

## **MINUTES**

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

#### **COMMITTEE ON FISH & GAME**

**Call to Order:** By **CHAIRMAN DOUG WAGNER**, on March 14, 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. 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)  
Rep. Hal Harper (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: None.  
Executive Action: HB 349 DO PASS AS AMENDED  
SB 312 BE CONCURRED IN AS AMENDED  
SB 352 BE CONCURRED IN AS AMENDED

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

**EXECUTIVE ACTION ON HB 349**

**Motion:** REP. BOB RANEY MOVED THAT HB 349 DO PASS.

**Discussion:**

REP. RANEY stated that the subcommittee received input from many people. They tried to make the language "extremely comfortable" for the agricultural community. Most of the work will be done through private landowners. The word "voluntary" was added in various places throughout the bill to ensure that no one would be pressured into cooperating. Originally the bill only dealt with rivers and streams; lakes were added. The words "cold water" were removed from the bill. One of the major changes in the subcommittee was the creation of a review panel. It would consist of about 10 members and represent a diversity of groups. The purpose of the committee would be to review projects that are presented by Montana citizens. Hopefully, this would lead to ideas for projects being generated on a local level.

REP. RANEY distributed a copy of the revised gray bill and proposed amendments. The governor wanted language in the bill to ensure that the priority for projects would be for native fish in their historic habitat. The Department of Fish, Wildlife and Parks (FWP) was encouraged to use volunteer labor and contract services to help keep expenses and FTE's low. HB 349 authorized two FTE's if the department felt hiring more people was necessary. If additional people were hired, they would have to have experience in agriculture. **EXHIBITS 1 AND 2**

REP. RANEY stated that FWP agreed that \$2.5 million would fund the project for this biennium. Approximately \$290,000 would be redirected from the River Restoration Program, \$1.5 million would be obtained from the Bluewater Hatchery Phase II Project, and \$510,000 would be redirected from the Tongue River Restoration Project. The hatchery and Tongue River Restoration projects will be delayed for two years. Sections 4 and 5 were new and added codification instructions and a termination date. HB 349 was a companion to REP. DICK KNOX's instream flow bill. The intent of HB 349 remained the same, but the language had been totally revised.

**Motion:** REP. RANEY MOVED HIS PROPOSED AMENDMENTS DO PASS.

**Discussion:**

REP. KNOX supported the proposed amendments. There was a lot of work done in the subcommittee, and the bill was greatly improved.

REP. ROD MARSHALL commented that the subcommittee made accomplishments that "took a lot of tenacity."

**REP. BILL REHBEIN** stated that \$510,000 was being redirected from the Tongue River Restoration Project. He asked **REP. RANEY** how this would affect the project. **REP. RANEY** referred the question to **Pat Graham, Director, FWP**. **Mr. Graham** said provisions were included to ensure that money was being spent for the purposes outlined in the bill on the Tongue River. He referred to Section 3, subsection (3) which stated, "\$510,00 redirected from the Tongue River Restoration Project, to be used in the Tongue River basin for the purposes of Section 1." Those purposes are for stream and lake restoration in the Tongue River Basin. The money could not be used for buying land.

**REP. REHBEIN** asked if the \$290,000 would be used in the same manner. **Mr. Graham** stated that money would be spent on the purposes outlined in the bill, which was broader than the River Restoration Program. It was not predetermined where the money would be spent.

**REP. CHARLES DEVANEY** asked **Mr. Graham** for his opinion regarding the revised bill. **Mr. Graham** stated that FWP agreed to defer a final decision on the completion of the Bluewater Hatchery but to continue with the improvement of the water system. Money would still be available in two years to complete the project if that decision was made. FWP expressed some reservation about the creation of a review panel because it would create a "three-stop process." However, they recognized public concern over adequate input and proper implementation of the program. FWP discussed the potential of having a separate river restoration program. He expressed support for the bill because it provided balance.

**REP. BILL TASH** remarked there was a lot compromise and work done through the subcommittee. The review panel was proposed because the program needed to start "from the ground up."

**REP. JACK WELLS** stated that the original bill dealt mainly with trout. He asked **REP. RANEY** if efforts would still be directed toward trout fishing or addressed project-by-project. **REP. RANEY** said the language added by the governor stated that the habitats of native fish species would receive priority.

**REP. BOB PAVLOVICH** commented there was a technical error in the numbering of the sections at the end of the gray bill. **Doug Sternberg, Legislative Council**, stated that he would fix it.

**REP. PAVLOVICH** asked **REP. RANEY** if Montana anglers on the review panel would be from different parts of the state. **REP. RANEY** explained that a lot of latitude was left regarding review panel members. He stated that the governor would make sure there was balanced representation.

**REP. REHBEIN** asked **REP. RANEY** why a high school student would be included on the review panel. **REP. RANEY** explained that the program was designed to be a long-range plan. The governor could use this to arouse interest in youth and allow them to participate.

REP. EMILY SWANSON asked REP. RANEY if the money for the project would be in one account or if it would be kept in the existing accounts at FWP and kept track of. REP. RANEY stated that it would be kept track of through FWP's accounting process.

REP. SWANSON asked REP. RANEY to describe how he would envision a project happening. REP. RANEY referred the question to REP. TASH. REP. TASH hoped that the program would establish projects similar to the U.S Fish and Wildlife Service project of the Wetland Enhancement Project. It was initiated cooperatively between landowners and the federal agency. He hoped that projects would be initiated that would work for wild fisheries and be compatible with water used for irrigation and recreation.

REP. SWANSON asked REP. TASH how a person would find out if there was public money available for a project. REP. TASH stated that it would be the purpose of the review panel to identify potential projects. People could present ideas to the panel for review.

REP. SWANSON asked REP. TASH how the panel would know about an individual landowner's idea. REP. TASH said that it would be advertised to bring landowner's attention to the review panel. REP. RANEY commented this was a compromise with FWP because the program will need to be promoted. The program will also be advertised by various organized groups.

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REP. RANEY spoke about a river in his area. A local group heard money was available, designed a project, and went to FWP for funds. The proposal in HB 349 would operate similar to this. FWP would gather all proposed ideas for projects from the review panel and prioritize them.

REP. SWANSON asked REP. RANEY how the panel would prioritize projects. REP. RANEY explained that the panel would not prioritize projects. FWP would fund the proposed projects and prioritize the funding. REP. SWANSON asked about the criteria for prioritizing. REP. RANEY said the panel would review the project, FWP would prioritize funding, and a hearing would be held by the Fish and Game Commission for final approval. He did not believe one item would expend all of the money.

REP. KNOX said he sponsored a water leasing bill for instream flow. If all of the money was spent on water leasing, it would be a gross misuse of HB 349. The main purpose of HB 349 was restoring wild fishing. The National Cattlemen's Association sponsored grants for projects similar to those proposed in HB 349. Montana Stockgrowers had indicated support for the bill. HB 349 may help mitigate the potential of certain fish being placed on the endangered species list.

REP. CHASE HIBBARD asked REP. TASH how the public would know that money was available for projects. REP. TASH said it would be

accomplished similar to the Block Management Program by "word of mouth advertising." Once confidence is established, people would tell other people about the program.

**REP. BOB REAM** stated that the Forest Stewardship Program has done an excellent job of getting the message out. Similar methods could be used to get the word out regarding the Future Fisheries program.

**CHAIRMAN DOUG WAGNER** asked **REP. RANEY** how much money would go toward administration. **REP. RANEY** said HB 349 did not designate money for administration. However, he was planning to request that \$200,000 be appropriated in HB 2 for the administration of the program. Part of this money will be used to promote the program.

**CHAIRMAN WAGNER** asked about the money that did not get spent. **REP. RANEY** explained that it would remain in the ending fund balance at FWP.

**CHAIRMAN WAGNER** asked who would make the determinations regarding actions on bodies of water. **REP. RANEY** said many different groups and individuals were experts in performing this type of work and would provide consultation in designing projects.

**CHAIRMAN WAGNER** asked **REP. RANEY** if permits would be needed for streamside management work. **REP. RANEY** explained that FWP would make sure the proper permits were secured on approved projects. **CHAIRMAN WAGNER** stated that the permits may need to come from various state and federal agencies. **REP. RANEY** said yes.

**REP. PAUL SLITER** asked **REP. RANEY** what would happen if \$200,000 was not appropriated in HB 2. **REP. RANEY** explained that if the money was not appropriated, it would come out of the money designated in HB 349. The administration expenses approved in the bill would be for people working with landowners to develop projects.

**CHAIRMAN WAGNER** stated FWP would prioritize the projects. **REP. RANEY** said yes. **CHAIRMAN WAGNER** asked about the criteria in prioritizing projects. **REP. RANEY** said the department prioritized the projects and would have them approved after a public hearing by the Fish and Game Commission. The projects would be distributed across the state.

**CHAIRMAN WAGNER** asked **Mr. Graham** if there was other habitat for the bull trout. **Mr. Graham** said that its habitat was only in western Montana. **CHAIRMAN WAGNER** asked if there were streams in the western part of the state that could be restored that would not be destroyed by "mother nature." **Mr. Graham** said there are some areas in the Blackfoot and Swan currently having work being done on them.

**CHAIRMAN WAGNER** asked **Mr. Graham** how FWP would provide information about the program. **Mr. Graham** said some details and questions remained regarding how everything will work. The best way to distribute information will be through organized groups. FWP could help people in getting the right applications, once they heard about the program. They could also help people find cost share programs. Word of mouth will be the best way to pass along information about the program.

**CHAIRMAN WAGNER** asked **Mr. Graham** if the current river restoration program would remain intact or would the two programs be rolled into one. **Mr. Graham** explained that HB 349 would begin the process of combining the programs. There would be a larger program with a new format.

**CHAIRMAN WAGNER** commented that the current river restoration project was basically inadequate. The new program has potential.

**REP. RANEY** said the current river restoration language still existed; there just would not be any money to fund the program. That language was being left intact in the event the new program was unsuccessful.

**REP. SWANSON** asked if it was worth having a review committee to determine eligibility since FWP did the work of prioritizing and deciding on funding. **REP. KNOX** remarked that the success of the program was based on the acceptance by the agricultural community. The review committee would help people feel comfortable with the process and establish credibility. Perhaps, after the program operates for awhile, the committee would not be needed. **REP. SWANSON** said the issue could be reviewed in a few years.

**Motion/Vote:** **REP. HIBBARD** MOVED THE PREVIOUS QUESTION. Motion carried unanimously.

**Vote:** **REP. RANEY'S AMENDMENTS.** Motion carried unanimously.

**Motion/Vote:** **REP. RANEY** MOVED THAT HB 349 DO PASS AS AMENDED. Motion carried 13 to 4 with **REPS. WAGNER, REHBEIN, HANSON,** and **SLITER** voting no. **REP. JIM ELLIOTT** was absent for the vote.

#### EXECUTIVE ACTION ON SB 312

**Motion:** **REP. SLITER** MOVED THAT SB 312 BE CONCURRED IN.

#### Discussion:

**REP. REAM** distributed a copy of proposed amendments. The amendments provided clarification. The first two amendments made minor changes in the title. Amendment three made the language consistent that both agencies would work under a plan approved by the governor. Amendment four required that the Department of

Livestock also cooperate with FWP in regulating publicly-owned wild buffalo.

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Amendment five would allow FWP to adopt rules to implement public hunting if the approved plan included that option. **EXHIBIT 3**

**REP. REHBEIN** asked **REP. REAM** if he had consulted with **SEN. KEN MESAROS**, the sponsor of the bill, about the proposed amendments. **REP. REAM** said he had spoken with him and it did not appear that he approved of the amendments. **REP. HIBBARD** stated he had also spoken with **SEN. MESAROS** and agreed that the Senator was not enamored with the amendments. However, **SEN. MESAROS** offered to return to the committee to discuss the proposed amendments.

**REP. REHBEIN** asked **Dr. George Sheets**, Department of Livestock, about their position on the amendments. **Dr. Sheets** said the amendments would place the department "back to square one" before the legislation was proposed. They removed primacy from the Department of Livestock.

**REP. REAM** maintained that the amendments did not remove primacy. Section 1 clearly gave primacy to the Department of Livestock. The amendments only state that the Department of Livestock must also cooperate with FWP.

**REP. TASH** spoke in opposition to amendment five. The committee should support the governor in the pending lawsuit which would force responsibility on the U.S. Wildlife Service. He did not see a reason to add language that may conflict with the pending litigation.

**Motion:** **REP. SLITER** MOVED TO SEGREGATE AMENDMENT FIVE.

**Discussion:**

**REP. REAM** asked **Dr. Sheets** to explain how the amendments removed primacy from the Department of Livestock. **Dr. Sheets** explained that using the word "assist" made their department have primacy. However, using the word "cooperate" made the two departments equal and therefore neither would have primacy.

**REP. REAM** asked **Dr. Sheets** if he was referring to amendment four. **Dr. Sheets** said yes. It was a small point, but they considered it serious.

**REP. SWANSON** noted that the bill came to the House Fish and Game Committee with the word "assist" amended out. **Dr. Sheets** understood that "assist" was amended out. **REP. SWANSON** explained that amendments one through four were segregated under the contention that amendment five dealt with a different topic. According to the Department of Livestock, amendments one through

four put them back to "square one." The reason that occurred was because the word "cooperate" was used rather than the word "assist." SB 312 was presented to the committee with the word "assist" amended out. She asked **SEN. MESAROS** for clarification. **SEN. MESAROS** stated that amendment four was already addressed because both sections were interrelated.

**REP. SWANSON** stated that she did not believe it changed the bill's intent. She pointed out that the bill, as it was received from the Senate Fish and Game Committee, already had the word "assist" amended out. It was replaced with "cooperate with." Amendment four attempted to make the language consistent. **REP. SWANSON** asked **SEN. MESAROS** to explain his problem with the amendment. **SEN. MESAROS** said that the amendment was already addressed through sections in the bill. He did not believe the amendments were necessary. He agreed that amendment five addressed a different topic.

**REP. REAM** stated that he did not have "strong feelings" about amendment four. He was just attempting to create consistency in the language. **CHAIRMAN WAGNER** clarified that one of the departments needed primacy. It was not being given with the language used in amendment four. **REP. REAM** explained that he was trying to ensure that the departments would work together. Section 2 already stated that FWP must cooperate with the Department of Livestock in managing publicly-owned wild bison.

**REP. TASH** asked **John Bloomquist, Montana Stockgrowers**, if the amendments would be detrimental. **Mr. Bloomquist** stated that the amendments would return the Department of Livestock to its current state. The Animal and Plant Health Inspection Service (APHIS) would still be threatening to pull Montana's certification. Six states require brucellosis testing, and potentially it could soon increase to nine states. The purpose of SB 312 was to provide clear authority over handling the brucellosis problem within the state. The bill also clarified that FWP would be cooperating with the Department of Livestock in managing bison under a plan approved by the governor, applied pressure to the National Park Service (NPS), and addressed the issue of public hunting of disease-free bison.

**CHAIRMAN WAGNER** asked **Mr. Bloomquist** how the Department of Livestock planned to eradicate the disease and meet the demands of APHIS. **Mr. Bloomquist** stated that in his discussions with the state veterinarian, the proposed plan in SB 312 would please APHIS. The role of the state veterinarian would be to convince veterinarians in other states that Montana's plan was two-fold. Montana would control bison that come out of Yellowstone National Park and continue with the governor's lawsuit.

**CHAIRMAN WAGNER** asked **Mr. Bloomquist** what would be done differently than what is currently being done and asked if FWP was currently eradicating bison at the border. **Mr. Bloomquist** said buffalo were being eliminated as they cross park borders for



overpopulation reasons. As long as bison enter the state, the certification is threatened. It does not matter if the land is privately-owned, stated-owned, or owned by the federal government.

**REP. REAM** stated that Section 1 dealt with primacy. If the Department of Livestock felt strongly against amendment four, he would remove it. He stated, however, that there should be some mechanism that would require the Department of Livestock to at least consult with FWP. **REP. REAM** did not believe the amendments would remove primacy. He asked **Mr. Bloomquist** if they would feel better with "consult with" rather than "cooperate with." **Mr. Bloomquist** stated that they felt like they were "between a rock and a hard place" with the two federal agencies. The state agencies do not always see "eye to eye." **SEN. MESAROS** had gone to both state departments and made the bill acceptable to both departments. **Mr. Bloomquist** expressed much concern over primacy being removed from the Department of Livestock.

**REP. REAM** commented that if the two state agencies cannot cooperate, there should definitely be a plan approved by the governor.

**REP. TASH** expressed opposition to amendments one through four. Neither state agency expressed contentions or concerns during the hearing. The issue involved more than just hunting bison. It involved trying to preserve Montana's livestock industry. Approximately \$1 billion of business was generated by agriculture each year with about \$30 million being from livestock seed stock. Bison threaten the state's ability to transport out-of-state with a brucellosis-free status. The purpose of the bill as it was drafted should remain intact.

**REP. REAM** remarked that he carried the bill that ended bison hunting. He supported the livestock industry in opposing **REP. RED MENAHAN'S** bison hunting bill during this session. He viewed the proposed amendments as a compromise. He stated that he would not vote for the bill without the amendments. Public hunting of bison was an emotional issue. He proposed the amendments in good faith to allow a small opening for FWP to have authority to implement a hunt if a plan is approved by all concerned parties.

**REP. HIBBARD** agreed with **REP. REAM**. He acknowledged the threat that the bison posed to the livestock industry in Montana. It was inevitable that there would be a public bison hunt in the future. He stated that he did not feel threatened by amendments one through four. SB 312 was clear that the Department of Livestock had primacy.

**REP. TASH** said that good points were made. If public hunting took place, it should occur within the park and not in the state of Montana. Bison are overpopulated and have disease problems. Both departments appeared as proponents during the hearing on SB

312 and indicated they were willing to work together. He expressed opposition to the amendments.

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**REP. REHBEIN** spoke against the amendments. However, if the language in amendment four was changed to read "the Department of Fish, Wildlife and Parks will cooperate with the Department of Livestock," he would feel more comfortable supporting the amendments. The amendments confuse the issue of who has primacy.

**Vote:** **REP. REAM'S AMENDMENTS ONE THROUGH FOUR.** Motion failed 11 to 7 on a roll call vote with **REPS. WAGNER, SWANSON, ELLIOTT, HARPER, HIBBARD, RANEY,** and **REAM** voting yes.

**Discussion:**

**REP. REAM** explained that amendment five would allow FWP to adopt rules to implement public hunting if the approved plan included that option.

**REP. MOLNAR** asked why the language included "the department may adopt rules" rather than "the department shall adopt rules," if the plan approved by the governor included hunting. **REP. REAM** said that FWP would still need to go through the rulemaking process.

**REP. TASH** expressed opposition to the amendment. The language was already clear and specific as it was originally drafted.

**REP. MOLNAR** stated that the proposed language indicated FWP "may" adopt public hunting rules. Since the Department of Livestock has primacy, he asked what would happen if they did not want to have a public hunt. **REP. REAM** assumed that the Department of Livestock would participate in the process if the plan was approved by the governor.

**REP. MOLNAR** asked if the Department of Livestock has primacy, could they stand in the way of a public hunt. He also asked if the Department of Livestock had the legal authority to organize a public hunt. **REP. REAM** clarified that if the plan allowed hunting, FWP would have rulemaking authority to establish the hunt. **REP. MOLNAR** asked if this would give primacy to FWP. **REP. REAM** said FWP would only have primacy for public hunting. **REP. REHBEIN** spoke in opposition to the amendment. Including hunting mixed up the bill's intent. Hunting should be dealt with under a different bill.

**Vote:** **REP. REAM'S AMENDMENT FIVE.** Motion failed 12 to 6 on a roll call vote with **REPS. WAGNER, ELLIOTT, HARPER, MOLNAR, RANEY,** and **REAM** voting yes.

**Motion:** **REP. REAM MOVED THAT AMENDMENT THREE DO PASS.**

**Discussion:**

REP. REAM said that amendment three did not remove primacy. It made the Department of Livestock subject to a plan approved by the governor just as FWP was subject to a plan approved by the governor.

**Vote:** REP. REAM'S AMENDMENT THREE. Motion carried 12 to 6 with REPS. REHBEIN, TASH, PAVLOVICH, HANSON, FUCHS, and SLITER voting no.

**Motion:** REP. DEVANEY MOVED THAT SB 312 BE CONCURRED IN AS AMENDED.

**Discussion:**

CHAIRMAN WAGNER asked Bob Martinka, FWP, if the department had any proposals about public bison hunting in SB 312. Mr. Martinka said no consideration was given to proposing amendments.

**Motion:** CHAIRMAN WAGNER MOVED TO AMEND SB 312.

**Discussion:**

CHAIRMAN WAGNER asked Mr. Sternberg to explain the proposed amendments. Mr. Sternberg explained the amendments dictated that the Department of Livestock have authority for the control and management of bison on private lands for disease control and that FWP have management and primary authority for the care of bison on public lands for population control. The Department of Livestock would deal with infected bison on private land while FWP would manage the bison on public land for population control. Another subsection would be added allowing FWP to evaluate and identify potential locations for hunting on public lands north and west of the park for free-ranging bison that have migrated from the park. Management plans could be developed to maintain that herd and provide for public control actions through seasons approved by the Fish and Game Commission. The bison license would be set up similar to and commensurate with fees comparable to moose, mountain goat, and mountain sheep. Corresponding changes would be made in the title and in the Statement of Intent.

CHAIRMAN WAGNER stated that FWP and the park service could continue as backups and not allow any bison past the boundaries of public land. If Montana sportsmen could not harvest the bison, FWP would take care of them. As a result, the threat of livestock being exposed to disease would be eliminated. He believed the pressure would not be removed from the park service to control the bison for overpopulation and disease. The governor's lawsuit would not be affected. Instead of FWP killing bison somewhere outside of the park boundaries, Montana citizens would be allowed to be a part of the management plan.

**REP. TASH** expressed strong opposition to the amendments. The Department of Livestock personnel have pointed out that hunting needed to be controlled. They need to keep bison close to the park. In a public hunt, bison would be free-roaming and it would be difficult to determine where bison may end up being harvested. The purpose of SB 312 was to allow the governor to carry out a plan focusing on the primacy of the Department of Livestock. The plan that the governor is working on involved lobbying the President of the United States to take action. Hunting would take pressure off of the federal government. Bison would be scattered too far from the park and would pose an even greater threat regarding the spread of disease.

**REP. HIBBARD** asked **CHAIRMAN WAGNER** if his proposed amendments would not jeopardize Montana's status with APHIS. **CHAIRMAN WAGNER** said the amendments would not jeopardize the status any more than it is currently. The amendments would help take care of bison migrating from the park for the purposes of population control. He believed bison that can be caught, tested, and determined to be disease-free were under the jurisdiction of the Department of Livestock.

**REP. HIBBARD** understood that **CHAIRMAN WAGNER** believed if bison got onto public land, the public should be allowed to hunt bison on publicly-owned land; it would not jeopardize Montana's brucellosis-free status, and bison would be controlled as well as they are currently. **CHAIRMAN WAGNER** stated that they could be controlled more effectively. He did not believe it would jeopardize the brucellosis-free status anymore than it is currently.

**REP. HIBBARD** stated this is an important issue to the livestock industry in Montana. He felt the proposed amendments would seriously jeopardize Montana's brucellosis-free status, undermine the governor's efforts of negotiation, and remove the pressure from NPS. He expressed opposition to the amendments.

**REP. KNOX** stated the amendments would undermine the governor's effort to address the situation effectively. The only way to gain control of the situation is by controlling the problem within park boundaries. Anything that is done to alleviate the pressure on NPS to achieve that control is counterproductive and would be damaging to the livestock industry. The splitting of jurisdictional authority as proposed in the amendments is also counterproductive. He stated that he could not support the amendments.

**REP. RANEY** asked **Mr. Martinka** about his opinion regarding allowing citizens to help control bison at the border of the park. **Mr. Martinka** stated that it was a disease driven issue. Above all else, the brucellosis-free status must be maintained.

**REP. RANEY** asked **Mr. Martinka** if he knew if provisions for hunting were being proposed in the Interim Plan. **Mr. Martinka**

said it was one of the options being examined. However, in order for hunting to be a viable option, APHIS and surrounding states would have to change their rules and recognize that Montana has control of bison leaving the park.

REP. RANEY did not understand why citizens could not participate.

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If it was done around Eagle Creek on public land, citizens could help FWP control the bison. He asked **Mr. Martinka** to respond. **Mr. Martinka** explained that FWP tried to respond within 24 hours when cattle were threatened. The Department of Livestock provided this guideline. It would be very difficult to involve the public in this process under current regulations.

REP. MOLNAR understood the amendments would designate a split primacy. He asked **CHAIRMAN WAGNER** about the advantages of split primacy. **CHAIRMAN WAGNER** said that the advantage would be giving the Department of Livestock primacy in disease control and allowing hunters to harvest bison under the jurisdiction of FWP. Currently, there are no provisions in the Department of Livestock to hunt buffalo.

REP. HIBBARD stated that agricultural people feel that this is an extremely important and complex issue. The Department of Livestock needs to gain complete control of the situation and attempt to keep the thrust of the management within the park. REP. REAM's amendments were a positive measure in potentially providing a public hunt when that situation becomes feasible.

REP. RANEY said the people in urban Montana do not understand the issue as thoroughly as ranchers and agricultural people. He was concerned about mandates that may be proposed during the next legislature. Some people do not understand why they cannot participate. The people he represents want to participate in harvesting the bison.

REP. TASH remarked that he favored bison control, but it needed to be accomplished inside of the park. The disease factor did not only involve other animals, but people as well. There is a risk factor for hunters. Legislators should be educators. They should answer their constituent concerns to help them understand the threats that Montana is facing.

REP. REAM asked **Dr. Sheets** how the brucella bacteria was carried in bull bison. **Dr. Sheets** said it was usually carried in the testicles. REP. REAM asked if bull bison could infect cattle. **Dr. Sheets** said that it was originally believed that bull bison play a very small role in the transmittal of brucellosis. New evidence suggests that they are a bigger problem than what was originally believed.

REP. REAM asked about the mode of transmittal. Dr. Sheets said the mode of transmission was breeding. REP. REAM said that bull bison do not breed with cattle. The disease is spread to cattle through the female bison. Dr. Sheets said he was correct.

REP. REAM asked when the breeding season was for bison. Dr. Sheets said the breeding season was usually in July and August. REP. REAM asked where the bison from the northern Yellowstone herd were located in July and August. Dr. Sheets said they were scattered. REP. REAM commented that the bison were located in the park during the summer and that bull bison do not contaminate cattle.

REP. WELLS agreed with REP. RANEY's points. However, most people recognize the reasons why they cannot be involved. The concentration of the bill was on the disease issue. It should not be turned into a hunting bill. The issues would become more complex if hunting was added and the primacy jurisdictions split.

REP. REHBEIN believed that there was a problem with "who's to say what a diseased animal is." He asked if every animal would be assumed to have the disease and be shot by the Department of Livestock and if every animal that was on public land was acceptable to hunt. If the amendment passed, there may be a problem getting hunters to the location quickly enough to eliminate animals before they mingle with cattle. His desire was to have hunters participate with FWP. This may require everyone who bought a bison tag to be on 24 hour notice. He expressed objection to the amendments.

CHAIRMAN WAGNER stated that he had no desire to shoot a bison himself, but the people he represented wanted to be able to hunt bison again. As far as he was concerned, Montana does not have a brucellosis-free certification at this time. The public needs to be educated when handling elk or bison to wear gloves and avoid touching certain parts of the animals after they are harvested. In his amendments, FWP would be the backup behind hunters while they were harvesting bison at the border.

Motion/Vote: REP. SLITER MOVED THE PREVIOUS QUESTION. Motion carried unanimously.

Vote: CHAIRMAN WAGNER'S AMENDMENTS. Motion failed 14 to 4 with REPS. WAGNER, FUCHS, MOLNAR, and REAM voting yes.

Motion/Vote: REP. DEVANEY MOVED THAT SB 312 BE CONCURRED IN AS AMENDED. Motion carried 13 to 5 with REPS. WAGNER, KNOX, MOLNAR, PAVLOVICH, and REAM voting no.

EXECUTIVE ACTION ON SB 352

Motion: REP. MOLNAR MOVED THAT SB 352 BE CONCURRED IN.

Motion: REP. MOLNAR MOVED HIS AMENDMENTS DO PASS.

Discussion:

REP. MOLNAR distributed a copy of his proposed amendments. The amendments allowed hunting on public land located further than 20 miles from the park. Landowners would be allowed to shoot bison that get past hunters and enter onto private property. EXHIBIT 4

REP. TASH asked REP. MOLNAR if he had consulted with SEN. LORENTS GROSFIELD, the sponsor of the bill, regarding his proposed amendments. REP. MOLNAR said he did not. REP. TASH spoke against the amendments because they would "clutter" the bill and its intent.

REP. REAM asked for clarification regarding the amendments. REP. MOLNAR said he made a motion to move all of them.

REP. REAM understood the first amendment to mean that a landowner could not shoot a bison less than 20 miles away from the park. REP. MOLNAR explained that if bison move more than 20 miles from the park and there is a public hunt taking place, the rancher can shoot the bison getting past hunters.

REP. DEVANEY stated that the amendments provided an opportunity for public hunting. This will divert the brucellosis-free status endeavor. The original intent of the bill was for landowners to shoot a few bison if they come onto his land to get the bison to leave.

REP. MOLNAR stated that the definition of mental illness is "continuing to do something in the exact same way but expecting a different result." When the public "gunned" bison down in the park, there was no major concern over the state being brucellosis-free and losing that status. Since then, Montana has allowed the federal government to handle bison populations. The government has indicated that the state could not get the hunters in place in time if bison migrate. This was not a problem, however, during prior public hunting when hunters were given a 24-hour notice. Since there has been no public hunting of bison, brucellosis is a large problem. He stated that the committee was deluding themselves in continuing to believe that the governor must have authority to keep pressure on the park. He asked the committee "What pressure?" In reality, "the ranchers are looking to the Department of Livestock, sportsmen are looking to FWP, FWP is looking to the governor, the governor looks to NPS, and NPS is looking out the window."

REP. MOLNAR stated that Montana would never be allowed inside the park to control the bison. In the meantime, it is Montana's duty to protect the ranchers, thin the bison herd down, and stop the spread of brucellosis. It is the governor's responsibility to do the best he can in negotiations. He stated that "it is time to do what works and not what we wish would happen."

**Vote:** REP. MOLNAR AMENDMENTS. Motion failed 13 to 5 with REPS. WAGNER, FUCHS, MOLNAR, SLITER, and WELLS voting yes.

Discussion:

Mr. Sternberg handed out a copy of SEN. GROSFIELD's proposed amendments. The amendments were for clarification purposes. EXHIBIT 5

**Motion/Vote:** REP. REAM MOVED THAT SEN. GROSFIELD'S AMENDMENTS DO PASS. Motion carried unanimously.

Discussion:

Mr. Sternberg handed out a copy of FWP amendments. He stated that the amendments clarified that the Department of Livestock, and not FWP, should be notified when the landowner discovers wild bison on his property. The last amendment stated, "the landowner or agent makes a good faith effort to salvage the carcass or carcasses and to retain all parts for disposal by the Department of Livestock." EXHIBIT 6

**Motion:** REP. TASH MOVED THAT FWP AMENDMENTS DO PASS.

Discussion:

REP. REAM asked Mr. Sternberg about the amendments that were being made in the section that dealt with FWP. Mr. Sternberg explained the section that was prepared originally included only the first paragraph dealing with criminal liability. He suggested taking the language in the amendments and preparing a section to be placed in the Department of Livestock code contingent upon the final passage and approval of SB 312. SB 312 and SB 352 were considered companion bills. If SB 312 did not pass and FWP amendments were placed in SB 352, the amendment's language should not be in the bill because primacy would remain with FWP. Language could be included saying, "If SB 312 passes and includes an amendment that transfers primary authority for management of the species to the Department of Livestock that the language in subsection (2) would be codified as a separate section."

{Tape: 3; Side: b; Approx. Counter: 000; Comments: Lost 5 seconds.}

CHAIRMAN WAGNER asked about a potential conflict in the language mentioned by Greg Petesch. Mr. Sternberg said a conflict notice



was sent. **Mr. Petesch** observed that a section in SB 352 was being amended that was repealed in SB 312. **Mr. Sternberg** explained that he placed Section 3 in the bill with coordinating language. Consequently, there was no conflict between SB 352 and SB 312 regarding Section 2.

**CHAIRMAN WAGNER** stated that **Mr. Sternberg** would add the necessary language to "mesh" SB 352 and SB 312 together if both passed. He would also take care of language in the event only one bill passed.

**REP. KNOX** expressed support for the amendments.

Vote: FWP AMENDMENTS. Motion carried unanimously.

Motion/Vote: **REP. TASH** MOVED THAT SB 352 BE CONCURRED IN AS AMENDED. Motion carried 16 to 2 with **REPS. WAGNER** and **MOLNAR** voting no.

Discussion:

**REP. SLITER** spoke about a bill during the last session that took 25% of the boat fee in lieu of tax fund and allocated it for the improvement of boating facilities. That bill from last session had a termination date on it. The bill to remove the termination date was killed in the Senate Local Government Committee during this session. In discussions with FWP and counties, another alternative was contemplated. He asked the committee for permission to draft a committee revenue bill to address the termination date and use some of the funds as matching funds with Coast Guard money. This would make additional money available for water safety enforcement.

**REP. RANEY** asked if the proposed bill could be reviewed since a similar one was heard in the Senate. **Mr. Sternberg** said if the bill was identical, it could not be heard. However, if the bill contains other provisions, the committee could suggest that it be drafted.

**REP. DAN FUCHS** asked **REP. SLITER** if the bill was related to the personal watercraft bill heard earlier in the committee. **REP. SLITER** said his bill would deal with general enforcement of water safety. The bill would also include a provision to revise the list of the primitive parks.

**CHAIRMAN WAGNER** reminded the committee about hearing deadlines.

**REP. SLITER** stated that he had spoken with leadership, and they supported his idea.

**REP. REHBEIN** asked **REP. SLITER** why he felt his bill would have a chance to pass when the similar one in the Senate failed. If the bill passed in the House, it would still need to be reviewed in the Senate. **REP. SLITER** stated that there was one county who

appeared as an opponent in the Senate. That killed the bill. In his county, the program worked well. All counties, with the exception of Lake County, favored the bill.

The committee discussed bill deadlines and potential times when the bill could be heard.

REP. MOLNAR asked why the Senate could not resurrect the bill.

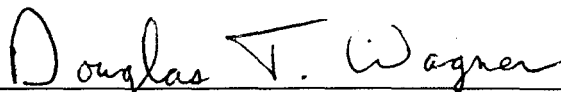
REP. SLITER said the bill did not make the transmittal date.

Mr. Sternberg stated that it sounded as if the proposed bill was actually two separate bills. The two topics involved changing primitive parks and reappropriating a portion of motorboat taxes to promote water safety.

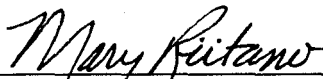
Motion/Vote: REP. SLITER MOVED TO DRAFT A COMMITTEE REVENUE BILL. Motion carried unanimously.

ADJOURNMENT

Adjournment: 6:53 p.m.



REP. DOUG WAGNER, Chairman



MARY RIITANO, Secretary

DW/mr

# HOUSE OF REPRESENTATIVES

## Fish and Game

ROLL CALL

DATE March 14, 1995

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



## HOUSE STANDING COMMITTEE REPORT

March 15, 1995

Page 1 of 5

Mr. Speaker: We, the committee on Fish and Game report that House Bill 349 (first reading copy -- white) do pass as amended.

Signed: Douglas T. Wagner  
Doug Wagner, Chair

And, that such amendments read:

1. Title, line 5.  
Strike: "BY REQUIRING"  
Insert: "THROUGH VOLUNTARY"
2. Title, lines 7 and 8.  
Following: "STATE" on line 7  
Strike: "AND" through "FEDERAL" on line 8
3. Title, line 8.  
Following: "PROGRAM;"  
Insert: "AUTHORIZING THE GOVERNOR TO APPOINT A FUTURE FISHERIES  
REVIEW PANEL AND ESTABLISHING THE DUTIES OF THE PANEL;"
4. Title, line 12.  
Strike: "BUDGET"  
Insert: "EXPENSES"  
Following: "PROVIDING"  
Strike: "AN"  
Following: "EFFECTIVE"  
Strike: "DATE"  
Insert: "DATES AND TERMINATION DATES"
5. Page 1, line 16.  
Following: "loss of"  
Insert: "historic"  
Following: "habitats"

Committee Vote:

Yes 13, No 4.  
1 ABSENT FOR VOTE

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Insert: "of native fish species"

6. Page 1, lines 21 through 23.

Strike: lines 21 through 23 in their entirety

7. Page 1, line 24.

Insert: "WHEREAS, a wild fisheries enhancement program will  
immensely benefit landowner-sportsperson relations; and  
WHEREAS, a wild fisheries enhancement program will benefit  
Montana's economy; and

WHEREAS, it is fiscally sound state policy to enhance  
natural habitats and spawning areas to improve fishing  
opportunities now and preserve fishing opportunities for future  
generations; and

WHEREAS, voluntary cooperation between landowners,  
interested citizens, public and private organizations, and the  
Department of Fish, Wildlife, and Parks will help accomplish the  
purposes of the future fisheries improvement program."

8. Page 1, lines 29 and 30.

Following: "establish" on line 29

Insert: "and implement"

Following: "a" on line 29

Insert: "statewide voluntary"

Following: "program that" on line 29

Strike: "ensures that functioning"

Insert: "promotes fishery habitats and"

Following: "spawning" on line 29

Strike: remainder of line 29 through "miles" on line 30

Insert: "areas for the rivers, streams, and lakes"

9. Page 1, line 30.

Following: "Montana's"

Strike: "cold water"

10. Page 2, lines 1 through 13.

Following: "(2)" on line 1

Strike: remainder of line 1 through "administration." on line 13

Insert: "The department shall by April 1, 1996, and thereafter  
when projects are suggested by the future fisheries review  
panel, through a public hearing process and with the  
approval of the commission, prioritize projects that have  
been recommended by the review panel to be funded. Emphasis  
must be given to projects that enhance the historic habitat  
of native fish species. The department shall fund and  
implement the program regarding the long-term enhancement of  
streams and streambanks, instream flows, water leasing,  
lease or purchase of stored water, and other voluntary

programs that deal with wild fish and aquatic habitats. A project conducted under the future fisheries improvement program may not restrict or interfere with the exercise of any water rights or property rights of the owners of streambeds and property adjacent to streambeds, streambanks, and lakes. The fact that a program project has been completed on private property does not create any right of public access to the private property unless that right is granted voluntarily by the property owner.

(3) The department shall work in cooperation with private landowners, conservation districts, irrigation districts, local officials, anglers, and other citizens to implement the future fisheries improvement program. Any department employee who is employed under this section to facilitate contact with landowners must have experience in commercial or irrigated agriculture. The department shall encourage the use of volunteer labor and grants, matching grants, and private donations to accomplish program purposes. The department may use contracted services:

(a) for negotiations with landowners, local officials, citizens, and others;

(b) for coordination with other agencies that may be involved in projects conducted under this section; and

(c) to perform and supervise project work.

(4) Funds expended under this section may be used only for projects for the protection of the fisheries resource that have been identified by the review panel established in [section 2] and approved by the commission and may not be used for the acquisition of any interest in land."

Renumber: subsequent subsection

11. Page 2, line 15.

Strike: "6"

Insert: "12"

12. Page 2, line 17.

Following: "also"

Insert: "present a detailed"

13. Page 2, line 18.

Following: "department's"

Insert: "program activities and expenses since the last report and the"

Following: "project"

Strike: "schedule"

Insert: "schedules"

14. Page 2, line 19.

Following: "and"

Strike: "budget schedule"

Insert: "anticipated expenses"

15. Page 2, line 20.

Insert: "(c) In order to implement [sections 1 and 2], the department may expend revenue from the future fisheries improvement program for up to two additional full-time employees.

NEW SECTION. Section 2. Future fisheries review panel -- purpose -- appointment and duties. (1) The governor shall call for nominees for, accept and review recommendations for, and, by August 1, 1995, appoint a future fisheries review panel. The panel must consist of at least 10 members, including but not limited to:

(a) one member who is a representative of conservation districts;

(b) one member with expertise in commercial agriculture or silviculture;

(c) one member with expertise in irrigated agriculture;

(d) one member from the private sector who is a fisheries restoration professional;

(e) two members who are licensed Montana anglers;

(f) one member of the house of representatives, chosen by the speaker of the house;

(g) one member of the senate, chosen by the president of the senate;

(h) one member who is a representative of the governor's office; and

(i) one member who is a Montana high school student.

(2) A member appointed to the review panel shall serve a 2-year term and may be reappointed.

(3) The purpose of the review panel is to:

(a) review, at least every 6 months, proposed projects that have been submitted by public or private entities for funding;

(b) determine what projects are eligible for inclusion in the future fisheries improvement program;

(c) approve or reject proposed projects; and

(d) forward a list of approved projects to the department.

(4) To be eligible for funding, a project must be generated at the local level and must be developed and presented to the review panel by the department, local landowners, conservation districts, or other interested citizens. Before consideration of any project that involves streambed or streambank restoration, a change in the use of water, or any other purpose that affects



a particular property owner's interest in land or water, the review panel is required to find that the project is being proposed for funding with the voluntary approval of the participating property owner.

NEW SECTION. **Section 3. Funding of future fisheries program.** The following amounts must be expended by the department to enhance future fisheries, as directed by [section 1]:

- (1) \$290,000 redirected from the river restoration program;
- (2) \$1.5 million redirected from the Blue Water hatchery phase II project for the 1996-97 biennium; and
- (3) \$510,000 redirected from the Tongue River restoration project, to be used in the Tongue River basin for the purposes of [section 1]."

Renumber: subsequent sections

16. Page 2, line 21.

Strike: "Section 1"

Insert: "Sections 1 and 2"

Strike: "is"

Insert: "are"

17. Page 2, line 23.

Strike: "section 1"

Insert: "sections 1 and 2"

18. Page 2, line 24.

Insert: " NEW SECTION. **Section 5. Termination.** (1) [Sections 1 and 2] terminate July 1, 2005.

(2) [Section 3] terminates July 1, 1997."

Renumber: subsequent section

19. Page 2, line 25.

Strike: "date."

Insert: "dates. (1)"

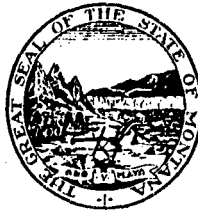
Strike: "This act"

Insert: "Section 3"

Following: "1995."

Insert: "(2) [Sections 1, 2, 4, and 5 and this section] are effective on passage and approval."

-END-



## HOUSE STANDING COMMITTEE REPORT

March 15, 1995

Page 1 of 2

Mr. Speaker: We, the committee on Fish and Game report that Senate Bill 352 (third reading copy -- blue) be concurred in as amended.

Signed: Douglas T. Wagner  
Doug Wagner, Chair

Carried by: Rep. Anderson

And, that such amendments read:

1. Title, line 5.

Following: "A"

Insert: "PUBLICLY OWNED"

2. Page 1, line 17.

Strike: "PUBLIC"

Insert: "publicly owned"

3. Page 1, line 24.

Following: "taking of a"

Insert: "publicly owned"

4. Page 1, line 28.

Following: "trespassing"

Insert: "publicly owned"

5. Page 3, line 4.

Following: "instruction"

Insert: "-- contingent codification"

Following: third "."

Insert: "(1)"

6. Page 3, line 6.

Insert: "(2) (a) If Senate Bill No. 312 is passed and approved and

Committee Vote:

Yes 16, No 2

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if it transfers to the department of livestock primary management of publicly owned wild buffalo or bison that enter Montana on private or public land, then [section 1 of this act] is void and a new section is enacted to read:

**"Taking of publicly owned wild buffalo or bison that are present on private property -- notice -- supplemental feeding -- penalty.** (1) This chapter may not be construed to impose, by implication or otherwise, criminal liability on a landowner or the agent of a landowner for the taking of a publicly owned wild buffalo or bison that is suspected of carrying disease and that is present on the landowner's private property and is potentially associating with or otherwise threatening the landowner's livestock if:

(a) the landowner or agent notifies or makes a good faith effort to notify the department in order to allow as much time as practicable for the department to first take or remove the publicly owned wild buffalo or bison that is present on the landowner's property;

(b) the landowner or agent makes a good faith effort to salvage the carcass or carcasses and to retain all parts for disposal by the department; and

(c) the landowner or agent is not in violation of subsection (2).

(2) A person may not intentionally provide supplemental feed to game animals in a manner that results in artificial concentration of game animals that may potentially contribute to the transmission of disease. A person who violates this subsection is guilty of a misdemeanor and is subject to the penalty provided in 87-1-102(1)."

(b) The code commissioner is instructed to codify the new section in Title 81, chapter 2, part 1, and the provisions of Title 81, chapter 2, part 1, apply to the new section."

-END-



## HOUSE STANDING COMMITTEE REPORT

March 15, 1995

Page 1 of 1

Mr. Speaker: We, the committee on Fish and Game report that Senate Bill 312 (third reading copy -- blue) be concurred in as amended.

Signed: Douglas T. Wagner  
Doug Wagner, Chair

Carried by: Rep. Anderson

And, that such amendments read:

1. Page 2, line 6.

Following: "~~take~~"

Insert: ", under a plan approved by the governor,"

-END-

Committee Vote:  
Yes 13, No 5.

601231SC.Hbk

# HOUSE OF REPRESENTATIVES

## ROLL CALL VOTE

### Fish and Game Committee

DATE MARCH 14, 1995 BILL NO. <sup>SB</sup>312 NUMBER 1

MOTION: DO PASS AMENDMENTS 1-4 (REAM)

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

# HOUSE OF REPRESENTATIVES

## ROLL CALL VOTE

### Fish and Game Committee

DATE MARCH 14, 1995 BILL NO. SB 312 NUMBER 2

MOTION: #5 REAM AMENDMENT

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

✓ 2



*The Big Sky Country*

MONTANA HOUSE OF REPRESENTATIVES

3/14

Mr. Chairman,

Rep. Roney will cast  
my vote in House F+6  
with your consent. I must  
attend a funeral in Great  
Falls.

Hayes

3/14/95

SB 352

I vote yes on the bill

I vote with Bill Rehbein on  
any & all amendments.

Marian Hanson

SB 312

I vote yes on the bill

I vote No on the Wagner amendment  
and with Rehbein on all other amendments.

Marian Hanson





~~SB-349~~

~~Yes on Amendment~~

~~Yes on Bill~~

SB-312 - YES PROS

No on Amendment

+ No on Bill

---

SB-352 - PROS FIELD

Yes on AMENDMENT

MARCH 7<sup>th</sup> F.W.D.

+  
Yes on Bill

---

Parlovich

(WITH SUBCOMMITTEE REVISIONS OF 3/6, 3/8 & 3/9)

HB0349.01

House Bill No. 349

Introduced By

---

A Bill for an Act entitled: "An Act creating the future fisheries improvement program; providing for the protection and enhancement of Montana fisheries ~~by requiring~~ THROUGH VOLUNTARY enhancement of spawning streams and other habitats for the natural reproduction of fish and growth of populations of wild fish; directing a portion of state ~~and federal~~ fisheries money to fund the future fisheries improvement program; AUTHORIZING THE GOVERNOR TO APPOINT A FUTURE FISHERIES REVIEW PANEL AND ESTABLISHING THE DUTIES OF THE PANEL; directing the department of fish, wildlife, and parks to establish and administer the program; requiring the department to submit regular program progress reports to the fish, wildlife, and parks commission and to submit a progress report and the anticipated ~~budget~~ expenses and related projections to the legislature; and providing an effective date DATES AND TERMINATION DATES."

WHEREAS, the rivers and streams of Montana hold one of the state's most important and economically valuable resources--wild fish; and

WHEREAS, the loss of historic spawning areas and other crucial habitats of native fish species is one of the greatest

threats to the natural reproduction and propagation of the fish resource; and

WHEREAS, the state is presently in a position to address the key issue of these aquatic habitats in order to promote the future viability of Montana's wild fisheries before the continued loss of spawning areas and other habitats diminishes or destroys the resource; and

~~WHEREAS, it is a fiscally sound state policy to develop natural spawning areas and other habitats in anticipation of being able to reduce future funding that would otherwise be necessary to cover the ever increasing costs of the fish hatchery program.~~

WHEREAS, a wild fisheries enhancement program will immensely benefit landowner-sportsperson relations; and

WHEREAS, a wild fisheries enhancement program will benefit Montana's economy; and

WHEREAS, it is fiscally sound state policy to enhance natural habitats and spawning areas to improve fishing opportunities now and preserve fishing opportunities for future generations; and

WHEREAS, voluntary cooperation between landowners, interested citizens, public and private organizations, and the department of fish, wildlife, and parks will help accomplish the purposes of the future fisheries improvement program.

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

NEW SECTION.    **Section 1. Future fisheries improvement program -- funding priority -- reports required.**    (1) In order to

enhance future fisheries through natural reproduction, the department shall establish and implement a statewide voluntary program that ensures that functioning promotes fishery habitats and spawning tributaries are available for each 10 river miles and each 10 stream miles areas for the rivers, streams, and lakes of Montana's cold water fisheries.

(2) The department shall by April 1, 1996, and thereafter when projects are suggested by the future fisheries review panel, through a public hearing process and with the approval of the commission, prioritize projects that have been recommended by the review panel to be funded. Emphasis must be given to projects that enhance the historic habitat of native fish species. The department shall fund and implement the program regarding the long-term enhancement of streams and streambanks, instream flows, water leasing, lease or purchase of stored water, and other voluntary programs that deal with wild fish and aquatic habitats. A project conducted under the future fisheries improvement program may not restrict or interfere with the exercise of any water rights or property rights of the owners of streambeds and property adjacent to streambeds, streambanks, and lakes. The fact that a program project has been completed on private property does not create any right of public access to the private property unless that right is granted voluntarily by the property owner.

(3) The department shall work in cooperation with private landowners, conservation districts, irrigation districts, local officials, anglers, and other citizens to implement the future fisheries improvement program. Any department employee who is employed under this section to facilitate contact with landowners

must have experience in commercial or irrigated agriculture. The department shall encourage the use of volunteer labor and grants, matching grants, and private donations to accomplish program purposes. The department may use contracted services:

(a) for negotiations with landowners, local officials, citizens, and others;

(b) for coordination with other agencies that may be involved in projects conducted under this section; and

(c) to perform and supervise project work.

~~The following amounts must be expended by the department to enhance future fisheries, as directed by subsection (1), until the required number of spawning streams or other identified key habitats are established and enhanced:~~

~~(a) not less than 50% of the amount in the state special revenue fund in 87-1-601 composed of fishing license fees;~~

~~(b) not less than 50% of federal funds allocated to the state for the conservation of fish;~~

~~(c) not less than 50% of the funds in the river restoration account; and~~

~~(d) not less than 50% of any other funds allocated to the department for the conservation of fish, which funds are not statutorily mandated for other purposes.~~

~~(3) The department shall prioritize its efforts regarding the enhancement of streams and streambanks, instream flows, water leasing and purchase, fish hatcheries, and other programs that deal with wild fish and aquatic habitats to ensure that the future fisheries improvement program established in this section receives full funding and prioritized department administration.~~

(4) Funds expended under this section must be used only for

EXHIBIT 1  
DATE 3-14-95  
HB 349

projects for the protection of the fisheries resource that have been identified by the review panel established in [section 2] and approved by the commission and may not be used for the acquisition of any interest in land.

(4) (5) (a) The department shall report to the commission on the progress of the future fisheries improvement program every 6 12 months and post a copy of the report on the state electronic bulletin board to ensure public access to the report.

(b) The department shall also present a detailed report to each regular session of the legislature on the progress of the future fisheries improvement program. The legislative report must include the department's program activities and expenses since the last report and the project schedule schedules and budget schedule anticipated expenses for the ensuing 10 years' implementation of the future fisheries improvement program.

(c) In order to implement [sections 1 and 2], the department may expend revenue from the future fisheries improvement program for up to two additional full-time employees.

NEW SECTION. Section 2. Future fisheries review panel -- purpose -- appointment and duties. (1) The governor shall call for nominees for, accept and review recommendations for, and, by August 1, 1995, appoint a future fisheries review panel. The panel must consist of at least 10 members, including but not limited to:

(a) one member who is a representative of conservation districts;

(b) one member with expertise in commercial agriculture or silviculture;

- (c) one member with expertise in irrigated agriculture;
- (d) one member from the private sector who is a fisheries restoration professional;
- (e) two members who are licensed Montana anglers;
- (f) one member of the house of representatives, chosen by the speaker of the house;
- (g) one member of the senate, chosen by the president of the senate;
- (h) one member who is a representative of the governor's office; and
- (i) one member who is a Montana high school student.

(2) A member appointed to the review panel shall serve a 2-year term and may be reappointed.

(3) The purpose of the review panel is to:

(a) review, at least every 6 months, proposed projects that have been submitted by public or private entities for funding;

(b) determine what projects are eligible for inclusion in the future fisheries improvement program;

(c) approve or reject proposed projects; and

(d) forward a list of approved projects to the department.

(4) To be eligible for funding, a project must be generated at the local level and must be developed and presented to the review panel by the department, local landowners, conservation districts, or other interested citizens. Before consideration of any project that involves streambed or streambank restoration, a change in the use of water, or any other purpose that involves a particular property owner's interest in land or water, the review panel must find that the project is being proposed for funding with the voluntary approval of the participating property owner.

NEW SECTION.    **Section 3. Funding of future fisheries**

**program.** The following amounts must be expended by the department to enhance future fisheries, as directed by [section 1]:

- (1) \$290,000 redirected from the river restoration program;
- (2) \$1.5 million redirected from the Blue Water hatchery phase II project for the 1996-97 biennium; and
- (3) \$510,000 redirected from the Tongue River restoration project, to be used in the Tongue River basin for the purposes of [section 1].

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NEW SECTION.    **Section 3. Codification instruction.**

[~~Section 1~~ Sections 1 and 2] ~~is~~ are intended to be codified as an integral part of Title 87, chapter 1, part 2, and the provisions of Title 87, chapter 1, part 2, apply to [~~section 1~~ sections 1 and 2].

NEW SECTION.    **Section 4. Termination.** (1) [Sections 1 and 2] terminate July 1, 2005.

- (2) [Section 3] terminates July 1, 1997.

NEW SECTION.    **Section 5. Effective ~~date~~ dates.** (1) [~~This act~~ Section 3] is effective July 1, 1995.

(2) [Sections 1 and 2, 4, and this section] are effective on passage and approval.

-END-



Amendments to House Bill No. 349  
Introduced Reading Copy

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

Prepared by Doug Sternberg, Legislative Council  
March 8, 1995

1. Title, line 5.  
Strike: "BY REQUIRING"  
Insert: "THROUGH VOLUNTARY"
2. Title, lines 7 and 8.  
Following: "STATE" on line 7  
Strike: "AND" through "FEDERAL" on line 8
3. Title, line 8.  
Following: "PROGRAM;"  
Insert: "AUTHORIZING THE GOVERNOR TO APPOINT A FUTURE FISHERIES  
REVIEW PANEL AND ESTABLISHING THE DUTIES OF THE PANEL;"
4. Title, line 12.  
Strike: "BUDGET"  
Insert: "EXPENSES"  
Following: "PROVIDING"  
Strike: "AN"  
Following: "EFFECTIVE"  
Strike: "DATE"  
Insert: "DATES AND TERMINATION DATES"
5. Page 1, line 16.  
Following: "loss of"  
Insert: "historic"  
Following: "habitats"  
Insert: "of native fish species"
6. Page 1, lines 21 through 23.  
Strike: lines 21 through 23 in their entirety
7. Page 1, line 24.  
Insert: "WHEREAS, a wild fisheries enhancement program will  
immensely benefit landowner-sportsperson relations; and  
WHEREAS, a wild fisheries enhancement program will benefit  
Montana's economy; and  
WHEREAS, it is fiscally sound state policy to enhance  
natural habitats and spawning areas to improve fishing  
opportunities now and preserve fishing opportunities for future  
generations; and  
WHEREAS, voluntary cooperation between landowners,  
interested citizens, public and private organizations, and the  
Department of Fish, Wildlife, and Parks will help accomplish the  
purposes of the future fisheries improvement program."
8. Page 1, lines 29 and 30.

Following: "establish" on line 29  
Insert: "and implement"  
Following: "a" on line 29  
Insert: "statewide voluntary"  
Following: "program that" on line 29  
Strike: "ensures that functioning"  
Insert: "promotes fishery habitats and"  
Following: "spawning" on line 29  
Strike: remainder of line 29 through "miles" on line 30  
Insert: "areas for the rivers, streams, and lakes"

9. Page 1, line 30.  
Following: "Montana's"  
Strike: "cold water"

10. Page 2, lines 1 through 13.  
Following: "(2)" on line 1  
Strike: remainder of line 1 through "administration." on line 13  
Insert: "The department shall by April 1, 1996, and thereafter when projects are suggested by the future fisheries review panel, through a public hearing process and with the approval of the commission, prioritize projects that have been recommended by the review panel to be funded. Emphasis must be given to projects that enhance the historic habitat of native fish species. The department shall fund and implement the program regarding the long-term enhancement of streams and streambanks, instream flows, water leasing, lease or purchase of stored water, and other voluntary programs that deal with wild fish and aquatic habitats. A project conducted under the future fisheries improvement program may not restrict or interfere with the exercise of any water rights or property rights of the owners of streambeds and property adjacent to streambeds, streambanks, and lakes. The fact that a program project has been completed on private property does not create any right of public access to the private property unless that right is granted voluntarily by the property owner."

(3) The department shall work in cooperation with private landowners, conservation districts, irrigation districts, local officials, anglers, and other citizens to implement the future fisheries improvement program. Any department employee who is employed under this section to facilitate contact with landowners must have experience in commercial or irrigated agriculture. The department shall encourage the use of volunteer labor and grants, matching grants, and private donations to accomplish program purposes. The department may use contracted services:

(a) for negotiations with landowners, local officials, citizens, and others;

(b) for coordination with other agencies that may be involved in projects conducted under this section; and

(c) to perform and supervise project work.

(4) Funds expended under this section may be used only for projects for the protection of the fisheries resource that have been identified by the review panel established in

[section 2] and approved by the commission and may not be used for the acquisition of any interest in land."

Renumber: subsequent subsection

11. Page 2, line 15.

Strike: "6"

Insert: "12"

12. Page 2, line 17.

Following: "also"

Insert: "present a detailed"

13. Page 2, line 18.

Following: "department's"

Insert: "program activities and expenses since the last report and the"

Following: "project"

Strike: "schedule"

Insert: "schedules"

14. Page 2, line 19.

Following: "and"

Strike: "budget schedule"

Insert: "anticipated expenses"

15. Page 2, line 20.

Insert: "(c) In order to implement [sections 1 and 2], the department may expend revenue from the future fisheries improvement program for up to two additional full-time employees.

NEW SECTION. Section 2. Future fisheries review panel -- purpose -- appointment and duties. (1) The governor shall call for nominees for, accept and review recommendations for, and, by August 1, 1995, appoint a future fisheries review panel. The panel must consist of at least 10 members, including but not limited to:

(a) one member who is a representative of conservation districts;

(b) one member with expertise in commercial agriculture or silviculture;

(c) one member with expertise in irrigated agriculture;

(d) one member from the private sector who is a fisheries restoration professional;

(e) two members who are licensed Montana anglers;

(f) one member of the house of representatives, chosen by the speaker of the house;

(g) one member of the senate, chosen by the president of the senate;

(h) one member who is a representative of the governor's office; and

(i) one member who is a Montana high school student.

(2) A member appointed to the review panel shall serve a 2-year term and may be reappointed.

(3) The purpose of the review panel is to:

(a) review, at least every 6 months, proposed projects

that have been submitted by public or private entities for funding;

(b) determine what projects are eligible for inclusion in the future fisheries improvement program;

(c) approve or reject proposed projects; and

(d) forward a list of approved projects to the department.

(4) To be eligible for funding, a project must be generated at the local level and must be developed and presented to the review panel by the department, local landowners, conservation districts, or other interested citizens. Before consideration of any project that involves streambed or streambank restoration, a change in the use of water, or any other purpose that affects a particular property owner's interest in land or water, the review panel is required to find that the project is being proposed for funding with the voluntary approval of the participating property owner.

**NEW SECTION. Section 3. Funding of future fisheries program.** The following amounts must be expended by the department to enhance future fisheries, as directed by [section 1]:

- (1) \$290,000 redirected from the river restoration program;
- (2) \$1.5 million redirected from the Blue Water hatchery phase II project for the 1996-97 biennium; and
- (3) \$510,000 redirected from the Tongue River restoration project, to be used in the Tongue River basin for the purposes of [section 1]."

Renumber: subsequent sections

16. Page 2, line 21.

Strike: "Section 1"

Insert: "Sections 1 and 2"

Strike: "is"

Insert: "are"

17. Page 2, line 23.

Strike: "section 1"

Insert: "sections 1 and 2"

18. Page 2, line 24.

Insert: " **NEW SECTION. Section 5. Termination.** (1) [Sections 1 and 2] terminate July 1, 2005.

(2) [Section 3] terminates July 1, 1997."

Renumber: subsequent section

19. Page 2, line 25.

Strike: "date."

Insert: "dates. (1)"

Strike: "This act"

Insert: "Section 3"

Following: "1995."

Insert: "(2) [Sections 1, 2, 4, and 5 and this section] are effective on passage and approval."

Amendments to Senate Bill No. 312  
Third Reading Copy

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

Prepared by Doug Sternberg  
March 8, 1995

1. Title, line 7.  
Following: "PARKS"  
Strike: "TO"  
Insert: "AND"  
Following: "~~ASSIST~~"  
Strike: "COOPERATE WITH"

2. Title, line 8.  
Following: "LIVESTOCK"  
Insert: "TO COOPERATE"

3. Page 2, line 6.  
Following: "~~take~~"  
Insert: ", under a plan approved by the governor,"

4. Page 2, line 14.  
Following: "euthanasia."  
Insert: "(c) The department shall cooperate with the department of fish, wildlife, and parks in regulating publicly owned wild buffalo or bison that pose a threat to persons or livestock in Montana through the transmission of contagious disease."

5. Page 3, line 22.  
Following: "GOVERNOR."  
Insert: "If the approved plan includes an option for public hunting of wild buffalo or bison on public lands to help control populations, the department may adopt rules to implement that public hunting option."

Amendments to Senate Bill No. 352  
Third Reading Copy

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

Prepared by Doug Sternberg  
March 14, 1995

1. Page 1, line 27.

Following: "(a)"

Insert: "the wild buffalo or bison is more than 20 miles from the  
boundary of Yellowstone national park;

(b) the taking occurs during the time that a public hunt of  
wild buffalo or bison is being conducted;"

(c)

Renumber: subsequent subsection

2. Page 1, line 28.

Following: "first"

Insert: "provide an opportunity for the taking of the wild  
buffalo or bison by means of a public hunt or to otherwise"

3. Page 2, line 8.

Following: "is"

Strike: "not"

Following: "appropriate"

Strike: "but"

Insert: "and"

4. Page 2, line 17.

Following: "park."

Insert: "The rules may include a public hunt as a means of  
management."

5. Page 3, line 4.

Following: "If"

Insert: "either"

Following: "312"

Insert: "or House Bill No. 262"

EXHIBIT 5  
DATE MARCH 14, 1995  
SB 352

PROPOSED AMENDMENTS  
TO SENATE BILL No. 352

Presented to House Fish and Game Committee  
March 7, 1995

1. Page 1, Line 17.  
Following: "taking of ~~trespassing~~"  
Strike: "PUBLIC"  
Insert: "publicly owned"
2. Page 1, Line 24.  
Following: "taking of a"  
Insert: "publicly owned"
3. Page 1, Line 28.  
Following: "remove the ~~trespassing~~"  
Insert: "publicly owned"

GROSFELD

EXHIBIT 6  
DATE MARCH 14, 1995  
SB 352

Amendments to Senate Bill No. 352  
Third Reading Copy

Proposed by Department of FWP  
For the Committee on Fish & Game

Prepared by Doug Sternberg  
March 14, 1995

1. Page 1, line 25.  
Following: "property"  
Insert: "and is potentially associating with"
2. Page 1, line 27.  
Following: "department"  
Insert: "of livestock"
3. Page 1, line 28.  
Following: "department"  
Insert: "of livestock"
4. Page 1, line 29.  
Strike: "and"
5. Page 1, line 30.  
Following: "(b)"  
Insert: "the landowner or agent makes a good faith effort to  
salvage the carcass or carcasses and to retain all parts for  
disposal by the department of livestock; and"  
Renumber: subsequent subsection