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0409 Wildlife Legislative Interim Committee



Wildlife
Legislative
Interim
Committee

Report to the
COLORADO
LEGISLATIVE COUNCIL

Colorado Legislative Council
Research Publication No. 409
October 1995

RECOMMENDATIONS FOR 1996

**WILDLIFE LEGISLATIVE
INTERIM COMMITTEE**

**Report to the
Colorado General Assembly**

**Research Publication No. 409
November 1995**

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Rep. Chuck Berry, Vice Chairman
Sen. Michael Feeley
Sen. Jeffrey Wells
Rep. Tim Foster
Rep. Peggy Kerns



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October 30, 1995

To Members of the Sixtieth General Assembly:

Submitted herewith is the final report of the Wildlife Legislative Interim Committee. This committee is a statutory committee established under Section 33-1-122, C.R.S.

At its meeting on October 17, 1995, the Legislative Council approved three of the four bills submitted by the committee. The fourth bill, as noted in the report, was not approved because it was declared to be outside of the committee's charge. A motion to forward the three bills and a resolution, with favorable recommendation, for consideration in the 1996 session was approved.

Respectfully submitted,

/s/ Senator Tom Norton
Chairman
Legislative Council

TN/csw

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WILDLIFE LEGISLATIVE INTERIM COMMITTEE

Members of the Committee

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Chairman

Senator Don Ament

Vice Chairman

Senator Tilman Bishop

Senator Gigi Dennis

Senator Rob Hernandez

Senator Joan Johnson

Senator Linda Powers

Senator Dave Wattenberg

Representative Ken Chlouber

Representative Peggy Lamm

Representative Jeannie Reeser

Representative Mike Salaz

Representative Larry Schwarz

Representative Jack Taylor

Legislative Council Staff

Larry Thompson

Principal Analyst

Rochelle Archuleta

Research Associate

Office of Legislative Legal Services

Jane Brown

Staff Attorney

STATUTORY AUTHORITY AND RESPONSIBILITIES

House Bill 95-1286 and the Executive Committee Interim Study Resolution provided that the issues addressed by the Wildlife Legislative Interim Committee would include, but not be limited to, those listed below.

Wildlife Issues. The following wildlife topics were designated as study issues in House Bill 95-1286:

- the duties of the division, director, and commission;
- the budget process of the division and director;
- the acquisition of property;
- endangered or threatened species or subspecies;
- authorities and responsibilities relating to the division, director, and commission;
- the recommendations included in the most recent performance review audit of the division by the State Auditor;
- the status and recommendations of the division's current management review, as available;
- game damage; and
- impact of the state personnel system on the management of the division.

Water Issues. The June 8, 1995, Executive Committee Interim Study Resolution further authorized the committee to study issues pertaining to water policy and water litigation as they relate to wildlife management and the prudent use of the state's natural resources. Water issues reviewed by the committee included the following:

- Three-State Agreement Concerning the Platte River;
- Endangered Species Recovery Program on the Colorado River;
- Snowmass Case: Colorado Water Conservation Board and Instream Flows; and
- Bypass Flows in Arapaho-Roosevelt National Forest.

COMMITTEE ACTIVITIES

Division of Wildlife Performance Audit

In February 1995, the Office of State Auditor completed a performance audit of the Division of Wildlife (DOW). At the committee's July 24 meeting, representatives of the Office of State Auditor reviewed the findings of their audit. A majority of the auditor's recommendations focused on revenue and accountability; fish hatcheries and aquatics functions; law enforcement activities; and support functions. Recommendations offered by the State Auditor included the following:

- 1) The DOW should work with the Wildlife Commission and the General Assembly to propose legislation which improves the predictability of license revenues.
- 2) The division should develop ongoing mechanisms to identify new revenue sources and to better utilize existing fund sources.
- 3) The DOW should study the problem of low productivity at the Durango fish hatchery and develop the most cost-effective alternative to continuing current hatchery operations at that location.
- 4) The division should systematically collect and analyze data regarding law enforcement activities of DOW officers.
- 5) Alternatives to the current law enforcement training program need to be evaluated.

A more detailed review of the above listed recommendations as well as other proposed changes are available in the *Division of Wildlife Performance Audit - February 1995*. Copies are on file at the Legislative Council office.

Management Review Final Report

At the committee's August 7 meeting, representatives of Deloitte & Touche LLP reviewed the major findings of the *Management Review Final Report*. The review focused on the effectiveness of the current DOW organizational structure and the development of a preliminary plan to increase efficiency of the organization and the services it provides. The review was conducted in six phases: project setup, opportunity assessment, vision development, redesign, final recommendations, and implementation. Project setup was initiated in October 1994, recommendations were finalized in June 1995, and the final phase of implementation is underway. A team

consisting of DOW and Deloitte & Touche staff was assembled to accomplish the objectives of each phase.

The DOW and Deloitte & Touche staff jointly developed the following recommendations to assist the division in more efficiently and effectively carrying out the DOW Long Range Plan while continuing ongoing division activities not described in the plan:

- 1) The accountability of DOW employees must be increased.
- 2) Quality customer service training should be provided to each employee.
- 3) Customer service should be improved through the creation of one-stop shopping/service centers at the Denver headquarters and the 15 satellite offices.
- 4) The DOW should fully utilize available technology to inform and serve wildlife customers.
- 5) The investigation and processing of game damage claims must be streamlined.
- 6) The DOW planning and budgeting process needs to be redesigned.
- 7) A more efficient and effective organizational structure must be adopted.

Copies of the *Management Review Final Report* are available at the Legislative Council office.

A representative of the Wildlife Commission reviewed DOW's progress in implementing the Deloitte & Touche recommendations. The three-step process to be undertaken by DOW during implementation of the recommendations is the following:

- Step 1. Reorganize the agency structurally and financially;
- Step 2. Examine available and alternative revenue resources; and
- Step 3. Reprioritize the agency's 15-Year Long Range Plan.

Recommendation. To enable efficient implementation of the Deloitte & Touche recommendations, the committee recommends Bill A, which is summarized on page 9.

Division of Wildlife Testimony

A significant portion of the seven meetings held by the committee was devoted to briefings by DOW staff and Division of Wildlife Commissioners in response to recommendations presented in the *Division of Wildlife Performance Audit* and the *Deloitte & Touche Management Review Final Report*. Wildlife officials concentrated their testimony on the issues of customer service, game damage, law enforcement, land acquisition, and sources of revenue. The public also participated in these meetings by commenting on DOW policies.

Division of Wildlife Testimony

Listed below are the specific topics reviewed by DOW officials during their issues briefings.

Customer service issues (August 21 meeting):

- review of DOW customer service goals;
- description of DOW hunting/fishing and educational publications;
- interaction with schools, including teacher training in hunting, wildlife, aquatics, and angling education; and
- problems with the 1995 draw for big game licenses.

Game damage issues (August 21 meeting):

- summary of the game damage reimbursement process, including reporting requirements for the claimant and the investigation undertaken to determine if a reimbursement will be issued;
- review of the species eligible for game damage claims;
- overview of the objectives and provisions of the Habitat Partnership Program;
- allowable methods of coyote trapping and hunting; and
- update on current issuance of bear licenses and bear damage claims and reimbursements.

Law enforcement issues (August 21 meeting):

- current training curriculum for DOW law enforcement officers;
- interaction between law enforcement officers and the public;
- cooperation between DOW officers, State Patrol, and local sheriffs;
- range of duties fulfilled by DOW officers;
- pros and cons of DOW officers being authorized to carry firearms; and
- current limitations on the availability of law enforcement budget data.

Land acquisition issues (August 8 meeting):

- rationale for DOW property needs (habitat and access);
- description of DOW land holdings;
- payments in lieu of taxes to local governments;
- Request for Proposal process used for land acquisition;
- securing local government approval prior to land acquisition; and
- fencing of DOW properties.

Revenue source issues (August 8 meeting):

- background on hunting and fishing revenue collections;
- trends in hunting license purchases;
- historical overview of license fee increases;
- funding the implementation of objectives detailed in the Long Range Plan;
- the feasibility of DOW being involved in the marketing of the Colorado outdoors industry; and
- the status of the Wildlife Cash Fund.

Public Comments. The committee invited public comment at each of its meetings. A wide range of topics was addressed. Provided below is a sampling of the comments offered at the committee meetings. Legislative Council meeting summaries provide a more in-depth discussion than is included in this report.

- The policies of DOW relating to game damage reimbursement for farmers and ranchers are not equitable.
- The division has been unsuccessful in controlling the size of the state's elk herd.
- The new furbearer regulations developed by the Wildlife Commission need to be substantially revised.
- Public policy developed by the DOW should be based on scientific fact rather than public opinion. The DOW policy-making should be further removed from the political arena.
- Efforts of the DOW such as Pathways to Fishing, the Angler's Roundtable, and the Whirling Disease Management Group are to be commended.
- Most local field staff of the DOW have very positive interactions with the public.
- The Wildlife Commission is attuned to public sentiment in its public policy development.

Town Meetings

Individual members of the committee gathered a significant volume of public testimony during town meetings that occurred at the following dates and locations.

Interim Committee Town Meetings

Date	Location	Estimated Attendance
July 17	Alamosa	50
July 19	Cañon City Craig	50 100
July 21	Pueblo Trinidad	50 50
July 28	Thornton	30
August 31	Gunnison	40
October 6	Durango	12

At the meetings, a variety of topics were addressed by the public. Topics most frequently mentioned were the large size of the state's elk herds; positive support of the service provided by DOW field staff; the perception that the Wildlife Commission and the Denver staff headquarters are not adequately service oriented; the difficulty in processing game damage reimbursement claims; dissatisfaction with the new furbearer trapping regulations recently enacted by the Wildlife Commission; concern about the DOW's response to whirling diseased fish in certain rivers and hatcheries in Colorado; and the belief that the Wildlife Commission is overly sympathetic to the wishes of the non-hunting public.

Recommendation. In response to citizen concerns expressed at committee and town meetings, the committee recommends Bills B and C and Resolution 1. A review of the provisions of the bills and the resolution is provided on pages 9 and 10.

Other Issues Considered

Federal legislation. The committee was briefed on the major provisions and current status of the following federal initiatives:

- Clean Water Act (HR 961);
- Safe Drinking Water Act (HR 225);

- 1995 Farm Bill (HR 961);
- Private Property Takings (HR 925 and S 605); and
- Endangered Species Act (S 768, S 503, and HR 2275).

The committee makes no recommendations on the aforementioned legislation.

Furbearer Policy Development. Representatives of the Furbearer Management Policy Working Group discussed recent activities of that group. The working group was directed to consider the range of issues relevant to furbearer management in Colorado and to propose policy alternatives. The major elements of four trapping alternatives were presented to the committee.

Water Issues. Representatives of the Department of Natural Resources, the U.S. Forest Service, and Hobbs, Trout & Raley P.C. provided their perspectives on the legality of the U.S. Forest Service imposing new or additional bypass flows in the Arapaho-Roosevelt National Forest. A representative of the Office of Attorney General provided an update on the Snowmass Creek case. This case relates to the maintenance of necessary minimum stream flows on Snowmass Creek from Snowmass Reservoir to the confluence of the Roaring Fork River. A representative of the Department of Natural Resources provided a status report on the endangered species recovery program on the Colorado River.

Land Board. Representatives of the State Board of Land Commissioners reviewed the board's multiple-use policy for state trust lands. They noted that this policy has opened such lands for recreational use, thereby allowing the DOW to designate those lands for recreational use. Land board representatives also commented on difficulties they have encountered in interacting with the DOW.

SUMMARY OF RECOMMENDATIONS

The committee recommends the following four bills and concurrent resolution to the Colorado General Assembly.

Bill A — Division of Wildlife Personnel Policies

Bill A implements recommendations contained in the Deloitte & Touche Management Review Final Report. The bill establishes a deadline of January 1, 1998, for implementation of the management review recommendations. In 1996 and 1997, the director of the DOW is required to submit biannual implementation progress reports to the House and Senate agriculture committees. The bill authorizes the director to depart from the management review recommendations if the director deems it advisable. If such a departure is considered necessary, it cannot occur until the director has consulted with the Wildlife Commission and the Executive Director of the Department of Natural Resources.

Bill A also makes DOW peace officers, over a two-year phase-in period, subject to the peace officer standards and training (P.O.S.T.) certification requirements. Officers who have completed training as of July 1, 1996, at the Colorado Law Enforcement Training Academy are exempted from P.O.S.T. certification requirements.

Bill B — Division of Wildlife Habitat Programs

The enactment of Senate Bill 92-81 provided for the establishment of the Habitat Partnership Council (HPC). The HPC was designed to assist in alleviating rangeland forage and fence conflicts between big game animals (e.g., deer, elk, and antelope) and livestock on private and public lands. That act provided for a repeal of the HPC, effective July 1, 1996. Bill B is recommended to continue permanently the Habitat Partnership Council and the Habitat Partnership Cash Fund. The bill also requires the DOW to reimburse local governments for costs incurred to control weeds on property owned or leased by the DOW.

Bill C — Game Management Activities

Bill C is recommended to revise the statutes relating to the liability of the State of Colorado for certain damages caused by wildlife. The bill adds to the wildlife damage claim statute a statement that the General Assembly intends the State of Colorado to be potentially liable for damage to livestock caused by any animal if such damage is regulated by the DOW. In regard to damage criteria, the bill eliminates the requirements that fence or wildlife forage damage must exceed 10 percent of the fence

value or historic use levels, respectively, before being eligible for reimbursement. The bill also requires the division, when reimbursing property owners for game damage to crops, to use the property owner's established yield and not an average yield.

Other major provisions of the bill include the following:

- The division is prohibited from adopting rules that restrict the taking of raccoons and coyotes to a specific season.
- The General Assembly is required to appropriate annually from the General Fund, rather than the Wildlife Cash Fund, the amount of money estimated to be sufficient to pay damage claims resulting from black bear activity.
- The killing of coyotes does not require a permit if the killing is necessary to prevent damage to property, livestock, certain big game, or human life.
- Wheat is added as a crop eligible for forage damage claims.

Bill D — Snowmobile Registration

Sections of statute regulating the registration of snowmobiles, through the Division of Parks and Outdoor Recreation, are scheduled for repeal, effective July 1, 1996. Bill D continues the registration requirements for snowmobiles until July 1, 2011. Snowmobile registration requirements were not discussed until the committee meeting at which legislative proposals were voted upon and the committee decided this issue was within their charge. This issue was also discussed by the Joint Sunrise and Sunset Review Committee but was not proposed by that committee. (Although recommended by the committee, the Legislative Council did not approve Bill D as an interim committee bill.)

Resolution 1 — Director of Division of Wildlife

To increase accountability, the committee recommends Resolution 1, which is a constitutional amendment authorizing the Governor to appoint the director of the DOW with the consent of the Senate. The director would serve at the pleasure of the Governor and would be exempt from the state personnel system. Implementation of Resolution 1 would require approval of a majority of the voters at the November 1996 election.

MATERIALS AVAILABLE

The materials listed below are available upon request from the Legislative Council staff.

Meeting Summaries	Topics Discussed
July 24, 1995	Division of Wildlife Performance Audit and public testimony relating to the Division of Wildlife.
August 7, 1995	Review of town meetings; public testimony; and review of Deloitte & Touche LLP <i>Management Review Final Report</i> .
August 8, 1995	Division of Wildlife briefings on revenue and land acquisition issues.
August 21, 1995	(Glenwood Springs) Division of Wildlife briefings on customer service; law enforcement and game damage issues; and public testimony.
August 22, 1995	(Glenwood Springs) Division of Wildlife report on implementation of performance review recommendations and public testimony.
September 18, 1995	Briefing by representatives of Colorado State Land Board; committee review of proposed legislative items and policy recommendations; and open public testimony.
September 26, 1995	Briefing on federal environmental legislation; committee review of water issues; and final action on proposed legislation and policy recommendations.

Memorandum and Reports

Legislative Council staff memoranda:

Colorado Wildlife Commission, August 1995

Division of Wildlife Memorandum of Understanding, August 1995

Reports:

Management Review Final Report, Deloitte & Touche LLP, June 5, 1995

Colorado Division of Wildlife - Agency Mission, Strategy and Vision, Deloitte & Touche LLP, March 1995

Division of Wildlife Performance Audit, Office of State Auditor, February 1995

Division of Wildlife Long Range Plan, Division of Wildlife, March 11, 1994

BILL A

A BILL FOR AN ACT

CONCERNING REQUIRING THE DIVISION OF WILDLIFE TO IMPLEMENT CERTAIN POLICIES THAT AFFECT ITS PERSONNEL, AND, IN CONNECTION THEREWITH, ESTABLISHING A SCHEDULE FOR IMPLEMENTING RECOMMENDATIONS IN THE DELOITTE TOUCHE MANAGEMENT REVIEW REPORT AND MAKING AN APPROPRIATION.

Bill Summary

"DOW Personnel Policies"

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Wildlife Legislative Interim Committee. Makes division of wildlife peace officers subject to the peace officer standards and training (P.O.S.T.) certification requirements. Includes division of wildlife peace officers under the definition of "peace officer" for P.O.S.T. purposes. Includes a 2-year phase-in period. Exempts officers who have been trained by the Colorado law enforcement training academy.

Establishes January 1, 1998, as the deadline for the division to implement Deloitte Touche's management review recommendations.

Requires the director to establish a schedule for the implementation of the management review recommendations and report biannually to the general assembly concerning the division's progress in implementing the recommendations.

Authorizes the director, in conjunction with the executive director of the department of natural resources and the wildlife commission, to depart from the management review recommendations if the director deems it advisable and to contract for the services of up to three independent contractors to help implement the management review recommendations.

Makes an appropriation.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 24-31-301 (5), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended to read:

24-31-301. Definitions. As used in this part 3, unless the context otherwise requires:

(5) (a) EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH (b) OF THIS SUBSECTION (5), "peace officer" means any person described in section 18-1-901 (3) (I) (I), C.R.S., AND ANY DISTRICT WILDLIFE MANAGER, SPECIAL DISTRICT WILDLIFE MANAGER, OR PARKS AND RECREATION OFFICER DESCRIBED AS A "PEACE OFFICER, LEVEL II," IN SECTION 18-1-901 (3) (I) (III), C.R.S.

(b) THE WILDLIFE MANAGERS DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (5) MUST COMPLY WITH THE CERTIFICATION REQUIREMENTS OF THIS PART 3 NO LATER THAN JULY 1, 1998; EXCEPT THAT SAID PARAGRAPH (a) SHALL NOT APPLY TO ANY WILDLIFE MANAGER WHO, AS OF JULY 1, 1996, HAS COMPLETED TRAINING BY THE COLORADO LAW ENFORCEMENT TRAINING ACADEMY, ESTABLISHED IN SECTION 24-33.5-301.

SECTION 2. Article 1 of title 33, Colorado Revised Statutes, 1995 Repl. Vol., is amended BY THE ADDITION OF A NEW SECTION to read:

33-1-120.5. Oversight of the division - target dates for implementation of management review recommendations - reports required. (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES, "MANAGEMENT REVIEW RECOMMENDATIONS" MEANS THE

RECOMMENDATIONS MADE BY DELOITTE TOUCHE LLP IN THE MANAGEMENT REVIEW FINAL REPORT DATED JUNE 5, 1995.

(2) THERE IS HEREBY ESTABLISHED A DEADLINE OF JANUARY 1, 1998, FOR THE DIVISION TO IMPLEMENT THE MANAGEMENT REVIEW RECOMMENDATIONS.

(3) THE DIRECTOR SHALL:

(a) ESTABLISH A SCHEDULE FOR THE IMPLEMENTATION OF THE MANAGEMENT REVIEW RECOMMENDATIONS;

(b) PROVIDE A WRITTEN REPORT TO THE MEMBERS OF THE SENATE AGRICULTURE, NATURAL RESOURCES, AND ENERGY COMMITTEE AND THE HOUSE AGRICULTURE, LIVESTOCK, AND NATURAL RESOURCES COMMITTEE CONCERNING THE PROGRESS MADE TOWARD THE IMPLEMENTATION OF THE MANAGEMENT REVIEW RECOMMENDATIONS ON JUNE 30 AND JANUARY 1 OF EVERY YEAR UNTIL THE DIVISION HAS FULLY IMPLEMENTED ALL THE RECOMMENDATIONS. THE FIRST SUCH REPORT SHALL BE PROVIDED NO LATER THAN MARCH 1, 1996.

(4) THE DIRECTOR, IN CONJUNCTION WITH THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF NATURAL RESOURCES AND THE WILDLIFE COMMISSION, IS AUTHORIZED TO:

(a) DEPART FROM THE MANAGEMENT REVIEW RECOMMENDATIONS IF THE DIRECTOR DEEMS IT ADVISABLE TO DO SO; AND

(b) CONTRACT FOR THE SERVICES OF UP TO THREE INDEPENDENT CONTRACTORS TO HELP IMPLEMENT THE MANAGEMENT REVIEW RECOMMENDATIONS.

SECTION 3. Appropriation. In addition to any other appropriation, there is hereby appropriated, out of

any moneys in the _____ fund not otherwise appropriated, to the department of natural resources, for allocation to the division of wildlife, for the fiscal year beginning July 1, 1996, the sum of _____ dollars (\$ _____), or so much thereof as may be necessary, for the implementation of this act.

SECTION 4. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

BILL B

A BILL FOR AN ACT

CONCERNING MAINTENANCE OF WILDLIFE HABITAT BY THE DIVISION OF WILDLIFE, AND, IN CONNECTION THEREWITH, CONTINUING THE HABITAT PARTNERSHIP COUNCIL.

Bill Summary

"DOW Habitat Programs"

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Wildlife Legislative Interim Committee. Requires the division of wildlife to pay expenses incurred by a local governing body to control weeds on lands under the jurisdiction of the division.

Continues the habitat partnership council and the habitat partnership cash fund.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 33-1-110 (7) and (8), Colorado Revised Statutes, 1995 Repl. Vol., are amended, and the said 33-1-110 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

33-1-110. Duties of the director of the division. (6.5) THE DIRECTOR, FOLLOWING NOTIFICATION OF THE COMMISSION, SHALL AUTHORIZE AN EXPENDITURE NECESSARY TO PAY A LOCAL GOVERNING BODY FOR EXPENSES INCURRED PURSUANT TO SECTION 35-5.5-110 (3), C.R.S.

(7) (a) The director, with approval of the commission, shall appoint a committee of nine persons to act as the "habitat partnership council", referred to in this section as the "council". The council shall have statewide responsibility and authority.

(b) (I) The council shall consist of the following members: Two sportspersons who purchase big game licenses on a regular basis in Colorado; two persons representing livestock growers in Colorado; one person from the United States department of agriculture forest service; one person from the United States department of the interior bureau of land management; one person from the Colorado state university range extension program; one person representing agricultural crop producers; and one person from the Colorado division of wildlife. All persons on the council shall be residents of the state of Colorado.

(II) Members of the council who will represent livestock growers and agricultural crop producers shall be chosen by the director from persons nominated by the local habitat partnership committees, pursuant to subparagraph (VI) of paragraph (c) of subsection (8) of this section.

(III) For the initial appointments to the council, the terms of the four members representing sportspersons and livestock growers shall be two years for one member of each group and four years for the other member of each group, after which all appointments shall be for four years. The term lengths for the members representing the various agencies shall be at the discretion of the respective agencies. There shall be no limit on the number of terms a member may serve.

(c) The duties of the council are the following:

(I) To advise local habitat partnership committees;

(II) To assist in the dissemination of information concerning the habitat partnership program;

(III) To review draft plans for compliance with program guidelines established by the commission and to recommend appropriate action by the commission;

(IV) To monitor program effectiveness and to propose to the commission changes in guidelines and land acquisition planning and review as appropriate;

(V) To certify to the state treasurer that payment vouchers submitted by local habitat partnership committees are consistent with distribution management plans approved by the wildlife commission. Such certification shall be the only requirement necessary to authorize the state treasurer to disburse funds from the habitat partnership cash fund.

(VI) To report to the commission and to the general assembly pursuant to section 33-1-112 (8).

(d) ~~This subsection (7) is repealed, effective July 1, 1996.~~

(8) (a) The director, with the approval of the commission, shall have the authority to appoint a "habitat partnership committee", referred to in this section as a "committee", in any area of the state where conflicts between wildlife and rangeland managers exist.

(b) A committee shall consist of the following members: One sportsperson who purchases big game licenses on a regular basis in Colorado; three persons representing livestock growers in the area of the state in which the committee is being established; one person from each of the federal agencies that has land management responsibilities in such area of the state;

and one person from the Colorado division of wildlife. All persons on any such committee shall be residents of the state of Colorado.

(c) The duties of a committee are the following:

(I) To develop big game distribution management plans to resolve rangeland forage and fence conflicts subject to commission approval;

(II) To monitor program effectiveness and to propose to the council changes in guidelines and land acquisition planning and review as appropriate;

(III) To request for the committee, on an annual basis, funds from the council consistent with the distribution management plan developed by any such committee;

(IV) To expend funds allocated by the council or acquired from other sources as necessary to implement distribution management plans;

(V) To make an annual report of expenditures and accomplishments of the committee to the council by July 1 of each year beginning July 1, 1993;

(VI) To nominate a person to act as a representative of agricultural livestock growers or crop producers to the habitat partnership council for the area of the state where such committee is organized.

(d) The committee shall be authorized to procure from land owners, land managers, or other providers, agricultural materials or services necessary for carrying out activities identified in the distribution management plans pursuant to subparagraph (IV) of paragraph (c) of this subsection (8); except that all such procurements shall be certified as within the scope of the activities and funding levels authorized in such distribution management plans before any such procurement may be authorized.

(e) ~~This subsection (8) is repealed, effective July 1, 1996.~~

SECTION 2. 33-1-112 (8), Colorado Revised Statutes, 1995 Repl. Vol., is amended to read:

33-1-112. Funds and cost accounting. (8) (a) There is hereby created in the state treasury the habitat partnership cash fund. The moneys in the habitat partnership cash fund shall consist of those moneys annually appropriated to the division of wildlife for the partnership program and any gifts, donations, and reimbursements made to the program from other sources. The moneys in the fund shall be used in accordance with the duties of the habitat partnership council as specified in section 33-1-110 (7) and (8), including, but not limited to, reasonable and necessary expenses incurred by council members in the fulfillment of their duties, as approved by the director. All interest derived from the investment of moneys in the habitat partnership cash fund shall be credited to the fund. Any balance remaining in the fund at the end of any fiscal year shall remain in the fund.

(b) The council shall submit an annual report to the commission, the senate and house agriculture committees, the executive director of the department of natural resources, and the general assembly specifically stating the items for which it has expended moneys from the fund and the purpose of such items.

(c) If the council ceases to exist, all moneys in the habitat partnership cash fund shall revert to the wildlife cash fund.

(d) ~~This subsection (8) is repealed, effective July 1, 1996.~~

SECTION 3. 35-5.5-110, Colorado Revised Statutes, 1995 Repl. Vol., is amended BY THE ADDITION OF A NEW SUBSECTION to read:

35-5.5-110. Public lands - control of undesirable plants - charges.

(4) ANY EXPENSE INCURRED BY A LOCAL GOVERNING BODY PURSUANT TO SUBSECTION (3) OF THIS SECTION ON ANY LANDS HELD BY THE DIVISION OF WILDLIFE IN FEE TITLE OR BY LEASE, EASEMENT, OR OTHER AGREEMENT SHALL BE DEEMED CORRECT AND FINAL AND SHALL BE PAID BY THE DIVISION PURSUANT TO SECTION 33-1-110 (6.5), C.R.S..

SECTION 4. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

BILL C

A BILL FOR AN ACT

CONCERNING THE AUTHORITY OF THE DIVISION OF WILDLIFE IN REGARD TO THE
MANAGEMENT OF WILD ANIMALS CAPABLE OF CAUSING ECONOMIC
DAMAGE.

Bill Summary

"Game Management Activities"

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Wildlife Legislative Interim Committee. Prohibits the division of wildlife from adopting rules that restrict the taking of raccoons and coyotes to a specific season.

Adds to the wildlife damage claim statute a statement that the general assembly intends the state of Colorado to be potentially liable for damage to livestock caused by any animal if the taking is regulated by the division of wildlife. Provides that the state shall be liable for damage caused by wildlife even when the claimant has charged a fee for permitting access to his or her property for big game hunting purposes. Eliminates the current prohibition on the division's liability for damage caused by coyotes and bobcats. Makes it a lawful act to kill a coyote without a permit if the killing is necessary to prevent damage to property or injury to livestock, certain big game, or human life.

Requires the general assembly to annually appropriate from the general fund to the division an amount estimated to be sufficient to pay damage claims resulting from black bear activity.

Requires that the division of wildlife, when reimbursing property owners for game damage to crops, use the property owner's established yield and not an average yield.

Eliminates the requirement that wildlife damage to a fence must exceed ten percent of the value of the fence before the state will be liable for damages. Eliminates the requirement that wildlife foraging damage must exceed ten

percent of the historic use level before the state will be liable for damages. Adds wheat fields to the ranch or farm units that are subject to livestock forage claims.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 33-1-106 (1) (a), Colorado Revised Statutes, 1995 Repl. Vol., is amended to read:

33-1-106. Authority to regulate taking, possession, and use of wildlife. (1) In order to provide an adequate, flexible, and coordinated statewide system of wildlife management and to maintain adequate and proper populations of wildlife species, the commission shall have authority in this state, by appropriate rules and regulations, to:

(a) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPHS (II) AND (III) OF THIS PARAGRAPH (a), determine under what circumstances, when, in which localities, by what means, what sex of, and in what amounts and numbers the wildlife of this state may be taken and, further, to shorten, extend, or close seasons on any species of wildlife in any specific locality or the entire state when it finds after investigation that such action is necessary to assure maintenance of adequate populations of wildlife or to preserve the proper ecological balance of the environment.

(II) IN NO EVENT SHALL THE COMMISSION ADOPT ANY RULE THAT RESTRICTS THE TAKING OF RACCOONS AND COYOTES TO SPECIFIC SEASONS.

(III) In no event ~~however~~ shall the commission adopt any regulation concerning the taking of black bears which is in conflict with the provisions of section 33-4-101.3.

SECTION 2. 33-3-103 (1) (a) and (1)(g), Colorado Revised Statutes, 1995 Repl. Vol., are amended to read:

33-3-103. No liability for damage - when. (1) The state shall not be liable for:

(a) Damage to livestock caused by ~~coyotes, bobcats, or dogs~~. It is the intent of the general assembly that the ~~division shall use whatever proper means are available to effectively minimize depredation to livestock by coyotes and bobcats~~ STATE BE POTENTIALLY LIABLE FOR DAMAGE TO LIVESTOCK BY ANY ANIMAL THE TAKING OF WHICH HAS BEEN PROHIBITED OR REGULATED BY THE DIVISION.

(g) ~~Damages caused by wildlife, if claimant charges a fee in excess of one hundred dollars per person, per season for the purpose of big game hunting access on or across claimant's property.~~

SECTION 3. 33-3-104 (1) (d), Colorado Revised Statutes, 1995 Repl. Vol., is amended to read:

33-3-104. State shall be liable - when. (1) Subject to the limitations contained in section 33-3-103 and in part 2 of this article, the state shall be liable only for:

(d) Damages caused by those species of wildlife enumerated in section 33-1-102 (2) to orchards, nurseries, crops under cultivation, and harvested crops, damages to lawful fences as defined in section 35-46-101 (1), C.R.S., ~~when such damages exceed ten percent of the value of the specific fence involved,~~ and damages to livestock forage ~~in excess of ten percent of historic use levels~~ for privately owned and fenced ranch or farm units, which are specifically limited to hay meadows, pasture meadows, WHEAT FIELDS,

artificially seeded rangelands, and grazing land which is deferred to seasonal uses. ~~Damages to aftermath on alfalfa shall be paid to the full extent of such damages without regard to historic numbers of wildlife. Historic levels shall be designated by the claimant at the time of making a claim. Historic levels shall be expressed in average numbers of wildlife present on the property in question based on the twenty year period ending January 1, 1973.~~ If the division does not agree with the claimant on ~~normal historic levels or~~ any element of a damage settlement, the matter shall be submitted to arbitration within ten days of notice by either party. The arbitration panel shall consist of one arbitrator chosen by the landowner, one arbitrator chosen by the division, and one arbitrator chosen by the other two arbitrators. If the two arbitrators cannot agree within ten days on a third arbitrator, a request by either party shall be made to the district court for the judicial district of the county in which the damage is located for appointment of a third impartial arbitrator. The division and the landowner shall equally share the cost of the use of the third arbitrator. ~~Historic levels or~~ Any element settled by arbitration may be included in an appeal to a court of competent jurisdiction, and the court shall not be bound by the finding of the arbitration panel.

SECTION 4. 33-3-106 (3) and (4), Colorado Revised Statutes, 1995 Repl. Vol., are amended to read:

33-3-106. Excessive damage - permit to take wildlife - harassment by dogs. (3) Nothing in this section shall make it unlawful to trap, kill, or otherwise dispose of bears, mountain lions, COYOTES, or dogs in situations when it is necessary to prevent them from inflicting death or injury to livestock or human life OR DAMAGE TO PROPERTY and additionally, in the case of COYOTES

OR dogs, when it is necessary to prevent them from inflicting death or injury to big game other than bear or mountain lion and to small game, birds, and mammals. The division may bring a civil action against the owner of any dog inflicting death or injury to any big game other than bear or mountain lion and to small game, birds, and mammals for the value of each game animal injured or killed. The minimum value of each animal shall be as set forth in section 33-6-110.

(4) It shall not be necessary or requisite to obtain from the division any permit for the taking of bears, mountain lions, coyotes, RACCOONS, bobcats, or dogs. No dog shall be killed within the city limits of any town, city, or municipality or while in the possession of or under the control of any person unless otherwise permitted by law. All bears and mountain lions which are taken or destroyed under this section shall be reported to the division within five days after the killing thereof.

SECTION 5. 33-3-107, Colorado Revised Statutes, 1995 Repl. Vol., is amended BY THE ADDITION OF A NEW SUBSECTION to read:

33-3-107. Claims procedure. (4) THE DIVISION SHALL, WHEN CALCULATING THE AMOUNT OF REIMBURSEMENT PAYABLE FOR GAME DAMAGE TO CROPS, BASE SUCH CALCULATION ON THE PROPERTY OWNER'S ESTABLISHED YIELD AND NOT ON AN AREA-WIDE OR COUNTY-WIDE AVERAGE OR HISTORIC YIELD UNLESS THE PROPERTY OWNER HAS NO ESTABLISHED YIELD.

SECTION 6. 33-3-203 (2) (b) (I), Colorado Revised Statutes, 1995 Repl. Vol., is amended to read:

33-3-203. Claims procedure. (2) (b) (I) If the division does not agree with the claimant on ~~normal historic levels,~~ or any element of a damage

settlement, the matter shall be submitted to arbitration within ten days of notice by either party unless the claimant waives arbitration. The arbitration panel shall consist of one arbitrator chosen by the landowner, one arbitrator chosen by the division, and one arbitrator chosen by the other two arbitrators. If the two arbitrators cannot agree within ten days on a third arbitrator, a request by either party shall be made to the district court for the judicial district of the county in which the damage is located for appointment of a third impartial arbitrator. The division and the landowner shall equally share the cost of the use of the third arbitrator.

SECTION 7. 33-4-101.3, Colorado Revised Statutes, 1995 Repl. Vol., is amended BY THE ADDITION OF A NEW SUBSECTION to read:

33-4-101.3. Black bears - declaration of intent - spring season hunting prohibited - prohibited means of taking - penalty. (7) THE DIVISION SHALL ESTIMATE THE TOTAL AMOUNT OF ALL DAMAGE CLAIMS RESULTING FROM BEAR ACTIVITY EACH YEAR AND, BASED ON SUCH ESTIMATE, THE GENERAL ASSEMBLY SHALL APPROPRIATE TO THE DIVISION FROM THE GENERAL FUND AN AMOUNT SUFFICIENT TO PAY SUCH CLAIMS.

SECTION 8. Effective date - applicability. This act shall take effect upon passage, and shall apply to damages to property sustained on or after said date.

SECTION 9. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

BILL D

A BILL FOR AN ACT

CONCERNING THE CONTINUATION OF SNOWMOBILE REGISTRATION.

Bill Summary

"Snowmobile Registration"

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Wildlife Legislative Interim Committee. Continues until July 1, 2011, the registration requirements for snowmobiles in the division of parks and outdoor recreation.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 33-14-120, Colorado Revised Statutes, 1995 Repl. Vol., is amended to read:

33-14-120. Repeal of sections. Sections 33-14-102 to 33-14-106 and section 33-14-107 (1) (a) are repealed, effective July 1, 1996 2011. Prior to such repeal, the registration function of the division shall be reviewed as provided for in section 24-34-104, C.R.S.

SECTION 2. 24-34-104 (25.1) (e), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended, and the said 24-34-104 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. (25.1) The following functions of the specified agencies shall terminate on July 1, 1996:

(e) ~~The registration of snowmobiles through the division of parks and outdoor recreation in accordance with article 14 of title 33, C.R.S.;~~

(42) THE FOLLOWING AGENCIES, FUNCTIONS, OR BOTH, SHALL TERMINATE ON JULY 1, 2011: THE REGISTRATION OF SNOWMOBILES THROUGH THE DIVISION OF PARKS AND OUTDOOR RECREATION IN ACCORDANCE WITH ARTICLE 14 OF TITLE 33, C.R.S.

SECTION 3. Effective date. This act shall take effect July 1, 1996.

SECTION 4. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

RESOLUTION 1

HOUSE CONCURRENT RESOLUTION 96-

SUBMITTING TO THE REGISTERED ELECTORS OF THE STATE OF COLORADO AN AMENDMENT TO ARTICLE IV OF THE CONSTITUTION OF THE STATE OF COLORADO, CONCERNING THE HEAD OF THE STATE AGENCY THAT REGULATES FISH AND WILDLIFE, AND, IN CONNECTION THEREWITH, AUTHORIZING THE GOVERNOR TO APPOINT THE HEAD OF SUCH STATE AGENCY AND EXEMPTING SUCH POSITION FROM THE STATE PERSONNEL SYSTEM.

Resolution Summary

"Director Of Division Of Wildlife"

(Note: This summary applies to this resolution as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Wildlife Legislative Interim Committee. Authorizes the governor to appoint the director of the division of wildlife, with the consent of the senate, and removes such director from the state personnel system.

Be It Resolved by the House of Representatives of the Sixtieth General Assembly of the State of Colorado, the Senate concurring herein:

SECTION 1. At the next general election for members of the general assembly, there shall be submitted to the registered electors of the state of Colorado, for their approval or rejection, the following amendment to the constitution of the state of Colorado, to wit:

Article IV of the constitution of the state of Colorado is amended BY THE ADDITION OF A NEW SECTION to read:

Section 24. Director of the division of wildlife. THE GOVERNOR SHALL NOMINATE AND, BY AND WITH THE CONSENT OF THE SENATE, APPOINT THE DIRECTOR OF THE DIVISION OF WILDLIFE TO SERVE AT HIS OR HER PLEASURE, AND THE STATE PERSONNEL SYSTEM SHALL NOT EXTEND TO THE DIRECTOR OF THE DIVISION OF WILDLIFE.

SECTION 2. Each elector voting at said election and desirous of voting for or against said amendment shall cast a vote as provided by law either "Yes" or "No" on the proposition: "AN AMENDMENT TO ARTICLE IV OF THE CONSTITUTION OF THE STATE OF COLORADO, CONCERNING THE HEAD OF THE STATE AGENCY THAT REGULATES FISH AND WILDLIFE, AND, IN CONNECTION THEREWITH, AUTHORIZING THE GOVERNOR TO APPOINT THE HEAD OF SUCH STATE AGENCY AND EXEMPTING SUCH POSITION FROM THE STATE PERSONNEL SYSTEM."

SECTION 3. The votes cast for the adoption or rejection of said amendment shall be canvassed and the result determined in the manner provided by law for the canvassing of votes for representatives in Congress, and if a majority of the electors voting on the question shall have voted "Yes", the said amendment shall become a part of the state constitution.