

**MINUTES**

**MONTANA SENATE  
57th LEGISLATURE - REGULAR SESSION  
COMMITTEE ON FISH AND GAME**

**Call to Order:** By **CHAIRMAN MIKE SPRAGUE**, on March 8, 2001 at 3 P.M., in Room 422 Capitol.

**ROLL CALL**

**Members Present:**

Sen. Mike Sprague, Chairman (R)  
Sen. Jack Wells, Vice Chairman (R)  
Sen. Al Bishop (R)  
Sen. Edward Butcher (R)  
Sen. William Crismore (R)  
Sen. Pete Ekegren (R)  
Sen. Jon Ellingson (D)  
Sen. Eve Franklin (D)  
Sen. Bill Tash (R)  
Sen. Jon Tester (D)

**Members Excused:** Sen. Debbie Shea (D)

**Members Absent:** None.

**Staff Present:** Roberta Opel, Committee Secretary  
Mary Vandenbosch, Legislative Branch

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing(s) & Date(s) Posted: HB 454, 3/5/2001; HB 292,  
3/5/2001  
Executive Action: HB 142

**HEARING ON HB 454**

**Sponsor:** REP. PAUL CLARK, HD 72, Trout Creek

**Proponents:** Jeff Hagener, Director, Fish, Wildlife & Parks (FWP)  
Lorna Karn, Montana Farm Bureau

**Opponents: Jeff Barber, Montana Wildlife Federation****Opening Statement by Sponsor:**

**REP. PAUL CLARK, HD 72, Trout Creek**, explained that he was the designated Representative on the Private Land/Public Wildlife Advisory Council (PL/PW). The Senate is represented by **SEN. WALT MCNUTT**, he added. He told the committee the bill is designed to address concerns about existing problems between sportsmen and landowners. The purpose of the bill is to provide encouragement for landowners to open their land to public hunting and also recognize landowners as stewards who are often confronted with the problems wildlife may bring. The bill provides an additional either sex or antlerless elk tag to landowners who provide public access. This tag is at no cost and is in addition to existing available tags, he explained. **EXHIBIT(fis53a01)**

**Proponents' Testimony: Jeff Hagener, Director, FWP**, submitted testimony and amendments in support of HB 454. **EXHIBIT(fis53a02)**

**Lorna Karn, Montana Farm Bureau**, testified HB 454 would allow landowners to have some level of control over the numbers of wildlife on their property.

**Opponents' Testimony:**

**Jeff Barber, Montana Wildlife Federation**, testified he was not necessarily an opponent to the bill. The concept of the bill is good, he said, but there are concerns that need to be addressed. He stated he wasn't sure a subcommittee was needed for SB 437, as was suggested by **REP. CLARK**.

**Questions from Committee Members and Responses:**

**SEN. SPRAGUE** told the committee there was a question for **Mr. Hagener** from **Mary Vandenbosch**, legislative staffer.

**Miss Vandenbosch** asked **Mr. Hagener** to explain the costs of the permits issued to the public and where these costs are covered within the bill.

**Mr. Hagener** stated his understanding was that the cost would be the same as any other license and would be purchased in the same manner. The only complimentary licenses would be to landowners themselves.

**SEN. AL BISHOP** wondered about areas where the elk population was scarce or nonexistent.

**Mr. Hagener** said there would have to be a viable population in the area in order to issue these permits.

**SEN. BISHOP** wondered if the fact that some landowners would receive permits and some landowners would not, would create a problem.

**Mr. Hagener** said this circumstance could occur but stated he was unsure how much of a problem it would be.

**SEN. ED BUTCHER** wondered if the free tag was designated for a specific individual or for the landowner.

**Mr. Hagener** stated he was unable to answer the question and re-directed the question to the bill's sponsor, **REP. PAUL CLARK**.

**REP. CLARK** said the original intent of the bill was that a tag would have a specific name on it chosen by the landowner.

**SEN. BUTCHER** asked **REP. CLARK** if he would have concerns if the tag simply went to the landowner allowing all members of the ranch to make use of the tag.

**REP. CLARK** said the MWF (Montana Wildlife Federation) and sportsmen throughout the state would have extreme disagreement with that concept.

**SEN. BUTCHER** asked why they would have difficulty.

**REP. CLARK** said there had been many discussions in the past and there would be many more discussions in the future related to this concern.

*{Tape : 1; Side : A}*

**REP. CLARK** told **SEN. BUTCHER** said the perception would likely be that we are shifting a few steps over to private property rights at the expense of public ownership of wildlife. He stated this was as far as he could go with this particular discussion.

**SEN. JACK WELLS** asked where the number of permits to be issued is discussed within the bill.

**REP. CLARK** said that the number of permits would be determined by district biological management needs.

**SEN. WELLS** said the percentages would apply to the total number of permits allotted to a specific district.

**REP. CLARK** said that if 50 permits were issued, for example, there would have to be a determination that management needs would allow for 60 permits. Only the new permits (ten) would be issued at a ratio of 1 to 5. Currently, the bill states that two of the new permits would go to landowners and 8 permits would go to sportsmen.

**SEN. WELLS** stated he felt the bill needed language regarding additional permits using "in addition to permits currently authorized for that district" so that permit numbers would correspond to a particular ranch.

**REP. CLARK** explained that the bill states, "in addition to any elk permits offered for sale, the department may, for wildlife purposes, issue an either sex or antlerless permit."

**SEN. WELLS** said that particular language only reflected one permit.

**REP. CLARK** answered that was the way the bill currently reads.

**SEN. WELLS** said he was concerned about the percentage of land use on a particular ranch for the public.

**REP. CLARK** said that even though only one permit would go to the landowner, the bill is flexible regarding hunting access between the landowner and the department. The bill is designed to allow for harvesting of additional elk.

**SEN. BILL CRISMORE** asked **Don Childress, Administrator, Wildlife Division, FWP**, if he felt the bill represented a tool whereby two landowners could determine how many permits were issued in certain areas such as the Sweet Grass Hills area.

**Mr. Childress** said the bill represented an additional opportunity for a casual agreement between landowners and hunters to allow hunting on private property.

**SEN. CRISMORE** asked if the two properties would be open during the regular season.

**Mr. Childress** said he wasn't sure if both properties within Sweet Grass Hills were open through the issuance of permits.

**SEN. CRISMORE** said particular landowners having problems could call and negotiate the number of permits on their land.

**Mr. Childress** said this would be an opportunity (such as in Sweet Grass Hills) to control antlerless areas if access is allowed.

**SEN. CRISMORE** asked if these individuals would be taking part in the regular drawing.

**SEN. BUTCHER** inquired if someone would be eligible for another drawing if they didn't receive a permit the first time.

**REP. CLARK** stated that the intent of the bill is to have a drawing for additional tags.

**SEN. BUTCHER** asked if this would be accomplished in a separate drawing.

**REP. CLARK** said he was leaving that decision up to the department. He said they could take names out of the original drawing of those who just missed by one (or two or three) or they could have another drawing.

**Mr. Hagener** stated that these issues are addressed in another piece of legislation by **SEN. MACK COLE**. When there are concerns, such as in the Sweet Grass Hills, the landowner designates the first permits and the rest of the permits are open to the public. This is why coordination of the two bills would be important, he explained.

**SEN. BISHOP** examined the proposed FWP amendments noting that they remove percentages entirely.

**Mr. Hagener** said there would likely be a contractual agreement for public access.

**Closing by Sponsor:**

**REP. CLARK** stated HB 454 represented an important policy issue. The idea of the landowner licenses by themselves (versus landowner licenses as a percentage of the total number of licenses issued) is a policy issue and public response is important, he added. The bill is intended to be a goodwill compromise between landowners and sportsmen, he concluded.

HEARING ON HB 292

Sponsor: REP. DAN FUCHS, HD 15, Billings

Proponents: Jeff Hagener, Director, Fish, Wildlife & Parks (FWP)  
Robin Cunningham, Fishing Outfitter's Assoc. of MT.  
Jeff Barber, Montana Wildlife Federation  
Paige Dringman, Montana Landowners Alliance  
Steve Pilcher, Montana Stockgrowers Association

Opponents: None

Opening Statement by Sponsor:

SEN. DAN FUCHS, said HB 292 was presented on behalf of resident fishermen/fisherwomen to provide additional access for public fishing. The bill is designed after the block management program.

Proponents' Testimony:

Jeff Hagener, Director, FWP, submitted testimony in support of HB 292. EXHIBIT (fis53a03)

CHAIRMAN MIKE SPRAGUE asked Mr. Hagener if the department was requesting \$50,000.

Mr. Hagener replied, yes, that was the requested figure assuming the bill passes. The bill will still have to return to the appropriations process via HB 2, he noted.

Robin Cunningham, Fishing Outfitter's Association of Montana, told the committee that any access is advantageous and increased access is particularly important. Mr. Cunningham questioned the inclusion of a sunset clause in the bill.

Jeff Barber, Montana Wildlife Federation, testified that increasing fishing access is "a wonderful idea."

Paige Dringman, Montana Landowner's Alliance, urged support of the bill as amended in the House.

Steve Pilcher, Montana Stockgrowers Association, stated the sunset within the bill was appropriate.

**Opponents' Testimony:**

None

**Questions from Committee Members and Responses:**

**SEN. BISHOP** inquired about the tangible benefits for fishing accesses referenced in the bill.

**REP. FUCHS** said the bill was designed after the block management program.

**SEN. BISHOP** asked **Mr. Hagener** if there was a dollar amount associated with the bill.

**Mr. Hagener** said there would be policies and procedures developed similar to block management.

**SEN. WELLS** mentioned to **SEN. BISHOP** that landowner benefits are listed on page 3, line 23 of the bill.

**SEN. WELLS** asked **REP. FUCHS** if the idea of the bill was to provide more department fishing access sites.

**REP. FUCHS** said the idea behind the bill was to give landowners more latitude, as well as funding, to negotiate agreements.

**SEN. WELLS** noted that the attached fiscal note was not current.

**REP. FUCHS** remarked that the fiscal note should be the pink version.

**SEN. SPRAGUE** told the committee that the correct fiscal note would be provided to them on the Senate floor.

**SEN. BUTCHER** wondered what would happen with well-stocked fishing ponds on private property. Would this area be open for fishing, too, he inquired.

**REP. FUCHS** replied that property owners would be able to allow fishing.

**SEN. BUTCHER** asked if they would stock these ponds with bass or trout...

**REP. FUCHS** answered that ponds would be stocked with whatever species of fish the property owner desired.

**SEN. SPRAGUE** asked the sponsor if a fiscal note had been requested.

**REP. FUCHS** replied that he had not requested a fiscal note.

**SEN. SPRAGUE** said the fiscal note should be checked on since it was not following the bill. **SEN. SPRAGUE** said he understood they would want the complete bill, with both the fiscal note and the amendments, on the Senate floor for debate.

**Closing by Sponsor:**

**REP. FUCHS** commented that he felt the sunset clause within the bill was necessary. **SEN. WELLS** agreed to carry the bill.

**EXECUTIVE ACTION ON HB 142**

**Motion/Vote:** **SEN. WELLS MOVED TO AMEND HB 142-(HB014202.amv).**  
**EXHIBIT (fis53a04)**

**Discussion:**

**SEN. WELLS** stated the amendment was a combination of his requests plus a request from the department to remove Region 1 language throughout the bill. Paragraph #2, 13 and 7 address the criteria for the age and sex of a mountain lion which **SEN. WELLS** said he had requested.

**SEN. WELLS** said if a hunter could get the lion to move around, he or she should be able to determine the sex. He indicated he would like to see language inserted (via his amendment) that would prohibit the killing of young lions.

**SEN. CRISMORE** said he appreciated what **SEN. WELLS** wanted to do but stated he doubted if the average hunter could determine the sex of a mountain lion from a distance.

**SEN. BUTCHER** said that if the average hunter can mistake black bears for grizzly bears when they're hunting, how could they be expected to accurately determine the sex of a mountain lion.

**SEN. SPRAGUE** asked **SEN. WELLS** if he thought this particular aspect of his amendment was practical.

**SEN. WELLS** asked **Mr. Childress** if it was possible for the FWP Commission to adopt rules to encourage people to use discretion (but not be penalized) when they shoot and to further consider passing up a hunting opportunity if the lion was female or a young lion.

**Mr. Childress** said the department would try to insert language in the regulations to encourage hunters to follow his suggestions. The department, he said, is working to develop new educational information related to lions, including how to sex a mountain lion. He added that the department hopes this legislation "will reduce the chase and race" that occurs that pushes female lions into other territories.

Most lion hunters, or good houndsmen, indicate they can do a better job with sexing than you can with age, **Mr. Childress** added.

**SEN. BILL TASH** asked if the amendment really needed to be included in the bill.

**SEN. WELLS** moved to segregate out (from the amendment) paragraphs 2,7 and 13 to remove all sex and age determination language.

**Mary Vandenbosch, legislative staffer**, explained that the amendments that were segregated out were the amendments allowing the Commission to adopt rules establishing criteria for determining the age and sex of a mountain lion. In amendments 4 and 10, the Commission is authorized to adopt rules for nonresident mountain lion hunting, she said.

**SEN. WELLS** stated he believed the language in the amendment related to "the following factors" should be included.

**SEN. SPRAGUE** asked **Mr. Childress** to explain the segregation.

*{Tape : 2; Side : A;}*

**Mr. Childress** discussed the portion of the amendment in question with committee members.

**SEN. WELLS** asked if it would be agreeable, with the department, to leave in "including age and sex."

**Mr. Childress** answered, yes, he would be in agreement since that would be the only criteria the FWP Commission would use in evaluating the overall lion situation.

**SEN. SPRAGUE** asked **Mary Vandebosch** to express any additional concerns she may have related to the language in the amendment.

**Mary Vandebosch** inquired if "age and sex" were removed from the bill, would the committee still want to give the Commission authority to adopt rules for nonresident mountain lion hunting.

**SEN. SPRAGUE** asked committee members for a show of hands if they were in agreement with, and understood, the discussion on the amendments thus far. (A unanimous show of hands indicated the committee was in agreement with, and understood, the discussion).

**SEN. BUTCHER** asked if there would be a discrimination issue if the section to be left in the bill dealing with nonresidents remained but language related to lion sex and age was removed for resident hunters.

**SEN. WELLS** answered that these factors could be considered but were not rule-making factors.

**SEN. BUTCHER** explained that he understood that particular portion of the amendment but questioned if the nonresident section, and the resident section, should have consistent language.

**Mr. Childress** said this was simply the criteria to be used but would not restrict a nonresident hunter from taking a male or female lion. It's simply criteria used to determine the numbers of lions in a specific area, he explained.

**SEN. TASH** said that the way he read the bill, he wondered if that language wasn't already incorporated into the bill on line 21, page 2.

**Mary Vandebosch** stated that the amendment language was not duplication. Whether or not the department wants to adopt the amendments is a policy concept but the Department is further considering adopting the concept of ethical hunting plus other specific criteria.

**Mr. Childress** said as the bill was amended in the House, it relates to biological issues. In discussion with Montana outfitter's and hunters, the department tried to define more specific areas to be considered.

**SEN. SPRAGUE** said that #2 would be segregated out of the amendment.

**Mary Vandenbosch** stated that the excluded amendments would be #2, the inserted language; #7, the inserted language; and #13, the inserted language.

**Motion: SEN. SPRAGUE MOVED THE AMENDMENT WITHOUT THE SEGREGATED PORTIONS. The motion carried unanimously, 10-0.**

**SEN. WELLS MOVED HB 142 BE CONCURRED IN AS AMENDED.**

**SEN. CRISMORE** asked if the bill being passed with the amendments (and in light of the present rule and the seasons that are set in the northern portion of the state), would change anything that had been done.

**Mr. Childress** said that in discussion with the Commission, everyone was aware that the bill had not moved far enough in the process to leave the season open. It certainly would have been under discussion if the bill had been finalized at that point, he explained.

**SEN. CRISMORE** said his concern was that this would be another issue regarding out-of-state houndsmen.

**Mr. Childress** replied that was exactly right.

**Vote: The motion carried unanimously, 10-0.**

**ADJOURNMENT**

Adjournment: 4:50 P.M.

---

SEN. MIKE SPRAGUE, Chairman

---

ROBERTA OPEL, Secretary

MS/RO

**EXHIBIT (fis53aad)**