MINUTES

MONTANA SENATE
59th LEGISLATURE - REGULAR SESSION

CONFERENCE COMMITTEE ON HOUSE AMENDMENTS TO SENATE BILL 461

Call to Order: By **CHAIRMAN GLENN ROUSH**, on April 14, 2005 at 9:30 A.M., in Room 335 Capitol.

ROLL CALL

Members Present:

SEN. GLENN ROUSH, SD 8, CUT BANK, Chairman
REP. DIANE RICE, HD 71, HARRISON
REP. PAUL CLARK, HD 13, TROUT CREEK
REP. GEORGE GOLIE, HD 20, GREAT FALLS
REP. BRUCE MALCOLM, HD 61, EMIGRANT
SEN. BILL TASH, SD 36, DILLON
SEN. DONALD STEINBEISSER, SD 19, SIDNEY

Members Excused: None.

Members Absent: None.

Staff Present: Peg Holwick, Committee Secretary
Krista Lee Evans, Legislative Staff

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

Committee Business Summary:
Hearing & Date Posted: None.
Executive Action: SB 461

{Tape: 1; Side: A}

Chairman Roush explained the purpose of the meeting was to discuss the amendments to the bill. He asked **SEN. STEINBEISSER** to review them.

Motion: SEN. STEINBEISSER MOVED AMENDMENTS TO SB 461.

Opening Statement by Sponsor:

SEN. STEINBEISSER reviewed **SB 461, Wolf collaring near livestock or population center.**

Discussion:

Chairman Roush asked **REP. RICE** to explain her reasoning for her concern about the amendments.

REP. RICE, who supported the amendments, explained that when the bill was first heard in Senate Agriculture Committee, they all supported it. She requested of the sponsor that the amendment be amenable and he agreed. She emphasized, "All the collars in the world on wolves are not going do much good if you don't have any receivers to locate them". Therefore, the amendment originated from this concern, albeit in haste and broad in scope.

SEN. TASH thought it was necessary to "soften up the bill", make it workable, and remain in compliance with the wolf recovery plan, which is the primary objective of the collaring system. Wolf depredations are a concern in his area.

REP. RICE added that in the management plan, land owners are to be notified where there are excessive depredations. She thinks this is a good tool helping to aid that enforcement.

CHAIRMAN ROUSH informed the committee that per his Legislative staffer, they should withdraw the motion and make a motion to amend the amendments.

Motion: SEN. STEINBEISSER MOVED SUBSTITUTE MOTION TO AMEND THE AMENDMENTS with amendment SB046103.akl TO SB 461, offered by REP. MALCOLM.

Discussion:

Krista Lee Evans, Legislative Staffer, explained amendments SB046103.akl; Receivers are provided based on availability and

need as defined by the department. It strikes "landowner" and inserts "livestock owner or livestock owner's designee".

REP. CLARK disliked the amendment because even though it inserts language implying permisivity, it leaves in language that does not e.g., "shall provide receivers", which would put the onus on FWP to explain why they are not providing receivers and on the defensive whether the receivers are available and whether there is a need for them.

CHAIRMAN ROUSH asked for further clarification of the amendment from **Ms. Evans.**

Chris Smith, Chief of Staff,(FWP), explained that the current amendment provides the department with discretion and is an improvement over current language in the bill.

EXHIBIT(ccs80sb0461a01)

REP. CLARK, who supported the original bill without amendments, agreed with **Mr. Smith's** comments. According to **REP. CLARK,** the bill was intended to have a radio collar on a wolf within any problematic pack. In the process of trying to make the bill better, however, a new level of problematic social issues was introduced in the relationship between the Department and the livestock owners experiencing depredations.

REP. MALCOLM, supported the amendment "just the way it is".

REP. RICE cited the incident in her area, where two wolf packs were exterminated.

John Youngberg, M**ontana Farm Bureau,** supported the bill and its amendments but wanted to make sure it didn't jeopardize the wolf management plan or the passage of the bill.

SEN. TASH asked **Mr. Youngberg** whether Subsection four needed to be amended. Youngberg didn't think that was an extremely important part of it, and did not think the bill would jeopardize the Federal Wolf Recovery Management Plan, or record of decision of the EIS. Furthermore, **SEN. TASH** said his part of the state, especially the Big Hole, was the worst problem in the state.

REP. GOLIE remarked that the Malcolm amendment hits good points but that the word "shall" opens up the Department for liability and expense.
00:18:57

SEN. STEINBEISSER asked **John Bloomquist, Montana Stock Growers' Association,** to further clarify "shall" within the context of the amendment.

REP. CLARK asked Mr. Smith to answer:
1) how receivers are being used,
2) how many there are, and,
3) whether or not the Department is capable of doing what the amendment outlines.

Mr. Smith answered by explaining further the responsibilities of FWP. They have approximately 20 receivers. U.S. Fish & Wildlife Service is turning over their equipment inventory to FWP as they assume and formalize management responsibility under a written cooperative agreement. With respect to the Department's capability, the amendment is not necessary to grant permission to FWP to give receivers to landowners where it would be beneficial to do so. FWP would do that regardless of the language in the statute.

REP. CLARK asked if all 20 receivers currently available are used. **Mr. Smith** said the Department would prioritize use of receivers accordingly. Currently there are five full-time wolf management staff.

SEN. STEINBEISSER asked **Mr. Smith** whether ranchers could purchase their own receivers. **Mr. Smith** said anyone can purchase a receiver but that the buyer would need to know the range of radio frequency (public record). If that were abused, while wolves remain listed under the Endangered Species Act, this could be a problem for FWP in that the Federal agency has the right to take back management authority.

SEN. ROUSH asked if a private party could make a monetary donation to FWP without participating in wolf tracking. **Mr. Smith** said it would be acceptable.

{Tape: 2; Side: A}

Mr. Bloomquist answered follow up questions from **CHAIRMAN ROUSH.** Roush referenced a letter (Exhibit 1) and qualified his question about giving a donation to the Department for purchase of additional receivers to help fund the program if the state does not have the money.

Mr. Smith expressed concern by referencing Subsection 2 in regards to giving donations to the department. Subsection 2 says the department can only use federal funds for equipment.

REP. RICE commented that FWP has received $600,000 of federal funding which is sufficient.

REP. CLARK asked **Janet Ellis**, **Montana Audubon Society**, to "weigh in" on previous discussion.

Janet Ellis expressed concern that the bill language wording of "shall" could create problems, especially for lay people who may interpret it differently.

Motion: To accept amendment SB046103.akl

EXHIBIT(ccs80sb0461a02)

Discussion:

SEN. TASH interjected one final comment prior to the vote in regards to "shall" vs. "may" in the amendment language.

Vote: Motion failed by voice vote with REP. CLARK and REP. MALCOLM voting NO and all others voting AYE.

Krista Lee Evans explained that the motion was adopted on the Senate side but not on the House side since both sides vote separately. She further explained that what will happen is the Conference Committee report will be sent to the Senate as adopting Rep Malcolm's amendments and to the House with "no recommendation".

REP. CLARK offered an additional amendment.

REP. RICE commented on the joint rules regarding the vote. Krista Lee Evans cited House Rule 40-230 (see H40-230 p. 83).

Motion: REP. CLARK moved amendment SB046104.akl to SB 461.

EXHIBIT(ccs80sb0461a03)

Discussion:

REP. CLARK defined the amendment.

REP. TASH asked **Mr. Bloomquist** about the bill before the amendment. **Mr. Bloomquist** said if the amendment gets the bill passed, then he supports it. He went on record as saying that

REP. Malcolm's amendments do nothing to effect state management plan, wolf recovery, or the way it was presented in the EIS.

REP. RICE asked **Mr. Bloomquist** about belief by stockgrowers that FWP is sincere about management and enforcement. Mr. Bloomquist agreed.

REP. MALCOLM asked a procedural question suggested taking out amendments, and keeping the original language of the bill.

Krista Lee Evans illuminated the committee members to the fact that the amendments they had been discussing were subsection 4 of Malcolm's amendments. Subsections 2 and 3 were done in the Senate.

REP. CLARK responded that there was a lack of trust in the FWP wolf management plan by the community and the stockgrowers.

Mr. Smith responded by emphasizing the competence and credibility of the Department although there is a greater chance of building trust if the Department is doing it voluntarily, not because they are forced to do it by statute.

SEN. ROUSH suggested dissolving to form a free conference committee and did not see the need to adopt **REP. CLARK**'s amendment based on comments he received statewide. **SEN. ROUSH** suggested trying the collaring program as a pilot study; i.e., two years.

SEN. TASH supported the amendment, further emphasized the degradation to his constituents (farmers and ranchers), and the perception of the public towards enforcement. He urged the committee to get something out that works and to pursue the wolf recovery plan in a balanced way.

SEN. STEINBEISSER spoke in favor of the bill and the amendment in order to pass the bill.

REP. RICE opposed **REP. CLARK's** amendment and agreed with **SEN. ROUSH's** sentiments.

Motion/Vote: **Motion to accept REP. CLARK's** amendment **SB046104.akl** to SB 461 was interrupted by an additional question by **REP. MALCOLM** who asked what would happen if **REP. CLARK's** amendment "goes down". **SEN. ROUSH** said he would urge they form a free conference committee.

Krista Lee Evans interjected that there's a positive recommendation from the Senate on the first amendment, so if **REP.**

CLARK's amendment fails, then "where the committee sits is that there's a recommendation to the full Senate from the committee to adopt **REP. MALCOLM's** amendments and no recommendation from the House". She explained the options before the committee and the difference between a conference and free conference committee.

Vote: Motion carried 6-1 by voice vote with REP. RICE voting no.

Motion/Vote: SEN. STEINBEISSER moved TO REJECT THE ORIGINAL HOUSE AMENDMENTS TO SB 461. Motion carried 6-1 by voice vote with REP. RICE voting no.

ADJOURNMENT

Adjournment: 10:00 A.M.

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SEN. GLENN ROUSH, Chairman

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Peg Holwick, Secretary

BM/GR/ph

Additional Exhibits:

EXHIBIT(ccs80sb0461aad0.PDF)