

Senate Bill 83

Senate Bill 83 duplicates many of the existing requirements of MCA 87-5-701-721 and attempts to codify existing FWP policy adopted through a public comment process. It effectively removes the FWP Commission from the process of adopting rules for transplantation and approving or disapproving a transplant.

We have specific issues with the following items in Senate Bill 83:

Section 1. (d) FWP has no control, authority or jurisdiction over existing domestic sheep grazing allotments on public land therefore cannot assume any financial responsibility over changes to the allotments.

The Mt Bighorn Sheep Conservation Strategy (Item 8 Page 65) New Site Selection Criteria indicates the department will "Assume the risk of transplant failure, holding no landowner or public grazing allotment lessee responsible without proof of negligence or intent." This wording is preferable to Section 1d in the bill.

Section 1. (2)(a) Research continues to identify areas where bighorn sheep may have existed in past years. This section of the bill requires an amendment to the Bighorn Sheep Conservation Strategy before a transplant could be considered. Sheep and other wildlife management often require action on short notice therefore this may be impractical.

Section 1. (2)(c) Most private landowners appreciate and encourage wildlife. This section of the bill would prevent transplants on private land where the landowners were supportive but little public land was present. Future transplant sites that could occur on these lands would be prohibited. Existing policy indicates transplant sites should be primarily public lands.

Section 1. (3)(a) What is the immediate surrounding area? What is the definition of transplantation area? Delete "or in the immediate surrounding area" and replace it with "unless approved by the landowner"

Section 1. (3)(b) Transplantation areas can change through public land managers operations i.e. grazing changes, logging, road building, ski areas etc. FWP has no control over other public land managers actions.

Section 1. (3) (c) (ii) Add "with permission and in cooperation with public and private land owners" FWP has no right to operate on other lands without the owners permission

Section 1. (3)(c) (iv) Add "Mountain sheep outside the designated transplantation area may remain with permission of the affected landowners or managers."

Section1. (3)(c) (v) Delete as there is no such thing as long term stable funding in government. License fees, excise taxes, sale of auction tag and other funds have been available for funding wild sheep management and are expected to continue.

Section1. (4) All of these items are in the current sheep conservation strategy and practiced by the department.

Section1. (5)(a) This information is available in almost all of the existing sheep herds

Section1. (5)(b) Delete as the EA and Management plan already identifies and details mitigation required.

Section1. (6)(a)(i) Change 80% to majority. Most people in the area of a transplantation site are in favor of bighorn sheep. Usually a few landowners that are most affected oppose a transplant. The wording in this bill would allow expanding the transplantation area until 80% is obtained thereby forcing a transplant onto a highly affected landowner. Under current policy the FWP Commission has never approved a sheep transplant where there were significant impacts to private property or when the majority of the public testimony is against a transplant.

Section1. (6)(II) How does a transplantation project differ from a transplantation area? If transplantation project is meant to mean the release site FWP must have permission of the affected landowner as they cannot trespass on private land.

Section1. (6)(b) strike the words "surrounding area".

In the past 20 years the FWP Commission has approved two new transplant sites. There are numerous sites that were rejected because of objections by landowners or the presence of domestic sheep and goats.

Additional laws that would most likely prohibit all future transplants of wild sheep to their historical habitat are not necessary. The citizens of Montana are adequately protected under the current policies and procedures.

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