

MINUTES
HOUSE AGRICULTURAL AFFAIRS COMMITTEE

DATE: Tuesday, March 26, 2013

TIME: 1:30 or Upon Adjournment

PLACE: Room EW42

MEMBERS: Chairman Andrus, Vice Chairman Boyle, Representatives Bolz, McMillan, Batt, Bell, Agidius, Dayley, Miller, Romrell, Stevenson, VanOrden, Pence, Erpelding

**ABSENT/
EXCUSED:** None

GUESTS: LeRoy Riscus; Pam Lazenby; Monica Morrison, Canyon County Prosecutor's Office; Lisa Kauffman, HSUS; Sean Ellis, Capital Press; Sharon Kiefer, IDFG; Dar Olberding, Idaho Grain Producers; Sunrise Ayers; Mary F. Rengel; Rick Waitley, Food Producers; Dustin Miller, OSC; Elizabeth Criner, NWFPA; Stan Boyd, ICA/IWGA

Chairman Andrus called the meeting to order at 3:15 p.m.

MOTION: **Rep. Pence** made a motion to approve the minutes of the March 14, 2013 and March 18, 2013 meetings. **Motion carried by voice vote.**

Chairman Andrus handed the gavel over to **Vice Chairman Boyle**.

H 111: **Chairman Andrus** presented **H 111**, Animal Care. He explained that the amendment for this bill would provide that torture of a companion animal would be a felony on the second offense, instead of on a third offense, as in the original bill. He expressed concern for potential action by an animal rights group to conduct a ballot initiative that would make animal torture a felony on the first offense, for companion or production animals. He pointed out they were nearly successful last year. He has also heard public outrage that nothing currently in Idaho law addresses this issue with a reasonable compromise. He indicated that one conviction of animal torture as a misdemeanor should be enough warning that the abuser would think twice about committing this act again, which would then be tried as a felony. He stated that the livestock industry does not want animal torture to include production animals, due to normal agricultural practices possibly being misconstrued as torture.

Chairman Andrus referenced **Allie Phillips**, who outlined in a presentation earlier this session, the link between animal abuse and probable escalation to child or other domestic abuse. He claimed that prosecutors of animal abuse are seeking legislative direction and guidance to help bring offenders to justice. A clear definition and consequence would help their efforts greatly.

Regarding questions on how widespread this issue is, **Chairman Andrus** answered that shelters and law enforcement officers are always getting calls or having to deal with cruelty and neglect daily.

Monica Morrison, Deputy Prosecutor, Canyon County, commented that she came to testify on her own accord and not for the county. She related that there has been a huge increase in the number of animal torture cases routed to their office on a daily basis. She indicated that as the economy has worsened, so has animal abuse. She noted the nexus of animal cruelty, child abuse, and domestic violence. Ms. Morrison pled for more tools or laws that would create a deterrent effect for offenders. She pointed out how thefts are punished more harshly than cruelty and torture. She claimed that prosecutors need more direction and clarification from the legislature on how to pursue these cases .

In response to questions, **Ms. Morrison** agreed that the animal cruelty and production animal laws passed last year have been helpful. She explained that when responders check on allegations of animal cruelty, they would seize animals only after many warnings were issued. At that point, the county or shelter would accrue costs to take over caring for the animals, but they are not looking to take on production animals; their primary concern is for companion animals.

Concerning deficiencies with current animal cruelty laws, **Mr. Morrison** confirmed that very few have a felony penalty and the definitions are difficult to prove. She stated this proposed legislation would address concerns for specific situations and allow that torture is completely different than the current animal cruelty law. Pertaining to deterrents and the possibility of mental help or treatment, she replied that the first offense would be a misdemeanor and a warning. At that point a psychological evaluation could be requested. She observed that if the court were to order an evaluation or counseling, this may partly address the problem and prevent further abuse. She also acknowledged that prosecutors and judges have had to be creative to deal with these cases and would like more options to be made available.

Ms. Morrison further explained the process of animal control workers. When a call or tip is received, they go out for a welfare check and if they believe there is a problem, they show the animal owner how to remedy the situation, giving appropriate feeding or shelter basics. Then they return in 30 days. She noted that if the problem has continued, they will prosecute the owner. She indicated that only in severe abuse cases would the animals be seized.

Pam Lazenby testified in favor of **H 111**. She related that she volunteers with the Humane Society and Animal Patrol. She has rescued hundreds of dogs and was a school teacher for 23 years. She affirmed that she sees the link between animal abuse and child abuse. When she worked in other states, she observed that perpetrators were prosecuted and dealt with severely; however, in Idaho, she was embarrassed to learn that we are one of very few states where the first offense of animal torture is not a felony. She expressed a tremendous need to help these offenders, who are often pet hoarders and become more abusive.

Lisa Kauffman, State Director, Humane Society of United States, testified in support of **H 111**. She commented that she was pleased this bill was brought back to include a felony offense on the second violation. She believes this will be a deterrent that also gives judges and prosecutors more to work with. She granted that this bill does not include production animals or livestock. She validated that she would rather work with the Legislature to affect change and said this bill is a good compromise.

Rep. VanOrden referenced an e-mail she received from **Ms. Kauffman**, which opined that production animals should be included at some point. Ms. Kauffman granted that she does feel all animals should be covered, but that perhaps the ranching and agricultural communities should bring this up. She specified that if legislation does not get passed this session, she would be open to doing an initiative on the ballot, but there is another group that would likely do the ballot first.

Mary Rengel expressed support for this bill. She mentioned that she is a retired veterinarian and school teacher. She commented that animal torture is a humane issue, educational issue, and public safety issue. She wrote her master's thesis about how violence in childhood to animals leads to later violence in life. She stressed that educating young children is key to preventing abuse. She related that some children have poor examples and do not know that animal cruelty is wrong. She claimed if children are not educated on this before middle school, it is too late and the window of opportunity has passed.

Chairman Andrus closed his remarks by clarifying that the ballot initiative last year had more than enough signatures, but was discredited because they were not properly verified by the respective counties and some were not on the correct paper. He is greatly alarmed that this particular animal rights organization would provide that convictions of animal cruelty would mandate prison time and a substantial fine. This bill would ward off such an effort and has the potential to stop another initiative. Additionally, it would not criminalize the livestock industry in their normal agricultural practices. He signified that he wants to be able to assure constituents that the legislators have done something to address this issue.

In connection with questioning, **Chairman Andrus** suggested that other groups are tired of initiatives and that perceptions of animal cruelty between urban and rural voters are different. He believes that passing this bill would alleviate some concerns of groups that would run initiatives, but without this bill, animal owners and especially livestock owners may be helpless.

MOTION: **Rep. Batt** made a motion to **HOLD H 111** in committee.

Rep. Batt commented she believes the last animal rights group that ran the initiative would bring it forward again and this legislation may not deter them. She sustained that last year's legislation on animal cruelty will help protect all animals from cruel treatment. She recommended assembling a task force to discuss this issue over the summer, with all parties involved.

Rep. Erpelding reiterated that this bill is about torture and companion animals. He cited evidence that those who torture animals will likely abuse a human being. He resolved that prosecutors need stronger laws to work with. He offered to help stand with agricultural communities (at a later date) to argue against animal torture of production animals.

SUBSTITUTE MOTION: **Rep. Erpelding** made a substitute motion to send **H 111** to the floor with amendments attached.

Rep. Dayley expressed opposition to how the bill addresses cruelty. He said there are better ways to handle this than increasing the penalty, such as mental counseling and education. **Vice Chairman Boyle** related that she received many calls from people stating they signed the previous initiative because the Legislature had not passed stricter laws. They indicated if there were stronger laws in place, they may not sign the petition again. **Chairman Andrus** included that this bill addresses concerns and the felony charge would be on the second offense, for someone who knows what they're committing and has had a chance for remediation. He recommended that this legislation would protect people.

ROLL CALL VOTE ON SUBSTITUTE MOTION: Roll call vote was requested. **Motion carried by a vote of 8 AYE, 6 NAY. Voting in favor** of the motion: **Reps. Andrus, Boyle, Bolz, McMillan, Miller, Stevenson, Pence, Erpelding. Voting in opposition** to the motion: **Reps. Batt, Bell, Agidius, Dayley, Romrell, Vanorden. Chairman Andrus** will sponsor the bill on the floor.

Vice Chairman Boyle handed the gavel back to **Chairman Andrus**.

H 336: **Vice Chairman Boyle** presented **H 336**, Wolf Depredation Account. She explained that two similar bills last year, **H 544** and **H 545**, were combined to introduce this bill. She outlined the problems that wolves have brought to Idaho, effecting wildlife, the Idaho Department of Fish and Game (IDFG), hunters, and producers. She claimed that federal funding has dried up and environmental groups have not kept their promises to help. Senator Craig and Senator Tester tried to keep those funds coming but they are now gone.

Vice Chairman Boyle acknowledged the previous federal fund that compensated ranchers and producers, but last year this paid only 33 cents on the dollar for confirmed kills. She related that when livestock are found dead or wounded, Wildlife Services are called. Many times it takes three to four days for them to respond and other animals have fed on the carcass by then. Other times when livestock herds are grazing, it is difficult to find dead or maimed livestock in time to protect and preserve the evidence. This demonstrates the difficulty in proving a confirmed kill. She pointed out the frustration in completing the necessary paperwork. She also spoke about unconfirmed kills, where the loss was probably due to a wolf, but these reimbursements were last in line for monies and received only a few pennies on the dollar.

Vice Chairman Boyle focused on the proposed fee increase for gray wolf tags in Idaho, which was previously \$9.75 and would become \$15 for residents. For non-residents, the fee would go from \$184.25 to \$188.25. She noted that this bill would authorize taking \$8.00 from each wolf tag and putting it into two different accounts. One would be a newly created "Wolf Depredation Account" with monies invested and interest returned to the account. This would be specific for wolves and not applied to other animal control. Half of these funds would be transferred to the Animal Damage Control (ADC) fund, to control wolves preying on wildlife or livestock. The other half would be used for wolf depredation payments to livestock producers, administered by the Governor's Office of Species Conservation (OSC), and in coordination with the IDFG. She pointed out that although it appears that IDFG loses some money, it is actually revenue neutral.

In response to questions of hunters possibly backing off from buying more expensive tags, **Vice Chairman Boyle** answered that she spoke with wolf hunters and they contribute for the cause and the thrill of the hunt, even if the wolves are mostly elusive. She noted that Wildlife Services has had better success with trapping, and these funds would aid their efforts. She also clarified the bill specifies the IDFG would work in cooperation with the OSC to administer the compensation payments.

Pertaining to questions on other monies in the works for wolf depredation, **Vice Chairman Boyle** remarked that the other wolf legislation, **H 278**, is very sporadic funding and applies to general ADC. Pertaining to the number of wolves currently in Idaho, she related estimates of at least 1200. She defined that 150 is the absolute lowest number allowed or the wolves may be re-listed as an endangered species, which would put a stop to any hunting or management efforts.

Dustin Miller, Administrator, OSC, stepped forward to offer technical information. He confirmed that previously, for verified losses, they were able to compensate livestock owners close to market rates. Although wolves were de-listed in 2011, they had federal funding that ended in 2010. For undocumented losses, there was \$100,000 annually available from additional federal funds and Defenders of Wildlife, to make payments if certain criteria was met. However, the last three seasons, compensation was only 33-35% of market value. He specified, unfortunately, that these funds have also dried up, leaving those with losses due to wolves in difficult situations.

In relation to questions on payments and required monitoring, **Mr. Miller** advised that the payments from Defenders of Wildlife were applicable so long as the endangered species act still applied. Now under state control, there is a five year period following de-listing where wolf monitoring and reporting is still required, to ensure the number of wolves stays above the threshold.

Sharon Kiefer, Deputy Director, IDFG, voiced technical observations and concerns about H 336. She stated this bill transfers more money into control and compensation payments than is raised by the wolf tag increase. She expressed fear that the license money the department needs for wolf monitoring will likely be reduced. However, federal expectations must be upheld to ensure that wolves are not re-listed.

Ms. Kiefer said that this bill's use of funds paid by hunters does not comply with Idaho Code since it would divert funds from ADC without the direct oversight of the IDFG Commission. She asserted that merely coordinating with OSC is not sufficient. She referenced that license funds must be implemented in a transparent manner for documenting claims and compensation, which she believes are lacking in this bill.

Ms. Kiefer presented her analysis that their Pittman Robertson funds may be threatened by diverting IDFG funds. She indicated that hunters and trappers are already part of the wolf management solution and are making overall progress in reducing depredation. She worried that increasing fees may be a disincentive to hunters. Ms. Kiefer called the committee's attention to recent revisions adopted by IDFG that will provide benefits to livestock producers. She lamented that hunters do not want their funding to be the only solution to the wolf problem.

Ms. Kiefer pointed out that IDFG was not consulted about this bill and are concerned that it carries an emergency clause. She recognized frustration about federal funds drying up, affecting legislators, producers, IDFG and sportsmen too. She asserted that IDFG and Idaho State Department of Agriculture (ISDA) have engaged an advisory committee to discuss this issue and bring forward potential solutions for consideration.

Ms. Kiefer described a Commission Order containing discounted non-resident fees for wolf tags, mountain lions and black bears. She wished to encourage rather than discourage hunting as a management tool for predation. She wondered if the emergency clause in **H 336** would overturn these non-resident discounts. She encouraged the committee to hold this bill for the remainder of the session.

In regards to further questioning on the Pittman Robertson funds, **Ms. Kiefer** answered that a large component of these funds is used for wildlife. The assent language to using the funds states that no funds from license fees by hunters shall be diverted. She responded that about \$8 million per year comes in from Pittman Robertson funds and requires a state match with licensed dollars. She indicated that IDFG was using some of these funds for wolf management monitoring and control, but they were not available for depredation payments.

Ms. Kiefer continued that if Pittman Robertson funds are not used appropriately or are diverted, they can be withheld. She wants to make sure IDFG continues to receive these matching funds, which pertain to all hunting license fees, including licensing, tags and permits. She offered that in order to use the funds for compensation payments, it would need to be framed correctly. When asked if wolf management was outside the purpose of the Pittman Robertson funds, she consented that it may be possible to add wolves to Idaho Code 36-1109, which already specifies compensation for damage by black bears, grizzly bears, or mountain lions. She suggested that their advisory committee could look at how adding wolves to Idaho Code would effect funding for other animal depredation payments.

Ms. Kiefer addressed questions on following the money from the sale of wolf tags. She remarked that those fees go into the IDFG Expendable Trust Account, the bulk of which are used for wolf monitoring. In response to doubts on progress with wolves and possibly offering a bounty, she claimed that trappers have much better success than hunters, but hunters face a disparity in the likelihood of actually obtaining a wolf. She did not know if bounties would be more effective. Concerning wolf harvest numbers not keeping up with reproduction rates, she referenced harvest numbers gradually improving over the last few years and acknowledged they would continue to need wolf control to manage population growth. She predicted increased need for utilizing trappers.

On the topic of amending Idaho Code to include wolves for depredation payments, **Ms. Kiefer** indicated that she would try to have the House Resources Committee and IDFG Advisory Committee bring in key stakeholders to look at this possibility.

Stan Boyd, representing Idaho Cattle Association and Idaho Wool Growers Association, expressed his support of **H 336**. He noted that this would be a reliable source of funding that could be budgeted and counted on.

Vice Chairman Boyle summed up several concerns, adding that the other possible depredation payment program was similar to crop funding and had many complaints; however, the OSC program was highly praised and the industry has been happy with it, when funding was available in the past. She had approached several attorneys about the diversion of monies and is confident that Pittman Robertson funds would not be lost.

On the topic of the fiscal note for the bill, **Vice Chairman Boyle** was taught that it should reflect changes to the state's General Fund, and will look into that. She stated that one reason for the emergency provision was that February was usually when ranchers came together to be compensated by the OSC and so those who suffered losses would have something instead of nothing. Pertaining to bounties, she wanted to make sure that the wolves would not be in danger of re-listing or the agreement would be violated, but agreed the idea is worth looking into further.

MOTION: **Rep. McMillan** made a motion to send **H 336** to the floor with a **DO PASS** recommendation.

Rep. Pence advocated coordinating groups and advocates of wolves to get together and find another solution without picking on one segment. **Rep. Batt** declared that this is not a new issue. She asked **Ms. Kiefer** to take the message to IDFG that we have got to find money for a solution to this issue.

VOTE ON MOTION: **Motion carried by voice vote. Representatives Pence, Erpelding, Bell, and Bolz** requested that they be recorded as voting **NAY**. **Vice Chairman Boyle** will sponsor the bill on the floor.

ADJOURN: There being no further business to come before the committee, the meeting adjourned at 5:30 p.m.

Representative Andrus
Chair

Kim Jensen-Porter
Secretary