MINUTES

MONTANA HOUSE OF REPRESENTATIVES
59th LEGISLATURE - REGULAR SESSION

COMMITTEE ON AGRICULTURE

Call to Order: By **CHAIRMAN EDWARD B. BUTCHER**, on March 8, 2005 at 3 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. Gary Branae (D)
Rep. Kevin T. Furey (D)
Rep. Wanda Grinde (D)
Rep. Ralph Heinert (R)
Rep. Llew Jones (R)
Rep. Jim Keane (D)
Rep. Bruce Malcolm (R)
Rep. Diane Rice (R)
Rep. John (Jack) W. Ross (R)
Rep. Dan Villa (D)
Rep. Karl Waitschies (R)
Rep. Brady Wiseman (D)

Members Excused: Rep. Bob Bergren (D)
Rep. Jim Peterson (R)
Rep. Veronica Small-Eastman (D)
Rep. Jeanne Windham (D)

Members Absent: None.

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

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

Committee Business Summary:
Hearing & Date Posted: SB 178, SB 47, SB 51, 3/3/2005
Executive Action: None.

HEARING ON SB 178

SPONSOR: SEN. GREGORY BARKUS, SD 4, KALISPELL

Opening Statement by Sponsor:

SEN. GREGORY BARKUS opened the hearing on **SB 178,** a bill that addresses big game management and landowner protection of private property. This bill authorizes the Department of Fish, Wildlife and Parks to issue permits and adopt rules for the use of aircraft by landowners to haze big game.
{Tape: 1; Side: A; Approx. Time Counter: 0 - 6.9}

Proponents' Testimony:

Bill Galt, Cattle Rancher, White Sulphur Springs, said that the size of the elk herd on his property is now around 2,500 head and they have developed a taste for cultivated crops. The elk are destroying his irrigation pivots and it is nearly impossible to drive them away because of beaver dams, brush and swamp. He said they move cattle by using helicopters and feel that they would be successful moving elk that way.

Robert Hanson, State Vice President, Montana Farm Bureau, Meagher County, said that the large elk herds disrupt range management practices which are required by the state if the property is on an impaired stream. He said that it would be beneficial to have the use of aircraft in remote areas.
{Tape: 1; Side: A; Approx. Time Counter: 6.9 - 11.4}

Chris Christaens, Montana Farmers Union, expressed support and said that requiring permits will make this a useful tool to help protect agriculture land from wild game damage.

Barbara Broberg, Montana Women Involved in Farm Economics (WIFE), said that all the tools are needed in farming and noted support.

Larry Peterman, Chief of Field Operations, Fish, Wildlife and Parks (FWP), read and submitted his written testimony.
EXHIBIT(agh51a01)

Jay Bodner, Montana Stockgrowers Association, said that landowners contribute a significant amount of habitat for wildlife in Montana, and they don't want all of the elk. This is an opportunity for landowners to disperse the elk and avoid some economic loss in forage.
{Tape: 1; Side: A; Approx. Time Counter: 11.4 - 16.4}

Opponents' Testimony: None.

Informational Testimony: None.

Questions from Committee Members and Responses:

CHAIRMAN BUTCHER asked SEN. BARKUS whether authorization was being given to FWP only. **SEN. BARKUS** said that the authorization would be given to private land owners using their own aircraft.

REP. ROSS asked Mr. Galt if this would just be transferring the problem to the neighboring ranch. **Mr. Galt** said that is possible, but he would be happy to just put the elk on less valuable pasture on his ranch. He added that the area causing the biggest problem is bordered by the forest service, so ideally the elk would be hazed there. He stated that permission might need to be secured before moving the elk to a neighboring ranch. ***{Tape: 1; Side: A; Approx. Time Counter: 11.4 - 18.5}***

CHAIRMAN BUTCHER asked Mr. Galt about a ten-mile drift fence that was put up. **Mr. Galt** said that a neighbor put that fence up and it paid for itself in three years with the extra grass. Part of the fence cost was spent the second year maintaining the fence, but he had few problems since then with elk ruining fences. He said that it was 100% successful. They put up a regular fence using steel posts with extenders and 10-12 strands of barbed wire. Woven wire was used in high traffic areas.

CHAIRMAN BUTCHER asked if fencing had been a consideration on Mr. Galt's property. **Mr. Galt** said that the opportunity for the fence to pay for itself was not there, as his land borders forest service and is almost inaccessible. He said that Montana State University (MSU) is doing a study on his land to see what it takes to fence elk out. MSU is monitoring ten fenced enclosures that have good alfalfa hay inside. Their method is to increase the wires on an existing fence, rather than to rebuild the fence. They are using fiberglass or steel extensions and experimenting with different types of wire. He stated that another option is to put a single wire out 6-8 feet in front of the fence so the elk can't get a running jump at the fence.

CHAIRMAN BUTCHER asked about the ongoing success of keeping elk out and whether they ignore the aircraft after a time. **Mr. Peterman** said that herding animals with aircraft has been successful, but the question is how soon they will come back. If they can be driven to another less attractive area, they may stay. If it is a drought year, and the property has the only green grass around, they will have to be herded regularly.

CHAIRMAN BUTCHER asked if hazing was being combined with rubber bullets. **Mr. Peterman** said that they have a variety of techniques. Depending on individual circumstances they use cracker shells or propane cannons and they have herders.

Closing by Sponsor:

SEN. BARKUS closed by saying this is a good tool and a lot of people will make use of it.

HEARING ON SB 47

SPONSOR: SEN. RICK LAIBLE, SD 44, VICTOR

Opening Statement by Sponsor:

SEN. RICK LAIBLE opened the hearing on **SB 47**, a bill that would add domestic pets to protection from predators. The only change is on Page 1, Line 15 where the word "dog" would change to "pet."

Proponents' Testimony:

Barbara Broberg, Montana Women Involved in Farm Economics (WIFE), said that they support the bill.

Chris Christaens, Montana Farmers Union, said that pets become very important and if they are threatened by wild animals, they believe this opportunity should be available for use.

Opponents' Testimony: None.

Informational Testimony:

Larry Peterman, Department of Fish, Wildlife and Parks (FWP), said that they continue to support the concept of private citizens being able to kill a lion or a wolf if it is attacking, killing or threatening to kill livestock or domestic animals or pets. Mountain lions are managed as a game species and present no jurisdictional issues. He said that as long as wolves remain listed under the Federal Endangered Species Act that Federal regulations supercede State regulations. He stated that Federal regulations now provide the authority for a landowner in the area south of the Missouri River or I-190 to legally kill a wolf on their private land if it is threatening or attacking their livestock or guard animals or domestic dogs. The same authorization applies to permittees on federal land with an active grazing or outfitting permit to protect livestock or guarding or herding animals. He said that this is not the case in northwest Montana where the wolves are endangered. FWP is

actively supporting the delisting of wolves in Montana but Federal regulations will take precedent until they are formally delisted.
EXHIBIT(agh51a02)
{Tape: 1; Side: A; Approx. Time Counter: 16.4 - 30.0}

Questions from Committee Members and Responses:

REP. KEANE asked if a chicken would be a pet under this bill. **SEN. LAIBLE** answered that a chicken would be considered to be livestock. **REP. KEANE** said that he only had one chicken. **SEN. LAIBLE** answered that in that case he was impoverished and asked if the chicken was in the pot. **REP. KEANE** said no, it was in the house. **SEN. LAIBLE** said that he did not think that a chicken would be a pet, but that it was a nice try.

CHAIRMAN BUTCHER questioned that if the chicken was on a leash it would be a pet. **SEN. LAIBLE** said that he could not answer that question.

REP. WAITSCHIES asked if he was trying to massage the legislation to his own purposes. **SEN. LAIBLE** said that he was not, that this is a true cat and dog bill.

Closing by Sponsor:

SEN. LAIBLE said that it always fun to come back to a place that he loves dearly and be "roasted."
{Tape: 1; Side: B; Approx. Time Counter: 0 - 3.2}

HEARING ON SB 51

SPONSOR: SEN. KEN HANSEN, SD 17, HARLEM

Opening Statement by Sponsor:

SEN. KEN (KIM) HANSEN opened the hearing on **SB 51**, a bill to revise commodity laws. The bill authorizes the Department of Agriculture to revoke a license for failure to assess, report, or pay assessments and requires commodity dealers to retain and maintain records for five years.

Proponents' Testimony:

Nancy K. Peterson, Director, Montana Department of Agriculture, said that this legislation will help ensure that producer funds are used for the purposes for which they are collected. The proposed retention period for records will coincide with

requirements that grain warehouse operators must keep records for five years.
EXHIBIT(agh51a03)

Chris Christaens, Montana Farmers Union and Montana Grain Growers, said this is a protection for producers and will assure that the department can do follow-up on their required duties.

Barbara Broberg, Montana Women Involved in Farm Economics (WIFE), expressed support for SB 51.

Pam Langley, Montana Grain Elevators Association and Montana Seed Trade Association, said that they are the ones who collect this assessment from the producers. They support this bill because it will ensure compliance and no one will be able to keep the money.
{Tape: 1; Side: B; Approx. Time Counter: 3.2 - 8}

Opponents' Testimony: None.

Informational Testimony: None.

Questions from Committee Members and Responses:

REP. WAITSCHIES referred to Page 3, Subsection 3, and asked what someone would have to do to be a commodity dealer. **Ms. Peterson** said that the requirement is to be licensed to buy and sell grain. It can be a small dealer, a commodity warehouse, or a grain elevator.

REP. WAITSCHIES said that everyone in agriculture buys and sells grain, and asked if this was limited to commercial dealers or whether it refered to anyone that buys and sells grain. **Ms. Peterson** said that the assessments are collected on the first transaction when a commodity such as wheat, barley, alfalfa or potatoes is sold.

REP. WAITSCHIES asked if he would be required to buy a license and submit a payment when he buys seed wheat. **Ms. Peterson** said the assessment has already been collected on seed wheat purchased from a seed dealer or a seed warehouse.

REP. WAITSCHIES said that most of their business is done between neighbors and asked if he is a commodity dealer. **Ms. Peterson** said no, that his primary business is not buying and selling seed. A registered seed dealer that deals in certified seed would have different rules that apply.
{Tape: 1; Side: B; Approx. Time Counter: 8 - 11.6}

REP. RICE asked how big a problem this was and if a large amount of money was in arrears. **Ms. Peterson** said they had a situation that took place and was remedied through legal counsel and negotiation. Because the department had no recourse to suspend or revoke the license, nor did they have the requirements for record keeping, Ms. Peterson is not satisfied that every penny taken from producers was paid. She said that she knew of only one situation, but it extended over several years.

REP. RICE asked what the exact dollars were that were involved. **Ms. Peterson** said that the settlement was in the $15,000 to $20,000 range, but because of a lack of record keeping they could not determine an exact amount.

REP. ANDERSON said that people buy seed barley or seed corn from other farmers and asked if they would be covered under this. **Ms. Peterson** said that the primary business is not commodity dealing, so sales from producer to producer and neighbor to neighbor do not fall under this bill.

REP. MALCOLM asked for clarification about hay. **Ms. Peterson** said it is only on alfalfa seed, and that is 1/2 of 1%.

Closing by Sponsor:

SEN. HANSON said that this is a housekeeping bill that gives the department more latitude. He asked that REP. BERGREN or REP. WINDY BOY carry the bill on the floor.

CHAIRMAN BUTCHER closed the committee meeting.
{Tape: 1; Side: B; Approx. Time Counter: 11.6 - 15.9}

ADJOURNMENT

Adjournment: 5:10 P.M.

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REP. EDWARD B. BUTCHER, Chairman

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LINDA KEIM, Secretary

EB/lk

Additional Exhibits:

EXHIBIT(agh51aad0.PDF)