

MINUTES

MONTANA SENATE 55th LEGISLATURE - REGULAR SESSION

COMMITTEE ON AGRICULTURE, LIVESTOCK & IRRIGATION

Call to Order: By **CHAIRMAN KEN MESAROS**, on January 31, 1997, at 1:00 p.m., in Room 413/415.

ROLL CALL

Members Present:

Sen. Kenneth "Ken" Mesaros, Chairman (R)
Sen. Ric Holden, Vice Chairman (R)
Sen. Thomas A. "Tom" Beck (R)
Sen. Gerry Devlin (R)
Sen. Don Hargrove (R)
Sen. Reiny Jabs (R)
Sen. Greg Jergeson (D)
Sen. Walter L. McNutt (R)
Sen. Linda J. Nelson (D)
Sen. Bill Wilson (D)

Members Excused: None

Members Absent: None

Staff Present: Doug Sternberg, Legislative Services Division
Angie Koehler, Committee Secretary

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

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 217, 01/24/97
Executive Action: SB 218

HEARING ON SB 217

Sponsor: SENATOR THOMAS KEATING, SD 5, BILLINGS

Proponents: Dan Sellers, Harlowton, MT
Jeanne-Marie Souvigney, Greater Yellowstone Coalition
Jim Richard, MT Wildlife Federation
David Detloff, MT Audubon
Pat Graham, Director, MT Department of Fish, Wildlife and Parks

Opponents: John Bloomquist, MT Stockgrowers Association
Larry Brown, Agricultural Preservation Association

Opening Statement by Sponsor:

SENATOR THOMAS KEATING, SD 5, BILLINGS: Senate Bill 217 is looked upon as the buffalo hunt bill. Rather than describe the bill in detail, I'd like to give an overview of what is being attempted in this presentation. The buffalo herd in Yellowstone Park is over 4,000 animals and greatly exceeds the ability for the animals to forage. They have eaten the grass down to the rock and there is no feed for them and they are leaving the park and heading into Montana to find food. They have discovered that the grass managed in the state is a lot better than the grass not managed in Yellowstone Park. We are not concerned that they are coming to eat our grass so much as they're bringing a disease with them that threatens our livestock industry. As you know, Montana has been *brucellosis* free for a number of years. If our cattle were to contract *brucellosis*, it would be a tremendous expense to the livestock industry because all the cattle would have to be tested before being sent to market. It would restrict our ability to sell our breed stock in other states and countries. The *brucellosis* threat is real and it is great.

At the present time, our disease control efforts are being operated by the Department of Livestock. They have been capturing the animals, trucking them to slaughter houses, slaughtering them and selling the meat, hides and heads to recover some of their expense for this operation of disease control or, as I like to refer to it, the protection of Montana from the invasion of the federal lands. There are private property owners along the boundaries of the Park that, when the buffalo come onto their place, as protection for their herds, are actually shooting the animals and letting them lay. The Department of Livestock has food banks and food services of charitable organizations come clean and skin the animal and give the meat away as charity and sell the hides and heads to cover their costs of trailers and that sort of thing. The invasion is growing and the personnel at the Department of Livestock are being overrun. The Department of Fish, Wildlife and Parks has hazed the animals to some extent and tried to keep them in the Park. They don't pay much attention. The invasion is overwhelming the departments.

This proposal will allow the citizens of Montana and nonresidents who wish to hunt buffalo to obtain a permit to harvest an animal. In times of crisis, when the Department of Livestock is overwhelmed by the number of animals, they can call a special hunt in restricted areas. The citizens with permits who are eager to hunt can then come and take an animal based on their permit. They can take the animal and protect Montana through a disease control hunt, if you will, under the supervision of the Department of Livestock. This would help cut down on the number of animals the Department of Livestock has to deal with. It would allow hunting for citizens who are kind of anxious and eager to have a buffalo hunt and would help stem the tide and the danger to Montana's cattle herds. The protection of cattle herds

is paramount. The proposed hunt is merely supplemental to the Department of Livestock's efforts of disease control. The bill should be amended so the lead agency is the Department of Livestock in the disease control effort. The Department of Fish, Wildlife and Parks would issue the permits, but the Department of Livestock would determine when and where the hunt would take place. The fees are set at \$275 for a resident hunter and \$1,700 for a nonresident hunter. Other states have similar fees and do quite well in the sale of permits. It would be additional income to help defray the cost of the Department of Fish, Wildlife and Parks and the Department of Livestock in their efforts.

There is one amendment being proposed by the Departments because of the Governor. I would like to address that issue because it is woven into the fabric of this whole proposal. The Governor has been working very hard in confronting the federal agency and urging them to take responsibility for their herd. The federal government does not want to take responsibility for the herd and, as a consequence, is allowing those animals to come into Montana. The statement by **Mr. Finlay** in the paper says, "When the animals leave the Park it's not our problem anymore. It's Montana's problem." If that's the case, then we ought to kill them and protect our livestock. The Governor has been trying to negotiate with the federal government to take responsibility for their herd, animals and boundaries. They have agreed to establish a management program called the Long Range Management Program. The long range part of it is even getting the management program initiated.

The amendment says the hunt would be part of the Long Range Management Plan. In fact, it says "to authorize public hunting of wild buffalo or bison only within the context of the Long Term State and Federal Bison Cooperative Management Plan approved by the Governor". If we wait for that Long Term Cooperative Management Plan approved by the **Governor**, we may never hunt buffalo in the state, especially if that amendment is adopted because it restricts the hunt to that management plan. The management plan does not appear to be forthcoming and the **Governor** is very hard pressed to bring the federal agency to the table. I would ask the Committee to keep that in mind when considering this whole measure. Thank you for allowing me this presentation. (EXHIBIT 1)

{Tape: 1; Side: A; Approx. Time Count: 1:15 p.m.}

Proponents' Testimony:

Dan Sellers, Harlowton, MT: Submitted and read written testimony. (EXHIBIT 2) I've heard several government agencies say they don't want to have the public involved because of such reasons. (Perceived black eye or bad image as he stated previously.) I love to hunt and fish. I have no problem with standing up, holding my head high saying that I hunt buffalo. We hunt them to keep our herds in a sound carrying capacity. There

is nothing wrong with any form of hunting. We need to stand up and show the world and tell the world this. They are taking away our hunting rights and privileges year after year. We need to stand and have a spine and say enough is enough, let's hunt our wildlife and give it back to the people.

Jeaune-Marie Sowgney, Greater Yellowstone Coalition, Bozeman, MT:

We've been working on this issue, in particular, for at least seven years now waiting, as **SEN. KEATING** said, for a long term management plan that's yet to be produced. At the height of the bison numbers a few years ago there were over 4,000 bison in Yellowstone Park. In the last two years, over 400 bison have been killed by agency personnel outside the Park. We're approaching twice that number this year, from capture within the Park and shipment to slaughter and by shooting bison outside the Park. As with other wildlife, this population needs to be managed and that includes managing the numbers of bison that are within and that move outside the Park. The real question is, how are we going to manage those population numbers? More specifically, where do they get managed, by whom and why? These are all questions I think the American public really want to know as they look at how Montana and the federal agencies are managing this population. Hunting is one part of a management plan that fits into a larger context. If we take hunting out, as the main opportunity for managing the populations or the only issue with managing populations, then we're going to lose. We want this as part of a longer term plan to manage the bison.

There is no natural regulation in Yellowstone Park. There has been too much year round, public use of the Park to suggest that natural regulation takes place there. We typically manage populations through hunting. We do it with elk, deer and antelope. All of those populations migrate outside of Yellowstone. It's a natural inclination to move from the higher elevations down to the lower ones. What's going on right now isn't population management. The focus is on disease and that is certainly worthy of attention, but we can't ignore the population management at the same time. I want to hand out copies of an article that was in the Bozeman Chronicle yesterday. **(EXHIBIT 3)** It includes a photograph taken by two gentlemen who were in an area along the Madison, I think it was, and saw bison being shot by agency personnel. This isn't the first time bison have been shot near the road. What makes this better than hunting to manage bison? We have been getting calls from across the country about what is going on here. There are questions coming from international media about what is going on.

Yellowstone is a focus for the American public who think it belongs to them. They are angry about what is going on and want to see a change in the management that is occurring. They are being spurred by ads like this, which is the Fund for Animals ad on boycotting Montana tourism. **(EXHIBIT 4)** Years ago the argument was that hunting would give Montana a black eye. That is not the case anymore. They are getting the black eye now from

what's going on and that needs to change. The argument about shooting a couch applies here. Should the public be involved with managing bison herds and populations instead of leaving that to the agency? Wyoming currently hunts bison. It is on a smaller scale than what we're likely to do here. I'm passing out an outline of the orientation session they use with their hunters. It talks about what they have to consider before hunting bison. (EXHIBIT 5) We think it can be done to control the bison population and hope you will strongly consider this.

{Tape: 1; Side: A; Approx. Time Count: 1:26 p.m.}

Jim Richard, MT Wildlife Federation: We support a public hunt as part of the solution to managing bison in Yellowstone. We believe that such a hunt should be one set up in an environment where fair chase and escape and those kinds of things that lend themselves to an ethical hunt take place. We do not want the kind of hunting situation that existed between 1985 and 1988 in which public hunters were used simply as a disease control. I stress, as does **Jeaune-Marie Sowgney**, that the hunt aspect of this is only part of a larger solution. The MT Wildlife Federation is distressed that the current situation has developed into a blame game between the State of Montana and federal agencies. The bison, that belong to the American people when they're inside the Park and belong to Montana when they come out of the Park, need to be addressed with the cooperation of both entities. That is not being done at the moment and is one of the reasons we have chaos instead of an effort to move towards a reasonable solution.

There are two issues outlined succinctly by **SEN. KEATING**. One is that we have an excess population of bison relative to the carrying capacity of the forage in the Park to sustain that population. The other, of course, is brucellosis. Hunting is a way of dealing with the overpopulation of bison. It can be a way of dealing with the disease control, but there are some changes that have to be made. Those of you in the agriculture community are probably not going to find part of my suggested solution favorable. As part of this whole effort to set up an ethical hunt, we need to have some areas outside of Yellowstone National Park where bison can be hunted. It needs to be a large enough area so the bison have an opportunity to escape and we can have fair chase and an ethical hunt.

The disease aspect of this means we will probably have to remove the cattle that now graze on public lands. This is the part I know is not going to sit well with many of you. The grazing on public lands is a privilege, nonetheless, we sportsmen would be willing to invest some of our license dollars to compensate permittees that would have to relocate or delete their permits or whatever it takes to remove the cattle from that public land which would allow bison to move out of the Park and have hunting become part of the solution. I appreciate the impact that may have, although it's my understanding there are fewer than 200

animal unit months that are actually grazed on those public lands. My numbers may not be quite right, but there is not a large number of cattle there. If we could change those cattle to a different type of animal, like horses for example, or you can move them or relocate those allotments, sportsmen, I believe, will be willing to compensate those permittees. We would like you to move this bill forward because we believe Montana has to demonstrate its willingness to share in part of the solution. Passing it will send a message to the federal government that Montana is willing to do its share. We don't believe, if in fact it's proposed as an amendment, that this bill needs to wait and be part of an approval of a Long Term Management Plan. Like **SEN. KEATING**, I have watched that Management Plan be promised for more than six years and we still do not have it. We can begin to move in the right direction without the approval of that management plan.

David Dittloff, MT Audubon: Submitted and read written testimony. (EXHIBIT 6)

{Tape: 1; Side: A; Approx. Time Count: 1:32 p.m.}

Informational Testimony:

Larry Twight, Sidney, MT: I am a former Senator. The proponents are done and the opponents are going to start and I'm going to be in the middle. I have some concerns and problems with the hunting of these buffalo when they are managed on the federal park which you can't hunt and the only time they're going to come out is when the snow gets deep. I was in the legislature when the, whatever you want to call them, stood in front of the rifles while they were shooting buffalo. It was wrong then too. I voted to shut down hunting. There is a better way to manage these buffalo even to the tune of reservations saying they'll remove parts of the herd. They can start up their own business on their own reservations and make pretty good money off that. The hunting season will only be when the snow is belly deep and they're coming out of the Park.

You will start a nightmare if you take any more federal land away from ranchers. How would you regulate a hunt like you do with elk? You will only hunt them when the snow is deep and they're looking for food. Why are they looking for food? They're overgrazed and that's a management decision of the feds. I'm a hunter too and I'm not speaking against sportsmen or hunters. How are you going to manage a hunt when there are no buffalo to hunt until they come out of the Park? Then you have to order in so many hunters to shoot them in belly deep snow. That's when the press and everything all the way to New York had pictures in national papers about the slaughtering of poor defenseless buffalo by hunters. There are a lot of questions. How do you bring in hunters to regulate management on the federal end of the Park? You can't do it. You can put them on some reservations and put the number in the Park that it will sustain. We've got the

brucellosis problem and the minute they come into Montana they're to be shot. Whether they are shot by the agency or the hunter makes no difference because it's bad press either way. It's a no win situation. The public is still mad because we're supposed to let them run over Montana, but the brucellosis disease could make this state totally noncompliant and cost the cattlemen millions. The solution to the problem has to start within the Park. The Bureau of the Interior owns the Park and management of buffalo in the Park. They have to manage their program better. We're not going to control the problem with hunting. I've been a rancher for 60 years and that isn't the way you control a problem. You can hunt elk like they're supposed to be hunted and can start early in the fall. In this case, you're not going to hunt them because they won't come out of the Park until the snow is deep and they're looking for food. Then you shoot them, they're defenseless animals and you'll have the press down your neck again. So good luck and thank you.

{Tape: 1; Side: A; Approx. Time Count: 1:36 p.m.}

Opponents' Testimony:

John Bloomquist, MT Stockgrowers Association: I rise in very reluctant opposition to **SEN. KEATING'S** bill. Of the many bison hunting bills that have been proposed and will be proposed, this one has some good intentions. I think **SEN. KEATING** recognizes the problem, the concern and the source of the problem as well. I will get to some of the technical problems we see at this point with the bill. There are some timing issues as well. In the last legislature, the Department of Livestock was placed in the role as lead agency. There was a good reason for that. I recognize that **SEN. KEATING** didn't intend to change that, but his bill does, as introduced. The reason the Department of Livestock is in the lead role is this is a disease issue. It's an animal disease issue and the Department of Livestock is the most appropriate agency to handle that role. Our opposition to this or any other hunting bill is not on the issue of hunting. It's about adequate control. What are the federal animal health agencies going to recognize as adequate control and what are the other states going to recognize? It's no secret that all bison are exposed and some infected with brucellosis. When they come out of the Park, it's no secret that creates a problem for the Montana cattle industry. As such, it's also an economic issue and a very serious one. Montana's class free status is an issue for only one reason right now, the Yellowstone National Park bison and brucellosis. For the most part, it's the only reason Montana's class free status is even discussed anymore.

The problem in the Park puts Montana in a very difficult position. Until Yellowstone National Park addresses the disease issue, will hunting be a viable alternative or option? Park Service needs to step up to the plate in not only population management, but in addressing the disease issue. The Governor's litigation against the Park Service had some results. It created

the interim plan. The interim plan is coming under attack, but the plan had Yellowstone National Park recognizing its role and recognizing some responsibility. I hope this Committee, in looking at whether hunting of bison is allowed, recognizes that Yellowstone National Park, at any time, looks for any reason to get off the hook. The concept of allowing some lands around the Park to be utilized in lieu of the livestock doesn't solve the problem. We create buffer zones and if we go that route, do we just keep going and going? We need to keep the Park's feet to the fire on population management. We will work very diligently with the Department of Livestock, the Department of Fish, Wildlife and Parks, **SEN. KEATING** and other responsible folks that are interested in this issue to try to address the problem. The different management measures and aspects of what would occur under the bill need some definite clarification. I have some questions about the direct threat language throughout this bill. I appreciate the opportunity to present this testimony and appreciate **SEN. KEATING'S** efforts.

*{Tape: 1; Side: B; Approx. Time Count: 1:42 p.m.; Comments:
Turned tape over.}*

Larry Brown, Agricultural Preservation Association: I would like to thank **SEN. KEATING** for bringing this bill forward. We also reluctantly oppose this because I think the intent is certainly in the right direction. As previously stated, this is an animal health issue. It's also a land stewardship issue. It's pathetic to drive through Yellowstone in February and March and see the condition of the buffalo and the elk. They are bags of skin and bones standing beside the road waiting to die. It's because the land is not adequately managed for sustainable yield and control of those populations. Probably the best thing that ever happened in Yellowstone in the last 100 years were the fires in 1988. They provided some forage on lands that had become overgrown from lodgepole pine that had reached its maturity. We could go on and on about the philosophical aspects of hunting and so forth and so on. It's important to recognize that not only is the Park Service shirking their responsibility, but also the Department of Fish, Wildlife and Parks, the Department of the Interior and possibly even the Forest Service in the way they manage the lands adjacent to the Park.

We've heard about private lands and the way other states are managing bison as well as the buffer potential being created around the Park. Those lands need to be managed because those ecosystems are not static. We need to go forward in terms of applying our science to control, not only the ecosystem in the sustainable capacity for carrying those livestock and wildlife, but what is good for the people and the wildlife themselves. The other thing I want to mention is the seasons. Former **SEN. LARRY TWIGHT** brought this up in terms of when and how those wildlife populations migrate out of that park. The Department of Fish, Wildlife and Parks does a very good job of managing those elk herds later on in the year. It also carries over to the bison.

The weather dictates the success of how those wildlife populations are managed. In fact, it probably has a greater effect on the overall number of elk and bison in that system down there in terms of how the weather affects the calving and so forth in the spring as well as how many mature animals carry forth into the fall. Thank you again, **SEN. KEATING**, for bringing this issue forward and as always, we're willing to work with anyone who would like to work with our association on finding a viable solution to this problem.

Informational Testimony:

Laurence Petersen, Executive Officer, MT Department of Livestock:
Submitted and read written testimony. (EXHIBIT 7)

Pat Graham, Director, MT Department of Fish, Wildlife and Parks:
I will pass out the proposed amendments. (EXHIBIT 8) The Department of Fish, Wildlife and Parks recognizes the role that limited public hunting can play in the part of overall wild bison management plan. Hunting is three of the five alternatives being considered in the EIS. In the long term plan, hunting is in three of those options. Like the Department of Livestock, we also recognize what a struggle it's been to get two federal agencies, each with different, valid missions to work together to complete a long term plan. **Governor Racicot** has recently called upon the President to help break that deadlock. Progress has been made in the past year as evidenced by the revised interim plan. Federal agencies now have a larger role on the ground this winter although it had to be coerced through litigation. If the Committee chooses to pass this bill, we would offer amendments. The amendments are where and under what conditions public participation could occur. It removes reference to the word "trophy" and under number 14, delays implementation until the EIS for a long term plan is complete. It's unfortunate, some would say unexcusable, that we would find ourselves in a struggle between two federal agencies. Most recently, between the state and United States government. The problem is complex. Today, in this room, we're talking about how we harvest migrating bison. On a larger stage, the issue is how we maintain the integrity of this wild bison herd and, at the same time, maintain Montana's brucellosis free status. This winter has clearly demonstrated the need for a long term plan, a plan that addresses management of bison, both inside and outside the Park. Thank you for this opportunity.

Written Testimony:

Skyline Sportsmen's Association, Inc. (EXHIBIT 9)

Written Information:

"Don't blame cattlemen" article (EXHIBIT 10)

{Tape: 1; Side: B; Approx. Time Count: 1:50 p.m.}

Questions From Committee Members and Responses:

SEN. DON HARGROVE: If the Department of Livestock is going to say when and where a hunt is going to be, what is left for the Department of Fish, Wildlife and Parks? What is their management responsibility going to be in terms of the hunt?

Mr. Petersen: The two departments would work together to identify those areas that are least restrictive in our disease control efforts on the bison that are coming out of the Park. Then it would be the responsibility of Fish, Wildlife and Parks to determine the number of permittees for that given area, the season for it and take care of all the licensing.

SEN. HARGROVE: Does this bill require the hunt to start right away? Is there any reason why you couldn't, on the basis of good management practices, say we'll just wait until we've got this plan in place and then we'll get our act together and do it that way if this bill is implemented?

Mr. Petersen: As it is written?

SEN. HARGROVE: Yes.

SEN. KEATING: On page 4, line 9 the amendment takes out the word "trophy", but says the Department may issue a wild buffalo license that allows a holder to kill a wild buffalo or bison designated under Subsection 1c in areas designated by the Department and to possess the carcass of the buffalo as authorized by the Department pertaining to the possession of big game. It sets up a random drawing, but the Department may issue the license and then designate the area where they will be hunted just like they do for deer, antelope and whatever.

SEN. HARGROVE: Is it the intention of this bill, if it passes this year and is signed into law, to have a time when the season would start? Could it be delayed until the departments, in accordance with good management practices, decide what's going on with the planning implement?

SEN. KEATING: The intention is that the hunters would be supplemental labor to the Department of Livestock for disease control and at the designation of the Department at a given time, not a season, when migration poses a threat to the state, they could allow hunters to assist the Department of Livestock in harvesting the animals and removing them from the site. The hunt would take place at the direction of the Department.

SEN. LINDA NELSON: How are the fees set?

SEN. KEATING: The bill drafter based them on the Wyoming licenses. I didn't have a feel for it and it doesn't matter to

me if they're changed. The citizens may want it a little lower so it's more available to them, but some people want it higher to raise more money.

SEN. NELSON: Do these sort of fall in line for the way we charge for other large game animals for resident and nonresident?

SEN. KEATING: Yes, I think so. If memory serves me, in-state license fees are usually about a fifth or sixth of what we charge nonresident hunters for elk, deer, etc.

SEN. TOM BECK: Was your organization for the hunt before we closed it down?

Mr. Richard: Yes. We supported the hunt's creation in 1985 and supported maintaining the authorization for the hunt throughout the period of the hunt. Our position has changed on that.

SEN. BECK: The problem is, the buffalo are starving in the Park and are coming out. You made mention of the fact that you want to do it in a sportsmanlike manner. You want the buffalo running and doing all those things. What's your plan? Is your plan to feed them after they get off the Park to give them enough strength to run? These pictures are here because they're so starved they can't move.

Mr. Richard: The MT Wildlife Federation is unequivocally supportive of maintaining the brucellosis free status. This isn't the kind of an effort that will necessarily solve this winter's problem. We're looking at a long term solution for reducing those populations by having sport hunting on the outside of the Park. It may be that the kind of hunt I'm talking about won't completely solve the problem, but it should be the primary means by which we reduce an overpopulation of wildlife. The difference between my own philosophy and yours, perhaps, is that this is the one opportunity we have in North American to have a truly wild bison population. I would like to see the wild bison managed as a wildlife population and not be submitted to the kind of husbandry that's taking place now, where you're culling, trapping, loading and trucking. That's not the ethical way to treat wildlife.

SEN. BECK: Do you think it's ethical not to control that herd? What if we built a fence along the border and said, "Hey, keep your elk on your side of the property." You know what will happen then. They will pile up on that fence and they will be laying there dead because they've starved to death. The reason they're coming off that park is that they're starving. That's the main emphasis I'm trying to get to some people. How do you control it? How about a hunt in the Park? Would you be in favor of a hunt in the Park?

Mr. Richard: I would be in favor of having some kind of a reduction in the Park when we have demonstrated that we cannot

control them with sport hunting outside of the Park. I think you raised a question that deserves a response. I am utterly opposed to building a fence. If we hazed cattle back into a bare pasture, we'd go to jail. That is absolutely unethical and to that extent, **SEN. BECK**, I really agree.

SEN. GERRY DEVLIN: You're talking about a buffer zone you're wanting to set up so this hunt could go on without cattle in the road. How do you propose to turn the cattle out? Are you purchasing or leasing? What are you doing?

Mr. Richard: Yes. All those options would be available depending on the situation of the permittee that would be affected.

SEN. DEVLIN: How would you gather this money needed for such an endeavor?

Mr. Richard: I believe there would be money that could be made available in a habitat protection program. We haven't had a poll yet, but I think the sportsmen of Montana would be willing to use that kind of funding in order to set up this opportunity. We'd be willing to face a fee. The sportsmen would be willing to fund that however necessary.

SEN. DEVLIN: Are you going to go for a fee on Montana hunters or are you going to lay it off on the nonresident hunters?

Mr. Richard: Either of those options would be available.

SEN. DEVLIN: Which one are you going to support?

Mr. Richard: Both.

SEN. DEVLIN: Equally?

Mr. Richard: We're talking about some details here that are probably premature because there's a concept here that we haven't even come to grips with.

SEN. DEVLIN: You talked about a buffer zone the way I heard you and I was wondering when you said your outfit would gladly put up the money. I'm just wondering how you're going to get it. Are you going to lay it on the nonresidents so you can have a private hunt?

Mr. Richard: I'm not suggesting it be laid on the nonresidents. I'm talking about resident sportsmen and, if appropriate, some on the nonresidents.

SEN. DEVLIN: I appreciate that commitment.

{Tape: 1; Side: B; Approx. Time Count: 2:03 p.m.}

CHAIRMAN MESAROS: If I understand correctly, approximately half the buffalo are infected with *brucellosis*. Through the handling of the meat or the dressing of the animal there is a risk for a person to contract *undulant fever*. Who would be liable? How would we address that problem?

Mr. Peterson: One of our concerns with the hunt or even in removals from the field that we're in the position we have to do. We're very concerned about the transmission of *brucellosis* to humans. In fact, 98 percent of the field removals done by the Department of Livestock, we have a veterinarian present to make assurances that we do not come in contact with the reproductive tract or certain parts of the animal's system so there isn't a transmission. That veterinarian removes the reproductive tracts. This is a trained individual. Law enforcement officers, in some instances that have been placed in this position, have observed this action. They're all livestock people and hunters and accustomed to eviscerating an animal. Once they're shown, they can remove these organs as well. We definitely have that concern. How could you orient an individual that has a once in a lifetime opportunity to where long plastic gloves such as a veterinarian uses when pregnancy testing? How about in the excitement when they get an animal down to make sure they have those gloves on so they do not get blood on them. This bacteria is in the blood and lives for a short time. If they have any cuts on their hands and it gets in their system, they can contract *undulant fever*, *brucellosis* in humans. That is our concern and I know the Department of Fish, Wildlife and Parks has also talked about this and how they may be able to address it.

Mr. Graham: In terms of the liability question, I don't think I could give you a legal answer to that. In the past we addressed that through orientation, as this bill calls for, so that people where the appropriate protective gloves. There is even risk with that if you touch your eyes or whatever with fluid on there you could potentially infect yourself. It is a question whether providing appropriate information and instruction removes us from liability or not. That is how we did it when we were administering the program before.

SEN. BECK: You offered amendments to the bill I assume. If the amendments go in here, do you support the bill then?

Mr. Graham: The concern we have with this is with perception. We're in the middle of a struggle between the federal government and the state. Part of the leverage here, we're trying to get them to accept the responsibility we think is theirs. They would like us to accept a larger responsibility than we have. Hunting has become one of those chips in which they say why don't you control this with hunting outside the Park. Out of the context of a long term plan, I don't think it's feasible. We had some 1,300 bison migrate out of the Park this year already. I can't imagine how we could ever set up a controlled hunt that would have kept those bison from ending up in Ennis or Livingston. I

think it would have been impossible if that were the only tool we had. We have provided amendments if you choose to move forward on this issue of how we would ask you to do it. The decision needs to be weighed carefully on how this postures the state in terms of the federal role versus the state role.

SEN. BECK: Did you say the federal government wants us to hunt these animals?

Mr. Graham: Correct.

SEN. BECK: That's sure some game management. Is **SEN. KEATING** aware of the amendments?

Mr. Graham: Yes.

SEN. HARGROVE: I'm still concerned about the where and more so, the use of private land or leases as **Mr. Richard** mentioned. No one has suggested that they are going to put an amendment into the law to do that. In lieu of that, is there a plan, knowing the geography of the area, are there places it would be logical to do this that are on public land. Is there a plan to allow them to come off in one place rather than another or lure them out? Has that even been thought through yet?

Mr. Peterson: It has been thought through. There are very few public areas or private areas. The public areas that we could look at there would not be the possibility of exposing domestic cattle or bison. We have to maintain the Department of Livestock's responsibilities for disease control there. I appreciate **SEN. KEATING'S** efforts because I may have unknowingly instigated part of this bill. There was a time when we had a 1,000 head of bison outside of Yellowstone Park in the West Yellowstone and Gardiner area. In the Eagle Creek preserve, under the interim management plan, we cannot take any removal action. As the buffalo travel out of the preserve, it's all downhill and across the highway they're in the Royal Teton Range. At that time we had an estimate of 500 head of buffalo in that drainage. We were very concerned with that. I discussed it with **Director Graham** on how we could deal with this type of situation. It was to the point of looking for an emergency hunt of some kind in the event we got overrun. That situation has lessened now. Other areas would not be very large and the time period would be very limited. I don't believe these pictures show these buffalo are on the highway and on the fence are a group of cattle on hay. That was an emergency request. We had no one in the area so the Game Warden assigned to West Yellowstone disposed of those animals.

SEN. JABS: You testified in opposition to this bill. Do you recommend we wait until this long range planning is being done or do you recommend some amendments or do you go along with it if those amendments were adopted?

Mr. Bloomquist: We'll take our lead from the Department of Livestock and the Board of Livestock on this matter. If the bill would be amended where the Department of Livestock, the Board of Livestock and the Governor and everybody were comfortable with what we put into place as an adequate control and if APHIS, the other states and the state vet thought we had an adequate control in place, there would be no reason to oppose. Under the bill that passed in the 1995 Session contemplated and it was discussed that at some point in time there would be a hunt when the disease issue was handled. It is a pretty significant endeavor to make sure the control measure is adequate.

SEN. JABS: Do you say no as it sits right now?

Mr. Bloomquist: Yes, as the bill was introduced. I haven't seen all the amendments or the effect of all the amendments.

SEN. JERGESON: Is there any strength to Montana's bargaining position with these federal agencies? It appears that Montana is currently in somewhat of an anemic bargaining position.

Mr. Graham: Some progress has been made. I agree that we're not in a good position of strength because the problem flows primarily one direction and the risk flows in one direction. From that perspective, there is not as much leverage on that side to take action. The disagreements between the federal agencies over how to approach this problem further complicates it.

{Tape: 1; Side: B; Approx. Time Count: 2:15 p.m.; Comments: End of tape, some testimony lost.}

We now have agreed upon a time schedule for completion of the plan. The federal government has taken a larger roll this winter fortunately. If they had not, we would have had quite a difficult situation. It was hard enough, but had those trapping facilities and whatnot not been in place and there was one operated in the Park by the National Park Service. It demonstrates that we are making some progress, but clearly not at the rate we would like.

SEN. JERGESON: I feel a huge sense of frustration because I've been voting to establish a hunt, voting to get rid of the hunt, back and forth for so many years. I'm wondering what we could do as a legislature to give you some strength in the bargaining position. We have to give you something that gives you some strength. My understanding is that by allowing the hunt, that would strengthen your position. I'm surprised to hear that somehow it weakens it.

Mr. Graham: I agree with some of the comments by proponents about the hunt and the role of the hunt and defining the hunt as an opportunity as we do with the elk. There are 7,000 to 8,000 elk that migrate out of Yellowstone Park. We don't sit there and try to kill them all. We harvest 10 to 20 percent of that

population. In the spring they migrate back in. Bison are a different story. They aren't necessarily going to migrate back into the Park. The other thing is the *brucellosis* risk that's there. By increasing the hunt, it provides a more diverse way of controlling the population. Whether it's hunting or not is a matter of definition by the individual. When I say I stand here and support a hunt, I'm thinking of it in terms of selective removal of some of the bison in Eagle Creek or around West Yellowstone where you don't have to send 20 people in to shoot 20 bison by noon. You give them permits and you say there are bison there and you can go between these dates and remove those bison. The tolerance the state has shown the Eagle Creek area and the West Yellowstone area now, in the long term plan, would provide an opportunity for that kind of hunting. Giving us another tool to control bison does not provide for the balance we think is necessary.

As far as the bison not migrating like elk and only making themselves available from time to time, we've seen how many bison decided to make themselves migrants this winter. It was a very large, unprecedented number. You don't manage them the same way you do elk or antelope because of the disease consideration. Bison only make themselves available for harvest to the state when they choose to. By giving us more tools does not necessarily address the core problem and certainly would not be an effective tool during a year like this when you have 1,200 to 1,400 bison migrating out of the Park and we're only half way through the winter. To think we're going to handle that with public hunters standing along the border is not realistic. They strongly support us getting back into hunting. The issue here is that we pick as much of this role as we can. It is the Legislature's choice whether they want the State to pick up larger role in this or do you want the federal government to have to pick up a role.

SEN. NELSON: Does Wyoming have a comparable problem and do they address it through hunting?

Mr. Graham: The numbers in the past have been migration of 15 to 25 bison out of the Park. There is nothing comparable to the migration going on in Montana.

SEN. DEVLIN: If we were to okay this and open up buffalo hunting, do you think it could damage the negotiations with the feds to control that problem within the Park?

Mr. Peterson: Absolutely. That is why I came to testify for information purposes. My personal opinion is that it will compromise our position if this bill is passed through the Legislature.

SEN. DEVLIN: Same question.

Mr. Graham: Same answer.

SEN. BECK: I can remember a few years ago when the Governor's office was begging us to get rid of public hunting because it was on the national news media constantly. We were getting harangued by it due to the fact that we were trying to protect our livestock from *brucellosis* at the same time. I have a real concern with letting U.S. Park Service off the hook on this particular item. If I had cattle in my field and didn't harvest any of them and they finally exploded and blew outside the fences, whose responsibility would that be? It would be mine. It is the Park's responsibility. Do you honestly feel the public's perception has changed any from 1991 to allow a public hunt of buffalo?

Mr. Graham: The issue has shifted from how you do it to are you doing too much of it. I don't think it would matter. Whatever capacity your doing it in is not going to look positive. They have tried to shift the focus on to the number being harvested, not to the core population in the Park. If we tried to use it the same way we did in 1989 and 1990 I would suspect the reaction would be no different. I don't know why it would change. If there is a role for public hunting in this and I think there can be, it would be in the context now that Montana is more tolerant. At the same time we're asking the federal government to take a larger role by allowing tested bison to stay in the West Yellowstone area and the untested ones in the Eagle Creek area we're providing tolerance and flexibility in Montana to try to help find a way to resolve this issue. It's in that context that I think a regulated hunt could take place where, as I described before, you aren't sending 20 people out to shoot 20 bison by noon. I don't think that would be acceptable any more today than it was in 1989.

SEN. BECK: But not in the Park? You say it has to be outside the Park?

Mr. Graham: If you're asking about public hunting in the Park, I think that's a whole different issue.

SEN. BECK: I know it is. It might be somewhat to prevent the buffalo from coming out of the Park.

Mr. Graham: I don't know if that's really a part of the context of the long term plan at this point. Right now, trapping seems to be the only alternative that they're open to.

SEN. HARGROVE: No matter what we do we're going to be criticized. I don't know that we have to worry about that. We get criticized if we truck them out, but I don't think the trucking industry is in trouble because of that. We get criticized if the Department of Livestock slaughters them, but we're still going to have beef processing in slaughter houses. We're going to get criticized if we have hunting and I think maybe the future of hunting is more fragile. I would like your comment.

Mr. Graham: I couldn't agree with you more. We've seen an unprecedented number of ballot initiatives in this country aimed at fish and wildlife management. They've banned trapping in several states and addressed things like hounds and hound hunting, mountain lion hunting and bear hunting; those areas which they felt were most vulnerable to public perception. They did it at the ballot box and did it based on public opinion. It wasn't based on scientific research or management or any of the kinds of discussion we've had here today. The field shifts to one of public perception and hunters definitely need to be sensitive to that in this society today. That's why I strongly supported getting us out of hunting the bison when we did. I guess I'm willing to take a risk if the long term management plan calls for it. It's premature to say what it will do, but three of the five alternatives provide for some limited roll of hunting. In any other context, I think it would be disastrous for hunting to be the primary means of controlling the migration of 1,200 bison from Yellowstone Park.

SEN. DEVLIN: In the picture is that livestock back here?

Sawing away

Ms. Sowgney: I don't know. I haven't seen it. Those people came into the office and were upset. They didn't know what to do about what they were seeing occurring off the road. Our point on this is not to criticize the interim plan that's in place from this perspective. It's to suggest that this is what the American public is seeing and to suggest that hunting can't play a role in controlling population, not disease control. There are two issues on this.

{Tape: 2; Side: A; Approx. Time Count: 2:29 p.m.}

Closing by Sponsor:

SEN. KEATING: The first sentence of this handout reads, "They lured from Yellowstone Park with bait, stuffed into trucks and carted off to a slaughterhouse. Here, under the cloak of secrecy they die in horror..." We're getting hammered no matter what we do. To enter into a debate over whether the publicity is going to hurt us or not if we have a hunt shouldn't even be part of the discussion. These people are telling the world to write **Governor Racicot** and tell him to stop hurting the buffalo or we're not going to be tourists. That should be the end of that argument I would think. The media doesn't count in this issue. What counts is what we're going to do about population control and disease control. I introduced the buffalo hunt because there are a number of constituents and people across the state who want to have a buffalo hunt. I wasn't very anxious to do it, but I said I would stick my neck out for them. Then, while sitting through the appropriations for livestock, I hear the details about the problems we have. I began to think that a hunt could be part of the disease control plan and would supplement the manpower of the Department of Livestock with some citizens who want to make the effort to take some of the animals.

I'm going to stick my neck out and express an opinion. You've heard a lot guarded testimony and conversation when, in fact, the **Governor** should have testified because behind all of this is the desires of the **Governor** to avoid bad publicity for Montana, which is fine. Secondly he wants to make sure the feds enter into some sort of workable long term management plan program. That's proper and the way it should be. Whether he has the leverage to bring the federal government to the table in this issue is the real question. If we have a hunt, it's said we weaken our position with the feds. We've been dealing with them for four years. How weak can you get? They don't come to the table at all. Maybe they want us to thin the herd for them. They're not willing to do it themselves. I was told the Park Service captured 700 animals and moved them out in secrecy to this horrible slaughter at night someplace. Yet there are 1,200 to 1,500 out there that are moving into Montana that need to be controlled. They haven't done their part and they're not doing their part. They are not managing the grazing in the Park so the animals can feed through the winter. They haven't and I don't think they will.

I appreciate all of the attempts the **Governor** is doing and I know he doesn't want this hunt to be a part of all of this, but I don't think he has any leverage to bring the feds to the table in a very short time. Those animals are going to keep coming. They don't care about the management plan. I think the legislature ought to take a hand in this and allow some sort of controlled hunt. I think it could be arranged as a hunt, that an area could be designated and people would have to find their animal and take their shots. We're damned if we do and damned if we don't. There is still that thing that hangs there that if one or two of those animals are "hot" and the spores get into the cattle herds then this state is in real trouble.

I agree with the amendments except amendment number 14 on page 2. It says, "to authorize public hunting of wild buffalo or bison only within the context of the long term state and federal cooperative management plan approved by the Governor". That isn't going to happen for another four years. To have a hunt at that time doesn't satisfy the problem and crisis we have at this time and next winter. I suggest that the Legislature take a hard look at the possibility of implementing a hunt along with the disease control program with the Department of Livestock and maybe encourage the Governor to consider this as part of a crisis control plan at this time to be incorporated into the long range management plan when and if it ever gets done. We need to do something now. I'm a city guy. My grandfather had a dairy herd and I learned to milk when I was a little kid. There are ranchers and livestock owners on this Committee. You understand the seriousness of *brucellosis*. The hunters are out there hunting elk and the elk carry *brucellosis*. When you're harvesting elk you're looking at the same situation as if you're harvesting bison. If you have a "hot" one, you're in trouble. It doesn't matter which animal you're working with. A hunter has

to be cautious of what he's doing. The elk are allowed to be hunted by the state through the Fish and Game. I don't know that there is any more liability or worry of getting *undulant fever* from bison than there is from elk. At any rate, you guys are the experts when it comes to livestock. Here's an idea, but remember there is more to it than the hunt and disease control and what the Governor has in mind. Good luck and thank you.

CHAIRMAN MESAROS: We will not take Executive Action on this bill today. We will close the hearing on SB 217.

{Tape: 2; Side: A; Approx. Time Count: 2:38 p.m.}

EXECUTIVE ACTION ON SB 218

Discussion:

SEN. JERGESON: This is a classic case where we've got a good program. It's been proven to be a good program. **SEN. BURNETT** is very sincere in his belief, but the evidence is that it is a good program worth preserving and his solution isn't the answer.

SEN. DEVLIN: The only comment I have is that the bill is a little different than what his past bills have been. This one throws the county sanitarian into the mix.

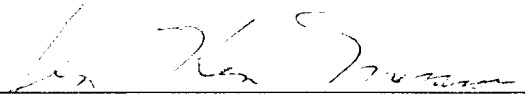
SEN. JERGESON: Then we have an unfunded mandate to local government.

Motion/Vote:

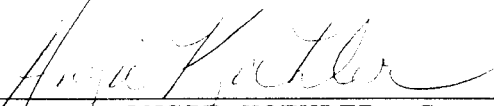
SEN. JERGESON: MOTION TO TABLE SB 218. MOTION CARRIES UNANIMOUSLY.

ADJOURNMENT

Adjournment: 2:43 p.m.



SEN. KEN MESAROS, Chairman



ANGIE KOEHLER, Secretary

KM/AK