

Senate
 INTRODUCED BY Jerguson Mealy Robbie Brown
 BILL NO. 173

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 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE THAT AT
 5 LEAST ONE-HALF OF THE ANNUAL EXPENDITURES FOR FISH AND GAME
 6 ACQUISITIONS BE USED TO PURCHASE THE DEVELOPMENT RIGHTS OF
 7 PRODUCTIVE AGRICULTURAL LANDS ACQUIRED FOR GAME MANAGEMENT
 8 AREAS; AMENDING SECTIONS 26-104.4 AND 26-104.6, R.C.M.
 9 1947."

10
 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 12 Section 1. Section 26-104.4, R.C.M. 1947, is amended
 13 to read as follows:

14 "26-104.4. Acquisition, importation, and propagation
 15 of fish, game, game birds, and fur-bearing animals --
 16 introduction and propagation of waterfowl food. The
 17 commission may:

- 18 (1) ~~acquire~~ acquire by gift, purchase, capture, or
 19 otherwise any fish, game, game birds, or animals, for
 20 propagation, experimental, or scientific purposes;
- 21 (2) ~~Provide~~ provide for the importation of game birds
 22 and game and fur-bearing animals and for the protection,
 23 propagation, and distribution of imported or native birds
 24 and animals;
- 25 (3) ~~Use~~ use fish and game funds necessary for the

1 construction, maintenance, operation, upkeep, and repair of
 2 fish hatcheries, game farms or other property or means and
 3 appliances for the protection and propagation of fish, game
 4 and fur-bearing animals, or game or nongame birds, except as
 5 provided in 26-104.6(2). It may appropriate moneys from the
 6 funds at its disposal for the extermination or eradication
 7 of predatory animals that destroy fish, game, or fur-bearing
 8 animals, or game or nongame birds; and

9 (4) ~~Spend~~ spend fish and game funds necessary to
 10 introduce and propagate wild waterfowl food and for that
 11 purpose may secure expert advice as to what kinds of
 12 waterfowl foods are adapted to the climate, soil, and waters
 13 of this state."

14 Section 2. Section 26-104.6, R.C.M. 1947, is amended
 15 to read as follows:

16 "26-104.6. Acquisition and sale of lands or waters by
 17 commission. (1) ~~The~~ Under the conditions provided in
 18 subsection (2) of this section, the commission may acquire
 19 by purchase, condemnation, lease, agreement, gift, or
 20 devise, and may acquire easements and development rights
 21 upon lands or waters for the purposes listed in this
 22 subsection. The commission may acquire, develop, operate,
 23 and maintain acquired lands or waters:

- 24 (a) ~~for~~ for fish hatcheries, nursery ponds, or game
 25 farms;

1 (b) ~~As~~ ~~as~~ lands or water suitable for game, bird,
2 fish, or fur-bearing animal restoration, propagation, or
3 protection;

4 (c) For ~~for~~ public hunting, fishing, or trapping
5 areas;

6 (d) ~~To~~ ~~to~~ capture, propagate, transport, buy, sell, or
7 exchange any game, bird, fish, fish eggs, or fur-bearing
8 animals needed for propagation or stocking purposes, or to
9 exercise control measures of undesirable species; and

10 (e) ~~To~~ ~~to~~ extend and consolidate by exchange, lands or
11 waters suitable for these purposes.

12 ~~(2) (a) When considering the acquisition of productive~~
13 ~~agricultural land as defined in 84-437.2, the commission~~
14 ~~shall attempt to acquire development rights only so that the~~
15 ~~land may remain in agricultural use. At least one-half of~~
16 ~~the commission's biennial acquisition funds shall be used to~~
17 ~~purchase development rights.~~

18 ~~(b) Development rights are defined as the rights to~~
19 ~~construct improvements on the land or to substantially alter~~
20 ~~the natural character of the land.~~

21 ~~(c) The value of development rights may be determined~~
22 ~~by subtracting the assessed value of the land under~~
23 ~~84-401(2) from the market value, which is determined by~~
24 ~~averaging two appraisals agreed upon by the landowner and~~
25 ~~the commission.~~

1 ~~(d) Whenever possible, the acquired agricultural land~~
2 ~~shall continue to be used for agricultural purposes. In~~
3 ~~addition, conflicts between agricultural and nonagricultural~~
4 ~~uses shall be minimized.~~

5 ~~(2)(3) The commission may dispose of lands and waters~~
6 ~~acquired by it on those terms after that public notice, and~~
7 ~~without regard to other laws which provide for sale or~~
8 ~~disposal of state lands, and with or without reservation, as~~
9 ~~it considers necessary and advisable. Notice of sale~~
10 ~~describing the lands or waters to be disposed of shall be~~
11 ~~published once a week for three-(3) successive weeks in a~~
12 ~~newspaper with general circulation printed and published in~~
13 ~~the county where the lands or waters are situated, or if no~~
14 ~~newspaper is published in that county then in any newspaper~~
15 ~~with general circulation in that county. The notice shall~~
16 ~~advertise for cash bids to be presented to the commission or~~
17 ~~the director within thirty-(30) days from the date of the~~
18 ~~first publication. Each bid must be accompanied by a~~
19 ~~cashier's check or cash deposit in an amount equal to ten~~
20 ~~percent--(10%) of the amount bid. The highest bid shall be~~
21 ~~accepted upon payment of the balance due within ten--(10)~~
22 ~~days after mailing notice by registered mail to the highest~~
23 ~~bidder. If that bidder defaults on payment of the balance~~
24 ~~due, then the next highest bidders shall be similarly~~
25 ~~notified in succession until a sale is completed. Deposits~~

1 shall be returned to the unsuccessful bidders except bidders
2 defaulting after notification. The commission shall reserve
3 the right to reject any bids which do not equal or exceed
4 the full market value of the lands and waters as determined
5 by the commission. The commission shall convey the lands and
6 waters by deed without covenants of warranty, executed by
7 the governor, or in his absence or disability by the
8 lieutenant governor, attested by the secretary of state, and
9 further countersigned by the chairman of the commission. The
10 deed shall be attested by the secretary of the commission,
11 but need not be acknowledged.

12 ~~(3)(4)~~ Notwithstanding the provisions of section
13 82-1918, ~~R.E.M.--1947~~, the commission is authorized to
14 utilize the installment contract method to facilitate the
15 acquisition of wildlife management areas, in which game and
16 nongame fur-bearing animals, and game and nongame birds may
17 breed and replenish, and areas which provide access to
18 fishing sites for the public. In no case may the total cost
19 of such installment contracts exceed the cost of purchases
20 authorized by commission and appropriated by the
21 legislature."

-End-

STATE OF MONTANA

REQUEST NO. 132-77

FISCAL NOTE

Form BD-15

In compliance with a written request received January 21, 19 77, there is hereby submitted a Fiscal Note for Senate Bill 173 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 173 requires the Department of Fish and Game to allocate at least one-half of their biennial expenditures for the acquisition of wildlife and fish areas to be used to purchase development rights of productive agricultural lands as an alternative to such acquisition.

ASSUMPTIONS:

1. The act would be effective July 1, 1977.
2. The proposed law excludes lands acquired by the Department for state park and recreational purposes under Title 62, R.C.M. 1947.
3. The proposed law affects state monies only - - excluding federal funds.

FISCAL IMPACT:

	<u>1979 Biennium</u>
Expenditures under current law	
Capital outlay	
Land acquisition	<u>\$3,713,750</u>
Proposed law	
Capital outlay	
Land acquisition	1,856,875
Purchase of development rights	<u>1,856,875</u>
Total expenditures under proposed law	<u>3,713,750</u>
Net fiscal impact	<u>\$ 0</u>

TECHNICAL NOTE:

Title of the bill refers to "annual expenditures" while the text on page 3, line 16, refers to "biennial . . . funds".

Richard L. Tracy
 BUDGET DIRECTOR
 Office of Budget and Program Planning
 Date: 1-26-77

Approved by Comm.
on Fish and Game

SENATE BILL NO. 173

INTRODUCED BY JERGESON, MANLEY, ROSKIE, REGAN, BROWN

A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE THAT AT LEAST ~~ONE-HALF~~ 10% OF THE ANTICIPATED ANNUAL EXPENDITURES FOR ~~FISH AND GAME~~ RANGE ACQUISITIONS BE USED TO PURCHASE THE DEVELOPMENT RIGHTS OF ~~PRODUCTIVE AGRICULTURAL~~ LANDS ACQUIRED FOR GAME MANAGEMENT AREAS; AMENDING SECTIONS 26-104.4 AND 26-104.6, R.C.M. 1947."

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

Section 1. Section 26-104.4, R.C.M. 1947, is amended to read as follows:

"26-104.4. Acquisition, importation, and propagation of fish, game, game birds, and fur-bearing animals — introduction and propagation of waterfowl food. The commission may:

(1) ~~acquire~~ acquire by gift, purchase, capture, or otherwise any fish, game, game birds, or animals, for propagation, experimental, or scientific purposes;

(2) ~~provide~~ provide for the importation of game birds and game and fur-bearing animals and for the protection, propagation, and distribution of imported or native birds and animals;

(3) ~~use~~ use fish and game funds necessary for the

construction, maintenance, operation, upkeep, and repair of fish hatcheries, game farms or other property or means and appliances for the protection and propagation of fish, game and fur-bearing animals, or game or nongame birds, except as provided in 26-104.6(2). It may appropriate moneys from the funds at its disposal for the extermination or eradication of predatory animals that destroy fish, game, or fur-bearing animals, or game or nongame birds; and

(4) ~~Spend~~ spend fish and game funds necessary to introduce and propagate wild waterfowl food and for that purpose may secure expert advice as to what kinds of waterfowl foods are adapted to the climate, soil, and waters of this state."

Section 2. Section 26-104.6, R.C.M. 1947, is amended to read as follows:

"26-104.6. Acquisition and sale of lands or waters by commission. (1) ~~The~~ Under the conditions provided in subsection (2) of this section, the commission may acquire by purchase, condemnation, lease, agreement, gift, or devise, and may acquire easements and development rights upon lands or waters for the purposes listed in this subsection. The commission may acquire, develop, operate, and maintain acquired lands or waters:

(a) ~~for~~ for fish hatcheries, nursery ponds, or game farms;

1 (b) ~~As~~ as lands or water suitable for game, bird,
2 fish, or fur-bearing animal restoration, propagation, or
3 protection;

4 (c) ~~For~~ for public hunting, fishing, or trapping
5 areas;

6 (d) ~~To~~ to capture, propagate, transport, buy, sell, or
7 exchange any game, bird, fish, fish eggs, or fur-bearing
8 animals needed for propagation or stocking purposes, or to
9 exercise control measures of undesirable species; and

10 (e) ~~To~~ to extend and consolidate by exchange, lands or
11 waters suitable for these purposes.

12 (2) (a) When considering the acquisition of productive
13 agricultural land as defined in 84-437.3 FOR GAME RANGES,
14 the commission shall attempt to acquire development rights
15 only so that the land may remain in agricultural use. At
16 least one-half 10% of the commission's biennial acquisition
17 funds FOR GAME RANGE ACQUISITIONS shall be used to purchase
18 development rights.

19 (b) Development rights are defined as the rights to
20 construct improvements on the land or to substantially alter
21 the natural character of the land.

22 (c) The value of development rights may be determined
23 by subtracting the assessed value of the land under
24 84-401(2) from the market value, which is determined by
25 averaging two appraisals agreed upon by the landowner and

1 ~~the commission.~~ DEVELOPMENT RIGHTS ARE SEPARABLE FROM ONE
2 ANOTHER.

3 (d) Whenever possible, the LAND ON WHICH DEVELOPMENT
4 RIGHTS HAVE BEEN acquired agricultural land shall continue
5 to be used for agricultural CURRENT purposes. In addition,
6 conflicts between agricultural and nonagricultural uses
7 shall be minimized. RECREATIONAL ACCESS WILL BE PERMITTED,
8 EXCEPT AT THOSE SEASONS WHEN AGRICULTURAL USES WOULD BE
9 HARMED.

10 ~~(2) (3)~~ (3) The commission may dispose of lands and waters
11 acquired by it on those terms after that public notice, and
12 without regard to other laws which provide for sale or
13 disposal of state lands, and with or without reservation, as
14 it considers necessary and advisable. Notice of sale
15 describing the lands or waters to be disposed of shall be
16 published once a week for ~~three~~ (3) successive weeks in a
17 newspaper with general circulation printed and published in
18 the county where the lands or waters are situated, or if no
19 newspaper is published in that county then in any newspaper
20 with general circulation in that county. The notice shall
21 advertise for cash bids to be presented to the commission or
22 the director within ~~thirty~~ (30) days from the date of the
23 first publication. Each bid must be accompanied by a
24 cashier's check or cash deposit in an amount equal to ~~ten~~
25 percent ~~(10%)~~ of the amount bid. The highest bid shall be

1 accepted upon payment of the balance due within ~~ten--(10)~~
 2 days after mailing notice by registered mail to the highest
 3 bidder. If that bidder defaults on payment of the balance
 4 due, then the next highest bidders shall be similarly
 5 notified in succession until a sale is completed. Deposits
 6 shall be returned to the unsuccessful bidders except bidders
 7 defaulting after notification. The commission shall reserve
 8 the right to reject any bids which do not equal or exceed
 9 the full market value of the lands and waters as determined
 10 by the commission. The commission shall convey the lands and
 11 waters by deed without covenants of warranty, executed by
 12 the governor, or in his absence or disability by the
 13 lieutenant governor, attested by the secretary of state, and
 14 further countersigned by the chairman of the commission. The
 15 deed shall be attested by the secretary of the commission,
 16 but need not be acknowledged.

17 ~~(3)~~ (4) Notwithstanding the provisions of section
 18 82-1918, ~~R.C.M. 1947~~, the commission is authorized to
 19 utilize the installment contract method to facilitate the
 20 acquisition of wildlife management areas, in which game and
 21 nongame fur-bearing animals, and game and nongame birds may
 22 breed and replenish, and areas which provide access to
 23 fishing sites for the public. In no case may the total cost
 24 of such installment contracts exceed the cost of purchases
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construction, maintenance, operation, upkeep, and repair of fish hatcheries, game farms or other property or means and appliances for the protection and propagation of fish, game and fur-bearing animals, or game or nongame birds, except as provided in 26-104.6(2). It may appropriate moneys from the funds at its disposal for the extermination or eradication of predatory animals that destroy fish, game, or fur-bearing animals, or game or nongame birds; and

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8 animals needed for propagation or stocking purposes, or to
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13 agricultural land as defined in 84-427.2 FOR GAME RANGES,
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16 least one-half 10% of the commission's biennial acquisition
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1 legislature."

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