, tangible benefits to them if they allow the public access to their lands for hunting. If the program is successful...it should open 1-2 million acres of private lands and more access to public lands.

2. The bill proposes a moratorium on new hunting outfitters for a period of up to five years. This should slow down, maybe even stop, the expansion of leased private lands for hunting.

3. Third, if HB 195 is passed in its present form, nonresident hunters who DON't chose to use the services of an outfitter, will have gained a slightly greater opportunity to draw a nonresident big game combination license. The bill proposes to allocate 100 additional licenses to the nonresident hunters who don't use outfitters which will bring a little more equity to the license allocation system.

To close, HB 195 is a comprehensive bill that provides specific, tangible benefits to landowners who open their lands to public hunting. It benefits the outfitting industry by assuring them that they can get licenses for their hunting clients... and it benefits hunters by increasing access to both private and public lands and brings a little more equity in the nonresident license allocation system.

All of these proposals were thoroughly discussed and sometimes hotly debated in the Council. They represent an interwoven package of ideas from an interconnected process. We tried to develop win/win solutions and we recognized that we could not solve all problems. I urge you to support this bill and to carefully and cautiously review any proposed amendments. If the bill is changed in any substantive way, support for it may quickly disappear.

NON-RESIDENT COMBINATION LICENSE STATISTICS

EXHIBIT

7

DATE

1-26-95

HB 195

Success Rates

Type	1989	1990	1991	1992	1993	1994*
Big Game Combination						
General	100%	91%	90%	74%	67%	62%
Outfitter	100%	100%	99%	95%	91%	84%
Deer Combination						
General	31%	29%	24%	28%	25%	23%
Outfitter	100%	99%	80%	93%	76%	73%
Landowner	100%	99%	99%	81%	78%	69%

Number of Applicants

Type	Quota	1989	1990	1991	1992	1993	1994*
Big Game Combination							
General	11,400	10,896	12,576	12,795	15,506	16,983	18,346
Outfitter	5,600	5,600	5,576	5,622	5,919	6,141	6,647
Deer Combination							
General	2,000	6,647	6,906	8,375	7,088	7,981	8,428
Outfitter	2,000	1,923	2,018	2,515	2,161	2,616	2,734
Landowner	2,000	1,544	2,016	2,052	2,459	2,549	2,865
Totals	23,000	26,610	29,092	31,359	33,133	36,270	39,020

* Processing as of 4/6/94

**Testimony In Support of House Bill 195
January 26, 1995**

**Glenn Marx, Policy Director, Governor Racicot's Office
House Fish & Game Committee**

Mr. Chairman, for the record my name is Glenn Marx and I serve as policy director for Governor Marc Racicot.

The Private Lands/Public Wildlife Advisory Council had a virtually impossible job to do. They were told to pick through the sportsman-landowner wreckage that occurred during the 1993 Legislative Session, find whatever shards of hope or trust still existed, and march forth into a black hole of anger to fix the hemorrhaging problems of landowner-sportsmen conflict over private lands access.

Not only has the Council moved forward, they have flourished and produced nothing short of a minor miracle.

Upon passage of HJR 24, the Governor and Pat Graham at Fish, Wildlife & Parks invited applications to serve on the Advisory Council. Hundreds wanted the job. 18 were called upon.

Since their selection, we have watched them closely. We watched the Council struggle through each painful decision, each difficult issue, each arduous task. And make no mistake, they struggled. Sometimes they even tripped and fell. But when they did they picked themselves up, dusted themselves off, and moved forward. They never lost sight of their goal, and they accomplished their goal.

So I can give absolute assurance that the Governor offers his profound compliments and gratitude to Chair Nina Baucus and each and every Advisory Council member. They have stepped into the breach, took the heat, and through sheer guts and perseverance, performed a great service to Montanans.

The Council's performance has produced a package of recommendations that has resulted in House Bill 195.

The Governor strongly supports the package--and I want to emphasize the word package--embodied in House Bill 195. The obvious temptation is to nitpick and tweak this package. We'd all like to do that--all of us in this room can find something in this bill to oppose. But this bill represents a very, very fragile agreement. A tweak here, a tweak there, and the package may unravel. Which would be tragic, tragic for hunters, landowners, outfitters, Montana wildlife, and even, to a degree, Montana's economy.

The hunting access enhancement program, the creation of tangible benefits for landowners who provide access, the protection of wildlife habitat, a market based hunter license system, a moratorium on outfitters licenses. Each of them, in a stand alone

bill, create warfare. Together, they create compromise, even, perhaps, harmony. Most importantly, this bill represents constructive and promising progress on landowner-sportsmen relations at a time when promise is sorely needed.

Mr. Chairman, the Governor congratulates the Council on its fine work, its consensus process, its aggressive public involvement program and its balanced set of recommendations. He strongly encourages passage of House Bill 195.

THB195P.H

House Bill No. 195
January 26, 1995
Testimony presented by Pat Graham
Montana Fish, Wildlife & Parks
before the House Fish and Game Committee

Twelve different bills were introduced regarding issues of private land and public wildlife during the last legislative session. None of those bills were successfully enacted. The resulting gridlock was addressed through House Joint Resolution 24 which asked the Governor to appoint a citizen council composed of people representing the interests of landowners, sportspersons and outfitters.

House Bill 195 is the result of over 18 months of remarkable work on the part of the diverse group of citizens that made up the council. It also is the result of a great deal of input and advice from individual private citizens, local working groups, agencies and nonprofit organizations.

Hunters are concerned about diminishing access to private and public land for hunting opportunities. They have supported through regulations, license fees and personal contributions the rebuilding of Montanan's wildlife. Landowners are concerned about the number of game animals on their lands, and the lack of economic incentives to allow public hunting. They feel their contributions to sustaining wildlife are often overlooked. Outfitters are concerned about stabilizing their industry and having greater assurance their clients will get licenses.

Hunting is the primary means through which the state controls populations of big game animals. Access is fundamental to maintaining the balance of wildlife numbers, landowner tolerance and hunters' desires. Lack of access on adjoining lands can cause problems for landowners as well as hunters. Few acres open also concentrates hunters on fewer lands further stressing a landowner's tolerance.

This proposed legislation is the result of a consensus process by the council. It addresses each group's concerns and by necessity required compromises from all interests. No one gets everything they want in this bill and all have to give something up. However, this legislation offers significant, positive progress in addressing the concerns of landowners, sportspersons and outfitters.

The hunter access enhancement program (landowner incentives for access) established by this bill would be part of the existing Block Management Program. This proposed program is entirely voluntary for all participants and based on cooperative agreements made between the landowner and the Department in the same manner as Block Management. Block management is an existing program that is

popular with both landowners and sportsmen. In 1994 3.2 million acres of private land were enrolled in this program by Montana landowners. If the addition to the Block Management program proposed in this bill is passed, we believe we could increase the acreage significantly.

The Department supports providing tangible benefits to landowners enrolled in the program to mitigate potential impacts associated with public hunting access. These impacts may affect general ranch maintenance, weeds, fire protection, etc.

Sportspersons, landowners, outfitters and other interested parties will help develop criteria for allocating benefits among participating landowners. The Fish, Wildlife & Parks Commission will use an advisory committee to develop criteria for allocation of benefits. This process will be similar to that used successfully in developing rules for the Block Management program thereby providing a voice for all interests.

Nonresident landowners who own sufficient acreage of land in Montana for hunting often acquire the land for their own recreational use, and it is anticipated that few would open their lands for public access by enrolling in the program. I would anticipate that very few landowner licenses would be issued.

The Department understands concerns of landowners regarding the potential for increasing their liability when enrolling in a hunter access program in which the landowner receives consideration for allowing public access. The liability coverage provided landowners allowing free access under 70-16-302 (1) MCA will extend to landowners enrolled in this program.

The Department supports the creation of variable priced licenses for B-10 nonresident combination licenses (elk/deer) for outfitter sponsored clients and for B-11 nonresident deer combination licenses for outfitter sponsored clients. This proposed license structure serves three very important purposes:

1. Provides a source of revenue for funding the proposed access enhancement program.
2. Helps stabilize the outfitting industry by solving concerns of outfitters that clients booked for hunts do not always draw a license in the current drawing system.
3. Provides nonresident hunters choosing to obtain a license through an outfitter sponsor, the assurance of getting a license.

This proposed license structure still limits the number of licenses for outfitter sponsored clients by using a flexible price structure to hold buyer numbers to a five year average of 5,500 B-10 licenses and 2,300 B-11 licenses.

The nonresident hunter can still choose to apply for a license in the general nonresident pool, in which case they would pay the same price as exists in law now.

While the Department does not know the exact amount a variable priced license structure would generate, we believe that it would be in excess of one million dollars annually. Resident hunters currently contribute nearly \$1 million in incentives provided annually to landowners (\$500,000 block management, \$350,000 game damage, and \$110,000 predator control). Resident fees have increased 50 percent since 1991 with part of those increases going to these programs. The Department believes that any future increases in funding for the hunting access enhancement program should come from increases in resident license fees. However, I believe that increases in resident license fees are not necessary at this time.

The increase of the total number of nonresident deer licenses from 6,000 to 6,600 poses no major biological problems at this point in time. Deer populations are healthy. The Department issued 161,855 resident deer "A" licenses in 1994 and an increase of 600 licenses for nonresidents represents four tenths of a percent (0.004) increase. Likewise the switch of 100 nonresident B-10 combination licenses from the outfitter set-aside pool to the general nonresident drawing pool is not opposed by the Department. Pressures to reduce access as a result of the increased license should be offset by the funding provided to the landowner incentive program.

The landowner sponsor statute (that allows landowners to sponsor nonresident hunters for a separate drawing for B-11 nonresident deer combination licenses was in part intended as a means of allowing nonresident friends and family of landowners a greater chance of drawing a hunting license. The increased interest in using these licenses has reduced the drawing success and has reduced the chance of some landowners to sponsor friends and family members. The Department supports the proposed limit of 10 as the number of licenses a landowner sponsor may submit or receive per year.

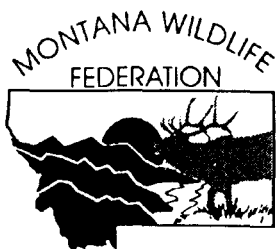
The Department supports the language requiring reporting to the Governor and to each regular session of the legislature on program success. This is a new program and improvements can be made as experience is gained. Likewise, the Department does not oppose the bill's sunset provision of October 1, 2001.

The Department recognizes that this bill is not the answer to all the private land/public wildlife issues. However it is a significant step in the right direction where the interests involved have moved from outright conflict to building a program on common ground. The Department wholeheartedly supports this bill and lauds the efforts of all the Montana citizens involved in developing this legislation.

EXHIBIT 10
DATE January 21, 1995
HB 195

PAUL ROOS

THE BOARD OF OUTFITTERS WORKED WITH THE PRIVATE LAND / PUBLIC WILDLIFE ADVISORY COUNCIL TO GUARANTEE A COHESIVE SOLUTION TO THE VARIETY OF PROBLEMS THEY WERE ASSIGNED. A SIGNIFICANT PART OF THIS SOLUTION IS HB 195. IN JUNE OF 1994, EARLY ON IN THE PROGRESS OF THE COUNCIL, THE BOARD AGREED AND APPROVED IN CONCEPT THE PROPOSALS OUTLINED IN THIS LEGISLATION. BECAUSE OF OUR INTEREST IN MONTANA'S HUNTING RESOURCE AND THE PEOPLE WHO USE IT, THE MONTANA BOARD OF OUTFITTERS ENCOURAGES THIS COMMITTEE TO CONCUR WITH HB 195.



MONTANA WILDLIFE FEDERATION

P.O. Box 1175, Helena, MT 59624 406-449-7604

1990 Outstanding State Affiliate of the National Wildlife Federation

January 26, 1995

MWF COMMENTS ON HB 195

EXHIBIT 11
DATE January 26, 1995
HB 195

I would like to commend the Private Land/Public Wildlife Council for 18 months of intensive work on some very divisive and contentious issues.

The Montana Wildlife Federation supports HB 195, which, in part, will implement some of the recommendations of the Governor's Private Lands/Public Wildlife Advisory Council.

Our support occurs after a great deal of soul-searching and extensive discussions with our local affiliate clubs.

To put our position in perspective, it is important to understand that for the most part of this century, the wildlife resource in North America has been recognized as belonging to the public, and that the state serves as the trustee for that fish and wildlife. The people of the United States, especially those of Montana, have almost religiously embraced the principle that we all share equally in this unequalled public resource. The fish and wildlife are to be enjoyed by all people, without regard to class, privilege, wealth, or means.

This doctrine, uniquely North American, is clearly distinct from the class system of Europe, where wildlife is enjoyed by those of wealth, royalty, and privilege.

With few exceptions, Montana has steadfastly resisted the temptation to allocate our fish and wildlife based on economics or commerce. We violated this principle when we created the Bighorn sheep permit auction, and then the auction of a Moose permit, which gave these permits to the highest bidder. When we set aside 5600 non-resident big game combination licenses for the exclusive use of hunters, who can afford to book with commercial outfitters, we did so to benefit an economic interest, not to equally allocate licenses among non-resident hunters.

The key element of the Council's recommendations is the variable-priced license for outfitted non-resident hunters. This element is the linchpin that holds the entire package together.

HB 195 would allocate 1/3 of the 17000 non-resident B-10 licenses based on a market driven system, that guarantees a big game combination license to any non-resident who is able and

willing to pay. This linchpin of HB 195, the variable-priced license, further expands the class system among non-resident big game hunters.

We sportsmen and women have a very difficult time accepting this transgression of our cherished doctrine.

The Montana Wildlife Federation views HB 195, not as a long term solution, but as an excellent interim measure for the five year term of the proposed legislation. The Private Land/Public Wildlife Council worked a virtual miracle to reach consensus in 18 months on volatile issues that have divided the three constituencies for years. We hope that the package embodied by HB 195, which offers benefits to all parties, can create a civil atmosphere over the next five years that will allow the various constituencies time to deliberately and thoughtfully continue to find solutions consistent with basic Montana values and principles.

Time is a great healer and educator. We believe that we all are obligated to honestly and in good faith work with, experience and examine, the inovative approach of HB 195 over the next five years.

One of the recommendations of the Governor's Private Land/Public Wildlife Advisory Coucil, which is not directly addressed in HB 195, is the recommendation "to increase the number of game wardens in the field during the general hunting season". Currently there are 62 'field' wardens for the entire state of Montana, or an average, of 1+ 'field' game wardens per county. The Montana Wildlife Federation fully supports the addition of fully trained game wardens to help fulfill the mandates of HB 195.

Through the public participation process of the Private Lands/Public Wildlife Council, the Montana Wildlife Federation has embraced ideas, which a year and a half ago, we would not have considered. Our support for HB 195 is based on the premise that the proposed legistation will procede as introduced, and will not be altered substancially.

Jim Richard, our Legislative Vice President, will be available to answer any questions the committee may have on specific matters.

January 1995

EXHIBIT

12

DATE

January 26, 1995

HB

195

MONTANA GAME WARDENS

The following presentation was given to Montana Fish, Wildlife, and Parks Administrators at the Management Team meeting December 21, 1994.

Goal; To increase the number of Field Game Wardens in the State of Montana.

Why? Workload for the Game Warden has increased steadily in the past 25 years though the number of Field Game Wardens has remained the same. Therefore causing the Game Warden to be at or beyond the workload saturation level.

How? Through various Organizations, Groups, Legislators, and F.W.P. search for Revenue to steadily increase the Field Wardens Budget and numbers of Wardens.

HISTORY

1864 - First Session of Montana Territorial Legislature passes laws to protect Montana's Fish and Wildlife.

Late 1800's - Though Montana's population is low and technology primitive Montana nearly loses its once vast Wildlife Resources. Buffalo exist only in small numbers in Yellowstone. Elk are found only near Yellowstone, and Antelope and Bighorn Sheep number in the several thousand. Why did this happen? The cause was, very few wildlife protection laws and no provisions for the Enforcement of said laws.

1895 - Legislature creates the Board of Game Commission, authorizing the 24 Counties to hire a Game Warden in each County. Four Counties do so.

1901 - Legislature seeing the need to protect Montana's dwindling Wildlife Resource Creates the Montana Fish and Game Department. Director W.F. Scott is authorized to hire eight deputy Game Wardens.

To Present - Montana Game Warden numbers increase, Warden duties are expanded, Uniforms, Vehicles, and equipment is utilized. Montana Field Game Warden numbers today vary from 62 - 68.

WORKLOAD INCREASE
examples

<u>License</u>	<u>1983</u>	<u>1993</u>
Non-Res. Bear	815	1,732
Non-Res. Antelope	2,935	14,650
Res. Antelope	36,860	58,876
Res. Elk	73,786	102,614
Non-Res. Deer B	5,372	15,051
Res. Deer B	36,549	72,134
Non-Res. Con./Fishing	9,665	25,065
Taxidermists	189	366

Continued

	<u>1986</u>	<u>1992</u> *
Res. Hunter Days	1,437,058	1,826,353
Non-Res. Hunter Days	267,476	357,056
Total Days	1,704,534	2,183,409
Total Harvest	162,792	228,767

Deer, Elk, Antelope, Bear

Overall Hunting up 28.09 %

Overall Harvest up 40.53 %

* note, this is six years trend only

Game Warden Operation
Budget

1993 - \$10,000. per Warden	State Vehicle Rate 27¢/mile
1994 - \$ 8,600. per Warden	State Vehicle Rate 32¢/mile

1994 Example - If the Warden drives the average 20,000 miles/year

20,000 X 32¢ = \$6,400. Yearly budget \$8,600 - \$6,400 = \$2,200.

Therefore

\$8,600	
- \$6,400	mileage
- \$1,100	per diem
- \$600	phone

\$500/year for expenses such as;

Equipment

Equipment Maintenance

Gas and Oil for Equipment

Horse expenses

Postage

Rent/Contract Services

Meat and Evidence Storage

Uniforms

Education Programs and equip.

Office Supplies

Computers

Communications

Jail expenses

Laundry

etc.

Today's Wardens

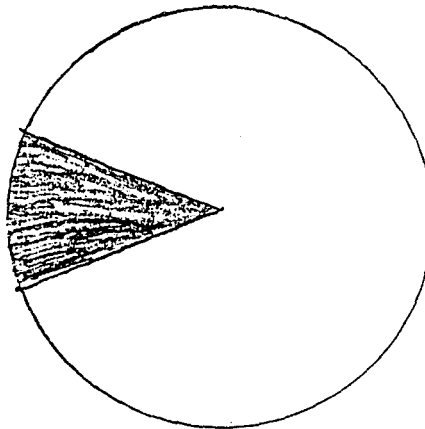
1970 - 1995	68 Field Game Wardens Budgeted (62 currently)
Average Patrol District	2100 square miles
Average annual miles driven	20,000 miles
Citations	up 13 % (4,500 average)
Warnings issued	up 47 % (1,200 average)
Number of Licensed Hunters and Fishermen	up 63 % (408,214 - 646,223)
Conviction rate	Currently up to 98 %

Current F.W.P. Budget

\$ 46,916,591.

Enforcement

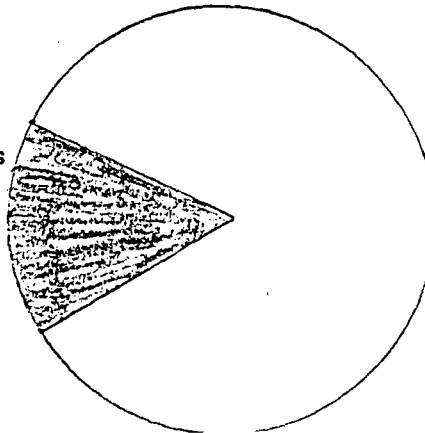
11.1 %



F.W.P. employees

Enforcement

17.4 %



Misc.

The Illegal Wildlife Trade is second only to the Illegal Drug Trade in Dollar\$ generated. (\$ 4.5 Billion/Year in the world)

Burnout by Wardens and Stress related sickness is very real

Mainly caused by tremendous workload. (most wardens do Not retire under ideal circumstances)

i.e.-High incidence of Divorce, Alcoholism, mental and Physical Dissabilities.

" At his Best Man is the Noblest of all Animals;

Separated from Law and Justice He is the Worst"

Aristotle

EXHIBIT 13
DATE January 26, 1995
HB 195

January 25, 1995

TO: House Fish and Game Committee

FROM: Jim Bradford, President, Montana Bowhunters Association

The Montana Bowhunters Association supports HB195. Over the past 2 years the Governor's Advisory Council on private land/public wildlife has met non-stop to bring these recommendations to you. This Council was represented equally by landowners, sportspersons, and outfitters. They were asked by you to develop a compromise of the issues at hand. They met with sub-committees around the State. They also held public meetings to gather opinions from anyone concerned. They did what you asked of them.

To undermine any part of these recommendations would be wrong. This is a package full of compromises on everyone's part. To change it in any way because of personal bias destroys the basis for how it was formed. Please accept HB195 as is.



EXHIBIT 14
DATE January 26, 1995
HB 195

33 S. Last Chance Gulch, Suite 2 B • P.O. Box 1248 • Helena, MT 59624 • (406) 449-3578

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

Testimony in support of HB 195
January 26, 1995

Mr. Chairman, members of the committee. My name is Jack Rich. I represent myself and the Montana Outfitters and Guides Association.

I come before you in support of HB 195 with Rep. Swanson's amendments. But this support has not come easily. Our association has debated this issue for many hours before agreeing to support this bill. The amendments are a cornerstone to our support.

I would like to share with you an analogy that describes our profession.

Imagine, if you would, a 3-legged stool. On top of that stool are the professional hunting outfitters. The 3 legs represent the 3 basic requirements for us to do business. The 1st leg is an outfitter's business license. The 2nd leg is an operating area with a huntable wildlife population. The 3rd leg is a client with a hunting license.

Until 1977, the 3 legs were unregulated and self-leveling. Then the 1977 legislature chose to place a limit on non-resident licenses. But the other 2 legs remained unregulated and continued to grow. We have come before the legislature several times in the last 18 years in an attempt to keep the legs level. We've asked for additional nonresident hunting licenses and a moratorium on new outfitter licenses.

But we came up empty-handed. What we now have is a stool with 2 legs that continue growing and the stool is falling over backwards.

We desperately need stability. In 1994 there were over 1500 booked clients of outfitters that were unable to get a hunting license. This year is expected to be worse. The drawing or "crapshoot" for hunting licenses is destroying our industry. We need assurance that a booked client will receive a license.

This legislation, together with HB 196, is an attempt to bring the legs of our stool into level. It gives us a small increase in nonresident deer hunting licenses, a limit on hunting outfitter business licenses, and the ability to control expansion into new areas.

The net effect of this legislation will be to downsize the professional hunting outfitters. Every outfitter will lose clients who are unable or unwilling to pay the market price for their license. Those outfitters who are unable to adjust, will go out of business.

With that in mind, we are also asking you to support our ammendment to reinstate the 100 B-10 licenses to the outfitter pool. This will maintain the number of licenses at the original 5,600 level established by the legislature in 1987. The 100 licenses don't seem like much, but they could be the survival net for those outfitters on the edge of the stool. These licenses also represent a conservative economic loss of \$750,000 to rural Montana.

Please support this bill with the amendments. Thank you.

Jack Rich

Jan. 26, 1995



EXHIBIT 15
DATE January 26, 1995
HB 195

33 S. Last Chance Gulch, Suite 2 B • P.O. Box 1248 • Helena, MT 59624 • (406) 449-3578

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

Testimony in support of HB 195
Jan. 26, 1995

Mr. Chairman, members of the committee, My name is Roy Ereaux. I am a third generation Montanan, and an Outfitter representing the Montana Outfitters and Guides Association, in general, and Eastern Montanan outfitters in particular.

There is a popular saying about Montana, and that's that it is "the last best place". I truly believe that. In regard to that, I further believe that Eastern Montana is the epitome of that statement.

Although, the great hunting and fishing East of the mountains wasn't really discovered until the last decade by others, we in the East have known about it since we were old enough to pack 22's and fishing poles. We are very fortunate to have a vast variety of fish, gamebirds, big game, small game, waterfowl and an endless array of birds, flowers, and unbroken miles of prairie scenery, that is as beautiful now, as it was in the days of Lewis & Clark. This is both an immense source of pride, as well as our Achilles heel.

For years this abundance of game has enjoyed the best habitat that landowners in Eastern Montana have had to offer: often at the expense of their own herds and livelihoods. Virtually every farmer and rancher I know enjoys seeing this abundant wildlife, and takes great pride in the fact that they are a major link in the survival chain of these birds and animals. However, in recent years, some have begun to feel the crunch of being caught between maintaining growing numbers of game, and maintaining a viable livelihood.

As people have become aware of these growing big game populations in Eastern Montana, some have seen it as an opportunity to utilize a renewable natural resource, to create a livelihood, or to compensate the landowner who has borne the brunt of the cost of providing the habitat for this abundant, and much sought after resource.

In spite of this generous contribution to bird and game populations, this group has historically been maligned for wanting to receive compensation in any form for its cost of raising of this renewable natural resource. As an outfitter with close ties to the farming and ranching community, I am part of this concern.

The fact that we are sympathetic to the concerns of the landowners and are willing to compensate them, while being accountable to him for our clients, our guides and ourselves, and that we take a conservative approach to harvesting the game involved, has made us an easy target for false perceptions and accusations, and has added to the frustration of the general resident hunting public.

This coupled with a growing feeling of landowners, that they are overwhelmed, unappreciated, and in general, perceived by the hunting public to be the enemy, has caused matters to degenerate to the point we were at during the last legislature.

At that time, the legislative body, with Governor Racioc, initiated the Private Lands/Public Wildlife committee. This committee was charged by the governor to form a consensus on any recommendations that they came up with. You have before you, along with some minor amendments, a copy of their suggested solutions to the problems they were asked to consider.

As is indicative of solution by consensus, no one group got everything it asked for, but I believe each group was treated fairly.

EXHIBIT 15
DATE 1-26-95
HB 195

As an outfitter, I don't see this as final solution, but rather as a major first step in the right direction, and a welcomed break from the Status Quo which is slowly and methodically killing our industry. I have followed this process since it began, and I truly appreciate the time, money and effort that everyone and I do mean everyone, put into this document. These people are to be commended for their work.

Just as you are bound by your commitment to your constituents, to seek the high road in their behalf, I contend that these individuals on our behalf, have traveled this same road, and I would ask that, although each of you, like , each of us, may not agree completely with everything in this bill, that you see it as we do a major step in the right direction, and vote favorably for its passage. Thank you for the opportunity to be heard.

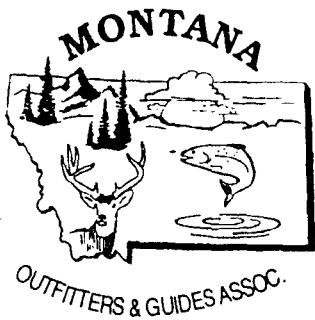


EXHIBIT 116
DATE January 26, 1995
HB 195

33 S. Last Chance Gulch, Suite 2 B • P.O. Box 1248 • Helena, MT 59624 • (406) 449-3578

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

Mr. Chairman, members of the committee, for the record, my name is Jean Johnson. I'm the executive director of the Montana Outfitters and Guides Association, a position I've held for nearly four years.

Some may say that HB 195 is an outfitter relief bill. They will be wrong.

Some may say that outfitters don't gain anything from HB 195. They also will be wrong.

The truth lies somewhere in between. Yes, there is gain for Montana's outfitters, but a price will be paid for that gain and some will pay more dearly than others. So what are outfitters going to give up for the new guaranteed license?

- Many will give up the hunter who came years ago as a new client and has continued to come year after year as a friend. Some of these people will simply refuse to continue paying more money to enhance a Montana program. Some will simply no longer be able to afford the trip.

Despite what you might read in the Billings Gazette, outfitters' clients aren't all "filthy rich". The majority of outfitters' clients are hard-working Americans who save up all year for a Montana hunt with a Montana outfitter. And yes, there are those clients who can better afford a guided hunt than some of us. But to belittle those people because they have money is unAmerican and unfair.

- Many outfitters will lose the ability to increase their prices as their own fixed costs increase. Why? Because for the broad band of hunters who buy the variable-priced license, their hunt budget is fixed. When the cost of that license begins to consume a larger share of the budget, the one who will be squeezed is the outfitter.

And an even more important impact: When the cost of hunting becomes just too high, the hunting public will hang up its rifles and that's when we all lose.

No one should see HB 195 as the "final solution". It isn't. There are too many unknowns. But. The three groups — landowners, sportsmen and outfitters — are on the road and most importantly, they are walking together. I want to share with you an example that shows that the consensus Rep. Swanson started and the council lived by is still working: When we presented our amendment to return the number of B-10 licenses to the original 5,600 to the Montana Wildlife Federation, they elected not to oppose our request. We appreciate that. We are indeed on the road and we need to stay on the road.

When HJR 24 was passed by this committee two years ago, I was skeptical. And when Rep. Swanson amended the resolution to include the consensus clause, I was scared. But we were determined to give the process a fair hearing. And thanks to Governor Racicot's innate sense of fair play and his wisdom in selecting the members of the council -- and because Chairman Nina Baucus has a cool head and fair hand -- and because two outfitters — Kelly Flynn and Russ Smith — gave up countless hours to carry the message for their profession, we have emerged from the process with something that deserves a chance. I wish we had the time in this hearing to tell you how hard the other council members worked and how willing they were to listen to us. Without exception, each one was unfailingly courteous and willing to hear our story.

Yes, there are questions in our mind. A very critical question is what happens if the licenses miss the target by a substantial number? Do we then lose a corresponding number of licenses the following year? I would like to have Doug Sternberg address that question for the record

EXHIBIT 16
DATE 1-26-95
HB 195

I urge you to consider the work that has been done to date and to pass HB 195 with our amendment and with Rep. Swanson's amendments.

EXHIBIT 17
DATE January 26, 1995
HB 195

HB 195 By Request of the Governor
Amendment proposed by the Montana Outfitters and Guides Assn.
Jan. 26, 1995

1. Page 8, line 7.

Following: "of"

Strike: "5,500"

Insert: "5,600"

(Throughout the draft, delete the number "5,500" and insert "5,600".)

DEAR SIR:

I'm writing this letter on behalf of Cooney Brothers Ranch. Although not everything in House Bill number 195 is totally agreeable we do support it.

Our ranch has participated in Block Management for two seasons. We plan on continuing in the future.

We would like to show our backing of 195.

Thank You

Sincerely Robert Cooney

Rock Creek Outfitter's
Hinsdale, Montana
Dean & Patti Armbrister

1-19-95

Chairman Montana Fish, Wildlife & Parks
House of Representative
Doug Wagner
State Capitol
Helena, Montana 59620

Dear Representative Wagner,

I am writing you to encourage you to vote yes on House Bill 195 and House Bill 196.

My wife and I run our own Outfitting business in Eastern Montana. We just finished mailing out license application for the Big game drawing for non-residents to our clients. I wish that we could feel better about this time of year. But with the current licensing procedures we can not. From a management standpoint it is impossible to know what to do. Last season we lost 50% of our non-residents. At 50% that doubles your expenses of getting your clients. Even at that we can not bank on having even the 50% as some outfitters did not receive 20%.

Other than outfitting we operate a small ranch and raise alfalfa hay. To try to have a cash flow to live on and operate both business.

From a wildlife standpoint the current system does not work either. We have very very large herds of mule deer and a expanding whitetail herd. Our hay fields are full of deer year around, until the stand is gone, then the deer come to our hay stacks. We do not mine them doing some eating but they do a lot of damage, making the hay unsellable. The deer numbers in our area need more control. The deer numbers in heavily populated elk areas need protected, as it is difficult for them to compete with the elk for habit.

With the current distribution of elk licenses and deer licenses neither thing is working. The deer are getting harvested in elk areas because the hunters have a valid license to do so and the deer in eastern Montana are not getting the control because there is not enough licenses distributed there.

Please pass these bills as I feel that they were a valiant effort on all the various groups in the state. We worked together to come up with a solutions to our growing problems.

Thank you for your time.

Sincerely,

Dean Armbrister

PLA/DA
C: Darryl Toews



EXHIBIT 26
DATE January 26, 1995
HB 195

January 25, 1995

OFFICERS

Mike Ware, President
406-756-6416

Dan Blomquist, Vice-President
406-892-1893

Terrie Blomquist, Secretary
406-892-1893

Lesla Longfield, Treasurer
406-892-5599

DIRECTORS

Dan Blomquist, Motor Bike/ATV
406-892-1893

Randy Helgath, Snowmobiling
406-862-3990

Joyce Hollopeter, Huckleberry
406-752-1334

Mill Hollopeter, Horseman
406-752-3754

Sheila Keller, Forest Management
406-756-7168

Richard Riley, Public Access
406-755-6273

Dean Sturz, Chamber of Commerce
406-892-4807

Peg Wagner, Communications/Editor
406-387-5535

Mike Ware, Wildlife
406-756-6416

Dale Williams, Hunting/Fishing
406-862-5314

CHAPTER GROUPS

MISSION VALLEY CHAPTER
Bob Bell, 406-676-5592

ROCKY MOUNTAIN CHAPTER
Duane Howlett, 406-626-5318

TRI-COUNTY CHAPTER
Lee Jacobson, 406-693-2319

BIG HOLE CHAPTER
Kay Keil, 406-267-3387

JAWBONE CHAPTER
Joanna Dixon, 406-547-3940

Honorable Doug Wagner, Chairman
House Fish and Game Committee
Capitol Station
Helena, MT 59602

RE: HOUSE BILL 195

This testimony is on behalf of Montanan's For Multiple Use, a non-profit organization representing over 2500 Montana supporters. We request the following comments, concerning the recommendation from the Governor's Advisory Council on Private Land/Public Wildlife dated December 6, 1994, be entered in the official record.

We agree with the assessment that the enhancement of Montanan's hunting and fishing opportunities are of critical importance not only to the well being of the economy that is supported but most certainly to this family oriented event that has become a significant part of our custom and culture. It is in this regard, that the following comments are made:

- 1) *We are in agreement with the enhancement of the Block Management program and the efforts to improve that segment of the hunting access program. However, the creation of another arm of Block Management to be entitled HEP would appear to be redundant with on going and existing programs. Criteria used as reasoning for the establishment of HEP or the benefits offered in HEP should be realigned under the existing Block Management program to avoid duplication of efforts, dollars, and personnel.*
- 2) *Funding for the financial rewards offered a landowner must be done on a par basis from the variable priced outfitter licensees offered in Sec. III, Part 4. We remain adamantly opposed to the license increase of up to a \$1.00 as called for in Sec. IV. Increasing licensing fees brings about an inadvertent discouragement of sales and may have the opposite affect intended. Any number of families will tell you that as a side affect of increasing costs--their participation correspondingly decreases in the special drawings or in the number of general licenses sold, thereby affecting the industries economic benefits as well. We also recognize that there are other proposals that are or soon will be on the table to increase the conservation license fees thereby providing additional burdens on thousands of Montana citizens.*

- 3) Caution must be exercised when reviewing the liability laws of the State. We would be opposed to any revision of liability that undermines the public right to obtain relief when deemed appropriate. Consistent with our belief that hunting and fishing in general (i.e. the taking of publicly owned wildlife) should not be relegated to a private money making sport, liability should not be removed from those individuals currently charging for access and indeed the liability relief, in this instance, should be greater.
- 4) We support the mandatory requirement that major violators of hunting or fishing regulations should be required to participate in a specific education program designed for rehabilitation and we would go one step farther. Those individuals who are convicted of such should be required to man check stations, under the supervision of FW&P during general season, for the duration of time their licenses are revoked. This would enhance the ability of FW&P personnel to increase the number of field personnel at little or no cost to the taxpayer.
- 5) While we recognize the benefits of areas that offer the "walk-in" hunting, we must also recognize that to inhibit the opportunity to hunt, by regulation, to the disadvantaged or the disabled is wrong. Much of our existing hunting area is "already" considered walk-in simply by the closure of roads in or near national forests, state lands and private lands.
- 6) We agree that the consolidation of isolated state parcels of land would be beneficial in most cases under the guidelines presented.
- 7) We remain opposed to the creation of another "chief" in the FW&P's hierarchy to be known as the "Access Program Administrator". We feel very confident that position could be handled by the existing personnel within the "Parks" section of FW&P's and that simple co-ordination between the levels in the off season would ultimately save the taxpayer and the participants.
- 8) While the outfitters themselves are best at providing the expertise necessary in policing themselves, we never the less support the efforts to maintain the industry, and specifically draw the committees attention to Section III, Parts 2, 3, 4, and 5 which we would support.
- 9) We support the formation of any public advisory group, AS LONG as the makeup of that group provides a fair balance between government, multiple users, and conservation advocates.

We appreciate the opportunity to comment before this committee on the issues at hand. Our concerns are voiced in the hopes that **OPPORTUNITY** is not confused with **PROFIT**, that **PRIVATE LANDS** are not confused with **PUBLIC LEASING**, and the belief that **MONETARY EXPENDITURE** does not automatically translate to **INCREASED EFFICIENCY**.

Sincerely,

Dale Williams

Dale Williams, Hunting/Fishing Director

EXHIBIT 21
DATE January 26, 1995
HB 195

EXPERIENCE MONTANA
53 Elser Lane
Sheridan, MT 59749-9604
406-842-5134

Doug Wagner, Chairman
House Fish and Game Committee
Capitol Station
Helena, MT 59620

Jan. 25, 1995

Dear Representative Wagner:

Since I can not get away from business to attend the hearing on H.B. 195 and 196 I am requesting that you provide this fax to the other committee members for consideration.

Section 12 page 11 HB 196 adds some worthwhile language in line four but leaves discipline conditions up to anonymous bureaucrats and does not list procedure or penalties.

Line 13 from 15 gives no lee way for minor errors, poorly written laws, regulatory overload or simple mistake. It is bureaucratic over kill and just one more load to try to bear. Apparently one confiction or forfeiture would follow an outfitter for the rest of his life and be perhaps used as a club.

Please imagine yourself in my shoes. I try to be law abiding but find it difficult. Board of Outfitter Regulations now number 38 pages to day and are not easy to get. General FWLP regulations are a large book of 255 pages. Big Game Regulations number 88 pages, fishing 39, upland game bird 9, and waterfowl 28 for F,WLP total of 419 plus pages which apply to me. Board of Livestock--brand reg's only 13 pages,

This year my USFS permit for fishing one lake, one river, camping, hiking close to road, and using USFS roads totaled 31 pages and I received it Oct. 22, 1994. It was good only for the period May 15-Oct. 15, 1994. In addition it says I must obey the Interagency Travel Plan--Map and text and Item III D. says I must comply with all regulations of Dept. of Agriculture, all federal, state, county and municipal laws in my license area including but not limited to Federal Water Pollution Control Act 33 USC 1251 et seq., The Oil Pollution Act 33 USC 2701 et seq, Clean Air Act 42 USC 7401 et seq., Resource Conservation and Recovery Act 42 USC 6901 et seq., Comprehensive Environmental Response Control and Liability Act 42 USC 9601 et seq. All these acts are unavailable from

the USFS according to the person issuing the permit. I'm estimating a total of 2,000 pages in these various laws and am still working to find out what is in them. The total pages of laws so far is 2,501. Still there are many others we could lose our business or be disciplined for violation. Included are 84 pages of CPR rules, 172 pages of First Aid Rules, and unknown stacks of pages of OSHA, BATF gun control, BLM, Bureau of Reclamation, IRS, Worker's Compensation, state and federal descrimination, state and federal communication, National Park Service, U.S. Fish and Wildlife Service Refuge and endangered and threatened species, state school land, Fishing Outfitters Association, vehicle and trailer, boat, insurance, bank, post office and UPS and several counties and cities for a partial list for which I may be disciplined, fined, or imprisoned.

When not writing for more regulations (none are supplied without one or more requests) I add changes and additions and try to read the obtuse language in my collection to remain a legal outfitter. Both my clients and I would rather be enjoying the outdoors. What's wrong with common sense?

My wife and I both work 15 or 16 hours each day or more, seven days a week to earn our living from outfitting, run two other full time businesses and have one part-time job averaging 2,200 hours per year. All are low paying. Between us we have 35 1/2 years of education so are better equipped for interpreting regulations than many outfitters. Also we are Montana Natives, experienced in ranching, wildlife research and management, medical technology, outfitting, and gift manufacturing and marketing.

Increasingly we feel like road kills on the regulation highway. I wear a permanent leg brace and my wife a permanent dust mask both courtesy of the USFS. Life is not as easy or as much fun for us as when I got my first paying job 45 years ago. We'll never be able to retire and I hope to work at least another 30 years to support ourselves.

Please cut our regulatory load.

Sincerely,



Allen Schallenberger

cc: Representatives Bill Rehbein, Emily Swanson, Governor Marc Raciot, Senator Conrad Burns, Howard Bethel

DEPARTMENT OF COMMERCE
PUBLIC SAFETY DIVISION

EXHIBIT 22
DATE January 26, 1995
HB 196



MARC RACICOT, GOVERNOR

111 N. JACKSON

STATE OF MONTANA

PO BOX 200513
HELENA, MONTANA 59620-0513

January 26, 1995

Chairman, Committee Members
House Fish and Game Committee

Subject: House Bill 196

Dear Chairman Wagner and Committee Members:

The Department of Commerce wishes to express its support for the passage of House Bill 196, a bill addressing the regulation of licensed outfitters and guides in the State of Montana. House Bill 196 proposes needed changes to the laws regulating the outfitting and guiding industry, and has been prepared through a cooperative effort with the members of the industry who fund the licensing program. The bill is specifically endorsed by the Montana Outfitters and Guides Association (MOGA) and the Fishing Outfitters Association of Montana (FOAM). These two organizations represent the majority of outfitters in the State of Montana. These organizations, and other proponents will speak to most of the sections in the bill.

The Department wishes to focus on sections 20 and 21 of the bill, which provide for the hiring of investigators for the Board of Outfitters. These sections of the bill have been endorsed under the final recommendations of the Governor's Task Force on Private Lands, Public Wildlife, have been endorsed by the Governor through the legislative review process, and are essential to an efficient management of the licensing program for outfitters and guides.

The Department currently obtains investigative services for the Board of Outfitters under independent contract with licensed private investigators. The Department is pleased with the quality of work provided by these contracted individuals. The Department, however, lacks the necessary ability to supervise and provide support to these individuals under the current system due to their status as independent contractors.

Passage of House Bill 196 is crucial to the Board of Outfitters' ability to effectively manage its industry. The Department appreciates the opportunity to express its support for House Bill 196, and respectfully requests that this committee issue a "do pass" recommendation on House Bill 196. Lance Melton, the attorney who drafted the bill, is here to answer any legal questions regarding the bill. Bud Solmonsson, Executive Director for the Board, is available to answer any questions on the licensing program.

Sincerely,

A handwritten signature in dark ink, appearing to read "S. Meloy".

Stephen H. Meloy
Bureau Chief
Professional and Occupational
Licensing Bureau

MONTANA BOARD OF OUTFITTERS FACT SHEET

* The Montana Board Of Outfitters transferred from the Department of Fish, Wildlife, & Parks in 1987 to the Department of Commerce

* The Board consists of seven Governor-appointed members; five members from the outfitting community, one member representing the Department of Fish, Wildlife, & Parks, and one public member.

* The Board currently has only one full-time employee assigned to the Board, the executive director. It currently utilizes a part-time Commerce employee, temporary help when available, and part-time temporary contracted investigators.

* There are currently 732 licensed outfitters in Montana and nearly 2000 guides. By contrast, Idaho has about half the amount of outfitters and five times the staff (four full-time staff and ten part-time investigators)

* Enforcement of unlicensed and illegal outfitting has risen 100% during the last two years. The assigned caseload went up from 80 cases in 1992 to 160 in 1994. This does not count all complaints, just cases which have been turned over to this Board by formal means.

* Board of Outfitters investigators are NOT employees; they have no authority to request information, to give tickets or citations, or to take any other action against an unlicensed outfitter or guide; they essentially have the same authority as a private citizen. The same applies for investigating a licensed outfitter or guide except the investigator can ASK for information relating to outfitter records.

* Currently there are 111 candidates in process of receiving their outfitters license. Upon the completion of their license this will bring the current number of outfitters to 843.

HOUSE OF REPRESENTATIVES

TESTIMONY

January 26, 1995

My name is Rita Orr. My husband and I have owned and operated our own business in Libby for 18 years. It is with this experience as a business owner, I believe, that I was asked a year and a half ago to become the public representative of the State Board of Outfitters. The outfitting industry is one of the oldest industries in our state. It is a large industry comprised of many small businesses and one of the fastest growing industry in Montana. This industry brings in 93 million dollars per annum to Montana. It is because of this growth and the changes in this industry that we are introducing HB 196.

This legislation will give the Board the authority to review new or proposed expansion of existing operation plans. The board will be able to determine if an increase in use will cause

undue conflict with the existing plan, cause a conflict with the use of the land or to impact public health safety.

It will grant our investigators ex-officio warden status. They would be able to give tickets in the field, something they have not been able to do in the past. It would also give them authority to solicit cooperation from the law enforcement community, which they can not do now. This legislation will simply give the Board the ability to enforce our laws.

This legislation will help to regulate the industry and stabilize the growth which they are experiencing.

I would ask for your support on this legislation.

Rita M. Orr
Board of Outfitters

H.B. 196 Testimony ^{Given on} Jan. 26 - 95

25
DATE January 26, 1995
HB 196

Mr. Chairman - Members of the Committee:

For the record, my name is Jack Billingsley. I am a landowner - stockgrower on our family's 4th generation ranching operation at Glasgow. I have been a Licensed Outfitter for fifteen years. I am a past board member of the Montana Outfitter's Guide Association. For the past five years, I have been a member of the State Licensing Board of Outfitters. I see a real need for this bill.

Montana is experiencing a rapid increase in the number of Outfitters. House Bill 196 would provide a review process of proposed operation plans. This would allow the outfitting industry to provide a better service with less conflict. There is no other agency responsible for reviewing operation plans.

I ask the committee for your support of House Bill 196.

Thank you,

Jack Billingsley

Todd Klick
Representing K Bar L Ranch and the Klick family
Support for House Bill 196

Mr Chairman and Committee Members,

My name is Todd Klick , I am representing The K Bar L Ranch and the Klick Family. I am hear to voice our support for House Bill 196 .

My family has outfitted in the Sun River Canyon , Sun River Primitive area since 1927. This area is our place of buisness , but is also our home. The pristine resource of this area is without comparison. In the last 15 years we have witnessed a dramatic increase in people coming to Montana to see the country for themselves. This has been good for the economy, families , and the outfitting buisness itself. However along with this has come individuals who have no Outfitting liscence or are operating outside there usage at the exspense of the resource and the clients they host. We cannot allow the resource to be degraded from overuse in all this confusion. Remember that this is what brought these folks here in the first place.

In the last 5 years we have pressed the Outfitter board, Forest Service and Fish, Wildlife and Parks Dept for some joint regulation to protect the resource. There seemed to be no clear regulations to follow concerning these problems from any of the agencies.

What actually defined outfitting . Does the mode of transportation make a difference if it is to be defined as outfitting. In example how clients are conveyed , either by horesback or by boat to a area for recreation purposeses Who was responsible for enforcement and capabilities of enforcement. The loopholes were endless. These are just a few of the problems that needed to be addressed .

The Outfitting industry as a whole needs to do a self revitalization from within. The House Bill 196 is a step in the right direction, I hope you will consider its contents and give it your support. Thank you for your time.

EXHIBIT 27
DATE January 26, 1995
HB 196

THE FISHING OUTFITTERS ASSOCIATION OF MONTANA, WITH A MEMBERSHIP OF 200 OUTFITTERS AND APPROXIMATELY 200 GUIDES, HAS FOLLOWED THE DEVELOPMENT OF THIS LEGISLATION IN A VARIETY OF FORMS FOR SEVERAL YEARS. THIS CURRENT PROPOSAL IS THE RESULT OF THE BOARD'S BEST EFFORTS TO ADDRESS SOME NECESSARY STATUTORY HOUSEKEEPING, TIGHTEN UP QUALIFICATIONS FOR OUTFITTERS, CREATE AN ADVANCED LEVEL OF GUIDES WITH APPROPRIATE QUALIFICATIONS, AND HIRE MORE ENFORCEMENT PERSONNEL.

TAKEN TOGETHER WITH THE AMENDMENTS PROPOSED TODAY, HB 196 GIVES THE MONTANA BOARD OF OUTFITTERS AN EFFECTIVE WAY TO CONTINUE IMPROVEMENT OF THE OUTFITTING INDUSTRY WHILE PROVIDING ADEQUATE PROTECTION FOR THEIR CLIENTELE.

FOAM ENCOURAGES THIS COMMITTEE TO CONCUR WITH HB 196.

Handwritten notes:
1/26/95
J. [unclear]
[unclear]

House Bill 196
January 26, 1995
Testimony presented by Pat Graham
Montana Fish, Wildlife & Parks
before the
House Fish and Game Committee

THB196P.H

I would like to offer our support for the Board of Outfitter legislation, HB 196 as introduced. The Board of Outfitters has evolved significantly since its creation in 1987 and has taken some major steps in increasing its ability to regulate the outfitting industry. Legislation in the last session created the executive director position for the board which we believe has increased the administrative capability of the board and made it more responsive to the public. We believe that HB 196 represents the continuation of this evolution and is in the best interest of the public.

We have worked closely with the board since its creation and have a representative on the board. Our law enforcement personnel have provided extensive support to the board in the investigation of outfitting violations and the board has provided funding to our department to compensate for these efforts.

We support the proposed additions to the powers and duties of the board in Section 3, 5d(37-47-201) that will allow the board to provide a means of evaluating new or expanded landbased outfitting based on conflicts with existing use. This has been supported by the Governor's Council on Private Lands/Public Wildlife and could aid in resolving conflicts between outfitted and non-outfitted hunters.

We believe that the outfitted public will be better served by the proposed creation of another category of guide that will reflect additional experience and training and that the proposed language in Section 6, 1d (37-47-303) is a positive step in protecting the public that utilize outfitters and guides since it will require that all guides have a current first aid, CPR or equivalent card certified by a board-approved certifying agency.

We support all of the proposed changes in the bill that will allow the board to more effectively deal with illegal outfitting and violations of the board statutes. We also support the inclusion of board investigators as ex-officio game wardens in Section 21. Ex-officio status will enable the investigators to conduct more adequate investigations and to issue citations for violations of fish, wildlife and parks statutes.

Thank you for the opportunity to testify today, and I urge your passage of HB 196.

HOUSE OF REPRESENTATIVES
VISITORS REGISTER

FISH & GAME

COMMITTEE

DATE January 26, 1993

BILL NO. 195

SPONSOR(S) SWANSON, HIBBARD, HERTEL, PIPWICK

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NAME AND ADDRESS	REPRESENTING	Support	Oppose
<u>Steve Christensen</u>	<u>PL/PW</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<u>Don Majors</u>	<u>MT Wildl. Fed</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<u>Jim Bradford</u>	<u>MT. Bowhunters Assoc.</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<u>Paul S. Rode</u>	<u>MT Bd of Outfitters</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<u>Roy Erickson</u>	<u>MOGA</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<u>Jack C. Green</u>	<u>MOGA</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<u>Jim Richman</u>	<u>MWF</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<u>Todd Kline</u>	<u>K Bar & Ranch</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<u>Pat Graham</u>	<u>FWS P</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<u>Glen Marx</u>	<u>Governor's office</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<u>Bill Holdorf</u>	<u>Anaconda sportsman</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<u>Bill Allen</u>	<u>MT. Audubon</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<u>Steve McCoy</u>	<u>Dept. of Commerce</u>	<input type="checkbox"/>	<input type="checkbox"/>

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ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

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SENATE COMMITTEE ON

Fish & Game

BILLS BEING HEARD TODAY:

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Check One

Name	Representing	Bill No.	Support	Oppose
Susan Reneau	self - (hunter)	195	✓	
Sheri Carroll	self	195	—	
Jean Johnson	MOGA	195	✓	
Martha McLane	Self	195	✓	
Monte McInnis	Self	195	✓	
R.H. BIRD	Self	195	✓	
AD McCrossin	Self	195	✓	
Brent Jones	MBO	195	✓	
BUD Solmonsson	MBO	195	✓	
Jack Billingsley	MBO	195	✓	
Kelly Flynn	PW PLAC Public Wildlife	196	✓	
ROBIN CUNNINGHAM	FISHING OUTF. ASSOC. MT.	195	✓	
Mary Ellen Schnur	Self - outfitter	196 195	✓ ✓	
MONTE SCHNUR	Self Outfitter	195 196	✓ ✓	

VISITOR REGISTER

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HOUSE OF REPRESENTATIVES
VISITORS REGISTER

FISH & GAME COMMITTEE DATE January 26, 1995
BILL NO. 195 SPONSOR(S) SWANSON, HIBBARD, HERTZEL, PIPINICH

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NAME AND ADDRESS	REPRESENTING	Support	Oppose
Smoke Elser	self	X	
Jack Hooper	self	X	
Andrea Billingsley	"	X	
John Hill	MOGA	X	
Bob Lovegrove - Mola	W. MT Fish & Game Assoc	X	
Kelly Olson - Council	Public Wildlife - Council	X	
Tracy M. Chase	Outfitter	X	
Russell Greenwood	Danman Gulch Outfitter	X	
Liz Barker	Ford Cr. Outf	X	
Floyd W. Mitchell	Mitchell Outfitter	X	
BOB FRY LIVINGSTON	SELF		
Tommy SICKENS	FORD CRK OUTFITTERS	X	
Mike Linn	MOGA	X	

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NAME AND ADDRESS	REPRESENTING	Support	Oppose
Maureen Cleary-Schwinden	Women Involved In FARM Eco. ^{WIFE}	neutral	
Russell B Hill	MT Trial Lawyers	—	
John Hertel			
Mary Sexton	seeb-council member	✓	
Tony Schoon	SKs line	✓	
Larry Brown	Ag. Pres. Assoc. ^{HB 195}		X
Larry Brown	Ag. Pres. Assoc. ^{HB 196}	—	
Tony Schoon	SKyline Club. ^{HB 196}	—	

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NAME AND ADDRESS	REPRESENTING	Support	Oppose
Irving Max Chase	Outfitter -	✓	
Kathy Hardley	Advisory Council	✓	
BUS Solmonsson	Commerce / MBO	✓	
Delia D. Tomaskie	Commerce / MBO	✓	
Rita M. Du	MBO HR 196	✓	
Mike Simpson	MOGA	X	
Bud E. Brown	SAIF	X	
Jack Fick	MOGA	X	
Jack Billingsley	MBO	✓	
Zedd Khat	K Buck Ranch	✓	
Det Gvalheim	F W P	✓	
Bill Holcomb	Shelby Anaconda ^{Sportsman}	✓	
STEVE Meloy	Dept of Comm	✓	

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Frank Johnson MT Dept. of Commerce ✓

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FISH & GAME

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DATE

January 26, 1995

BILL NO. 196

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NAME AND ADDRESS	REPRESENTING	Support	Oppose
Sherry Casill	outfitter	✓	
Martha McLane	Outfitter	✓	
Jean Johnson	MICA	✓	
Smoke Elser	OUTFITTER	✓	
Martha McLane	OUTFITTER	✓	
Andrea Birkingsley	Outfitter/guide	✓	
ROBIN CUNNINGHAM	FISHING OUT. ASSO. MT.	✓	
R. H. BIRD	SELF	✓	
Verle L. Kademacher	Council	✓	
Nina Baucus	Advisory Council	✓	
Pat McCrory	MBC	✓	
Brent Jones	MBC	✓	
Nancy K. Kish	Klan L Ranch	✓	

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