MINUTES

MONTANA HOUSE OF REPRESENTATIVES
59th LEGISLATURE - REGULAR SESSION

COMMITTEE ON AGRICULTURE

Call to Order: By **VICE CHAIRMAN CAROL LAMBERT**, on February 17, 2005 at 3:20 P.M., in Room 472 Capitol.

ROLL CALL

Members Present:
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. Llew Jones (R)
Rep. Jim Keane (D)
Rep. Bruce Malcolm (R)
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)

Members Excused: Rep. Edward B. Butcher, Chairman (R)
Rep. Brady Wiseman (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: HJ 29, HB 728, HB 734, HB 627, HB 599, HB 635, 2/10/2005

Executive Action: HJ 11, HJ 22, HJ 7, HJ 29, HB 728, HB 399, HB 440, HB 406, HB 484, HB 674, HB 599, HB 627, HB 405, HB 573, HB 489, HB 734, HB 464, HB 635, HB 459, HB 547.

VICE CHAIRMAN LAMBERT opened the meeting.

HEARING HJ 29

SPONSOR: REP. DIANE RICE, HD 71, HARRISON

Opening Statement by Sponsor:

REP. DIANE RICE opened the hearing on **HJ 29**, a joint resolution about the wolf management plan and predator control laws. She said that this same resolution is going through the Idaho Legislature today, and it will also go through the Wyoming Legislature.
{Tape: 1; Side: A; Approx. Time Counter: 0 - 4.7}

Proponents' Testimony:

Bill Hoppe, Gardiner, Outfitter, said that in 1995 they were told that wolves would have little effect on their business. By 1997, elk cow and calf ratios were falling, entire communities of elk, mountain sheep, and moose were on the decline. By the end of 1999, big game herds were disappearing and their business was feeling the effects. He said that in the 2001 he testified against SB 163, a bill to remove the wolf from the state's predator list. He commented that the bill passed and the wolf reintroduction program was declared a success in January 2000. De-listing was to take place in 2002.

He has been told that the decimation of wildlife was due to drought, bad winters, bears, fires, and disease. He said that the program has gone way off track from what was intended and has caused great economic stress to many people. He is facing a 95% loss in his hunting business.

Bob Fanning, Chairman and Founder, Friends of the Northern Yellowstone Elk Herd, said that he represents 3,742 sustenance hunters from the area affected by wolf introduction. He said that when they first formed their group, 3,000 Montana sustenance hunters were able to participate in the Gardiner late season elk cow hunt. There will be only 150 hunters next year, and none the following year. He stated, "This is a program that is affecting the voiceless, the poor and the common man." He said that he has worked with three different state legislators to put HJ 29

together. The bottom line is intent (Congress never intended for this program to hurt the people that have to live with wolves), density, and civil rights (defending those who can't defend themselves). He stated that people living around Yellowstone Park have been intentionally targeted for destruction by extremist groups who are using high wolf densities to violate the Fifth Amendment and other Constitutional rights.
{Tape: 1; Side: A; Approx. Time Counter: 4.7 - 11.1}

Nancy Schlepp, Montana Farm Bureau Federation, said that they support HJ 29. She said that they, Montana Stockgrowers Association, and the Montana Woolgrowers Association have been heavily involved in lawsuits since 1990 trying to prevent this. She praised the progress that was being made.

Gary Marbut, President, Montana Shooting Sports Association, Missoula, said that they are the primary political advocate for gun owners and hunters in Montana. He noted that he had read the studies about wolves in Alaska and other places, and he is convinced that sportsmen will suffer a huge hit because of wolves. He feels that once the game herds are depleted, the wolves will be after the cattle, the sheep, and the horses. He said that the wolves need to be managed aggressively.
{Tape: 1; Side: A; Approx. Time Counter: 11 - 20}

Elaine Alsted, Sweet Grass County Commissioner, Rancher, said that they support the resolution. She stated that several of the counties adjacent to Yellowstone Park have passed similar resolutions, and they have been given to the Governor, the President, and our representatives. She said that she is on the Yellowstone Ecosystem Sub-Committee of the Grizzly Bear Recovery Team. She said that this is the eleventh year of de-listing the grizzly bear, and predicted that the same thing would happen with the wolf. She emphasized that ranchers, outfitters, and local hunters cannot take another year before de-listing is done and they have some rights to protect their property.

Steve Pilcher, Executive Vice President, Montana Stockgrowers Association, said that they support HJ 29. He said that the sportsmen and the livestock owners have a big stake in this resolution. Their focus is to de-list the wolf, and this resolution sends a clear message. This resolution does nothing to change the ability of the department to manage the species. He said, "It just preserves our rights that if conditions change in the future we may be able to modify our statutory authority to respond to the condition that exists."

Frank Nelson, Madison County Commissioner, said that they support HJ 29. They want to see wolves managed properly.

{Tape: 1; Side: A; Approx. Time Counter: 11 - 23}

Doug Nulle, Clancy Resident, said that he supports the resolution for the reasons indicated by other testimony.

Maureen Davey, Commissioner, Stillwater County, said that their local Beartooth Stock Association passed a resolution over one year ago and the Stillwater County Commissioners followed with a similar resolution. They made the same points as those at this hearing. She asked for support of HJ 29.

Mike Murphy, Montana Water Resources, said that the impacts of wolves have been significant. He feels that HJ 29 is a step forward, and they can ultimately get to the point that it is an animal that can be dealt with.
{Tape: 1; Side: A; Approx. Time Counter: 23 - 26}

Justin O'Hare, Chairman, Park County Stockgrowers, and Outfitter, said that he has seen his neighbors lose over 30% of their production herd, outfitters go out of business, and the economy of Gardiner come to a halt. He felt that HJ 29 is a step in the right direction.

REP. JOAN ANDERSON, representing HD 23, and Carbon County Commissioners, said that she supports the resolution, particularly the portion that encourages the Federal government to provide the necessary funding to assist Montanans with this.

Tim Bowers, Outfitter, Livingston, asked for support of HJ 29. He said that his granddaughter had eight wolves follow her while she was on horseback in the back country last summer. The wolves had to be chased away when she finally got to their camp. He said that incident is a good example to give to people that say wolves won't bother humans.

Jeff Cahill, Livingston Rancher, said that he didn't wish any ill will on anyone, but in some ways, he wished that everyone could share equally in the burden that the wolf issue has created. He said, "If they did, it would be clear how much help is needed."

Opponents' Testimony: None.
{Tape: 1; Side: A; Approx. Time Counter: 11.1 - 30}

Informational Testimony:

Chris Smith, Chief of Staff, Fish, Wildlife and Parks, passed around a chart called "Northern Rocky Mountain confirmed wolf depredation and management, 1987-2004." He stated that a recent court ruling nullified a Federal rule that had listed the wolf as

"threatened," so wolves are again considered "endangered," the highest level of protection. This restricts the departments ability to manage wolves, but also affects landowners ability to protect their property. He explained that the chart indicates an increasing number of wolves being killed in controlled actions by government agencies, but there are significantly more wolves being killed in Montana than in Idaho or Wyoming. The reason for this is that in Idaho most of the wolves are in the wilderness, and in Wyoming most of the wolves are in the park. In Montana, most of the wolves are living in mixed land ownership. He said that this trend is likely to continue, and there will be more depredation situations in Montana, especially in the Southwestern portion of the state. He said that the majority of their wolf management staff is in that area. They are working to expedite de-listing, but that is several years away.
EXHIBIT(agh39a01)
{Tape: 1; Side: B; Approx. Time Counter: 0 - 4.3}

Questions from Committee Members and Responses: None.

Closing by Sponsor:

REP. RICE said that she is getting calls about every three weeks from people who are seeing wolves around their livestock. Someone was on the phone with her almost every morning last calving season to say they had lost cattle, a dog, or a horse during the night to wolves. She said that children attending the Gardiner School are no longer allowed to walk to school because it is so dangerous, and the Superintendent has to hose off the sidewalk every morning because there has been an elk killed there. She noted that the real decimation is going on in the wild game herds. The Northern Yellowstone Elk Hunt will no longer occur because the elk population is down. A few years ago, there were 19,000 head of elk in the Northern Yellowstone area, and the Madison Valley had about 7,000 head of elk. All that is seen now are small bunches of 30 here and there. She asked for a DO PASS.
{Tape: 1; Side: B; Approx. Time Counter: 0 - 9.0}

HEARING ON HB 728

SPONSOR: REP. MICHAEL LANGE, HD 55, BILLINGS

Opening Statement by Sponsor:

REP. MICHAEL LANGE opened the hearing on **HB 728**, a bill to create a state veterans' cemetery in Missoula and Yellowstone County and revise funding of the program.
EXHIBIT(agh39a02)

{Tape: 1; Side: B; Approx. Time Counter: 9.0 - 13}

Proponents' Testimony:

Bill Kennedy, Yellowstone County Commissioner, said that they have worked with the veterans in Yellowstone County for many years, and recently they worked together on the purple heart memorial at the county courthouse. When the county started renovating the Riverside Cemetery, they found that all of the cemeteries in Billings and the surrounding area are starting to run out of space. He asked for a DO PASS.

Opponents' Testimony: None.

Informational Testimony:

Joe Foster, Administrator for Montana Veteran's Affairs Division, said that their agency is responsible for the construction, operation, and administration of the State Veteran's Cemetery Program and indicated that he is available for questions.
{Tape: 1; Side: B; Approx. Time Counter: 13 - 16}

Questions from Committee Members and Responses:

REP. HEINERT asked REP. LANGE what the approximate cost will be. **REP. LANGE** said that there is no fiscal note. He said that the statutory appropriation is in the bill on Line 20 and it will amount to $100,000 annually from the general fund to the State Board and the Veteran's Cemetery Program.

REP. HEINERT asked if the first $100,000 would be used to establish a cemetery in Missoula. **REP. LANGE** said that the money would be statutorily given to the cemetery fund each year and they will use it where it is most needed.
{Tape: 1; Side: B; Approx. Time Counter: 16 - 19}

VICE CHAIRMAN LAMBERT asked what the cost was to run the cemeteries, or whether each cemetery costs $95,000. **REP. LANGE** said $95,000 is the anticipated cost for maintenance and operation if a new cemetery were opened. He said that Mr. Foster could give a breakdown on the current costs.

VICE CHAIRMAN LAMBERT asked where the funding comes from. **Mr. Foster** said that they have a special revenue account that runs the cemetery program; they receive no general funds in the cemetery account for operation, administration, and maintenance.

REP. MALCOLM asked Mr. Kennedy if Yellowstone County will cost share, do any in-kind help, or donate any unused land for the

cemetery. **Mr. Kennedy** said that they have already looked at some tax deed property and some state lands. They have also spoken with the Federal government. He said that they will be applying for a Federal grant to help build the cemetery.
{Tape: 1; Side: B; Approx. Time Counter: 19 - 22.7}

Closing by Sponsor:

REP. LANGE said that the Federal government pays for the construction of these cemeteries through a Veteran's Administration Grant. They do not pay for the operation. He explained that once authorization is given to build a cemetery, it enables the grant process to move forward. The main thing is that authorization is given. The second thing is that this is an opportunity to offer better service to veterans and their families and it is a way to commit to the integrity and honor that the veterans have given for so many years.

VICE CHAIRMAN LAMBERT closed the hearing on HJ 29 and **CHAIRMAN BUTCHER** opened the hearing on HB 734.

HEARING ON HB 734

SPONSOR: REP. ROGER KOOPMAN, HD 70, BOZEMAN

Opening Statement by Sponsor:

REP. ROGER KOOPMAN opened the hearing on **HB 734**, a bill to give a licensing exemption for certain owners of private fish ponds.
{Tape: 1; Side: B; Approx. Time Counter: 22.7 - 30}

Proponents' Testimony:

Chris Smith, Chief of Staff, Fish, Wildlife and Parks presented written testimony to be entered into the record.
EXHIBIT(agh39a03)
{Tape: 2; Side: A; Approx. Time Counter: 0 - 6.3}

Opponents' Testimony:

Mark Aagenes, Montana Trout Unlimited, said that they are a conservation-minded organization of 3,000 anglers. He noted that whirling disease is spread by infected fish and birds. If there are eagles and osprey it is a threat to fish in nearby waters. They are also concerned about the introduction of foreign fish into Montana waters. He passed around a handout that describes how many illegal introductions there have been around the state, and asked for a DO NOT PASS.
EXHIBIT(agh39a04)

Janet Ellis, Montana Audubon, said that they work on a lot of wildlife issues and share many of the same concerns with Montana Trout Unlimited. She pointed out that after a flood the flood plain changes, and said that the word "historic" is bothersome and should be removed from the bill. They were not in favor of licensing exemptions because of the risks involved with native fish species.
{Tape: 2; Side: A; Approx. Time Counter: 6.3 - 10.4}

Informational Testimony: None.

Questions from Committee Members and Responses:

REP. HEINERT asked Mr. Aagenes about his testimony, noting that permitted ponds existed in the past and there have been introductions of exotic species and the spread of whirling disease. **Mr. Aagenes** said that there is a more stringent permitting process through HB 174, so there will be more controls on these fish ponds. He noted that both birds and buckets can transmit whirling disease.

REP. HEINERT asked Mr. Smith how 500 acres was arrived at, as compared to 1,000 acres or 10 acres. **Mr. Smith** said that he checked the other statute governing private ponds and that says 500 acres as well. The bill drafter just used the same size. He noted that 500 acres would be a huge private pond, and most of those licensed are under five acres.
{Tape: 2; Side: A; Approx. Time Counter: 10.4 - 14}

REP. HEINERT said that testimony was given that the ponds couldn't be kept track of if they weren't permitted. He noted in the bill that the request has to be submitted to Fish, Wildlife, and Parks (FWP) and asked if FWP intends to keep a record of these requests so they know where these ponds are. **Mr. Smith** answered that they plan to keep a track of these ponds for their own records as well as for companies that provide fish for stocking into private ponds. Businesses can be held accountable if they put fish in an unlicensed pond or into a pond that has been exempted from licensing requirements.

REP. HEINERT asked if there would be any requirements about what species of fish that could be put into private ponds. **Mr. Smith** said that would not be part of this process.
{Tape: 2; Side: A; Approx. Time Counter: 14 - 16.1}

Closing by Sponsor:

REP. KOOPMAN said that adequate laws are already on the books to deal with any of the objections raised by the opponents. It is already against the law to bring exotic species from out of state. In addition, a letter of approval needs to be issued before a pond is stocked. He encouraged the Committee to trust the advice of professionals who understand the situation and deal with private ponds and all the issues that have been raised on a daily basis.
{Tape: 2; Side: A; Approx. Time Counter: 16.1 - 18.9}

HEARING ON HB 599

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

Opening Statement by Sponsor:

REP. VERONICA SMALL-EASTMAN (D), HD 42, opened the hearing on **HB 599,** a bill giving the Department of Natural Resources and Conservation (DNRC) authority to control noxious weeds on state lands.
{Tape: 2; Side: A; Approx. Time Counter: 18.9 - 23}

Proponents' Testimony:

Mary Sexton, Director, DNRC, said that this bill was put together in response to recommendations made in the 2003 Legislative Weed Audit. She noted that there would be only 8-10 instances where they would have to use this authority, but it does give enforcement authority for people who are not managing their weeds. She said that they do not have weed management staff in DNRC, so they would have to hire contract workers to perform weed management. She discussed two possible amendments.
{Tape: 2; Side: A; Approx. Time Counter: 23- 26}

Kathy Bramer, representing Superintendent of Public Instruction, Linda McCullough, who is a member of the State Board of Land Commissioners, said that they are anxious to give the department the tools that they need in order to protect the state trust lands that earn revenue for our schools. She noted that the department needs to have the lease termination component of this bill to use in enforcement.

Janet Ellis, Montana Aububon, stated that this bill is a step in the right direction and asked for a DO PASS.
{Tape: 2; Side: A; Approx. Time Counter: 26 - 27}

Dave Schultz, Madison County Commissioner, Chairman, Weed Summit Steering Committee, passed around "Madison County Weed Board Position Statement" and thanked the sponsor and the department.
EXHIBIT(agh39a05)

John Moodry, Butte-Silver Bow Weed District, and Vice President Montana Weed Control Association, said that they give their full support to this legislation.
{Tape: 2; Side: A; Approx. Time Counter: 27 - 28}

Ken Ronish, Fergus County Commissioner, and Fergus County Weed Board Member, said that this bill is a good start and is needed. He asked the Committee to support the bill.

Scott Bokness, President-elect Montana Weed Control Association, Weed Coordinator, Yellowstone County, said they supported the bill and looked forward to better weed management in Montana.

Garth Haugland, Chairman Beaverhead County Board of Commissioners and Beaverhead County Weed Board, said that they strongly support this legislation. He said that the weed problem has been a subject of much discussion in prior years, and they look forward to the problem being addressed and enforced.

Chris King, Petroleum County Commissioners, said that they also support HB 599.
{Tape: 2; Side: A; Approx. Time Counter: 28 - 32}

Opponents' Testimony: None.

Informational Testimony: None.

Questions from Committee Members and Responses:

REP. WAITSCHIES asked Ms. Sexton if this could also include land owned by FWP. **Ms. Sexton** said that the county weed statute that now exists would extend to them as well. State land is covered under the weed statute, but many local weed boards feel that the state should take care of their own weed problem.

REP. HEINERT asked Ms. Sexton what the non-compliance process is. **Ms. Sexton** said that there is a notice of non-compliance and there will be several opportunities for notification, an administrative hearing, and other steps that would be taken before having weed management done by a contractor and billed to the lessee. She handed out "Noxious Weed Management on State Lands."
EXHIBIT(agh39a06)

REP. HEINERT asked if the Department of State Lands has the ability to revoke a lease if the lessee does not live up to the requirements. **Ms. Sexton** said that was correct; the steps leading up to cancelling a lease are time consuming, and it would take up a lot of scarce department resources. She felt that this approach was a more streamlined way to do it. They actually bill the lessee, and if they refuse to pay, it is an automatic cancellation of the lease.
{Tape: 2; Side: B; Approx. Time Counter: 0 - 4.4}

REP. ROSS asked about the size of the staff that inspects state lands for weed control management. **Ms. Sexton** said that inspections are delegated to area managers and they are done at the time of their field inspections. She said that they are thinking about adding the part-time position of weed coordinator.

REP. ANDERSON asked if all lands under DNRC are leased, or whether there are state lands that are not under lease agreement. **Ms. Sexton** said that some of the timber lands are offered up for timber sales, so it is not a lease situation. There may be some grazing lands that are not under lease. She said that they contract out weed control on land that is not currently leased. Weed management on their commercial land depends upon the contractual relationship with the state.

Closing by Sponsor:

REP. SMALL-EASTMAN closed by saying that the bill just gives the DNRC authority to control noxious weeds on the state lands. She asked for a DO PASS.
{Tape: 2; Side: B; Approx. Time Counter: 4.4 - 7.1}

(Note: The Committee took a 10 minute break)

HEARING ON HB 627

SPONSOR: REP. DIANE RICE, HD 71, HARRISON

Opening Statement by Sponsor:

REP. DIANE RICE opened the hearing on **HB 627**, a bill to prohibit local governments from offering products that are grown or created at public expense that are in direct competition with the private sector.

Proponents' Testimony:

Bob Wagner, Harrison, owner of Summit Valley Turf Farm, said that local governments need to be regulated and monitored. He stated

that the county's current practice relevant to sod production at the waste water treatment facility is taking away some of his business. He passed around handouts of correspondence detailing problems that have arisen in the Butte-Silver Bow area. **EXHIBIT(agh39a07)**

Mr. Wagner stated that Butte-Silver Bow Public Works sold sod below market price to religious and other non-profit organizations. The sod was grown at public expense and watered with effluent water from the wastewater treatment plant. He said this is unethical and illegal, in direct competition with private enterprise, and destroys his ability to compete. He asserted that Butte-Silver Bow is pumping the water out with no water right, and they are using the water to keep it out of Silver Bow Creek so that down stream users are ending up with less water. ***{Tape: 2; Side: B; Approx. Time Counter: 7.1 - 23}***

Ben Wagner, Harrison, co-owner of Summit Valley Turf Farm, asked for support of the bill because "it is the right thing to do."

Troy Smith, Bozeman, Earth Systems Compost, said that he owns a large composting facility. County landfills are starting to use compost and directly competing with private industry by using tax dollars. If this is allowed to continue, private composting facilities probably will not survive.

Charissa Wagner, co-owner, Summit Valley Turf Farm, said that they started their turf farm seven years ago. She said that she has a degree in Agriculture Education and her husband has a degree in Agriculture Production, so they know what they are doing on the farm and how the soil works. She asserted that Butte-Silver Bow is growing a product that they don't have knowledge of, and taxpayer's money is being used to compete with private business. One of the articles that was passed around (Exhibit 7) tells about Butte-Silver Bow growing trees, and said that those trees will be harvested and sold, or given to non-profit organizations. She said that takes business away from the small privately-owned nurseries. She asked for support of HB 627 and stated, "We need to stimulate the economy, keep our graduates here, and encourage small business."
{Tape: 2; Side: B; Approx. Time Counter: 23 - 28.7}

Leonard Lundby, Great Falls, owner of Triangle Turf Farms, said that the City of Great Falls, in conjunction with Great Falls Youth Soccer Association is building a new 30-acre soccer park with a $2.5 million bond issue. The engineer's plans show a five-acre section set aside for sod production. He said that he would like to have that five-acre contract with the city, as Triangle Turf Farms stands to lose about $40,000 worth of

business. He stated that government should not be competing with private enterprise for those types of services.

Opponents' Testimony:

Bob McCarthy, County Attorney, Butte-Silver Bow, referenced their wastewater system, Metro Sewer, and said that they are not operating a sod farm: they are addressing an environmental problem. He explained that as part of a mandated up-grade to the plant, a seven mile pipeline was built from Butte out to the Silver-Bow area in 1979. They injected sludge from their wastewater treatment plant for about 20 years, until new regulations were adopted by the Federal Environmental Protection Agency and the State Department of Environmental Quality. ***{Tape: 2; Side: B; Approx. Time Counter: 28.7 - 31}***

Mr. McCarthy said that they had a bond issue and build an addition onto their sewer plant. He explained that a bond issue is paid for by the rate payers of the sewer district, not by general taxpayers. The plant that they built produces a material that has the consistency of wet cardboard. They called for proposals, and now sell that material to a private firm, Big Butte Compost. It is trucked to the landfill, and they produce compost from the solids. He said this helps reduce their rates.

They have a program that produces sludge from the water, and they sell that, but the water that is left contains high amounts of nitrogen, or nutrients. In the summer months, high nutrient levels in water cause algae to grow in the state's waters. To address this problem, in the summer months they divert and pump some of the wastewater through the old sludge pipeline and irrigate the ground at the old injection site. They have what is now referred to as a sod farm, and the sod is used for public purposes. He stated that this is being done for environmental reasons, as it keeps effluent out of the Clark Fork River. The alternative is to build a $30 million addition onto their plant, which would be paid for by the rate payers of the sewer district.

He said that their voluntary nutrient reduction program began in 1997 and is backed by the State of Montana. They are also involved with this in a number of counties in Idaho. They began with a five acre test plot in 1999 on their old injection site, using sod as a crop, and they now have it on 66 acres. They have purchased some equipment so they can operate this. He pointed out that there is a huge environmental problem and damage to large areas of the community from 120 years of mining. They don't want to burden the taxpayers while trying to reclaim some of the areas that have toxic soil.

The concept behind the sod farm was the beneficial use of pre-existing land injection areas, as well as the nutrient reduction. They have sold some of the sod to non-profit organizations, and they have used substantial amounts of sod in the Belmont area, near the Burkley Pit, where the senior citizens area is located. This began as an effort to reduce costs to the rate payers of the sewer district, to comply with state and Federal regulations for nutrient reduction, and their interest in complying with the regulations and voluntarily assist in removing nutrients from the Clark Fork River.
{Tape: 3; Side: A; Approx. Time Counter: 0 - 6.3}

REP. JOHN SESSO, HD 76, Butte, asked for the Committee's indulgence to help them through this process. He gave the history of the project, noting that they built the sludge injection site and maintained the line and an 80 acre site to meet the Federal requirement in the 1970's. Then, they were told in the 1990's that would have to be discontinued. They had to make a choice and either build a $30 million plant or try to be innovative in dealing with the nutrients. Instead, they built an add-on plant at a cost of $6 million to the rate-payers. They decided to reduce the cost by taking the sludge to the landfill, entering into a joint partnership with a private business. The private firm is now producing and bagging the compost as a beneficial product. The second thing they do is to use the same pipeline that was built in the 1970's to off-load one million gallons of water out of the five million gallons that get discharged during the three summer months to the sod farm and keep algae from growing in the creek.

They made the decision long ago to only use the product for public purposes. They have put sod around the new jail, the new senior center, low income housing projects, Habitat for Humanity projects, and fire department landscaping. All of the sod has been used for public non-profit purposes. He said that they are very proud of what they have done, and have produced and cut about 500,000 square feet of sod. He pointed out that other projects in Butte have privately bought and paid for over one million square feet of sod on other projects. He said that they are not unfairly competing, they are using the sod from their sod farm for public projects only, and they are solving a problem for their rate payers in an innovative and effective way. He said that they have a deadline by 2007 to prove to the State and Federal Government that by doing this voluntarily they can meet requirements. He said that the sod farm is a component of those efforts and urged a DO NOT PASS on HB 627.
{Tape: 3; Side: A; Approx. Time Counter: 6.3 - 12.8}

Joan Miles, Director, Public Health Department, Lewis and Clark County, said that the language in the bill needs to be changed because some of their vaccinations are created for very low income people at public expense in competition with private enterprise, because private physician offices do the same thing. She asked that the language in the bill be very clear as to what is not included. She said that she does not believe it is the intent to eliminate local governments from being able to provide vaccinations and immunizations to our population.

John Moodry, Butte-Silver Bow Weed District, said that the sod farm has given them the opportunity to use unique practices in weed control. The weeds are now controlled on 80 acres at the injection site. The sod being produced at a discounted price or at no cost is re-vegetating some areas that otherwise would not get done. These organizations do not have the money to spend on wholesale or retail prices for sod. They are taking care of the weed issue, the rate paying issue, and environmental issues.

John Vandevere, Butte-Silver Bow Public Works Director, urged recognition of the value of the actions they have taken as described for the value that it provides to the environment and to the taxpayers.
{Tape: 3; Side: A; Approx. Time Counter: 12.8 - 15.9}

Informational Testimony: None.

Questions from Committee Members and Responses:

REP. FUREY said that it seemed as if the reason this was being done was to stave off environmental degradation. He asked Mr. Wagner if he would be willing to buy the effluent that is currently being put on the sod farm. **Mr. Wagner** said that they would not, and stated that testimony indicates they have met their goals by pumping this effluent out. He has no objection to the county growing sod.

REP. FUREY asked if there would be a way for Mr. Wagner to work with Butte-Silver Bow, where they pump effluent to their sod farm, and Mr. Wagner or another private company cuts the sod. They may pay a small amount, then they use it for their own public works process. **Mr. Wagner** said that these things would have been addressed adequately at the beginning of this four year process. He indicated that they have now invested over $1 million in land and equipment. He said that the goal to keep water out of Silver Bow Creek has been met, and the grass doesn't need to be harvested to achieve their environmental goals. He stated that the whole county is paying for this in the use of

their trucks. The state is paying for it when the roads are being torn up and "ton mile tax" is not being paid.
{Tape: 3; Side: A; Approx. Time Counter: 15.9 - 19.7}

REP. FUREY asked Mr. Wagner whether he would be willing to provide discounted rates to some of these entities, or to give away sod for free. **Mr. Wagner** said that they would be happy to give discounted rates to non-profit organizations. He said that he would send a price list of sod that has been discounted for non-profit activities. He stated that they don't feel it is the role of government to be philanthropic with production of sod.

REP. FUREY asked Mr. Wagner if he had lost any direct bids in competition with the city. **Mr. Wagner** stated that most of the money they have lost has been from "in kind" contributions that Silver Bow uses. He said, "Yes, we have."
{Tape: 3; Side: A; Approx. Time Counter: 19.7 - 21.1}

REP. WISEMAN said that the city of Bozeman operates a composting facility. They compost yard waste of all kinds, and they chip trees that they have trimmed, etc. He thought that they gave away the compost, because it is cheaper than putting it in the landfill. He asked REP. RICE if that would be prohibited under this bill. **REP. RICE** said that she did not know that Mr. Wagner was coming to the hearing; it is in direct competition with him.

REP. WISEMAN stated that if something is being given away and the bill says for sale or use, it would still be prohibited. **REP. RICE** said that if it is competing with private enterprise that is already producing a product, that is correct.

REP. HEINERT said that concern had been expressed by the Public Health Department and asked REP. RICE if she would be amenable to clarifying the language in the bill to address that concern. **REP. RICE** said that she understood it to be a product that is grown or created at public expense, not an immunization. She said that they don't put together the vaccine, they just receive it.
{Tape: 3; Side: A; Approx. Time Counter: 21.1 - 22.9}

REP. WAITSCHIES asked **REP. RICE** if this bill would prohibit the county from selling grass along county roads for hay. **REP. RICE** asked if that would be hay as a product, or if it would be to allow grazing. **REP. WAITSCHIES** said that grass is usually put up for bids as the right to hay a right of way. **REP. RICE** said that if it wasn't actual hay, she does not think this would prohibit the county from selling the grass.
{Tape: 3; Side: A; Approx. Time Counter: 22.9 - 25}

REP. RICE said that they have a sewer in Harrison that is exactly like this. They are not selling a product. They have the lagoon and the pivot which waters down the effluent, and they are using it for grazing. They can still utilize that grass; the objection is not that they are getting rid of the nitrates. The point is that in Harrison, the grass is not being cut and sold as a product, in competition to another company.

REP. FUREY asked REP. RICE about selling the rights to graze cattle or cut hay, and noted that other people in the private sector are still selling rights to cut hay or graze cattle. **REP. RICE** said that they can purchase pasture land for their animals.

REP. FUREY asked Ms. Evans if it would be the same thing if the county offers land for cattle grazing or hay to cut, and a private person offers the same thing, would they be in direct competition. **Ms. Lee** said that she thought that they would be. An entity in the county that leases private grazing ground, the Harrison situation, would be in conflict if there is a private entity that would be doing the same thing. They are missing out on the rental rate that they could be receiving.
{Tape: 3; Side: A; Approx. Time Counter: 25 - 27}

CHAIRMAN BUTCHER asked Ms. Evans to clarify if there is any way around this grass situation. **Ms. Evans** said that the term "for sale or use," covers everything. She said, "It can't be given away or sold, they can't do anything but grow it."

Closing by Sponsor:

REP. RICE said that all they want is for government entities not to create a product which competes with private enterprise. She said that they sold property to the sewer district and retained the right in the sale of the property to graze their cattle. She said that is very different. The issue is a product where they have purchased equipment, hired folks, and actually sell the product. She thanked the Committee for a good hearing.
{Tape: 3; Side: A; Approx. Time Counter: 27 - 30}

(Note: the Committee took a 20 minute break for lunch.)

HEARING ON HB 635
SPONSOR: REP. JONATHAN WINDY BOY, HD 32, BOX ELDER

Opening Statement by Sponsor:

REP. JONATHAN WINDY BOY (D), HD 32, opened the hearing on **HB 635**, a bill to revise conservation district laws to give state recognition of tribal conservation districts. He passed around a

handout giving a brief history and information about conservation districts. He said that before 1889, the tribes in Montana signed treaties with the Federal Government. Since then, the Federal Government has been fulfilling the trust obligations. He indicated that there has been more local control recently, and a lot of the funds that the tribes are seeking have been pushed down to the state level. This bill will help tribal conservation districts coordinate with conservation districts.
EXHIBIT(agh39a08)
{Tape: 3; Side: B; Approx. Time Counter: 0 - 10}

Proponents' Testimony:

Janet Hawley, Vice Chairman, Fort Belknap Tribal Conservation District, said that this bill will enable tribes to be involved in the issues addressed in the bill. The new language in the bill requires that at least once a year the supervisors of the conservation district whose boundaries are contiguous to those of the tribal conservation district shall meet to discuss mutual concerns. She passed around "Fort Belknap Tribal Conservation District" for the Committee. She said that they want to make sure that they have the same opportunities and public voice as that of Montana conservation district organizations. She said that there are concerns that resources are not being distributed equally between the county and tribal ranchers.
EXHIBIT(agh39a09)

Rick Borst, employee of Blackfeet Conservation District, Browning, expressed support for HB 635 and said that it opens the door and will benefit everyone. He said that it may be discriminatory without the bill, as Federal funds must be given equally to all.

REP. SMALL-EASTMAN said that all the funds from the Federal and the state are for the good of Montana. There are non-Indians that live on the reservation, and it is for them also. She advocated that everyone needs to work together to protect our land and our water.
{Tape: 3; Side: B; Approx. Time Counter: 10 - 19}

Opponents' Testimony:

Sarah Carlson, Montana Association Conservation Districts (MACD), said that conservation districts that are close to tribal conservation districts do frequently work together. She handed out her written testimony, letters from Susan Gardner, Roosevelt County Conservation District, Lake County Conservation District, and statewide conservation district maps.
EXHIBIT(agh39a10)

{Tape: 3; Side: B; Approx. Time Counter: 16 - 26}

Scott Bockness, Big Horn County Conservation Supervisor, said that their guiding principles are based on natural resource priorities, not cultural differences. He said that they have always tried to invite tribal conservation district members to participate in the process with them and will continue to do so.

Gloria Mason, Glacier County Conservation District, said that she helped the Blackfeet set up as a conservation district. She said that they work cooperatively on any issue that they ask for help with, and give advice when asked. She indicated that she is concerned that something will be done to impact the cooperation between the districts and asked the Committee to vote no.
{Tape: 3; Side: B; Approx. Time Counter: 27 - 29.4}

Barbara Broberg, Farmer, Glacier County, said that they own land both on and off the reservation, and could not see the good in this bill. She said that it might do the wrong thing.

T**om Johnson, Glacier County Conservation District,** said that they worked with the tribal conservation district as it was formed. He said that this bill will create a battle for the funds that are available. He said that he supported the tribal conservation districts and indicated that they work well together in overlapping situations.

Gayla Wortman, Coordinator, Missouri River Conservation Districts Council, said that they oppose the bill and presented her written testimony to the Committee.
EXHIBIT(agh39a11)
{Tape: 4; Side: A; Approx. Time Counter: 0 - 3}

Jane Holzer, Director, Montana Salinity Control Association, said that they currently work both on and off the reservation, and that no projects have ever been rejected because they were part of the reservation. She stated that not all projects actually qualify for their program after being closely scrutinized. She did not see any reason to support the bill.

Marlene Moon, Administrator, Liberty County Conservation District, said that they oppose the bill.

John Moodry, Supervisor, Mile High Conservation District, said that they oppose the bill.

Chris Christaens, Montana Farmers Union, said that they are concerned about the limited allocated funds that are available

for conservation districts and how they will be spread among the different entities.
{Tape: 4; Side: A; Approx. Time Counter: 3 - 5.2}

Mark Suta, Vice Chair, Glacier County Conservation District, said that they already work with the Blackfeet Conservation District with a written memorandum of understanding. This bill could disrupt what they are already doing by creating the demise of the Glacier County Conservation District.

Steve Pilcher, Montana Stockgrowers Association, voiced their opposition. He said that consultation and communication have already been going on and can continue without statutory direction.

Steve Granzow, Supervisor, Lewis and Clark County, and Legislative Chairman for Montana Association of Conservation Districts (MACD), said that they are opposed to the bill. He said that MACD is very open to exploring ways that they can foster a relationship and continue the process that other conservation districts have been working with.

Robert Fossum, Opheim, President, Montana Association Conservation Districts, handed out his written testimony and a letter from Carl Fourstar suggesting that each reservation "be addressed individually and problems worked out by agreements."
EXHIBIT(agh39a12)
{Tape: 4; Side: A; Approx. Time Counter: 5.2 - 12.5}

Informational Testimony:

Ray Beck, Administrator, Conservation Resource Development Division, DNRC, said that they oversee the administrative, technical, financial, and legal assistance to conservation districts. He said that he is available for questions.

Questions from Committee Members and Responses:

REP. WAITSCHIES asked how conservation districts are funded. **Mr. Beck** said that they receive money from a local tax levy on real property, money from the general fund, and money from the coal tax. Their portion is about $400,000 from the coal severance tax, which is a portion of the shared account that is used by four different entities. They do not receive any direct Federal money. In some cases, they use Federal dollars for certain projects.

REP. WAITSCHIES asked whether coal mined on reservations is a contributor to the revenue stream. **Mr. Beck** said that he did not

believe so. The tax paid by the mining companies does not come to the state, it goes to the tribal government. He indicated that a large lawsuit several years back dealt with that issue.
{Tape: 4; Side: A; Approx. Time Counter: 12.5 - 16.4}

Closing by Sponsor:

REP. WINDY BOY said that tribal conservation districts were established under local tribal laws, not state laws. In the past, district operators and land owners had the ability to choose which district they wanted to be in. He said that it was not the intent of the bill to change that ability, and he would be amenable to amending that. He said that Federal grants coming to the state are one of the issues. Even though the department stated that tribes have the ability to access it, when the tribes try to access it they are told that they can't. He said that the state does not recognize tribal conservation districts. He said that they would like to have a level playing ground, just like everyone else.
{Tape: 4; Side: A; Approx. Time Counter: 16.4 - 22.7}

(Note: the Committee took a five minute break)

EXECUTIVE ACTION ON HJ 11

Motion/Vote: **REP. WINDY BOY moved that HJ 11 DO PASS. Motion passed unanimously 20-0, by voice vote. REP. FUREY voted yes by proxy.**

EXECUTIVE ACTION ON HJ 22

Motion: **REP. PETERSON moved that HJ 22 DO PASS.**

Discussion:

Ms. Evans passed out Amendment HJ002201.akl. **REP. PETERSON** explained the amendment, which clarifies the language. **REP. WISEMAN** voiced his opposition. **REP. MALCOLM** said that it will have a big impact on cattle.
EXHIBIT(agh39a13)

Motion/Vote: **REP. PETERSON moved that AMENDMENT HJ002201.akl DO PASS. Motion carried unanimously 20-0, by voice vote.**

Discussion:

REP. WINDY BOY asked how many bison would have to be killed. **REP. PETERSON** said that bison coming out of the park are testing

about 40% to 50% positive. The most that would have to die legally if they were able to test every animal is about 30%, or 1,200 bison. He stated that the bison are not automatically killed when they are tested. If they test negative, they are tagged and turned loose. They are trying to do a combination of vaccination, testing and slaughter. He said that they have done that with cattle herds, and it is a win-win situation for everyone.

REP. HEINERT said that if 1,200 bison were killed, that leaves the population target that was set, which is about 3,000 animals. ***{Tape: 4; Side: A; Approx. Time Counter: 22.7 - 30}***

REP. WINDY BOY and **REP. WISEMAN** said that they would have to oppose the bill.

REP. MALCOLM said that he lives 23 miles outside of Yellowstone Park and has a cattle operation. He stated that brucellosis requires blood tests that are a lot of extra work. This is very serious and has made a huge economic impact on their ranching operation.

CHAIRMAN BUTCHER pointed out that the buffalo that are slaughtered in the brucellosis operations are not wasted.

Motion/Vote: REP. PETERSON moved that HJ 22 DO PASS AS AMENDED. Motion carried 16-4 by roll call vote with REPS. BRANAE, GRINDE, WINDY BOY, and WISEMAN voting no.

EXECUTIVE ACTION ON HJ 7

Motion/Vote: REP. SMALL-EASTMAN moved that HJ 7 DO PASS. Motion carried unanimously 20-0 by voice vote.

Motion/Vote: REP. SMALL-EASTMAN moved that AMENDMENT HJ000702 BE ADOPTED and AMENDMENTS 1-5 BE SEGREGATED FROM AMENDMENTS 6-7. Motion carried unanimously 20-0 by voice vote.
EXHIBIT(agh39a14)

Motion/Vote: REP. SMALL-EASTMAN moved that AMENDMENTS 1-5 BE ADOPTED. Motion carried unanimously 20-0 by voice vote.

Discussion:

REP. PETERSON encouraged support of the amendments and said that this resolution needs to be based on sound scientific information and economic impact.
{Tape: 4; Side: B; Approx. Time Counter: 0 - 9.8}

REP. MALCOLM said that the amendments that are presented are a compromise between all of the interests involved in this.

REP. BERGREN said that he would resist the amendments.

Motion/Vote: REP. SMALL-EASTMAN moved that AMENDMENTS 6-7 OF HJ000702 BE ADOPTED. Motion failed 10-10 by roll call vote with REPS. ANDERSON, HEINERT, JONES, LAMBERT, MALCOLM, PETERSON, RICE, ROSS, WAITSCHIES, and BUTCHER voting aye.

Motion/Vote: REP. SMALL-EASTMAN moved that HJ 7 DO PASS AS AMENDED. Motion carried 18-2 by voice vote with REPS. HEINERT and PETERSON voting no.
{Tape: 4; Side: B; Approx. Time Counter: 9.8 - 18.6}

EXECUTIVE ACTION ON HB 599

Motion: REP. SMALL-EASTMAN moved that HB 599 DO PASS.

Discussion:

Ms. Evans explained the bill and asked for time to do an amendment that would be presented on the House floor.

REP. PETERSON said that the weed districts already have the authority to void a contract. He said that the agriculture groups did not support this.

REP. WINDHAM pointed out that agriculture groups did not show up to oppose the bill. There were a lot of proponents: Montana Weed Control, the Beaverhead Commissioner, Petroleum, Madison, Fergus Counties, and John Moodry. She said that she will support the bill as Ms. Evans suggested.

REP. SMALL-EASTMAN noted that there were nine proponents and no opponents. The Montana Stockgrowers were present, and did come forward to oppose the bill. She said that DNRC needs to have this bill to control weeds on state laws in order to be legal.

REP. MALCOLM said that he did not think the bill was written right, even though there were a lot of proponents for it. He would like to see it show up next session in the proper form.

Vote: Motion failed 9-11 by roll call vote with REPS. BERGREN, BRANAE, FUREY, GRINDE, SMALL-EASTMAN, VILLA, WINDHAM, WINDY BOY, and WISEMAN voting aye.

Motion/Vote: REP. FUREY moved to REVERSE THE VOTE AND TABLE THE BILL. Motion carried 20-0. HB 599 was tabled with a vote of 11-9 with REPS. BERGREN, BRANAE, FUREY, GRINDE, SMALL-EASTMAN, REP. VILLA, WINDHAM, WINDY BOY, and WISEMAN voting no.
{Tape: 4; Side: B; Approx. Time Counter: 18.6 - 26}

EXECUTIVE ACTION ON HB 627

Motion: REP. RICE moved that HB 627 DO PASS.

Discussion:

REP. WISEMAN said that he could not support the bill.

Substitute Motion/Vote: REP. JONES made a substitute motion that HB 627 BE TABLED. Substitute motion carried 19-1 with REP. RICE voting no.

EXECUTIVE ACTION ON HB 728

Motion/Vote: REP. WINDHAM moved that HB 728 DO PASS. Motion carried unanimously 20-0 by voice vote.

EXECUTIVE ACTION ON HJ 29

Motion/Vote: REP. RICE moved that HJ 29 DO PASS. Motion carried 15-5 by voice vote with REPS. BRANAE, FUREY, GRINDE, WINDY BOY, and WISEMAN voting no.

EXECUTIVE ACTION ON HB 399

Motion: REP. RICE moved that HB 399 DO PASS.
{Tape: 4; Side: B; Approx. Time Counter: 26 - 30}

Motion: REP. RICE moved AMENDMENT 39901.

Discussion:

Ms. Evans explained the amendment. **REP. RICE** said that the $100,000 liability insurance policy was a agreement that she made with the Senate so that they would endorse it.

REP. PETERSON asked when the cloud seeding could be done. **REP. RICE** said that it was November 1 through March 15, in the mountains only.

REP. SMALL-EASTMAN asked REP. RICE how she felt about the $100,000 liability policy. **REP. RICE** said that the purpose of

the bill was to remove the $1 million bond. The people that actually do this cloud seeding are big companies and they have $5 million bond. This $100,000 was done at the Senate's request.

REP. LAMBERT asked if there was a way to define the area, so that her constituents would not feel threatened. **REP. RICE** noted Line 23, aurographic clouds in mountain regions, and said that they would only be able to do cloud seeding in mountainous regions in the winter to develop snow pack. She noted that the people in REP. LAMBERT's area are concerned about cloud seeding in North Dakota during June, July and August.

Vote: Motion carried 19-1 by voice vote with REP. SMALL-EASTMAN voting no.
{Tape: 5; Side: A; Approx. Time Counter: 0 - 5.7}

Motion: REP. RICE moved that HB 399 DO PASS AS AMENDED.

Discussion:

REP. WINDY BOY opposed the bill.

REP. WISEMAN expressed support for the bill.

Vote: Motion carried 17-3 by voice vote with REPS. FUREY, WAITSCHIES, and WINDY BOY voting no.

EXECUTIVE ACTION ON HB 405

Motion: REP. BERGREN moved that HB 405 DO PASS.

Substitute Motion/Vote: REP. VILLA made a substitute motion that HB 405 BE TABLED. Substitute motion carried unanimously 20-0 by voice vote.

EXECUTIVE ACTION ON HB 440

Motion: REP. WISEMAN moved that HB 440 DO PASS.
{Tape: 5; Side: A; Approx. Time Counter: 5.7 - 10.4}

Motion: REP. WISEMAN moved AMENDMENT HB044001.

Discussion:

REP. WISEMAN explained Amendments HB044001 and HB044002.
EXHIBIT(agh39a15)
EXHIBIT(agh39a16)

REP. WAITSCHIES said that this is a good bill with the amendment added. The whole concern is met without the user of the anhydrous ammonia being responsible if someone comes and shoots the lock off.

Vote: Motion carried 18-2 by voice vote with REP. SMALL-EASTMAN and REP. WINDY BOY voting no.

Motion: REP. PETERSON moved that HB 440 DO PASS AS AMENDED.

Motion: REP. PETERSON moved AMENDMENT HB044002.

Discussion:

REP. PETERSON explained that the amendment adds a termination date so that it can be looked at again in 2007.

REP. WISEMAN said that this is a friendly amendment.

Motion/Vote: Motion carried 18-2 by voice vote with REP. FUREY and REP. VILLA voting no.

Motion/Vote: REP. PETERSON moved that HB 440 DO PASS AS AMENDED. Motion carried 19-1 by voice vote with REP. MALCOLM voting no.
{Tape: 5; Side: A; Approx. Time Counter: 10.4 - 18.3}

EXECUTIVE ACTION ON HB 406

Motion: REP. BERGREN moved that HB 406 DO PASS.

Motion/Vote: REP. BERGREN moved AMENDMENT HB040601. Motion carried unanimously 20-0 by voice vote.
EXHIBIT(agh39a17)

Motion: REP. BERGREN moved that HB 406 DO PASS AS AMENDED.

Motion: REP. BERGREN moved AMENDMENT HB040603.
EXHIBIT(agh39a18)

Discussion:

REP. BERGREN explained the amendment, and the Committee discussed the wording.

Vote: Motion carried unanimously 20-0 by voice vote.

Motion: REP. BERGREN moved that HB 406 DO PASS AS AMENDED.

Discussion:

REP. PETERSON gave a presentation on labeling. He gave the example of Safeway Rancher's Reserve Beef and said that their brochure states that each cut must exceed their standards and that it is guaranteed, or they will refund the consumer's money and replace the meat with another cut for free. He stated, "That is added value with a label." It is an exclusive label owned by Safeway. He said that he is the only producer in Montana that supplies product for the Rancher's Reserve label, not because he has a corner on the market, but because he is the only one who took the initiative to try to do that. He said that it adds $50 to $75 a head in value to his calves.
EXHIBIT(agh39a19)

There is a Federal program starting March 31, 2005 with seafood. He said that Safeway has placards with county of origin labeling (COOL) seafood guidelines for consumer notification that will be put up in the store. He emphasized that a Federal law is already in place for these guidelines. The beef part will begin in 2006. He is concerned that Montanans will be forced to set themselves apart from other states by using "country of origin unknown" labels, and it will send the wrong message to consumers. He asked for consideration on another similar bill before voting on this one. He said "Made in Montana" products can be labeled, the penalty language can be added, and a task force can be created that directs the Department of Agriculture to help make the Federal part happen. He asked that Montanans be allowed to take the positive side, add value to their product, and not put the placard on that devalues the product. He said that REP. BERGREN's bill could not be amended because the title is too restrictive.
{Tape: 5; Side: A; Approx. Time Counter: 18.3 - 30}

REP. BERGREN said that he was aware of the information REP. PETERSON just brought out, and that he had studied the Federal regulations as well. He did not agree that the regulations are in place, and said that they are temporary rules. He said that nothing is in place saying that those rules will go into effect, although there is some Federal legislation to move up those dates. He also noted that the handout brochure from REP. PETERSON (Exhibit 19) does not show the country of origin; it only says "United States Department of Agriculture (USDA) Choice Beef." He noted that proponents at the hearing said that USDA is almost a misnomer, because they think "US" means that it is a United States product, but it does not have to be. He said that is not a country of origin label. It is a great advertising piece, and REP. PETERSON found a good niche market to get into. He hoped more people do that.

{Tape: 5; Side: B; Approx. Time Counter: 0 - 2.4}

REP. JONES said that he has supported country of origin labeling from the beginning. He said there are three major packing plants in the United States, and they are not in Montana. Packing plants don't distinguish where the beef comes from when it gets shipped out of Montana. He felt that Montana does not have the economic power to get the packing plants to send the beef labeled as Montana beef and they are not going to sort it. Beef coming back will say "country of origin unknown." He said "I don't know how it is that we think, when we are such a small population, that we are going to convince these three major packing plants to even consider sorting meat for us." He stated that mobile slaughter units and instate slaughter plants will probably grow. He said they can't handle 10% of the demand. He said that he wants to vote for a country of origin bill, but did not see how this would help.

REP. ANDERSON said that she agreed with REP. JONES. In her county there are small locally-owned grocery stores that operate on a shoestring, and she hesitates to ask them to do the placards. She said that those stores could not afford to be fined for mislabeling something.

REP. WAITSCHIES asked REP. PETERSON how labeling would decrease the $50 - $75 extra that he gets for selling Ranchers Reserve Beef to Safeway. **REP. PETERSON** said that the manager of the meat department said that he would have to put up a placard that said "country of origin unknown" on all Safeway meat. The Federal rules are not in place yet, and there is no traceability system to track the muscle meats or the hamburger. He said that a batch of hamburger in a major packing plant could contain as many as 60 different animals. Lean meat is imported to blend with the US meat in order to make 85% lean hamburger. He said that the only animals that get the USDA grade stamp are animals that are imported "live." He said that this placard raises questions in the consumers mind, and has nothing to do with food safety.

REP. WINDY BOY said that he supports the bill. He said there are about 2.7 million head of cattle in Montana and 10% of that comes from the tribes. He said that this bill makes sense. He asked, "If we have three million cattle coming in from Canada, where did BSE come from? If we start putting regulations on the beef industry, we are heading in the right direction to break the monopoly held by the three major packers. If we are going to have Montana Made beef, people will know that it is guaranteed."

CHAIRMAN BUTCHER voiced support because he felt that it is time to put pressure on; this will grow the local packer industry.

He said that Walmart buyers won't mess with it until they see that people are responding to the local Montana Made label. People will start seeking small packing plants that can verify where they got their beef. This bill is a good first step.

REP. LAMBERT asked REP. PETERSON if he had talked to the agriculture groups about this. **REP. PETERSON** said that the bill was put together by the Montana Stockgrowers and the Farm Bureau and they strongly recommend it. They feel that a negative can be turned into a positive with this bill. He said that the Federal law has passed and the rules are currently being written to implement it by 2006. COOL is Federal law today, and it is just a matter of it being implemented.

REP. SMALL-EASTMAN asked REP. PETERSON where he sent his cattle to be slaughtered and packaged and sent back to the stores in this program. **REP. PETERSON** said that the cattle are processed by Excel Corporation in a cooperative agreement between producers, Excel Corporation, and Safeway.

CHAIRMAN BUTCHER said that the effective date on this will be October 1, 2005.

Vote: Motion carried 12-8 by roll call vote with REPS. ANDERSEN, HEINERT, KEANE, LAMBERT, MALCOLM, PETERSON, RICE, and ROSS voting no.
{Tape: 5; Side: B; Approx. Time Counter: 2.4 - 16}

EXECUTIVE ACTION ON HB 459

Motion: REP. RICE moved that HB 459 DO PASS.

Motion/Vote: REP. SMALL-EASTMAN moved AMENDMENT 45901.ads. Motion carried unanimously 20-0 by voice vote.

Motion: REP. WINDY BOY moved that HB 459 DO PASS AS AMENDED.

Motion: REP. BERGREN moved AMENDMENT 45902.ads.

Discussion:

Ms. Evans explained the amendments.

REP. RICE asked whether the agriculture heritage program two years ago included easements, or whether it was a grant program. **REP. ANDERSON** explained a previous bill in the 1999 Session that was very similar. She said that SB 342 provided agriculture

easement criteria and authorized the state and approved non-profit organizations to acquire and hold agricultural easements.

REP. LAMBERT asked **REP. PETERSON** to explain the agriculture heritage program. **REP. PETERSON** said that it provides an alternative for producers to do an agriculture easement and provide some money that can be leveraged with grant money. Currently only Fish, Wildlife and Parks can hold the easement. This program was funded four years ago with $1 million. There was a bill in to extend the "sunset" last session, and that bill did not pass because there was no money to fund it. He said this is not a question of being for or against an easement, this is to give a producer another option. It has an appropriation on it, and will have to funded.

Vote: **Motion carried unanimously 20-0 by voice vote.**

Motion: **REP. BERGREN moved that HB 459 DO PASS AS AMENDED.**

Discussion:

REP. BERGREN said that he agreed with REP. PETERSON and referred to the fiscal note. He said that this has been budgeted for, which should help it get through the appropriations process.

REP. ANDERSON opposed the bill because she did not feel that any of the easements will go to any 160-acre family farms. They will go to areas where there is wildlife habitat and wetlands. She said that she was present during the hearing of this program two years ago, and they had a list of people who had received money for easements. She said that eight people in the state had received money for easements, and they all had very large farms.

REP. FUREY said that his district has some of the only farm and ranch land left in Missoula County. They are facing a difficult property burden because property prices are increasing. There has been a lot of effort to try and save some of this land for agricultural use. He said that with different leadership, this program can go to a lot of different properties and protect a lot more smaller farms. Missoula County would benefit from this. ***{Tape: 5; Side: B; Approx. Time Counter: 16 - 29}***

CHAIRMAN BUTCHER said that there is agricultural land scattered around Billings, and it is still classified as agricultural land. The issue is 160 acres and above.

REP. KEANE said that he would vote against the bill.

REP. WAITSCHIES said, "It is not right that one generation feels they have the opportunity and the right to control property rights in perpetuity for future generations."

REP. LAMBERT said that she does not like easements and will oppose the bill.

Vote: Motion failed 9-11 by roll call vote with REPS. BERGREN, BRANAE, FUREY, GRINDE, PETERSON, SMALL-EASTMAN, VILLA, WINDHAM, and WISEMAN voting aye.

Motion/Vote: REP. FUREY moved to REVERSE THE VOTE AND TABLE THE BILL. Motion carried 20-0. HB 459 was tabled with a voice vote of 11-9 with REPS. BERGREN, BRANAE, FUREY, GRINDE, PETERSON, SMALL-EASTMAN, VILLA, WINDHAM, and WISEMAN voting no.

REP. WAITSCHIES asked to change his vote on HB 406 to a "Yes." (The change was made.)_
{Tape: 6; Side: A; Approx. Time Counter: 0 - 4.2}

(Note: The Committee took a five minute break)

EXECUTIVE ACTION ON HB 484

Motion: REP. JONES moved that HB 484 DO PASS.
{Tape: 6; Side: A; Approx. Time Counter: 4.2 - 6.5}

Motion/Vote: REP. JONES moved AMENDMENT HB048401. Motion carried unanimously 20-0 by voice vote.
EXHIBIT(agh39a20)
{Tape: 6; Side: A; Approx. Time Counter: 6.5 - 8}

Motion/Vote: REP. JONES moved that HB 484 DO PASS AS AMENDED. Motion carried 19-1 by voice vote with REP. KEANE voting no.

EXECUTIVE ACTION ON HB 547

Motion: REP. WINDY BOY moved that HB 547 DO PASS.
{Tape: 6; Side: A; Approx. Time Counter: 8 - 10.7}

Discussion:

REP. PETERSON cautioned that this bill is about the future, and said that doors on new technology should not be closed. He said, "We can't isolate Montana from new technology." He asked the Committee to defeat the bill.

REP. MALCOLM said, "This is the fourth time around for this bill and it hasn't passed yet; that should tell us something."
{Tape: 6; Side: A; Approx. Time Counter: 10.7 - 11.7}

REP. FUREY said that the bill would probably die, but he was going to vote for it.

REP. ROSS said that all the grain growers are opposed to this, as well as the Farm Bureau, but the Farmers Union voted in favor of it. He said that he would not support the bill.

REP. LAMBERT said that she would vote no.

REP. VILLA said that he would not be supporting the bill. He noted that this is the same argument they see with all insurance bills; i.e., this will raise rates and put everyone out of business. He said that was not the case, and all that this bill requires are instructions.

Vote: Motion failed 5-15 by roll call vote with REPS. FUREY, GRINDE, SMALL-EASTMAN, WINDHAM, and WISEMAN voting yes.

Motion/Vote: REP. VILLA moved to REVERSE THE VOTE AND TABLE THE BILL. Motion carried 20-0. HB 547 was tabled with a voice vote of 15-5 with REPS. FUREY, GRINDE, SMALL-EASTMAN, WINDHAM, and WISEMAN voting no.
{Tape: 6; Side: A; Approx. Time Counter: 11.7 - 13.1}

EXECUTIVE ACTION ON HB 573

Motion: REP. WINDY BOY moved that HB 573 DO PASS.

Substitute Motion/Vote: REP. WINDHAM made a substitute motion that HB 573 BE TABLED. Substitute motion carried unanimously 20-0 by voice vote.
{Tape: 6; Side: A; Approx. Time Counter: 13.1 - 14}

EXECUTIVE ACTION ON HB 674

Motion: REP. WINDY BOY moved that HB 674 DO PASS.

Motion: REP. PETERSON moved AMENDMENT HB067401.
EXHIBIT(agh39a21)

Discussion:

REP. PETERSON explained the amendments.

Ms. Evans noted that the amendment takes out the minimum standard of 87.5 octane.

REP. WAITSCHIES said that the amendments are good as he did have a concern about blending.

Vote: Motion carried unanimously 20-0 by voice vote.

Motion: REP. PETERSON moved that HB 674 DO PASS AS AMENDED.

Discussion:

REP. PETERSON asked for support of HB 674.

REP. BERGREN said that he supported the bill. He explained that the requirements of new Section 2 can be met without blending ethanol. He said that an oxygenator is not required in Montana. They have the ability to refine fuels and meet these requirements, but they do not have to use ethanol.

Vote: Motion carried 12-8 by roll call vote with REPS. BERGREN, BRANAE, FUREY, GRINDE, SMALL-EASTMAN, VILLA, WINDY BOY, and WISEMAN voting no.
{Tape: 6; Side: A; Approx. Time Counter: 14 - 21.2}

EXECUTIVE ACTION ON HB 489

Motion: REP. WINDY BOY moved that HB 489 DO PASS.

Motion: REP. WINDY BOY moved AMENDMENT HB048902.

Discussion:

Ms. Evans explained Amendment HB048902 and said that it was requested by REP. GALLIK.
EXHIBIT(agh39a22)
{Tape: 6; Side: A; Approx. Time Counter: 21.2 - 24.9}

Substitute Motion: REP. WAITSCHIES moved to SEGREGATE THE AMENDMENTS AND KEEP AMENDMENT 5 SEPARATE.

Ms. Evans explained that Amendment 5 was not to pay for a study, it was to educate. She said that Line 21 states "...a board's educational efforts must include the effects, if any, of biofuels on internal combustion engines." The result of the amendment will be to teach about biofuels.

Without objection, **REP. WAITSCHIES** withdrew his Motion.

Vote: Motion passed 19-1 by voice vote with REP. KEANE voting no.

Motion: REP. MALCOLM moved AMENDMENT HB048903.
EXHIBIT(agh39a23)
{Tape: 6; Side: A; Approx. Time Counter: 24.9 - 27.4}

Discussion:

Ms. Evans stated that the makeup of the board has been changed from "may" to "shall" in that amendment.

Vote: Motion passed 19-1 by voice vote with REP. KEANE voting no.

Motion: REP. WINDY BOY moved that HB 489 DO PASS AS AMENDED.

Discussion:

REP. KEANE said that this education bill was not necessary. He said that it would change the fiscal note because they were talking about two things instead of one.

REP. PETERSON said that he would rather see the money go for the tax incentives and the tax credits to get the industry started.

Substitute Motion/Vote: REP. ROSS moved that HB 489 AS AMENDED BE TABLED. Motion carried 11-9 by roll call vote with REPS. BERGREN, BRANAE, FUREY, GRINDE, SMALL-EASTMAN, VILLA, WINDHAM, WINDY BOY, and WISEMAN voting no.

EXECUTIVE ACTION ON HB 734

Motion: REP. WINDY BOY moved that HB 734 DO PASS.
{Tape: 6; Side: A; Approx. Time Counter: 27.4 - 32}

Discussion:

REP. HEINERT asked about the amendment that had been discussed, and the Committee agreed to use a conceptual amendment concerning the 100 year flood plain.

REP. WINDHAM said that the bill needed too much work and did not feel that it was the Committee's job to fix it.

Substitute Motion/Vote: REP. WINDHAM made a substitute motion that HB 734 BE TABLED. Substitute motion carried 13-7 by voice

vote with REPS. ANDERSEN, BUTCHER, HEINERT, JONES, LAMBERT, RICE, and WAITSCHIES voting no.

EXECUTIVE ACTION ON HB 464

Motion: REP. BERGREN moved that HB 464 DO PASS.

Amendment HB046402 was handed out. Also handed out was a bill that had been marked at the request of REP. BERGREN, with the stipulation that the amendments must be voted upon separately.
EXHIBIT(agh39a24)
EXHIBIT(agh39a25)

Motion: REP. BERGREN moved AMENDMENT HB046402.
{Tape: 6; Side: B; Approx. Time Counter: 0 - 7}

Discussion:

REP. BERGREN explained the amendment. He noted that biodiesel is not blended with ethanol, so "biodiesel" will be struck throughout the amendment. Also, anything related to biodiesel has to be taken out. He stated that changes in gasoline standards will take place within 12 months after 45 million gallons of certified ethanol have been produced. He emphasized that unblended 91 octane will still be available. The only thing that will be 10% will be the 85 octane. The mid-grade gasoline will be a blend of the 85 octane and the 91 octane. He said that should alleviate problems and avoid having to put in new tanks. He said that there is a $.15 per gallon incentive that caps at $3 million. That amount is pro-rated as more companies come on.
{Tape: 6; Side: B; Approx. Time Counter: 7 - 14.4}

Vote: Motion passed 20-0 by voice vote.

Motion: REP. BERGREN moved that HB 489 DO PASS AS AMENDED.

Discussion:

REP. SMALL-EASTMAN said that she supported the bill. She said that the old Holly Sugar Factory is in Hardin and the Rocky Mountain Power Plant is already under construction there. They have contracts out with Westmoreland Resources Coal Company to bring coal from the mine to the power plant which will produce the ethanol, as well as power.

REP. WAITSCHIES said that he and REP. BERGREN have had some good discussions on this bill, but they have a difference in

philosophy. REP. WAITSCHIES said that he cannot support this idea and will vote against the bill.

REP. PETERSON said that he is against the idea of a mandate, plus the rules on the credit are being changed. The financing package put together for the Hardin plant was based on the credit that is in the statute today, that allows for $3 million over six years. They are 60 days away from closing their financial package, they have the commitment to do the construction; the plant will go forward, and the legislature is tinkering with the financing. He said that the way to get this plant built is with incentives. The incentives are in place with REP. WAITSCHIES' bill and it is already in statute for the production of ethanol. It is there for the terminals and the retailers. The carcinogens have been taken away, and if an oxygenator is required it has to be ethanol. He wants this to be driven by incentives, he doesn't want this mandated.
{Tape: 6; Side: B; Approx. Time Counter: 14.4 - 17}

REP. BERGREN said that he had spoken with the people in question and they were comfortable with the amendment. He said that he would not call it a mandate, he would call it a trigger. If certain benchmarks don't happen, nothing happens to the bill. He said that they have made the standards high and asking for proof that this can be done, then changes can be made in the requirements for fuel standards.

REP. WINDY BOY said that he would support the bill. He commented that a member of the organization, "Women In Farm Economics" (WIFE), talked to him several times and asked him to support the bill.

REP. VILLA said that this is good legislation. He stated that there are incentives to develop infrastructure and business and agricultural products will be put to work. He said, "This is a good economic development bill, and it is time to create some jobs."

REP. LAMBERT said that she is a member of "WIFE" but she cannot support this bill because of the mandate. She felt that the incentives will drive it. She said that she has been told that this bill could jeopardize the funding of the Hardin project.
{Tape: 6; Side: B; Approx. Time Counter: 17 - 19.7}

Vote: Motion failed 9-11 by roll call vote with REPS. WINDY BOY, BERGREN, BRANAE, FUREY, GRINDE, SMALL-EASTMAN, VILLA, WINDHAM, and WISEMAN voting yes.

Motion/Vote: REP. PETERSON moved that HB 464 BE TABLED AND THE VOTE REVERSED. Motion carried 13-7 by voice vote with REPS. BRANAE, WISEMAN, VILLA, WINDY BOY, SMALL-EASTMAN, GRINDE, and FUREY voting no. HB 464 was tabled with a vote of 11-9 with REPS. WINDY BOY, BERGREN, BRANAE, FUREY, GRINDE, SMALL-EASTMAN, VILLA, WINDHAM, and WISEMAN voting no.
{Tape: 6; Side: B; Approx. Time Counter: 19.7 - 25.3}

EXECUTIVE ACTION ON HB 635

Motion: REP. WINDY BOY moved that HB 635 DO PASS.

Discussion:

REP. WINDHAM said that now is the time for all levels of government and the various tribal governments to work cooperatively. She said that she believed that REP. WINDY BOY had brought this bill in good faith, but felt there were unresolvable difficulties.

Substitute Motion/Vote: REP. WINDHAM made a substitute motion that HB 635 BE TABLED. Substitute motion carried 12-8 by voice vote with REP. BERGREN, REP. FUREY, REP. GRINDE, REP. KEANE, REP. SMALL-EASTMAN, REP. VILLA, REP. WISEMAN and REP. WINDY BOY voting no.
{Tape: 6; Side: B; Approx. Time Counter: 25.3 - 26.5}

CHAIRMAN BUTCHER adjourned the meeting.

ADJOURNMENT

Adjournment: 9:55 P.M.

_____
REP. EDWARD B. BUTCHER, Chairman

_____
LINDA KEIM, Secretary

EB/lk

Additional Exhibits:

EXHIBIT(agh39aad0.PDF)