

MINUTES

MONTANA SENATE 54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON FISH & GAME

Call to Order: By **CHAIRMAN KEN MESAROS**, on March 16, 1995, at
3:00 p.m.

ROLL CALL

Members Present:

Sen. Kenneth "Ken" Mesaros, Chairman (R)
Sen. Al Bishop, Vice Chairman (R)
Sen. Bruce D. Crippen (R)
Sen. William S. Crismore (R)
Sen. John R. Hertel (R)
Sen. Ken Miller (R)
Sen. Mike Sprague (R)
Sen. Gary Forrester (D)
Sen. Judy H. Jacobson (D)
Sen. Terry Klampe (D)
Sen. Bob Pipinich (D)

Members Excused: None

Members Absent: None

Staff Present: Andrea Merrill, Legislative Council
Serena Andrew, Committee Secretary

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

Committee Business Summary:

Hearing: Discussion on HB 195, HB 196
Executive Action: HB 196

{Tape: 1; Side: A}

CHAIRMAN KEN MESAROS, SD #25, CASCADE, said **SENATOR GROSFIELD** had asked to address the committee.

SENATOR LORENTS GROSFIELD, SD #13, BIG TIMBER, said he had appeared as an opponent at the March 9 hearing on HB 195. He later discovered his cousin appeared at the top of the list of landowner sponsors. Some of his neighbors were also high on the list. He felt he should not have appeared at the hearing and asked the committee to disregard his testimony on HB 195.

SENATOR GROSFIELD stated that he also had some comments on HB 122, currently tabled by the committee. HB 122 was REPRESENTATIVE RANEY'S bill directing the Department of Fish, Wildlife & Parks (DFWP) to initiate a public process on development of fishing access sites and state parks. The bill was drafted because of the development at Dailey Lake.

The committee tabled the bill because it was awkwardly written. REPRESENTATIVE RANEY had asked SENATOR GROSFIELD to look at the bill, and he had done that and offered amendments. He asked that HB 122 be removed from the table because the amendments take a different approach. SENATOR GROSFIELD offered to carry the bill on the floor if it were taken from the table.

EXECUTIVE ACTION ON HB 196

SENATOR BRUCE CRIPPEN, SD #10, BILLINGS, asked if there were any proposed amendments to HB 196. ANDREA MERRILL, Legislative Council Staff, responded that there weren't; any coordination necessary would take place in HB 518.

SENATOR CRIPPEN said he had previously had some reservations about who should be appointed as an ex officio warden. His concerns had been satisfied and he now felt that an appropriate training course was provided by the department.

Motion:

SENATOR CRIPPEN MOVED TO CONCUR WITH HB 196.

Discussion:

SENATOR TERRY KLAMPE, SD #31, FLORENCE, asked how ex officio wardens received this training, or if it were only implied. SENATOR CRIPPEN replied that some were formerly peace officers. He had also been concerned about the executive director of the Board of Outfitters, but Mr. Solmonsson had received the proper training. His problem had been with any future ex officio wardens, as he wanted to be sure those people would be well trained.

SENATOR BOB PIPINICH, SD #29, MISSOULA, asked if the training SENATOR CRIPPEN had referred to were covered in this bill or another bill.

LANCE MELTON, Attorney for the Board of Outfitters, Department of Commerce, said he understood DFWP had a specified training program and he thought the Board of Outfitters' staff would be required to take that training.

SENATOR KLAMPE commented that a training program should be in force so that future ex officio wardens would be properly trained. Mr. Melton said he thought that would be done.

Vote:

ALL COMMITTEE MEMBERS VOTED AYE ON THE MOTION TO CONCUR ON HB 196 AND THE MOTION CARRIED UNANIMOUSLY.

DISCUSSION ON HB 195

CHAIRMAN MESAROS stated, for the record, that he was not comfortable in acting on HB 195 without more discussion. He thought HB 195 was a very important bill and he had invited REPRESENTATIVE SWANSON, members of the council, and other interested individuals to attend and answer questions.,

SENATOR PIPINICH MOVED TO CONCUR ON HB 195.

SENATOR JOHN HERTEL, SD #47, MOORE, told the committee four different amendments had been proposed to HB 195, and he asked REPRESENTATIVE SWANSON to explain them.

SENATOR WILLIAM CRISMORE, SD #41, LIBBY, said he also had two amendments.

CHAIRMAN MESAROS asked that all amendments be distributed to the committee members.

MS. MERRILL stated that she had prepared a gray bill showing the proposed text of the entire bill (EXHIBIT #1).

CHAIRMAN MESAROS commented that he understood the four amendments mentioned by SENATOR HERTEL were incorporated into the gray bill, but not the amendments mentioned by SENATOR CRISMORE. Ms. Merrill replied that was correct.

SENATOR PIPINICH asked if the amendments in the gray bill were the technical amendments brought up at the March 9 hearing.

CHAIRMAN MESAROS said some were, but the second amendment was a substantive change. He asked REPRESENTATIVE SWANSON to go through the amendments and explain them to the committee.

REPRESENTATIVE EMILY SWANSON, HD #30, BOZEMAN, said she appreciated the opportunity to come back to the committee and follow through on the process.

REPRESENTATIVE SWANSON said amendment No. 19501 was a coordination amendment with HB 196.

Amendment No. 19502 addressed an issue SENATOR CRIPPEN asked about. He had been concerned about the language "public recreation," and this amendment made it clear that the bill referred to hunting access only.

Amendment 19503 stated that people who had already applied for an outfitter's license and whose applications were still in the

process would be eligible for an outfitter's license and would not be affected by the moratorium on new outfitter licenses.

Amendment 19504 was about the limit of 10 landowner sponsored licenses. She said the limit of 10 had been a negotiated agreement. She thought the mail received by the committee came from the few people who would be impacted and from people who had heard rumors. Only 65 of the 2,000 landowner sponsor licenses went to people who requested more than 10. That came to only 6%. She thought addressing a 6% minority would be saying the public process didn't mean as much as the recent complain.

REPRESENTATIVE SWANSON suggested the committee consider three options for dealing with the limit of 10 landowner sponsored licenses:

- (1) Do nothing and let the limit stand. (The preferred option.)
- (2) Give up to 20 licenses each to people who request them and phase the number back over a four-year period until it reached 10. This would allow some planning time and the moratorium would end, allowing the landowner sponsors to become licensed outfitters if they wished. She thought it was a viable option.
- (3) Set the limit at 15. When the council set the limit at 10 it improved chances for all interested landowner sponsors to receive at least some licenses.

REPRESENTATIVE SWANSON said she hadn't had an opportunity to read **SENATOR CRISMORE'S** amendments.

SENATOR JUDY JACOBSON, SD #18, BUTTE, commented (on **SENATOR CRISMORE'S** amendment) that it appeared the review committee was added in the House, and his amendment merely added outfitters to that committee.

REPRESENTATIVE SWANSON commented that she could support that amendment.

SENATOR CRIPPEN said that if the committee had some nonsubstantive amendments it would like to make, this was the time to get them resolved.

CHAIRMAN MESAROS agreed and asked for a motion.

Motion/Vote:

SENATOR PIPINICH MOVED AMENDMENTS 19501, 19502 and 19503. THE COMMITTEE UNANIMOUSLY APPROVED THE MOTION.

SENATOR CRIPPEN remarked that he would like to hear from some of the people who would be affected by amendment No. 19504.

PAGE DRINGMAN, Sweetgrass Preservation Association, asked permission to address the committee.

SENATOR CRIPPEN commented that **Ms. Dringman** had seen amendment No. 19504 that could raise the number of landowner sponsored licenses to 20 and then phase that number back to 10. He said he had a copy of her proposed amendment, and it was different. He asked if she would accept No. 19504.

MS. DRINGMAN said she thought the phase-in was better than doing nothing, but the people in Sweetgrass County wouldn't be in favor of it. She thought it was difficult to say what would happen in four years when the moratorium expired, and wondered what would happen if it were continued.

Ms. Dringman suggested: (1) eliminating the cap on landowner sponsored licenses entirely, since landowner sponsors were not included in the agreement. The economic loss to those people could be substantial. She suggested putting a landowner sponsor on the council.

(2) As another option, she suggested giving landowner sponsors a six-months grace period in which to become an outfitter and moving the effective date back to October 1.

(3) She also suggested limiting to 10 those who had historically submitted 10 or fewer licenses and limiting others to 25, based on the last three years of data.

SENATOR HERTEL said he strongly disagreed with the statement that landowner sponsors were not included in the process. The son of a council member was a landowner sponsor.

SENATOR PIPINICH remarked that the bill had been working its way through the process for two months, and asked **Ms. Dringman** why she didn't come in with any amendments or oppose it actively when it went through the House. **Ms. Dringman** responded that she didn't think putting her suggestions in late should preclude them.

SENATOR PIPINICH commented that it was hard to amend the bill at this stage and send it back and forth between houses.

SENATOR JACOBSON commented that the number of people concerned about the problem only represented 6% of those involved. She understood that they weren't organized and probably didn't realize what it would do to them. If the landowner sponsored licenses represented part of the way these people made their living, she thought the committee should consider how they were being affected.

SENATOR KLAMPE asked who was on the council, the landowner sponsor or his son.

SENATOR HERTEL replied that the son of one of the council members owns land and uses landowner sponsored permits. The person who sat on the committee was also part owner of that particular land. The council mailed three different drafts of the bill throughout the state for review.

SENATOR CRISMORE asked if it would be acceptable if the committee saved the limit of 10 and capped the total number at 2000. He asked if a person would have to overbook if he wanted to be sure of getting his 10 licenses because the applications go into a drawing.

REPRESENTATIVE SWANSON replied that the first year these licenses were issued they were undersubscribed, but that was the only time. She acknowledged that the applications do go into a drawing now. The success rate in 1994 was 69%; that rate would go to 87% with the limit of 10, and each landowner sponsor would probably get 9.

SENATOR CRISMORE asked if the council were guaranteeing 10 licenses to each landowner sponsor and **REPRESENTATIVE SWANSON** said no.

SENATOR KLAMPE asked what would happen if the committee chose **Ms. Dringman's** third suggestion. **REPRESENTATIVE SWANSON** replied that she didn't know, but 84 people tried to sponsor people last year and couldn't get any licenses. Sensitivity to the landowner sponsored permit went beyond that associated with nonresident hunters. Licensed outfitters are not fond of them because they're unlicensed. There is also concern because a few people are outfitting illegally. Some landowners just let people come and camp on their land; others feed and house them. She did not feel the purpose of the landowner sponsored license was to benefit an unlicensed business on private land. She said the issue was more complex than it appeared on the surface.

SENATOR MIKE SPRAGUE, SD #6, BILLINGS, asked why the landowner sponsors hadn't just become outfitters.

MS. DRINGMAN said they didn't need to become outfitters if they hunted on their own land. That has been the law. Some of those people, however, would be willing to become outfitters.

SENATOR SPRAGUE suggested the landowner sponsors treat their outfitting trade like a business. **MS. DRINGMAN** replied that her family did run the outfitting trade as a business - they feed, house and accompany them on their hunts. The family also carries insurance. At the present time they don't charge Montana residents.

SENATOR SPRAGUE asked why the **Dringmans** hadn't gotten an outfitter's license. **Ms. Dringman** said her family would have been outfitters if the exemption hadn't been in the law.

SENATOR SPRAGUE asked if a landowner sponsor had time to become a licensed outfitter if he wished. **REPRESENTATIVE SWANSON** said the provisions in the bill referred to the applications being processed when the bill was signed by the Governor. The moratorium on outfitter licenses did not say no more would be issued. It said the net number would stay in place.

In response to **SENATOR SPRAGUE'S** question to **Ms. Dringman**, **REPRESENTATIVE SWANSON** commented that the law reads, "supplemental to their primary use of the land which is agriculture."

SENATOR SPRAGUE asked **Mr. Graham** what the process was to receive an outfitter's license. **Mr. Graham** said he didn't know.

BUD SOLMONSSON, Executive Director of the Board of Outfitters, told **SENATOR SPRAGUE** the requirements include three years of experience, First Aid or CPR, and an approved operations plan.

SENATOR SPRAGUE asked if it could be done in time. **Mr. Solmonsson** said the bill would go into effect with signature of the Governor. The application would have to be in at the present time, however.

Mr. Solmonsson said many of the complaints received by the Board of Outfitters were about landowner sponsors. These complaints came from people who did not realize the Board of Outfitters could not help them because the landowner sponsors were not licensed. He said the board had about 150 outfitter license applications on hand.

{Tape: 1; Side: B}

SENATOR JACOBSON commented that landowners didn't set up this program, the legislature did. It was established to develop a better relationship with landowners. The legislature created the problem and people tend to stretch a law to its limits. She thought landowners should not be blamed for a law passed by the legislature. She said she would like to see something done to help the landowner sponsors back down from a situation created by the legislature in the first place.

CHAIRMAN MESAROS commented that he didn't want to rush the decision on HB 195. He said it had been a good discussion, and asked if the committee wanted more input.

SENATOR HERTEL said he had been presented with another idea for an amendment, but it wasn't in written form. He thought the committee might want to consider it later.

CHAIRMAN MESAROS stated that he didn't want to delay the bill for a number of amendments, as the chief area of concern was the landowner sponsorship. He just wanted the committee to be comfortable with the bill.

SENATOR CRIPPEN asked how many committee members would like to pass the bill out in its present form. Receiving no response, he suggested working out a compromise.

SENATOR CRISMORE asked **Jean Johnson** if the 100 licenses given up by the outfitters went back into the pool for the drawing.

JEAN JOHNSON, Executive Director, Montana Outfitters & Guides Association (MOGA) said the bill sponsor had stated that 100 elk licenses would be taken from the outfitter set aside and 600 deer licenses would be added to the total deer licenses available. The outfitter set aside would receive 300 of those licenses.

SENATOR CRISMORE commented that he felt strongly about taking 100 B-10 licenses away from outfitters because it represented a substantial economic loss. Also, guided nonresidents would be charged more to hunt to create a pool of money to open up more public hunting. He thought licenses could cost as much as \$640 and that would affect the market for licenses. He believed it would be unfair to outfitters.

SENATOR JACOBSON asked if **SENATOR CRISMORE** would want to move the other amendment that did not seem to be controversial.

SENATOR CRISMORE MOVED TO AMEND THE BILL BY ADDING THE WORD "OUTFITTER" FOLLOWING "LANDOWNER" ON PAGE 8, LINE 18. ALL VOTED AYE BUT SENATOR PIPINICH WHO VOTED NAY AND THE MOTION CARRIED.

JEAN JOHNSON stated that the whole process had been a give-and-take situation. The issue was 300 deer licenses in exchange for 100 elk licenses. To move forward, a consensus had to be reached. It was never mentioned that the outfitting industry gave up other things, too - in HB 196 outfitters gave up the ability to grow horizontally. They also gave up the opportunity to get some repeat customers who would not be able to afford the higher priced licenses.

SENATOR PIPINICH commented that **Ms. Johnson** knew the limits were in the bill and she had agreed throughout the process in the House. **Ms. Johnson** said she hadn't. The outfitter representative on the council had agreed but MOGA had not. She had tried to amend the bill in the House.

CHAIRMAN MESAROS stated that there were still some concerns on other issues and executive action on the bill would be delayed until the next meeting.

SENATOR KLAMPE commented that there was a moratorium on outfitter licenses in HB 195 and in HB 196 there was a limit on horizontal expansion of outfitters. The moratorium in 195 did not limit them horizontally. He thought the committee should put a limit on horizontal growth into HB 195 for coordination purposes.

REPRESENTATIVE SWANSON said HB 196 went out of the committee unanimously. She was sure it would pass. Within 195, there were two limits: the four-year moratorium and the variably priced license.

SENATOR KLAMPE remarked that he didn't think that was the way laws should be made. He didn't think the committee should assume a companion bill would pass. The variably priced license might be a limit, but it might not. He preferred to see a limit put into HB 195.

SENATOR HERTEL commented that a concern was expressed at the initial hearing regarding funding. People were concerned that not enough emphasis was placed on resident hunting licenses. If more funds were required, they thought the area of resident hunting licenses should be considered. Most of the funding for this program would come from nonresidents. He suggested an amendment to strike lines 28 and 29 on page 8 and insert, "Such funding must be provided by an increase in resident hunting license fees, or a redistribution of existing resident hunting license fees." This suggestion came from the Montana Stockgrowers.

REPRESENTATIVE SWANSON replied that the Stockgrowers wanted to be sure residents would pay their fair share. The variable license was expected to fund phase 1, and the council wanted the resident landowners to be the next phase of the funding. When more money was required, legislative or Fish, Wildlife & Parks Commission action could redistribute funding. She asked the committee to do what was appropriate at the present time and not commit to future actions.

SENATOR CRIPPEN said he wondered how many Montana people would take advantage of components of HB 195, and he had a problem with increasing fees.

SENATOR HERTEL commented that he had attended the Stockgrowers convention in December and found there was strong consensus that resident hunters were getting benefits from this bill (access) and not paying their fair share.

JOHN BLOOMQUIST, Montana Stockgrowers Association, told the committee the amendment offered by his organization was designed to increase resident fees only up to \$1. That suggestion had not been included in the bill. Landowners wanted to see a commitment from residents. He didn't know how successful the program would be, and didn't want it overfunded. He said he thought the resident sportsman would be the primary beneficiary of increased access.

Mr. Bloomquist also stated that if the program proved to be as successful as Block Management, there would be a potential for future funding. The funding from resident sportsmen could come

from either increased fees or redistribution of current fees. The Stockgrowers wanted to see an actual amount mentioned.

SENATOR HERTEL said he was sure REPRESENTATIVE SWANSON would agree. The council had discussed that subject at length. Mr. Graham had come up with a sensible reason for omitting the additional fees, - they simply were not needed at the present time.

SENATOR SPRAGUE said he didn't see any reason to change the bill.

CHAIRMAN MESAROS stated that action would be taken at the next meeting when the amendments had been processed by the Legislative Council.

Continued Discussion of HB 122

CHAIRMAN MESAROS asked Ms. Merrill if she had looked at the amendments from SENATOR GROSFIELD. She replied that she had and they were in order.

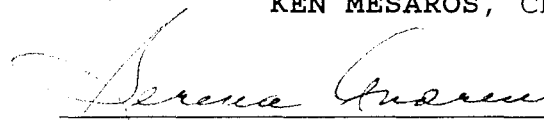
CHAIRMAN MESAROS asked the committee to review the amendments to HB 122 because they would also be acted upon at the next meeting. In addition, he asked the committee to review the letter prepared for the committee's signature on the HB 122/Dailey Lake situation and bring any suggestions to the next meeting.

{This meeting was recorded on both sides of one 60-minute tape.}

ADJOURNMENT

Adjournment: The meeting adjourned at 5:15 p.m.


KEN MESAROS, Chairman


SERENA ANDREW, Secretary

KM/sa

MONTANA SENATE
1995 LEGISLATURE
FISH AND GAME COMMITTEE

ROLL CALL

DATE _____

3/16/95

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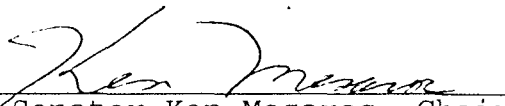
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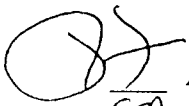
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March 17, 1995

MR. PRESIDENT:

We, your committee on Fish and Game having had under consideration HB 196 (third reading copy -- blue), respectfully report that HB 196 be concurred in.

Signed: _____


Senator Ken Mesaros, Chair

 Amd. Coord.

SA Sec. of Senate

SEN. Hertel
Senator Carrying Bill

621116SC.SRF

SENATE FISH AND GAME

ENACTED NO. 1DATE 3/16/95BILL NO. 21 B 195

HOUSE BILL NO. 195

INTRODUCED BY SWANSON, HIBBARD, HERTEL, PIPINICH

BY REQUEST OF THE GOVERNOR

A BILL FOR AN ACT ENTITLED: "AN ACT IMPLEMENTING CERTAIN RECOMMENDATIONS OF THE GOVERNOR'S ADVISORY COUNCIL ON PRIVATE LAND/PUBLIC WILDLIFE; CREATING PROGRAMS FOR HUNTER MANAGEMENT AND HUNTING ACCESS ENHANCEMENT WITHIN THE BLOCK MANAGEMENT PROGRAM; RESTRICTING THE LIABILITY OF LANDOWNERS WHO PARTICIPATE IN THE PROGRAMS; PROVIDING A MORATORIUM ON THE ISSUANCE OF NEW LAND-BASED HUNTING OUTFITTER LICENSES; REVISING THE CLASS B-11 RESIDENT SPONSOR LIMIT BY ALLOWING THE ISSUANCE OF ONLY 10 CERTIFICATES FOR EACH SPONSOR AND PROVIDING THAT ALL DEER HUNTING UNDER THE LICENSE MUST BE CONDUCTED ON THE SPONSOR'S DEEDED LAND; REVISING REQUIREMENTS FOR LICENSEES WHO USE AN OUTFITTER-RESERVED LICENSE; ALLOWING VARIABLE PRICING OF OUTFITTER-SPONSORED CLASS B-10 AND CLASS B-11 LICENSES; AMENDING SECTIONS 87-1-201, 87-1-242, 87-2-505, 87-2-510, AND 87-2-511, MCA; AND PROVIDING EFFECTIVE DATES AND A ^{AN APPLICABILITY} ~~DATE~~ ^A TERMINATION ~~DATE~~ DATES."

WHEREAS, Montana has a cherished hunting heritage based on a deep knowledge of and respect for wildlife and the land; and

WHEREAS, private landowners provide wildlife habitat and hunting opportunities, the hunting public provides financial and political support for sound wildlife management, and the combined efforts of landowners and the hunting public have sustained Montana's hunting and wildlife heritage; and

WHEREAS, landowner/outfitter/sportsman relations have become increasingly strained over the past several years, leading to increased polarization between the groups; and

WHEREAS, the 1993 Legislature addressed this problem through the passage of House Joint Resolution No. 24, which requested the Governor, through the Department of Fish, Wildlife, and Parks, to coordinate a sustained, ongoing, cooperative effort to address these issues by establishing statewide, regional, and local groups to develop mutually satisfactory solutions that would preserve Montana's hunting and wildlife heritage and encourage the continuance of a viable outfitting industry; and

WHEREAS, in response to that request, the Governor appointed the Advisory Council on Private

1 Land/Public Wildlife, consisting of representatives of the affected groups, to study the issues in anticipation
2 of legislation that reflects the mutual interests of landowners, outfitters, and the sporting community; and

3 WHEREAS, after considering extensive input and advice from individual private citizens, local
4 working groups, agencies, and nonprofit organizations involved in conservation, the Advisory Council by
5 consensus developed recommendations for improving ^{hunting} access to private lands and for providing tangible
6 benefits for landowners who allow access to their lands for hunting; and

7 WHEREAS, the Advisory Council has made efforts to break new ground philosophically in designing
8 its recommendations, requiring that all interested parties be willing to accept change in order to benefit
9 everyone who has an interest in Montana's hunting and wildlife heritage; and

10 WHEREAS, the Advisory Council finds it appropriate to present the following recommendations to
11 the Legislature in the spirit of a cooperative and positive effort to enhance relations between landowners,
12 outfitters, and sportspersons.

14 STATEMENT OF INTENT

15 A statement of intent is required for this bill because [sections 1 through 3] grant rulemaking
16 authority to the department of fish, wildlife, and parks and the fish, wildlife, and parks commission to
17 implement programs for hunter management and hunting access enhancement. It is intended that in
18 addition to the statutory guidelines set out in those sections, any rules be adopted with the purpose of
19 optimizing hunting opportunity and access while minimizing administrative costs in providing benefits to
20 landowners who voluntarily participate in the programs. In addition, [section 6] grants rulemaking authority
21 to the fish, wildlife, and parks commission to implement the provisions of variable pricing for Class B-10
22 and Class B-11 outfitter-sponsored licenses. It is intended that the fish, wildlife, and parks co mmission use
23 its licensing authority to adjust the price of those licenses as necessary and that ~~the~~ ANY additional revenue
24 generated by variable pricing be used to fund the hunting access enhancement program.

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

28 NEW SECTION. Section 1. Hunter management and hunting access enhancement programs
29 created -- private landowner assistance to promote public ^{hunting} access ^{to} rules. (1) The department may
30 establish within the block management program established by administrative rule pursuant to authority

1 contained in 87-1-301 and 87-1-303 programs of landowner assistance that encourage public access to
2 private lands for purposes of hunting and may adopt rules to carry out program purposes. Rules may
3 address but are not limited to incentives provided under:

4 (a) a hunter management program as set out in [section 2], consisting of a cooperative agreement
5 between a landowner and the department and including other resource management agencies when
6 appropriate, that allows public hunting with certain restrictions or use rules; and

7 (b) a hunting access enhancement program as set out in [section 3], consisting of incentives for
8 private landowners who allow public hunting access on their lands.

9 (2) The department may also develop similar efforts outside the scope of the block management
10 program that are designed to promote public access to private lands for hunting purposes.

11 (3) Participation in a program established under subsection (1) is voluntary. Programs may not be
12 structured in a manner that provides assistance to a private landowner who charges a fee for access to ^{hunting}
13 private land that is enrolled in the program or who does not provide reasonable public access to private land ^{hunting}
14 that is enrolled in the program. The commission shall develop criteria by which tangible benefits are
15 allocated to participating landowners, and the department may distribute the benefits to participating
16 landowners. The department may by rule limit the number of licenses that can be provided as incentives.
17

18 NEW SECTION. Section 2. Hunter management program -- benefits for providing hunting access
19 -- nonresident landowner limitation -- restriction on landowner liability. (1) As provided in [section 1], the
20 department may establish a voluntary hunter management program to provide tangible benefits to private
21 landowners enrolled in the block management program who grant access to their land for public hunting.
22 The decision to enroll a landowner in the hunter management program is the responsibility of the
23 department. Benefits may be granted as provided in this section and by rule.

24 (2) As a benefit for enrolling property in the hunter management program, a resident landowner
25 who becomes a cooperator in the program and who agrees to provide public hunting access may receive
26 one Class AAA sportsman's license, without charge, if the landowner is the owner of record. The license
27 may be used for the full hunting or fishing season in any district where it is valid. The license may not be
28 transferred by gift or sale.

29 (3) As a benefit for enrolling property in the hunter management program, a nonresident landowner
30 who becomes a cooperator in the program and who agrees to provide public hunting access may receive

1 one Class B-10 nonresident big game combination license, without charge, if the landowner is the owner
2 of record. The license may be used for the full hunting or fishing season in any district where it is valid.
3 The license may not be transferred by gift or sale. The grant of a license under this subsection also
4 qualifies the licensee to apply for a permit through the normal drawing process. The grant of a license
5 under this subsection does not affect the quota of 11,500 established under 87-2-505.

6 (4) (a) A resident landowner who is enrolled in the block management program may receive the
7 benefits provided under the hunter management program, as outlined in this section, and the benefits
8 provided under the hunting access enhancement program, as outlined in [section 3].

9 (b) A nonresident landowner who chooses to receive a license under subsection (3) may also
10 receive assistance under the block management program, but is not eligible to receive cash payments under
11 [section 3].

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

14
15 **NEW SECTION. Section 3. Hunting access enhancement program -- benefits for providing hunting**
16 **access -- cooperative agreement -- factors for determining benefits earned -- restriction on landowner**
17 **liability.** (1) As provided in [section 1], the department may establish and administer a voluntary program
18 to enhance the block management program, to be known as the hunting access enhancement program.
19 The program must be designed to provide tangible benefits to participating private landowners who grant
20 access to their land for public hunting.

21 (2) Land is not eligible for inclusion in the hunting access enhancement program if outfitting or
22 commercial hunting restricts public ~~recreation or~~ hunting opportunities.

23 (3) A contract for participation in the hunting access enhancement program is established through
24 a cooperative agreement between the landowner and the department that will guarantee reasonable access
25 for public hunting. Landowners may also form a voluntary association when development of a unified
26 cooperative agreement is advantageous. A cooperative agreement must contain a detailed description of
27 the plan developed by the landowner and the department and may include but is not limited to:

- 28 (a) hunting access management;
29 (b) services to be provided to the public;
30 (c) ranch rules and other restrictions; and

(d) any other management information to be gathered, which must be made available to the public.

(4) If the department determines that the plan referred to in subsection (3) may adversely influence game management decisions or wildlife habitat on public lands outside the block management area, then other public land agencies, interested sportspersons, and affected landowners must be consulted. An affected landowner's management goals and personal observations regarding game populations and habitat use must be considered in developing the plan.

(5) The commission shall develop rules for determining tangible benefits to be provided to a landowner for providing public ^{hunting} access. Benefits will be provided to offset potential impacts associated with public hunting access, including but not limited to those associated with GENERAL RANCH MAINTENANCE, CONSERVATION EFFORTS, weed control, fire protection, liability insurance, roads, fences, and parking area maintenance. Factors used in determining benefits may include but are not limited to:

- (a) the number of days of public hunting provided by a participating landowner;
- (b) wildlife habitat provided;
- (c) resident game populations;
- (d) number, sex, and species of animals taken; and
- (e) access provided to adjacent public lands.

(6) Benefits earned by a landowner under this section may be applied in, BUT APPLICATION IS NOT LIMITED TO, the following manner ~~or other manner allowed by rule~~:

(a) A landowner may direct weed control payments to be made directly to the county weed control board or may elect to receive payments directly.

(b) A landowner may direct fire protection payments to be made to the local fire district or the county where the landowner resides or may elect to receive payments directly.

(c) A landowner may receive direct payment to offset insurance costs incurred for allowing public ^{hunting} access.

(d) The department may provide assistance in the construction and maintenance of roads, gates, and parking facilities and in the signing of property.

(7) The commission may provide a total of not more than \$8,000 a year to a landowner who participates in the hunter management ~~and~~ PROGRAM OR hunting access enhancement ~~programs~~ PROGRAM, OR BOTH, subject to the conditions set out in [section 2(4)].

(8) The restriction on liability of a landowner, agent, or tenant that is provided under 70-16-302(1)

1 applies to a landowner who participates in the hunting access enhancement program.

2
3 **Section 4.** Section 87-1-201, MCA, is amended to read:

4 **"87-1-201. Powers and duties.** (1) The department shall supervise all the wildlife, fish, game,
5 game and nongame birds, waterfowl, and the game and fur-bearing animals of the state and may implement
6 voluntary programs that encourage hunting access on private lands and that promote harmonious relations
7 between landowners and the hunting public. It possesses all powers necessary to fulfill the duties
8 prescribed by law and to bring actions in the proper courts of this state for the enforcement of the fish and
9 game laws and the rules adopted by the department.

10 (2) ~~It~~ The department shall enforce all the laws of the state respecting the protection, preservation,
11 and propagation of fish, game, fur-bearing animals, and game and nongame birds within the state.

12 (3) ~~It shall have~~ The department has the exclusive power to spend for the protection, preservation,
13 and propagation of fish, game, fur-bearing animals, and game and nongame birds all state funds collected
14 or acquired for that purpose, whether arising from state appropriation, licenses, fines, gifts, or otherwise.
15 Money collected or received from the sale of hunting and fishing licenses or permits, from the sale of seized
16 game or hides, from fines or damages collected for violations of the fish and game laws, or from
17 appropriations or received by the department from any other sources are appropriated to and under control
18 of the department.

19 (4) ~~It~~ The department may discharge any appointee or employee of the department for cause at
20 any time.

21 (5) ~~It~~ The department may dispose of all property owned by the state used for the protection,
22 preservation, and propagation of fish, game, fur-bearing animals, and game and nongame birds ~~which that~~
23 is of no further value or use to the state and shall turn over the proceeds from the sale to the state
24 treasurer to be credited to the fish and game account in the state special revenue fund.

25 (6) ~~It~~ The department may not issue permits to carry firearms within this state to anyone except
26 regularly appointed officers or wardens.

27 (7) The department is ~~hereby~~ authorized to make, promulgate, and enforce ~~such~~ reasonable rules
28 and regulations not inconsistent with the provisions of chapter 2 ~~as that~~ in its judgment will accomplish the
29 purpose of chapter 2.

30 (8) The department is authorized to promulgate rules relative to tagging, possession, or

transportation of bear within or without the state."

Section 5. Section 87-1-242, MCA, is amended to read:

"87-1-242. (Temporary) Funding for wildlife habitat. (1) The amount of money specified in this subsection from the sale of each hunting license or permit listed must be used exclusively by the commission to secure, develop, and maintain wildlife habitat, subject to appropriation by the legislature.

(a) Class B-10, nonresident combination, \$77;

(b) Nonresident antelope, \$20;

(c) Nonresident moose, \$20;

(d) Nonresident mountain goat, \$20;

(e) Nonresident mountain sheep, \$20;

(f) Class D-1, nonresident mountain lion, \$20;

(g) Nonresident black bear, \$20;

(h) ~~Wild turkey nonresident~~ Nonresident wild turkey, \$10;

(i) Class AAA, sportsman's, \$7;

(j) Class B-11 nonresident deer combination, \$200.

(2) Twenty percent of any increase ~~after March 1, 1988~~, in the fee for the Class B-7 license or any license or permit listed in subsection (1), except outfitter-sponsored Class B-10 and Class B-11 licenses subject to variable pricing under [section 6], must be allocated for use as provided in subsection (1).

(3) Eighty percent of the money allocated by this section, together with the interest and income ~~therefrom~~ from the money, must be used to secure wildlife habitat pursuant to 87-1-209.

(4) ~~(a) Until March 1, 1991, 20% of the money allocated by this section must be credited to the account created by 87-1-601(5) for use in the manner prescribed therein for the development and maintenance of real property used for wildlife habitat.~~

~~(b) On and after March 1, 1991, 20%~~ Twenty percent of the money allocated by this section must be used as follows:

~~(i)(a)~~ (a) up to 50% a year may be used for development and maintenance of real property used for wildlife habitat; and

~~(ii)(b)~~ (b) the remainder and any money not allocated for development and maintenance under subsection ~~(4)(b)(i)~~ (4)(a) by the end of each odd-numbered fiscal year must be credited to the account

1 created by 87-1-601(5) for use in the manner prescribed ~~therein~~ for the development and maintenance of
2 real property used for wildlife habitat. (Terminates March 1, 2006--secs. 1, 2, Ch. 241, L. 1993.)"

3
4 NEW SECTION. Section 6. Variable pricing of outfitter-sponsored Class B-10 and B-11
5 licenses. The commission shall annually set fees for outfitter-sponsored Class B-10 and Class B-11 licenses
6 allowed under 87-2-505 and 87-2-510. The fees must be set at a market rate intended to sell AS CLOSE
7 TO BUT not more than an average of 5,500 Class B-10 licenses and 2,300 Class B-11 licenses each year,
8 calculated over a 5-year period. The sale period for the licenses must be established so that by the last
9 date in the established period, those licenses that are unsold, UP TO 5,500 CLASS B-10 LICENSES AND
10 2,300 CLASS B-11 LICENSES, may be reallocated by the commission for a drawing at a price set by the
11 commission.

12
13 NEW SECTION. Section 7. Report required -- REVIEW COMMITTEE. (1) THE GOVERNOR SHALL
14 APPOINT A COMMITTEE OF PERSONS INTERESTED IN THE HUNTER MANAGEMENT PROGRAM, THE
15 HUNTING ACCESS ENHANCEMENT PROGRAM, OR OTHER ISSUES RELATED TO PRIVATE LANDS AND
16 PUBLIC WILDLIFE TO REVIEW THE SUCCESS AND PROGRESS OF THE HUNTER MANAGEMENT
17 PROGRAM AND THE HUNTING ACCESS ENHANCEMENT PROGRAM. THE COMMITTEE MUST HAVE
18 EQUAL REPRESENTATION OF LANDOWNERS AND SPORTSPERSONS AND BE BROADLY
19 REPRESENTATIVE OF THE VARIOUS GEOGRAPHICAL AREAS OF THE STATE. THE DEPARTMENT MAY
20 PROVIDE ADMINISTRATIVE ASSISTANCE AS NECESSARY TO FACILITATE THE EFFORTS OF THE REVIEW
21 COMMITTEE.

22 (2) The ~~department~~ REVIEW COMMITTEE shall report to the governor and to each regular session
23 of the legislature regarding the success of the hunter management program and the hunting access
24 enhancement program, including a report of annual landowner participation and the number of acres
25 annually enrolled in the programs. The report may also include suggestions for funding, modification, or
26 improvement of the programs. IF THE REVIEW COMMITTEE DETERMINES THAT EXPANDING FUNDING
27 FOR PROGRAMS FOR HUNTER MANAGEMENT AND HUNTING ACCESS ENHANCEMENT IS DESIRABLE,
28 CONSIDERATION MUST BE GIVEN TO PROVIDING THE EXPANDED FUNDING THROUGH INCREASES IN
29 RESIDENT HUNTING LICENSE FEES.

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Section 8. Section 87-2-505, MCA, is amended to read:

"87-2-505. (Temporary) Class B-10--nonresident big game combination license. Except as otherwise provided in this chapter, a person not a resident, as defined in 87-2-102, but who will be 12 years of age or older prior to September 15 of the season for which the license is issued may, upon payment of the fee of ~~\$462 beginning March 1, 1992, and \$475 beginning March 1, 1994,~~ or upon payment of the fee of ~~\$472 beginning March 1, 1992, and \$485 beginning March 1, 1994,~~ established as provided in [section 6] if the license is one of the ~~5,600~~ licenses reserved pursuant to 87-2-511 for applicants indicating their intent to use the services of a licensed outfitter and subject to the limitations prescribed by law and department regulation, apply to the fish and game office, Helena, Montana, to purchase a B-10 nonresident big game combination license ~~which shall entitle~~ that entitles the holder to all the privileges of Class B, Class B-1, and Class B-7 licenses, and an elk tag. This license includes the nonresident conservation license as prescribed in 87-2-202. Not more than ~~17,000~~ 11,500 unreserved Class B-10 licenses may be sold in any ~~one~~ 1 license year. (Terminates March 1, 2006--secs. 1, 2, Ch. 241, L. 1993.)

87-2-505. (Effective March 1, 2006) Class B-10--nonresident big game combination license.

Except as otherwise provided in this chapter, a person not a resident, as defined in 87-2-102, but who will be 12 years of age or older prior to September 15 of the season for which the license is issued may, upon payment of the fee of \$398 or upon payment of the fee of ~~\$408~~ established as provided in [section 6] if the license is one of the ~~5,600~~ licenses reserved pursuant to 87-2-511 for applicants indicating their intent to use the services of a licensed outfitter and subject to the limitations prescribed by law and department regulation, apply to the fish and game office, Helena, Montana, to purchase a B-10 nonresident big game combination license ~~which shall entitle~~ that entitles the holder to all the privileges of Class B, Class B-1, and Class B-7 licenses, and an elk tag. This license includes the nonresident conservation license as prescribed in 87-2-202. Not more than ~~17,000~~ 11,500 unreserved Class B-10 licenses may be sold in any ~~one~~ 1 license year."

Section 9. Section 87-2-510, MCA, is amended to read:

"87-2-510. Class B-11--nonresident deer combination license. (1) Except as otherwise provided in this chapter, a person not a resident, as defined in 87-2-102, but who will be 12 years of age or older prior to September 15 of the season for which the license is issued may, upon payment of a fee of \$220

or upon payment of the fee of ~~\$225~~ established as provided in [section 6] if the license is one of the ~~4,000~~ those reserved pursuant to 87-2-511 for applicants indicating their intent ~~either~~ to use the services of a licensed outfitter or upon payment of the fee of \$225 if the license is one of those reserved pursuant to 87-2-511 for applicants indicating their intent to hunt with a resident sponsor on land owned by that sponsor and subject to the limitations prescribed by law and department regulation, apply to the fish and game office, Helena, Montana, to purchase a Class B-11 nonresident deer combination license that entitles the holder to all the privileges of the Class B, Class B-1, and Class B-7 licenses. This license includes the nonresident wildlife conservation license as prescribed in 87-2-202.

(2) ~~Six thousand~~ Not more than 4,300 ~~2,300~~ unreserved Class B-11 licenses ~~are authorized for sale~~ each may be sold in any 1 license year."

Section 10. Section 87-2-511, MCA, is amended to read:

"87-2-511. Sale and use of Class B-10 and Class B-11 licenses. (1) The department shall offer the Class B-10 and Class B-11 licenses for sale on March 15, with ~~5,600~~ a number of the authorized Class B-10 and Class B-11 licenses, as determined under [section 6], and 2,000 Class B-11 licenses reserved for applicants indicating their intent to use the services of a licensed outfitter, and 2,000 of the authorized Class B-11 licenses reserved for applicants indicating their intent to hunt with a resident sponsor on land owned by that sponsor, as provided in subsections (2) and (3).

(2) Each application for a reserved license under subsection (1) must contain a written affirmation that the applicant intends to hunt with a licensed outfitter or a resident sponsor and must indicate the name of the licensed outfitter or resident sponsor with whom the applicant intends to hunt. In addition, the application must be accompanied by a certificate that is signed by a licensed outfitter or resident sponsor and ~~which~~ that affirms that the outfitter or resident will:

- (a) direct the applicant's hunting and advise the applicant of game and trespass laws of the state;
- (b) submit to the department, in a manner prescribed by the department, complete records of who hunted with him ~~the outfitter or resident~~ ^{sponsor}, where they hunted, and what game was taken; and
- (c) accept no monetary consideration for enabling the nonresident applicant to obtain a license or for providing any services or assistance to the nonresident applicant, except as provided in this title.

(3) The certificate signed by the resident sponsor pursuant to subsection (2) must also affirm that the sponsor is a landowner and that the applicant under the certificate will hunt only on land owned by the

① sponsor. A resident sponsor of a Class B-11 license may submit no more than ²⁰ ~~10~~ certificates of
 2 sponsorship in ~~any~~ license year. *years 1996 and 1997 and no more than 15 licenses*
~~in 1998 and 1999, and 10 each year after.~~

3 (4) A nonresident who hunts under the authority of a resident landowner-sponsored license shall
 4 conduct all deer hunting on the deeded lands of the sponsoring landowner.

5 (5) Any permits or tags secured as a result of obtaining a Class B-10 or Class B-11 license through
 6 an outfitter sponsor are valid only when hunting is conducted with a licensed outfitter.

⑦ ^{outfitter-sponsored}
 7 (6) The department shall make the reserved Class B-10 and Class B-11 licenses that remain unsold
 8 on April 15 available to nonresident applicants without restriction as to hunting with a licensed outfitter or
 9 resident sponsor as provided in [section 6].

10 ~~(5)(7)~~ All Class B-10 and Class B-11 licenses not reserved under subsection (1) and all unsold
 11 reserved licenses available under subsection (4) must be issued by a drawing among all applicants for the
 12 respective unreserved licenses."

13
 14 **NEW SECTION. Section 11. Moratorium on issuance of hunting outfitter licenses.** ~~(1)~~ The
 15 legislature finds it necessary to protect the hunting resource, public health, public safety, and public
 16 welfare. Therefore, the board shall establish and regulate a ~~5-year~~ moratorium on the issuance of outfitter
 17 licenses for land-based hunting activities. An outfitter licensed on [the effective date of this section] may
 18 receive a renewal license, if qualified, but the total number of land-based hunting outfitter licenses issued
 19 after [the effective date of this section] may not exceed the number in existence on [the effective date of
 20 this section].

21 ~~(2) An affected outfitter licensed on [the effective date of this section] may attempt to sell the~~
 22 ~~outfitting business, but approval of the buyer's license is conditioned on the buyer's ability to meet the~~
 23 ~~licensing criteria. The seller's license is to be considered in inactive status until the sale is final. If the sale~~
 24 ~~is not consummated, the seller's license must be reactivated and the buyer's conditional license revoked.~~

25
 26 **NEW SECTION. Section 12. Codification instruction.** (1) [Sections 1 through 3, 6, and 7] are
 27 intended to be codified as an integral part of Title 87, chapter 1, part 2, and the provisions of Title 87,
 28 chapter 1, part 2, apply to [sections 1 through 3, 6, and 7].

29 (2) [Section 11] is intended to be codified as an integral part of Title 37, chapter 47, and the
 30 provisions of Title 37, chapter 47, apply to [section 11].

NEW SECTION. Section 13. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. Section 14. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

(1)
 ⑩ NEW SECTION. SECTION 15. COORDINATION INSTRUCTION. IF SENATE BILL NO. 211 IS PASSED AND APPROVED AND IF IT INCLUDES A SECTION REPEALING 70-16-302, THEN THE REFERENCE TO 70-16-302(1) IN [SECTIONS 2(5) AND 3(8) OF THIS ACT] IS CHANGED TO "[SECTIONS 1 THROUGH 4] OF SENATE BILL NO. 211". (2) *coordination with HB 196 ... see p. 10*

⑭ → NEW SECTION 16. Applicability. *monitorium applies to new licenses filed after passage + approval.*
NEW SECTION. Section 16. Effective dates. (1) [Sections 5 through 9] are effective March 1, 1996.

(2) [Sections 1 through 4, 10, and ~~46~~ 17] are effective October 1, 1995.

(3) [Sections 11 through 44 ~~15~~ and this section] are effective on passage and approval.

¹⁸
NEW SECTION. Section 17. Termination. [This act] terminates (1) [SECTIONS 1 THROUGH 10 AND 12 THROUGH ~~46, 17~~ ^{15 and 18} 17] TERMINATE October 1, 2001.

(2) [SECTION 11] TERMINATES JUNE 30, 1999.
^{1 and 16}

-END-

DATE 3/16/95

SENATE COMMITTEE ON Indian Affairs

BILLS BEING HEARD TODAY: _____

< ■ > PLEASE PRINT < ■ >

Check One

Name	Representing	Bill No.	Support	Oppose
William C. Baucus	PL/PW Advisory Council	195	X	
Glenn D. Johnson	MT Outfitters 910	195	X	
Glenn D. Johnson	MT Outfitters 96	196	X	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY