

SENATE BILL NO. 276

INTRODUCED BY GALT, HAPPERMAN, STORY, HAMMOND, AKLESTAD

IN THE SENATE

January 26, 1981	Introduced and referred to Committee on State Administration.
January 29, 1981	Rereferred to Committee on Fish and Game.
February 19, 1981	Committee recommend bill do pass as amended. Report adopted.
February 20, 1981	Bill printed and placed on members' desks.
February 21, 1981	Second reading, do pass as amended.
February 23, 1981	Correctly engrossed.
February 24, 1981	Third reading, passed. Ayes, 48; Noes, 2. Transmitted to House.

IN THE HOUSE

March 2, 1981	Introduced and referred to Committee on State Administration.
March 17, 1981	Committee recommend bill be concurred in. Report adopted.
March 20, 1981	Second reading, concurred in.
March 23, 1981	Third reading, concurred in. Ayes, 67; Noes, 31.

IN THE SENATE

March 24, 1981	Returned from House. Concurred in. Sent to enrolling. Reported correctly enrolled.
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*Senate* BILL NO. *276*  
*Walt Hoffmann Story Hammond*  
*AKKESTAD*

INTRODUCED BY  
A BILL FOR AN ACT ENTITLED: "AN ACT TO ELIMINATE THE CONDEMNATION POWER OF THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS; AMENDING SECTIONS 23-1-102 AND 87-1-209, MCA."

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

Section 1. Section 23-1-102, MCA, is amended to read:

"23-1-102. Powers and duties of department of fish, wildlife, and parks. The department shall make a study to determine the scenic, historic, archaeological, scientific, and recreational resources of the state and may by purchase, lease, agreement, or acceptance of donations, ~~or~~ ~~condemnation~~ acquire for the state any areas, sites, or objects which in its opinion should be held, improved, and maintained as state parks, state recreational areas, state monuments, or state historical sites. The department may in its discretion accept in the name of the state, in fee or otherwise, any areas, sites, or objects conveyed, entrusted, donated, or devised to the state. It may in its discretion accept gifts, grants, bequests, or contributions of money or other property to be spent or used for any of the purposes of this part. A contract may not be entered into or other obligation incurred until moneys have been appropriated by

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the legislature or are otherwise available. The department also has jurisdiction, custody, and control of all state parks, recreational areas, public camping grounds, historical sites, and monuments, except wayside camps and other public conveniences acquired, improved, and maintained by the department of highways and contiguous to the state highway system. The department may designate lands under its control as state parks, state historical sites, state monuments, or by any other designation it considers appropriate, remove or change the designation of any area or portion, and name or change the name of any area as designated. The department may lease those portions of designated lands which are necessary for the proper administration of these lands in keeping with the basic purpose of this part."

Section 2. 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

1 protection;

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

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

7 (e) for state parks and outdoor recreation;

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

10 (2) (a) The department, with the consent of the  
11 commission, may dispose of lands and waters acquired by it  
12 on those terms after that public notice, without regard to  
13 other laws which provide for sale or disposal of state lands  
14 and with or without reservation, as it considers necessary  
15 and advisable.

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

23 (c) The notice shall advertise for cash bids to be  
24 presented to the director within 30 days from the date of  
25 the first publication. Each bid must be accompanied by a

1 cashier's check or cash deposit in an amount equal to 10% of  
2 the amount bid. The highest bid shall be accepted upon  
3 payment of the balance due within 10 days after mailing  
4 notice by registered or certified mail to the highest  
5 bidder. If that bidder defaults on payment of the balance  
6 due, then the next highest bidders shall be similarly  
7 notified in succession until a sale is completed. Deposits  
8 shall be returned to the unsuccessful bidders except bidders  
9 defaulting after notification.

10 (d) The department shall reserve the right to reject  
11 any bids which do not equal or exceed the full market value  
12 of the lands and waters as determined by the department. The  
13 department shall convey the lands and waters without  
14 covenants of warranty by deed executed by the governor or in  
15 his absence or disability by the lieutenant governor,  
16 attested by the secretary of state and further countersigned  
17 by the director.

18 (3) Notwithstanding the provisions of 18-4-102, the  
19 department, with the consent of the commission, is  
20 authorized to utilize the installment contract method to  
21 facilitate the acquisition of wildlife management areas, in  
22 which game and nongame fur-bearing animals and game and  
23 nongame birds may breed and replenish, and areas which  
24 provide access to fishing sites for the public. In no case  
25 may the total cost of such installment contracts exceed the

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1 cost of purchases authorized by the department and  
2 appropriated by the legislature."

-End-

Approved by Comm.  
on Fish and Game

1 SENATE BILL NO. 276

2 INTRODUCED BY GALT, HAFFERMAN, STORY, HAMMOND, AKLESTAD

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO ~~ELIMINATE~~ LIMIT THE  
5 CONDEMNATION POWER OF THE DEPARTMENT OF FISH, WILDLIFE, AND  
6 PARKS; AMENDING SECTIONS 23-1-102 AND 87-1-209, MCA."

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

9 Section 1. Section 23-1-102, MCA, is amended to read:

10 "23-1-102. Powers and duties of department of fish,  
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12 determine the scenic, historic, archaeological, scientific,  
13 and recreational resources of the state and may by purchase,  
14 lease, agreement, or acceptance of donations, ~~or~~  
15 ~~condemnation, OR CONDEMNATION FOR THE PURPOSES OUTLINED IN~~  
16 87-1-202(2) acquire for the state any areas, sites, or  
17 objects which in its opinion should be held, improved, and  
18 maintained as state parks, state recreational areas, state  
19 monuments, or state historical sites. The department may in  
20 its discretion accept in the name of the state, in fee or  
21 otherwise, any areas, sites, or objects conveyed, entrusted,  
22 donated, or devised to the state. It may in its discretion  
23 accept gifts, grants, bequests, or contributions of money or  
24 other property to be spent or used for any of the purposes  
25 of this part. A contract may not be entered into or other

1 obligation incurred until moneys have been appropriated by  
2 the legislature or are otherwise available. The department  
3 also has jurisdiction, custody, and control of all state  
4 parks, recreational areas, public camping grounds,  
5 historical sites, and monuments, except wayside camps and  
6 other public conveniences acquired, improved, and maintained  
7 by the department of highways and contiguous to the state  
8 highway system. The department may designate lands under its  
9 control as state parks, state historical sites, state  
10 monuments, or by any other designation it considers  
11 appropriate, remove or change the designation of any area or  
12 portion, and name or change the name of any area as  
13 designated. The department may lease those portions of  
14 designated lands which are necessary for the proper  
15 administration of these lands in keeping with the basic  
16 purpose of this part."

17 Section 2. Section 87-1-209, MCA, is amended to read:

18 "87-1-209. Acquisition and sale of lands or waters.

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

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

25 (b) as lands or water suitable for game, bird, fish,

1 or fur-bearing animal restoration, propagation, or  
2 protection;

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

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

8 (e) for state parks and outdoor recreation;

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

11 (2) THE DEPARTMENT, WITH THE CONSENT OF THE  
12 COMMISSION, MAY ACQUIRE BY CONDEMNATION LANDS OR STRUCTURES  
13 FOR THE PRESERVATION OF HISTORICAL OR ARCHAEOLOGICAL SITES  
14 THAT ARE THREATENED WITH DESTRUCTION OR ALTERATION.

15 ~~(2)~~(3) (a) The department, with the consent of the  
16 commission, may dispose of lands and waters acquired by it  
17 on those terms after that public notice, without regard to  
18 other laws which provide for sale or disposal of state lands  
19 and with or without reservation, as it considers necessary  
20 and advisable.

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

1 county, then in any newspaper with general circulation in  
2 that county.

3 (c) The notice shall advertise for cash bids to be  
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7 the amount bid. The highest bid shall be accepted upon  
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21 attested by the secretary of state and further countersigned  
22 by the director.

23 ~~(3)~~(4) Notwithstanding the provisions of 18-4-102, the  
24 department, with the consent of the commission, is  
25 authorized to utilize the installment contract method to

1 facilitate the acquisition of wildlife management areas, in  
2 which game and nongame fur-bearing animals and game and  
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-End-