

MINUTES

**MONTANA SENATE
58th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON AGRICULTURE, LIVESTOCK AND IRRIGATION

Call to Order: By **CHAIRMAN KEITH BALES**, on March 21, 2003 at 3 P.M., in Room 422 Capitol.

ROLL CALL

Members Present:

Sen. Keith Bales, Chairman (R)
Sen. Dale Mahlum, Vice Chairman (R)
Sen. Ken (Kim) Hansen (D)
Sen. Sam Kitzenberg (R)
Sen. Walter McNutt (R)
Sen. Linda Nelson (D)
Sen. Gerald Pease (D)
Sen. Corey Stapleton (R)
Sen. Mike Taylor (R)
Sen. Joseph (Joe) Tropila (D)

Members Excused: None.

Members Absent: None.

Staff Present: Jennifer Stephens, Committee Secretary
Doug Sternberg, Legislative Branch

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

Committee Business Summary:

Hearing & Date Posted: HB 553, 3/7/2003
Executive Action: HB 388, HB 653

HEARING ON HB 553

Sponsor: REP. DAVE GALLIK, HD 52, HELENA

Proponents: JOHN PARKER, HD 45, GREAT FALLS
BRUCE MALCOLM, HD 25, EMIGRANT
MICHAEL LANGE, HD 19, BILLINGS
Gina Wiest, Lewis and Clark Humane Society
Jack Archowe, Stevensville
Ed Tinsley, Lewis and Clark County Commissioner
Mary Beth Acker, Ravalli County
Sarah Cecryle, Lewis and Clark County Animal
Control
Dr. Tia Nelson, Veterinarian, Helena
Valerie Wilson, Helena
Linda Hughes, Cascade Humane Society
Barbara Broberg, Women Involved in Farm Economics

Opponents: None

Opening Statement by Sponsor:

REP. DAVE GALLIK, HD 52, HELENA, explained that HB 553 was brought forth by many different groups of people. He said that the bill responds to the Camp Collie situation in Shelby. The bill concerns stricter penalties for animal abusers.

Proponents' Testimony:

JOHN PARKER, HD 45, GREAT FALLS, summarized the bill and explained the changes made in the House sub-committee. He also wanted to clarify any agricultural concerns.

BRUCE MALCOLM, HD 25, EMIGRANT, further summarized the bill. He offered to answer any questions.

MICHAEL LANGE, HD 19, BILLINGS, announced he also worked on the House sub-committee that amended the bill. He spoke in favor of the bill because he thinks it fortifies current animal abuse statutes. He wanted to make sure that the language in the bill didn't confuse law enforcement or unnecessarily cause someone who trains their hounds to be convicted of animal abuse.

Gina Wiest, Lewis and Clark Humane Society, submitted written testimony, **EXHIBIT**(ags60a01).

Jack Archowe, Stevensville, said when he was county commissioner for Ravalli County, he received a number of calls regarding animal abuse. He thinks the bill is important to local government because it will help reduce the amount of money that is spent on abused animal care. He also mentioned that the bill would allow police officers to be able to make a judgement when they run into animal abuse cases.

Ed Tinsley, Lewis and Clark County Commissioner, said he supports the bill because it gives communities the tools they need to deal with local problems.

Mary Beth Acker, Ravalli County, submitted written testimony, **EXHIBIT (ags60a02)**.

Sarah Cecryle, Lewis and Clark County Animal Control, submitted written testimony, **EXHIBIT (ags60a03)**.

Dr. Tia Nelson, Veterinarian, Helena, supported the bill, but said she had a few concerns. She wanted to know why the phrase "providing an exception by a veterinarian" was struck on page 1. She explained that she gets called by law enforcement officers to go and check out abused animals. She said it would be nice to know she had some protection under the law when she is examining abused animals. She was also concerned about the section on aggravated animal cruelty. The section only covers animals that are killed because of abuse. She suggested that penalties should be issued even if an animal doesn't die from abuse. She ended by saying that she receives great satisfaction from being able to help injured animals. She would be pleased to know that there were laws on the books that might deter people from being cruel to animals.

Valerie Wilson, Helena, rose in support of the bill. She added that the aggravated animal cruelty section is helpful for Montana prosecutors because it distinguished between intentional acts and negligent acts. She had the same concerns as **Dr. Nelson**.

Linda Hughes, Cascade Humane Society, urged the committee to support HB 553. She said that laws are unenforceable when the financial burden is placed on the counties and local humane societies. She said she thinks the perpetrators should have some responsibility for caring for their animals. She also submitted written testimony, **EXHIBIT (ags60a04)**.

Barbara Broberg, Women Involved in Farm Economics, supported HB 553.

Questions from Committee Members and Responses:

SEN. JOE TROPILA asked **REP. PARKER** to explain in more detail the amendment that he wanted to see added to the bill. **REP. PARKER** explained that on page 5, it would be advisable to add another section that would grant a judge authority to keep animals in a shelter. He thinks that amendment would also allow a judge to require that the animal's owner pay for all expenses accrued.

SEN. KEN HANSEN asked **REP. PARKER** if there was an effective date on the bill. **REP. PARKER** said no, but the default date would be October 1, 2003. He further asked if the bill would work retroactively. **REP. PARKER** said no. A law cannot work backwards to apply to something that has already happened.

SEN. KEITH BALES asked **REP. PARKER** what would be the parameters for ranchers whose cattle have gone without water. **REP. PARKER** explained that line 1 through 3 of the bill outlined how a judge could make a fact-specific determination of whether or not an animal was neglected or abused.

SEN. DALE MAHLUM asked **REP. MALCOLM** why feed standards had been taken out of the bill. **REP. MALCOLM** said that part of the bill had been removed because the feed standard imposed a cost on owners.

SEN. WALTER MCNUTT asked **REP. DAVE GALLIK** where the bonding in the bill was located. **REP. GALLIK** said the bonding was added in section 3 of page 5, line 5.

SEN. KIM HANSEN asked **REP. GALLIK** if surrounding states had passed similar bills. **REP. GALLIK** said as the law stands now, the state of Montana is behind. He added that passing the bill would make our animal abuse statute equal to the animal abuse laws of neighboring states.

SEN. GERALD PEASE asked **REP. GALLIK** if the bill was heard in the House Judiciary, why it wasn't likewise heard in Senate Judiciary. **REP. GALLIK** said for some reason, it was assigned to Senate Agriculture. He explained that Judiciary was so busy that they needed to transfer some bills.

SEN. KEITH BALES asked **Dr. Nelson** how they could change the exemption of liability clause that excluded veterinarians from the parameters of the bill. **Dr. Nelson** suggested that veterinarians' rights be written back into the bill. She also suggested that the word "euthanization" on page 5 be changed to "euthanasia".

SEN. BALES asked **REP. GALLIK** to clarify how an animal abuser could be charged for multiple abuses. **REP. GALLIK** said the reason that was added to the bill was to give the prosecutor the discretion to charge either misdemeanors or felonies. A felony can be charged when over 10 animals are abused. **Doug Sternberg, Legislative Staffer**, further clarified that section of the bill. **SEN. BALES** asked if the only penalties or fines that could be imposed were listed in subsection 2. **Mr. Sternberg** said yes.

Closing by Sponsor:

REP. DAVE GALLIK, HD 52, HELENA summarized the bill and said he would have no problems with the suggested amendments. He closed on HB 553.

EXECUTIVE ACTION ON HB 388

Motion: **SEN. MAHLUM** moved that HB 388 BE CONCURRED IN.

Discussion:

SEN. DALE MAHLUM emphasized the importance of the bill.

SEN. WALTER MCNUTT remembered a proponent mentioning that the time line of 40 years was a bit long. He thought it might be a good idea to change the time line.

SEN. MAHLUM thought that 20 years might be more reasonable. He proposed that the bill be amended to change "40 years" to "20 years".

Motion/Vote: **SEN. MAHLUM** moved that HB 388 BE AMENDED. Motion carried unanimously.

SEN. NELSON said she had heard that the Halligan Law was still tied up in the court system. She asked if that would happen to HB 388 if it were passed. **Mr. Bloomquist** said that the Halligan Law did go to the Montana Supreme court but it has since been resolved.

Motion/Vote: **SEN. TROPILA** moved that HB 388 BE CONCURRED IN AS AMENDED. Motion carried unanimously.

EXECUTIVE ACTION ON HB 653

Motion: **SEN. BALES** moved HB 653 .

Motion: SEN. NELSON moved that HB 653 BE CONCURRED IN.

Mr. Sternberg announced that REP. LAMBERT asked for the bill to be amended. Mr. Sternberg explained the proposed amendment, EXHIBIT(ags60a05). He also explained an amendment proposed by Pam Langely, MT AgriBusiness Association, EXHIBIT(ags60a06).

Motion: SEN. NELSON moved REP. LAMBERT'S amendments for HB 653 .

Motion/Vote: SEN. TROPILA moved that HB 653 BE AMENDED. Motion carried unanimously.

SEN. STAPLETON asked SEN. NELSON if the bill was only appropriate during times of drought, meaning that it might need a sunset clause, or if the bill would be a permanent change in the law. SEN. NELSON said she thinks it is always a good idea to have the law in place because the state grain lab is an impartial lab. If grain is tested there, there can be no unfair bias or conflict of interest.

SEN. TROPILA added that he thought the state grain lab was the only lab in the state that is federally approved.

Motion/Vote: SEN. NELSON moved that HB 653 BE CONCURRED IN AS AMENDED. Motion carried unanimously.

EXECUTIVE ACTION ON HB 531

Motion: SEN. TAYLOR moved that HB 531 BE CONCURRED IN.

Mr. Sternberg passed out a number of amendments. He went over the details of SEN. TAYLOR'S amendment, EXHIBIT(ags60a07).

Motion/Vote: SEN. TAYLOR moved that HB 531 BE AMENDED. Motion carried unanimously.

Motion: SEN. NELSON moved that HB 531 BE AMENDED. She passed out copies of her proposed amendment, EXHIBIT(ags60a08). Mr. Sternberg summarized the bill.

Vote: Motion that HB 531 BE AMENDED carried unanimously.

Motion: SEN. NELSON moved that HB 531 BE AMENDED. She passed out copies of her proposed amendment, EXHIBIT(ags60a09).

SEN. TAYLOR asked if a person would have to get permission from his neighbors each time he went to haze. **Mr. Sternberg** said presently, a person would have to ask permission each time.

{Tape: 3; Side: A}

Vote: Motion that HB 531 BE AMENDED carried unanimously.

Mr. Sternberg announced he had two different amendments proposed by **SEN. MCNUTT**.

Mr. Sternberg explained **SEN. MCNUTT'S** amendment concerning the permit process, **EXHIBIT (ags60a10)**.

SEN. TAYLOR said he was hesitant to strike lines 23 through 25 in their entirety.

SEN. MCNUTT said if the section in his amendment is removed, he would like to at least see a limit put on the permit.

SEN. NELSON said she had the same concerns as **SEN. MCNUTT**.

SEN. MCNUTT said he would omit number 4 of his amendment for the time being.

Motion/Vote: **SEN. MCNUTT** moved that HB 531 BE AMENDED. Motion carried unanimously.

SEN. MCNUTT moved his second amendment, **EXHIBIT (ags60a11)**.

Vote: Motion that HB 531 BE AMENDED carried unanimously.

Motion/Vote: **SEN. TAYLOR** moved that HB 531 BE CONCURRED IN AS AMENDED. Motion failed 2-8 with **BALES** and **TAYLOR** voting aye.

Motion/Vote: **SEN. BALES** moved that HB 531 BE INDEFINITELY POSTPONED AND THE VOTE REVERSED. Motion carried unanimously.

ADJOURNMENT

Adjournment: 6:30 P.M.

SEN. KEITH BALES, Chairman

JENNIFER STEPHENS, Secretary

KB/JS

EXHIBIT (ags60aad)