

SENATE BILL NO. 132

INTRODUCED BY JACOBSON

BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE

IN THE SENATE

January 13, 1983	Introduced and referred to Committee on Fish, Wildlife, and Parks. Fiscal Note requested.
January 19, 1983	Fiscal Note returned.
February 5, 1983	Committee recommend bill do pass as amended. Report adopted.
February 7, 1983	Bill printed and placed on members' desks.
February 8, 1983	Second reading, do pass.
February 9, 1983	Correctly engrossed.
February 10, 1983	Third reading, passed. Ayes, 44; Noes, 4. Transmitted to House.

IN THE HOUSE

February 11, 1983	Introduced and referred to Committee on Fish and Game.
March 4, 1983	Committee recommend bill be concurred in as amended. Report adopted. Statement of Intent attached.
March 7, 1983	Second reading, concurred in.
March 8, 1983	Third reading, concurred in.

IN THE SENATE

March 9, 1983

Returned to Senate with amendments and Statement of Intent.

March 10, 1983

Second reading, amendments concurred in.

March 11, 1983

Third reading, amendments concurred in. Ayes, 44; Noes, 2.

Sent to enrolling.

Reported correctly enrolled.

1 *Senate* BILL NO. *132*
2 INTRODUCED BY *J. Jacobson*
3 BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT REESTABLISHING THE
6 MONTANA OUTFITTERS' COUNCIL UNDER EXISTING STATUTORY
7 AUTHORITY AND RULES; PROVIDING A PROCEDURE FOR FILLING A
8 VACANCY ON THE COUNCIL; PROVIDING FOR COUNCIL MEMBERS'
9 COMPENSATION AND EXPENSES; AUTHORIZING THE DEPARTMENT OF
10 FISH, WILDLIFE, AND PARKS TO PRESCRIBE WRITTEN CONTRACT
11 FORMS; ESTABLISHING FEES COMMENSURATE WITH COSTS; AMENDING
12 SECTIONS 2-8-103, 2-15-3403, 87-4-106, AND 87-4-127, MCA;
13 AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

14
15 WHEREAS, the sunset law, sections 2-8-103 and 2-8-112,
16 MCA, terminates the Montana Outfitters' Council and requires
17 a performance evaluation of the Council by the Legislative
18 Audit Committee; and

19 WHEREAS, as a result of the performance evaluation, the
20 Legislative Audit Committee recommends that the Montana
21 Outfitters' Council be reestablished under existing
22 statutory authority.

23
24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

25 NEW SECTION. Section 1. Reestablishment. The Montana

1 outfitters' council, created by 2-15-3403, is reestablished
2 with its existing statutory authority and rules for 6 years
3 pursuant to 2-8-122.

4 Section 2. Section 2-8-103, MCA, is amended to read:
5 "2-8-103. Agencies to terminate. (1) The following
6 agencies shall terminate on July 1, 1979:

7 (a) board of abstracters, department of professional
8 and occupational licensing, created by 2-15-1643;

9 (b) board of real estate, department of professional
10 and occupational licensing, created by 2-15-1642;

11 (c) state board of warm air heating, ventilation, and
12 air conditioning, department of professional and
13 occupational licensing, created by 2-15-1656;

14 (d) board of institutions, department of institutions,
15 created by 2-15-2303.

16 (2) The following agencies shall terminate on July 1,
17 1981:

18 (a) board of athletics, department of professional and
19 occupational licensing, created by 2-15-1661;

20 (b) board of massage therapists, department of
21 professional and occupational licensing, created by
22 2-15-1627;

23 (c) board of osteopathic physicians, department of
24 professional and occupational licensing, created by
25 2-15-1607;

INTRODUCED BILL

(d) board of podiatry examiners, department of professional and occupational licensing, created by 2-15-1608~~1~~₂

(3) The following units of state government shall terminate on July 1, 1983:

(a) board of aeronautics, department of commerce, created by 2-15-1812;

(b) state board of hail insurance, department of agriculture, created by 2-15-3003;

(c) board of horseracing, department of commerce, created by 2-15-1881;

(d) board of livestock, department of livestock, created by 2-15-3102;

(e) board of milk control, department of commerce, created by 2-15-1802;

(f) board of oil and gas conservation, department of natural resources and conservation, created by 2-15-3303;

~~(g) Montana outfitters' council, department of fish, wildlife and parks, created by 2-15-3403;~~

~~(h)~~ (g) public service commission, department of public service regulation, created by 69-1-102;

~~(i)~~ (h) board of water and wastewater operators, department of health and environmental sciences, created by 2-15-2105;

~~(j)~~ (i) board of water well contractors, department of

commerce, created by 2-15-1862.

(4) The following agencies terminate on July 1, 1985:

(a) the board of public accountants, department of commerce, created by 2-15-1866;

(b) the board of architects, department of commerce, created by 2-15-1871;

(c) state banking board, department of commerce, created by 2-15-1803;

(d) the state electrical board, department of commerce, created by 2-15-1874;

(e) the board of professional engineers and land surveyors, department of commerce, created by 2-15-1873;

(f) office of commissioner of insurance and the insurance department, state auditor's office, created by 2-15-1902 and 2-15-1903;

(g) office of the securities commissioner, state auditor's office, created by 2-15-1901;

(h) the board of landscape architects, department of commerce, created by 2-15-1872;

(i) the board of county printing, department of commerce, created by 2-15-1811;

(j) the board of plumbers, department of commerce, created by 2-15-1875;

(k) board of physical therapy examiners, department of commerce, created by 2-15-1858.

1 (5) The following agencies terminate on July 1, 1987:
 2 (a) commission for human rights, department of labor
 3 and industry, created by 2-15-1706;
 4 (b) Montana state board of medical examiners,
 5 department of commerce, created by 2-15-1841;
 6 (c) board of dentistry, department of commerce,
 7 created by 2-15-1842;
 8 (d) board of pharmacists, department of commerce,
 9 created by 2-15-1843;
 10 (e) board of nursing, department of commerce, created
 11 by 2-15-1844;
 12 (f) board of nursing home administrators, department
 13 of commerce, created by 2-15-1845;
 14 (g) board of optometrists, department of commerce,
 15 created by 2-15-1846;
 16 (h) board of chiropractors, department of commerce,
 17 created by 2-15-1847;
 18 (i) board of radiologic technologists, department of
 19 commerce, created by 2-15-1848;
 20 (j) board of speech pathologists and audiologists,
 21 department of commerce, created by 2-15-1849;
 22 (k) board of hearing aid dispensers, department of
 23 commerce, created by 2-15-1850;
 24 (l) board of psychologists, department of commerce,
 25 created by 2-15-1851;

1 (m) board of veterinarians, department of commerce,
 2 created by 2-15-1852;
 3 (n) board of morticians, department of commerce,
 4 created by 2-15-1853;
 5 (o) board of barbers, department of commerce, created
 6 by 2-15-1856;
 7 (p) board of cosmetologists, department of commerce,
 8 created by 2-15-1857;
 9 (q) board of sanitarians, department of commerce,
 10 created by 2-15-1861;
 11 (r) board of veterans' affairs, department of social
 12 and rehabilitation services, created by 2-15-2202.
 13 (6) The following agency terminates on July 1, 1989:
 14 Montana outfitters' council, department of fish, wildlife,
 15 and parks, created by 2-15-3403."
 16 Section 3. Section 2-15-3403, MCA, is amended to read:
 17 "2-15-3403. Montana outfitters' council. (1) There is
 18 a Montana outfitters' council.
 19 (2) The council consists of seven members. Each member
 20 shall be a licensed outfitter and shall represent one of the
 21 seven fish and game administrative districts. A member shall
 22 be selected by the licensed outfitters residing in that
 23 district by election at an annual meeting of the outfitters
 24 to be held in the city where the regional headquarters is
 25 located during the month of March. A majority vote cast by

1 written ballot of all the outfitters in attendance at the
2 meeting shall determine the ~~delegate member~~ from the
3 district. At the election an alternate ~~delegate member~~
4 shall also be elected by written ballot to serve if the
5 ~~delegate member~~ is unable to act.

6 ~~(3) If a member or alternate resigns or a vacancy~~
7 ~~exists for any reason on the council, the council at its~~
8 ~~next official meeting after the vacancy occurs shall~~
9 ~~recommend to the director of the department of fish,~~
10 ~~wildlife, and parks the names of two licensed outfitters~~
11 ~~residing in the administrative region where the vacancy~~
12 ~~occurred to fill the vacancy for the remainder of the~~
13 ~~unexpired term. If a vacancy cannot be filled from that~~
14 ~~administrative region, the appointment must be made from an~~
15 ~~adjoining region. If a vacancy cannot be filled from an~~
16 ~~adjoining region, the appointment must be made from any~~
17 ~~remaining region. The director shall fill the vacancy from~~
18 ~~the names submitted.~~

19 ~~(3)(4)~~ The members shall serve staggered 3-year terms
20 and take office on the day they are elected.

21 ~~(4)(5)~~ The council is allocated to the department.

22 ~~(5)(6)~~ The council is not subject to the provisions of
23 2-15-122.

24 ~~(7) Members of the council are entitled to be~~
25 ~~reimbursed and compensated as are members of advisory~~

1 ~~councils in 2-15-122(5)."~~

2 Section 4. Section 87-4-106, MCA, is amended to read:
3 "87-4-106. Authorization for rules ~~-- written~~
4 ~~contracts required.~~ (1) The department may adopt,
5 promulgate, and enforce rules recommended by the outfitters'
6 council as provided in 87-4-105 and all other rules it may
7 consider proper for the administration and enforcement of
8 the provisions of this part and the regulation of outfitting
9 and guiding to provide for the services to the public.

10 ~~(2) The department shall require that written~~
11 ~~contracts be used by all outfitters providing services to~~
12 ~~the public. The department shall specify those provisions~~
13 ~~that must be included in the written contracts, including~~
14 ~~but not limited to:~~

15 ~~(a) starting and completion dates of the outfitted~~
16 ~~trip;~~

17 ~~(b) price for the entire trip;~~

18 ~~(c) method and time of payment;~~

19 ~~(d) method of hunting or fishing, or both;~~

20 ~~(e) number of guides to be used for the entire trip;~~

21 ~~(f) camps to be used;~~

22 ~~(g) area to be hunted or fished, or both; and~~

23 ~~(h) food, lodging, equipment, and stock provided~~
24 ~~during the outfitted trip."~~

25 Section 5. Section 87-4-127, MCA, is amended to read:

"87-4-127. Fees. (1) The department shall establish fees commensurate with costs as provided in 37-1-134.

~~(1)(2)~~ Applications shall be accompanied by a license fee as specified by the department, herein stipulated, which will be refunded if and when the application is denied.

~~(a) -- resident outfitter's license fee ----- \$50~~

~~(b) -- resident professional guide's fee ----- \$15~~

~~(c) -- nonresident outfitter's license fee ----- \$150~~

~~(d) -- nonresident professional guide's fee ----- \$100~~

~~(2)(3)~~ If the a nonresident resides in a state requiring residents of the state of Montana to pay in excess of such amounts the amount established by the department for a similar license, the fee for such nonresident outfitter's or professional guide's license shall be the same amount as the higher fee charged in the state where the nonresident resides. All fees collected under this part shall be deposited as provided in 87-1-601.

~~(3)(4)~~ The license fee shall be used to investigate the applicant, to enforce this part, and for administrative costs."

NEW SECTION. Section 6. Effective date. This act is effective on passage and approval.

-End-

STATE OF MONTANA

REQUEST NO. 104-83

FISCAL NOTE

Form BD-15

In compliance with a written request received January 13,, 19 83, there is hereby submitted a Fiscal Note for Senate Bill 132 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA). 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 132 reestablishes the Montana Outfitters' Council; provides a procedure for filling council vacancies; provides for council member compensation and expenses, authorizes the Department of Fish, Wildlife and Parks to prescribe written contract forms; and establishes fees commensurate with costs.

ASSUMPTIONS:

- 1) The council will hold seven meetings per year.
- 2) Compensation for each of the seven members is \$25 per day.
- 3) Mileage is reimbursed at \$.20 per mile and lodging and meals at a maximum of \$37.50 per day.

FISCAL IMPACT:

	<u>FY 84</u>	<u>FY 85</u>	<u>Biennium</u>
<u>Expenditures:</u>			
Under Current Law	\$ 54,300	\$ 54,300	\$108,600
Under Proposed Law	6,500	6,500	13,000
Total Program Costs Under Proposed Law	<u>\$ 60,800</u>	<u>\$ 60,800</u>	<u>\$121,600</u>

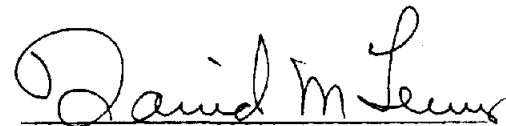
Funding:

Department is authorized to set fees commensurate with costs under proposed legislation. The increased costs are due to the fact that the council members are now going to be paid per diem and travel expenses.

COMMENTS:

The expenditures reflected in the above schedule are not included in the department's budget request for fiscal years 1984 and 1985.

FISCAL NOTE 4:Z/1



BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1-19-83

Approved by Comm.
on Fish and Game

1 SENATE BILL NO. 132
2 INTRODUCED BY JACORSON
3 BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE
4
5 A BILL FOR AN ACT ENTITLED: "AN ACT REESTABLISHING THE
6 MONTANA OUTFITTERS' COUNCIL UNDER EXISTING STATUTORY
7 AUTHORITY AND RULES; PROVIDING A PROCEDURE FOR FILLING A
8 VACANCY ON THE COUNCIL; PROVIDING FOR COUNCIL MEMBERS'
9 COMPENSATION AND EXPENSES; AUTHORIZING THE DEPARTMENT OF
10 FISH, WILDLIFE, AND PARKS TO ~~PRESERVE-WRITTEN-CONTRACT~~
11 ~~FORMS REQUIRE THAT OUTFITTERS USE WRITTEN CONTRACTS;~~
12 ESTABLISHING FEES COMMENSURATE WITH COSTS; AMENDING SECTIONS
13 2-8-103, 2-15-3403, 87-4-106, AND 87-4-127, MCA; AND
14 PROVIDING AN IMMEDIATE EFFECTIVE DATE."
15
16 WHEREAS, the sunset law, sections 2-8-103 and 2-8-112,
17 MCA, terminates the Montana Outfitters' Council and requires
18 a performance evaluation of the Council by the Legislative
19 Audit Committee; and
20 WHEREAS, as a result of the performance evaluation, the
21 Legislative Audit Committee recommends that the Montana
22 Outfitters' Council be reestablished under existing
23 statutory authority.
24
25 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

1 NEW SECTION. Section 1. Reestablishment. The Montana
2 outfitters' council, created by 2-15-3403, is reestablished
3 with its existing statutory authority and rules for 6 years
4 pursuant to 2-8-122.
5 Section 2. Section 2-8-103, MCA, is amended to read:
6 "2-8-103. Agencies to terminate. (1) The following
7 agencies shall terminate on July 1, 1979:
8 (a) board of abstracters, department of professional
9 and occupational licensing, created by 2-15-1643;
10 (b) board of real estate, department of professional
11 and occupational licensing, created by 2-15-1642;
12 (c) state board of warm air heating, ventilation, and
13 air conditioning, department of professional and
14 occupational licensing, created by 2-15-1656;
15 (d) board of institutions, department of institutions,
16 created by 2-15-2303.
17 (2) The following agencies shall terminate on July 1,
18 1981:
19 (a) board of athletics, department of professional and
20 occupational licensing, created by 2-15-1661;
21 (b) board of massage therapists, department of
22 professional and occupational licensing, created by
23 2-15-1627;
24 (c) board of osteopathic physicians, department of
25 professional and occupational licensing, created by

1 2-15-1607;
 2 (d) board of podiatry examiners, department of
 3 professional and occupational licensing, created by
 4 2-15-1608;
 5 (3) The following units of state government shall
 6 terminate on July 1, 1983:
 7 (a) board of aeronautics, department of commerce,
 8 created by 2-15-1812;
 9 (b) state board of hail insurance, department of
 10 agriculture, created by 2-15-3003;
 11 (c) board of horseracing, department of commerce,
 12 created by 2-15-1881;
 13 (d) board of livestock, department of livestock,
 14 created by 2-15-3102;
 15 (e) board of milk control, department of commerce,
 16 created by 2-15-1802;
 17 (f) board of oil and gas conservation, department of
 18 natural resources and conservation, created by 2-15-3303;
 19 ~~(g) --Montana--outfitters--council--department-of-fishy~~
 20 ~~wildlife-and-parks--created-by-2-15-3403~~
 21 ~~(h)(g) public service commission, department of public~~
 22 ~~service regulation, created by 69-1-102;~~
 23 ~~(i)(b) board of water and wastewater operators,~~
 24 ~~department of health and environmental sciences, created by~~
 25 ~~2-15-2105;~~

1 ~~(i)(b) board of water well contractors, department of~~
 2 ~~commerce, created by 2-15-1862.~~
 3 (4) The following agencies terminate on July 1, 1985:
 4 (a) the board of public accountants, department of
 5 commerce, created by 2-15-1866;
 6 (b) the board of architects, department of commerce,
 7 created by 2-15-1871;
 8 (c) state banking board, department of commerce,
 9 created by 2-15-1803;
 10 (d) the state electrical board, department of
 11 commerce, created by 2-15-1874;
 12 (e) the board of professional engineers and land
 13 surveyors, department of commerce, created by 2-15-1873;
 14 (f) office of commissioner of insurance and the
 15 insurance department, state auditor's office, created by
 16 2-15-1902 and 2-15-1903;
 17 (g) office of the securities commissioner, state
 18 auditor's office, created by 2-15-1901;
 19 (h) the board of landscape architects, department of
 20 commerce, created by 2-15-1872;
 21 (i) the board of county printing, department of
 22 commerce, created by 2-15-1811;
 23 (j) the board of plumbers, department of commerce,
 24 created by 2-15-1875;
 25 (k) board of physical therapy examiners, department of

1 commerce, created by 2-15-1858.

2 (5) The following agencies terminate on July 1, 1987:

3 (a) commission for human rights, department of labor

4 and industry, created by 2-15-1706;

5 (b) Montana state board of medical examiners,

6 department of commerce, created by 2-15-1841;

7 (c) board of dentistry, department of commerce,

8 created by 2-15-1842;

9 (d) board of pharmacists, department of commerce,

10 created by 2-15-1843;

11 (e) board of nursing, department of commerce, created

12 by 2-15-1844;

13 (f) board of nursing home administrators, department

14 of commerce, created by 2-15-1845;

15 (g) board of optometrists, department of commerce,

16 created by 2-15-1846;

17 (h) board of chiropractors, department of commerce,

18 created by 2-15-1847;

19 (i) board of radiologic technologists, department of

20 commerce, created by 2-15-1848;

21 (j) board of speech pathologists and audiologists,

22 department of commerce, created by 2-15-1849;

23 (k) board of hearing aid dispensers, department of

24 commerce, created by 2-15-1850;

25 (l) board of psychologists, department of commerce,

1 created by 2-15-1851;

2 (m) board of veterinarians, department of commerce,

3 created by 2-15-1852;

4 (n) board of morticians, department of commerce,

5 created by 2-15-1853;

6 (o) board of barbers, department of commerce, created

7 by 2-15-1856;

8 (p) board of cosmetologists, department of commerce,

9 created by 2-15-1857;

10 (q) board of sanitarians, department of commerce,

11 created by 2-15-1861;

12 (r) board of veterans' affairs, department of social

13 and rehabilitation services, created by 2-15-2202.

14 ~~(6) The following agency terminates on July 1, 1989:~~

15 ~~Montana outfitters' council, department of fish, wildlife,~~

16 ~~and parks, created by 2-15-3403.~~

17 Section 3. Section 2-15-3403, MCA, is amended to read:

18 "2-15-3403. Montana outfitters' council. (1) There is

19 a Montana outfitters' council.

20 (2) The council consists of seven members. Each member

21 shall be a licensed outfitter and shall represent one of the

22 seven fish and game administrative districts. A member shall

23 be selected by the licensed outfitters residing in that

24 district by election at an annual meeting of the outfitters

25 to be held in the city where the regional headquarters is

1 located during the month of March. A majority vote cast by
2 written ballot of all the outfitters in attendance at the
3 meeting shall determine the delegate member from the
4 district. At the election an alternate delegate member
5 shall also be elected by written ballot to serve if the
6 delegate member is unable to act.

7 ~~(3) If a member or alternate resigns or a vacancy~~
8 ~~exists for any reason on the council, the council at its~~
9 ~~next official meeting after the vacancy occurs shall~~
10 ~~recommend to the director of the department of fish,~~
11 ~~wildlife, and parks the names of two licensed outfitters~~
12 ~~residing in the administrative region where the vacancy~~
13 ~~occurred to fill the vacancy for the remainder of the~~
14 ~~unexpired term. If a vacancy cannot be filled from that~~
15 ~~administrative region, the appointment must be made from an~~
16 ~~adjoining region. If a vacancy cannot be filled from an~~
17 ~~adjoining region, the appointment must be made from any~~
18 ~~remaining region. The director shall fill the vacancy from~~
19 ~~the names submitted.~~

20 ~~(3)(4) The members shall serve staggered 3-year terms~~
21 ~~and take office on the day they are elected.~~

22 ~~(4)(5) The council is allocated to the department.~~

23 ~~(5)(6) The council is not subject to the provisions of~~
24 ~~2-15-122.~~

25 ~~(7) Members of the council are entitled to be~~

1 ~~reimbursed and compensated as are members of advisory~~
2 ~~councils in 2-15-122(5)1.~~

3 Section 4. Section 87-4-106, MCA, is amended to read:

4 "87-4-106. Authorization for rules ~~as written~~
5 ~~contracts required.~~ (1) The department may adopt,
6 promulgate, and enforce rules recommended by the outfitters'
7 council as provided in 87-4-105 and all other rules it may
8 consider proper for the administration and enforcement of
9 the provisions of this part and the regulation of outfitting
10 and guiding to provide for the services to the public.

11 (2) The department shall require that:

12 (A) ~~written contracts be used by all outfitters~~
13 ~~providing services to the public; the department shall~~
14 ~~specify these provisions that must be included in the~~
15 ~~written contracts including but not limited to:~~

16 ~~1st: starting and completion dates of the outfitted~~
17 ~~trip;~~

18 ~~2nd: price for the entire trip;~~

19 ~~3rd: method and time of payment;~~

20 ~~4th: method of hunting or fishing or both;~~

21 ~~5th: number of guides to be used for the entire trip;~~

22 ~~6th: camp to be used;~~

23 ~~7th: area to be hunted or fished or both; and~~

24 ~~8th: food, lodging, equipment, and attack provided~~
25 ~~during the outfitted trip; AND~~

1 ~~(1) A COPY OF THE CONTRACT FORM BE ON FILE WITH THE~~
2 ~~DEPARTMENT."~~

3 Section 5. Section 87-4-127, MCA, is amended to read:

4 "87-4-127. Fees. ~~(1) The department shall establish~~
5 ~~fees commensurate with costs as provided in 37-1-134.~~

6 ~~(1)(2) Applications shall be accompanied by a license~~
7 ~~fee as specified by the department, herein stipulated, which~~
8 ~~will be refunded if and when the application is denied.~~

9 ~~(a) --resident-outfitter's license fee-----\$50+~~

10 ~~(b) --resident-professional guide's fee-----\$15+~~

11 ~~(c) --nonresident-outfitter's license fee-----\$150+~~

12 ~~(d) --nonresident-professional guide's fee-----\$100+~~

13 ~~(2)(3) If the a nonresident resides in a state~~
14 ~~requiring residents of the state of Montana to pay in excess~~
15 ~~of such amounts the amount established by the department for~~
16 ~~a similar license, the fee for such nonresident outfitter's~~
17 ~~or professional guide's license shall be the same amount as~~
18 ~~the higher fee charged in the state where the nonresident~~
19 ~~resides. All fees collected under this part shall be~~
20 ~~deposited as provided in 87-1-601.~~

21 ~~(3)(4) The license fee shall be used to investigate~~
22 ~~the applicant, to enforce this part, and for administrative~~
23 ~~costs."~~

24 ~~NEW SECTION. Section 6. Effective date. This act is~~
25 ~~effective on passage and approval.~~

SENATE BILL NO. 132

INTRODUCED BY JACOBSON

BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT REESTABLISHING THE MONTANA OUTFITTERS' COUNCIL UNDER EXISTING STATUTORY AUTHORITY AND RULES; PROVIDING A PROCEDURE FOR FILLING A VACANCY ON THE COUNCIL; PROVIDING FOR COUNCIL MEMBERS' COMPENSATION AND EXPENSES; AUTHORIZING THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS TO ~~PRESCRIBE WRITTEN CONTRACT~~ FORMS ~~REQUIRE THAT OUTFITTERS USE WRITTEN CONTRACTS~~; ESTABLISHING FEES COMMENSURATE WITH COSTS; AMENDING SECTIONS 2-8-103, 2-15-3403, 87-4-106, AND 87-4-127, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

WHEREAS, the sunset law, sections 2-8-103 and 2-8-112, MCA, terminates the Montana Outfitters' Council and requires a performance evaluation of the Council by the Legislative Audit Committee; and

WHEREAS, as a result of the performance evaluation, the Legislative Audit Committee recommends that the Montana Outfitters' Council be reestablished under existing statutory authority.

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

~~NEW SECTION.~~ Section 1. Reestablishment. The Montana outfitters' council, created by 2-15-3403, is reestablished with its existing statutory authority and rules for 6 years pursuant to 2-8-122.

Section 2. Section 2-8-103, MCA, is amended to read:

"2-8-103. Agencies to terminate. (1) The following agencies shall terminate on July 1, 1979:

(a) board of abstracters, department of professional and occupational licensing, created by 2-15-1643;

(b) board of real estate, department of professional and occupational licensing, created by 2-15-1642;

(c) state board of warm air heating, ventilation, and air conditioning, department of professional and occupational licensing, created by 2-15-1656;

(d) board of institutions, department of institutions, created by 2-15-2303.

(2) The following agencies shall terminate on July 1, 1981:

(a) board of athletics, department of professional and occupational licensing, created by 2-15-1661;

(b) board of massage therapists, department of professional and occupational licensing, created by 2-15-1627;

(c) board of osteopathic physicians, department of professional and occupational licensing, created by

1 2-15-1607;
 2 (d) board of podiatry examiners, department of
 3 professional and occupational licensing, created by
 4 2-15-1608;
 5 (3) The following units of state government shall
 6 terminate on July 1, 1983:
 7 (a) board of aeronautics, department of commerce,
 8 created by 2-15-1812;
 9 (b) state board of hail insurance, department of
 10 agriculture, created by 2-15-3003;
 11 (c) board of horseracing, department of commerce,
 12 created by 2-15-1881;
 13 (d) board of livestock, department of livestock,
 14 created by 2-15-3102;
 15 (e) board of milk control, department of commerce,
 16 created by 2-15-1802;
 17 (f) board of oil and gas conservation, department of
 18 natural resources and conservation, created by 2-15-3303;
 19 ~~(g) --Montana--outfitters--council--department-of-fishy~~
 20 ~~wildlife-and-parks--created-by-2-15-3483~~
 21 ~~(h)(g) public service commission, department of public~~
 22 ~~service regulation, created by 69-1-102;~~
 23 ~~(i)(h) board of water and wastewater operators,~~
 24 ~~department of health and environmental sciences, created by~~
 25 ~~2-15-2105;~~

1 ~~(j)(i) board of water well contractors, department of~~
 2 ~~commerce, created by 2-15-1862.~~
 3 (4) The following agencies terminate on July 1, 1985:
 4 (a) the board of public accountants, department of
 5 commerce, created by 2-15-1866;
 6 (b) the board of architects, department of commerce,
 7 created by 2-15-1871;
 8 (c) state banking board, department of commerce,
 9 created by 2-15-1803;
 10 (d) the state electrical board, department of
 11 commerce, created by 2-15-1874;
 12 (e) the board of professional engineers and land
 13 surveyors, department of commerce, created by 2-15-1873;
 14 (f) office of commissioner of insurance and the
 15 insurance department, state auditor's office, created by
 16 2-15-1902 and 2-15-1903;
 17 (g) office of the securities commissioner, state
 18 auditor's office, created by 2-15-1901;
 19 (h) the board of landscape architects, department of
 20 commerce, created by 2-15-1872;
 21 (i) the board of county printing, department of
 22 commerce, created by 2-15-1811;
 23 (j) the board of plumbers, department of commerce,
 24 created by 2-15-1875;
 25 (k) board of physical therapy examiners, department of

1 commerce, created by 2-15-1858.

2 (5) The following agencies terminate on July 1, 1987:

3 (a) commission for human rights, department of labor

4 and industry, created by 2-15-1706;

5 (b) Montana state board of medical examiners,

6 department of commerce, created by 2-15-1841;

7 (c) board of dentistry, department of commerce,

8 created by 2-15-1842;

9 (d) board of pharmacists, department of commerce,

10 created by 2-15-1843;

11 (e) board of nursing, department of commerce, created

12 by 2-15-1844;

13 (f) board of nursing home administrators, department

14 of commerce, created by 2-15-1845;

15 (g) board of optometrists, department of commerce,

16 created by 2-15-1846;

17 (h) board of chiropractors, department of commerce,

18 created by 2-15-1847;

19 (i) board of radiologic technologists, department of

20 commerce, created by 2-15-1848;

21 (j) board of speech pathologists and audiologists,

22 department of commerce, created by 2-15-1849;

23 (k) board of hearing aid dispensers, department of

24 commerce, created by 2-15-1850;

25 (l) board of psychologists, department of commerce,

1 created by 2-15-1851;

2 (m) board of veterinarians, department of commerce,

3 created by 2-15-1852;

4 (n) board of morticians, department of commerce,

5 created by 2-15-1853;

6 (o) board of barbers, department of commerce, created

7 by 2-15-1856;

8 (p) board of cosmetologists, department of commerce,

9 created by 2-15-1857;

10 (q) board of sanitarians, department of commerce,

11 created by 2-15-1861;

12 (r) board of veterans' affairs, department of social

13 and rehabilitation services, created by 2-15-2202.

14 ~~(5) The following agency terminates on July 1, 1989:~~

15 ~~Montana outfitters' council, department of fish, wildlife,~~

16 ~~and parks, created by 2-15-3403."~~

17 Section 3. Section 2-15-3403, MCA, is amended to read:

18 "2-15-3403. Montana outfitters' council. (1) There is

19 a Montana outfitters' council.

20 (2) The council consists of seven members. Each member

21 shall be a licensed outfitter and shall represent one of the

22 seven fish and game administrative districts. A member shall

23 be selected by the licensed outfitters residing in that

24 district by election at an annual meeting of the outfitters

25 to be held in the city where the regional headquarters is

1 located during the month of March. A majority vote cast by
2 written ballot of all the outfitters in attendance at the
3 meeting shall determine the delegate member from the
4 district. At the election an alternate delegate member
5 shall also be elected by written ballot to serve if the
6 delegate member is unable to act.

7 ~~(3) If a member or alternate resigns or a vacancy~~
8 ~~exists for any reason on the council, the council at its~~
9 ~~next official meeting after the vacancy occurs shall~~
10 ~~recommend to the director of the department of fish,~~
11 ~~wildlife, and parks the names of two licensed outfitters~~
12 ~~residing in the administrative region where the vacancy~~
13 ~~occurred to fill the vacancy for the remainder of the~~
14 ~~unexpired term. If a vacancy cannot be filled from that~~
15 ~~administrative region, the appointment must be made from an~~
16 ~~adjoining region. If a vacancy cannot be filled from an~~
17 ~~adjoining region, the appointment must be made from any~~
18 ~~remaining region. The director shall fill the vacancy from~~
19 ~~the names submitted.~~

20 ~~(3)(4)~~ The members shall serve staggered 3-year terms
21 and take office on the day they are elected.

22 ~~(4)(5)~~ The council is allocated to the department.

23 ~~(5)(6)~~ The council is not subject to the provisions of
24 2-15-122.

25 ~~(7) Members of the council are entitled to be~~

1 ~~reimbursed and compensated as are members of advisory~~
2 ~~councils in 2-15-122(5)."~~

3 Section 4. Section 87-4-106, MCA, is amended to read:
4 "87-4-106. Authorization for rules ~~==~~ written
5 ~~contracts required.~~ (1) The department may adopt,
6 promulgate, and enforce rules recommended by the outfitters'
7 council as provided in 87-4-105 and all other rules it may
8 consider proper for the administration and enforcement of
9 the provisions of this part and the regulation of outfitting
10 and guiding to provide for the services to the public.

11 ~~(2) The department shall require that:~~

12 ~~(A) written contracts be used by all outfitters~~
13 ~~providing services to the public; the department shall~~
14 ~~specify those provisions that must be included in the~~
15 ~~written contracts including but not limited to:~~

16 ~~fc1--starting-and-completion--dates--of--the--outfitted~~
17 ~~trips~~

18 ~~fb1--price--for--the--entire--trip~~

19 ~~fc2--method-and-time-of-payment~~

20 ~~fd1--method-of-hunting-or-fishing--or--both~~

21 ~~fe1--number--of--guides--to--be--used--for--the--entire--trip~~

22 ~~ff1--camp--to--be--used~~

23 ~~fg1--area--to--be--hunted--or--fished--or--both--and~~

24 ~~fh1--food--lodging--equipment--and--stock--provided~~

25 ~~during-the-outfitted-trip;AND~~

(B) A COPY OF THE CONTRACT FORM BE ON FILE WITH THE DEPARTMENT."

Section 5. Section 87-4-127, MCA, is amended to read:

"87-4-127. Fees. (1) The department shall establish fees commensurate with costs as provided in 37-1-134.

~~(1)(2)~~ Applications shall be accompanied by a license fee as specified by the department, herein stipulated, which ~~will be refunded if and when the application is denied.~~

~~(a) resident outfitter's license fee - \$50~~

~~(b) resident professional guide's fee - \$15~~

~~(c) nonresident outfitter's license fee - \$150~~

~~(d) nonresident professional guide's fee - \$100~~

~~(2)(3)~~ If the a nonresident resides in a state requiring residents of the state of Montana to pay in excess of such amounts the amount established by the department for a similar license, the fee for such nonresident outfitter's or professional guide's license shall be the same amount as the higher fee charged in the state where the nonresident resides. All fees collected under this part shall be deposited as provided in 87-1-601.

~~(3)(4)~~ The license fee shall be used to investigate the applicant, to enforce this part, and for administrative costs."

NEW SECTION. Section 6. Effective date. This act is effective on passage and approval.

HOUSE FISH AND GAME COMMITTEE
March 3, 1983

AMENDMENT TO SENATE BILL 132

1. Title, lines 11 and 12.

Strike: "REQUIRE THAT OUTFITTERS USE WRITTEN CONTRACTS;
ESTABLISHING"

Insert: "ESTABLISH"

2. Title, line 13.

Strike: "87-4-106,"

3. Page 8, line 3 through line 2, page 9.

Strike: Section 4 in its entirety

Renumber: subsequent sections

STATEMENT OF INTENT
SENATE BILL NO. 132

Senate Bill No. 132 requires a statement of intent because section 5 requires the Department of Fish, Wildlife, and Parks to establish fees for outfitters and guides. Presently fees charged are set by law, and are not based on actual costs incurred.

It is the intent of the legislature that fees be set by rule by the department which will adequately cover the costs of administering the licensing and regulatory programs relating to outfitters and the ongoing operations of the Montana Outfitters Council.

1 STATEMENT OF INTENT

2 SENATE BILL 132

3 Senate Fish and Game Committee

4
5 Senate Bill No. 132 requires a statement of intent
6 because section 5 requires the Department of Fish, Wildlife,
7 and Parks, to establish fees for outfitters and guides.
8 Presently fees charged as set by law, and are not based on
9 actual costs incurred.

10 It is the intent of the legislature that fees be set by
11 rule by the department which will adequately cover the costs
12 of administering the licensing and regulatory programs
13 relating to outfitters and the ongoing operations of the
14 Montana Outfitters Council.

SENATE BILL NO. 132

INTRODUCED BY JACOBSON

BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT REESTABLISHING THE MONTANA OUTFITTERS' COUNCIL UNDER EXISTING STATUTORY AUTHORITY AND RULES; PROVIDING A PROCEDURE FOR FILLING A VACANCY ON THE COUNCIL; PROVIDING FOR COUNCIL MEMBERS' COMPENSATION AND EXPENSES; AUTHORIZING THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS TO ~~PRESCRIBE WRITTEN CONTRACT~~ FORMS ~~REQUIRE THAT OUTFITTERS USE WRITTEN CONTRACTS~~ ESTABLISHING ESTABLISH FEES COMMENSURATE WITH COSTS; AMENDING SECTIONS 2-8-103, 2-15-3403, ~~87-4-106~~ AND 87-4-127, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

WHEREAS, the sunset law, sections 2-8-103 and 2-8-112, MCA, terminates the Montana Outfitters' Council and requires a performance evaluation of the Council by the Legislative Audit Committee; and

WHEREAS, as a result of the performance evaluation, the Legislative Audit Committee recommends that the Montana Outfitters' Council be reestablished under existing statutory authority.

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

~~NEW SECTION.~~ Section 1. Reestablishment. The Montana outfitters' council, created by 2-15-3403, is reestablished with its existing statutory authority and rules for 6 years pursuant to 2-8-122.

Section 2. Section 2-8-103, MCA, is amended to read: "2-8-103. Agencies to terminate. (1) The following agencies shall terminate on July 1, 1979:

(a) board of abstracters, department of professional and occupational licensing, created by 2-15-1643;

(b) board of real estate, department of professional and occupational licensing, created by 2-15-1642;

(c) state board of warm air heating, ventilation, and air conditioning, department of professional and occupational licensing, created by 2-15-1656;

(d) board of institutions, department of institutions, created by 2-15-2303.

(2) The following agencies shall terminate on July 1, 1981:

(a) board of athletics, department of professional and occupational licensing, created by 2-15-1661;

(b) board of massage therapists, department of professional and occupational licensing, created by 2-15-1627;

(c) board of osteopathic physicians, department of professional and occupational licensing, created by

1 2-15-1607;
 2 (d) board of podiatry examiners, department of
 3 professional and occupational licensing, created by
 4 2-15-1608†_A
 5 (3) The following units of state government shall
 6 terminate on July 1, 1983:
 7 (a) board of aeronautics, department of commerce,
 8 created by 2-15-1812;
 9 (b) state board of hail insurance, department of
 10 agriculture, created by 2-15-3003;
 11 (c) board of horseracing, department of commerce,
 12 created by 2-15-1881;
 13 (d) board of livestock, department of livestock,
 14 created by 2-15-3102;
 15 (e) board of milk control, department of commerce,
 16 created by 2-15-1802;
 17 (f) board of oil and gas conservation, department of
 18 natural resources and conservation, created by 2-15-3303;
 19 ~~{g}--Montana--outfitters--council--department-of-fishy~~
 20 ~~wildlife-and-parks--created-by-2-15-3403†~~
 21 {h}{g1} public service commission, department of public
 22 service regulation, created by 69-1-102;
 23 {+}{h1} board of water and wastewater operators,
 24 department of health and environmental sciences, created by
 25 2-15-2105;

1 {+}{h1} board of water well contractors, department of
 2 commerce, created by 2-15-1862.
 3 (4) The following agencies terminate on July 1, 1985:
 4 (a) the board of public accountants, department of
 5 commerce, created by 2-15-1866;
 6 (b) the board of architects, department of commerce,
 7 created by 2-15-1871;
 8 (c) state banking board, department of commerce,
 9 created by 2-15-1803;
 10 (d) the state electrical board, department of
 11 commerce, created by 2-15-1874;
 12 (e) the board of professional engineers and land
 13 surveyors, department of commerce, created by 2-15-1873;
 14 (f) office of commissioner of insurance and the
 15 insurance department, state auditor's office, created by
 16 2-15-1902 and 2-15-1903;
 17 (g) office of the securities commissioner, state
 18 auditor's office, created by 2-15-1901;
 19 (h) the board of landscape architects, department of
 20 commerce, created by 2-15-1872;
 21 (i) the board of county printing, department of
 22 commerce, created by 2-15-1811;
 23 (j) the board of plumbers, department of commerce,
 24 created by 2-15-1875;
 25 (k) board of physical therapy examiners, department of

1 commerce, created by 2-15-1858.

2 (5) The following agencies terminate on July 1, 1987:

3 (a) commission for human rights, department of labor

4 and industry, created by 2-15-1706;

5 (b) Montana state board of medical examiners,

6 department of commerce, created by 2-15-1841;

7 (c) board of dentistry, department of commerce,

8 created by 2-15-1842;

9 (d) board of pharmacists, department of commerce,

10 created by 2-15-1843;

11 (e) board of nursing, department of commerce, created

12 by 2-15-1844;

13 (f) board of nursing home administrators, department

14 of commerce, created by 2-15-1845;

15 (g) board of optometrists, department of commerce,

16 created by 2-15-1846;

17 (h) board of chiropractors, department of commerce,

18 created by 2-15-1847;

19 (i) board of radiologic technologists, department of

20 commerce, created by 2-15-1848;

21 (j) board of speech pathologists and audiologists,

22 department of commerce, created by 2-15-1849;

23 (k) board of hearing aid dispensers, department of

24 commerce, created by 2-15-1850;

25 (l) board of psychologists, department of commerce,

1 created by 2-15-1851;

2 (m) board of veterinarians, department of commerce,

3 created by 2-15-1852;

4 (n) board of morticians, department of commerce,

5 created by 2-15-1853;

6 (o) board of barbers, department of commerce, created

7 by 2-15-1856;

8 (p) board of cosmetologists, department of commerce,

9 created by 2-15-1857;

10 (q) board of sanitarians, department of commerce,

11 created by 2-15-1861;

12 (r) board of veterans' affairs, department of social

13 and rehabilitation services, created by 2-15-2202.

14 ~~(5) The following agency terminates on July 1, 1989:~~

15 ~~Montana Outfitters' Council, department of fish, wildlife,~~

16 ~~and parks, created by 2-15-3403.~~

17 Section 3. Section 2-15-3403, MCA, is amended to read:

18 "2-15-3403. Montana outfitters' council. (1) There is

19 a Montana outfitters' council.

20 (2) The council consists of seven members. Each member

21 shall be a licensed outfitter and shall represent one of the

22 seven fish and game administrative districts. A member shall

23 be selected by the licensed outfitters residing in that

24 district by election at an annual meeting of the outfitters

25 to be held in the city where the regional headquarters is

located during the month of March. A majority vote cast by written ballot of all the outfitters in attendance at the meeting shall determine the delegate member from the district. At the election an alternate delegate member shall also be elected by written ballot to serve if the delegate member is unable to act.

~~(3) If a member or alternate resigns or a vacancy exists for any reason on the council, the council at its next official meeting after the vacancy occurs shall recommend to the director of the department of fish, wildlife, and parks the names of two licensed outfitters residing in the administrative region where the vacancy occurred to fill the vacancy for the remainder of the unexpired term. If a vacancy cannot be filled from that administrative region, the appointment must be made from an adjoining region. If a vacancy cannot be filled from an adjoining region, the appointment must be made from any remaining region. The director shall fill the vacancy from the names submitted.~~

~~(3)(4) The members shall serve staggered 3-year terms and take office on the day they are elected.~~

~~(4)(5) The council is allocated to the department.~~

~~(5)(6) The council is not subject to the provisions of 2-15-122.~~

~~(7) Members of the council are entitled to be~~

reimbursed and compensated as are members of advisory councils in 2-15-122(5)."

Section 4v--Section 87-4-186v--HEAY--is amended to--read--
 "87-4-186v--Authorization--for--rules -----written
 contracts--requiredv if the--department--may--adoptv
 promulgatev and enforce rules recommended by the outfittersv
 council--as--provided in 87-4-185 and all other rules it may
 consider proper for the administration and enforcement of
 the provisions of this part and the regulation of outfitting
 and guiding to provide for the services to the public

(2) The department shall require that
 (a) written contracts be used by all outfitters
 providing services to the public; the department shall
 specify those provisions that must be included in the
 written contracts including but not limited to

(a) starting and completion dates of the outfitted
 trip

(a) price for the entire trip

(a) method and time of payment

(a) method of hunting or fishing or both

(a) number of guides to be used for the entire trip

(a) camp to be used

(a) area to be hunted or fished or both and

(a) food, lodging, equipment, and attack provided

during the outfitted trip AND

~~(b)---A---COPY---OF---THE---CONTRACT---FORM---BE---ON---FILE---WITH---THE
DEPARTMENT.~~

Section 4. Section 87-4-127, MCA, is amended to read:

"87-4-127. Fees. ~~(1) The department shall establish
fees commensurate with costs as provided in 37-1-134.~~

~~(1)(2) Applications shall be accompanied by a license
fee as specified by the department, herein stipulated, which
will be refunded if and when the application is denied.~~

~~(a)---resident-outfitter's-license-fee-----\$50;~~

~~(b)---resident-professional-guide's-fee-----\$15;~~

~~(c)---nonresident-outfitter's-license-fee-----\$150;~~

~~(d)---nonresident-professional-guide's-fee-----\$100.~~

~~(2)(3) If the a nonresident resides in a state
requiring residents of the state of Montana to pay in excess
of such amounts the amount established by the department for
a similar license, the fee for such nonresident outfitter's
or professional guide's license shall be the same amount as
the higher fee charged in the state where the nonresident
resides. All fees collected under this part shall be
deposited as provided in 87-1-601.~~

~~(3)(4) The license fee shall be used to investigate
the applicant, to enforce this part, and for administrative
costs."~~

~~NEW SECTION. Section 5. Effective date. This act is
effective on passage and approval.~~

-End-

-9-