

1 *W. Kelly*
 2 INTRODUCED BY *Robert Kelly* *House BILL NO. 547* *Paul Brainsid*
 3 *RR* *Harvey* *Moore* *Frank Denny* *James* *Waterman* *bb*

4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THAT THE PROCEEDS FROM THE SALE OF
 5 PROPERTY SEIZED FROM A PERSON FOUND GUILTY OF ILLEGALLY KILLING A WILD ANIMAL OR GAME
 6 ANIMAL BE STATUTORILY APPROPRIATED TO THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN
 7 SERVICES FOR THE PURPOSES OF AWARDING GRANTS TO ENTITIES REPRESENTING MONTANA FOOD
 8 BANKS; REQUIRING THAT MEAT FROM AN ILLEGALLY TAKEN GAME ANIMAL SEIZED BY GAME
 9 WARDENS BE EITHER DONATED DIRECTLY TO ENTITIES REPRESENTING FOOD BANKS OR SOLD, WITH
 10 THE PROCEEDS GOING TO THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES; AND
 11 AMENDING SECTIONS 17-7-502, 87-1-506, AND 87-1-513, MCA."

12
 13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14
 15 **Section 1.** Section 17-7-502, MCA, is amended to read:

16 **"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory
 17 appropriation is an appropriation made by permanent law that authorizes spending by a state agency
 18 without the need for a biennial legislative appropriation or budget amendment.

19 (2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply
 20 with both of the following provisions:

21 (a) The law containing the statutory authority must be listed in subsection (3).

22 (b) The law or portion of the law making a statutory appropriation must specifically state that a
 23 statutory appropriation is made as provided in this section.

24 (3) The following laws are the only laws containing statutory appropriations: 2-9-202; 2-17-105;
 25 2-18-812; 3-5-901; 5-13-403; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-23-706;
 26 15-30-195; 15-31-702; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 16-1-404; 16-1-410; 16-1-411;
 27 16-11-308; 17-3-106; 17-3-212; 17-5-404; 17-5-424; 17-5-804; 17-6-101; 17-6-201; 17-7-304;
 28 18-11-112; 19-2-502; 19-6-709; 19-9-1007; 19-17-301; 19-18-512; 19-18-513; 19-18-606; 19-19-205;
 29 19-19-305; 19-19-506; 20-8-107; 20-8-111; 20-9-361; 20-26-1503; 23-5-136; 23-5-306; 23-5-409;
 30 23-5-610; 23-5-612; 23-5-631; 23-7-301; 23-7-402; 32-1-537; 37-43-204; 37-51-501; 39-71-503;

1 39-71-907; 39-71-2321; 39-71-2504; 44-12-206; 44-13-102; 50-4-623; 50-5-232; 50-40-206; 53-6-150;
 2 53-6-703; 53-24-206; 60-2-220; 67-3-205; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 76-12-123;
 3 80-2-103; 80-2-222; 80-4-416; 81-5-111; 82-11-136; 82-11-161; 85-1-220; 85-20-402; 87-1-513;
 4 90-3-301; 90-4-215; 90-6-331; 90-7-220; 90-7-221; and 90-9-306.

5 (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,
 6 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued
 7 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of
 8 Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as
 9 determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the
 10 bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec.
 11 7, Ch. 567, L. 1991, the inclusion of 19-6-709 terminates upon death of last recipient eligible for
 12 supplemental benefit; and pursuant to sec. 7(2), Ch. 29, L. 1995, the inclusion of 15-30-195 terminates
 13 July 1, 2001.)"

14

15 **Section 2.** Section 87-1-506, MCA, is amended to read:

16 "**87-1-506. Enforcement powers of wardens.** (1) A warden may:

17 ~~(1)~~(a) serve a subpoena issued by a court for the trial of a violator of the fish and game laws;

18 ~~(2)~~(b) search, without a warrant, any tent not used as a residence, any boat, vehicle, box, locker,
 19 basket, creel, crate, game bag, or package, or their contents upon probable cause to believe that any fish
 20 and game law or department rule for the protection, conservation, or propagation of game, fish, birds, or
 21 fur-bearing animals has been violated;

22 ~~(3)~~(c) search, with a search warrant, any dwelling house or other building;

23 ~~(4)~~(d) seize game, fish, game birds, and fur-bearing animals and any parts of them taken or
 24 possessed in violation of the law or the rules of the department;

25 ~~(5)~~(e) seize and hold, subject to law or the orders of the department, devices ~~which~~ that have been
 26 used to unlawfully take game, fish, birds, or fur-bearing animals;

27 ~~(6)~~(f) arrest, in accordance with Title 46, chapter 6, a violator of a fish and game law or rule of the
 28 department, violation of which is a misdemeanor;

29 ~~(7)~~(g) enforce the disorderly conduct and public nuisance laws, ~~{45-8-101 and 45-8-111}~~, as they
 30 apply to the operation of motorboats on all waters of the state;

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0547, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

A bill requiring that the proceeds from the sale of property seized from a person found guilty of illegally killing a wild animal or game animal be statutorily appropriated to the Department of Public Health and Human Services for the purposes of awarding grants to entities representing Montana food banks.

ASSUMPTIONS:

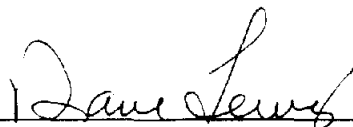
1. In FY96, sale proceeds from confiscated animals totaled \$72,000. It is estimated that \$72,000 will be collected each year of the 1999 biennium.
2. All proceeds collected will be granted to food banks.
3. The funds normally received and collected by Fish, Wildlife and Parks (FWP) will now be received and expended by Public Health and Human Services.

FISCAL IMPACT:

The statewide fiscal impact of this bill is zero.

TECHNICAL NOTES:

The bill allows FWP to either donate or auction confiscated game. Section 87-1-512, MCA, currently allows FWP to only donate unsold carcasses to public institutions. This statute should be amended to allow FWP the option to donate prior to a confiscated game sale.

 2-17-97
DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

WILLIAM REHBEIN, PRIMARY SPONSOR DATE
Fiscal Note for HB0547, as introduced

HB 547

1 HOUSE BILL NO. 547

2 INTRODUCED BY REHBEIN, HALLIGAN, BROOKE, DENNY, SQUIRES, JORE, ORR, CAREY,
3 HARRINGTON, MCCANN, MARSHALL, GRIMES, WATERMAN, COBB, KOTTEL, WELLS, MCCULLOCH,
4 BAER, BRAINARD

5

6 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THAT THE PROCEEDS, LESS COSTS, FROM THE
7 SALE OF ~~PROPERTY~~ GAME ANIMAL MEAT SEIZED FROM A PERSON FOUND GUILTY OF ILLEGALLY
8 KILLING A WILD ANIMAL OR GAME ANIMAL BE STATUTORILY APPROPRIATED TO THE DEPARTMENT
9 OF PUBLIC HEALTH AND HUMAN SERVICES FOR THE PURPOSES OF AWARDING GRANTS TO ENTITIES
10 REPRESENTING THE MONTANA FOOD BANKS BANK NETWORK; REQUIRING THAT MEAT FROM AN
11 ILLEGALLY TAKEN GAME ANIMAL SEIZED BY GAME WARDENS BE EITHER DONATED DIRECTLY TO
12 ENTITIES REPRESENTING ~~FOOD BANKS~~ THE MONTANA FOOD BANK NETWORK OR PUBLIC OR
13 CHARITABLE INSTITUTIONS OR SOLD, WITH THE PROCEEDS, LESS COSTS, GOING TO THE
14 DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES; AND AMENDING SECTIONS 17-7-502,
15 87-1-506, AND 87-1-513, MCA."

16

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

18

19 **Section 1.** Section 17-7-502, MCA, is amended to read:

20 "**17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory
21 appropriation is an appropriation made by permanent law that authorizes spending by a state agency
22 without the need for a biennial legislative appropriation or budget amendment.

23 (2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply
24 with both of the following provisions:

25 (a) The law containing the statutory authority must be listed in subsection (3).

26 (b) The law or portion of the law making a statutory appropriation must specifically state that a
27 statutory appropriation is made as provided in this section.

28 (3) The following laws are the only laws containing statutory appropriations: 2-9-202; 2-17-105;
29 2-18-812; 3-5-901; 5-13-403; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-23-706;
30 15-30-195; 15-31-702; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 16-1-404; 16-1-410; 16-1-411;

1 16-11-308; 17-3-106; 17-3-212; 17-5-404; 17-5-424; 17-5-804; 17-6-101; 17-6-201; 17-7-304;
 2 18-11-112; 19-2-502; 19-6-709; 19-9-1007; 19-17-301; 19-18-512; 19-18-513; 19-18-606; 19-19-205;
 3 19-19-305; 19-19-506; 20-8-107; 20-8-111; 20-9-361; 20-26-1503; 23-5-136; 23-5-306; 23-5-409;
 4 23-5-610; 23-5-612; 23-5-631; 23-7-301; 23-7-402; 32-1-537; 37-43-204; 37-51-501; 39-71-503;
 5 39-71-907; 39-71-2321; 39-71-2504; 44-12-206; 44-13-102; 50-4-623; 50-5-232; 50-40-206; 53-6-150;
 6 53-6-703; 53-24-206; 60-2-220; 67-3-205; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 76-12-123;
 7 80-2-103; 80-2-222; 80-4-416; 81-5-111; 82-11-136; 82-11-161; 85-1-220; 85-20-402; 87-1-513;
 8 90-3-301; 90-4-215; 90-6-331; 90-7-220; 90-7-221; and 90-9-306.

9 (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,
 10 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued
 11 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of
 12 Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as
 13 determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the
 14 bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec.
 15 7, Ch. 567, L. 1991, the inclusion of 19-6-709 terminates upon death of last recipient eligible for
 16 supplemental benefit; and pursuant to sec. 7(2), Ch. 29, L. 1995, the inclusion of 15-30-195 terminates
 17 July 1, 2001.)"

18

19 **Section 2.** Section 87-1-506, MCA, is amended to read:

20 "**87-1-506. Enforcement powers of wardens.** (1) A warden may:

21 ~~(1)~~(a) serve a subpoena issued by a court for the trial of a violator of the fish and game laws;

22 ~~(2)~~(b) search, without a warrant, any tent not used as a residence, any boat, vehicle, box, locker,
 23 basket, creel, crate, game bag, or package, or their contents upon probable cause to believe that any fish
 24 and game law or department rule for the protection, conservation, or propagation of game, fish, birds, or
 25 fur-bearing animals has been violated;

26 ~~(3)~~(c) search, with a search warrant, any dwelling house or other building;

27 ~~(4)~~(d) seize game, fish, game birds, and fur-bearing animals and any parts of them taken or
 28 possessed in violation of the law or the rules of the department;

29 ~~(5)~~(e) seize and hold, subject to law or the orders of the department, devices ~~which~~ that have been
 30 used to unlawfully take game, fish, birds, or fur-bearing animals;

1 ~~(6)(f)~~ arrest, in accordance with Title 46, chapter 6, a violator of a fish and game law or rule of the
2 department, violation of which is a misdemeanor;

3 ~~(7)(g)~~ enforce the disorderly conduct and public nuisance laws, ~~(45-8-101 and 45-8-111)~~, as they
4 apply to the operation of motorboats on all waters of the state;

5 ~~(8)(h)~~ as provided for in 37-47-345, investigate and make arrests for violations of the provisions
6 of Title 37, chapter 47, and of any rules adopted pursuant to that chapter relating to the regulation of
7 outfitters and guides in the state; and

8 ~~(9)(i)~~ exercise the other powers of peace officers in the enforcement of the fish and game laws,
9 the rules of the department, and judgments obtained for violation of those laws or rules.

10 (2) The meat of game animals that are seized pursuant to subsection (1)(d) must be either donated
11 directly to entities representing food banks in this state or THE MONTANA FOOD BANK NETWORK, OR
12 TO PUBLIC OR CHARITABLE INSTITUTIONS, TO THE EXTENT REASONABLY FEASIBLE. ANY MEAT THAT
13 THE DEPARTMENT IS UNABLE TO DONATE MUST BE sold pursuant to 87-1-511, with the proceeds to
14 be distributed as provided in 87-1-513(2)."
15

16 Section 3. Section 87-1-513, MCA, is amended to read:

17 "**87-1-513. Disposition of proceeds of sale.** (1) The money obtained upon the sale of seized
18 property must be retained and accounted for by the department when the person having the property in
19 possession at the time of seizure is prosecuted or when a prosecution of the person is pending. If the
20 person charged with violation of the law is found guilty of or forfeits bond for violation of the fish and game
21 laws of the state, the money received for the sale of seized property must be paid over to the state
22 treasurer and be deposited ~~in the state special revenue fund~~ to the credit of the ~~fish and game fund~~
23 ~~department of public health and human services for the purposes of awarding grants to entities representing~~
24 ~~food banks in this state~~ FISH AND GAME FUND, EXCEPT AS PROVIDED IN SUBSECTION (2). If the party
25 from whom the property was taken is not found guilty of any violation of the fish and game laws of this
26 state, the money must be paid to the party from whom the game birds, wild animals, fish, or parts or
27 portions thereof were taken. An officer is not liable for any damage on account of any search, examination,
28 seizure, or sale. When wild animals, game birds, or fish are seized as provided in this part and the person
29 or persons who killed or captured the wild animals, game birds, or fish cannot be ascertained or when the
30 animals sold were killed pursuant to 87-1-225, then the money received from the sale of the wild animals,

1 game birds, or fish must be paid directly to the state treasurer. The cost of advertising notice of sale, as
2 required by 87-1-511, must be paid from the fish and game fund.

3 (2) The proceeds, AFTER THE DEPARTMENT'S COST OF CONDUCTING THE SALE IS DEDUCTED,
4 from the sale of seized ~~property~~ GAME ANIMAL MEAT MUST BE deposited in the state special revenue
5 fund ~~pursuant to subsection (1)~~ TO THE CREDIT OF THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN
6 SERVICES AND are statutorily appropriated, as provided in 17-7-502, to the department of public health
7 and human services for the purposes of awarding grants to entities representing ~~food banks~~ THE
8 MONTANA FOOD BANK NETWORK in this state."

9 -END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0547, second reading

DESCRIPTION OF PROPOSED LEGISLATION:

A bill requiring that the proceeds, less costs, from the sale of game animal meat seized from a person found guilty of illegally killing a wild animal or game animal be statutorily appropriated to the Department of Public Health and Human Services for the purposes of awarding grants to entities representing the Montana Food Bank Network or charitable institutions.

ASSUMPTIONS:

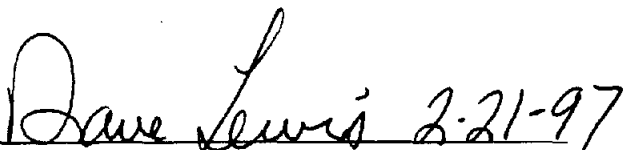
1. In fiscal 1996, sale proceeds from confiscated animals, net of trophy sales, totaled \$56,500. It is estimated that \$56,500 will be collected each year of the 1999 biennium.
2. It is estimated that the cost of the sales average 50% of the proceeds, or \$28,250. Thus, net proceeds of \$28,250 will be available for granting.
3. The funds normally collected and received by the Department of Fish, Wildlife and Parks (FWP) will now be received by the Department of Public Health and Human Services and granted to the food banks or other charitable organizations.

FISCAL IMPACT:

The statewide fiscal impact of this bill is zero. The FWP will lose about \$28,250 of revenue annually.

TECHNICAL NOTES:

The bill allows FWP to either donate or auction confiscated game. Section 87-1-512, MCA, currently allows FWP to donate only unsold carcasses to public institutions. This statute should be amended to allow FWP the option to donate prior to a confiscated game sale.


DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning


WILLIAM REHBEIN, PRIMARY SPONSOR DATE

Fiscal Note for HB0547, second reading

HB 547

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0547, second reading

DESCRIPTION OF PROPOSED LEGISLATION:

A bill requiring that the proceeds, less costs, from the sale of game animal meat seized from a person found guilty of illegally killing a wild animal or game animal be statutorily appropriated to the Department of Public Health and Human Services for the purposes of awarding grants to entities representing the Montana Food Bank Network or charitable institutions.

ASSUMPTIONS:

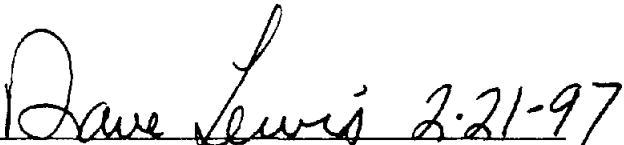
1. In fiscal 1996, sale proceeds from confiscated animals, net of trophy sales, totaled \$56,500. It is estimated that \$56,500 will be collected each year of the 1999 biennium.
2. It is estimated that the cost of the sales average 50% of the proceeds, or \$28,250. Thus, net proceeds of \$28,250 will be available for granting.
3. The funds normally collected and received by the Department of Fish, Wildlife and Parks (FWP) will now be received by the Department of Public Health and Human Services and granted to the food banks or other charitable organizations.

FISCAL IMPACT:

The statewide fiscal impact of this bill is zero. The FWP will lose about \$28,250 of revenue annually.

TECHNICAL NOTES:

The bill allows FWP to either donate or auction confiscated game. Section 87-1-512, MCA, currently allows FWP to donate only unsold carcasses to public institutions. This statute should be amended to allow FWP the option to donate prior to a confiscated game sale.


DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning


WILLIAM REHBEIN, PRIMARY SPONSOR DATE

Fiscal Note for HB0547, second reading

AM - HB 547.#2

1 HOUSE BILL NO. 547

2 INTRODUCED BY REHBEIN, HALLIGAN, BROOKE, DENNY, SQUIRES, JORE, ORR, CAREY,
3 HARRINGTON, MCCANN, MARSHALL, GRIMES, WATERMAN, COBB, KOTTEL, WELLS, MCCULLOCH,
4 BAER, BRAINARD

5
6 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THAT THE PROCEEDS, LESS COSTS, FROM THE
7 SALE OF ~~PROPERTY~~ GAME ANIMAL MEAT SEIZED FROM A PERSON FOUND GUILTY OF ILLEGALLY
8 KILLING A WILD ANIMAL OR GAME ANIMAL BE STATUTORILY APPROPRIATED TO THE DEPARTMENT
9 OF PUBLIC HEALTH AND HUMAN SERVICES FOR THE PURPOSES OF AWARDING GRANTS TO ENTITIES
10 REPRESENTING THE MONTANA FOOD ~~BANKS~~ BANK NETWORK; REQUIRING THAT MEAT FROM AN
11 ILLEGALLY TAKEN GAME ANIMAL SEIZED BY GAME WARDENS BE EITHER DONATED DIRECTLY TO
12 ENTITIES REPRESENTING ~~FOOD-BANKS~~ THE MONTANA FOOD BANK NETWORK OR PUBLIC OR
13 CHARITABLE INSTITUTIONS OR SOLD, WITH THE PROCEEDS, LESS COSTS, GOING TO THE
14 DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES; AND AMENDING SECTIONS 17-7-502,
15 87-1-506, AND 87-1-513, MCA."

16
17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

18
19 **Section 1.** Section 17-7-502, MCA, is amended to read:

20 **"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory
21 appropriation is an appropriation made by permanent law that authorizes spending by a state agency
22 without the need for a biennial legislative appropriation or budget amendment.

23 (2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply
24 with both of the following provisions:

25 (a) The law containing the statutory authority must be listed in subsection (3).

26 (b) The law or portion of the law making a statutory appropriation must specifically state that a
27 statutory appropriation is made as provided in this section.

28 (3) The following laws are the only laws containing statutory appropriations: 2-9-202; 2-17-105;
29 2-18-812; 3-5-901; 5-13-403; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-23-706;
30 15-30-195; 15-31-702; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 16-1-404; 16-1-410; 16-1-411;

1 16-11-308; 17-3-106; 17-3-212; 17-5-404; 17-5-424; 17-5-804; 17-6-101; 17-6-201; 17-7-304;
 2 18-11-112; 19-2-502; 19-6-709; 19-9-1007; 19-17-301; 19-18-512; 19-18-513; 19-18-606; 19-19-205;
 3 19-19-305; 19-19-506; 20-8-107; 20-8-111; 20-9-361; 20-26-1503; 23-5-136; 23-5-306; 23-5-409;
 4 23-5-610; 23-5-612; 23-5-631; 23-7-301; 23-7-402; 32-1-537; 37-43-204; 37-51-501; 39-71-503;
 5 39-71-907; 39-71-2321; 39-71-2504; 44-12-206; 44-13-102; 50-4-623; 50-5-232; 50-40-206; 53-6-150;
 6 53-6-703; 53-24-206; 60-2-220; 67-3-205; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 76-12-123;
 7 80-2-103; 80-2-222; 80-4-416; 81-5-111; 82-11-136; 82-11-161; 85-1-220; 85-20-402; 87-1-513;
 8 90-3-301; 90-4-215; 90-6-331; 90-7-220; 90-7-221; and 90-9-306.

9 (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,
 10 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued
 11 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of
 12 Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as
 13 determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the
 14 bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec.
 15 7, Ch. 567, L. 1991, the inclusion of 19-6-709 terminates upon death of last recipient eligible for
 16 supplemental benefit; and pursuant to sec. 7(2), Ch. 29, L. 1995, the inclusion of 15-30-195 terminates
 17 July 1, 2001.)"

18

19 **Section 2.** Section 87-1-506, MCA, is amended to read:

20 **"87-1-506. Enforcement powers of wardens. (1)** A warden may:

21 ~~(1)~~(a) serve a subpoena issued by a court for the trial of a violator of the fish and game laws;

22 ~~(2)~~(b) search, without a warrant, any tent not used as a residence, any boat, vehicle, box, locker,
 23 basket, creel, crate, game bag, or package, or their contents upon probable cause to believe that any fish
 24 and game law or department rule for the protection, conservation, or propagation of game, fish, birds, or
 25 fur-bearing animals has been violated;

26 ~~(3)~~(c) search, with a search warrant, any dwelling house or other building;

27 ~~(4)~~(d) seize game, fish, game birds, and fur-bearing animals and any parts of them taken or
 28 possessed in violation of the law or the rules of the department;

29 ~~(5)~~(e) seize and hold, subject to law or the orders of the department, devices ~~which~~ that have been
 30 used to unlawfully take game, fish, birds, or fur-bearing animals;

1 ~~(6)(f)~~ arrest, in accordance with Title 46, chapter 6, a violator of a fish and game law or rule of the
2 department, violation of which is a misdemeanor;

3 ~~(7)(g)~~ enforce the disorderly conduct and public nuisance laws, ~~(45-8-101 and 45-8-111)~~, as they
4 apply to the operation of motorboats on all waters of the state;

5 ~~(8)(h)~~ as provided for in 37-47-345, investigate and make arrests for violations of the provisions
6 of Title 37, chapter 47, and of any rules adopted pursuant to that chapter relating to the regulation of
7 outfitters and guides in the state; and

8 ~~(9)(i)~~ exercise the other powers of peace officers in the enforcement of the fish and game laws,
9 the rules of the department, and judgments obtained for violation of those laws or rules.

10 (2) The meat of game animals that are seized pursuant to subsection (1)(d) must be either donated
11 directly to entities representing food banks in this state or THE MONTANA FOOD BANK NETWORK, OR
12 TO PUBLIC OR CHARITABLE INSTITUTIONS, TO THE EXTENT REASONABLY FEASIBLE. ANY MEAT THAT
13 THE DEPARTMENT IS UNABLE TO DONATE MUST BE sold pursuant to 87-1-511, with the proceeds to
14 be distributed as provided in 87-1-513(2)."

15
16 **Section 3.** Section 87-1-513, MCA, is amended to read:

17 **"87-1-513. Disposition of proceeds of sale.** (1) The money obtained upon the sale of seized
18 property must be retained and accounted for by the department when the person having the property in
19 possession at the time of seizure is prosecuted or when a prosecution of the person is pending. If the
20 person charged with violation of the law is found guilty of or forfeits bond for violation of the fish and game
21 laws of the state, the money received for the sale of seized property must be paid over to the state
22 treasurer and be deposited ~~in the state special revenue fund~~ to the credit of the ~~fish and game fund~~
23 ~~department of public health and human services for the purposes of awarding grants to entities representing~~
24 ~~food banks in this state~~ FISH AND GAME FUND, EXCEPT AS PROVIDED IN SUBSECTION (2). If the party
25 from whom the property was taken is not found guilty of any violation of the fish and game laws of this
26 state, the money must be paid to the party from whom the game birds, wild animals, fish, or parts or
27 portions thereof were taken. An officer is not liable for any damage on account of any search, examination,
28 seizure, or sale. When wild animals, game birds, or fish are seized as provided in this part and the person
29 or persons who killed or captured the wild animals, game birds, or fish cannot be ascertained or when the
30 animals sold were killed pursuant to 87-1-225, then the money received from the sale of the wild animals,

1 game birds, or fish must be paid directly to the state treasurer. The cost of advertising notice of sale, as
2 required by 87-1-511, must be paid from the fish and game fund.

3 (2) The proceeds, AFTER THE DEPARTMENT'S COST OF CONDUCTING THE SALE IS DEDUCTED,
4 from the sale of seized ~~property~~ GAME ANIMAL MEAT MUST BE deposited in the state special revenue
5 fund ~~pursuant to subsection (1)~~ TO THE CREDIT OF THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN
6 SERVICES AND are statutorily appropriated, as provided in 17-7-502, to the department of public health
7 and human services for the purposes of awarding grants to entities representing ~~food banks~~ THE
8 MONTANA FOOD BANK NETWORK in this state."

9 -END-

1 HOUSE BILL NO. 547

2 INTRODUCED BY REHBEIN, HALLIGAN, BROOKE, DENNY, SQUIRES, JORE, ORR, CAREY,
3 HARRINGTON, MCCANN, MARSHALL, GRIMES, WATERMAN, COBB, KOTTEL, WELLS, MCCULLOCH,
4 BAER, BRAINARD

5
6 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THAT THE PROCEEDS, LESS COSTS, FROM THE
7 SALE OF ~~PROPERTY~~ GAME ANIMAL MEAT SEIZED FROM A PERSON FOUND GUILTY OF ILLEGALLY
8 KILLING A WILD ANIMAL OR GAME ANIMAL BE STATUTORILY APPROPRIATED TO THE DEPARTMENT
9 OF PUBLIC HEALTH AND HUMAN SERVICES FOR THE PURPOSES OF AWARDING GRANTS TO ENTITIES
10 REPRESENTING THE MONTANA FOOD BANKS BANK NETWORK; REQUIRING THAT MEAT FROM AN
11 ILLEGALLY TAKEN GAME ANIMAL SEIZED BY GAME WARDENS BE EITHER DONATED DIRECTLY TO
12 ENTITIES REPRESENTING ~~FOOD BANKS~~ THE MONTANA FOOD BANK NETWORK OR PUBLIC OR
13 CHARITABLE INSTITUTIONS OR SOLD, WITH THE PROCEEDS, LESS COSTS, GOING TO THE
14 DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES; AND AMENDING SECTIONS 17-7-502,
15 87-1-506, AND 87-1-513, MCA."

16
17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

18
19 **Section 1.** Section 17-7-502, MCA, is amended to read:

20 "**17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory
21 appropriation is an appropriation made by permanent law that authorizes spending by a state agency
22 without the need for a biennial legislative appropriation or budget amendment.

23 (2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply
24 with both of the following provisions:

25 (a) The law containing the statutory authority must be listed in subsection (3).

26 (b) The law or portion of the law making a statutory appropriation must specifically state that a
27 statutory appropriation is made as provided in this section.

28 (3) The following laws are the only laws containing statutory appropriations: 2-9-202; 2-17-105;
29 2-18-812; 3-5-901; 5-13-403; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-23-706;
30 15-30-195; 15-31-702; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 16-1-404; 16-1-410; 16-1-411;

1 16-11-308; 17-3-106; 17-3-212; 17-5-404; 17-5-424; 17-5-804; 17-6-101; 17-6-201; 17-7-304;
 2 18-11-112; 19-2-502; 19-6-709; 19-9-1007; 19-17-301; 19-18-512; 19-18-513; 19-18-606; 19-19-205;
 3 19-19-305; 19-19-506; 20-8-107; 20-8-111; 20-9-361; 20-26-1503; 23-5-136; 23-5-306; 23-5-409;
 4 23-5-610; 23-5-612; 23-5-631; 23-7-301; 23-7-402; 32-1-537; 37-43-204; 37-51-501; 39-71-503;
 5 39-71-907; 39-71-2321; 39-71-2504; 44-12-206; 44-13-102; 50-4-623; 50-5-232; 50-40-206; 53-6-150;
 6 53-6-703; 53-24-206; 60-2-220; 67-3-205; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 76-12-123;
 7 80-2-103; 80-2-222; 80-4-416; 81-5-111; 82-11-136; 82-11-161; 85-1-220; 85-20-402; 87-1-513;
 8 90-3-301; 90-4-215; 90-6-331; 90-7-220; 90-7-221; and 90-9-306.

9 (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,
 10 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued
 11 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of
 12 Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as
 13 determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the
 14 bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec.
 15 7, Ch. 567, L. 1991, the inclusion of 19-6-709 terminates upon death of last recipient eligible for
 16 supplemental benefit; and pursuant to sec. 7(2), Ch. 29, L. 1995, the inclusion of 15-30-195 terminates
 17 July 1, 2001.)"

18

19 **Section 2.** Section 87-1-506, MCA, is amended to read:

20 "**87-1-506. Enforcement powers of wardens.** (1) A warden may:

21 ~~(1)~~(a) serve a subpoena issued by a court for the trial of a violator of the fish and game laws;

22 ~~(2)~~(b) search, without a warrant, any tent not used as a residence, any boat, vehicle, box, locker,
 23 basket, creel, crate, game bag, or package, or their contents upon probable cause to believe that any fish
 24 and game law or department rule for the protection, conservation, or propagation of game, fish, birds, or
 25 fur-bearing animals has been violated;

26 ~~(3)~~(c) search, with a search warrant, any dwelling house or other building;

27 ~~(4)~~(d) seize game, fish, game birds, and fur-bearing animals and any parts of them taken or
 28 possessed in violation of the law or the rules of the department;

29 ~~(5)~~(e) seize and hold, subject to law or the orders of the department, devices ~~which~~ that have been
 30 used to unlawfully take game, fish, birds, or fur-bearing animals;

1 ~~(6)(f)~~ arrest, in accordance with Title 46, chapter 6, a violator of a fish and game law or rule of the
2 department, violation of which is a misdemeanor;

3 ~~(7)(g)~~ enforce the disorderly conduct and public nuisance laws, ~~45-8-101 and 45-8-111~~, as they
4 apply to the operation of motorboats on all waters of the state;

5 ~~(8)(h)~~ as provided for in 37-47-345, investigate and make arrests for violations of the provisions
6 of Title 37, chapter 47, and of any rules adopted pursuant to that chapter relating to the regulation of
7 outfitters and guides in the state; and

8 ~~(9)(i)~~ exercise the other powers of peace officers in the enforcement of the fish and game laws,
9 the rules of the department, and judgments obtained for violation of those laws or rules.

10 (2) The meat of game animals that are seized pursuant to subsection (1)(d) must be either donated
11 directly to entities representing food banks in this state or THE MONTANA FOOD BANK NETWORK, OR
12 TO PUBLIC OR CHARITABLE INSTITUTIONS, TO THE EXTENT REASONABLY FEASIBLE. ANY MEAT THAT
13 THE DEPARTMENT IS UNABLE TO DONATE MUST BE sold pursuant to 87-1-511, with the proceeds to
14 be distributed as provided in 87-1-513(2)."

15
16 **Section 3.** Section 87-1-513, MCA, is amended to read:

17 "**87-1-513. Disposition of proceeds of sale.** (1) The money obtained upon the sale of seized
18 property must be retained and accounted for by the department when the person having the property in
19 possession at the time of seizure is prosecuted or when a prosecution of the person is pending. If the
20 person charged with violation of the law is found guilty of or forfeits bond for violation of the fish and game
21 laws of the state, the money received for the sale of seized property must be paid over to the state
22 treasurer and be deposited ~~in the state special revenue fund~~ to the credit of the fish and game fund
23 ~~department of public health and human services for the purposes of awarding grants to entities representing~~
24 ~~food banks in this state~~ FISH AND GAME FUND, EXCEPT AS PROVIDED IN SUBSECTION (2). If the party
25 from whom the property was taken is not found guilty of any violation of the fish and game laws of this
26 state, the money must be paid to the party from whom the game birds, wild animals, fish, or parts or
27 portions thereof were taken. An officer is not liable for any damage on account of any search, examination,
28 seizure, or sale. When wild animals, game birds, or fish are seized as provided in this part and the person
29 or persons who killed or captured the wild animals, game birds, or fish cannot be ascertained or when the
30 animals sold were killed pursuant to 87-1-225, then the money received from the sale of the wild animals,

1 game birds, or fish must be paid directly to the state treasurer. The cost of advertising notice of sale, as
2 required by 87-1-511, must be paid from the fish and game fund.

3 (2) The proceeds, AFTER THE DEPARTMENT'S COST OF CONDUCTING THE SALE IS AND COSTS
4 INCURRED IN DONATING GAME ANIMAL MEAT ARE DEDUCTED, from the sale of seized ~~property~~ GAME
5 ANIMAL MEAT MUST BE deposited in the state special revenue fund pursuant to ~~subsection (1)~~ TO THE
6 CREDIT OF THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES AND are statutorily
7 appropriated, as provided in 17-7-502, to the department of public health and human services for the
8 purposes of awarding grants to entities representing ~~food banks~~ THE MONTANA FOOD BANK NETWORK
9 in this state. MONEY FROM THE GRANTS AWARDED TO THE MONTANA FOOD BANK NETWORK MAY
10 BE USED ONLY FOR THE PROCESSING OF DONATED GAME ANIMAL MEAT."

11

-END-

1 HOUSE BILL NO. 547

2 INTRODUCED BY REHBEIN, HALLIGAN, BROOKE, DENNY, SQUIRES, JORE, ORR, CAREY,
 3 HARRINGTON, MCCANN, MARSHALL, GRIMES, WATERMAN, COBB, KOTTEL, WELLS, MCCULLOCH,
 4 BAER, BRAINARD

5
 6 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THAT THE PROCEEDS, LESS COSTS, FROM THE
 7 SALE OF ~~PROPERTY~~ GAME ANIMAL MEAT SEIZED FROM A PERSON FOUND GUILTY OF ILLEGALLY
 8 KILLING A WILD ANIMAL OR GAME ANIMAL BE STATUTORILY APPROPRIATED TO THE DEPARTMENT
 9 OF PUBLIC HEALTH AND HUMAN SERVICES FOR THE PURPOSES OF AWARDING GRANTS TO ENTITIES
 10 REPRESENTING THE MONTANA FOOD BANKS BANK NETWORK; REQUIRING THAT MEAT FROM AN
 11 ILLEGALLY TAKEN GAME ANIMAL SEIZED BY GAME WARDENS BE EITHER DONATED DIRECTLY TO
 12 ENTITIES REPRESENTING ~~FOOD BANKS~~ THE MONTANA FOOD BANK NETWORK OR PUBLIC OR
 13 CHARITABLE INSTITUTIONS OR SOLD, WITH THE PROCEEDS, LESS COSTS, GOING TO THE
 14 DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES; AND AMENDING SECTIONS 17-7-502,
 15 87-1-506, AND 87-1-513, MCA."

16
 17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

18
 19 **Section 1.** Section 17-7-502, MCA, is amended to read:

20 **"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory
 21 appropriation is an appropriation made by permanent law that authorizes spending by a state agency
 22 without the need for a biennial legislative appropriation or budget amendment.

23 (2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply
 24 with both of the following provisions:

25 (a) The law containing the statutory authority must be listed in subsection (3).

26 (b) The law or portion of the law making a statutory appropriation must specifically state that a
 27 statutory appropriation is made as provided in this section.

28 (3) The following laws are the only laws containing statutory appropriations: 2-9-202; 2-17-105;
 29 2-18-812; 3-5-901; 5-13-403; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-23-706;
 30 15-30-195; 15-31-702; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 16-1-404; 16-1-410; 16-1-411;

1 16-11-308; 17-3-106; 17-3-212; 17-5-404; 17-5-424; 17-5-804; 17-6-101; 17-6-201; 17-7-304;
 2 18-11-112; 19-2-502; 19-6-709; 19-9-1007; 19-17-301; 19-18-512; 19-18-513; 19-18-606; 19-19-205;
 3 19-19-305; 19-19-506; 20-8-107; 20-8-111; 20-9-361; 20-26-1503; 23-5-136; 23-5-306; 23-5-409;
 4 23-5-610; 23-5-612; 23-5-631; 23-7-301; 23-7-402; 32-1-537; 37-43-204; 37-51-501; 39-71-503;
 5 39-71-907; 39-71-2321; 39-71-2504; 44-12-206; 44-13-102; 50-4-623; 50-5-232; 50-40-206; 53-6-150;
 6 53-6-703; 53-24-206; 60-2-220; 67-3-205; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 76-12-123;
 7 80-2-103; 80-2-222; 80-4-416; 81-5-111; 82-11-136; 82-11-161; 85-1-220; 85-20-402; 87-1-513;
 8 90-3-301; 90-4-215; 90-6-331; 90-7-220; 90-7-221; and 90-9-306.

9 (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,
 10 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued
 11 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of
 12 Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as
 13 determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the
 14 bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec.
 15 7, Ch. 567, L. 1991, the inclusion of 19-6-709 terminates upon death of last recipient eligible for
 16 supplemental benefit; and pursuant to sec. 7(2), Ch. 29, L. 1995, the inclusion of 15-30-195 terminates
 17 July 1, 2001.)"

18

19 **Section 2.** Section 87-1-506, MCA, is amended to read:

20 "**87-1-506. Enforcement powers of wardens.** (1) A warden may:

21 ~~(1)~~(a) serve a subpoena issued by a court for the trial of a violator of the fish and game laws;

22 ~~(2)~~(b) search, without a warrant, any tent not used as a residence, any boat, vehicle, box, locker,
 23 basket, creel, crate, game bag, or package, or their contents upon probable cause to believe that any fish
 24 and game law or department rule for the protection, conservation, or propagation of game, fish, birds, or
 25 fur-bearing animals has been violated;

26 ~~(3)~~(c) search, with a search warrant, any dwelling house or other building;

27 ~~(4)~~(d) seize game, fish, game birds, and fur-bearing animals and any parts of them taken or
 28 possessed in violation of the law or the rules of the department;

29 ~~(5)~~(e) seize and hold, subject to law or the orders of the department, devices ~~which~~ that have been
 30 used to unlawfully take game, fish, birds, or fur-bearing animals;

1 ~~(6)(f)~~ arrest, in accordance with Title 46, chapter 6, a violator of a fish and game law or rule of the
2 department, violation of which is a misdemeanor;

3 ~~(7)(g)~~ enforce the disorderly conduct and public nuisance laws, ~~45-8-101 and 45-8-111~~, as they
4 apply to the operation of motorboats on all waters of the state;

5 ~~(8)(h)~~ as provided for in 37-47-345, investigate and make arrests for violations of the provisions
6 of Title 37, chapter 47, and of any rules adopted pursuant to that chapter relating to the regulation of
7 outfitters and guides in the state; and

8 ~~(9)(i)~~ exercise the other powers of peace officers in the enforcement of the fish and game laws,
9 the rules of the department, and judgments obtained for violation of those laws or rules.

10 (2) The meat of game animals that are seized pursuant to subsection (1)(d) must be either donated
11 directly to entities representing food banks in this state or THE MONTANA FOOD BANK NETWORK, OR
12 TO PUBLIC OR CHARITABLE INSTITUTIONS, TO THE EXTENT REASONABLY FEASIBLE. ANY MEAT THAT
13 THE DEPARTMENT IS UNABLE TO DONATE MUST BE sold pursuant to 87-1-511, with the proceeds to
14 be distributed as provided in 87-1-513(2)."

15
16 **Section 3.** Section 87-1-513, MCA, is amended to read:

17 "**87-1-513. Disposition of proceeds of sale.** (1) The money obtained upon the sale of seized
18 property must be retained and accounted for by the department when the person having the property in
19 possession at the time of seizure is prosecuted or when a prosecution of the person is pending. If the
20 person charged with violation of the law is found guilty of or forfeits bond for violation of the fish and game
21 laws of the state, the money received for the sale of seized property must be paid over to the state
22 treasurer and be deposited ~~in the state special revenue fund~~ to the credit of the ~~fish and game fund~~
23 ~~department of public health and human services for the purposes of awarding grants to entities representing~~
24 ~~food banks in this state~~ FISH AND GAME FUND, EXCEPT AS PROVIDED IN SUBSECTION (2). If the party
25 from whom the property was taken is not found guilty of any violation of the fish and game laws of this
26 state, the money must be paid to the party from whom the game birds, wild animals, fish, or parts or
27 portions thereof were taken. An officer is not liable for any damage on account of any search, examination,
28 seizure, or sale. When wild animals, game birds, or fish are seized as provided in this part and the person
29 or persons who killed or captured the wild animals, game birds, or fish cannot be ascertained or when the
30 animals sold were killed pursuant to 87-1-225, then the money received from the sale of the wild animals,

1 game birds, or fish must be paid directly to the state treasurer. The cost of advertising notice of sale, as
2 required by 87-1-511, must be paid from the fish and game fund.

3 (2) The proceeds, AFTER THE DEPARTMENT'S COST OF CONDUCTING THE SALE IS AND COSTS
4 INCURRED IN DONATING GAME ANIMAL MEAT ARE DEDUCTED, from the sale of seized ~~property~~ GAME
5 ANIMAL MEAT MUST BE deposited in the state special revenue fund ~~pursuant to subsection (1)~~ TO THE
6 CREDIT OF THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES AND are statutorily
7 appropriated, as provided in 17-7-502, to the department of public health and human services for the
8 purposes of awarding grants to entities representing ~~food banks~~ THE MONTANA FOOD BANK NETWORK
9 in this state. MONEY FROM THE GRANTS AWARDED TO THE MONTANA FOOD BANK NETWORK MAY
10 BE USED ONLY FOR THE PROCESSING OF DONATED GAME ANIMAL MEAT."

11

-END-



FREE CONFERENCE COMMITTEE

on House Bill 547

Report No. 1, April 17, 1997

Page 1 of 4

Mr. Speaker and Mr. President:

We, your Free Conference Committee met and considered **House Bill 547** (reference copy -- salmon) and recommend that **House Bill 547** be amended as follows:

1. Title, lines 9 and 10.

Strike: "ENTITIES" on line 9 and "REPRESENTING" on line 10

2. Title, line 12.

Strike: "ENTITIES REPRESENTING"

3. Title, line 14.

Following: "SERVICES;"

Insert: "ALLOWING THE DEPARTMENT OF LIVESTOCK TO CAPTURE, TEST, QUARANTINE, VACCINATE, AND SELL LIVE WILD BUFFALO OR BISON TO HELP DEFRAY COSTS INCURRED AS PART OF THE DISEASE CONTROL PROGRAM; ALLOWING THE DEPARTMENT OF LIVESTOCK TO TRANSFER BRUCELLOSIS-FREE WILD BUFFALO OR BISON TO QUALIFIED TRIBAL ENTITIES UNDER CERTAIN CONDITIONS; PROVIDING THAT REVENUE GENERATED IN EXCESS OF FUNDS NEEDED FOR THE WILD BUFFALO OR BISON DISEASE CONTROL PROGRAM BE STATUTORILY APPROPRIATED TO THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES FOR THE PURPOSES OF AWARDING GRANTS TO THE MONTANA FOOD BANK NETWORK;"

4. Title, line 14.

Following: "17-7-502,"

Insert: "81-2-120,"

5. Page 2.

Following: line 17

Insert: "Section 2. Section 81-2-120, MCA, is amended to read:

"81-2-120. **Management of wild buffalo or bison for disease control.** (1) Whenever a publicly owned wild buffalo or bison from a herd that is infected with a dangerous disease enters the state of Montana on public or private land and the disease may spread to persons or livestock or whenever the presence of wild buffalo

ADOPT

REJECT

FCCR #1
AC HB 547-1

821002CC.Hgd
HB 547

or bison may jeopardize Montana's compliance with other state-administered or federally administered livestock disease control programs, the department may, under a plan approved by the governor, use any feasible method in taking one or more of the following actions:

(a) The live wild buffalo or bison may be physically removed by the safest and most expeditious means from within the state boundaries, including but not limited to hazing and aversion tactics or capture, transportation, quarantine, or delivery to a department-approved slaughterhouse.

(b) The live wild buffalo or bison may be destroyed by the use of firearms. If a firearm cannot be used for reasons of public safety or regard for public or private property, the animal may be relocated to a place that is free from public or private hazards and destroyed by firearms or by a humane means of euthanasia.

(c) The live wild buffalo or bison may be captured, tested, quarantined, and vaccinated. Wild buffalo or bison that are certified by the state veterinarian as brucellosis-free may be:

(i) sold to help defray the costs that the department incurs in building, maintaining, and operating necessary facilities related to the capture, testing, quarantine, or vaccination of the wild buffalo or bison; or

(ii) transferred to qualified tribal entities that participate in the disease control program provided for in this subsection (1)(c). Acquisition of wild buffalo or bison by a qualified tribal entity must be done in a manner that does not jeopardize compliance with a state-administered or federally administered livestock disease control program. The department may adopt rules consistent with this section governing tribal participation in the program or enter into cooperative agreements with tribal organizations for the purposes of carrying out the disease control program.

(d) Proceeds from the sale of live, brucellosis-free, vaccinated wild buffalo or bison must be deposited in the state special revenue fund to the credit of the department.

(e) Any revenue generated in excess of the costs referred to in subsection (1)(c)(i) must be deposited in the state special revenue fund provided for in 87-1-513(2).

(2) Whenever the department is responsible for the death of a wild buffalo or bison, either purposefully or unintentionally, the carcass of the animal must be disposed of by the most economical means, including but not limited to burying, incineration, rendering, or field dressing for donation or delivery to a department-approved slaughterhouse or slaughter destination.

(3) In disposing of the carcass, the department:

(a) as first priority, may donate a wild buffalo or bison

carcass to a charity or to an Indian tribal organization; or

(b) may sell a wild buffalo or bison carcass to help defray expenses of the department. If the carcass is sold in this manner, the department shall deposit any revenue derived from the sale of the wild buffalo or bison carcass to the state special revenue fund to the credit of the department.

(4) The department may adopt rules with regard to management of publicly owned wild buffalo or bison that enter Montana on private or public land and that are from a herd that is infected with a contagious disease that may spread to persons or livestock and may jeopardize compliance with other state-administered or federally administered livestock disease control programs."

Renumber: subsequent sections

6. Page 3, line 11.

Strike: "entities representing"

7. Page 4, line 8.

Strike: "entities representing"

8. Page 4, line 9.

Strike: "MAY"

Insert: "must"

9. Page 4, line 10.

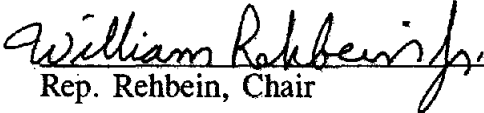
Strike: "ONLY"

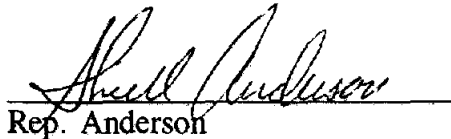
Following: "MEAT."

Insert: "Any grant funds remaining after donated game animal meat is processed may be used for other appropriate purposes by the Montana food bank network."

And this FREE Conference Committee report be adopted.

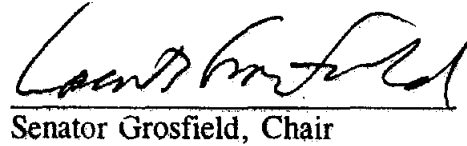
For the House:

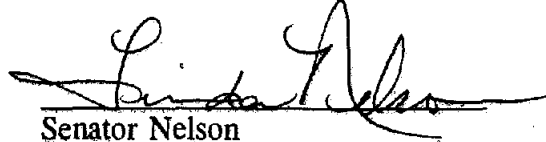

Rep. Rehbein, Chair


Rep. Anderson


Rep. Carey

For the Senate:


Senator Grosfield, Chair


Senator Nelson


Senator Mesaros

1 HOUSE BILL NO. 547

2 INTRODUCED BY REHBEIN, HALLIGAN, BROOKE, DENNY, SQUIRES, JORE, ORR, CAREY,
3 HARRINGTON, MCCANN, MARSHALL, GRIMES, WATERMAN, COBB, KOTTEL, WELLS, MCCULLOCH,
4 BAER, BRAINARD

5
6 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THAT THE PROCEEDS, LESS COSTS, FROM THE
7 SALE OF ~~PROPERTY~~ GAME ANIMAL MEAT SEIZED FROM A PERSON FOUND GUILTY OF ILLEGALLY
8 KILLING A WILD ANIMAL OR GAME ANIMAL BE STATUTORILY APPROPRIATED TO THE DEPARTMENT
9 OF PUBLIC HEALTH AND HUMAN SERVICES FOR THE PURPOSES OF AWARDING GRANTS TO ENTITIES
10 ~~REPRESENTING THE MONTANA FOOD BANKS~~ BANK NETWORK; REQUIRING THAT MEAT FROM AN
11 ILLEGALLY TAKEN GAME ANIMAL SEIZED BY GAME WARDENS BE EITHER DONATED DIRECTLY TO
12 ~~ENTITIES REPRESENTING FOOD BANKS~~ THE MONTANA FOOD BANK NETWORK OR PUBLIC OR
13 CHARITABLE INSTITUTIONS OR SOLD, WITH THE PROCEEDS, LESS COSTS, GOING TO THE
14 DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES; ALLOWING THE DEPARTMENT OF
15 LIVESTOCK TO CAPTURE, TEST, QUARANTINE, VACCINATE, AND SELL LIVE WILD BUFFALO OR BISON
16 TO HELP DEFRAY COSTS INCURRED AS PART OF THE DISEASE CONTROL PROGRAM; ALLOWING THE
17 DEPARTMENT OF LIVESTOCK TO TRANSFER BRUCELLOSIS-FREE WILD BUFFALO OR BISON TO
18 QUALIFIED TRIBAL ENTITIES UNDER CERTAIN CONDITIONS; PROVIDING THAT REVENUE GENERATED
19 IN EXCESS OF FUNDS NEEDED FOR THE WILD BUFFALO OR BISON DISEASE CONTROL PROGRAM BE
20 STATUTORILY APPROPRIATED TO THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES FOR
21 THE PURPOSES OF AWARDING GRANTS TO THE MONTANA FOOD BANK NETWORK; AND AMENDING
22 SECTIONS 17-7-502, 81-2-120, 87-1-506, AND 87-1-513, MCA."

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

25
26 **Section 1.** Section 17-7-502, MCA, is amended to read:

27 **"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory
28 appropriation is an appropriation made by permanent law that authorizes spending by a state agency
29 without the need for a biennial legislative appropriation or budget amendment.

30 (2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply

1 with both of the following provisions:

2 (a) The law containing the statutory authority must be listed in subsection (3).

3 (b) The law or portion of the law making a statutory appropriation must specifically state that a
4 statutory appropriation is made as provided in this section.

5 (3) The following laws are the only laws containing statutory appropriations: 2-9-202; 2-17-105;
6 2-18-812; 3-5-901; 5-13-403; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-23-706;
7 15-30-195; 15-31-702; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 16-1-404; 16-1-410; 16-1-411;
8 16-11-308; 17-3-106; 17-3-212; 17-5-404; 17-5-424; 17-5-804; 17-6-101; 17-6-201; 17-7-304;
9 18-11-112; 19-2-502; 19-6-709; 19-9-1007; 19-17-301; 19-18-512; 19-18-513; 19-18-606; 19-19-205;
10 19-19-305; 19-19-506; 20-8-107; 20-8-111; 20-9-361; 20-26-1503; 23-5-136; 23-5-306; 23-5-409;
11 23-5-610; 23-5-612; 23-5-631; 23-7-301; 23-7-402; 32-1-537; 37-43-204; 37-51-501; 39-71-503;
12 39-71-907; 39-71-2321; 39-71-2504; 44-12-206; 44-13-102; 50-4-623; 50-5-232; 50-40-206; 53-6-150;
13 53-6-703; 53-24-206; 60-2-220; 67-3-205; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 76-12-123;
14 80-2-103; 80-2-222; 80-4-416; 81-5-111; 82-11-136; 82-11-161; 85-1-220; 85-20-402; 87-1-513;
15 90-3-301; 90-4-215; 90-6-331; 90-7-220; 90-7-221; and 90-9-306.

16 (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,
17 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued
18 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of
19 Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as
20 determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the
21 bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec.
22 7, Ch. 567, L. 1991, the inclusion of 19-6-709 terminates upon death of last recipient eligible for
23 supplemental benefit; and pursuant to sec. 7(2), Ch. 29, L. 1995, the inclusion of 15-30-195 terminates
24 July 1, 2001.)"

25

26 **SECTION 2. SECTION 81-2-120, MCA, IS AMENDED TO READ:**

27 **"81-2-120. Management of wild buffalo or bison for disease control.** (1) Whenever a publicly
28 owned wild buffalo or bison from a herd that is infected with a dangerous disease enters the state of
29 Montana on public or private land and the disease may spread to persons or livestock or whenever the
30 presence of wild buffalo or bison may jeopardize Montana's compliance with other state-administered or

1 federally administered livestock disease control programs, the department may, under a plan approved by
2 the governor, use any feasible method in taking one or more of the following actions:

3 (a) The live wild buffalo or bison may be physically removed by the safest and most expeditious
4 means from within the state boundaries, including but not limited to hazing and aversion tactics or capture,
5 transportation, quarantine, or delivery to a department-approved slaughterhouse.

6 (b) The live wild buffalo or bison may be destroyed by the use of firearms. If a firearm cannot be
7 used for reasons of public safety or regard for public or private property, the animal may be relocated to
8 a place that is free from public or private hazards and destroyed by firearms or by a humane means of
9 euthanasia.

10 (c) The live wild buffalo or bison may be captured, tested, quarantined, and vaccinated. Wild
11 buffalo or bison that are certified by the state veterinarian as brucellosis-free may be:

12 (i) sold to help defray the costs that the department incurs in building, maintaining, and operating
13 necessary facilities related to the capture, testing, quarantine, or vaccination of the wild buffalo or bison;

14 or

15 (ii) transferred to qualified tribal entities that participate in the disease control program provided
16 for in this subsection (1)(c). Acquisition of wild buffalo or bison by a qualified tribal entity must be done
17 in a manner that does not jeopardize compliance with a state-administered or federally administered
18 livestock disease control program. The department may adopt rules consistent with this section governing
19 tribal participation in the program or enter into cooperative agreements with tribal organizations for the
20 purposes of carrying out the disease control program.

21 (d) Proceeds from the sale of live, brucellosis-free, vaccinated wild buffalo or bison must be
22 deposited in the state special revenue fund to the credit of the department.

23 (e) Any revenue generated in excess of the costs referred to in subsection (1)(c)(i) must be
24 deposited in the state special revenue fund provided for in 87-1-513(2).

25 (2) Whenever the department is responsible for the death of a wild buffalo or bison, either
26 purposefully or unintentionally, the carcass of the animal must be disposed of by the most economical
27 means, including but not limited to burying, incineration, rendering, or field dressing for donation or delivery
28 to a department-approved slaughterhouse or slaughter destination.

29 (3) In disposing of the carcass, the department:

30 (a) as first priority, may donate a wild buffalo or bison carcass to a charity or to an Indian tribal

1 organization; or

2 (b) may sell a wild buffalo or bison carcass to help defray expenses of the department. If the
3 carcass is sold in this manner, the department shall deposit any revenue derived from the sale of the wild
4 buffalo or bison carcass to the state special revenue fund to the credit of the department.

5 (4) The department may adopt rules with regard to management of publicly owned wild buffalo or
6 bison that enter Montana on private or public land and that are from a herd that is infected with a
7 contagious disease that may spread to persons or livestock and may jeopardize compliance with other
8 state-administered or federally administered livestock disease control programs."

9

10 **Section 3.** Section 87-1-506, MCA, is amended to read:

11 "**87-1-506. Enforcement powers of wardens. (1)** A warden may:

12 ~~(1)~~(a) serve a subpoena issued by a court for the trial of a violator of the fish and game laws;

13 ~~(2)~~(b) search, without a warrant, any tent not used as a residence, any boat, vehicle, box, locker,
14 basket, creel, crate, game bag, or package, or their contents upon probable cause to believe that any fish
15 and game law or department rule for the protection, conservation, or propagation of game, fish, birds, or
16 fur-bearing animals has been violated;

17 ~~(3)~~(c) search, with a search warrant, any dwelling house or other building;

18 ~~(4)~~(d) seize game, fish, game birds, and fur-bearing animals and any parts of them taken or
19 possessed in violation of the law or the rules of the department;

20 ~~(5)~~(e) seize and hold, subject to law or the orders of the department, devices ~~which~~ that have been
21 used to unlawfully take game, fish, birds, or fur-bearing animals;

22 ~~(6)~~(f) arrest, in accordance with Title 46, chapter 6, a violator of a fish and game law or rule of the
23 department, violation of which is a misdemeanor;

24 ~~(7)~~(g) enforce the disorderly conduct and public nuisance laws, ~~{45-8-101 and 45-8-111}~~, as they
25 apply to the operation of motorboats on all waters of the state;

26 ~~(8)~~(h) as provided for in 37-47-345, investigate and make arrests for violations of the provisions
27 of Title 37, chapter 47, and of any rules adopted pursuant to that chapter relating to the regulation of
28 outfitters and guides in the state; and

29 ~~(9)~~(i) exercise the other powers of peace officers in the enforcement of the fish and game laws,
30 the rules of the department, and judgments obtained for violation of those laws or rules.

1 (2) The meat of game animals that are seized pursuant to subsection (1)(d) must be either donated
 2 directly to entities representing food banks in this state or THE MONTANA FOOD BANK NETWORK, OR
 3 TO PUBLIC OR CHARITABLE INSTITUTIONS, TO THE EXTENT REASONABLY FEASIBLE. ANY MEAT THAT
 4 THE DEPARTMENT IS UNABLE TO DONATE MUST BE sold pursuant to 87-1-511, with the proceeds to
 5 be distributed as provided in 87-1-513(2)."

6
 7 **Section 4.** Section 87-1-513, MCA, is amended to read:

8 **"87-1-513. Disposition of proceeds of sale.** (1) The money obtained upon the sale of seized
 9 property must be retained and accounted for by the department when the person having the property in
 10 possession at the time of seizure is prosecuted or when a prosecution of the person is pending. If the
 11 person charged with violation of the law is found guilty of or forfeits bond for violation of the fish and game
 12 laws of the state, the money received for the sale of seized property must be paid over to the state
 13 treasurer and be deposited in the state special revenue fund to the credit of the fish and game fund
 14 department of public health and human services for the purposes of awarding grants to entities representing
 15 food banks in this state FISH AND GAME FUND, EXCEPT AS PROVIDED IN SUBSECTION (2). If the party
 16 from whom the property was taken is not found guilty of any violation of the fish and game laws of this
 17 state, the money must be paid to the party from whom the game birds, wild animals, fish, or parts or
 18 portions thereof were taken. An officer is not liable for any damage on account of any search, examination,
 19 seizure, or sale. When wild animals, game birds, or fish are seized as provided in this part and the person
 20 or persons who killed or captured the wild animals, game birds, or fish cannot be ascertained or when the
 21 animals sold were killed pursuant to 87-1-225, then the money received from the sale of the wild animals,
 22 game birds, or fish must be paid directly to the state treasurer. The cost of advertising notice of sale, as
 23 required by 87-1-511, must be paid from the fish and game fund.

24 (2) The proceeds, AFTER THE DEPARTMENT'S COST OF CONDUCTING THE SALE IS AND COSTS
 25 INCURRED IN DONATING GAME ANIMAL MEAT ARE DEDUCTED, from the sale of seized property GAME
 26 ANIMAL MEAT MUST BE deposited in the state special revenue fund pursuant to subsection (1) TO THE
 27 CREDIT OF THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES AND are statutorily
 28 appropriated, as provided in 17-7-502, to the department of public health and human services for the
 29 purposes of awarding grants to entities representing food banks THE MONTANA FOOD BANK NETWORK
 30 in this state. MONEY FROM THE GRANTS AWARDED TO THE MONTANA FOOD BANK NETWORK MAY

1 MUST BE USED ONLY FOR THE PROCESSING OF DONATED GAME ANIMAL MEAT. ANY GRANT FUNDS
2 REMAINING AFTER DONATED GAME ANIMAL MEAT IS PROCESSED MAY BE USED FOR OTHER
3 APPROPRIATE PURPOSES BY THE MONTANA FOOD BANK NETWORK."

4 -END-