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House BILL NO. 195

INTRODUCED BY Swanson Holland Hestel Dyrnes
BY REQUEST OF THE GOVERNOR

A BILL FOR AN ACT ENTITLED: "AN ACT IMPLEMENTING CERTAIN RECOMMENDATIONS OF THE GOVERNOR'S ADVISORY COUNCIL ON PRIVATE LAND/PUBLIC WILDLIFE; CREATING PROGRAMS FOR HUNTER MANAGEMENT AND HUNTING ACCESS ENHANCEMENT WITHIN THE BLOCK MANAGEMENT PROGRAM; RESTRICTING THE LIABILITY OF LANDOWNERS WHO PARTICIPATE IN THE PROGRAMS; PROVIDING A MORATORIUM ON THE ISSUANCE OF NEW LAND-BASED HUNTING OUTFITTER LICENSES; REVISING THE CLASS B-11 RESIDENT SPONSOR LIMIT BY ALLOWING THE ISSUANCE OF ONLY 10 CERTIFICATES FOR EACH SPONSOR AND PROVIDING THAT ALL DEER HUNTING UNDER THE LICENSE MUST BE CONDUCTED ON THE SPONSOR'S DEEDED LAND; REVISING REQUIREMENTS FOR LICENSEES WHO USE AN OUTFITTER-RESERVED LICENSE; ALLOWING VARIABLE PRICING OF OUTFITTER-SPONSORED CLASS B-10 AND CLASS B-11 LICENSES; AMENDING SECTIONS 87-1-201, 87-1-242, 87-2-505, 87-2-510, AND 87-2-511, MCA; AND PROVIDING EFFECTIVE DATES AND A TERMINATION DATE."

WHEREAS, Montana has a cherished hunting heritage based on a deep knowledge of and respect for wildlife and the land; and

WHEREAS, private landowners provide wildlife habitat and hunting opportunities, the hunting public provides financial and political support for sound wildlife management, and the combined efforts of landowners and the hunting public have sustained Montana's hunting and wildlife heritage; and

WHEREAS, landowner/outfitter/sportsperson relations have become increasingly strained over the past several years, leading to increased polarization between the groups; and

WHEREAS, the 1993 Legislature addressed this problem through the passage of House Joint Resolution No. 24, which requested the Governor, through the Department of Fish, Wildlife, and Parks, to coordinate a sustained, ongoing, cooperative effort to address these issues by establishing statewide, regional, and local groups to develop mutually satisfactory solutions that would preserve Montana's hunting and wildlife heritage and encourage the continuance of a viable outfitting industry; and

WHEREAS, in response to that request, the Governor appointed the Advisory Council on Private



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INTRODUCED BILL

1 Land/Public Wildlife, consisting of representatives of the affected groups, to study the issues in anticipation
2 of legislation that reflects the mutual interests of landowners, outfitters, and the sporting community; and

3 WHEREAS, after considering extensive input and advice from individual private citizens, local
4 working groups, agencies, and nonprofit organizations involved in conservation, the Advisory Council by
5 consensus developed recommendations for improving access to private lands and for providing tangible
6 benefits for landowners who allow access to their lands for hunting; and

7 WHEREAS, the Advisory Council has made efforts to break new ground philosophically in designing
8 its recommendations, requiring that all interested parties be willing to accept change in order to benefit
9 everyone who has an interest in Montana's hunting and wildlife heritage; and

10 WHEREAS, the Advisory Council finds it appropriate to present the following recommendations to
11 the Legislature in the spirit of a cooperative and positive effort to enhance relations between landowners,
12 outfitters, and sportspersons.

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STATEMENT OF INTENT

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

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NEW SECTION. Section 1. Hunter management and hunting access enhancement programs created -- private landowner assistance to promote public access -- rules. (1) The department may establish within the block management program established by administrative rule pursuant to authority

1 contained in 87-1-301 and 87-1-303 programs of landowner assistance that encourage public access to
2 private lands for purposes of hunting and may adopt rules to carry out program purposes. Rules may
3 address but are not limited to incentives provided under:

4 (a) a hunter management program as set out in [section 2], consisting of a cooperative agreement
5 between a landowner and the department and including other resource management agencies when
6 appropriate, that allows public hunting with certain restrictions or use rules; and

7 (b) a hunting access enhancement program as set out in [section 3], consisting of incentives for
8 private landowners who allow public hunting access on their lands.

9 (2) The department may also develop similar efforts outside the scope of the block management
10 program that are designed to promote public access to private lands for hunting purposes.

11 (3) Participation in a program established under subsection (1) is voluntary. Programs may not be
12 structured in a manner that provides assistance to a private landowner who charges a fee for access to
13 private land that is enrolled in the program or who does not provide reasonable public access to private land
14 that is enrolled in the program. The commission shall develop criteria by which tangible benefits are
15 allocated to participating landowners, and the department may distribute the benefits to participating
16 landowners. The department may by rule limit the number of licenses that can be provided as incentives.

17
18 **NEW SECTION. Section 2. Hunter management program -- benefits for providing hunting access**
19 **-- nonresident landowner limitation -- restriction on landowner liability.** (1) As provided in [section 1], the
20 department may establish a voluntary hunter management program to provide tangible benefits to private
21 landowners enrolled in the block management program who grant access to their land for public hunting.
22 The decision to enroll a landowner in the hunter management program is the responsibility of the
23 department. Benefits may be granted as provided in this section and by rule.

24 (2) As a benefit for enrolling property in the hunter management program, a resident landowner
25 who becomes a cooperator in the program and who agrees to provide public hunting access may receive
26 one Class AAA sportsman's license, without charge, if the landowner is the owner of record. The license
27 may be used for the full hunting or fishing season in any district where it is valid. The license may not be
28 transferred by gift or sale.

29 (3) As a benefit for enrolling property in the hunter management program, a nonresident landowner
30 who becomes a cooperator in the program and who agrees to provide public hunting access may receive

1 one Class B-10 nonresident big game combination license, without charge, if the landowner is the owner
2 of record. The license may be used for the full hunting or fishing season in any district where it is valid.
3 The license may not be transferred by gift or sale. The grant of a license under this subsection also
4 qualifies the licensee to apply for a permit through the normal drawing process. The grant of a license
5 under this subsection does not affect the quota of 11,500 established under 87-2-505.

6 (4) (a) A resident landowner who is enrolled in the block management program may receive the
7 benefits provided under the hunter management program, as outlined in this section, and the benefits
8 provided under the hunting access enhancement program, as outlined in [section 3].

9 (b) A nonresident landowner who chooses to receive a license under subsection (3) may also
10 receive assistance under the block management program, but is not eligible to receive cash payments under
11 [section 3].

12 (5) The restriction on liability of a landowner, agent, or tenant that is provided under 70-16-302(1)
13 applies to a landowner who participates in the hunter management program.

14

15 **NEW SECTION. Section 3. Hunting access enhancement program -- benefits for providing hunting**
16 **access -- cooperative agreement -- factors for determining benefits earned -- restriction on landowner**
17 **liability.** (1) As provided in [section 1], the department may establish and administer a voluntary program
18 to enhance the block management program, to be known as the hunting access enhancement program.
19 The program must be designed to provide tangible benefits to participating private landowners who grant
20 access to their land for public hunting.

21 (2) Land is not eligible for inclusion in the hunting access enhancement program if outfitting or
22 commercial hunting restricts public recreation or hunting opportunities.

23 (3) A contract for participation in the hunting access enhancement program is established through
24 a cooperative agreement between the landowner and the department that will guarantee reasonable access
25 for public hunting. Landowners may also form a voluntary association when development of a unified
26 cooperative agreement is advantageous. A cooperative agreement must contain a detailed description of
27 the plan developed by the landowner and the department and may include but is not limited to:

28 (a) hunting access management;

29 (b) services to be provided to the public;

30 (c) ranch rules and other restrictions; and

1 (d) any other management information to be gathered, which must be made available to the public.

2 (4) If the department determines that the plan referred to in subsection (3) may adversely influence
3 game management decisions or wildlife habitat on public lands outside the block management area, then
4 other public land agencies, interested sportspersons, and affected landowners must be consulted. An
5 affected landowner's management goals and personal observations regarding game populations and habitat
6 use must be considered in developing the plan.

7 (5) The commission shall develop rules for determining tangible benefits to be provided to a
8 landowner for providing public access. Benefits will be provided to offset potential impacts associated with
9 public hunting access, including but not limited to those associated with weed control, fire protection,
10 liability insurance, roads, fences, and parking area maintenance. Factors used in determining benefits may
11 include but are not limited to:

12 (a) the number of days of public hunting provided by a participating landowner;

13 (b) wildlife habitat provided;

14 (c) resident game populations;

15 (d) number, sex, and species of animals taken; and

16 (e) access provided to adjacent public lands.

17 (6) Benefits earned by a landowner under this section may be applied in the following manner or
18 other manner allowed by rule:

19 (a) A landowner may direct weed control payments to be made directly to the county weed control
20 board or may elect to receive payments directly.

21 (b) A landowner may direct fire protection payments to be made to the local fire district or the
22 county where the landowner resides or may elect to receive payments directly.

23 (c) A landowner may receive direct payment to offset insurance costs incurred for allowing public
24 access.

25 (d) The department may provide assistance in the construction and maintenance of roads, gates,
26 and parking facilities and in the signing of property.

27 (7) The commission may provide a total of not more than \$8,000 a year to a landowner who
28 participates in the hunter management and hunting access enhancement programs, subject to the
29 conditions set out in [section 2(4)].

30 (8) The restriction on liability of a landowner, agent, or tenant that is provided under 70-16-302(1)

1 applies to a landowner who participates in the hunting access enhancement program.

2

3 **Section 4.** Section 87-1-201, MCA, is amended to read:

4 **"87-1-201. Powers and duties.** (1) The department shall supervise all the wildlife, fish, game,
5 game and nongame birds, waterfowl, and the game and fur-bearing animals of the state and may implement
6 voluntary programs that encourage hunting access on private lands and that promote harmonious relations
7 between landowners and the hunting public. It possesses all powers necessary to fulfill the duties
8 prescribed by law and to bring actions in the proper courts of this state for the enforcement of the fish and
9 game laws and the rules adopted by the department.

10 (2) ~~† The department~~ shall enforce all the laws of the state respecting the protection, preservation,
11 and propagation of fish, game, fur-bearing animals, and game and nongame birds within the state.

12 (3) ~~It shall have~~ The department has the exclusive power to spend for the protection, preservation,
13 and propagation of fish, game, fur-bearing animals, and game and nongame birds all state funds collected
14 or acquired for that purpose, whether arising from state appropriation, licenses, fines, gifts, or otherwise.
15 Money collected or received from the sale of hunting and fishing licenses or permits, from the sale of seized
16 game or hides, from fines or damages collected for violations of the fish and game laws, or from
17 appropriations or received by the department from any other sources are appropriated to and under control
18 of the department.

19 (4) ~~† The department~~ may discharge any appointee or employee of the department for cause at
20 any time.

21 (5) ~~† The department~~ may dispose of all property owned by the state used for the protection,
22 preservation, and propagation of fish, game, fur-bearing animals, and game and nongame birds ~~which that~~
23 is of no further value or use to the state and shall turn over the proceeds from the sale to the state
24 treasurer to be credited to the fish and game account in the state special revenue fund.

25 (6) ~~† The department~~ may not issue permits to carry firearms within this state to anyone except
26 regularly appointed officers or wardens.

27 (7) The department is ~~hereby~~ authorized to make, promulgate, and enforce ~~such~~ reasonable rules
28 and regulations not inconsistent with the provisions of chapter 2 ~~as that~~ in its judgment will accomplish the
29 purpose of chapter 2.

30 (8) The department is authorized to promulgate rules relative to tagging, possession, or

1 transportation of bear within or without the state."

2

3 **Section 5.** Section 87-1-242, MCA, is amended to read:

4 **"87-1-242. (Temporary) Funding for wildlife habitat.** (1) The amount of money specified in this
5 subsection from the sale of each hunting license or permit listed must be used exclusively by the
6 commission to secure, develop, and maintain wildlife habitat, subject to appropriation by the legislature.

7 (a) Class B-10, nonresident combination, \$77;

8 (b) Nonresident antelope, \$20;

9 (c) Nonresident moose, \$20;

10 (d) Nonresident mountain goat, \$20;

11 (e) Nonresident mountain sheep, \$20;

12 (f) Class D-1, nonresident mountain lion, \$20;

13 (g) Nonresident black bear, \$20;

14 (h) ~~Wild turkey nonresident~~ Nonresident wild turkey, \$10;

15 (i) Class AAA, sportsman's, \$7;

16 (j) Class B-11 nonresident deer combination, \$200.

17 (2) Twenty percent of any increase ~~after March 1, 1988~~, in the fee for the Class B-7 license or any
18 license or permit listed in subsection (1), except outfitter-sponsored Class B-10 and Class B-11 licenses
19 subject to variable pricing under [section 6], must be allocated for use as provided in subsection (1).

20 (3) Eighty percent of the money allocated by this section, together with the interest and income
21 ~~therefrom~~ from the money, must be used to secure wildlife habitat pursuant to 87-1-209.

22 (4) ~~(a) Until March 1, 1991, 20% of the money allocated by this section must be credited to the~~
23 ~~account created by 87-1-601(5) for use in the manner prescribed therein for the development and~~
24 ~~maintenance of real property used for wildlife habitat.~~

25 ~~(b) On and after March 1, 1991, 20%~~ Twenty percent of the money allocated by this section must
26 be used as follows:

27 ~~(i)(a)~~ (a) up to 50% a year may be used for development and maintenance of real property used for
28 wildlife habitat; and

29 ~~(i)(b)~~ (b) the remainder and any money not allocated for development and maintenance under
30 subsection ~~(4)(b)(i)~~ (4)(a) by the end of each odd-numbered fiscal year must be credited to the account

1 created by 87-1-601(5) for use in the manner prescribed ~~therein~~ for the development and maintenance of
 2 real property used for wildlife habitat. (Terminates March 1, 2006--secs. 1, 2, Ch. 241, L. 1993.)"

3

4 **NEW SECTION. Section 6. Variable pricing of outfitter-sponsored Class B-10 and B-11**
 5 **licenses.** The commission shall annually set fees for outfitter-sponsored Class B-10 and Class B-11 licenses
 6 allowed under 87-2-505 and 87-2-510. The fees must be set at a market rate intended to sell not more
 7 than an average of 5,500 Class B-10 licenses and 2,300 Class B-11 licenses each year, calculated over a
 8 5-year period. The sale period for the licenses must be established so that by the last date in the
 9 established period, those licenses that are unsold may be reallocated by the commission for a drawing at
 10 a price set by the commission.

11

12 **NEW SECTION. Section 7. Report required.** The department shall report to the governor and to
 13 each regular session of the legislature regarding the success of the hunter management program and the
 14 hunting access enhancement program, including a report of annual landowner participation and the number
 15 of acres annually enrolled in the programs. The report may also include suggestions for funding,
 16 modification, or improvement of the programs.

17

18 **Section 8.** Section 87-2-505, MCA, is amended to read:

19 **"87-2-505. (Temporary) Class B-10--nonresident big game combination license.** Except as
 20 otherwise provided in this chapter, a person not a resident, as defined in 87-2-102, but who will be 12
 21 years of age or older prior to September 15 of the season for which the license is issued may, upon
 22 payment of the fee of ~~\$462 beginning March 1, 1992, and \$475 beginning March 1, 1994,~~ or upon
 23 payment of the fee of ~~\$472 beginning March 1, 1992, and \$485 beginning March 1, 1994,~~ established as
 24 provided in [section 6] if the license is one of the ~~5,600~~ licenses reserved pursuant to 87-2-511 for
 25 applicants indicating their intent to use the services of a licensed outfitter and subject to the limitations
 26 prescribed by law and department regulation, apply to the fish and game office, Helena, Montana, to
 27 purchase a B-10 nonresident big game combination license ~~which shall entitle~~ that entitles the holder to all
 28 the privileges of Class B, Class B-1, and Class B-7 licenses, and an elk tag. This license includes the
 29 nonresident conservation license as prescribed in 87-2-202. Not more than ~~47,000~~ 11,500 unreserved
 30 Class B-10 licenses may be sold in any ~~one~~ 1 license year. (Terminates March 1, 2006--secs. 1, 2, Ch.

1 241, L. 1993.)

2 **87-2-505. (Effective March 1, 2006) Class B-10--nonresident big game combination license.**

3 Except as otherwise provided in this chapter, a person not a resident, as defined in 87-2-102, but who will
 4 be 12 years of age or older prior to September 15 of the season for which the license is issued may, upon
 5 payment of the fee of \$398 or upon payment of the fee of ~~\$408~~ established as provided in [section 6] if
 6 the license is one of the ~~5,600~~ licenses reserved pursuant to 87-2-511 for applicants indicating their intent
 7 to use the services of a licensed outfitter and subject to the limitations prescribed by law and department
 8 regulation, apply to the fish and game office, Helena, Montana, to purchase a B-10 nonresident big game
 9 combination license ~~which shall entitle~~ that entitles the holder to all the privileges of Class B, Class B-1, and
 10 Class B-7 licenses, and an elk tag. This license includes the nonresident conservation license as prescribed
 11 in 87-2-202. Not more than ~~47,000~~ 11,500 unreserved Class B-10 licenses may be sold in any ~~one~~ 1
 12 license year."

13

14 **Section 9.** Section 87-2-510, MCA, is amended to read:

15 **"87-2-510. Class B-11--nonresident deer combination license.** (1) Except as otherwise provided
 16 in this chapter, a person not a resident, as defined in 87-2-102, but who will be 12 years of age or older
 17 prior to September 15 of the season for which the license is issued may, upon payment of a fee of \$220
 18 or upon payment of the fee of ~~\$225~~ established as provided in [section 6] if the license is one of the ~~4,000~~
 19 those reserved pursuant to 87-2-511 for applicants indicating their intent ~~either~~ to use the services of a
 20 licensed outfitter or upon payment of the fee of \$225 if the license is one of those reserved pursuant to
 21 87-2-511 for applicants indicating their intent to hunt with a resident sponsor on land owned by that
 22 sponsor and subject to the limitations prescribed by law and department regulation, apply to the fish and
 23 game office, Helena, Montana, to purchase a Class B-11 nonresident deer combination license that entitles
 24 the holder to all the privileges of the Class B, Class B-1, and Class B-7 licenses. This license includes the
 25 nonresident wildlife conservation license as prescribed in 87-2-202.

26 (2) ~~Six thousand~~ Not more than 4,300 unreserved Class B-11 licenses ~~are authorized for sale each~~
 27 may be sold in any 1 license year."

28

29 **Section 10.** Section 87-2-511, MCA, is amended to read:

30 **"87-2-511. Sale and use of Class B-10 and Class B-11 licenses.** (1) The department shall offer

1 the Class B-10 and Class B-11 licenses for sale on March 15, with ~~5,600~~ a number of the authorized Class
2 B-10 and Class B-11 licenses, as determined under [section 6], and ~~2,000 Class B-11~~ licenses reserved for
3 applicants indicating their intent to use the services of a licensed outfitter, and 2,000 of the authorized
4 Class B-11 licenses reserved for applicants indicating their intent to hunt with a resident sponsor on land
5 owned by that sponsor, as provided in subsections (2) and (3).

6 (2) Each application for a reserved license under subsection (1) must contain a written affirmation
7 that the applicant intends to hunt with a licensed outfitter or a resident sponsor and must indicate the name
8 of the licensed outfitter or resident sponsor with whom the applicant intends to hunt. In addition, the
9 application must be accompanied by a certificate that is signed by a licensed outfitter or resident sponsor
10 and ~~which~~ that affirms that the outfitter or resident will:

11 (a) direct the applicant's hunting and advise the applicant of game and trespass laws of the state;

12 (b) submit to the department, in a manner prescribed by the department, complete records of who
13 hunted with ~~him~~ the outfitter or resident, where they hunted, and what game was taken; and

14 (c) accept no monetary consideration for enabling the nonresident applicant to obtain a license or
15 for providing any services or assistance to the nonresident applicant, except as provided in this title.

16 (3) The certificate signed by the resident sponsor pursuant to subsection (2) must also affirm that
17 the sponsor is a landowner and that the applicant under the certificate will hunt only on land owned by the
18 sponsor. A resident sponsor of a Class B-11 license may submit no more than 10 certificates of
19 sponsorship in any license year.

20 (4) A nonresident who hunts under the authority of a resident landowner-sponsored license shall
21 conduct all deer hunting on the deeded lands of the sponsoring landowner.

22 (5) Any permits or tags secured as a result of obtaining a Class B-10 or Class B-11 license through
23 an outfitter sponsor are valid only when hunting is conducted with a licensed outfitter.

24 (6) The department shall make the reserved Class B-10 and Class B-11 licenses that remain unsold
25 ~~on April 15 available to nonresident applicants without restriction as to hunting with a licensed outfitter or~~
26 ~~resident sponsor as provided in [section 6].~~

27 (7) All Class B-10 and Class B-11 licenses not reserved under subsection (1) ~~and all unsold~~
28 ~~reserved licenses available under subsection (4)~~ must be issued by a drawing among all applicants for the
29 respective unreserved licenses."
30

1 **NEW SECTION. Section 11. Moratorium on issuance of hunting outfitter licenses.** (1) The
2 legislature finds it necessary to protect the hunting resource, public health, public safety, and public
3 welfare. Therefore, the board shall establish and regulate a 5-year moratorium on the issuance of outfitter
4 licenses for land-based hunting activities. An outfitter licensed on [the effective date of this section] may
5 receive a renewal license, if qualified, but the total number of land-based hunting outfitter licenses issued
6 after [the effective date of this section] may not exceed the number in existence on [the effective date of
7 this section].

8 (2) An affected outfitter licensed on [the effective date of this section] may attempt to sell the
9 outfitting business, but approval of the buyer's license is conditioned on the buyer's ability to meet the
10 licensing criteria. The seller's license is to be considered in inactive status until the sale is final. If the sale
11 is not consummated, the seller's license must be reactivated and the buyer's conditional license revoked.

12
13 **NEW SECTION. Section 12. Codification instruction.** (1) [Sections 1 through 3, 6, and 7] are
14 intended to be codified as an integral part of Title 87, chapter 1, part 2, and the provisions of Title 87,
15 chapter 1, part 2, apply to [sections 1 through 3, 6, and 7].

16 (2) [Section 11] is intended to be codified as an integral part of Title 37, chapter 47, and the
17 provisions of Title 37, chapter 47, apply to [section 11].

18
19 **NEW SECTION. Section 13. Severability.** If a part of [this act] is invalid, all valid parts that are
20 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its
21 applications, the part remains in effect in all valid applications that are severable from the invalid
22 applications.

23
24 **NEW SECTION. Section 14. Saving clause.** [This act] does not affect rights and duties that
25 matured, penalties that were incurred, or proceedings that were begun before [the effective date of this
26 act].

27
28 **NEW SECTION. Section 15. Effective dates.** (1) [Sections 5 through 9] are effective March 1,
29 1996.

30 (2) [Sections 1 through 4, 10, and 16] are effective October 1, 1995.

1 (3) [Sections 11 through 14 and this section] are effective on passage and approval.

2

3 NEW SECTION. **Section 16. Termination.** [This act] terminates October 1, 2001.

4

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0195, as introduced

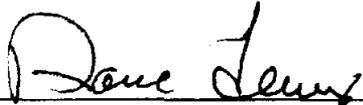
DESCRIPTION OF PROPOSED LEGISLATION:

An act implementing certain recommendations of the Governor's Advisory Council on Private Land/Public Wildlife; creating programs for hunter management and hunting access enhancement within the Block Management Program; restricting the liability of landowners who participate in the programs; providing a moratorium on the issuance of new land-based hunting outfitter licenses; revising the class B-11 resident sponsor limit by allowing the issuance of only 10 certificates for each sponsor and providing that all deer hunting under the license must be conducted on the sponsor's deeded land; revising requirements for licensees who use an outfitter-reserved license; allowing variable pricing of outfitter-sponsored class B-10 and class B-11 licenses; and providing an effective dates and a termination date of October 1, 2001.

ASSUMPTIONS

1. The Fish, Wildlife and Parks Commission will work with landowners to establish criteria for program involvement and allocation of benefits in FY96.
2. Revenue to support the hunter management and hunting access enhancement programs within the Block Management Program will come from increases in non-resident B-10 and B-11 outfitter sponsored hunting licenses. Current prices are \$485 for B-10 licenses and \$250 B-11 licenses. It is anticipated that the commission may set the B-10 license fee at \$650 in FY96 and \$675 in FY97, and the B-11 at \$400 in FY96 and \$425 in FY97.
3. The hunter management and hunter access enhancement programs will become effective on October 1, 1995.
4. The enhancements to the Block Management Program will enable the Department of Fish, Wildlife and Parks to provide financial incentives to qualifying landowners to offset potential impacts associated with public hunting access such as weed control; fire protection; liability insurance; and road, fence, and parking area maintenance.
5. An estimated 244 landowners who are participating in the existing Block Management Program will also participate in the enhanced program and will be eligible for additional assistance and benefits averaging \$2,750 annually. Seventy five new landowners will enroll in the program in FY96 and 50 in FY97. Each will receive an assistance payment averaging \$4,000.
6. It has been acknowledged that the Fish, Wildlife and Parks Commission has objections to the Executive Budget recommendation to reduce personal services by 5% including the reduction of 11.00 FTE from the Department of Fish, Wildlife and Parks (FWP) 1997 biennial budget. FWP anticipates that they will be unable to absorb the administration of this enhanced program with existing staff, and have requested 4.00 FTE over the biennium in addition to \$112,500 of annual operating costs and \$1,171,000 in payments to landowner participants. Operating costs include: \$15,000 for local advisory groups, \$10,000 for a contract with MSU for wildlife extension specialist services, \$55,000 for FWP operations, and \$32,500 to contract for access inventory mapping services. The additional FTE would be 2.00 game wardens and 2.00 conservation specialists. Conservation specialists are seasonal positions that will assist landowners during the hunting season.

(continued on page 2)

 1-24-95
DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning


EMILY SWANSON, PRIMARY SPONSOR DATE

Fiscal Note for HB0195, as introduced

HB195

FISCAL IMPACT:

	<u>FY96</u>	<u>FY97</u>
	<u>Difference</u>	<u>Difference</u>
<u>Expenditures:</u>		
FTE	2.19	4.00
Personal Services	53,350	107,466
Operating Expenses	33,350	112,500
Participant Payments	<u>971,000</u>	<u>1,171,000</u>
Total	1,057,700	1,390,966
 <u>Revenue:</u>		
B-10 Licenses (02)	907,500	1,045,000
B-11 Licenses (02)	<u>345,000</u>	<u>402,500</u>
Total	1,252,500	1,447,500
 <u>Net Impact:</u>		
B-10 and B-11 Licenses (02)	194,800	56,534

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

The intent of the legislation is: to improve landowner/sportsman relations, increase hunting access to private lands by providing incentives to private landowners, and to improve cooperation between the Department of Fish, Wildlife and Parks and private landowners in managing wildlife.

1 HOUSE BILL NO. 195

2 INTRODUCED BY SWANSON, HIBBARD, HERTEL, PIPINICH

3 BY REQUEST OF THE GOVERNOR

4

5 A BILL FOR AN ACT ENTITLED: "AN ACT IMPLEMENTING CERTAIN RECOMMENDATIONS OF THE
6 GOVERNOR'S ADVISORY COUNCIL ON PRIVATE LAND/PUBLIC WILDLIFE; CREATING PROGRAMS FOR
7 HUNTER MANAGEMENT AND HUNTING ACCESS ENHANCEMENT WITHIN THE BLOCK MANAGEMENT
8 PROGRAM; RESTRICTING THE LIABILITY OF LANDOWNERS WHO PARTICIPATE IN THE PROGRAMS;
9 PROVIDING A MORATORIUM ON THE ISSUANCE OF NEW LAND-BASED HUNTING OUTFITTER LICENSES;
10 REVISING THE CLASS B-11 RESIDENT SPONSOR LIMIT BY ALLOWING THE ISSUANCE OF ONLY 10
11 CERTIFICATES FOR EACH SPONSOR AND PROVIDING THAT ALL DEER HUNTING UNDER THE LICENSE
12 MUST BE CONDUCTED ON THE SPONSOR'S DEEDED LAND; REVISING REQUIREMENTS FOR LICENSEES
13 WHO USE AN OUTFITTER-RESERVED LICENSE; ALLOWING VARIABLE PRICING OF
14 OUTFITTER-SPONSORED CLASS B-10 AND CLASS B-11 LICENSES; AMENDING SECTIONS 87-1-201,
15 87-1-242, 87-2-505, 87-2-510, AND 87-2-511, MCA; AND PROVIDING EFFECTIVE DATES AND A
16 TERMINATION DATE DATES."

17

18 WHEREAS, Montana has a cherished hunting heritage based on a deep knowledge of and respect
19 for wildlife and the land; and

20 WHEREAS, private landowners provide wildlife habitat and hunting opportunities, the hunting public
21 provides financial and political support for sound wildlife management, and the combined efforts of
22 landowners and the hunting public have sustained Montana's hunting and wildlife heritage; and

23 WHEREAS, landowner/outfitter/sportsperson relations have become increasingly strained over the
24 past several years, leading to increased polarization between the groups; and

25 WHEREAS, the 1993 Legislature addressed this problem through the passage of House Joint
26 Resolution No. 24, which requested the Governor, through the Department of Fish, Wildlife, and Parks, to
27 coordinate a sustained, ongoing, cooperative effort to address these issues by establishing statewide,
28 regional, and local groups to develop mutually satisfactory solutions that would preserve Montana's hunting
29 and wildlife heritage and encourage the continuance of a viable outfitting industry; and

30 WHEREAS, in response to that request, the Governor appointed the Advisory Council on Private

1 Land/Public Wildlife, consisting of representatives of the affected groups, to study the issues in anticipation
 2 of legislation that reflects the mutual interests of landowners, outfitters, and the sporting community; and

3 WHEREAS, after considering extensive input and advice from individual private citizens, local
 4 working groups, agencies, and nonprofit organizations involved in conservation, the Advisory Council by
 5 consensus developed recommendations for improving access to private lands and for providing tangible
 6 benefits for landowners who allow access to their lands for hunting; and

7 WHEREAS, the Advisory Council has made efforts to break new ground philosophically in designing
 8 its recommendations, requiring that all interested parties be willing to accept change in order to benefit
 9 everyone who has an interest in Montana's hunting and wildlife heritage; and

10 WHEREAS, the Advisory Council finds it appropriate to present the following recommendations to
 11 the Legislature in the spirit of a cooperative and positive effort to enhance relations between landowners,
 12 outfitters, and sportspersons.

13

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STATEMENT OF INTENT

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

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30

NEW SECTION. Section 1. Hunter management and hunting access enhancement programs created -- private landowner assistance to promote public access -- rules. (1) The department may establish within the block management program established by administrative rule pursuant to authority

1 contained in 87-1-301 and 87-1-303 programs of landowner assistance that encourage public access to
2 private lands for purposes of hunting and may adopt rules to carry out program purposes. Rules may
3 address but are not limited to incentives provided under:

4 (a) a hunter management program as set out in [section 2], consisting of a cooperative agreement
5 between a landowner and the department and including other resource management agencies when
6 appropriate, that allows public hunting with certain restrictions or use rules; and

7 (b) a hunting access enhancement program as set out in [section 3], consisting of incentives for
8 private landowners who allow public hunting access on their lands.

9 (2) The department may also develop similar efforts outside the scope of the block management
10 program that are designed to promote public access to private lands for hunting purposes.

11 (3) Participation in a program established under subsection (1) is voluntary. Programs may not be
12 structured in a manner that provides assistance to a private landowner who charges a fee for access to
13 private land that is enrolled in the program or who does not provide reasonable public access to private land
14 that is enrolled in the program. The commission shall develop criteria by which tangible benefits are
15 allocated to participating landowners, and the department may distribute the benefits to participating
16 landowners. The department may by rule limit the number of licenses that can be provided as incentives.

17

18 **NEW SECTION. Section 2. Hunter management program -- benefits for providing hunting access**
19 **-- nonresident landowner limitation -- restriction on landowner liability.** (1) As provided in [section 1], the
20 department may establish a voluntary hunter management program to provide tangible benefits to private
21 landowners enrolled in the block management program who grant access to their land for public hunting.
22 The decision to enroll a landowner in the hunter management program is the responsibility of the
23 department. Benefits may be granted as provided in this section and by rule.

24 (2) As a benefit for enrolling property in the hunter management program, a resident landowner
25 who becomes a cooperator in the program and who agrees to provide public hunting access may receive
26 one Class AAA sportsman's license, without charge, if the landowner is the owner of record. The license
27 may be used for the full hunting or fishing season in any district where it is valid. The license may not be
28 transferred by gift or sale.

29 (3) As a benefit for enrolling property in the hunter management program, a nonresident landowner
30 who becomes a cooperator in the program and who agrees to provide public hunting access may receive

1 one Class B-10 nonresident big game combination license, without charge, if the landowner is the owner
2 of record. The license may be used for the full hunting or fishing season in any district where it is valid.
3 The license may not be transferred by gift or sale. The grant of a license under this subsection also
4 qualifies the licensee to apply for a permit through the normal drawing process. The grant of a license
5 under this subsection does not affect the quota of 11,500 established under 87-2-505.

6 (4) (a) A resident landowner who is enrolled in the block management program may receive the
7 benefits provided under the hunter management program, as outlined in this section, and the benefits
8 provided under the hunting access enhancement program, as outlined in [section 3].

9 (b) A nonresident landowner who chooses to receive a license under subsection (3) may also
10 receive assistance under the block management program, but is not eligible to receive cash payments under
11 [section 3].

12 (5) The restriction on liability of a landowner, agent, or tenant that is provided under 70-16-302(1)
13 applies to a landowner who participates in the hunter management program.

14
15 **NEW SECTION. Section 3. Hunting access enhancement program -- benefits for providing hunting**
16 **access -- cooperative agreement -- factors for determining benefits earned -- restriction on landowner**
17 **liability.** (1) As provided in [section 1], the department may establish and administer a voluntary program
18 to enhance the block management program, to be known as the hunting access enhancement program.
19 The program must be designed to provide tangible benefits to participating private landowners who grant
20 access to their land for public hunting.

21 (2) Land is not eligible for inclusion in the hunting access enhancement program if outfitting or
22 commercial hunting restricts public recreation or hunting opportunities.

23 (3) A contract for participation in the hunting access enhancement program is established through
24 a cooperative agreement between the landowner and the department that will guarantee reasonable access
25 for public hunting. Landowners may also form a voluntary association when development of a unified
26 cooperative agreement is advantageous. A cooperative agreement must contain a detailed description of
27 the plan developed by the landowner and the department and may include but is not limited to:

- 28 (a) hunting access management;
29 (b) services to be provided to the public;
30 (c) ranch rules and other restrictions; and

1 (d) any other management information to be gathered, which must be made available to the public.

2 (4) If the department determines that the plan referred to in subsection (3) may adversely influence
3 game management decisions or wildlife habitat on public lands outside the block management area, then
4 other public land agencies, interested sportspersons, and affected landowners must be consulted. An
5 affected landowner's management goals and personal observations regarding game populations and habitat
6 use must be considered in developing the plan.

7 (5) The commission shall develop rules for determining tangible benefits to be provided to a
8 landowner for providing public access. Benefits will be provided to offset potential impacts associated with
9 public hunting access, including but not limited to those associated with GENERAL RANCH MAINTENANCE,
10 CONSERVATION EFFORTS, weed control, fire protection, liability insurance, roads, fences, and parking area
11 maintenance. Factors used in determining benefits may include but are not limited to:

12 (a) the number of days of public hunting provided by a participating landowner;

13 (b) wildlife habitat provided;

14 (c) resident game populations;

15 (d) number, sex, and species of animals taken; and

16 (e) access provided to adjacent public lands.

17 (6) Benefits earned by a landowner under this section may be applied in, BUT APPLICATION IS
18 NOT LIMITED TO, the following manner ~~or other manner allowed by rule:~~

19 (a) A landowner may direct weed control payments to be made directly to the county weed control
20 board or may elect to receive payments directly.

21 (b) A landowner may direct fire protection payments to be made to the local fire district or the
22 county where the landowner resides or may elect to receive payments directly.

23 (c) A landowner may receive direct payment to offset insurance costs incurred for allowing public
24 access.

25 (d) The department may provide assistance in the construction and maintenance of roads, gates,
26 and parking facilities and in the signing of property.

27 (7) The commission may provide a total of not more than \$8,000 a year to a landowner who
28 participates in the hunter management ~~and~~ PROGRAM OR hunting access enhancement ~~programs~~
29 PROGRAM, OR BOTH, subject to the conditions set out in [section 2(4)].

30 (8) The restriction on liability of a landowner, agent, or tenant that is provided under 70-16-302(1)

1 applies to a landowner who participates in the hunting access enhancement program.

2

3 **Section 4.** Section 87-1-201, MCA, is amended to read:

4 **"87-1-201. Powers and duties.** (1) The department shall supervise all the wildlife, fish, game,
5 game and nongame birds, waterfowl, and the game and fur-bearing animals of the state and may implement
6 voluntary programs that encourage hunting access on private lands and that promote harmonious relations
7 between landowners and the hunting public. It possesses all powers necessary to fulfill the duties
8 prescribed by law and to bring actions in the proper courts of this state for the enforcement of the fish and
9 game laws and the rules adopted by the department.

10 (2) ~~It shall have~~ The department shall enforce all the laws of the state respecting the protection, preservation,
11 and propagation of fish, game, fur-bearing animals, and game and nongame birds within the state.

12 (3) ~~It shall have~~ The department has the exclusive power to spend for the protection, preservation,
13 and propagation of fish, game, fur-bearing animals, and game and nongame birds all state funds collected
14 or acquired for that purpose, whether arising from state appropriation, licenses, fines, gifts, or otherwise.
15 Money collected or received from the sale of hunting and fishing licenses or permits, from the sale of seized
16 game or hides, from fines or damages collected for violations of the fish and game laws, or from
17 appropriations or received by the department from any other sources are appropriated to and under control
18 of the department.

19 (4) ~~It shall have~~ The department may discharge any appointee or employee of the department for cause at
20 any time.

21 (5) ~~It shall have~~ The department may dispose of all property owned by the state used for the protection,
22 preservation, and propagation of fish, game, fur-bearing animals, and game and nongame birds ~~which~~ that
23 is of no further value or use to the state and shall turn over the proceeds from the sale to the state
24 treasurer to be credited to the fish and game account in the state special revenue fund.

25 (6) ~~It shall have~~ The department may not issue permits to carry firearms within this state to anyone except
26 regularly appointed officers or wardens.

27 (7) The department is ~~hereby~~ authorized to make, promulgate, and enforce ~~such~~ reasonable rules
28 and regulations not inconsistent with the provisions of chapter 2 ~~as~~ that in its judgment will accomplish the
29 purpose of chapter 2.

30 (8) The department is authorized to promulgate rules relative to tagging, possession, or

1 transportation of bear within or without the state."

2

3 **Section 5.** Section 87-1-242, MCA, is amended to read:

4 **"87-1-242. (Temporary) Funding for wildlife habitat.** (1) The amount of money specified in this
5 subsection from the sale of each hunting license or permit listed must be used exclusively by the
6 commission to secure, develop, and maintain wildlife habitat, subject to appropriation by the legislature.

7 (a) Class B-10, nonresident combination, \$77;

8 (b) Nonresident antelope, \$20;

9 (c) Nonresident moose, \$20;

10 (d) Nonresident mountain goat, \$20;

11 (e) Nonresident mountain sheep, \$20;

12 (f) Class D-1, nonresident mountain lion, \$20;

13 (g) Nonresident black bear, \$20;

14 (h) ~~Wild turkey nonresident~~ Nonresident wild turkey, \$10;

15 (i) Class AAA, sportsman's, \$7;

16 (j) Class B-11 nonresident deer combination, \$200.

17 (2) Twenty percent of any increase ~~after March 1, 1988~~, in the fee for the Class B-7 license or any
18 license or permit listed in subsection (1), except outfitter-sponsored Class B-10 and Class B-11 licenses
19 subject to variable pricing under [section 6], must be allocated for use as provided in subsection (1).

20 (3) Eighty percent of the money allocated by this section, together with the interest and income
21 ~~therefrom~~ from the money, must be used to secure wildlife habitat pursuant to 87-1-209.

22 (4) ~~(a) Until March 1, 1991, 20% of the money allocated by this section must be credited to the~~
23 ~~account created by 87-1-601(5) for use in the manner prescribed therein for the development and~~
24 ~~maintenance of real property used for wildlife habitat.~~

25 ~~(b) On and after March 1, 1991, 20%~~ Twenty percent of the money allocated by this section must
26 be used as follows:

27 ~~(i)~~ (a) up to 50% a year may be used for development and maintenance of real property used for
28 wildlife habitat; and

29 ~~(ii)~~ (b) the remainder and any money not allocated for development and maintenance under
30 subsection ~~(4)(b)(i)~~ (4)(a) by the end of each odd-numbered fiscal year must be credited to the account

1 created by 87-1-601(5) for use in the manner prescribed ~~therein~~ for the development and maintenance of
 2 real property used for wildlife habitat. (Terminates March 1, 2006--secs. 1, 2, Ch. 241, L. 1993.)"

3
 4 NEW SECTION. Section 6. Variable pricing of outfitter-sponsored Class B-10 and B-11
 5 licenses. The commission shall annually set fees for outfitter-sponsored Class B-10 and Class B-11 licenses
 6 allowed under 87-2-505 and 87-2-510. The fees must be set at a market rate intended to sell AS CLOSE
 7 TO BUT not more than an average of 5,500 Class B-10 licenses and 2,300 Class B-11 licenses each year,
 8 calculated over a 5-year period. The sale period for the licenses must be established so that by the last
 9 date in the established period, those licenses that are unsold, UP TO 5,500 CLASS B-10 LICENSES AND
 10 2,300 CLASS B-11 LICENSES, may be reallocated by the commission for a drawing at a price set by the
 11 commission.

12
 13 NEW SECTION. Section 7. Report required -- REVIEW COMMITTEE. (1) THE GOVERNOR SHALL
 14 APPOINT A COMMITTEE OF PERSONS INTERESTED IN THE HUNTER MANAGEMENT PROGRAM, THE
 15 HUNTING ACCESS ENHANCEMENT PROGRAM, OR OTHER ISSUES RELATED TO PRIVATE LANDS AND
 16 PUBLIC WILDLIFE TO REVIEW THE SUCCESS AND PROGRESS OF THE HUNTER MANAGEMENT
 17 PROGRAM AND THE HUNTING ACCESS ENHANCEMENT PROGRAM. THE COMMITTEE MUST HAVE
 18 EQUAL REPRESENTATION OF LANDOWNERS AND SPORTSPERSONS AND BE BROADLY
 19 REPRESENTATIVE OF THE VARIOUS GEOGRAPHICAL AREAS OF THE STATE. THE DEPARTMENT MAY
 20 PROVIDE ADMINISTRATIVE ASSISTANCE AS NECESSARY TO FACILITATE THE EFFORTS OF THE REVIEW
 21 COMMITTEE.

22 (2) The ~~department~~ REVIEW COMMITTEE shall report to the governor ~~and to each regular session~~
 23 ~~of the legislature~~ regarding the success of the hunter management program and the hunting access
 24 enhancement program, including a report of annual landowner participation and the number of acres
 25 annually enrolled in the programs. The report may also include suggestions for funding, modification, or
 26 improvement of the programs. IF THE REVIEW COMMITTEE DETERMINES THAT EXPANDING FUNDING
 27 FOR PROGRAMS FOR HUNTER MANAGEMENT AND HUNTING ACCESS ENHANCEMENT IS DESIRABLE,
 28 CONSIDERATION MUST BE GIVEN TO PROVIDING THE EXPANDED FUNDING THROUGH INCREASES IN
 29 RESIDENT HUNTING LICENSE FEES.

1 **Section 8.** Section 87-2-505, MCA, is amended to read:

2 **"87-2-505. (Temporary) Class B-10--nonresident big game combination license.** Except as
 3 otherwise provided in this chapter, a person not a resident, as defined in 87-2-102, but who will be 12
 4 years of age or older prior to September 15 of the season for which the license is issued may, upon
 5 payment of the fee of ~~\$462 beginning March 1, 1992, and \$475 beginning March 1, 1994,~~ or upon
 6 payment of the fee of ~~\$472 beginning March 1, 1992, and \$485 beginning March 1, 1994,~~ established as
 7 provided in [section 6] if the license is one of the ~~5,600~~ licenses reserved pursuant to 87-2-511 for
 8 applicants indicating their intent to use the services of a licensed outfitter and subject to the limitations
 9 prescribed by law and department regulation, apply to the fish and game office, Helena, Montana, to
 10 purchase a B-10 nonresident big game combination license ~~which shall entitle~~ that entitles the holder to all
 11 the privileges of Class B, Class B-1, and Class B-7 licenses, and an elk tag. This license includes the
 12 nonresident conservation license as prescribed in 87-2-202. Not more than ~~47,000~~ 11,500 unreserved
 13 Class B-10 licenses may be sold in any ~~one~~ 1 license year. (Terminates March 1, 2006--secs. 1, 2, Ch.
 14 241, L. 1993.)

15 **87-2-505. (Effective March 1, 2006) Class B-10--nonresident big game combination license.**
 16 Except as otherwise provided in this chapter, a person not a resident, as defined in 87-2-102, but who will
 17 be 12 years of age or older prior to September 15 of the season for which the license is issued may, upon
 18 payment of the fee of \$398 or upon payment of the fee of ~~\$408~~ established as provided in [section 6] if
 19 the license is one of the ~~5,600~~ licenses reserved pursuant to 87-2-511 for applicants indicating their intent
 20 to use the services of a licensed outfitter and subject to the limitations prescribed by law and department
 21 regulation, apply to the fish and game office, Helena, Montana, to purchase a B-10 nonresident big game
 22 combination license ~~which shall entitle~~ that entitles the holder to all the privileges of Class B, Class B-1, and
 23 Class B-7 licenses, and an elk tag. This license includes the nonresident conservation license as prescribed
 24 in 87-2-202. Not more than ~~47,000~~ 11,500 unreserved Class B-10 licenses may be sold in any ~~one~~ 1
 25 license year."

26

27 **Section 9.** Section 87-2-510, MCA, is amended to read:

28 **"87-2-510. Class B-11--nonresident deer combination license.** (1) Except as otherwise provided
 29 in this chapter, a person not a resident, as defined in 87-2-102, but who will be 12 years of age or older
 30 prior to September 15 of the season for which the license is issued may, upon payment of a fee of \$220

1 or upon payment of the fee of ~~\$225~~ established as provided in [section 6] if the license is one of the ~~4,000~~
 2 those reserved pursuant to 87-2-511 for applicants indicating their intent ~~either~~ to use the services of a
 3 licensed outfitter or upon payment of the fee of \$225 if the license is one of those reserved pursuant to
 4 87-2-511 for applicants indicating their intent to hunt with a resident sponsor on land owned by that
 5 sponsor and subject to the limitations prescribed by law and department regulation, apply to the fish and
 6 game office, Helena, Montana, to purchase a Class B-11 nonresident deer combination license that entitles
 7 the holder to all the privileges of the Class B, Class B-1, and Class B-7 licenses. This license includes the
 8 nonresident wildlife conservation license as prescribed in 87-2-202.

9 (2) ~~Six thousand~~ Not more than 4,300 2,300 unreserved Class B-11 licenses ~~are authorized for sale~~
 10 ~~each~~ may be sold in any 1 license year."

11
 12 **Section 10.** Section 87-2-511, MCA, is amended to read:

13 **"87-2-511. Sale and use of Class B-10 and Class B-11 licenses.** (1) The department shall offer
 14 the Class B-10 and Class B-11 licenses for sale on March 15, with ~~5,600~~ a number of the authorized Class
 15 B-10 and Class B-11 licenses, as determined under [section 6], ~~and 2,000 Class B-11 licenses~~ reserved for
 16 applicants indicating their intent to use the services of a licensed outfitter, and 2,000 of the authorized
 17 Class B-11 licenses reserved for applicants indicating their intent to hunt with a resident sponsor on land
 18 owned by that sponsor, as provided in subsections (2) and (3).

19 (2) Each application for a reserved license under subsection (1) must contain a written affirmation
 20 that the applicant intends to hunt with a licensed outfitter or a resident sponsor and must indicate the name
 21 of the licensed outfitter or resident sponsor with whom the applicant intends to hunt. In addition, the
 22 application must be accompanied by a certificate that is signed by a licensed outfitter or resident sponsor
 23 and ~~which~~ that affirms that the outfitter or resident will:

- 24 (a) direct the applicant's hunting and advise the applicant of game and trespass laws of the state;
 25 (b) submit to the department, in a manner prescribed by the department, complete records of who
 26 hunted with ~~him~~ the outfitter or resident, where they hunted, and what game was taken; and
 27 (c) accept no monetary consideration for enabling the nonresident applicant to obtain a license or
 28 for providing any services or assistance to the nonresident applicant, except as provided in this title.

29 (3) The certificate signed by the resident sponsor pursuant to subsection (2) must also affirm that
 30 the sponsor is a landowner and that the applicant under the certificate will hunt only on land owned by the

1 sponsor. A resident sponsor of a Class B-11 license may submit no more than 10 certificates of
 2 sponsorship in any license year.

3 (4) A nonresident who hunts under the authority of a resident landowner-sponsored license shall
 4 conduct all deer hunting on the deeded lands of the sponsoring landowner.

5 (5) Any permits or tags secured as a result of obtaining a Class B-10 or Class B-11 license through
 6 an outfitter sponsor are valid only when hunting is conducted with a licensed outfitter.

7 (6) The department shall make the reserved Class B-10 and Class B-11 licenses that remain unsold
 8 ~~on April 15 available to nonresident applicants without restriction as to hunting with a licensed outfitter or~~
 9 ~~resident sponsor as provided in [section 6].~~

10 ~~(5)(7) All Class B-10 and Class B-11 licenses not reserved under subsection (1) and all unsold~~
 11 ~~reserved licenses available under subsection (4) must be issued by a drawing among all applicants for the~~
 12 ~~respective unreserved licenses."~~

13

14 **NEW SECTION. Section 11. Moratorium on issuance of hunting outfitter licenses.** (4) The
 15 legislature finds it necessary to protect the hunting resource, public health, public safety, and public
 16 welfare. Therefore, the board shall establish and regulate a ~~5-year~~ moratorium on the issuance of outfitter
 17 licenses for land-based hunting activities. An outfitter licensed on [the effective date of this section] may
 18 receive a renewal license, if qualified, but the total number of land-based hunting outfitter licenses issued
 19 after [the effective date of this section] may not exceed the number in existence on [the effective date of
 20 this section].

21 ~~(2) An affected outfitter licensed on [the effective date of this section] may attempt to sell the~~
 22 ~~outfitting business, but approval of the buyer's license is conditioned on the buyer's ability to meet the~~
 23 ~~licensing criteria. The seller's license is to be considered in inactive status until the sale is final. If the sale~~
 24 ~~is not consummated, the seller's license must be reactivated and the buyer's conditional license revoked.~~

25

26 **NEW SECTION. Section 12. Codification instruction.** (1) [Sections 1 through 3, 6, and 7] are
 27 intended to be codified as an integral part of Title 87, chapter 1, part 2, and the provisions of Title 87,
 28 chapter 1, part 2, apply to [sections 1 through 3, 6, and 7].

29 (2) [Section 11] is intended to be codified as an integral part of Title 37, chapter 47, and the
 30 provisions of Title 37, chapter 47, apply to [section 11].

1 HOUSE BILL NO. 195

2 INTRODUCED BY SWANSON, HIBBARD, HERTEL, PIPINICH

3 BY REQUEST OF THE GOVERNOR

4

5 A BILL FOR AN ACT ENTITLED: "AN ACT IMPLEMENTING CERTAIN RECOMMENDATIONS OF THE
6 GOVERNOR'S ADVISORY COUNCIL ON PRIVATE LAND/PUBLIC WILDLIFE; CREATING PROGRAMS FOR
7 HUNTER MANAGEMENT AND HUNTING ACCESS ENHANCEMENT WITHIN THE BLOCK MANAGEMENT
8 PROGRAM; RESTRICTING THE LIABILITY OF LANDOWNERS WHO PARTICIPATE IN THE PROGRAMS;
9 PROVIDING A MORATORIUM ON THE ISSUANCE OF NEW LAND-BASED HUNTING OUTFITTER LICENSES;
10 REVISING THE CLASS B-11 RESIDENT SPONSOR LIMIT BY ALLOWING THE ISSUANCE OF ONLY 10
11 CERTIFICATES FOR EACH SPONSOR AND PROVIDING THAT ALL DEER HUNTING UNDER THE LICENSE
12 MUST BE CONDUCTED ON THE SPONSOR'S DEEDED LAND; REVISING REQUIREMENTS FOR LICENSEES
13 WHO USE AN OUTFITTER-RESERVED LICENSE; ALLOWING VARIABLE PRICING OF
14 OUTFITTER-SPONSORED CLASS B-10 AND CLASS B-11 LICENSES; AMENDING SECTIONS 87-1-201,
15 87-1-242, 87-2-505, 87-2-510, AND 87-2-511, MCA; AND PROVIDING EFFECTIVE DATES AND A
16 TERMINATION ~~DATE~~ DATES."

17

18 WHEREAS, Montana has a cherished hunting heritage based on a deep knowledge of and respect
19 for wildlife and the land; and

20 WHEREAS, private landowners provide wildlife habitat and hunting opportunities, the hunting public
21 provides financial and political support for sound wildlife management, and the combined efforts of
22 landowners and the hunting public have sustained Montana's hunting and wildlife heritage; and

23 WHEREAS, landowner/outfitter/sportsperson relations have become increasingly strained over the
24 past several years, leading to increased polarization between the groups; and

25 WHEREAS, the 1993 Legislature addressed this problem through the passage of House Joint
26 Resolution No. 24, which requested the Governor, through the Department of Fish, Wildlife, and Parks, to
27 coordinate a sustained, ongoing, cooperative effort to address these issues by establishing statewide,
28 regional, and local groups to develop mutually satisfactory solutions that would preserve Montana's hunting
29 and wildlife heritage and encourage the continuance of a viable outfitting industry; and

30 WHEREAS, in response to that request, the Governor appointed the Advisory Council on Private

1 Land/Public Wildlife, consisting of representatives of the affected groups, to study the issues in anticipation
2 of legislation that reflects the mutual interests of landowners, outfitters, and the sporting community; and

3 WHEREAS, after considering extensive input and advice from individual private citizens, local
4 working groups, agencies, and nonprofit organizations involved in conservation, the Advisory Council by
5 consensus developed recommendations for improving access to private lands and for providing tangible
6 benefits for landowners who allow access to their lands for hunting; and

7 WHEREAS, the Advisory Council has made efforts to break new ground philosophically in designing
8 its recommendations, requiring that all interested parties be willing to accept change in order to benefit
9 everyone who has an interest in Montana's hunting and wildlife heritage; and

10 WHEREAS, the Advisory Council finds it appropriate to present the following recommendations to
11 the Legislature in the spirit of a cooperative and positive effort to enhance relations between landowners,
12 outfitters, and sportspersons.

13 14 STATEMENT OF INTENT

15 A statement of intent is required for this bill because [sections 1 through 3] grant rulemaking
16 authority to the department of fish, wildlife, and parks and the fish, wildlife, and parks commission to
17 implement programs for hunter management and hunting access enhancement. It is intended that in
18 addition to the statutory guidelines set out in those sections, any rules be adopted with the purpose of
19 optimizing hunting opportunity and access while minimizing administrative costs in providing benefits to
20 landowners who voluntarily participate in the programs. In addition, [section 6] grants rulemaking authority
21 to the fish, wildlife, and parks commission to implement the provisions of variable pricing for Class B-10
22 and Class B-11 outfitter-sponsored licenses. It is intended that the fish, wildlife, and parks commission use
23 its licensing authority to adjust the price of those licenses as necessary and that ~~the~~ ANY additional revenue
24 generated by variable pricing be used to fund the hunting access enhancement program.

25
26 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

27
28 **NEW SECTION. Section 1. Hunter management and hunting access enhancement programs**
29 **created -- private landowner assistance to promote public access -- rules.** (1) The department may
30 establish within the block management program established by administrative rule pursuant to authority

1 contained in 87-1-301 and 87-1-303 programs of landowner assistance that encourage public access to
2 private lands for purposes of hunting and may adopt rules to carry out program purposes. Rules may
3 address but are not limited to incentives provided under:

4 (a) a hunter management program as set out in [section 2], consisting of a cooperative agreement
5 between a landowner and the department and including other resource management agencies when
6 appropriate, that allows public hunting with certain restrictions or use rules; and

7 (b) a hunting access enhancement program as set out in [section 3], consisting of incentives for
8 private landowners who allow public hunting access on their lands.

9 (2) The department may also develop similar efforts outside the scope of the block management
10 program that are designed to promote public access to private lands for hunting purposes.

11 (3) Participation in a program established under subsection (1) is voluntary. Programs may not be
12 structured in a manner that provides assistance to a private landowner who charges a fee for access to
13 private land that is enrolled in the program or who does not provide reasonable public access to private land
14 that is enrolled in the program. The commission shall develop criteria by which tangible benefits are
15 allocated to participating landowners, and the department may distribute the benefits to participating
16 landowners. The department may by rule limit the number of licenses that can be provided as incentives.

17

18 **NEW SECTION. Section 2. Hunter management program -- benefits for providing hunting access**
19 **-- nonresident landowner limitation -- restriction on landowner liability.** (1) As provided in [section 1], the
20 department may establish a voluntary hunter management program to provide tangible benefits to private
21 landowners enrolled in the block management program who grant access to their land for public hunting.
22 The decision to enroll a landowner in the hunter management program is the responsibility of the
23 department. Benefits may be granted as provided in this section and by rule.

24 (2) As a benefit for enrolling property in the hunter management program, a resident landowner
25 who becomes a cooperator in the program and who agrees to provide public hunting access may receive
26 one Class AAA sportsman's license, without charge, if the landowner is the owner of record. The license
27 may be used for the full hunting or fishing season in any district where it is valid. The license may not be
28 transferred by gift or sale.

29 (3) As a benefit for enrolling property in the hunter management program, a nonresident landowner
30 who becomes a cooperator in the program and who agrees to provide public hunting access may receive

1 one Class B-10 nonresident big game combination license, without charge, if the landowner is the owner
2 of record. The license may be used for the full hunting or fishing season in any district where it is valid.
3 The license may not be transferred by gift or sale. The grant of a license under this subsection also
4 qualifies the licensee to apply for a permit through the normal drawing process. The grant of a license
5 under this subsection does not affect the quota of 11,500 established under 87-2-505.

6 (4) (a) A resident landowner who is enrolled in the block management program may receive the
7 benefits provided under the hunter management program, as outlined in this section, and the benefits
8 provided under the hunting access enhancement program, as outlined in [section 3].

9 (b) A nonresident landowner who chooses to receive a license under subsection (3) may also
10 receive assistance under the block management program, but is not eligible to receive cash payments under
11 [section 3].

12 (5) The restriction on liability of a landowner, agent, or tenant that is provided under 70-16-302(1)
13 applies to a landowner who participates in the hunter management program.

14
15 **NEW SECTION. Section 3. Hunting access enhancement program -- benefits for providing hunting**
16 **access -- cooperative agreement -- factors for determining benefits earned -- restriction on landowner**
17 **liability.** (1) As provided in [section 1], the department may establish and administer a voluntary program
18 to enhance the block management program, to be known as the hunting access enhancement program.
19 The program must be designed to provide tangible benefits to participating private landowners who grant
20 access to their land for public hunting.

21 (2) Land is not eligible for inclusion in the hunting access enhancement program if outfitting or
22 commercial hunting restricts public recreation or hunting opportunities.

23 (3) A contract for participation in the hunting access enhancement program is established through
24 a cooperative agreement between the landowner and the department that will guarantee reasonable access
25 for public hunting. Landowners may also form a voluntary association when development of a unified
26 cooperative agreement is advantageous. A cooperative agreement must contain a detailed description of
27 the plan developed by the landowner and the department and may include but is not limited to:

- 28 (a) hunting access management;
29 (b) services to be provided to the public;
30 (c) ranch rules and other restrictions; and

1 (d) any other management information to be gathered, which must be made available to the public.

2 (4) If the department determines that the plan referred to in subsection (3) may adversely influence
3 game management decisions or wildlife habitat on public lands outside the block management area, then
4 other public land agencies, interested sportspersons, and affected landowners must be consulted. An
5 affected landowner's management goals and personal observations regarding game populations and habitat
6 use must be considered in developing the plan.

7 (5) The commission shall develop rules for determining tangible benefits to be provided to a
8 landowner for providing public access. Benefits will be provided to offset potential impacts associated with
9 public hunting access, including but not limited to those associated with GENERAL RANCH MAINTENANCE,
10 CONSERVATION EFFORTS, weed control, fire protection, liability insurance, roads, fences, and parking area
11 maintenance. Factors used in determining benefits may include but are not limited to:

12 (a) the number of days of public hunting provided by a participating landowner;

13 (b) wildlife habitat provided;

14 (c) resident game populations;

15 (d) number, sex, and species of animals taken; and

16 (e) access provided to adjacent public lands.

17 (6) Benefits earned by a landowner under this section may be applied in, BUT APPLICATION IS
18 NOT LIMITED TO, the following manner ~~or other manner allowed by rule:~~

19 (a) A landowner may direct weed control payments to be made directly to the county weed control
20 board or may elect to receive payments directly.

21 (b) A landowner may direct fire protection payments to be made to the local fire district or the
22 county where the landowner resides or may elect to receive payments directly.

23 (c) A landowner may receive direct payment to offset insurance costs incurred for allowing public
24 access.

25 (d) The department may provide assistance in the construction and maintenance of roads, gates,
26 and parking facilities and in the signing of property.

27 (7) The commission may provide a total of not more than \$8,000 a year to a landowner who
28 participates in the hunter management ~~and~~ PROGRAM OR hunting access enhancement ~~programs~~
29 PROGRAM, OR BOTH, subject to the conditions set out in [section 2(4)].

30 (8) The restriction on liability of a landowner, agent, or tenant that is provided under 70-16-302(1)

1 applies to a landowner who participates in the hunting access enhancement program.

2
3 **Section 4.** Section 87-1-201, MCA, is amended to read:

4 **"87-1-201. Powers and duties.** (1) The department shall supervise all the wildlife, fish, game,
5 game and nongame birds, waterfowl, and the game and fur-bearing animals of the state and may implement
6 voluntary programs that encourage hunting access on private lands and that promote harmonious relations
7 between landowners and the hunting public. It possesses all powers necessary to fulfill the duties
8 prescribed by law and to bring actions in the proper courts of this state for the enforcement of the fish and
9 game laws and the rules adopted by the department.

10 (2) ~~‡~~ The department shall enforce all the laws of the state respecting the protection, preservation,
11 and propagation of fish, game, fur-bearing animals, and game and nongame birds within the state.

12 (3) ~~‡ shall have~~ The department has the exclusive power to spend for the protection, preservation,
13 and propagation of fish, game, fur-bearing animals, and game and nongame birds all state funds collected
14 or acquired for that purpose, whether arising from state appropriation, licenses, fines, gifts, or otherwise.
15 Money collected or received from the sale of hunting and fishing licenses or permits, from the sale of seized
16 game or hides, from fines or damages collected for violations of the fish and game laws, or from
17 appropriations or received by the department from any other sources are appropriated to and under control
18 of the department.

19 (4) ~~‡~~ The department may discharge any appointee or employee of the department for cause at
20 any time.

21 (5) ~~‡~~ The department may dispose of all property owned by the state used for the protection,
22 preservation, and propagation of fish, game, fur-bearing animals, and game and nongame birds ~~which that~~
23 is of no further value or use to the state and shall turn over the proceeds from the sale to the state
24 treasurer to be credited to the fish and game account in the state special revenue fund.

25 (6) ~~‡~~ The department may not issue permits to carry firearms within this state to anyone except
26 regularly appointed officers or wardens.

27 (7) The department is ~~hereby~~ authorized to make, promulgate, and enforce ~~such~~ reasonable rules
28 and regulations not inconsistent with the provisions of chapter 2 ~~as~~ that in its judgment will accomplish the
29 purpose of chapter 2.

30 (8) The department is authorized to promulgate rules relative to tagging, possession, or

1 transportation of bear within or without the state."

2

3 **Section 5.** Section 87-1-242, MCA, is amended to read:

4 **"87-1-242. (Temporary) Funding for wildlife habitat.** (1) The amount of money specified in this
5 subsection from the sale of each hunting license or permit listed must be used exclusively by the
6 commission to secure, develop, and maintain wildlife habitat, subject to appropriation by the legislature.

7 (a) Class B-10, nonresident combination, \$77;

8 (b) Nonresident antelope, \$20;

9 (c) Nonresident moose, \$20;

10 (d) Nonresident mountain goat, \$20;

11 (e) Nonresident mountain sheep, \$20;

12 (f) Class D-1, nonresident mountain lion, \$20;

13 (g) Nonresident black bear, \$20;

14 (h) ~~Wild turkey nonresident~~ Nonresident wild turkey, \$10;

15 (i) Class AAA, sportsman's, \$7;

16 (j) Class B-11 nonresident deer combination, \$200.

17 (2) Twenty percent of any increase ~~after March 1, 1988~~, in the fee for the Class B-7 license or any
18 license or permit listed in subsection (1), except outfitter-sponsored Class B-10 and Class B-11 licenses
19 subject to variable pricing under [section 6], must be allocated for use as provided in subsection (1).

20 (3) Eighty percent of the money allocated by this section, together with the interest and income
21 ~~therefrom~~ from the money, must be used to secure wildlife habitat pursuant to 87-1-209.

22 (4) ~~(a) Until March 1, 1991, 20% of the money allocated by this section must be credited to the~~
23 ~~account created by 87-1-601(5) for use in the manner prescribed therein for the development and~~
24 ~~maintenance of real property used for wildlife habitat.~~

25 ~~(b) On and after March 1, 1991, 20%~~ Twenty percent of the money allocated by this section must
26 be used as follows:

27 ~~(i)(a)~~ (a) up to 50% a year may be used for development and maintenance of real property used for
28 wildlife habitat; and

29 ~~(i)(b)~~ (b) the remainder and any money not allocated for development and maintenance under
30 subsection ~~(4)(b)(i)~~ (4)(a) by the end of each odd-numbered fiscal year must be credited to the account

1 created by 87-1-601(5) for use in the manner prescribed ~~therein~~ for the development and maintenance of
 2 real property used for wildlife habitat. (Terminates March 1, 2006--secs. 1, 2, Ch. 241, L. 1993.)"

3
 4 **NEW SECTION. Section 6. Variable pricing of outfitter-sponsored Class B-10 and B-11**
 5 **licenses.** The commission shall annually set fees for outfitter-sponsored Class B-10 and Class B-11 licenses
 6 allowed under 87-2-505 and 87-2-510. The fees must be set at a market rate intended to sell AS CLOSE
 7 TO BUT not more than an average of 5,500 Class B-10 licenses and 2,300 Class B-11 licenses each year,
 8 calculated over a 5-year period. The sale period for the licenses must be established so that by the last
 9 date in the established period, those licenses that are unsold, UP TO 5,500 CLASS B-10 LICENSES AND
 10 2,300 CLASS B-11 LICENSES, may be reallocated by the commission for a drawing at a price set by the
 11 commission.

12
 13 **NEW SECTION. Section 7. Report required -- REVIEW COMMITTEE.** (1) THE GOVERNOR SHALL
 14 APPOINT A COMMITTEE OF PERSONS INTERESTED IN THE HUNTER MANAGEMENT PROGRAM, THE
 15 HUNTING ACCESS ENHANCEMENT PROGRAM, OR OTHER ISSUES RELATED TO PRIVATE LANDS AND
 16 PUBLIC WILDLIFE TO REVIEW THE SUCCESS AND PROGRESS OF THE HUNTER MANAGEMENT
 17 PROGRAM AND THE HUNTING ACCESS ENHANCEMENT PROGRAM. THE COMMITTEE MUST HAVE
 18 EQUAL REPRESENTATION OF LANDOWNERS AND SPORTSPERSONS AND BE BROADLY
 19 REPRESENTATIVE OF THE VARIOUS GEOGRAPHICAL AREAS OF THE STATE. THE DEPARTMENT MAY
 20 PROVIDE ADMINISTRATIVE ASSISTANCE AS NECESSARY TO FACILITATE THE EFFORTS OF THE REVIEW
 21 COMMITTEE.

22 (2) The ~~department~~ REVIEW COMMITTEE shall report to the governor ~~and to each regular session~~
 23 ~~of the legislature~~ regarding the success of the hunter management program and the hunting access
 24 enhancement program, including a report of annual landowner participation and the number of acres
 25 annually enrolled in the programs. The report may also include suggestions for funding, modification, or
 26 improvement of the programs. IF THE REVIEW COMMITTEE DETERMINES THAT EXPANDING FUNDING
 27 FOR PROGRAMS FOR HUNTER MANAGEMENT AND HUNTING ACCESS ENHANCEMENT IS DESIRABLE,
 28 CONSIDERATION MUST BE GIVEN TO PROVIDING THE EXPANDED FUNDING THROUGH INCREASES IN
 29 RESIDENT HUNTING LICENSE FEES.

1 **Section 8.** Section 87-2-505, MCA, is amended to read:

2 **"87-2-505. (Temporary) Class B-10--nonresident big game combination license.** Except as
 3 otherwise provided in this chapter, a person not a resident, as defined in 87-2-102, but who will be 12
 4 years of age or older prior to September 15 of the season for which the license is issued may, upon
 5 payment of the fee of ~~\$462 beginning March 1, 1992, and \$475 beginning March 1, 1994,~~ or upon
 6 payment of the fee of ~~\$472 beginning March 1, 1992, and \$485 beginning March 1, 1994,~~ established as
 7 provided in [section 6] if the license is one of the ~~5,600~~ licenses reserved pursuant to 87-2-511 for
 8 applicants indicating their intent to use the services of a licensed outfitter and subject to the limitations
 9 prescribed by law and department regulation, apply to the fish and game office, Helena, Montana, to
 10 purchase a B-10 nonresident big game combination license ~~which shall entitle~~ that entitles the holder to all
 11 the privileges of Class B, Class B-1, and Class B-7 licenses, and an elk tag. This license includes the
 12 nonresident conservation license as prescribed in 87-2-202. Not more than ~~47,000~~ 11,500 unreserved
 13 Class B-10 licenses may be sold in any ~~one~~ 1 license year. (Terminates March 1, 2006--secs. 1, 2, Ch.
 14 241, L. 1993.)

15 **87-2-505. (Effective March 1, 2006) Class B-10--nonresident big game combination license.**
 16 Except as otherwise provided in this chapter, a person not a resident, as defined in 87-2-102, but who will
 17 be 12 years of age or older prior to September 15 of the season for which the license is issued may, upon
 18 payment of the fee of \$398 or upon payment of the fee of ~~\$408~~ established as provided in [section 6] if
 19 the license is one of the ~~5,600~~ licenses reserved pursuant to 87-2-511 for applicants indicating their intent
 20 to use the services of a licensed outfitter and subject to the limitations prescribed by law and department
 21 regulation, apply to the fish and game office, Helena, Montana, to purchase a B-10 nonresident big game
 22 combination license ~~which shall entitle~~ that entitles the holder to all the privileges of Class B, Class B-1, and
 23 Class B-7 licenses, and an elk tag. This license includes the nonresident conservation license as prescribed
 24 in 87-2-202. Not more than ~~47,000~~ 11,500 unreserved Class B-10 licenses may be sold in any ~~one~~ 1
 25 license year."

26

27 **Section 9.** Section 87-2-510, MCA, is amended to read:

28 **"87-2-510. Class B-11--nonresident deer combination license.** (1) Except as otherwise provided
 29 in this chapter, a person not a resident, as defined in 87-2-102, but who will be 12 years of age or older
 30 prior to September 15 of the season for which the license is issued may, upon payment of a fee of \$220

1 or upon payment of the fee of ~~\$225~~ established as provided in [section 6] if the license is one of ~~the 4,000~~
 2 those reserved pursuant to 87-2-511 for applicants indicating their intent ~~either~~ to use the services of a
 3 licensed outfitter or upon payment of the fee of \$225 if the license is one of those reserved pursuant to
 4 87-2-511 for applicants indicating their intent to hunt with a resident sponsor on land owned by that
 5 sponsor and subject to the limitations prescribed by law and department regulation, apply to the fish and
 6 game office, Helena, Montana, to purchase a Class B-11 nonresident deer combination license that entitles
 7 the holder to all the privileges of the Class B, Class B-1, and Class B-7 licenses. This license includes the
 8 nonresident wildlife conservation license as prescribed in 87-2-202.

9 (2) ~~Six thousand~~ Not more than 4,300 2,300 unreserved Class B-11 licenses ~~are authorized for sale~~
 10 ~~each~~ may be sold in any 1 license year."

11
 12 **Section 10.** Section 87-2-511, MCA, is amended to read:

13 **"87-2-511. Sale and use of Class B-10 and Class B-11 licenses.** (1) The department shall offer
 14 the Class B-10 and Class B-11 licenses for sale on March 15, with ~~5,600 a number of the~~ authorized Class
 15 B-10 and Class B-11 licenses, as determined under [section 6], ~~and 2,000 Class B-11 licenses~~ reserved for
 16 applicants indicating their intent to use the services of a licensed outfitter, and 2,000 of the authorized
 17 Class B-11 licenses reserved for applicants indicating their intent to hunt with a resident sponsor on land
 18 owned by that sponsor, as provided in subsections (2) and (3).

19 (2) Each application for a reserved license under subsection (1) must contain a written affirmation
 20 that the applicant intends to hunt with a licensed outfitter or a resident sponsor and must indicate the name
 21 of the licensed outfitter or resident sponsor with whom the applicant intends to hunt. In addition, the
 22 application must be accompanied by a certificate that is signed by a licensed outfitter or resident sponsor
 23 and ~~which~~ that affirms that the outfitter or resident will:

- 24 (a) direct the applicant's hunting and advise the applicant of game and trespass laws of the state;
 25 (b) submit to the department, in a manner prescribed by the department, complete records of who
 26 hunted with ~~him~~ the outfitter or resident, where they hunted, and what game was taken; and
 27 (c) accept no monetary consideration for enabling the nonresident applicant to obtain a license or
 28 for providing any services or assistance to the nonresident applicant, except as provided in this title.

29 (3) The certificate signed by the resident sponsor pursuant to subsection (2) must also affirm that
 30 the sponsor is a landowner and that the applicant under the certificate will hunt only on land owned by the

1 sponsor. A resident sponsor of a Class B-11 license may submit no more than 10 certificates of
 2 sponsorship in any license year.

3 (4) A nonresident who hunts under the authority of a resident landowner-sponsored license shall
 4 conduct all deer hunting on the deeded lands of the sponsoring landowner.

5 (5) Any permits or tags secured as a result of obtaining a Class B-10 or Class B-11 license through
 6 an outfitter sponsor are valid only when hunting is conducted with a licensed outfitter.

7 (6) The department shall make the reserved Class B-10 and Class B-11 licenses that remain unsold
 8 ~~on April 15 available to nonresident applicants without restriction as to hunting with a licensed outfitter or~~
 9 ~~resident sponsor as provided in [section 6].~~

10 ~~(6)(7) All Class B-10 and Class B-11 licenses not reserved under subsection (1) and all unsold~~
 11 ~~reserved licenses available under subsection (4) must be issued by a drawing among all applicants for the~~
 12 ~~respective unreserved licenses."~~

13

14 **NEW SECTION. Section 11. Moratorium on issuance of hunting outfitter licenses.** ~~(1)~~ The
 15 legislature finds it necessary to protect the hunting resource, public health, public safety, and public
 16 welfare. Therefore, the board shall establish and regulate a ~~5-year~~ moratorium on the issuance of outfitter
 17 licenses for land-based hunting activities. An outfitter licensed on [the effective date of this section] may
 18 receive a renewal license, if qualified, but the total number of land-based hunting outfitter licenses issued
 19 after [the effective date of this section] may not exceed the number in existence on [the effective date of
 20 this section].

21 ~~(2) An affected outfitter licensed on [the effective date of this section] may attempt to sell the~~
 22 ~~outfitting business, but approval of the buyer's license is conditioned on the buyer's ability to meet the~~
 23 ~~licensing criteria. The seller's license is to be considered in inactive status until the sale is final. If the sale~~
 24 ~~is not consummated, the seller's license must be reactivated and the buyer's conditional license revoked.~~

25

26 **NEW SECTION. Section 12. Codification instruction.** (1) [Sections 1 through 3, 6, and 7] are
 27 intended to be codified as an integral part of Title 87, chapter 1, part 2, and the provisions of Title 87,
 28 chapter 1, part 2, apply to [sections 1 through 3, 6, and 7].

29 (2) [Section 11] is intended to be codified as an integral part of Title 37, chapter 47, and the
 30 provisions of Title 37, chapter 47, apply to [section 11].

SENATE STANDING COMMITTEE REPORT

Page 1 of 2
March 22, 1995

MR. PRESIDENT:

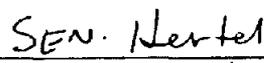
We, your committee on Fish and Game having had under consideration HB 195 (third reading copy -- blue), respectfully report that HB 195 be amended as follows and as so amended be concurred in.

Signed: 
Senator Ken Mesaros, Chair

That such amendments read:

1. Title, line 15.
Following: "DATES"
Insert: ", AN APPLICABILITY DATE,"
2. Page 2, line 5.
Following: "improving"
Insert: "hunting"
3. Page 2, line 29.
Following: "public"
Insert: "hunting"
4. Page 3, line 12.
Following: "for"
Insert: "hunting"
5. Page 3, line 13.
Following: "public"
Insert: "hunting"
6. Page 4, line 22.
Following: "public"
Strike: "recreation or"
7. Page 5, lines 8 and 23.
Following: "public"
Insert: "hunting"
8. Page 8, line 18.
Following: "LANDOWNERS"
Insert: ", outfitters,"
9. Page 11, line 1.
Following: "than"
Strike: "10"
Insert: "20"


Amd. Coord.
SA Sec. of Senate


Senator Carrying Bill

HB 195

SENATE

10. Page 11, line 2.

Following: "year"

Insert: "prior to expiration of the moratorium established in [section 11], after which no more than 10 certificates of sponsorship may be submitted in any license year"

11. Page 11, line 7.

Following: "reserved"

Insert: "outfitter-sponsored"

12. Page 12, line 10.

Strike: "**INSTRUCTION**"

Insert: "**instructions**"

Following: third "."

Insert: "(1)"

13. Page 12, line 14.

Insert: "(2) If House Bill No. 196 is passed and approved and if it includes a section amending 87-2-511 to revise the process for submission of records by licensed outfitters, then the added language in 87-2-511(2)(b) in this bill is changed to "the resident sponsor"."

"NEW SECTION. Section 16. Applicability. The moratorium on the issuance of outfitter licenses in [section 11] applies only to applications for new licenses filed on or after [the effective date of this section]."

Renumber: subsequent sections.

14. Page 12, line 17.

Strike: "17"

Insert: "18"

15. Page 12, line 18.

Strike: "15"

Insert: "16"

16. Page 12, line 21.

Strike: "AND" through "17"

-END-

1 HOUSE BILL NO. 195

2 INTRODUCED BY SWANSON, HIBBARD, HERTEL, PIPINICH

3 BY REQUEST OF THE GOVERNOR

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT IMPLEMENTING CERTAIN RECOMMENDATIONS OF THE
6 GOVERNOR'S ADVISORY COUNCIL ON PRIVATE LAND/PUBLIC WILDLIFE; CREATING PROGRAMS FOR
7 HUNTER MANAGEMENT AND HUNTING ACCESS ENHANCEMENT WITHIN THE BLOCK MANAGEMENT
8 PROGRAM; RESTRICTING THE LIABILITY OF LANDOWNERS WHO PARTICIPATE IN THE PROGRAMS;
9 PROVIDING A MORATORIUM ON THE ISSUANCE OF NEW LAND-BASED HUNTING OUTFITTER LICENSES;
10 REVISING THE CLASS B-11 RESIDENT SPONSOR LIMIT BY ALLOWING THE ISSUANCE OF ONLY 10
11 CERTIFICATES FOR EACH SPONSOR AND PROVIDING THAT ALL DEER HUNTING UNDER THE LICENSE
12 MUST BE CONDUCTED ON THE SPONSOR'S DEEDED LAND; REVISING REQUIREMENTS FOR LICENSEES
13 WHO USE AN OUTFITTER-RESERVED LICENSE; ALLOWING VARIABLE PRICING OF
14 OUTFITTER-SPONSORED CLASS B-10 AND CLASS B-11 LICENSES; AMENDING SECTIONS 87-1-201,
15 87-1-242, 87-2-505, 87-2-510, AND 87-2-511, MCA; AND PROVIDING EFFECTIVE DATES, AN
16 APPLICABILITY DATE, AND A TERMINATION DATE DATES."

17
18 WHEREAS, Montana has a cherished hunting heritage based on a deep knowledge of and respect
19 for wildlife and the land; and

20 WHEREAS, private landowners provide wildlife habitat and hunting opportunities, the hunting public
21 provides financial and political support for sound wildlife management, and the combined efforts of
22 landowners and the hunting public have sustained Montana's hunting and wildlife heritage; and

23 WHEREAS, landowner/outfitter/sportsperson relations have become increasingly strained over the
24 past several years, leading to increased polarization between the groups; and

25 WHEREAS, the 1993 Legislature addressed this problem through the passage of House Joint
26 Resolution No. 24, which requested the Governor, through the Department of Fish, Wildlife, and Parks, to
27 coordinate a sustained, ongoing, cooperative effort to address these issues by establishing statewide,
28 regional, and local groups to develop mutually satisfactory solutions that would preserve Montana's hunting
29 and wildlife heritage and encourage the continuance of a viable outfitting industry; and

30 WHEREAS, in response to that request, the Governor appointed the Advisory Council on Private

1 Land/Public Wildlife, consisting of representatives of the affected groups, to study the issues in anticipation
2 of legislation that reflects the mutual interests of landowners, outfitters, and the sporting community; and

3 WHEREAS, after considering extensive input and advice from individual private citizens, local
4 working groups, agencies, and nonprofit organizations involved in conservation, the Advisory Council by
5 consensus developed recommendations for improving HUNTING access to private lands and for providing
6 tangible benefits for landowners who allow access to their lands for hunting; and

7 WHEREAS, the Advisory Council has made efforts to break new ground philosophically in designing
8 its recommendations, requiring that all interested parties be willing to accept change in order to benefit
9 everyone who has an interest in Montana's hunting and wildlife heritage; and

10 WHEREAS, the Advisory Council finds it appropriate to present the following recommendations to
11 the Legislature in the spirit of a cooperative and positive effort to enhance relations between landowners,
12 outfitters, and sportspeople.

13 14 STATEMENT OF INTENT

15 A statement of intent is required for this bill because [sections 1 through 3] grant rulemaking
16 authority to the department of fish, wildlife, and parks and the fish, wildlife, and parks commission to
17 implement programs for hunter management and hunting access enhancement. It is intended that in
18 addition to the statutory guidelines set out in those sections, any rules be adopted with the purpose of
19 optimizing hunting opportunity and access while minimizing administrative costs in providing benefits to
20 landowners who voluntarily participate in the programs. In addition, [section 6] grants rulemaking authority
21 to the fish, wildlife, and parks commission to implement the provisions of variable pricing for Class B-10
22 and Class B-11 outfitter-sponsored licenses. It is intended that the fish, wildlife, and parks commission use
23 its licensing authority to adjust the price of those licenses as necessary and that ~~the~~ ANY additional revenue
24 generated by variable pricing be used to fund the hunting access enhancement program.

25
26 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

27
28 NEW SECTION. **Section 1. Hunter management and hunting access enhancement programs**
29 **created -- private landowner assistance to promote public HUNTING access -- rules.** (1) The department
30 may establish within the block management program established by administrative rule pursuant to

1 authority contained in 87-1-301 and 87-1-303 programs of landowner assistance that encourage public
2 access to private lands for purposes of hunting and may adopt rules to carry out program purposes. Rules
3 may address but are not limited to incentives provided under:

4 (a) a hunter management program as set out in [section 2], consisting of a cooperative agreement
5 between a landowner and the department and including other resource management agencies when
6 appropriate, that allows public hunting with certain restrictions or use rules; and

7 (b) a hunting access enhancement program as set out in [section 3], consisting of incentives for
8 private landowners who allow public hunting access on their lands.

9 (2) The department may also develop similar efforts outside the scope of the block management
10 program that are designed to promote public access to private lands for hunting purposes.

11 (3) Participation in a program established under subsection (1) is voluntary. Programs may not be
12 structured in a manner that provides assistance to a private landowner who charges a fee for HUNTING
13 access to private land that is enrolled in the program or who does not provide reasonable public HUNTING
14 access to private land that is enrolled in the program. The commission shall develop criteria by which
15 tangible benefits are allocated to participating landowners, and the department may distribute the benefits
16 to participating landowners. The department may by rule limit the number of licenses that can be provided
17 as incentives.

18
19 **NEW SECTION. Section 2. Hunter management program -- benefits for providing hunting access**
20 **-- nonresident landowner limitation -- restriction on landowner liability.** (1) As provided in [section 1], the
21 department may establish a voluntary hunter management program to provide tangible benefits to private
22 landowners enrolled in the block management program who grant access to their land for public hunting.
23 The decision to enroll a landowner in the hunter management program is the responsibility of the
24 department. Benefits may be granted as provided in this section and by rule.

25 (2) As a benefit for enrolling property in the hunter management program, a resident landowner
26 who becomes a cooperator in the program and who agrees to provide public hunting access may receive
27 one Class AAA sportsman's license, without charge, if the landowner is the owner of record. The license
28 may be used for the full hunting or fishing season in any district where it is valid. The license may not be
29 transferred by gift or sale.

30 (3) As a benefit for enrolling property in the hunter management program, a nonresident landowner

1 who becomes a cooperator in the program and who agrees to provide public hunting access may receive
 2 one Class B-10 nonresident big game combination license, without charge, if the landowner is the owner
 3 of record. The license may be used for the full hunting or fishing season in any district where it is valid.
 4 The license may not be transferred by gift or sale. The grant of a license under this subsection also
 5 qualifies the licensee to apply for a permit through the normal drawing process. The grant of a license
 6 under this subsection does not affect the quota of 11,500 established under 87-2-505.

7 (4) (a) A resident landowner who is enrolled in the block management program may receive the
 8 benefits provided under the hunter management program, as outlined in this section, and the benefits
 9 provided under the hunting access enhancement program, as outlined in [section 3].

10 (b) A nonresident landowner who chooses to receive a license under subsection (3) may also
 11 receive assistance under the block management program, but is not eligible to receive cash payments under
 12 [section 3].

13 (5) The restriction on liability of a landowner, agent, or tenant that is provided under 70-16-302(1)
 14 applies to a landowner who participates in the hunter management program.

15
 16 **NEW SECTION. Section 3. Hunting access enhancement program -- benefits for providing hunting**
 17 **access -- cooperative agreement -- factors for determining benefits earned -- restriction on landowner**
 18 **liability.** (1) As provided in [section 1], the department may establish and administer a voluntary program
 19 to enhance the block management program, to be known as the hunting access enhancement program.
 20 The program must be designed to provide tangible benefits to participating private landowners who grant
 21 access to their land for public hunting.

22 (2) Land is not eligible for inclusion in the hunting access enhancement program if outfitting or
 23 commercial hunting restricts public ~~recreation~~ or hunting opportunities.

24 (3) A contract for participation in the hunting access enhancement program is established through
 25 a cooperative agreement between the landowner and the department that will guarantee reasonable access
 26 for public hunting. Landowners may also form a voluntary association when development of a unified
 27 cooperative agreement is advantageous. A cooperative agreement must contain a detailed description of
 28 the plan developed by the landowner and the department and may include but is not limited to:

29 (a) hunting access management;

30 (b) services to be provided to the public;

1 (c) ranch rules and other restrictions; and

2 (d) any other management information to be gathered, which must be made available to the public.

3 (4) If the department determines that the plan referred to in subsection (3) may adversely influence
4 game management decisions or wildlife habitat on public lands outside the block management area, then
5 other public land agencies, interested sportspersons, and affected landowners must be consulted. An
6 affected landowner's management goals and personal observations regarding game populations and habitat
7 use must be considered in developing the plan.

8 (5) The commission shall develop rules for determining tangible benefits to be provided to a
9 landowner for providing public HUNTING access. Benefits will be provided to offset potential impacts
10 associated with public hunting access, including but not limited to those associated with GENERAL RANCH
11 MAINTENANCE, CONSERVATION EFFORTS, weed control, fire protection, liability insurance, roads, fences,
12 and parking area maintenance. Factors used in determining benefits may include but are not limited to:

13 (a) the number of days of public hunting provided by a participating landowner;

14 (b) wildlife habitat provided;

15 (c) resident game populations;

16 (d) number, sex, and species of animals taken; and

17 (e) access provided to adjacent public lands.

18 (6) Benefits earned by a landowner under this section may be applied in, BUT APPLICATION IS
19 NOT LIMITED TO, the following manner ~~or other manner allowed by rule~~:

20 (a) A landowner may direct weed control payments to be made directly to the county weed control
21 board or may elect to receive payments directly.

22 (b) A landowner may direct fire protection payments to be made to the local fire district or the
23 county where the landowner resides or may elect to receive payments directly.

24 (c) A landowner may receive direct payment to offset insurance costs incurred for allowing public
25 HUNTING access.

26 (d) The department may provide assistance in the construction and maintenance of roads, gates,
27 and parking facilities and in the signing of property.

28 (7) The commission may provide a total of not more than \$8,000 a year to a landowner who
29 participates in the hunter management ~~and~~ PROGRAM OR hunting access enhancement ~~programs~~
30 PROGRAM, OR BOTH, subject to the conditions set out in [section 2(4)].

1 (8) The restriction on liability of a landowner, agent, or tenant that is provided under 70-16-302(1)
2 applies to a landowner who participates in the hunting access enhancement program.

3
4 **Section 4.** Section 87-1-201, MCA, is amended to read:

5 **"87-1-201. Powers and duties.** (1) The department shall supervise all the wildlife, fish, game,
6 game and nongame birds, waterfowl, and the game and fur-bearing animals of the state and may implement
7 voluntary programs that encourage hunting access on private lands and that promote harmonious relations
8 between landowners and the hunting public. It possesses all powers necessary to fulfill the duties
9 prescribed by law and to bring actions in the proper courts of this state for the enforcement of the fish and
10 game laws and the rules adopted by the department.

11 (2) ~~† The department~~ shall enforce all the laws of the state respecting the protection, preservation,
12 and propagation of fish, game, fur-bearing animals, and game and nongame birds within the state.

13 (3) ~~† shall have~~ The department has the exclusive power to spend for the protection, preservation,
14 and propagation of fish, game, fur-bearing animals, and game and nongame birds all state funds collected
15 or acquired for that purpose, whether arising from state appropriation, licenses, fines, gifts, or otherwise.
16 Money collected or received from the sale of hunting and fishing licenses or permits, from the sale of seized
17 game or hides, from fines or damages collected for violations of the fish and game laws, or from
18 appropriations or received by the department from any other sources are appropriated to and under control
19 of the department.

20 (4) ~~† The department~~ may discharge any appointee or employee of the department for cause at
21 any time.

22 (5) ~~† The department~~ may dispose of all property owned by the state used for the protection,
23 preservation, and propagation of fish, game, fur-bearing animals, and game and nongame birds ~~which~~ that
24 is of no further value or use to the state and shall turn over the proceeds from the sale to the state
25 treasurer to be credited to the fish and game account in the state special revenue fund.

26 (6) ~~† The department~~ may not issue permits to carry firearms within this state to anyone except
27 regularly appointed officers or wardens.

28 (7) The department is ~~hereby~~ authorized to make, promulgate, and enforce ~~such~~ reasonable rules
29 and regulations not inconsistent with the provisions of chapter 2 ~~as~~ that in its judgment will accomplish the
30 purpose of chapter 2.

1 (8) The department is authorized to promulgate rules relative to tagging, possession, or
2 transportation of bear within or without the state."

3
4 **Section 5.** Section 87-1-242, MCA, is amended to read:

5 **"87-1-242. (Temporary) Funding for wildlife habitat.** (1) The amount of money specified in this
6 subsection from the sale of each hunting license or permit listed must be used exclusively by the
7 commission to secure, develop, and maintain wildlife habitat, subject to appropriation by the legislature.

8 (a) Class B-10, nonresident combination, \$77;

9 (b) Nonresident antelope, \$20;

10 (c) Nonresident moose, \$20;

11 (d) Nonresident mountain goat, \$20;

12 (e) Nonresident mountain sheep, \$20;

13 (f) Class D-1, nonresident mountain lion, \$20;

14 (g) Nonresident black bear, \$20;

15 (h) ~~Wild turkey nonresident~~ Nonresident wild turkey, \$10;

16 (i) Class AAA, sportsman's, \$7;

17 (j) Class B-11 nonresident deer combination, \$200.

18 (2) Twenty percent of any increase ~~after March 1, 1988~~, in the fee for the Class B-7 license or any
19 license or permit listed in subsection (1), except outfitter-sponsored Class B-10 and Class B-11 licenses
20 subject to variable pricing under [section 6], must be allocated for use as provided in subsection (1).

21 (3) Eighty percent of the money allocated by this section, together with the interest and income
22 ~~therefrom~~ from the money, must be used to secure wildlife habitat pursuant to 87-1-209.

23 (4) ~~(a) Until March 1, 1991, 20% of the money allocated by this section must be credited to the~~
24 ~~account created by 87-1-601(5) for use in the manner prescribed therein for the development and~~
25 ~~maintenance of real property used for wildlife habitat.~~

26 ~~(b) On and after March 1, 1991, 20%~~ Twenty percent of the money allocated by this section must
27 be used as follows:

28 ~~(i)(a)~~ (a) up to 50% a year may be used for development and maintenance of real property used for
29 wildlife habitat; and

30 ~~(ii)(b)~~ (b) the remainder and any money not allocated for development and maintenance under

1 subsection ~~(4)(b)~~ (4)(a) by the end of each odd-numbered fiscal year must be credited to the account
2 created by 87-1-601(5) for use in the manner prescribed ~~therein~~ for the development and maintenance of
3 real property used for wildlife habitat. (Terminates March 1, 2006--secs. 1, 2, Ch. 241, L. 1993.)"

4
5 NEW SECTION. Section 6. Variable pricing of outfitter-sponsored Class B-10 and B-11
6 licenses. The commission shall annually set fees for outfitter-sponsored Class B-10 and Class B-11 licenses
7 allowed under 87-2-505 and 87-2-510. The fees must be set at a market rate intended to sell AS CLOSE
8 TO BUT not more than an average of 5,500 Class B-10 licenses and 2,300 Class B-11 licenses each year,
9 calculated over a 5-year period. The sale period for the licenses must be established so that by the last
10 date in the established period, those licenses that are unsold, UP TO 5,500 CLASS B-10 LICENSES AND
11 2,300 CLASS B-11 LICENSES, may be reallocated by the commission for a drawing at a price set by the
12 commission.

13
14 NEW SECTION. Section 7. Report required -- REVIEW COMMITTEE. (1) THE GOVERNOR SHALL
15 APPOINT A COMMITTEE OF PERSONS INTERESTED IN THE HUNTER MANAGEMENT PROGRAM, THE
16 HUNTING ACCESS ENHANCEMENT PROGRAM, OR OTHER ISSUES RELATED TO PRIVATE LANDS AND
17 PUBLIC WILDLIFE TO REVIEW THE SUCCESS AND PROGRESS OF THE HUNTER MANAGEMENT
18 PROGRAM AND THE HUNTING ACCESS ENHANCEMENT PROGRAM. THE COMMITTEE MUST HAVE
19 EQUAL REPRESENTATION OF LANDOWNERS, OUTFITTERS, AND SPORTSPERSONS AND BE BROADLY
20 REPRESENTATIVE OF THE VARIOUS GEOGRAPHICAL AREAS OF THE STATE. THE DEPARTMENT MAY
21 PROVIDE ADMINISTRATIVE ASSISTANCE AS NECESSARY TO FACILITATE THE EFFORTS OF THE REVIEW
22 COMMITTEE.

23 (2) The department REVIEW COMMITTEE shall report to the governor and to each regular session
24 of the legislature regarding the success of the hunter management program and the hunting access
25 enhancement program, including a report of annual landowner participation and the number of acres
26 annually enrolled in the programs. The report may also include suggestions for funding, modification, or
27 improvement of the programs. IF THE REVIEW COMMITTEE DETERMINES THAT EXPANDING FUNDING
28 FOR PROGRAMS FOR HUNTER MANAGEMENT AND HUNTING ACCESS ENHANCEMENT IS DESIRABLE,
29 CONSIDERATION MUST BE GIVEN TO PROVIDING THE EXPANDED FUNDING THROUGH INCREASES IN
30 RESIDENT HUNTING LICENSE FEES.

1 **Section 8.** Section 87-2-505, MCA, is amended to read:

2 "**87-2-505. (Temporary) Class B-10--nonresident big game combination license.** Except as
3 otherwise provided in this chapter, a person not a resident, as defined in 87-2-102, but who will be 12
4 years of age or older prior to September 15 of the season for which the license is issued may, upon
5 payment of the fee of ~~\$462 beginning March 1, 1992,~~ and \$475 beginning March 1, 1994, or upon
6 payment of the fee of ~~\$472 beginning March 1, 1992,~~ and ~~\$485 beginning March 1, 1994,~~ established as
7 provided in [section 6] if the license is one of the ~~5,600~~ licenses reserved pursuant to 87-2-511 for
8 applicants indicating their intent to use the services of a licensed outfitter and subject to the limitations
9 prescribed by law and department regulation, apply to the fish and game office, Helena, Montana, to
10 purchase a B-10 nonresident big game combination license ~~which shall entitle~~ that entitles the holder to all
11 the privileges of Class B, Class B-1, and Class B-7 licenses, and an elk tag. This license includes the
12 nonresident conservation license as prescribed in 87-2-202. Not more than ~~17,000~~ 11,500 unreserved
13 Class B-10 licenses may be sold in any ~~one~~ 1 license year. (Terminates March 1, 2006--secs. 1, 2, Ch.
14 241, L. 1993.)

15 **87-2-505. (Effective March 1, 2006) Class B-10--nonresident big game combination license.**

16 Except as otherwise provided in this chapter, a person not a resident, as defined in 87-2-102, but who will
17 be 12 years of age or older prior to September 15 of the season for which the license is issued may, upon
18 payment of the fee of \$398 or upon payment of the fee of ~~\$408~~ established as provided in [section 6] if
19 the license is one of the ~~5,600~~ licenses reserved pursuant to 87-2-511 for applicants indicating their intent
20 to use the services of a licensed outfitter and subject to the limitations prescribed by law and department
21 regulation, apply to the fish and game office, Helena, Montana, to purchase a B-10 nonresident big game
22 combination license ~~which shall entitle~~ that entitles the holder to all the privileges of Class B, Class B-1, and
23 Class B-7 licenses, and an elk tag. This license includes the nonresident conservation license as prescribed
24 in 87-2-202. Not more than ~~17,000~~ 11,500 unreserved Class B-10 licenses may be sold in any ~~one~~ 1
25 license year."

26
27 **Section 9.** Section 87-2-510, MCA, is amended to read:

28 "**87-2-510. Class B-11--nonresident deer combination license.** (1) Except as otherwise provided
29 in this chapter, a person not a resident, as defined in 87-2-102, but who will be 12 years of age or older
30 prior to September 15 of the season for which the license is issued may, upon payment of a fee of \$220

1 or upon payment of the fee of ~~\$225~~ established as provided in [section 6] if the license is one of the ~~4,000~~
 2 those reserved pursuant to 87-2-511 for applicants indicating their intent either to use the services of a
 3 licensed outfitter or upon payment of the fee of \$225 if the license is one of those reserved pursuant to
 4 87-2-511 for applicants indicating their intent to hunt with a resident sponsor on land owned by that
 5 sponsor and subject to the limitations prescribed by law and department regulation, apply to the fish and
 6 game office, Helena, Montana, to purchase a Class B-11 nonresident deer combination license that entitles
 7 the holder to all the privileges of the Class B, Class B-1, and Class B-7 licenses. This license includes the
 8 nonresident wildlife conservation license as prescribed in 87-2-202.

9 (2) ~~Six thousand~~ Not more than 4,300 2,300 unreserved Class B-11 licenses are authorized for sale
 10 each may be sold in any 1 license year."

11
 12 **Section 10.** Section 87-2-511, MCA, is amended to read:

13 **"87-2-511. Sale and use of Class B-10 and Class B-11 licenses.** (1) The department shall offer
 14 the Class B-10 and Class B-11 licenses for sale on March 15, with ~~5,600~~ a number of the authorized Class
 15 B-10 and Class B-11 licenses, as determined under [section 6], and 2,000 Class B-11 licenses reserved for
 16 applicants indicating their intent to use the services of a licensed outfitter, and 2,000 of the authorized
 17 Class B-11 licenses reserved for applicants indicating their intent to hunt with a resident sponsor on land
 18 owned by that sponsor, as provided in subsections (2) and (3).

19 (2) Each application for a reserved license under subsection (1) must contain a written affirmation
 20 that the applicant intends to hunt with a licensed outfitter or a resident sponsor and must indicate the name
 21 of the licensed outfitter or resident sponsor with whom the applicant intends to hunt. In addition, the
 22 application must be accompanied by a certificate that is signed by a licensed outfitter or resident sponsor
 23 and ~~which that~~ affirms that the outfitter or resident will:

- 24 (a) direct the applicant's hunting and advise the applicant of game and trespass laws of the state;
 25 (b) submit to the department, in a manner prescribed by the department, complete records of who
 26 hunted with ~~him~~ the outfitter or resident, where they hunted, and what game was taken; and
 27 (c) accept no monetary consideration for enabling the nonresident applicant to obtain a license or
 28 for providing any services or assistance to the nonresident applicant, except as provided in this title.

29 (3) The certificate signed by the resident sponsor pursuant to subsection (2) must also affirm that
 30 the sponsor is a landowner and that the applicant under the certificate will hunt only on land owned by the

1 sponsor. A resident sponsor of a Class B-11 license may submit no more than 20 certificates of
 2 sponsorship in any license year PRIOR TO EXPIRATION OF THE MORATORIUM ESTABLISHED IN [SECTION
 3 11], AFTER WHICH NO MORE THAN 10 CERTIFICATES OF SPONSORSHIP MAY BE SUBMITTED IN ANY
 4 LICENSE YEAR.

5 (4) A nonresident who hunts under the authority of a resident landowner-sponsored license shall
 6 conduct all deer hunting on the deeded lands of the sponsoring landowner.

7 (5) Any permits or tags secured as a result of obtaining a Class B-10 or Class B-11 license through
 8 an outfitter sponsor are valid only when hunting is conducted with a licensed outfitter.

9 (6) The department shall make the reserved OUTFITTER-SPONSORED Class B-10 and Class B-11
 10 licenses that remain unsold ~~on April 15 available to nonresident applicants without restriction as to hunting~~
 11 ~~with a licensed outfitter or resident sponsor~~ as provided in [section 6].

12 ~~(5)(7) All Class B-10 and Class B-11 licenses not reserved under subsection (1) and all unsold~~
 13 ~~reserved licenses available under subsection (4)~~ must be issued by a drawing among all applicants for the
 14 respective unreserved licenses."

15
 16 **NEW SECTION. Section 11. Moratorium on issuance of hunting outfitter licenses.** (1) The
 17 legislature finds it necessary to protect the hunting resource, public health, public safety, and public
 18 welfare. Therefore, the board shall establish and regulate a ~~5-year~~ moratorium on the issuance of outfitter
 19 licenses for land-based hunting activities. An outfitter licensed on [the effective date of this section] may
 20 receive a renewal license, if qualified, but the total number of land-based hunting outfitter licenses issued
 21 after [the effective date of this section] may not exceed the number in existence on [the effective date of
 22 this section].

23 ~~(2) An affected outfitter licensed on [the effective date of this section] may attempt to sell the~~
 24 ~~outfitting business, but approval of the buyer's license is conditioned on the buyer's ability to meet the~~
 25 ~~licensing criteria. The seller's license is to be considered in inactive status until the sale is final. If the sale~~
 26 ~~is not consummated, the seller's license must be reactivated and the buyer's conditional license revoked.~~

27
 28 **NEW SECTION. Section 12. Codification instruction.** (1) [Sections 1 through 3, 6, and 7] are
 29 intended to be codified as an integral part of Title 87, chapter 1, part 2, and the provisions of Title 87,
 30 chapter 1, part 2, apply to [sections 1 through 3, 6, and 7].

1 (2) [Section 11] is intended to be codified as an integral part of Title 37, chapter 47, and the
 2 provisions of Title 37, chapter 47, apply to [section 11].

3
 4 **NEW SECTION. Section 13. Severability.** If a part of [this act] is invalid, all valid parts that are
 5 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its
 6 applications, the part remains in effect in all valid applications that are severable from the invalid
 7 applications.

8
 9 **NEW SECTION. Section 14. Saving clause.** [This act] does not affect rights and duties that
 10 matured, penalties that were incurred, or proceedings that were begun before [the effective date of this
 11 act].

12
 13 **NEW SECTION. SECTION 15. COORDINATION INSTRUCTION INSTRUCTIONS.** (1) IF SENATE
 14 BILL NO. 211 IS PASSED AND APPROVED AND IF IT INCLUDES A SECTION REPEALING 70-16-302, THEN
 15 THE REFERENCE TO 70-16-302(1) IN [SECTIONS 2(5) AND 3(8) OF THIS ACT] IS CHANGED TO
 16 "[SECTIONS 1 THROUGH 4] OF SENATE BILL NO. 211".

17 (2) IF HOUSE BILL NO. 196 IS PASSED AND APPROVED AND IF IT INCLUDES A SECTION
 18 AMENDING 87-2-511 TO REVISE THE PROCESS FOR SUBMISSION OF RECORDS BY LICENSED
 19 OUTFITTERS, THEN THE ADDED LANGUAGE IN 87-2-511(2)(B) IN THIS BILL IS CHANGED TO "THE
 20 RESIDENT SPONSOR".

21
 22 **NEW SECTION. SECTION 16. APPLICABILITY.** THE MORATORIUM ON THE ISSUANCE OF
 23 OUTFITTER LICENSES IN [SECTION 11] APPLIES ONLY TO APPLICATIONS FOR NEW LICENSES FILED ON
 24 OR AFTER [THE EFFECTIVE DATE OF THIS SECTION].

25
 26 **NEW SECTION. Section 17. Effective dates.** (1) [Sections 5 through 9] are effective March 1,
 27 1996.

28 (2) [Sections 1 through 4, 10, and ~~16~~ 17 ~~18~~] are effective October 1, 1995.

29 (3) [Sections 11 through ~~14~~ 15 ~~16~~ and this section] are effective on passage and approval.

30

