MINUTES

MONTANA HOUSE OF REPRESENTATIVES
59th LEGISLATURE - REGULAR SESSION

COMMITTEE ON AGRICULTURE

Call to Order: By **CHAIRMAN EDWARD B. BUTCHER**, on February 8, 2005 at 3:22 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. Wanda Grinde (D)
Rep. Ralph Heinert (R)
Rep. Llew Jones (R)
Rep. Jim Keane (D)
Rep. Jim Peterson (R)
Rep. Diane Rice (R)
Rep. John (Jack) W. Ross (R)
Rep. Veronica Small-Eastman (D)
Rep. Dan Villa (D)
Rep. Karl Waitschies (R)
Rep. Jeanne Windham (D)
Rep. Brady Wiseman (D)

Members Excused: Rep. Kevin T. Furey (D)
Rep. Bruce Malcolm (R)

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: HJ 11, HJ 7, HB 405, HB 484, HB 459, 2/4/2005
Executive Action: None.

HEARING ON HJ 11

Sponsor: REP. JONATHAN WINDY BOY, HD 32, BOX ELDER

Opening Statement by Sponsor:

REP. JONATHAN WINDY BOY opened the hearing on **HJ 11**, a bill urging cooperation between state, federal & tribal agricultural research programs. He said that there are seven reservations and seven tribal colleges that are accredited with Northwest Accreditation in Montana. The Fort Belknap college already has a collaborated effort on a teacher education program. He explained that when a student attends a tribal college, existing memorandum automatically sets up dual enrollment with the Montana State University System. For example, the credits transfer when a student successfully finishes two years at a tribal college and they will enter the university with third-year status.

REP. WINDY BOY said that the people at the agriculture research station are willing to set up some of the education curriculum to share a research scientist in education effort. He distributed a handout that contained the minutes from the Northern Plains Agriculture Research Laboratory (NPARL) meeting of November 29, 2004, which gives updates on many NPARL projects.
EXHIBIT(agh31a01)

Proponents' Testimony:

REP. MARGARETT CAMPBELL, HD 31, POPLAR, said that she is a Fort Peck resident and expressed support. She gave a background of Land Grant Institutions and explained the variety of courses that the tribal colleges offer. She noted that they haven't been very good at exchanging services with other Indian nations within the state and this bill will open up that opportunity.
{Tape: 1; Side: A; Approx. Time Counter: 0 - 13.9}

Jody Leland, Director, Agriculture Department, Fort Peck Community College (FPCC), distributed FPCC brochures entitled: "Export Opportunities For Montana Pulse Crops In India," "FPCC Agriculture Department," and "FPCC Agriculture Division." The last handout was a statement of support listing collaborations between FPCC and the College of Agriculture at Montana State University (MSU). She said that this collaborative effort will help stretch their limited resources.
EXHIBIT(agh31a02)
EXHIBIT(agh31a03)
EXHIBIT(agh31a04)
EXHIBIT(agh31a05)

Barbara Broberg, Montana Women Involved in Farm Economics, testified in favor of HJ 11.

Carrie Archdale, FPCC, told about some of the different programs at FPCC that transfer to MSU in Bozeman. Their largest program is the Veterinary Technician Program. They are collaborating with MSU's Animal Science Program to get the Associate of Science and Veterinary Science Program, and hope to get one other tribal college in Montana to incorporate that program.

Dan Kinsey, Fort Belknap College, said that he is the Project Coordinator for a National Science Foundation funded tribal college university project. He said that they are collaborating with MSU on West Nile Virus in mosquitos. In the past, they have done noxious weed bio-control with leafy spurge and flea beetles. They have also done plague studies; there is an insect physiologist on the staff at FPCC.

Jeff Jacobsen, Dean of the College of Agriculture; Director, Agriculture Experiment Station, said that all of the agricultural research centers and the Bozeman based researchers would be happy to collaborate. He said that resources are scarce, and he would like to continue to expand the partnership.
{Tape: 1; Side: A; Approx. Time Counter: 0 - 21}

Nathaniel St. Pierre, Dean of Academics, Stone Child College, Rocky Boy Reservation, said that many students and faculty are interested in doing agricultural based research. There are issues facing their tribe that the college can facilitate; renewable energy (wind-farm development), natural resource management for land use, native plants, ethno-botany, water resource management, bio-technology (genetically modified foods), ethno-tourism, and small business development.

Stone Child College is ready to assist the tribe and the community to build both short-term and long-range research agendas. They want to establish an institutional review board training students to design, conduct, and interpret different types of applied research projects. They want to train non-Indian researchers to work within Indian communities. They plan to develop curriculum in farm and ranch management, animal science, and environmental sciences. They hope to build their own native plant garden using the design of a specially constructed greenhouse. Mr. St. Pierre feels that research collaboration is a win-win situation; he said that they want to maximize their resources, and work together to process change and be research leaders.

Ron Swan, Chippewa Cree Tribe, Department of Natural Resources, said that there were no noxious weeds in the 1970's, but that began to change in the 1980's. Hill County Weed District and the Bureau of Indian Affairs (BIA) worked together on the problem, and the Rocky Boy Noxious Weed District was formed in the mid 1990's. It is now operating with funding from various sources. He said that there are not enough programs to educate people about the weed problem.

Joel Clairmont, Deputy Director, Montana Department of Agriculture, said that he came as a spokesperson for the Director of Agriculture, Nancy K. Peterson, and spoke in favor of HJ 11.

Mary Ruth St. Pierre, Tribal Extension Agent, Stone Child College, said that she is located on the Rocky Boy Reservation. They have worked on youth development, and have established a 4H program on the Rocky Boy Reservation after 20 years absence. They started the program with 20 members, and have expanded to 80 members and 25 adult volunteers. She said that their working relationship with MSU in the establishment of the 4H Club has been instrumental to the Stone Child College program. They would like to expand to other areas of the extension program, particularly the noxious weed research program.

Jody Leland, FPCC, said that she wanted to add that Dr. Vincent Smith, Professor at MSU, had written favorably about the numerous projects that had been accomplished because of the partnership between MSU and FPCC. Their projects this year have brought in $300,000-$400,000 from beef and barley marketing, specialty crop marketing, buffalo marketing projects, and risk management.

Opponents' Testimony: None.

Informational Testimony: None.
{Tape: 1; Side: A; Approx. Time Counter: 13.9 - 28}

Questions from Committee Members and Responses: None.

Closing by Sponsor:

REP. WINDY BOY closed by saying that only three tribal colleges were mentioned, but they hope to include the other four colleges in this collaboration.

HEARING ON HJ 7

SPONSOR: REP. VERONICA SMALL-EASTMAN, HD 42, LODGE GRASS

Opening Statement by Sponsor:

REP. VERONICA SMALL-EASTMAN opened the hearing on **HJ 7**, a bill urging Congress to restrict the border opening until Bovine Spongiform Encephalopathy (BSE) is controlled. She said that Canada is not abiding by their rules, and consumers and cattle producers want to protect themselves and their herds. The cattle industry in Montana has decreased, as a result they lost $22 million in foreign exports. Making sure that the Canadian borders are closed to live cattle trade may guarantee a chance to resume exports. Extensive research needs to be completed before the Canadian border is re-opened.

Proponents' Testimony:

Chris Christaens, Montana Farmers Union, said that the continuing Canadian problem with inadequate feed bans shows that Canadian protocol is lacking. When the contaminated pool of Canadian cattle is blended with the United States (US) herd, it will unnecessarily jeopardize the confidence that US consumers have in the safety of the meat products that they buy. It will make regaining lost export customers much worse. This places an unnecessary financial burden on American cattle producers. A positive animal identification system needs to in place; and Country of Origin Labeling (COOL) needs to be implemented.
{Tape: 1; Side: B; Approx. Time Counter: 9.4 - 18.5}

Steve Pilcher, Executive Vice President, Montana Stockgrowers Association, said that a letter signed by seven livestock organizations was sent to the congressional delegation January 7. It identified many concerns that should be addressed before Congress makes their final decision on border regulations. He suggested some amendments that would update the statistics. He is also concerned about tying mandatory country of origin labeling to this issue. For informational purposes only, he handed out a resolution about Canadian trade that is the National Cattlemen's Beef Association current policy.
EXHIBIT(agh31a06)

John Semple, Montana Wool Growers, and Montana Dairy expressed support for HJ 7.

Leo McDonnell, President, R-Calf USA, Rancher and Seed Stock Bull Breeder, Columbus, listed historic safeguards used in the US to keep BSE out. A no-tolerance risk program was adopted by the United States Department of Agriculture (USDA) in 1989. In 1997, a meat and bonemeal ban was implemented. In 1998, USDA commissioned Harvard to do a risk analysis on BSE safeguards in the US. He said that the two best fire-walls in the US are an

import ban on countries known to have BSE, and our meat and bonemeal ban. He expressed concern about the current liberalization of the import ban. He noted that people are already coming into restaurants asking whether they serve Canadian or US beef.
{Tape: 1; Side: B; Approx. Time Counter: 0 - 18.5}

Joel Clairmont, Deputy Director, Montana Department of Agriculture, testified on behalf of Director, Nancy Peterson, and presented written testimony.
EXHIBIT(agh31a07)

Lillian Ostendorf, Board of Directors, Montana Farm Bureau, and eastern Montana cattle producer, said that this is an important issue and expressed support for HJ 7.

John Lockie, Executive Director, Montana Cattlemen's Association, said that he supported HJ 7. He said that Canadian regulations have failed Canadian producers and that Montanans cannot allow the Canadian system to damage the system in Montana.

Dennis McDonald, Melville Rancher, President, Montana Cattlemen's Association, spoke in favor of the bill. They do not object to Amendments 1-5, but they do object to the other amendments.

Eric Kalsta, Rancher, said that he supports HJ 7. He is worried about the effect this problem will have on the cattle industry, and said that a BSE case would drive costs down. He said that the incubation period for this particular disease is not known, and noted that cattle in Japan have died at 19 months of age from BSE. According to the "Vancouver Sun," animal proteins have been found in many Canadian feeds, but they are not listed.

Cody Ferguson, Northern Plains Resource Council, said that they support HJ 7. They strongly support including country of origin labeling in this resolution.

Brett DeBruycker, DeBruycker Charlois, and Vice President, Montana Cattlemen's Association, said that they support HJ 7. They support Amendments 1-5, but not Amendments 6-7.
{Tape: 1; Side: B; Approx. Time Counter: 18.5 - 30}

Lars Hanson, Producer, Laurel; Director, Montana Cattlemen's Association, stated support for HJ 7.

Wally Congdon, Dell, Deputy State Attorney, said that the producers do not believe that a fair process was given them by the United States Department of Agriculture (USDA) to allow participation in the development of the March 7, 2005, rule.

Don Allen, representing the Powell County Commissioners, said that he was asked by the commissioners to support HJ 7 on behalf of their prison dairy herd.

Opponents' Testimony: None.

Informational Testimony:

Barbara Broberg, Montana Women Involved in Farm Economics (WIFE), told the committee that a machine is available that can look at cattle feed and determine the content, but it is expensive. She said that the state is not going to fully fund HB 2, so purchasing it will not be possible.
{Tape: 2; Side: A; Approx. Time Counter: 0 - 5}

Tom Linfield, State Veterinarian, Department of Livestock (DOL), said that DOL urges USDA to continue to base their decisions on sound scientific information and research. He expressed agreement with Mr. McDonnell's assessment that a message we can send to the international community is to develop better guidelines for international marketing, for this disease, as well as other diseases. The most important thing is that the countries adhere to the guidelines for the different risk categories.

Questions from Committee Members and Responses:

REP. LAMBERT asked Leo McDonnell if he had a written copy of his testimony. **Mr. McDonnell** said that he had a hand-written copy that he would give to her. (The secretary did not receive it, so was unable to enter it into the minutes.)

REP. WAITSCHIES asked REP. SMALL-EASTMAN for a small change on Line 26 of the bill. He said that "...there are reports," sounds like they heard a rumor, and suggested that he would like this to be stated as a fact, or otherwise change the wording. **REP. SMALL-EASTMAN** said that she would ask the staffer to check on it.

Closing by Sponsor:

REP. SMALL-EASTMAN closed by saying that the cattle industry needs protection. It is the most important industry in Montana. Approximately 27,000 head of cattle were tested for BSE in Canada, as compared to approximately 200,000 head of cattle in the United States. She said that it doesn't appear that Canada really cares what happens to their herd, or to the United States cattle industry. She cited the need to urge our congressmen, and the United States Congress, to make sure that the USDA keeps the borders closed until Canada gets BSE out of their cattle herd.

(The committee took a five minute break)

HEARING ON HB 405

SPONSOR: REP. WILLIAM JONES, HD 9, BIGFORK

Opening Statement by Sponsor:

REP. WILLIAM JONES opened the hearing on **HB 405**, a bill that would revise seed laws on genetically engineered wheat seed, and asked the committee to table the bill because there is a similar bill in the works.

Proponents' Testimony: None.

Opponents' Testimony: None.

Informational Testimony: None.

Questions from Committee Members and Responses: None.

CHAIRMAN BUTCHER closed the hearing.

HEARING ON HB 484

SPONSOR: REP. LLEW JONES, HD 27, CONRAD

Opening Statement by Sponsor:

REP. LLEW JONES opened the hearing on **HB 484**, a value-added agriculture bill that allows mobile meat processor units to be licensed and inspected. He pointed out the advantages: the origin of the meat would be clearly known, and the animals would not have to be moved prior to slaughter. This would create less stress on the animal and, ultimately, better meat. He said that he did not agree with the official fiscal note, as four mobile units would not be operating by 2006. He stated that "Grow Montana" created their own fiscal note, and gave copies to the committee, explaining how they arrived at their cost. He stressed that this bill would not have a negative impact on the custom slaughter company operating in the Valier area. He passed around pictures and prices of a mobile meat processing unit.
EXHIBIT(agh31a08)
EXHIBIT(agh31a09)

Proponents' Testimony:

Mike McGinley, Beaverhead County Commissioner, Dillon, said that for the last 22 years he has run Beaverhead Meats. He chairs a

committee on the Beaverhead Development Corporation called "Value-Added Ag." He said that it is important to build good relationships with customers and work toward economic development. He asked for support on HB 484.

Jan Tusick, Mission Mountain Ag Enterprise and Cooperative Development Center, said that Montana lacks the infrastructure to help producers create added value to their products in the area of processing. She stressed that this bill does not alter or lower existing regulations, and it does not affect existing exemptions, such as Statute 81-9-218. Written testimony was presented to the secretary to be entered into the record.
EXHIBIT(agh31a10)

Sarah Stokes, Garden City Harvest, said that Garden City Harvest is a Missoula based non-profit that provides fresh, local food to the patrons of the Missoula Food Bank. They provide 30,000 pounds of fresh produce to the food bank annually. In order to provide a more balanced diet, including protein, they are initiating a project to raise chickens and turkeys for distribution to food bank patrons. They hope to raise 300 chickens and 200 turkeys. However, food bank policies require inspection for poultry and there is no inspection facility available for their use. She asked for support of HB 484.

Becky Wheat, co-owner of 13 Mile Lamb and Wood Company, Belgrade, said that they drive about 180 miles (one-way) to Great Falls with a trailer-load of lambs once a month, to get to a qualified meat cutter. They sell about 400 lambs per year, and could sell more, but the limitations of packing capacity and access are a real worry. This bill will enable producers to develop their own markets, and it will remove unintentional, unnecessary regulatory obstacles.
{Tape: 2; Side: A; Approx. Time Counter: 5 - 29.7}

Linda Gryczan, Lobbyist, Grow Montana, said that it was hard to get people to come and testify in person as calving just started.

Virgil Dupuis, Extension Director, Salish Kootenai College, sent written testimony.
EXHIBIT(agh31a11)

Brad Radtke, Rancher, Drummond, sent written testimony.
EXHIBIT(agh31a12)

Karalee Bancroft, Caroline Ranch, Boulder, sent written testimony.
EXHIBIT(agh31a13)

Christopher Sullivan, President, Montana Buffalo Gals, Inc., Dixon, sent written testimony.
EXHIBIT(agh31a14)

Frank Delgado, Gilgal Farms, St. Ignatius, sent written testimony.
EXHIBIT(agh31a15)

Eric Kalsta, Montana Heritage Beef, said that he direct markets 15% of his cattle. There are markets on the west coast that could sell his product, if he could get USDA inspection. He noted that he could triple his gross by keeping a calf an extra year. He suggested that if the economic development corporation owned a mobile unit, it could be leased out to producers or various meat markets to do the slaughter. He felt that the revenue potential created by the additional income outweighs the cost of the meat inspector, who in most cases is already working on slaughter days.
{Tape: 2; Side: B; Approx. Time Counter: 0 - 5.8}

Chris Christaens, Montana Farmers Union, said that the custom meat cutter that REP. JONES talked about is the Christaens Market in Valier, and they are exempted from this bill. For the last five years, his brother has been selling beef on the hoof, and the people that buy it know exactly where that beef comes from. This is a great opportunity for producers to add value to their product and be able to sell the meat at markets that are not currently available to them.

Joel Clairmont, Deputy Director Montana Department of Agriculture (DOA), testified on behalf of Nancy K. Peterson. The DOA is in support of this bill because it helps build the infrastructure and opportunity for value-added products in the agriculture industry. He urged support of HB 484.

Brian Kahn, Member of the Board, Conservation Beef, said that they market a grass-fed, dry aged beef product within Montana and nationwide. Having access to mobile slaughter would be a major advantage for their business, and for other businesses that are trying to get value added from their beef.

Wally Congdon, Big Sky Natural Beef, Dell, said that two grants to build USDA facilities have gone to other states, but there is another grant coming up, with a deadline of June 30, 2005. If this bill passes, they intend to apply for the current grant. This proposal would not put people out of business; existing companies, inspectors, and employees could travel with this facility. He said that one day a week they send beef 125 miles for slaughter and USDA inspection so the meat can be sold across

state lines. Other than that they haul 80 miles. The public wants traceability and humanely treated livestock. For the last three years, the natural beef market has gone up 400-500% per year in New York City. This bill gives Montana producers the opportunity to get USDA inspected meat to out-of-state markets.

Kristina and Bill Martinell, owners of Nicholia Creek Beef, sent written testimony.
EXHIBIT(agh31a16)

Cody Ferguson, Northern Plains Resource Council, said that they support HB 484 because it gives family ranches the opportunity to add value to their product.
{Tape: 2; Side: B; Approx. Time Counter: 6.3 - 16}

Opponents' Testimony: None.

Informational Testimony:

Carol Olmstead, Bureau Chief, Meat and Poultry Division, State Department of Livestock, said that the State program was created under a cooperative agreement with USDA. The only difference between the Federal program and the State program, is that State inspected product has to stay within Montana borders. Statute 81-9-233 states that facilities operating under a grant of inspection will have to meet all of the requirements regarding potable water and sewage systems that are covered in appropriate state and local agencies such as the Department of Environmental Quality (DEQ), Department of Health, and the county health department. She expressed concern about what happens to the carcasses that are inspected and passed, as the bill does not pertain to processing in these mobile facilities. The bill needs to clarify that carcasses must go to a State-inspected facility, for further processing after inspection.

Joan Forcella, Owner, Forcella Meats, Whitehall, said that their facility is State-inspected, and she felt that mobile inspection would be more difficult to achieve. She emphasized that State inspection does not allow sale of product out of state. She said that country of origin labeling only determines where slaughter took place, but that does not determine where the animal came from. She raised questions that need to be addressed; i.e., how far out in the country the mobile unit would go and whether the carcass would be refrigerated immediately. She said that she did not have a problem with mobile units and was in favor of them.
{Tape: 2; Side: B; Approx. Time Counter: 16 - 23.5}

Questions from Committee Members and Responses:

REP. WISEMAN suggested to Mr. Congdon that this bill will allow Montana livestock operators to do what rustlers have been doing for years. **Mr. Congdon** did not agree. He stated that any carcass that is slaughtered at a State or Federally inspected facility has to have a brand inspection and a bill of sale. Also, the hide goes back with them to pay part of the bill for the slaughter, and the hide has to have a brand inspection done on it. If the brand is not visible on the outside, it will be visible on the inside. The system is already in place to prevent rustling.

REP. WISEMAN said that ranchers get hammered by controlled markets. He asked if this bill would allow ranchers to simply go around the livestock cartel, and if it would cause producer-operated cooperatives to sell branded beef. **Mr. Congdon** said that part of it is "the art of finishing cattle." He felt that was an accurate statement and would be a good thing to have happen.
{Tape: 2; Side: B; Approx. Time Counter: 23.5 - 26.9}

REP. WISEMAN asked about the "Chefs Collaborative." **Mr. Congdon** said that five of them are cooking dinner for the American Highland Cattle Association banquet in New Hampshire next spring. Three of the chefs are personal friends and would promote this because they believe in the importance of humanely slaughtered, identifiable livestock.

REP. RICE asked Mr. McGinley to comment on what was going to happen to the carcass and what would be done to keep the inside of the trailer from collecting dust. **Mr. McGinley** said that the carcass will have to go to an existing facility that is regulated by the state. He noted that Department of Livestock rules would determine how poultry would be handled. He stated that the trailer would be used for slaughter only, not for transport.
{Tape: 3; Side: A; Approx. Time Counter: 0 - 0.5}

REP. RICE asked for more information. **Mr. McGinley** said that the perception of the Chef's Collaborative for the animals being slaughtered on the farm is big to those people. If that is what the customers want, that is what we need to try to deliver.

REP. RICE asked what it would cost to go to Dell, Montana or wherever, slaughter some cattle, and bring them back to Mr. McGinley's plant. **Mr. McGinley** said that they do a lot of the existing custom slaughtering at their plant. He said that their plant is also a State-inspected plant, and he travels around Beaverhead, Madison, and Butte-Silver Bow Counties doing custom

slaughtering. He noted that about 200 head of beef will be moved by Mr. Congdon himself, and said that is value-added marketing on Mr. Congdon's part. Those cattle needed to be killed under inspection in a slaughter house. He said that Mr. Congdon's markets right now are inside the state, so it is legal to go with a State inspection. USDA-inspected slaughter facilities and a USDA-inspected plant must be used for East or West Coast sales, according to current interstate shipment laws.

REP. SMALL-EASTMAN stated that according to Ms. Olmstead, the bill needed language added for processing the meat. **Mr. Congdon** said that the way this bill is written, it states, "for slaughter only," and processing could not be done in the trailer. The carcass would go back to the processing plant and meat that is intended for sale would have to go to a State-inspected plant.

REP. PETERSON asked Ms. Olmstead about the $92,000 on the fiscal note and whether that would provide enough additional funding for state meat inspection services to a mobile plant like this. **Ms. Olmstead** said that it is difficult to write a fiscal note on these units, since they don't know how many units will be up and running. They said that the people currently on staff are already assigned, and do not have time to take on any more duties. Additional people would have to be trained and hired to follow these units around and know where they were at all times. They do not have any official poultry slaughter facilities in the state, and training would be required for both the training officer and the person assigned to this unit.

REP. PETERSON asked what kind of additional permitting that a mobile unit would require versus a stationary unit, such as coolers and off-loading of by products. **Ms. Olmstead** said that permitting would be similar to an existing establishment that has to qualify for the permits. She noted that the requirements have not all been lined out. The difficulty for the inspection force is that under the slaughter laws, all animals that are slaughtered under inspection have to receive a live inspection, an inspection while they are being harvested, and a post-mortem inspection. Depending on how far they are from an official unit, refrigeration may be necessary.

Closing by Sponsor:

REP. LLEW JONES emphasized that the two fiscal notes were different, because the official fiscal note forecast that four of these plants would be built by 2006-2007, and that he felt this would not be feasible. REP. JONES said that there would be an added cost if additional inspectors are required. He stated that

if this adds value to agriculture, it is a worth-while cost to deal with.
{Tape: 3; Side: A; Approx. Time Counter: 0.5 - 13.8}

HEARING ON HB 459

SPONSOR: REP. LARRY JENT, HD 64, BOZEMAN

Opening Statement by Sponsor:

REP. LARRY JENT opened the hearing on **HB 459**, a bill to re-establish the agricultural heritage program which expired in 2003 and needs to be renewed. He gave the committee two amendments, and they were entered into the record.
EXHIBIT(agh31a17)
EXHIBIT(agh31a18)

Proponents' Testimony:

Michael Lane, Three Forks, Chairman, Gallatin Open Lands Board, said that he was concerned with regulating growth and prefers the incentive-based, voluntary method offered in HB 459.
{Tape: 3; Side: A; Approx. Time Counter: 13.8 - 23.8}

Dusty Crary, Rancher, Choteau, said that there is more demand for easements than can be met currently. Re-establishing this program would make another tool available to people who wish to do an easement on their property. He felt that this bill re-enforces support for the right to implement voluntary conservation measures on private property.

Jim Stone, Rancher, Ovando, said that the previous program was used in the Blackfoot on numerous occasions and it is all about leverage. They have 85,000 acres of perpetual easements in the Blackfoot and this is one more tool that allows private landowners to plan for the future.

Mike Volesky, Governor's Office, said that he was formerly the Executive Director for the Agricultural Heritage Program. In its first year of operation, the commission received 22 grant applications requesting $3.5 million. Of these requests, the commission approved eight grants, for a total of $868,000 which was matched by $6.6 million from additional sources.
{Tape: 3; Side: A; Approx. Time Counter: 23.8 - 30}

Louise Dean, Rancher, Lincoln, stated that she wanted her land to stay in the same pristine condition it was in when she bought it over 60 years ago.

Denny Iverson, Blackfoot, said that this bill is needed, because it will fill a gap in what is currently available. There is plenty of money for habitat conservation and preservation, but not a lot of money for pure farmland preservation. He noted that there are a lot of people in his area who want to preserve their farm and ranch, but can't afford to donate it. If the easement is preserved for agriculture, it is available for someone who wants to be in the farm and ranch business, but can't afford to buy land.

Steve Pilcher, Montana Stockgrowers Association, said that it is obvious that Montana ranchers play a critical role in keeping and maintaining the landscape, but we can't enjoy that landscape if they can't stay on the land. This bill provides a voluntary means for farmers and ranchers to remain on the land.

Barbara Broberg, Montana Women Involved in Farm Economics, said that she agreed with previous testimony and asked for a DO PASS.

John Rimel, Missoula citizen, said that he lives on the south side of Missoula; his parents bought the land in 1955, and it was homesteaded in 1892. It has been identified in the city/county open space plan as one of the cornerstones of the Missoula Valley and it borders the city limits on two sides. Three acres across from his land are for sale for $280,000. He felt that agriculture is an important part of our heritage and our landscape and it is disappearing quickly. This bill provides a partial solution and provides the ability to leverage federal dollars to make some of these partnerships become a reality. He would like to make sure that language in the bill allows land trusts to be part of the solution.

Michael Harris, Open Lands Coordinator and Legislative Liaison for Gallatin County, urged support for this bill. He said that they used this program in Gallatin County and they made it successful by combining the dollars from several different funding sources and leveraging them. He noted the importance of the amendment allowing assignment to a qualified organization for monitoring, enforcement, and administration of the terms of the easement. He stressed that a non-profit organization can administer this at less cost.

Joe Skinner, Gallatin County Commissioner, farmer and rancher, sent written testimony urging support for HB 459.
EXHIBIT(agh31a19)

Anna Marie Harrison (Hayes), Rancher, sent written testimony urging support for HB 459.
EXHIBIT(agh31a20)

Brian Kahn, Artemus Common Ground, said that they are a Montana based non-profit that supports community efforts to enhance our natural resource economy and conserve the natural environment. He urged support of the Agriculture Heritage Program, and said that Artemus and the Consensus Council worked for many months on the details in this bill.
{Tape: 3; Side: B; Approx. Time Counter: 0 - 12.3}

Wendy Ninteman, Executive Director, Five Valleys Land Trust, said that this is a qualified private organization that has been working with landowners since 1989 on voluntary private land conservation projects. They hold 75 easements, ranging in size from 40 acres to 4,000 acres. Some people can make use of the income tax benefits associated with conservation easements, but many people are not able to take advantage of that tax benefit. Those people deserve to be paid for what they are giving up. Landowners can get 50% of the funding to pay for easements through the Farm Bill Federal Funding program, but the other 50% needs to be raised.

The Five Valleys Land Trust is funded by the community and by individual donors. Their capacity is limited. A program that could leverage other sources of private and federal money would make a big difference. In both Missoula and Gallatin County, when the open space advisory committee (public funding bond money) steps forward to purchase a conservation easement, the land trust holds the easement, but gives a secondary right of administration to the city entity. The Farm Bill works the same way. She urged support for re-establishing the heritage program.

Rick Anderson, Rancher, Fort Benton, said that he farms on the Missouri River. One of their problems is that if they try to do an easement, they are dealing with a federal entity. This gives them an extra tool to deal with locally.

Joel Clairmont, Deputy Director, Montana Department of Agriculture, speaking on behalf of Director Nancy K. Peterson, testified in favor of HB 459. He said they would leave it up to the committee to determine which department would administer the Agriculture Heritage Program.

Keith Schott, Producer, Broadview, President, Montana Grain Growers, said that they support HB 459. He urged support of the amendment to move administration of the program to the Agriculture Department.

Derrick Goldman, Montana Audubon, voiced support for the re-establishment of the Montana Heritage Program.

Danielle Rau, Montana Farm Bureau Federation, urged support.

Jerry Wells, Rocky Mountain Elk Foundation, stated support.

Jim Gladen, Vice President of Lands, Rocky Mountain Elk Foundation, sent written testimony supporting HB 459. **EXHIBIT(agh31a21)**

Ray Beck, Administrator, Conservation Resource Development Division, Department of Natural Resources and Conservation, said that DNRC managed the program before. It was an excellent program and they support it.

Rock Ringling, Managing Director, Montana Land Alliance, urged support of HB 459. He said that in the next eight years, 50% of Montana's private lands will change hands, either by sale to other buyers, or through succession planning. There will be retiring parents, and people buying out their brothers and sisters. This program gives an important tool for them to use. ***{Tape: 3; Side: B; Approx. Time Counter: 12.3 - 20}***

Mona Jamison, Lobbyist, Montana Association Land Trusts, said that they support the bill as amended by REP. JENT, and urged the committee to support HB 459 because preserving our family-based agricultural heritage is good public policy. At the same time, we have the opportunity to promote important cultural and economic values, in addition to the esthetic ones. She asked the committee to check Section 5, and said that the under-riding public policy of this program must be met. Section 7, the criteria for the easement, underscores that we are preserving the heritage we are proud of. She handed out written testimony that summarized the key points of HB 459 and urged support. **EXHIBIT(agh31a22)**

Opponents' Testimony: None.

Informational Testimony: None.

Questions from Committee Members and Responses:

REP. ROSS asked Mr. Harris how the price of a conservation easement is calculated when it is purchased. **Mr. Harris** said that whenever public money is used to purchase a conservation easement, the appraisal has to be done by a licensed real estate appraiser. To establish the value, an appraiser looks at the highest and best use of that property; many times that is the development value. They would find property that has sold with conservation easements in place and use those as their comparable sales. The difference between the full market value of the

property, and what it would be sold for with the conservation easement in place, is the value of the conservation easement. They are not purchasing development rights, they are only compensating the landowner for the value they are giving up, by placing that contractual deed restriction on it.

REP. ROSS asked what the source of the money was for purchasing a conservation easement. **Mr. Harris** said that in Gallatin County, the majority of easements were done because they have a public funding initiative passed by the voters. They passed an open space bond in 2000 and re-authorized another open space bond in 2004. They have in-house money to leverage against other outside funding sources. The principal source has been the Farm and Ranch Land Protection Program administered by the Natural Resource Conservation Service. He stated that they also work with other private foundations and there has not been a lot of State money available.

REP. HEINERT asked what happens to the easement when there are no heirs to inherit the property. **Mr. Harris** said that the property would go through normal estate process. The land transfers with the easement in place, as long as it was a perpetual easement. Under State law, they have the ability to use term easements that can go for a term of 15-30 years. If that was the case, the easement would be gone as soon as the term of the contract had expired.
{Tape: 3; Side: B; Approx. Time Counter: 20 - 29.8}

REP. ANDERSON asked Mr. Harris for more information on perpetual easements. **Mr. Harris** said that the majority of easements are perpetual easements, but either can be done. One of the benefits of a perpetual easement is a tax reduction given by the Federal government based on the donated value of the property.

REP. ANDERSON asked how the payment schedule works when an easement is created. **Mr. Harris** said that they use a lump sum payment up-front, as it is easier for the land owner to calculate capital gains that way.

REP. ANDERSON asked if the easement affects the property tax value, since it is no longer as valuable. **Mr. Harris** said that is written in State law. If the property is a Class 10, or a Class 3 property (agriculture or timber), the property tax level remains the same.

REP. SMALL-EASTMAN asked whether people who have deeded land within the interior boundaries of a Reservation are eligible for a conservation easement. **Mr. Ringling** confirmed that they do qualify and said that they hold four conservation easements

within the boundaries of reservations. The tribal government signs the easements, and the local county government also signs.

REP. SMALL-EASTMAN asked whether tribal governments can apply for easements for their own land. **Mr. Ringling** said that Montana Land Alliance holds an easement with the Flathead Tribe. The land was held in trust in an area under high development. The 43 family members agreed to transfer the property to the Tribe, but did not want it to be available for development. An easement with the Tribe was placed on the land at that time.

REP. SMALL-EASTMAN asked if they had to get a fee patent to change it into non-trust land. **Mr. Ringling** said that at the time that the title report was done, the attorneys determined that the fee ownership was held by the Tribe, so that was not an issue. He did not have any more information on the subject at this time.

Closing by Sponsor:

REP. JENT closed by asking for a DO PASS.
{Tape: 4; Side: A; Approx. Time Counter: 0 - 6.6}

ADJOURNMENT

Adjournment: 6:30 P.M.

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REP. EDWARD B. BUTCHER, Chairman

_____
LINDA KEIM, Secretary

EB/lk

Additional Exhibits:

EXHIBIT(agh31aad0.PDF)