

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 59th LEGISLATURE - REGULAR SESSION

COMMITTEE ON AGRICULTURE

Call to Order: By **CHAIRMAN EDWARD B. BUTCHER**, on March 10, 2005
at 3:12 P.M., in Room 472 Capitol.

ROLL CALL

Members Present:

Rep. Edward B. Butcher, Chairman (R)
Rep. Carol Lambert, Vice Chairman (R)
Rep. Jonathan Windy Boy, Vice Chairman (D)
Rep. Joan Andersen (R)
Rep. Bob Bergren (D)
Rep. Gary Branae (D)
Rep. Kevin T. Furey (D)
Rep. Wanda Grinde (D)
Rep. Ralph Heinert (R)
Rep. Jim Keane (D)
Rep. Bruce Malcolm (R)
Rep. Jim Peterson (R)
Rep. John (Jack) W. Ross (R)
Rep. Karl Waitschies (R)
Rep. Jeanne Windham (D)
Rep. Brady Wiseman (D)

Members Excused: Rep. Llew Jones (R)
Rep. Diane Rice (R)
Rep. Veronica Small-Eastman (D)
Rep. Dan Villa (D)

Members Absent: None.

Staff Present: Linda Keim, Committee Secretary
Krista Lee Evans, Legislative Branch

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

Committee Business Summary:

Hearing & Date Posted: SB 314, SB 353, 3/3/2005
Executive Action: SB 47, SB 51, SB 178, HB 489

HEARING ON SB 314

SPONSOR: SEN. LANE LARSON, SD 22, BILLINGS

Opening Statement by Sponsor:

SEN. LANE LARSON opened the hearing on SB 314, a bill to revise the law governing the irrigation district commissioner. He asked the Committee to put amendments on the bill and explained them.

EXHIBIT(agh53a01)

Proponents' Testimony:

Mike Murphy, Montana Water Resources Association, spoke in favor of the bill with the amendments.

Opponents' Testimony: None.

Informational Testimony: None.

Questions from Committee Members and Responses: None.

Closing by Sponsor:

SEN. LARSON closed by asking for a DO PASS.

{Tape: 1; Side: A; Approx. Time Counter: 0 - 11}

HEARING ON SB 353

SPONSOR: SEN. GERALD PEASE, SD 21, LODGE GRASS

Opening Statement by Sponsor:

SEN. GERALD PEASE opened the hearing on SB 353, a bill that would transfer neutered wild bison to tribal organizations. He stated that he was trying to alleviate the slaughter of buffalo that get out of the Yellowstone Park area and test positive for brucellosis. He asked the Committee to amend the bill by eliminating all references to the word "neutered" and adding back in the words "that desire to begin a buffalo herd or to increase the tribe's present herd" to the title.

Proponents' Testimony: None

Opponents' Testimony:

Barbara Brownow, West Yellowstone, said that if cattle originally transmitted brucellosis to buffalo why is the aggression against

the buffalo. She said that people are disrespectful to the buffalo, they are ear-tagged, shaved, spray painted and mistreated, and more are killed than necessary to do further testing. She said that 144 bison were slaughtered between January 1997 and April 1999 and tests showed that only 26 animals were positive for brucellosis. She suggested that perhaps the bison have developed an immunity to brucellosis over the years. She further stated that when they are quarantined they are not in their natural habitat and are crowded together in small spaces. She said that a change should be made in buffalo management.

{Tape: 1; Side: A; Approx. Time Counter: 11 - 22}

Ervin Carlson, Intertribal Bison Cooperative, read and submitted his written testimony, a letter from the Fort Peck Tribes, and a Resolution from the Chippewa Cree Tribe.

EXHIBIT(agh53a02)

Daniel Brister, Arlee, cited the cost of the program and other unnecessary costs such as quarantine, neutering, and domestication. He asked for a DO NOT PASS. He presented written testimony for the record.

EXHIBIT(agh53a03)

{Tape: 1; Side: A; Approx. Time Counter: 22 - 31}

Stephanie Seay, Arlee, read and presented written testimony and a statement called "Buffalo Quarantine" for the record.

EXHIBIT(agh53a04)

{Tape: 1; Side: B; Approx. Time Counter: 0 - 6.2}

Will Patric, Belgrade, read and presented written testimony for the record.

EXHIBIT(agh53a05)

George Nell, Gardiner, said that this is a heavy-handed livestock practice that is being applied to wildlife. He said that Yellowstone holds half of all the genetically pure bison in the U.S. and the herd needs to be preserved and protected. If quarantine is being done it should be done correctly and the survival rate would be something to be proud of.

{Tape: 1; Side: B; Approx. Time Counter: 6.2 - 12.6}

REP. WINDY BOY said that until the word "neutered" is removed from the bill, his tribe will stand in opposition to the bill.

Barb Abramo, West Yellowstone, submitted written testimony.

EXHIBIT(agh53a06)

Jennifer Nitz, West Yellowstone, went on record in opposition of the bill and submitted a Witness Statement for the record.

Ron Treyhan, Salish-Kootenai Tribe, went on record in opposition.
{Tape: 1; Side: B; Approx. Time Counter: 12.6 - 14}

Informational Testimony:

Dr. Tom Linfield, State Veterinarian, Montana Department of Livestock, said that they would like to work with SEN. PEASE to make sure that the amended language is in line with what he wanted. Dr. Linfield said that five different agencies are cooperatively managing the bison and the population is very robust now. The population has nearly doubled in size since implementation of the Interagency Bison Management Program. The actual count was 4,138 bison in the park; some were missed during the aerial count that was done over a two-day time span. He commented that he would be available for questions.

Questions from Committee Members and Responses:

REP. WINDHAM asked if it would be acceptable to take everything out of the bill in regard to neutering the bison have an alternative to slaughter. They would allow that live bison under two years of age can be captured and transferred to tribal organizations until quarantine facilities are built. **Mr. Carlson** said that their biggest concern was with slaughtering the bison. They are looking for any means to help eradicate the disease and get the live animals out to the tribes. He further stated that they are against neutering and if that language is removed they would be willing to look at other language. He noted that the biggest economic concern for most tribes is livestock and would not advocate bringing diseased animals to their reservation. He said that bison have cultural and spiritual significance to the Indian people. He said that bison are very intelligent and majestic animals and they should not be neutered.

{Tape: 1; Side: B; Approx. Time Counter: 14 - 20.4}

REP. WINDHAM asked how long the quarantine period is. **Dr. Linfield** said that the quarantine protocol is in the United States Department of Agriculture (USDA) Uniform Methods and Rules. It requires that female bison calve at least once in the quarantine facility and this projects a two- to three-year time period.

REP. WINDY BOY said that Mr. Trehan is an elected official for the Salish-Kootenai Tribe and asked him to give his perspective. **Mr. Trehan** said that to understand the ways of these animals requires growing up with them. He said that the Indian people have done that. He said that the animals have shame and should not be neutered.

REP. PETERSON asked whether the animals would have to go through the quarantine facility and be tested free of brucellosis before they could be transferred to a new location if the neutering option were removed. **Dr. Linfield** explained the process and said that the referenced animals would probably be calves that would initially start in the Bison Quarantine Feasibility Study (BQFS).
{Tape: 1; Side: B; Approx. Time Counter: 20.4 - 25.2}

REP. PETERSON asked if there was a plan to construct an acceptable quarantine facility. **Dr. Linfield** said that Phase 1 of the BQFS is in place and they are starting an Environmental Assessment for Phases 2 and 3. They are studying to see if it is feasible to quarantine bison to get disease-free bison out of this herd. There is no plan for a large scale quarantine facility; the one being planned would hold up to 100 bison/year.
{Tape: 1; Side: B; Approx. Time Counter: 25 - 27.2}

CHAIRMAN BUTCHER asked what the capacity of the park is and how large the biologists want the Yellowstone bison herd to be. **Dr. Linfield** said that there has not been a good study of the carrying capacity of large ungulates in the park. The agreed upon target population is 3,000. He stated that whenever the population gets over 3,000 they see large out-migrations every year. If it is under 2,200 there are very few out-migrations of bison. He commented that a carrying capacity study needs to be performed by a panel of researchers.

CHAIRMAN BUTCHER said that basically both numbers and brucellosis need to be addressed since the park area is close to being over-grazed. **Dr. Linfield** said that he did not know how the range conditions compared to historical conditions, but it appears there is not enough forage to sustain large animals year-round and they are seeking winter habitat. This gives them concern because the nearest cattle herd is only 30 miles away, and it has been documented that bison have traveled that far in 4-6 hours.

CHAIRMAN BUTCHER asked if the brucellosis issue be the easiest way to address both population and disease. **Dr. Linfield** said that the only current means to do that is through any management activities that go on outside of the park where the five agencies implement a joint plan. Other than natural mortalities in the park and any management activities outside the park with bison removal, there is no other means for population control. He stated that this is unique compared to other wildlife resources where the other wildlife agencies set population targets and manage accordingly with hunting. He said that the opportunity to manage the bison population at a level that is compatible with the landscape is not available within the park.

REP. HEINERT asked who the agencies in the five agency group are. **Dr. Linfield** named the Department of Livestock, the Montana Department of Fish, Wildlife and Parks, Yellowstone National Park, U.S. Forest Service, and U.S.D.A. Veterinary Services.

REP. HEINERT noted that there were no Native Americans in the planning group. **Dr. Linfield** said they were not part of the Inter-Agency Bison Management Plan (IABMP). He stated that tribal representation has been included on the Greater Yellowstone Inter-Agency Brucellosis Committee and they are looking at the same issue, which is preventing bison transmission of brucellosis to cattle.

{Tape: 1; Side: B; Approx. Time Counter: 27.2 - 30.8}

CHAIRMAN BUTCHER asked Mr. Carlson if he was involved in the Native American organization that deals with the big picture. **Mr. Carlson** stated that he is the President of the Inter-Tribal Bison Cooperative (ITBC) and Mr. Ron Treyhan is the Vice President.

CHAIRMAN BUTCHER asked if the group consisted of only Montana tribes. **Mr. Carlson** said that ITBC consists of 54 tribes from all over the U.S. and they are from 18 states.

CHAIRMAN BUTCHER asked if it is a fair assessment to say that they are dealing with a cultural issue, a disease issue and a population issue. **Mr. Carlson** said that it is.

CHAIRMAN BUTCHER asked if it was correct that most of the killed buffalo coming out of Yellowstone Park are going to Indian tribes for the meat. **Mr. Carlson** said that at one time they might have been, but that the tribes no longer participate.

CHAIRMAN BUTCHER asked if that was by choice and why they would do that. **Mr. Carlson** said that it would not be right to receive the meat since they are against slaughtering the animals.

{Tape: 2; Side: A; Approx. Time Counter: 0 - 5}

CHAIRMAN BUTCHER asked if an acceptable approach would be for the tribes to go and kill the buffalo themselves. **Mr. Carlson** said that their biggest concern is they don't know if the animal being slaughtered is disease free or whether it has brucellosis.

CHAIRMAN BUTCHER noted that traditionally these animals provided sustenance to the Indian's ancestors and that is the foundation of their cultural connections. He said it is confusing that the Indians want to revere bison but they don't want to eat them as their ancestors did. **Mr. Carlson** said they do eat buffalo. He

stated that it is not true to say that all the animals are infected with brucellosis, but they are being slaughtered anyway.

CHAIRMAN BUTCHER said the situation is that the bison are in an over-populated area and asked what the solution would be. **Mr. Carlson** said their intent would be for the buffalo to go to the tribes disease-free to enhance their herds. The tribes all have large areas of grassland where the animals could be on free range with good grass. He stated that if there was a process of quarantine and the ones that came out were disease free, the others would be eradicated. It would help if the disease free animals went to reservations and it would also help the park with their bison population problem.

{Tape: 2; Side: A; Approx. Time Counter: 5 - 7}

CHAIRMAN BUTCHER noted that the tribes don't want to eat the diseased animals. In order to address the issue, he asked what the manager is supposed to do with the diseased buffalo. **Mr. Carlson** said that the resources that would be used to neuter the buffalo should instead be put to use to find a cure for brucellosis.

CHAIRMAN BUTCHER asked what can be done with the diseased animals and the overpopulation while the scientists are looking for a cure. **Mr. Carlson** said that is a question for everyone involved and he can't answer that by himself. He stated that the tribes would like to be involved in that discussion but they sit on the Greater Yellowstone Inter Agency Brucellosis Committee as a non-voting member.

CHAIRMAN BUTCHER asked what research was being done to find a cure for brucellosis. **Dr. Linfield** stated that new vaccines are available all the time as well as different vaccine delivery methods and additional treatments that would try using antibiotics. Currently when an animal or a person is infected, it is a life-long infection. He said that the U.S. Animal Health Association just assigned a special committee to look at research needs such as diagnostics, vaccines and vaccine delivery systems.

{Tape: 2; Side: A; Approx. Time Counter: 7 - 11.9}

REP. WINDY BOY asked long how it would be before a cure was found for brucellosis. **Dr. Linfield** said there are a lot of tools available to eradicate the disease; i.e., vaccines, and different means of treatment that haven't been explored in the U.S. He explained that it is found in lymph nodes and joint capsules.

REP. WINDY BOY said he noted that SEN. PEASE had amendments to add and asked if he would mind if they held off on the Executive

Action. **SEN. PEASE** said that he was willing to wait and work with the tribes toward the passage of this bill.

{Tape: 2; Side: A; Approx. Time Counter: 11.9 - 16.9}

(Note: REP. JONES arrived at the meeting.)

CLOSING BY THE SPONSOR:

SEN. PEASE closed by saying that the bill is getting better with each amendment. He recently got information that 463 bison were captured during the 2004 winter season. He said that 207 tested positive for brucellosis or came in contact with it and were sent to slaughter. He stated that is way too many. He said that this bill gives directive to the Department of Livestock to apply for \$1 million in USDA money. That money could be used for the environmental impact statement that is missing or to start building the quarantine facilities. He asked why the quarantine facilities couldn't be built in the park. He stated that he had read that if a bison was neutered that the quarantine process was 60% less in length.

CHAIRMAN BUTCHER said they would hold back on Executive Action and asked **SEN. PEASE** to talk to all the groups that are managing buffalo and bring back amendments that would satisfy everyone.

{Tape: 2; Side: A; Approx. Time Counter: 16.9 - 23.5}

EXECUTIVE ACTION ON SB 47

Motion: REP. BERGREN moved that SB 47 DO PASS.

Discussion:

REP. WAITSCHIES said he would vote "no" because if a pet rabbit gets out and something is trying to kill it, that is an automatic license to shoot.

REP. KEANE said that a lot of people have things such as a pet chicken on a leash and indicated he would vote "no" also.

{Tape: 2; Side: A; Approx. Time Counter: 23.5 - 26.9}

CHAIRMAN BUTCHER noted that this is a serious problem to people in areas where lions and wolves are showing up. To some people, their cats and small ponies are very important, this is a serious economic issue.

REP. ANDERSON said that she would vote for the bill. She noted that a woman in her district shot and killed a bear that had started chasing her horses in their corral. The woman was prosecuted and fined because it was a grizzly bear. REP.

ANDERSON said that is not right, that people need to be able to protect their private property.

REP. HEINERT agreed with REP. ANDERSON and said that people really do need to protect their private property. He said that some people have cats for pets and their dogs and cats are pets, so is a pet pig.

REP. FUREY said that where people live is where they decided to live and it is no surprise that there are predators. It is a part of living in western Montana.

{Tape: 2; Side: A; Approx. Time Counter: 26.9 - 29}

REP. MALCOLM said livestock is defined by Montana law as horses, cattle, goats and sheep, so you can protect those animals. The bill is only talking about a domestic dog or a domestic pet. He asked the Committee to keep focused on that. He said if they change the word "dog" to "pet," then the Montana wolf plan will have to be changed because it defines that a wolf can be shot to protect guarding dogs. Pets are not included in that. He said he would be voting "no."

REP. WINDHAM said she would be voting "no." She has llamas, a 16-year-old pet pig, six dogs, four cats and three miniature donkeys. She said there is a lot of wildlife and the only problem she has had is with domestic dogs. She agreed with REP. MALCOLM that the original law was to protect herding dogs.

REP. ANDERSON said that a lot of third and fourth generation Montanans live here and they have had wolves and grizzly bears forced upon them. They did not ask to have those animals released in a way that they came into their ranches and caused problems. She stated appreciation for REP. MALCOLM's comment.

{Tape: 2; Side: A; Approx. Time Counter: 29 - 32}

REP. JONES said he found it unique that some feel there is a separation between nature and man. He said that the defining line is that they are both part of nature, and maybe man is here as an intelligent part of nature to put out the occasional fire. He stated that sometimes we need to make intelligent decisions and not see it as a separation.

CHAIRMAN BUTCHER said the situation is that the numbers of predators have increased so dramatically. He expressed concern that they are not thinking of the total picture, as REP. JONES noted. He stated that just having an occasional lion around is not the same thing. When there are large numbers of predators someone needs to control them. There is a point where there is an overgrowth. If man doesn't make rules to control predators it

gives no legal right to control, and animal rights people are around that don't want any predators killed.

Vote: Motion failed 10-10 by roll call vote with REPS. ANDERSON, BERGREN, BUTCHER, HEINERT, JONES, LAMBERT, PETERSON, RICE, ROSS, and WISEMAN voting aye. REPS. RICE, WISEMAN and SMALL-EASTMAN voted by proxy.

{Tape: 2; Side: B; Approx. Time Counter: 0 - 4.2}

EXECUTIVE ACTION ON SB 51

Motion: REP. BERGREN moved that SB 51 DO PASS.

Discussion:

REP. MALCOLM stated that this legislation is too severe. The fact that someone's license to do business will be taken away is too stiff a penalty to have in law. They can be fined, but to take away their license does away with their business. He said this is not good legislation and the bill should be killed.

CHAIRMAN BUTCHER recapped the discussion and said that at least one of the dealers is pocketing the collection money. The Department of Agriculture wants to add a penalty that is severe enough to make them send the money in. He stated that it won't affect anyone who sends the money in, it only affects someone who is dishonest and flagrantly ignoring the law. He noted that revoking a license is already in current law on Line 14.

Vote: Motion carried 19-1 by voice vote with REP. MALCOLM voting no. REPS. RICE, WISEMAN and SMALL-EASTMAN voted by proxy.

{Tape: 2; Side: B; Approx. Time Counter: 4.2 - 8.9}

EXECUTIVE ACTION ON SB 178

Motion/Vote: REP. BERGREN moved that SB 178 DO PASS. Motion carried unanimously 20-0 by voice vote. REPS. RICE, WISEMAN and SMALL-EASTMAN voted by proxy.

{Tape: 2; Side: B; Approx. Time Counter: 8.9 - 9.8}

EXECUTIVE ACTION ON HB 489

Motion: REP. BERGREN moved to RECONSIDER HB 489.

Discussion:

REP. BERGREN explained his motion and noted the importance of starting the ethanol education process as soon as possible. He

said that his amendment will change \$250,000 down to \$200,000 and add an application fee for the ethanol plants of \$250.

CHAIRMAN BUTCHER explained that this bill had previously been tabled and the vote will be to reconsider.

REP. WAITSCHIES asked for an explanation of the Fiscal Note.

REP. BERGREN explained that the Fiscal Note contains the \$200,000 amount. This will come out of the Department of Transportation incentive money for the ethanol program.

Vote: Motion carried 18-2 by roll call vote with **REPS. ANDERSEN** and **BUTCHER** voting no. **REPS. RICE, WISEMAN** and **SMALL-EASTMAN** voted by proxy.

{Tape: 2; Side: B; Approx. Time Counter: 9.8 - 17.6}

Motion: **REP. BERGREN** moved that HB 489 DO PASS.

Motion: **REP. BERGREN** moved AMENDMENT HB048904.

Note: Amendment 48904 was passed out, along with a marked-up bill that shows Amendments 48902, 48903 and 48904.

[EXHIBIT](#)(agh53a07)

[EXHIBIT](#)(agh53a08)

Discussion:

REP. BERGREN and **Ms. Evans** explained Amendment 48904.

CHAIRMAN BUTCHER asked if they would be educating people before they know if the ethanol operation up and running. **REP. BERGREN** said this bill will work with all the other ethanol bills being considered. The program will stop when one of the companies comes on line and produces 10,000 gallons.

CHAIRMAN BUTCHER stated that there is no ethanol plant currently and asked about the feasibility of spending \$200,000 worth of transportation funds on ethanol education when there is nothing here and there may not be. He said that he would like to see the education happen after 10,000 gallons have been produced.

REP. BERGREN responded that it is the old chicken and egg situation. He said that people may think ethanol is bad but it is because of a lack of education. In Minnesota they educated the people and had sales and promotions at gas stations. He stated the need to create demand for ethanol by educating people on its benefits.

REP. LAMBERT asked about the \$250 application fee and noted there was none previously. **REP. BERGREN** agreed there was none before.

Vote: Motion carried unanimously 20-0 by voice vote. **REPS. RICE, WISEMAN** and **SMALL-EASTMAN** voted by proxy.

Motion: **REP. BERGREN** moved that HB 489 DO PASS AS AMENDED.
{Tape: 2; Side: B; Approx. Time Counter: 17.6 - 26}

Discussion:

REP. KEANE asked about the marked-up bill that had been passed out. **Ms. Evans** explained that Amendments 48902 and 48903 were attached to the bill before transmittal and Amendment 48904 was just added. She stated that the marked-up bill is what the bill would look like if it were passed out of Committee right now.

REP. WAITSCHIES noted that the idea of education is good, but this bill would spend public money to promote a private product. He said that on principal he would have to vote no on the bill.

REP. PETERSON agreed with **REP. WAITSCHIES** and questioned the urgency of ethanol education. He said that he would like to see the education wait for about two years, until the plants produce.

REP. VILLA said that he would vote yes on the bill as many of the people that he talked to in his district don't know the benefits of ethanol. He said this is an opportunity to promote Montana products and promote Montana. Creating the demand in the general public is another way to make the incentives work.
{Tape: 2; Side: B; Approx. Time Counter: 26 - 28.5}

REP. BERGREN said that a significant education program is needed. He stated that the government does play a role in promoting new and fledgling businesses. He said that a lot of government money is used to help promote agricultural products.

CHAIRMAN BUTCHER asked how far \$200,000 will go and noted that the five-member committee will have a per diem. **REP. BERGREN** said advertising can be done through extension agents, speaking engagements, educational websites, and agricultural agencies.

Vote: Motion failed 10-10 by roll call vote with **REPS. BERGREN, BRANAE, FUREY, GRINDE, KEANE, SMALL-EASTMAN, VILLA, WINDHAM,** and **WISEMAN** voting aye. **REPS. BRANAE, MALCOLM, RICE, SMALL-EASTMAN** and **WISEMAN** voted by proxy.

CHAIRMAN BUTCHER closed the meeting.

ADJOURNMENT

Adjournment: 6:15 P.M.

REP. EDWARD B. BUTCHER, Chairman

LINDA KEIM, Secretary

EB/lk

Additional Exhibits:

EXHIBIT ([agh53aad0.PDF](#))