

HOUSE BILL NO. 648

INTRODUCED BY SCULLY

IN THE HOUSE

February 8, 1979	Introduced and referred to Committee on Fish and Game.
February 14, 1979	Committee recommend bill do pass as amended. Report adopted.
February 16, 1979	Printed and placed on members' desks.
February 17, 1979	Second reading, do pass. Considered correctly engrossed.
February 19, 1979	Third reading, passed. Transmitted to second house.

IN THE SENATE

February 20, 1979	Introduced and referred to Committee on Fish and Game.
March 7, 1979	Committee recommend bill be concurred in as amended. Report adopted.
March 9, 1979	Second reading, concurred in as amended.
March 13, 1979	Third reading, concurred in as amended.

IN THE HOUSE

March 14, 1979	Returned from second house. Concurred in as amended.
March 16, 1979	Second reading, amendments adopted.
March 17, 1979	Third reading, amendments adopted. Sent to enrolling. Reported correctly enrolled.

1 House BILL NO. 648
 2 INTRODUCED BY Stall

3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO CLARIFY THE
 5 RESPONSIBILITIES OF THE FISH AND GAME COMMISSION AND THE
 6 DEPARTMENT OF FISH AND GAME IN REGARD TO PARKS AND
 7 RECREATION; AMENDING SECTIONS 2-15-3402, 70-16-301,
 8 87-1-201, 87-1-209, AND 87-1-301, MCA."

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

11 Section 1. Section 2-15-3402, MCA, is amended to read:

12 "2-15-3402. Fish and game commission -- composition --
 13 qualifications -- quasi-judicial. (1) There is a fish and
 14 game commission.

15 (2) The commission consists of five members. At least
 16 one member shall be experienced in the breeding and
 17 management of domestic livestock. At least one other member
 18 shall be knowledgeable and primarily interested in state
 19 parks and outdoor recreation. The governor shall appoint one
 20 member from each of the following districts:

21 (a) District No. 1, consisting of Lincoln, Flathead,
 22 Sanders, Lake, Mineral, Missoula, Powell, Ravalli, Granite,
 23 and Lewis and Clark Counties;

24 (b) District No. 2, consisting of Deer Lodge, Silver
 25 Bow, Beaverhead, Madison, Jefferson, Broadwater, Gallatin,

1 Park, and Sweet Grass Counties;

2 (c) District No. 3, consisting of Glacier, Toole,
 3 Liberty, Hill, Pondera, Teton, Chouteau, Cascade, Judith
 4 Basin, Fergus, Blaine, Meagher, and Wheatland Counties;

5 (d) District No. 4, consisting of Phillips, Valley,
 6 Daniels, Sheridan, Roosevelt, Petroleum, Garfield, McCone,
 7 Richland, Dawson, and Wibaux Counties;

8 (e) District No. 5, consisting of Golden Valley,
 9 Musselshell, Stillwater, Carbon, Yellowstone, Big Horn,
 10 Treasure, Rosebud, Custer, Powder River, Carter, Fallon, and
 11 Prairie Counties.

12 (3) Appointments shall be made without regard to
 13 political affiliation and shall be made solely for the
 14 welfare wise management of the fish, game, and wildlife,
 15 state parks, and other outdoor recreational resources of
 16 this state. A person may not be appointed to the commission
 17 unless he is informed or interested and experienced in the
 18 subject of wildlife, fish, and game, and outdoor recreation
 19 and the requirements for the conservation and protection of
 20 fish, game, and game birds, and animals, and outdoor
 21 recreational resources.

22 (4) A vacancy occurring on the commission shall be
 23 filled by the governor in the same manner and from the
 24 district in which the vacancy occurs.

25 (5) The fish and game commission is designated as a

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 INTRODUCED BILL

1 quasi-judicial board for purposes of 2-15-124."

2 Section 2. Section 70-16-301, MCA, is amended to read:

3 "70-16-301. Recreational purposes defined.
4 "Recreational purposes", as used herein, shall include
5 hunting, fishing, swimming, boating, water skiing, camping,
6 picnicking, pleasure driving, ~~snowmobiling~~, winter sports,
7 hiking, or other pleasure expeditions."

8 Section 3. Section 87-1-201, MCA, is amended to read:

9 "87-1-201. Powers and duties. (1) The department shall
10 supervise all the wildlife, fish, game, game and nongame
11 birds, waterfowl, and the game and fur-bearing animals of
12 the state. It possesses all powers necessary to fulfill the
13 duties prescribed by law and to bring actions in the proper
14 courts of this state for the enforcement of the fish and
15 game laws and the rules adopted by the department.

16 (2) It shall enforce all the laws of the state
17 respecting the protection, preservation, and propagation of
18 fish, game, fur-bearing animals, and game and nongame birds
19 within the state.

20 (3) It shall have the exclusive power to spend for the
21 protection, preservation, and propagation of fish, game,
22 fur-bearing animals, and game and nongame birds all state
23 funds collected or acquired for that purpose, whether
24 arising from state appropriation, licenses, fines, gifts, or
25 otherwise. Moneys collected or received from the sale of

1 hunting and fishing licenses or permits, from the sale of
2 seized game or hides, from fines or damages collected for
3 violations of the fish and game laws, from appropriations,
4 or received by the department from any other sources are
5 appropriated to and under control of the department.

6 (4) It may discharge any appointee or employee of the
7 department for cause at any time.

8 (5) It may dispose of all property owned by the state
9 used for the protection, preservation, and propagation of
10 fish, game, fur-bearing animals, and game and nongame birds
11 which is of no further value or use to the state and shall
12 turn over the proceeds from the sale to the state treasurer
13 to be credited to the fish and game account in the earmarked
14 revenue fund.

15 (6) It may not issue permits to anyone to carry
16 firearms within this state except to regularly appointed
17 officers or wardens.

18 (7) The department is hereby authorized to make,
19 promulgate, and enforce such reasonable rules and
20 regulations not inconsistent with the provisions of [this
21 act] as in its judgment will accomplish the purpose of [this
22 act].

23 (8) The department is authorized to promulgate rules
24 relative to tagging, possession, or transportation of bear
25 within or without the state.

1 ~~(9) The department shall provide for outdoor~~
 2 ~~recreation and shall administer the laws relating to state~~
 3 ~~parks to work toward the improvement of the state park~~
 4 ~~system."~~

5 Section 4. Section 87-1-209, MCA, is amended to read:

6 "87-1-209. Acquisition and sale of lands or waters.

7 (1) The department, with the consent of the commission, may
 8 acquire by purchase, condemnation, lease, agreement, gift,
 9 or devise and may acquire easements upon lands or waters for
 10 the purposes listed in this subsection. The department may
 11 develop, operate, and maintain acquired lands or waters:

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

13 (b) as lands or water suitable for game, bird, fish,
 14 or fur-bearing animal restoration, propagation, or
 15 protection;

16 (c) for public hunting, fishing, or trapping areas;

17 (d) to capture, propagate, transport, buy, sell, or
 18 exchange any game, birds, fish, fish eggs, or fur-bearing
 19 animals needed for propagation or stocking purposes or to
 20 exercise control measures of undesirable species;

21 ~~(e) for state parks and outdoor recreation;~~

22 ~~(f) to extend and consolidate by exchange, lands or~~
 23 ~~waters suitable for these purposes.~~

24 (2) (a) The department, with the consent of the
 25 commission, may dispose of lands and waters acquired by it

1 on those terms after that public notice, without regard to
 2 other laws which provide for sale or disposal of state lands
 3 and with or without reservation, as it considers necessary
 4 and advisable.

5 (b) Notice of sale describing the lands or waters to
 6 be disposed of shall be published once a week for 3
 7 successive weeks in a newspaper with general circulation
 8 printed and published in the county where the lands or
 9 waters are situated or, if no newspaper is published in that
 10 county, then in any newspaper with general circulation in
 11 that county.

12 (c) The notice shall advertise for cash bids to be
 13 presented to the director within 30 days from the date of
 14 the first publication. Each bid must be accompanied by a
 15 cashier's check or cash deposit in an amount equal to 10% of
 16 the amount bid. The highest bid shall be accepted upon
 17 payment of the balance due within 10 days after mailing
 18 notice by registered or certified mail to the highest
 19 bidder. If that bidder defaults on payment of the balance
 20 due, then the next highest bidders shall be similarly
 21 notified in succession until a sale is completed. Deposits
 22 shall be returned to the unsuccessful bidders except bidders
 23 defaulting after notification.

24 (d) The department shall reserve the right to reject
 25 any bids which do not equal or exceed the full market value

1 of the lands and waters as determined by the department. The
 2 department shall convey the lands and waters without
 3 covenants of warranty by deed executed by the governor or in
 4 his absence or disability by the lieutenant governor,
 5 attested by the secretary of state and further countersigned
 6 by the director.

7 (3) Notwithstanding the provisions of 18-4-102, the
 8 department, with the consent of the commission, is
 9 authorized to utilize the installment contract method to
 10 facilitate the acquisition of wildlife management areas, in
 11 which game and nongame fur-bearing animals and game and
 12 nongame birds may breed and replenish, and areas which
 13 provide access to fishing sites for the public. In no case
 14 may the total cost of such installment contracts exceed the
 15 cost of purchases authorized by the department and
 16 appropriated by the legislature."

17 Section 5. Section 87-1-301, MCA, is amended to read:
 18 "87-1-301. Powers of the commission. The commission
 19 shall:

20 (1) set the policies for the protection, preservation,
 21 and propagation of the wildlife, fish, game, furbearers,
 22 waterfowl, nongame species, and endangered species of the
 23 state and for the fulfillment of all other responsibilities
 24 of the department as provided by laws including the
 25 promotion of state parks and outdoor recreation;

1 (2) establish the hunting, fishing, and trapping rules
 2 of the department;

3 (3) establish the rules of the department governing
 4 the use of lands owned or controlled by the department and
 5 waters under the jurisdiction of the department;

6 (4) have the power within the department to establish
 7 wildlife refuges and bird and game preserves;

8 (5) approve all acquisitions or transfers by the
 9 department of interests in land or water;

10 (6) review and approve the budget of the department
 11 prior to its transmittal to the budget office; and

12 (7) review and approve construction projects whose
 13 estimated cost is more than \$1,000 but less than \$5,000."

-End-

Approved by Comm.
on Fish and Game

HOUSE BILL NO. 648
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A BILL FOR AN ACT ENTITLED: "AN ACT TO CLARIFY THE RESPONSIBILITIES OF THE FISH AND GAME COMMISSION AND THE DEPARTMENT OF FISH AND GAME IN REGARD TO PARKS AND RECREATION; AMENDING SECTIONS 2-15-3402, 70-16-301, 87-1-201, 87-1-209, AND 87-1-301, MCA."

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

Section 1. Section 2-15-3402, MCA, is amended to read:

"2-15-3402. Fish and game commission -- composition -- qualifications -- quasi-judicial. (1) There is a fish and game commission.

(2) The commission consists of five members. At least one member shall be experienced in the breeding and management of domestic livestock. ~~At least one other member shall be knowledgeable and primarily interested in state parks and outdoor recreation.~~ The governor shall appoint one member from each of the following districts:

(a) District No. 1, consisting of Lincoln, Flathead, Sanders, Lake, Mineral, Missoula, Powell, Ravalli, Granite, and Lewis and Clark Counties;

(b) District No. 2, consisting of Deer Lodge, Silver Bow, Beaverhead, Madison, Jefferson, Broadwater, Gallatin,

Park, and Sweet Grass Counties;

(c) District No. 3, consisting of Glacier, Toole, Liberty, Hill, Pondera, Teton, Chouteau, Cascade, Judith Basin, Fergus, Blaine, Meagher, and Wheatland Counties;

(d) District No. 4, consisting of Phillips, Valley, Daniels, Sheridan, Roosevelt, Petroleum, Garfield, McCone, Richland, Dawson, and Wibaux Counties;

(e) District No. 5, consisting of Golden Valley, Musselshell, Stillwater, Carbon, Yellowstone, Big Horn, Treasure, Rosebud, Custer, Powder River, Carter, Fallon, and Prairie Counties.

(3) Appointments shall be made without regard to political affiliation and shall be made solely for the welfare ~~wise management~~ of the fish, game, and wildlife, ~~AND state parks, and other outdoor recreational resources~~ of this state. A person may not be appointed to the commission unless he is informed or interested and experienced in the subject of wildlife, fish, end-game, and outdoor recreation and the requirements for the conservation and protection of fish, game, and game birds, end animals, and outdoor recreational resources.

(4) A vacancy occurring on the commission shall be filled by the governor in the same manner and from the district in which the vacancy occurs.

(5) The fish and game commission is designated as a

1 quasi-judicial board for purposes of 2-15-124."

2 Section 2. Section 70-16-301, MCA, is amended to read:

3 "70-16-301. Recreational purposes defined.
4 "Recreational purposes", as used herein, shall include
5 hunting, fishing, swimming, boating, water skiing, camping,
6 picnicking, pleasure driving, ~~and snowmobiling~~ winter sports,
7 hiking, or other pleasure expeditions."

8 Section 3. Section 87-1-201, MCA, is amended to read:

9 "87-1-201. Powers and duties. (1) The department shall
10 supervise all the wildlife, fish, game, game and nongame
11 birds, waterfowl, and the game and fur-bearing animals of
12 the state. It possesses all powers necessary to fulfill the
13 duties prescribed by law and to bring actions in the proper
14 courts of this state for the enforcement of the fish and
15 game laws and the rules adopted by the department.

16 (2) It shall enforce all the laws of the state
17 respecting the protection, preservation, and propagation of
18 fish, game, fur-bearing animals, and game and nongame birds
19 within the state.

20 (3) It shall have the exclusive power to spend for the
21 protection, preservation, and propagation of fish, game,
22 fur-bearing animals, and game and nongame birds all state
23 funds collected or acquired for that purpose, whether
24 arising from state appropriation, licenses, fines, gifts, or
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1 hunting and fishing licenses or permits, from the sale of
2 seized game or hides, from fines or damages collected for
3 violations of the fish and game laws, from appropriations,
4 or received by the department from any other sources are
5 appropriated to and under control of the department.

6 (4) It may discharge any appointee or employee of the
7 department for cause at any time.

8 (5) It may dispose of all property owned by the state
9 used for the protection, preservation, and propagation of
10 fish, game, fur-bearing animals, and game and nongame birds
11 which is of no further value or use to the state and shall
12 turn over the proceeds from the sale to the state treasurer
13 to be credited to the fish and game account in the earmarked
14 revenue fund.

15 (6) It may not issue permits to anyone to carry
16 firearms within this state except to regularly appointed
17 officers or wardens.

18 (7) The department is hereby authorized to make
19 promulgate, and enforce such reasonable rules and
20 regulations not inconsistent with the provisions of [this
21 act] as in its judgment will accomplish the purpose of [this
22 act].

23 (8) The department is authorized to promulgate rules
24 relative to tagging, possession, or transportation of bear
25 within or without the state.

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 2 ~~recreation and shall administer the laws relating to state~~
 3 ~~parks to work toward the improvement of the state park~~
 4 ~~systems"~~

5 Section 4. Section 87-1-209, MCA, is amended to read:

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 8 acquire by purchase, condemnation, lease, agreement, gift,
 9 or devise and may acquire easements upon lands or waters for
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 11 develop, operate, and maintain acquired lands or waters:

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13 (b) as lands or water suitable for game, bird, fish,
 14 or fur-bearing animal restoration, propagation, or
 15 protection;

16 (c) for public hunting, fishing, or trapping areas;

17 (d) to capture, propagate, transport, buy, sell, or
 18 exchange any game, birds, fish, fish eggs, or fur-bearing
 19 animals needed for propagation or stocking purposes or to
 20 exercise control measures of undesirable species;

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 16 the amount bid. The highest bid shall be accepted upon
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 22 shall be returned to the unsuccessful bidders except bidders
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 25 any bids which do not equal or exceed the full market value

1 of the lands and waters as determined by the department. The
 2 department shall convey the lands and waters without
 3 covenants of warranty by deed executed by the governor or in
 4 his absence or disability by the lieutenant governor,
 5 attested by the secretary of state and further countersigned
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7 (3) Notwithstanding the provisions of 18-4-102, the
 8 department, with the consent of the commission, is
 9 authorized to utilize the installment contract method to
 10 facilitate the acquisition of wildlife management areas, in
 11 which game and nongame fur-bearing animals and game and
 12 nongame birds may breed and replenish, and areas which
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 14 may the total cost of such installment contracts exceed the
 15 cost of purchases authorized by the department and
 16 appropriated by the legislature."

17 Section 5. Section 87-1-301, MCA, is amended to read:
 18 "87-1-301. Powers of the commission. The commission
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20 (1) set the policies for the protection, preservation,
 21 and propagation of the wildlife, fish, game, furbearers,
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 23 state and for the fulfillment of all other responsibilities
 24 of the department as provided by laws including the
 25 promotion of state parks and outdoor recreation;

1 (2) establish the hunting, fishing, and trapping rules
 2 of the department;

3 (3) establish the rules of the department governing
 4 the use of lands owned or controlled by the department and
 5 waters under the jurisdiction of the department;

6 (4) have the power within the department to establish
 7 wildlife refuges and bird and game preserves;

8 (5) approve all acquisitions or transfers by the
 9 department of interests in land or water;

10 (6) review and approve the budget of the department
 11 prior to its transmittal to the budget office; and

12 (7) review and approve construction projects whose
 13 estimated cost is more than \$1,000 but less than \$5,000."

-End-

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Section 1. Section 2-15-3402, MCA, is amended to read:

"2-15-3402. Fish and game commission -- composition -- qualifications -- quasi-judicial. (1) There is a fish and game commission.

(2) The commission consists of five members. At least one member shall be experienced in the breeding and management of domestic livestock. ~~At least one other member shall be knowledgeable and primarily interested in state parks and outdoor recreation.~~ The governor shall appoint one member from each of the following districts:

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Park, and Sweet Grass Counties;

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(d) District No. 4, consisting of Phillips, Valley, Daniels, Sheridan, Roosevelt, Petroleum, Garfield, McCone, Richland, Dawson, and Wibaux Counties;

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(3) Appointments shall be made without regard to political affiliation and shall be made solely for the welfare ~~and~~ wise management of the fish, game, and wildlife, AND state parks, and other outdoor recreational resources of this state. A person may not be appointed to the commission unless he is informed or interested and experienced in the subject of wildlife, fish, and game, and outdoor recreation and the requirements for the conservation and protection of fish, game, and game birds, and animals, and outdoor recreational resources.

(4) A vacancy occurring on the commission shall be filled by the governor in the same manner and from the district in which the vacancy occurs.

(5) The fish and game commission is designated as a

1 quasi-judicial board for purposes of 2-15-124."

2 Section 2. Section 70-16-301, MCA, is amended to read:

3 "70-16-301. Recreational purposes defined.
4 "Recreational purposes", as used herein, shall include
5 hunting, fishing, swimming, boating, water skiing, camping,
6 picnicking, pleasure driving, ~~and snowmobiling~~ winter sports,
7 hiking, or other pleasure expeditions."

8 Section 3. Section 87-1-201, MCA, is amended to read:

9 "87-1-201. Powers and duties. (1) The department shall
10 supervise all the wildlife, fish, game, game and nongame
11 birds, waterfowl, and the game and fur-bearing animals of
12 the state. It possesses all powers necessary to fulfill the
13 duties prescribed by law and to bring actions in the proper
14 courts of this state for the enforcement of the fish and
15 game laws and the rules adopted by the department.

16 (2) It shall enforce all the laws of the state
17 respecting the protection, preservation, and propagation of
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7 department for cause at any time.

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14 revenue fund.

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16 firearms within this state except to regularly appointed
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19 promulgate, and enforce such reasonable rules and
20 regulations not inconsistent with the provisions of [this
21 act] as in its judgment will accomplish the purpose of [this
22 act].

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24 relative to tagging, possession, or transportation of bear
25 within or without the state.

~~(1) The department shall provide for outdoor recreation and shall administer the laws relating to state parks to work toward the improvement of the state park systems"~~

Section 4. Section 87-1-209, MCA, is amended to read:

"87-1-209. Acquisition and sale of lands or waters.

(1) The department, with the consent of the commission, may acquire by purchase, condemnation, lease, agreement, gift, or devise and may acquire easements upon lands or waters for the purposes listed in this subsection. The department may develop, operate, and maintain acquired lands or waters:

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

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

(c) for public hunting, fishing, or trapping areas;

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~~(e) for state parks and outdoor recreation;~~

~~(f) to extend and consolidate by exchange, lands or waters suitable for these purposes.~~

(2) (a) The department, with the consent of the commission, may dispose of lands and waters acquired by it

on those terms after that public notice, without regard to other laws which provide for sale or disposal of state lands and with or without reservation, as it considers necessary and advisable.

(b) Notice of sale describing the lands or waters to be disposed of shall be published once a week for 3 successive weeks in a newspaper with general circulation printed and published in the county where the lands or waters are situated or, if no newspaper is published in that county, then in any newspaper with general circulation in that county.

(c) The notice shall advertise for cash bids to be presented to the director within 30 days from the date of the first publication. Each bid must be accompanied by a cashier's check or cash deposit in an amount equal to 10% of the amount bid. The highest bid shall be accepted upon payment of the balance due within 10 days after mailing notice by registered or certified mail to the highest bidder. If that bidder defaults on payment of the balance due, then the next highest bidders shall be similarly notified in succession until a sale is completed. Deposits shall be returned to the unsuccessful bidders except bidders defaulting after notification.

(d) The department shall reserve the right to reject any bids which do not equal or exceed the full market value

1 of the lands and waters as determined by the department. The
 2 department shall convey the lands and waters without
 3 covenants of warranty by deed executed by the governor or in
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17 Section 5. Section 87-1-301, MCA, is amended to read:

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 19 shall:

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 21 and propagation of the wildlife, fish, game, furbearers,
 22 waterfowl, nongame species, and endangered species of the
 23 state and for the fulfillment of all other responsibilities
 24 of the department as provided by law, including the
 25 promotion of state parks and outdoor recreation;

1 (2) establish the hunting, fishing, and trapping rules
 2 of the department;

3 (3) establish the rules of the department governing
 4 the use of lands owned or controlled by the department and
 5 waters under the jurisdiction of the department;

6 (4) have the power within the department to establish
 7 wildlife refuges and bird and game preserves;

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

Section 1. Section 2-15-3402, MCA, is amended to read:

"2-15-3402. Fish and game commission -- composition -- qualifications -- quasi-judicial. (1) There is a fish and game commission.

(2) The commission consists of five members. At least one member shall be experienced in the breeding and management of domestic livestock. ~~At least one other member shall be knowledgeable and primarily interested in state parks and outdoor recreation.~~ The governor shall appoint one member from each of the following districts:

(a) District No. 1, consisting of Lincoln, Flathead, Sanders, Lake, Mineral, Missoula, Powell, Ravalli, Granite, and Lewis and Clark Counties;

(b) District No. 2, consisting of Deer Lodge, Silver Bow, Beaverhead, Madison, Jefferson, Broadwater, Gallatin,

Park, and Sweet Grass Counties;

(c) District No. 3, consisting of Glacier, Toole, Liberty, Hill, Pondera, Teton, Chouteau, Cascade, Judith Basin, Fergus, Blaine, Meagher, and Wheatland Counties;

(d) District No. 4, consisting of Phillips, Valley, Daniels, Sheridan, Roosevelt, Petroleum, Garfield, McCone, Richland, Dawson, and Wibaux Counties;

(e) District No. 5, consisting of Golden Valley, Musselshell, Stillwater, Carbon, Yellowstone, Big Horn, Treasure, Rosebud, Custer, Powder River, Carter, Fallon, and Prairie Counties.

(3) Appointments shall be made without regard to political affiliation and shall be made solely for the welfare ~~wise management~~ of the fish, game, and wildlife, ~~AND state parks, and other outdoor recreational resources~~ of this state. A person may not be appointed to the commission unless he is informed or interested and experienced in the subject of wildlife, fish, and game, ~~and outdoor recreation~~ and the requirements for the conservation and protection of fish, game, and game birds, and animals, ~~and outdoor recreational resources.~~

(4) A vacancy occurring on the commission shall be filled by the governor in the same manner and from the district in which the vacancy occurs.

(5) The fish and game commission is designated as a

1 quasi-judicial board for purposes of 7-15-124."

2 Section 2. Section 70-16-301, MCA, is amended to read:

3 "70-16-301. Recreational purposes defined.
4 "Recreational purposes", as used herein, shall include
5 hunting, fishing, swimming, boating, water skiing, camping,
6 picnicking, pleasure driving, ~~snowmobiling~~ winter sports,
7 hiking, or other pleasure expeditions."

8 Section 3. Section 87-1-201, MCA, is amended to read:

9 "87-1-201. Powers and duties. (1) The department shall
10 supervise all the wildlife, fish, game, game and nongame
11 birds, waterfowl, and the game and fur-bearing animals of
12 the state. It possesses all powers necessary to fulfill the
13 duties prescribed by law and to bring actions in the proper
14 courts of this state for the enforcement of the fish and
15 game laws and the rules adopted by the department.

16 (2) It shall enforce all the laws of the state
17 respecting the protection, preservation, and propagation of
18 fish, game, fur-bearing animals, and game and nongame birds
19 within the state.

20 (3) It shall have the exclusive power to spend for the
21 protection, preservation, and propagation of fish, game,
22 fur-bearing animals, and game and nongame birds all state
23 funds collected or acquired for that purpose, whether
24 arising from state appropriation, licenses, fines, gifts, or
25 otherwise. Moneys collected or received from the sale of

1 hunting and fishing licenses or permits, from the sale of
2 seized game or hides, from fines or damages collected for
3 violations of the fish and game laws, from appropriations,
4 or received by the department from any other sources are
5 appropriated to and under control of the department.

6 (4) It may discharge any appointee or employee of the
7 department for cause at any time.

8 (5) It may dispose of all property owned by the state
9 used for the protection, preservation, and propagation of
10 fish, game, fur-bearing animals, and game and nongame birds
11 which is of no further value or use to the state and shall
12 turn over the proceeds from the sale to the state treasurer
13 to be credited to the fish and game account in the earmarked
14 revenue fund.

15 (6) It may not issue permits to anyone to carry
16 firearms within this state except to regularly appointed
17 officers or wardens.

18 (7) The department is hereby authorized to make,
19 promulgate, and enforce such reasonable rules and
20 regulations not inconsistent with the provisions of [this
21 act] as in its judgment will accomplish the purpose of [this
22 act].

23 (8) The department is authorized to promulgate rules
24 relative to tagging, possession, or transportation of bear
25 within or without the state.

~~*91--the--department--shall--provide--for--outdoor
recreation--and--shall--administer--the--laws--relating--to--state
parks--to--work--toward--the--improvement--of--the--state--park
system.*~~

Section 4. Section 87-1-209, MCA, is amended to read:

"87-1-209. Acquisition and sale of lands or waters.

(1) The department, with the consent of the commission, may acquire by purchase, condemnation, lease, agreement, gift, or devise and may acquire easements upon lands or waters for the purposes listed in this subsection. The department may develop, operate, and maintain acquired lands or waters:

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

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

(c) for public hunting, fishing, or trapping areas;

(d) to capture, propagate, transport, buy, sell, or exchange any game, birds, fish, fish eggs, or fur-bearing animals needed for propagation or stocking purposes or to exercise control measures of undesirable species;

~~(e) for state parks and outdoor recreation;~~

~~(f) to extend and consolidate by exchange, lands or waters suitable for these purposes.~~

(2) (a) The department, with the consent of the commission, may dispose of lands and waters acquired by it

on those terms after that public notice, without regard to other laws which provide for sale or disposal of state lands and with or without reservation, as it considers necessary and advisable.

(b) Notice of sale describing the lands or waters to be disposed of shall be published once a week for 3 successive weeks in a newspaper with general circulation printed and published in the county where the lands or waters are situated or, if no newspaper is published in that county, then in any newspaper with general circulation in that county.

(c) The notice shall advertise for cash bids to be presented to the director within 30 days from the date of the first publication. Each bid must be accompanied by a cashier's check or cash deposit in an amount equal to 10% of the amount bid. The highest bid shall be accepted upon payment of the balance due within 10 days after mailing notice by registered or certified mail to the highest bidder. If that bidder defaults on payment of the balance due, then the next highest bidders shall be similarly notified in succession until a sale is completed. Deposits shall be returned to the unsuccessful bidders except bidders defaulting after notification.

(d) The department shall reserve the right to reject any bids which do not equal or exceed the full market value

1 of the lands and waters as determined by the department. The
2 department shall convey the lands and waters without
3 covenants of warranty by deed executed by the governor or in
4 his absence or disability by the lieutenant governor,
5 attested by the secretary of state and further countersigned
6 by the director.

7 (3) Notwithstanding the provisions of 18-4-102, the
8 department, with the consent of the commission, is
9 authorized to utilize the installment contract method to
10 facilitate the acquisition of wildlife management areas, in
11 which game and nongame fur-bearing animals and game and
12 nongame birds may breed and replenish, and areas which
13 provide access to fishing sites for the public. In no case
14 may the total cost of such installment contracts exceed the
15 cost of purchases authorized by the department and
16 appropriated by the legislature."

17 Section 5. Section 87-1-301, MCA, is amended to read:
18 "87-1-301. Powers of the commission. The commission
19 shall:

20 (1) set the policies for the protection, preservation,
21 and propagation of the wildlife, fish, game, furbearers,
22 waterfowl, nongame species, and endangered species of the
23 state and for the fulfillment of all other responsibilities
24 of the department as provided by law, including the
25 promotion of state parks and outdoor recreation;

1 (2) establish the hunting, fishing, and trapping rules
2 of the department;

3 (3) establish the rules of the department governing
4 the use of lands owned or controlled by the department and
5 waters under the jurisdiction of the department;

6 (4) have the power within the department to establish
7 wildlife refuges and bird and game preserves;

8 (5) approve all acquisitions or transfers by the
9 department of interests in land or water;

10 (6) review and approve the budget of the department
11 prior to its transmittal to the budget office; and

12 (7) review and approve construction projects whose
13 estimated cost is more than \$1,000 but less than \$5,000."

14 SECTION 6. SEVERABILITY. IF A PART OF THIS ACT IS
15 INVALID, ALL VALID PARTS THAT ARE SEVERABLE FROM THE INVALID
16 PART REMAIN IN EFFECT. IF A PART OF THIS ACT IS INVALID IN
17 ONE OR MORE OF ITS APPLICATIONS, THE PART REMAINS IN EFFECT
18 IN ALL VALID APPLICATIONS THAT ARE SEVERABLE FROM THE
19 INVALID APPLICATIONS.

-End-

March 7, 1979

SENATE STANDING COMMITTEE REPORT
(Fish and Game)

That House Bill No. 648 be amended as follows:

1. Title, lines 7 and 8.

Following: "RECREATION;"

Insert: "DELETING THE REQUIREMENT THAT ONE COMMISSION MEMBER BE AN ATTORNEY; AND"

Following: "2-15-3402,"

Strike: "70-16-301, 87-1-201,"

Insert: "AND"

Following: "87-1-209,"

Strike: "AND 87-1-301,"

2. Page 3, line 1.

Following: "2-15-124."

Insert: "Notwithstanding the provisions of 2-15-124(1), the governor is not required to appoint an attorney to serve as a member of the commission."

3. Page 3, lines 2 through 7.

Strike: section 2 in its entirety

4. Page 3, line 8.

Strike: section 3 in its entirety

Renumber: subsequent section

5. Page 7, line 17.

Strike: section 5 in its entirety

March 9, 1979

SENATE COMMITTEE OF THE WHOLE

That House Bill No. 648 be amended as follows:

1. Page 8, line 14.

Following: line 13

Insert: "Section 6. 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."