

1 *Senate* BILL NO. 123  
 2 INTRODUCED BY *Senate's Committee on Fish & Game*  
 3 BY REQUEST OF THE DEPARTMENT OF FISH AND GAME *Donlee*  
 4 *Ch.*

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO FACILITATE PLACEMENT  
 6 OF WILDLIFE ON THE MONTANA ENDANGERED SPECIES AND SPECIES IN  
 7 NEED OF MANAGEMENT LISTS; AMENDING SECTIONS 26-1804 AND  
 8 26-1805, R.C.M. 1947."

9  
 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Section 26-1804, R.C.M. 1947, is amended to  
 12 read as follows:

13 "26-1804. Investigations by department -- regulations  
 14 -- unlawful acts. (1) The department shall conduct  
 15 investigations on nongame wildlife in order to develop  
 16 information relating to population, distribution, habitat  
 17 needs, limiting factors, and other biological and ecological  
 18 data to determine management measures necessary for their  
 19 continued ability to sustain themselves successfully. On the  
 20 basis of such determinations the department shall issue  
 21 management regulations. Such regulations shall set forth  
 22 species or subspecies of nongame wildlife which the  
 23 department deems in need of management pursuant to this  
 24 section, giving their common and scientific names by species  
 25 and subspecies. The department shall conduct ongoing

1 investigations of nongame wildlife. The commission may from  
 2 time to time amend such regulations ~~on the approval of the~~  
 3 legislature as provided for amendments of rules of the  
 4 commission by adding or deleting therefrom species or  
 5 subspecies of nongame wildlife.

6 (2) The commission shall by such regulations establish  
 7 proposed limitations relating to taking, possession,  
 8 transportation, exportation, processing, sale or offer for  
 9 sale, or shipment as may be deemed necessary to manage such  
 10 nongame wildlife. The commission may make such changes in  
 11 the proposed regulations as are consistent with effective  
 12 management of nongame wildlife ~~as designated by the~~  
 13 ~~legislature.~~

14 (3) Except as provided in regulations issued by the  
 15 commission, it shall be unlawful for any person to take,  
 16 possess, transport, export, sell or offer for sale nongame  
 17 wildlife deemed by the commission to be in need of  
 18 management pursuant to this section. Subject to the same  
 19 exception, it shall further be unlawful for any common or  
 20 contract carrier knowingly to transport or receive for  
 21 shipment nongame wildlife deemed by the commission to be in  
 22 need of management pursuant to this section."

23 Section 2. Section 26-1805, R.C.M. 1947, is amended to  
 24 read as follows:

25 "26-1805. List of endangered species -- issuance --

1 review — unlawful to take species on state or federal list.  
 2 (1) On the basis of investigations on nongame wildlife  
 3 provided for in ~~section 4~~ [26-1804] and other available  
 4 scientific and commercial data, and after consultation with  
 5 other state wildlife agencies, appropriate federal agencies,  
 6 and other interested persons and organizations, but not  
 7 later than ~~one~~ {1} year after the effective date of this  
 8 act, the commission shall recommend to the legislature a  
 9 list of those species and subspecies of wildlife indigenous  
 10 to the state which are determined to be endangered within  
 11 this state, giving their common and scientific names by  
 12 species and subspecies.

13 (2) The department shall conduct a review of the state  
 14 list of endangered species within not more than ~~two~~ {2}  
 15 years from its effective date and every ~~two~~ {2} years  
 16 thereafter and ~~the commission shall request the legislature~~  
 17 ~~to amend the list by such additions or deletions as are~~  
 18 ~~deemed appropriate and at such times as are deemed~~  
 19 ~~appropriate make the changes indicated by this review as~~  
 20 provided for amendments of rules of the commission.

21 (3) Except as otherwise provided in this chapter, it  
 22 shall be unlawful for any person to take, possess,  
 23 transport, export, sell or offer for sale, and for any  
 24 common or contract carrier knowingly to transport or receive  
 25 for shipment any species or subspecies of wildlife appearing

1 on any of the following lists:

2 (a) the list of wildlife indigenous to the state  
 3 determined to be endangered within the state pursuant to  
 4 subsection (1);

5 (b) any species or subspecies of fish and wildlife  
 6 included by the commission and appearing on the United  
 7 States' list of endangered native fish and wildlife as it  
 8 appears on the effective date of this chapter (part 17 of  
 9 title 50, Code of Federal Regulations, appendix D); and the  
 10 United States' list of endangered foreign fish and wildlife  
 11 (part 17 of title 50, Code of Federal Regulations, appendix  
 12 A), as such list may be modified hereafter; provided, that  
 13 any species or subspecies of wildlife appearing on any of  
 14 the foregoing lists which enters the state from another  
 15 state or from a point outside the territorial limits of the  
 16 United States and which is transported across the state  
 17 destined for a point beyond the state may be so entered and  
 18 transported without restriction in accordance with the terms  
 19 of any federal permit or permit issued under the laws or  
 20 regulations of another state.

21 (4) In the event the United States' list of endangered  
 22 native fish and wildlife is modified subsequent to the  
 23 effective date of this chapter by additions or deletions,  
 24 such modifications whether or not involving species or  
 25 subspecies indigenous to the state may be accepted as

1 binding under subsection (3) if, after the type of  
2 scientific determination described in subsection (1), the  
3 commission ~~recommends and the legislature accepts such~~  
4 ~~modification for the state~~ concurs in the modification to  
5 the United States' list."

-End-

STATE OF MONTANA

REQUEST NO. 458-77

FISCAL NOTE

Form BD-15

In compliance with a written request received February 9, 19 77, there is hereby submitted a Fiscal Note for Senate Bill 123 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly.

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

Senate Bill 123 amends "The Nongame and Endangered Species Conservation Act" of 1973. The original act provided for the conservation, management and protection of nongame fish and wildlife and species threatened with extinction; and provided the Department of Fish and Game with enforcement authority and penalties for violations.

The proposed legislation removes the statutory provisions that require legislative approval before the Department of Fish and Game can amend Montana's endangered species' lists and management regulations.

FISCAL IMPACT:

No fiscal impact is anticipated as the result of the passage and approval of the proposed legislation.

*Richard L. Drury for*  
BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-17-77