

MINUTES

**MONTANA SENATE
58th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON FISH AND GAME

Call to Order: By **CHAIRMAN MIKE SPRAGUE**, on March 13, 2003 at 3:00 P.M., in Room 422 Capitol.

ROLL CALL

Members Present:

Sen. Mike Sprague, Chairman (R)
Sen. Dan McGee, Vice Chairman (R)
Sen. Keith Bales (R)
Sen. Gregory D. Barkus (R)
Sen. Ken (Kim) Hansen (D)
Sen. Dale Mahlum (R)
Sen. Trudi Schmidt (D)
Sen. Debbie Shea (D)
Sen. Bill Tash (R)
Sen. Joseph (Joe) Tropila (D)

Members Excused: None.

Members Absent: None.

Staff Present: Jane M. Hayden, Committee Secretary
Mary Vandenbosch, Legislative Branch

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

Committee Business Summary:

Hearing & Date Posted: **HB 99, 3/13/2003**
Executive Action:

Sponsor: **REPRESENTATIVE GEORGE GOLIE**

Proponents: **Chris Smith**, Director of the Department of Fish, Wildlife, and Parks

Opponents: **Jean Johnson**, Montana Outfitters and Guides Association

Opening Statement by Sponsor:

REPRESENTATIVE GEORGE GOLIE testified that HB 99 is a familiar piece of legislation because he sponsored one like it in 1999. That bill was very controversial then. HB 99 increases the fees for non-resident license holders making them comparable to other states and provides increase funding for Block Management Funding. In 1999, the bill achieved its goals. This empowered the FWP Commission to set the number of non-resident licenses sold but not until they finalized the impact on property owners, outfitters, fur populations, local communities and economies, private hunting access opportunities for residents and non-resident upland bird game hunters. An analysis was completed that set the non-resident bird licenses at a maximum of 11,000 per year. In 1999, legislation doubled the license fee and more funding was provided for the Block Management Program providing increased hunting opportunities for residents and non-residents alike. This bill will reinstate authority of the Fish, Wildlife, and Parks Commission (FWP) to set the number of non-resident upland game birds licenses in Montana and how they are sold. HB 99 would make FWP justify their rule-making authority to the analysis.

Proponents' Testimony:**EXHIBIT (fis53b01)**

Chris Smith, Director of the Department of Fish, Wildlife, and Parks (FWP), testified that the upland game bird populations are down because of the drought conditions. Even though the FWP Commission imposed a cap, it never had any real effect on the number of non-residents that were licensed. Nevertheless, we believe that when conditions change in the future there is a potential for the number non-resident upland bird hunters to increase again, and potentially to have competition between resident and non-resident hunters. That is why we have asked the Legislature to reinstate authority, so if it becomes necessary in the future, the Commission could cap the number of non-resident upland bird hunters.

Opponents' Testimony:**EXHIBIT (fis53b02)**

Jean Johnson, Montana Outfitters and Guides Association, testified that the Association opposes HB 99 and does not support Commission authority here. HB 478 started out in the 1999 Legislature as a cap, and it was compromised down to Commission authority and a cap, if the analysis proved justification for the

cap. FWP sent **Pat Gunderson** out of Region 6 to do the job, and he did an excellent job. **Jean Johnson** state that the analysis did not justify the cap, nor did FWP come forward with the documentation that said this analysis justifies the cap. In May 2000, it came up at a Commission meeting in Helena. Protesters from Mainstreet (a civic organization), Sheridan County and northeastern Montana drove all the way to Helena to testify because bird hunting is so important to their region. The Commission did not make a decision at that hearing, and later went to Missoula for this next meeting in May 2000. It was a brand-new Commission and they imposed a cap of 11,000 for non-resident upland game bird licenses. Even the Commission said the cap was meaningless, then why was it there. Why are we yielding to social pressure when the law requires that a cap be justified? There was legal opposition that said FWP had exceeded its authority. The legal documents were provided to the FWP, but their legal counsel disagreed with it. HB 99 gives the Commission authority again, when they have already abused it. The Association does not support FWP on HB 99 because there is no need for a cap. The Association asks that the Committee not reward the bad behavior of FWP, and not pass HB 99.

Informational Testimony: None given.

Questions from Committee Members and Responses:

SENATOR GREG BARKUS asked **Chris Smith** what did the non-resident licenses increase to and what year did it change. **Mr. Smith** stated that the increase was from \$55 to \$110, and it took effect in 2002. He also testified that the fee was \$20 for a three-day non-resident captive bird hunting stamp.

SENATOR BARKUS asked **Jean Johnson** what year was the moratorium on non-resident hunters. **Ms. Johnson** stated that it was in 2000. **SENATOR BARKUS** asked **Ms. Johnson** if there was recent legislation that exempted the northeastern counties. **Ms. Johnson** stated that there was pressure on the Commission to remove the two-day prohibition, but she did not believe that had been done.

SENATOR TRUDI SCHMIDT asked **Jean Johnson** why she did not think a cap was needed. **Ms. Johnson** explained that the driving motivation in the testimony in 1999, certain people wanted access to hunt birds where they used to have access. Access was a big issue related to the cap, and the reasoning was that if we did not have so many non-resident bird hunters, we would have more access. Even the FWP Commission Chairman, **Stan Myer**, was quoted in the Great Falls Tribune that a cap will not bring access to bird hunting areas where there is none. **Ms. Johnson** stated that

the numbers for non-resident bird licenses have been dropping without the cap. **Jean Johnson** stated that we do not sell 11,000 non-resident bird licenses. A cap is the last place you want to go in limiting hunting opportunities, and it limits economic impacts in rural areas. FWP's own analysis failed to justify the cap. We do not need one.

SENATOR BILL TASH asked **Chris Smith** if the audit report was considered when drafting HB 99. **Mr. Smith** testified that he does not believe it was. The audit dealt primarily with Upland Game Bird Habitat Enhancement Program which is partially funded by those licenses.

SENATOR GREG BARKUS asked **Chris Smith** if the three-day captive bird hunting stamp could be used on a shooting preserve. **Mr. Smith** said a three-day non-resident bird stamp is valid for any three consecutive days, but is limited to use on a shooting preserve.

SENATOR MIKE SPRAGUE asked **Chris Smith** to respond to the concerns of **Jean Johnson** about the cap. **Mr. Smith** explained that their attorney and our attorney see the world differently. The majority of the FWP Commission thought the cap was justified presumably on the basis of the report and testimony from the public in support of it.

SENATOR SPRAGUE asked **Jean Johnson** whether the attorneys picked up the cause and effect consequences of their stances rather than just the legalese aspect. **Ms. Johnson** explained that the words of law stated that FWP will provide justification for their decision, and furthermore, state that in a document and that did not occur. If HB 99 proceeds, and if the Commission moves forward with another analysis, our attorney would look at analysis. We would not hesitate to act, if FWP overextends its authority again.

SENATOR TRUDI SCHMIDT asked **REPRESENTATIVE GEORGE GOLIE** whether there were enough birds to hunt for outfitters and non-resident clients, and state residents. **REPRESENTATIVE GOLIE** answered that the crux of the matter was the opportunity of Montana resident bird hunters to hunt in their own state. Montana residents cannot compete with out-of-state money and use our resources, while the residents support this state. The FWP Commission will set the limit at 11,000 and possibly 15,000 the next time.

SENATOR KEITH BALES asked **Jean Johnson** if the cap of 11,000 would probably not solve the access problem. **Ms. Johnson** stated that FWP Commission Chair, Stan Myer, admitted that it would not

solve the problem at a Commission meeting. Speaking to the money issue, \$55 of the non-resident bird license goes to the Block Management Program which pays landowners to allow free public bird hunting. **SENATOR BALES** asked what year did the FWP Commission impose the cap? **Ms. Johnson** stated that it was in May 2000.

SENATOR GREG BARKUS asked **REPRESENTATIVE GEORGE GOLIE** if he really believed by putting a cap on non-resident hunters, keeping them out of the State for the first two days, and doubling the license fee would actually give the resident hunter more opportunity. **REPRESENTATIVE GOLIE** responded that the two-day license requirement was not his idea, it was the Commission's. Montana already has limits on non-resident to obtain elk licenses. HB 99 gives 11,000 licenses to non-resident hunters, but we have available 23,600 licenses for all the other licenses we sell. Of the 23,600 licenses, very few come here to hunt birds, most hunt big game. HB 99 gives more opportunities to resident hunters. What residents have to spend cannot compete with non-resident dollars.

SENATOR KEITH BALES asked **REPRESENTATIVE GOLIE** if more land had opened up in the last three to four years for bird hunting in Montana. **REPRESENTATIVE GOLIE** stated that he did not know.

Closing by Sponsor:

REPRESENTATIVE GEORGE GOLIE said that HB 99 was after more money. FWP did bring HB 99 forward, but if they had not, he would have. We are going to give the authority to the FWP Commission to set the cap, but we do not know what it would be. Original legislation set the cap at 7,500, when it came out of Fish and Game Committee it was 8,500, but there was a floor motion for an amendment to that bill to set it at 5,500. In 1999, a compromise came about to allow the FWP Commission set the limit. The numbers are down and the fee had something to do with that. In 1999, the fee was \$55 and we were giving our resource away to the other states. The fee was not a big controversy then, but now Montana must be competitive with other states, and the economy and the drought have had their impact on the number of birds. But they will come back. **{Tape: 2; Side: A}** The analysis cost \$100,000 and that is why the Commission set the cap. It addressed all the concerns of landowner, resident and private property rights. HB 99 is not a bad bill--it is a good bill for Montana residents, and not for a bunch of non-residents. HB 99 gives the FWP Commission the authority to set the cap.

ADJOURNMENT

Adjournment: 5:00 P.M.

SEN. MIKE SPRAGUE, Chairman

JANE M. HAYDEN, Secretary

MS/JMH

EXHIBIT (fis53bad)