

MINUTES OF THE MEETING  
AGRICULTURE, LIVESTOCK & IRRIGATION COMMITTEE  
50TH LEGISLATIVE SESSION  
HOUSE OF REPRESENTATIVES

February 6, 1987

The meeting of the Agriculture, Livestock & Irrigation Committee was called to order by Chairman Representative Duane W. Compton at 1:00 p.m. in Room 317 of the Capitol.

ROLL CALL

All committee members were present. Tom Gomez, Researcher from the Legislative Council, was present.

Bills to be heard were HJR 14, HB 516, and HB 517.

HOUSE JOINT RESOLUTION 14

Rep. Gene Donaldson, House District #43, sponsor of HJR 14, explained it is a joint resolution of the Senate and House of Representatives of Montana requesting the Montana Congressional delegation to initiate an amendment to the Reclamation Reform Act of 1982 to provide a more equitable acreage limitation for Montana land served by a federal water project.

It is a resolution directive to the Congressional delegation requesting the revisitation to the 1982 Reclamation Act to provide for equivalencies in that Act. The original Act was passed in 1902 or 1908. That particular Act stated you could only own 160 acres in a Bureau of Reclamation project. That may have been an adequate number of acres at that time. Since then 160 acres is not enough, so in 1982 this was changed, and also it was implied that it would provide for equivalencies. So if you had 960 acres in California vs 960 acres in Helena, there is a great difference in your ability to make a living on it. However, these equivalencies have not been put into effect. It has caused considerable concern in those states in the northern climates. HJR 14 basically directs our Congressional delegation to try to get these equivalencies in place.

PROPONENTS

Mark Etchart, a former legislator from Glasgow, is on the Board of Commissioners of the Glasgow Irrigation District, and they support HJR 14. The old 160 acre allotment was

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changed by Congress to 900 acres. Prior to that change, Congress authorized quite a few projects (one around Dillon), wherein Congress built in an equivalency formula for the landowners of the east bench unit. That was the reason Montana irrigators are getting behind in the effort to amend the basic irrigation law of 1902. The equivalency idea fell through the cracks. When Congress got around to it, they raised the acreage a person could have from 900 acres to 960 acres for those operating in northern climates at higher elevations where crop values cannot compete on an acre to acre basis with California. They think that the Congressional delegation by means of a simple amendment by inserting the word "westwide" in front of the word "equivalent", our problem would be solved. The Bureau of Reclamation has taken the attitude that equivalency is just within an irrigation district or a small area. We need to generate as many dollars in an irrigation district as they can in California. When working on the basic law they found that there are cases where there is ten times the difference in the revenue per acre of land. For example, an acre in California might generate \$1700 while in Montana you would be doing good to get \$170. HJR 14 is just asking Congress to go back and take care of the problem they missed when they passed the law.

CRAIG WINTERBURN, irrigator and rancher in Helena Valley, and a member of the Helena Valley Irrigation District, said he first became involved with this problem as a reclamation format in 1977 when they were first trying to rewrite the regulations before they changed the law, taking into account that the 160 acre limitation has been ignored since 1902, and that it had to be dealt with. There was a lawsuit brought against irrigators in California that enjoined the Bureau of Reclamation to enforce the law. The whole process of rewriting the law was started at that time. Montana has been fighting for equivalency since 1977, and at that point, the Bureau or any other faction in the westwide area were against that concept and its validity.

We definitely do not have the same economic opportunity in Montana on an acre of irrigated ground as they have in other parts of the system. They continued to fight for that, and it was put into the law. Limitations of topography, soil characteristics, climate, water adequacy, crop adaptability, length of growing season, elevation, and profitability, were recognized and at that time it was agreeable to Montana irrigators. Validity would have to be on the westwide basis. In conference committee it was stated to the Bureau on equivalency even though they had a land classification system in place, they were not bound to use that classification to

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develop equivalency, but they could develop any formula they thought fit. Again they thought they were going to get some equivalency relative to the limitations in the state, but when it got down to it, they were told it would only be considered on the productivity of those land classifications on a district by district basis. It appears that through the rules and regulations process, the intent of equivalency has fallen through the cracks. There are a lot of questions being raised at this time in the reclamation format, so it would be appropriate to reassert Montana's position. Without going to a lot of expense to the irrigators to get this problem resolved, they thought this would be a simpler way to do it. They ask the legislators for approval of HJR 14.

DUEANE CALVIN, manager of the Huntley Project Irrigation District, Ballantine, MT, which is a reclamation project, supports HJR 14 and its immediate dissemination to the Montana Congressional delegation. See EXHIBIT #1.

JERRY NYPEN, employee of the Greenfields Irrigation District, supports HJR 14. Their objective is to be recognized as an equal partner in the reclamation effort in this country. He thinks Montanans want to emphasize this, and fight this to the end that we be treated equally as far as the benefits of the reclamation program are concerned.

OPPONENTS - None

QUESTIONS (OR DISCUSSION) FROM THE COMMITTEE - None

Rep. Donaldson had to leave to attend another committee hearing, so Rep. Compton asked Mr. Etchart if he would like to close for Rep. Donaldson. Mr. Etchart closed saying this is not controversial, just a housekeeping bill which escaped Congress in the rush of congressional business, and they think the amendment and having the support of the Montana legislature will have a beneficial effect on getting it straightened out.

HOUSE BILL 516

Rep. Rex Manuel, House District #11, sponsor of HB 516 which is an Act revising the limitation on the amount of a purchase or rental to which an irrigation district board may bind a district without consent of the landowners; and amends section 85-7-1904. This Act will revise the limitation of the amount of purchase or rental which an irrigation district could do without the consent of landowners.

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PROPONENTS

JERRY NYPEN, manager of the Greenfield Irrigation District, explained their district is made up of a Board of Commissioners which includes a five-man board of elected officials making the decisions of the irrigation district. He supports HB 516. See his testimony, EXHIBIT #3.

MARK ETCHART is also a proponent of HB 516. Following the disastrous floods on the Milk River there are situations where irrigation districts would have to move in these areas and this legislation could be very helpful.

OPPONENTS - None

QUESTIONS (OR DISCUSSION) FROM THE COMMITTEE - None

Rep. Manuel closed. The information has been presented very well.

HOUSE BILL 517

Rep. Rex Manuel, House District #11, sponsored HB 517 which is an Act to make consistent the investment authority of an irrigation district's Board of Commissioners concerning certain funds; to permit investing of these funds in investments backed, insured, or guaranteed by the United States or the State of Montana; and amending sections.

Rep. Manuel explained this deals with the investment authority of irrigation districts giving them some options. There is a problem there and something should be done about it.

PROPONENTS

JERRY NYPEN, Greenfield Irrigation District, and Montana Water Development Association, said the federal requirements include a reserve for catastrophic emergencies. This bill would allow them to obtain the best rate of returns from safe investments of that reserve fund. The reserve fund amounts to one year's operation budget. He proposed an amendment adding "including federal and state agency obligations" to each proposed new section. See his testimony, EXHIBIT #4. He asked a favorable vote for HB 517.

RON SCHOFIELD, Helena, manager of the Helena Valley Irrigation District and President of the Montana Water Development Association, is of the same opinion as Mr. Nypen.

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It is a law that needs some correction. They are still talking about a very secure investment by allowing the districts a little more latitude, and in the long run cutting the cost of operation by allowing better investment procedures. He recommends passage of HB 517.

See the Visitors' Register for other proponents.

OPPONENTS - None

QUESTIONS (OR DISCUSSION) FROM THE COMMITTEE

Rep. Cody asked if this is a "trust me" bill. Rep. Manuel explained that in their irrigation district the FDIC has only \$100,000 guarantee and their district has \$1.3 million in reserves, so you have to have it in three different banks to keep it insured. They would like to keep it in their county, but there are only three banks in that county. This was looked into and the money wasn't being invested at the highest amount that was available throughout the county or safest. They figured that to get the largest return on a long-term investment, it would have lowered their end costs 50 cents an acre. It is a cost saving for them and good for people to put their money into.

Rep. Bachini asked his opinion of this bill - Mr. Etchart said he thinks it is fine.

Rep. Rapp-Svrcek asked if his district were given this authority, would it pull all of its funds out of the local banks? Rep. Manuel answered it would give them the option to try to get the best investment they could. They would not pull all of it out. It makes for competition, and it could be taken out if they didn't want to pay the going rate.

Rep. Jenkins asked what the chances are of having these funds stuck in some place where there would be a higher risk of losing them? Mr. Nypen said their plan is to do like wise investors and divide the funds up into various categories. They would keep them very liquid in case of an emergency, with reserves of \$1.3 million. They would go with \$200,000 on a vehicle such as a Ginnie Mae that offers 2-3% more than the 5-6% that is available to them now in an insured CD at a bank. Their plan is not to go all one way or another. Rep. Jenkins was nervous about the district having these funds out, although he realized they are the district's own funds, and having something catastrophic happening where a large chunk would be lost. Is there any guarantee on these? Mr. Nypen said the Board of Commissioners would make the decision

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as to where they want to put these funds. They feel that as long as the funds are secured or backed by the United States they would be safe. Rep. Jenkins remarked when the savings and loans closed, there wasn't any backing.

Rep. Holliday asked how they acquired \$1.3 million and over what period of time. Mr. Nypen said they had acquired it over a period of 10 years as a special levy. When he first started with the district, they had a budget of about \$60,000 and reserve funds of only \$2-3,000. The Bureau of Reclamation with whom they have a contract for operation and maintenance kept sending letters demanding that they get a reserve fund. So they started gradually building this up. They now feel they don't need to go any higher because it does match one year's operation costs. They could still deliver water for one year should they not receive any of their assessments. Rep. Holliday asked what the budget is for one year. Mr. Nypen advised their budget right now would be about \$1.4 million which is the cost of transporting water from Gibson Dam to the 283,000 acres around Fairfield to Greenfield.

Rep. Holliday asked Dueane Calvin if they had the same kind of reserve. He said they did; all U.S. contracts are required to maintain an operating reserve.

Rep. Manuel closed thanking the committee for their attention.

EXECUTIVE SESSION

HOUSE JOINT RESOLUTION 14

Rep. Bachini moved HJR DO PASS; Rep. DeMars seconded the motion. The motion was unanimously adopted.

Rep. Holliday asked about safeguards built in with respect to ownership of acreage on projects. Mr. Calvin explained control of ownership of acreage. He said each participating owner is required to submit a certificate of ownership, detailing owned or leased acres to the Department of Reclamation. More emphasis isn't placed on productivity because it is based on soil types, length of growing season, and owner ability.

HOUSE BILL 517

Rep. Cody moved HB 517 DO PASS. Rep. Giacometto seconded the motion. Rep. Rapp-Svrcek moved to amend to insert in the appropriate sections "including federal and state agency

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obligations". The motion was seconded. The amendments were adopted unanimously. See exhibit #5. Rep. Cody then moved HB 517 DO PASS AS AMENDED. Rep. Giacometto seconded the motion and it was unanimously adopted.

HOUSE BILL 446

Rep. Giacometto moved HB 446 DO PASS. Rep. Campbell seconded the motion and it was unanimously adopted. The bill suspends the 25 cents collected for beef marketing and research. There is now \$1.00 collected for each animal sold for marketing and research at the federal level.

HOUSE BILL 461 needs a Statement of Intent.

HOUSE BILL 323

Rep. Keller moved HB 323 BE TABLED. He was the sponsor of this bill and he did not want to continue with it. It had not been heard in a committee meeting.

HOUSE BILL 516

Rep. Giacometto moved HB 516 DO PASS. Rep. Marian Hanson seconded the motion and it was unanimously adopted.

ADJOURNMENT

There being no further business to come before this committee, the hearing was adjourned at 2:30 p.m.

The next meeting would be at 2:00 p.m. Monday, February 9 to hear HB 628.

*Duane W. Compton, jr*  
REP. DUANE W. COMPTON, Chairman





# STANDING COMMITTEE REPORT

February 12 19 37

Mr. Speaker: We, the committee on AGRICULTURE, LIVESTOCK & IRRIGATION  
report HOUSE JOINT RESOLUTION 14

- |   |  |   |
|---|--|---|
| <input checked="" type="checkbox"/> do pass | <input type="checkbox"/> be concurred in     | <input type="checkbox"/> as amended                   |
| <input type="checkbox"/> do not pass        | <input type="checkbox"/> be not concurred in | <input type="checkbox"/> statement of intent attached |

REP. GUANE W. COMPTON Chairman

# STANDING COMMITTEE REPORT

February 6

19 87

Mr. Speaker: We, the committee on AGRICULTURE, LIVESTOCK & IRRIGATION

report HOUSE BILL 446

do pass  
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be concurred in  
 be not concurred in

as amended  
 statement of intent attached

REP. DUANE W. COMPTON Chairman

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# STANDING COMMITTEE REPORT

February 6 1967

Mr. Speaker: We, the committee on AGRICULTURE, LIVESTOCK & IRRIGATION

report HOUSE BILL 517

- |   |  |   |
|---|--|---|
| <input checked="" type="checkbox"/> do pass | <input type="checkbox"/> be concurred in     | <input checked="" type="checkbox"/> as amended        |
| <input type="checkbox"/> do not pass        | <input type="checkbox"/> be not concurred in | <input type="checkbox"/> statement of intent attached |

REP. DUANE W. COMPTON Chairman

## REVISE INVESTMENT AUTHORITY OF IRRIGATION BOARDS

### BE AMENDED AS FOLLOWS:

1. Page 2, line 20.  
Following: "Montana"  
Insert: ", including federal and state agency obligations"
2. Page 3, line 10.  
Following: "Montana"  
Insert: ", including federal and state agency obligations"
3. Page 5, line 1.  
Following: "Montana"  
Insert: ", including federal and state agency obligations"
4. Page 5, line 10.  
Following: "Montana"  
Insert: ", including federal and state agency obligations,"

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# STANDING COMMITTEE REPORT

February 6

19 87

Mr. Speaker: We, the committee on AGRICULTURE, LIVESTOCK & IRRIGATION

report HOUSE BILL 516

do pass  
 do not pass

be concurred in  
 be not concurred in

as amended  
 statement of intent attached

REP. DWIGHT W. JOYNTON

Chairman

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EXHIBIT # 1  
DATE Feb. 6, 1987  
HJR 14 Rep Gene  
Donaldson

Concerning: HOUSE JOINT RESOLUTION 14:

I am Dueane Calvin, manager of the Huntley Project Irrigation District, Ballantine, Mt.

I wish to thank you for the opportunity to come before you to urge the passage of the above named resolution and it's immediate dissemination to the Montana Congressional Delegation.

My reason for this being that I do not believe that the Bureau of Reclamation has administered the equivalency provisions of the Reclamation Reform Act of 1982 (RRA), as interrupted by many of Us that worked on it, including Congress.

This particular provision was pursued diligently by all of Us in the Northern portions of the arid west, the reasons for which can readily be understood through the wording of the Act, i.e.: paragraph three of your Resolution. It was envisioned that all amending Contractors would have the right to the benefits of this provision, however, the Bureau of Reclamation has failed to implement this provision in many instances, with the exception of those Contractors that already had the equivalency factor built into their contracts.

The one item that brought about the "RRA" was the inequities in administration of the 1902 law and it's subsequent amendments. I believe that we are once again faced with the same situation, and my hope is that as a result of this resolution and actions of our Congressional Delegation some semblance of uniformity in the administration of the "RRA" will be brought about.

I thank you for your time and concern in this matter and once again ask that you move this measure forward with as much speed as possible.

Respectfully



Dueane Calvin.

EXHIBIT # 2  
DATE Feb. 6, 1987  
HJR 14 Rep  
Gene Donaldson

HJR 14

TESTIMONY

Jerry Nypen

I am representing Greenfields Irrigation District and Montana Water Development Association and testifying in support of HJR 14.

Greenfields Irrigation District, Helena Valley Irrigation District and the Milk River irrigation districts, as well as others, fought hard during the development of the Reclamation Reform Act to convince Congress and the Bureau of Reclamation that, for all things to be equal, we must allow farmers in the northern climates to have more acres than the farmers in the south. A farm unit in the north must be larger than a farm unit in the south in order to achieve equivalent economic success. All of us thought we had achieved in getting the point across until the rules and regulations were drafted. Our subsequent pleas were ignored.

Assuming now that there is anything to gain by farming the land these days, we find now that in the administration of the act, Arizona farmers and California farmers are offered, economically speaking, three to five times the advantage in receiving Federal Reclamation water as us here in Montana.

The Bureau of Reclamation has stated that equivalency creates enormous and complicated administrative burdens for them, but don't they realize that it is a simple observation as to the latitude and frost-free day history of each project?

We are continuing our fight to be recognized as an equal partner in the Reclamation effort made in this country. Please vote in favor of HJR 14.

Thank you.

EXHIBIT #3  
DATE Feb. 6, 1987  
HB 516 LRep  
-Ren-Manuel

HB 516

TESTIMONY

Jerry Nypen

I am representing Greenfields Irrigation District and Montana Water Development Association and testifying in support of HB 516.

This bill will allow large districts to have the freedom of making requisitions for equipment and supplies and entering into work contracts which are considered routine without its landowners petitioning to do so.

We have at least 12 major irrigation structures, any one of which a significant repair or replacement of would cost in excess of \$150,000. Larger districts possess large dozers and hydraulic hoe equipment, each piece costing in excess of \$150,000 to replace. Any small pipeline project but regarded as routine - say two miles of 24" pipe, costs in excess of \$150,000.

The petitioning process for routine activities can be very cumbersome. In our case it involves response from 890 landowners. This process should be reserved for major anticipated obligations to the districts. A reasonable limit of 25% of an annual budget will allow for routine expenditures by the district boards of commissioners.

Please vote in favor of HB 516.

EXHIBIT #4  
DATE Feb. 6, 1987  
HB 517 - Rep.  
Ren Manuel

HB 517

TESTIMONY

Jerry Nypen

I am representing Greenfields Irrigation District and Montana Water Development Association and testifying in support of HB 517.

It is as important to us to obtain the maximum return on invested reserves while employing safe investment vehicles as it is to have a reserve in the first place. These reserves are valuable in having resources in case of emergencies and, while they are kept, they are valuable in providing funds for, in our case, further water conservation efforts.

Passage of this bill allows irrigation districts more versatility in maintaining their reserve accounts. The current statute 85-7-2133 does not allow for investment of reserve funds in the many avenues now available, in government secured re-purchase agreements, in government trusts, and in federal agency obligations such as "Ginnie Maes" and "Fannie Maes". We feel a revision of the bill is also necessary to make it clear that Federal agency obligations are acceptable investment vehicles. We suggest that HB 517 as introduced be revised by adding the words, "including Federal and State agency obligations", to each proposed new section. Please vote in favor of HB 517.

Thank you.



EXHIBIT #5  
DATE Feb 6, 1987  
HB 517-Rep  
Ren-Manuel

AMENDMENT TO HB 517

1. Page 2, line 20.  
Following: "Montana"  
Insert: ", including federal and state agency obligations"
2. Page 3, line 10.  
Following: "Montana"  
Insert: ", including federal and state agency obligations"
3. Page 5, line 1.  
Following: "Montana"  
Insert: ", including federal and state agency obligations"
4. Page 5, line 19.  
Following: "Montana"  
Insert: ", including federal and state agency obligations,"

HJR 14

VISITORS' REGISTER

Ag, Livestock + Irrigation COMMITTEE

BILL NO. 516/517

DATE 2/6/87

SPONSOR MANUEL

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
JERRY NYDEN	FAIRFIELD, MT.	516/517 HJR 14	
Dan G. Davis	Helena	516/517 HJR 14	
Dean - Hall	Billings Mont	516/517 HJR 14	
R. H. Ellis	Helena	516/517 HJR 14	
RON SCHORFIELD	HELENA	516, 517 HJR 14	
Deane Colvin	Warder	✓	
MARK ETCHART	GCHS FOW	516, 517 HJR 14	
Craig Winterburn	Helena, MT.	516 517 HJR 14	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.