

THE TRAPPING
BEST MANAGEMENT PRACTICES
TASK FORCE

Special Report

January 31, 2003

Executive Summary

House Bill (HB) 3147 was passed by the 2001 Oregon Legislative Assembly. The bill establishes a 48-hour trap check for traps set for furbearing mammals, a trap check of "on a regular basis" for traps set for predators where no trap check requirements existed, creates the Trapping Best Management Practices Task Force (Task Force) and requires licensed and practicing veterinarians to report incidences of treating animals purported to have been injured by a trapping device to the Dean of the College of Veterinary Medicine, Oregon State University.

Best Management Practices (BMP) are used to improve an activity or set of activities by developing recommendations based on sound scientific information, while maintaining practicability. The International Association of Fish and Wildlife Agencies (IAFWA) is leading the research effort, with the participation of the state wildlife agencies, the United States Fish and Wildlife Service (USFWS), trappers, trap makers and conservationists. BMPs will be developed for 23 species of furbearers found in the United States.

The five-member Task Force was charged with reviewing the trapping practices of various states and best management practices developed by the International Association of Fish and Wildlife Agencies, and submitting specific legislative recommendations for modifications to trapping regulations in Oregon that are supported by the Task Force. Those recommendations are to be presented to the 72nd Oregon Legislative Assembly by January 31, 2003.

Because the species-specific BMPs were not completed by the IAFWA in time for their review by this Task Force, recommendations relative to those documents are not included here. The Task Force respectfully submits and requests to maintain their charge for the next two years or until all of the species-specific BMPs are developed. As BMPs are completed the Task Force will review and evaluate pertinent information and make future recommendations where appropriate. To date, six recommendations have been developed during the eight Task Force meetings. They are:

1. HB 3147 established a 48-hour trap check for traps set for furbearing mammals and a trap check of "on a regular basis" for traps set for predators. The Task Force recommends defining "on a regular basis" to be 76-hours for predators captured in restraining trap types. Instant kill or drowning type sets will require no trap checks if set for predators.
2. Currently, both killing and restraining types of traps must be checked once every 48-hours for furbearers. The Task Force recommends setting separate trap check times for restraining traps and killing traps and drowning sets. The Task Force recommends checking restraining traps for furbearers once every 48-hours, and checking killing traps and drowning sets for furbearers once every 72-hours.
3. A "release pole" is a device used by trappers, animal control officers and dogcatchers to restrain aggressive, nuisance or injured animals. The Task Force recommends trappers setting or checking restraining traps or snares on land be required to carry a release pole or the materials necessary to construct one. This

tool will aid in the safe and unharmed release of occasionally captured non-target animals.

4. Information is a powerful, useful tool in the education of people with a lack of awareness, appreciation or understanding of natural habitats and wildlife populations. The Task Force recommends Oregon Department of Fish and Wildlife (ODFW) expand their use of educational materials, and play a more active role in developing and distributing such materials to those not familiar with traps or trapping systems.
5. Statutes addressing wildlife damage are confusing and sometimes contradictory. The Task Force recommends ODFW review Oregon Revised Statutes (ORS) related to wildlife damage, and provide a report to the Legislature on draft language to be added to current statute that will protect real property and address issues of human health and safety as they relate to wildlife damage. This report is to be presented to the Legislature in sufficient time to allow Legislative action during the 2003 Session.
6. Currently, the term "agent" is a legal doctrine that describes a person who acts on your behalf and is under your control: someone who is contracted or paid. The Task Force recommends ODFW review ways to expand the opportunity to use volunteers in place of paid agents including recommendations to redefine "agents" statutorily and report to the Legislature in sufficient time to allow Legislative action during the 2003 Session.

Introduction

The 71st Oregon Legislative Assembly passed House Bill (HB) 3147 (Appendix 1) during the 2001 regular Session. This bill establishes a 48-hour trap check for traps set for furbearing mammals, a trap check of "on a regular basis" for traps set for predators (as defined in Oregon Revised Statutes (ORS) 610.002), creates the Trapping Best Management Practices Task Force, and requires licensed and practicing veterinarians to report incidences of treating animals purported to have been injured by a trapping device to the Dean of the College of Veterinary Medicine, Oregon State University.

As required by HB 3147, this document is a special report from the Trapping Best Management Practices Task Force (Task Force) to the 2003 Legislative Assembly.

Background

In 1991 the European Union (E.U.), a coalition of 15 European nations, imposed a regulation that would ban the use of steel leghold traps and traps that did not meet certain, yet to be developed, humane standards. The regulation also banned import of wild-caught furs from countries that did not ban the use of traps that did not meet these same standards. The E.U. adopted this regulation even though trapping practices in most E.U. member countries did not meet the standards imposed.

These restrictions would have serious impacts on furbearer management in the US. In North America, the fur trade has a U.S. \$2 billion economic impact. Seventy-five percent of North American fur is exported through E.U. Europe or European buyers. Elimination of the European market would depress fur markets and in turn limit furtaker participation. Many states, including Oregon, were concerned that furbearer-caused damage to public and private property would skyrocket. This has in fact happened in states where trapping bans are in affect.

In addition, these restrictions were viewed as a violation of existing international free trade treaties that limit import restrictions, and a potential preemption of states' rights to manage wildlife under their authority.

Based on these concerns, U.S. federal trade representatives and representatives from Russia and Canada entered into negotiations with E.U. officials. Through these negotiations humane standards were developed for evaluating traps and trapping practices. In 1997 the U.S. and E.U. reached a compromise with a non-binding agreed "minute". Within that document is acknowledgement that states are recognized as the "competent authorities" with primary responsibility for wildlife management in the U.S.; agreement that testing and development would occur on more humane techniques based on agreed humane standards; and an allowance for states to continue to use traps not meeting the standards when alternatives are not available and to protect health and safety, private property and for wildlife management needs. The development of Best Management Practices and the associated trap testing is the method that the states are using to comply with this agreement.

Best Management Practices

Best Management Practices (BMP) are methods to improve an activity or set of activities by developing recommendations based on sound scientific information, while maintaining practicability. BMP is the most extensive and objective investigation of traps and trapping techniques ever conducted. The International Association of Fish and Wildlife Agencies (IAFWA) is leading the research effort with the participation of the state wildlife agencies, the U.S. Fish and Wildlife Service (USFWS), trappers, trap makers and conservationists. There are two goals of this project. The first is to develop standards for evaluating the safety, selectivity, humaneness, efficiency and practicability of trap and trapping practices. The second is to evaluate currently available traps and trapping practices based on these criteria and make improvements to them.

BMPs are based on regional differences in trapping conditions and describe the best traps and trapping methods for a specific target species. BMPs will be developed for 23 species of furbearers found in the U.S. by the IAFWA Fur Resources Technical Working Group (TWG). A BMP for coyotes found in the eastern U.S. will be the first to be completed and is scheduled to be released by mid-March 2003. BMPs for western coyote, raccoon, gray fox, red fox, beaver, muskrat and weasel are scheduled to be completed by early 2004.

The Oregon Department of Fish and Wildlife (ODFW) has been involved with this issue throughout the process and has participated in the implementation of the trap-testing program. From 1997 to 2001 Oregon trappers tested 13 different foothold traps for safety, selectivity, humaneness, efficiency and practicability in capturing coyotes. Based on trap data collected in Oregon and other western states, the TWG is developing a BMP for western coyotes. The BMP for eastern coyotes is in the final review process.

Why Trapping is Important in Oregon

Regulated trapping is critical to ensure the health and well-being of furbearer populations in Oregon. The Oregon Department of Fish and Wildlife sets seasons and harvest levels based on population status of each species, trapping pressure and wildlife damage problems in different portions of the state. Regulated trapping exists in Oregon today because:

- Trapping reduces or prevents damage to agricultural crops and to private and public property.
- Trapping can reduce or prevent threats to human health and safety by minimizing public exposure to diseases such as rabies and giardia.
- Trapping is a wildlife management tool used by biologists to protect endangered species. For example, sometimes predators must be reduced in localized areas to reintroduce a prey species that is threatened or endangered.
- Trapping is a wildlife management tool used by biologists to maintain healthy populations of furbearers.

- Trapping is a method to collect important information about wildlife such as age and condition of animals and populations. For example, all marten harvested in Oregon are brought to an ODFW office before March 1 following each season so biologists may obtain critical information about this secretive species.
- Through trapping license fees, tag fees and special taxes paid by trappers, funding is created to protect wildlife habitat and populations.
- Trapping is strictly regulated by ODFW and enforced by the Oregon State Police.

Current Oregon Regulations

Oregon regulations are established to ensure humane treatment of furbearers. Oregon law requires trappers to check their traps set for furbearers at least every 48-hours and those set for predators must be checked "on a regular basis." In addition, it is currently illegal to use:

- A steel leghold trap with a jaw spread greater than 9 inches;
- A number three or larger leghold trap not having a jaw spacing of at least 3/16 of one inch when the trap is sprung and when the set is not capable of drowning the trapped animal;
- The flesh of any game bird, game fish or game mammal for trap bait;
- Any instant kill trap with a jaw spread of 9 inches or more in any land set;
- Any toothed trap or trap with a protuberance of the facing edge of the jaws that is intended to hold the animal, except pads on padded jaw traps;
- Another person's branded traps or snares unless in possession of written permission or a bill of sale from the person to whom the brand is registered; or
- Sight bait within 15 feet of any leghold trap set for carnivores.

Best Management Practices Task Force

The Task Force was charged with reviewing the trapping practices of various states and best management practices developed by the International Association of Fish and Wildlife Agencies, and submitting specific recommendations for modifications to trapping regulations in Oregon. Those recommendations are to be presented to the 72nd Oregon Legislative Assembly by January 31, 2003.

HB 3147 established the method for identifying the Task Force membership (Appendix 2): Mark Simmons, Speaker of the House appointed Rod Harder and Tally Patton; Gene Derfler, President of the Senate appointed Jeff Rosenblad and Bob Gilman; and Howard Gelberg, Dean of the College of Veterinary Medicine, Oregon State University appointed Dr. Kelvin Koong. Dr. Koong was elected by the Task Force membership to serve as chairman. In addition, Larry Cooper, ODFW, Wildlife Division Deputy Administrator serves in an administrative assistant role to the Task Force.

A total of eight Task Force meetings have been held to date: August 14, 2002; September 23, 2002; October 15, 2002; November 26, 2002; December 23, 2002; January 6, 2003; January 23, 2003; and January 30, 2003. During that time, the Task Force identified,

reviewed and discussed several issues relating to trapping in Oregon. The following is a synopsis of those issues:

- Discussed the history of the United States Trade Ambassador defense of trapping in the U.S. and the subsequent agreement with the European Union.
- Discussed the International Association of Fish and Wildlife Agencies' role in the development of BMPs that improve trap humaneness, selectivity, efficiency, safety and practicality.
- Reviewed and discussed other components of HB 3147: trap check requirement of 48-hour for furbearers and "on a regular basis" for predators, and the requirement that veterinarians report incidences of animals purported to have been injured by a trapping device.
- Reviewed and discussed Oregon's current trapping regulations
- Reviewed and discussed the trapping regulations of 11 western states (Alaska, Arizona, California, Colorado, Idaho, Montana, New Mexico, Nevada, Utah, Washington, and Wyoming).
- Received pertinent information from U.S. Department of Agriculture, Animal and Plant Health Inspection Services, Wildlife Services, Starker Forest Inc., Cascade Timber Consulting, Oregon Cattlemen's Association, Oregon Trappers Association, Oregon Department of Agriculture, Oregon Forest Industry Council, Humane Society of the U.S., Oregon Humane Society, Sierra Club, Audubon Society and Oregon Department of Forestry as well as many members of the public. In addition to invited testimony, time was allocated during each meeting for public testimony.
- Viewed restraining trap functions and discussed modifications currently being used by Oregon trappers to increase animal welfare, efficiency and selectivity.
- Deliberated potential regulations and statutory changes that would increase safety, selectivity, humaneness, efficiency and practicability of traps and trapping systems in Oregon.
- Established final recommendations to be presented to the Legislature and potentially to the Oregon Department of Fish and Wildlife.

Task Force Recommendations

After considerable review of available information the Task Force deliberated and discussed potential actions. The following are recommended changes to Oregon's trapping regulations that culminated from those discussions:

1. HB 3147 established a 48-hour trap check for traps set for furbearing mammals and a trap check "on a regular basis" for traps set for predators. Predators are defined in Oregon Revised Statutes (ORS) 610.002 and include feral swine, coyotes, rabbits, rodents and birds that are or may be destructive to agricultural crops. The Task Force determined that the phrase "on a regular basis" was somewhat ambiguous as it can be interpreted in many ways (e.g., once/48-hours, once/week, once/month). This creates difficulties for trappers and law enforcement officers trying to interpret the law. After reviewing available information from a broad source of affected parties and a great deal of discussion,

the Task Force recommends modifying ORS 498.172 to require traps set for predators to be checked every 76-hours.

By establishing a 76-hour trap check for predators, traps can be checked three times per week (e.g., Monday, Wednesday and Friday). This is believed to be a reasonable compromise because it reduces trap check times from an indefinite period to 76-hours. At the same time it allows landowners and their agents the flexibility to check traps three times per week. The additional four hours (72+4=76) will allow animal control officers the opportunity to respond to Monday morning emergencies without being in violation. For example: If traps are set for predators and checked at 8 a.m. Friday and the trapper receives notification at 7 a.m. Monday morning that a coyote is captured in a different set, the trapper has the ability to change the order in which traps are checked. This will allow prompt removal of the captured animal, while maintaining the maximum of 76-hour trap check interval.

Recommendation: Modify ORS 498.172 as follows:

498.172 Trap check requirements.

(1) A person holding a license issued under ORS 497.142 may not set a trap for fur-bearing mammals without checking the trap at least once during each 48-hours period.

(2) A person may not set a trap for a predatory animal, as defined in ORS 610.002, without checking the trap [on a regular basis] at least once during each 76-hour period.

(3) No trap check time is required for predators as defined by ORS 610.002 when captured in instant kill traps or drowning type sets.*

2. As stated above, HB 3147 established a 48-hour trap check for fur-bearing mammals. The Task Force discussed possible alternatives that would allow furbearers captured in instant kill traps and drowning sets to be checked less frequently. Other states (e.g., Utah and Wyoming) have adopted regulations separating trap check requirements depending on the type of trap used. Forty-eight hours is a reasonable trap check time for restraining traps, where animals are held alive. However, if a lethal trap or trapping method is used, humane issues no longer apply. Because the pelt and other parts of most furbearers are used for educational purposes, making clothing, cosmetics, pet food, lubricants, etc., the trap check time should be based on maintaining usability of the carcass, not on humane standards. Carcasses remain usable for several days after death. Establishing a 72-hour trap check for animals captured in lethal traps and drowning sets is a reasonable time interval. Therefore, the Task Force recommends a 48-hour trap check for furbearers captured in restraining traps and a 72-hour trap check for those captured in killing traps and trapping systems.

Recommendation: All traps and snares set or used for taking furbearing mammals be inspected at least every 48-hours with the exception of killing traps and drowning sets, which shall be inspected at least every 72-hours and all animals removed.

3. Traps are set to capture a specific damage-causing individual, member of a specific species, or member of a specific suite of species. A suite of species is two or more species that use similar habitats and are legal to trap (e.g., beaver and otter, muskrats and mink, red fox, and gray fox). Trappers go to great lengths to target the primary individual animal or suite. The capture of non-target animals, while very rare, can occur. Trappers often release these individuals unharmed with the aid of a release pole. Dogcatchers often use a release pole to restrain aggressive, nuisance or abandoned pets. Trappers also use such a device to release captured animals that might be of low pelt quality. Release poles are unnecessary when checking instant kill traps or drowning sets.

A release pole can be purchased commercially or can be made from materials common to the trapping industry. Current regulations do not require trappers to carry such devices when engaged in trapping activities. The Task Force is recommending that every trapper carry a release pole or the materials necessary to construct such a device when participating in trapping with a restraining type trap on land.

Recommendation: Trappers setting or checking restraining traps or snares set on land shall possess while in the field a device designed, manufactured or the parts necessary to construct a device to restrain trapped animals in such a manner so they can be safely removed from the trap.

4. Lack of public awareness, appreciation, or understanding of natural habitats and wildlife populations, and human encroachment on wild areas and encounters with resurging populations of many wildlife species, have contributed to public misunderstanding of trapping as a management tool. Increased distancing of human populations from a direct and visible reliance on the land also have reduced public understanding of trapping as a lifestyle choice or an economic contribution to many rural families or to those who retain close ties to the land. Given the importance of trapping to management programs and to individuals, it is appropriate and necessary to increase the level of public understanding of wildlife populations and habitats, wildlife interactions with human populations, outdoor lifestyles, and the role and utilization of hunting and trapping therein. Marketing research indicates that most of the public's concerns about trapping are based on a lack of information and/or misunderstanding of what trapping is and what it is not.

In the past, ODFW has produced informational literature explaining the value of trapping (e.g. Trapping White Paper, Trapping Background, and informational inserts in the Big Game and Trapping regulations). The Task Force recommends

increasing these activities to help educate individuals not closely involved in trapping, the trapping industry or the contributions of private lands to the habitat utilized by the state's wildlife populations. The Task Force further recommends ODFW expand the sources used to disseminate educational materials to include, among other venues, additional information in the Game Bird regulations. Included in future communication materials should be the results of research and BMP development efforts.

Recommendation: ODFW should play an active role in development and dissemination of educational materials relating to trapping and trapping systems. In addition to information already available, ODFW should broaden their distribution to include all hunting and trapping regulation synopses.

5. Wildlife damage control statutes were first designed to deal with agricultural and livestock related damage in rural areas. The statutory authority granted to ODFW and to landowners was designed to protect agricultural and forest landowners, and wildlife populations. However, increasing urban populations have ODFW trying to apply the damage statutes to wildlife problems within cities. Unfortunately, these statutes do not always fit urban situations.

Currently, wildlife damaging land, livestock, agriculture and forest crops can be taken with a permit from ODFW. This is true for landowners inside or outside of city limits with a few exceptions (no permit is needed to take cougar, bear, bobcat or fox). However, statutory authority does not exist to grant a permit when an animal damages structures or vehicles or poses a potential human health risk. For example, when a raccoon is damaging land by digging holes in the yard a permit can be issued to remove the problem animal. However, no authority currently exists allowing ODFW to issue a permit to remove the animal if it is tearing insulation from under a house.

The Task Force believes Oregon Revised Statutes addressing damage causing wildlife are confusing and sometimes contradictory. The Task Force recommends ODFW continue to work on appropriate resolutions to this issue in the following manner.

Recommendation: The Task Force recommends the Legislature direct the Oregon Department of Fish and Wildlife to promptly review the various animal damage statutes and report back to the Senate Agriculture and Natural Resources Committee in sufficient time for the Legislature to act during the 2003 Session. These recommendations should include methods to be added to current statutes, to address real property protection and human health and safety issues in both rural and urban areas.

6. ODFW uses volunteers for a vast array of programs and activities. The expertise they bring to ODFW is an asset to the people and wildlife resources of Oregon. The volunteer program is critical to accomplishing important functions and

activities that might not otherwise be completed, especially given the overall reduction in the state economy.

Some activities require the person to be an "agent" of the state. "Agent" is a legal definition that describes a person who acts on your behalf and is under your control: someone who is contracted or paid. Because the Attorney General representative to ODFW has opined that an agent must be an employee paid by ODFW it restricts the opportunities when non-paid volunteers can be used. For example: The bear and cougar initiative, found at ORS 498.164, generally bans the use of dogs to take bear or cougar, but carves out an exception for "employees or agents of county, state, or federal agencies while acting in their official capacities." To take advantage of that "agent" exception, specific statutory authority is needed to appoint citizens to act as ODFW's non-paid agents for taking wildlife that cause damage or pose a human safety threat. Currently, no such statutory authority exists.

Recommendation: The Task Force recommends the Legislature direct the Oregon Department of Fish and Wildlife to promptly review existing statutes addressing when "agents" are used and if necessary redefine the term "agent" to accommodate the use of volunteers. These potential amendments should be reported back to the Senate Agriculture and Natural Resources Committee in sufficient time for the Legislature to act during the 2003 Session.

7. Conflicts between people and wildlife have existed since early settlement. As human populations grow and cities expand into undeveloped regions conflicts between people and wildlife will increase. People who have lived their entire lives in cities often have limited knowledge of how to effectively deal with these wildlife conflicts.

A new group of entrepreneurs has recently developed. These professional animal control agents work primarily with urban clients to reduce damage caused by wildlife. The activity of physically removing animals from a neighborhood by either live trapping and relocating, or by lethal means, can create considerable conflict if not conducted in a skillful manner. Currently, no formal certification process exists to identify those animal control agents who have an appropriate level of expertise necessary to accurately identify the problem species and humanely remove it. The Task Force is recommending ODFW review animal control agent certification in other states and investigate the potential for developing a certification program in Oregon.

Recommendation: The Task Force recommends the Legislature direct ODFW to investigate the feasibility of developing a licensing or certification process for professional animal control agents.

Task Force Future

It is the Task Force's intent to continue to review BMPs as they become available, to evaluate the information presented, and to make recommendations on potential modifications to trapping regulations in Oregon. Because these reviews are based on BMP development by IAFWA, it may be necessary to postpone future meetings until species-specific BMPs are completed. The first BMP is scheduled to be completed by mid-March 2003, and will serve as the template for future BMPs. Seven additional species-specific BMPs are scheduled to be completed by February 2004. Information contained in these documents will allow the Task Force to evaluate and recommend potential modifications to trap designs, configurations, and adjustments that will produce more humane, safe, selective, efficient, and practical trapping devices.

Recommendation: Activities of the Task Force be suspended until BMPs developed by the IAFWA are finalized.

BEST MANAGEMENT PRACTICES TASK FORCE
MEMBERSHIP

December 18, 2002.

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Enrolled
House Bill 3147

Sponsored by Representative SCHRADER; Representatives BROWN, DOYLE, GARRARD, HILL, JENSON, KRIEGER, KROPP, KRUSE, MARCH, MORGAN, PATRIDGE, C SMITH, T SMITH, STARR, WESTLUND, ZAUNER. Senators R BEYER, FERRIOLI, MESSERLE, METSCER, STARR (at the request of Oregonians for Responsible Wildlife Management)

CHAPTER

AN ACT

Relating to trapping; creating new provisions; and amending ORS 686.445.

Be It Enacted by the People of the State of Oregon:

SECTION 1. Section 2 of this 2001 Act is added to and made a part of the wildlife laws.

SECTION 2. (1) A person holding a license issued under ORS 497.142 may not set a trap for fur-bearing mammals without checking the trap at least once during each 48-hour period.

(2) A person may not set a trap for a predatory animal, as defined in ORS 610.002, without checking the trap on a regular basis.

SECTION 3. (1) There is created the Trapping Best Management Practices Task Force consisting of five members. Members shall be citizens of this state who are familiar with the trapping of fur-bearing mammals and predatory animals. The five members shall be appointed as follows:

- (a) Two public members appointed by the Speaker of the House of Representatives;
- (b) Two public members appointed by the President of the Senate; and
- (c) The Dean of the College of Veterinary Medicine, Oregon State University, or the dean's designee.

(2) The task force shall:

- (a) Review the trapping management practices of various states.
- (b) Review the best management practices program developed by the Furbearer Resources Technical Work Group of the International Association of Fish and Wildlife Agencies.

(c) Not later than January 31, 2003, submit a report to the Seventy-second Legislative Assembly, according to the provisions of ORS 192.230 to 192.250, that contains specific legislative recommendations for modifications to trapping regulations in this state.

(3) The State Department of Fish and Wildlife may provide staff as necessary for the performance of the functions of the task force.

(4) All agencies, departments and officers of this state are directed to assist the task force in the performance of its functions and to furnish such information and advice as the members of the task force consider necessary to perform their functions.

(5) Official action by the task force established pursuant to this section shall require the approval of a majority of the members.

SECTION 4. ORS 686.445 is amended to read:

686.445. (1) Licensed veterinarians and veterinary technicians may report to peace officers, animal control officers or officers of private organizations devoted to humane treatment of animals any animal that the veterinarian or veterinary technician knows or reasonably believes to be abandoned, neglected or abused. Any veterinarian or veterinary technician making a report under this section is immune from any civil or criminal liability by reason of making the report.

(2) Veterinarians licensed and practicing in Oregon shall report to the Dean of the College of Veterinary Medicine, Oregon State University, in a form established by the dean, incidences of treating animals purported to have been injured by a trapping device.

Passed by House May 4, 2001

Received by Governor:

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Approved:

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Chief Clerk of House

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Speaker of House

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Governor

Passed by Senate May 24, 2001

Filed in Office of Secretary of State:

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President of Senate

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Secretary of State