

MINUTES

MONTANA SENATE  
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON AGRICULTURE

Call to Order: By Tom Beck, on February 16, 1989, at 7:00 a.m.

ROLL CALL

Members Present: Senators: Hubert Abrams, Gary Aklestad, Esther Bengtson, Gerry Devlin, Jack Galt, Greg Jergeson, Gene Thayer, Bob Williams, and Chairman Tom Beck

Members Excused: None

Members Absent: None

Staff Present: Doug Sternberg, Legislative Council

Announcements/Discussion: None

DISPOSITION OF SENATE BILL 390

Discussion: Senator Beck-"It certainly sound to me that the department was going to well monitor this. If the wells were starting to drop, that's what the whole thing is about I guess--You might as well complete the project."

Senator Galt-"You never know until you do it. That's right. That's exactly the point."

Amendments and Votes: None

Recommendation and Vote: Senator Galt moved that SB 390 DO PASS. The motion carried unanimously.

DISPOSITION OF SENATE BILL 386

Discussion: Senator Beck-"Did you have any problem with the amendments on that?" Senator Galt-"I'd rather have it go just as it is."

Senator Jergeson-"I would be comfortable with some kind of amendment on it. You just never know."

Senator Bengtson-"It sounds like the governor can revise the state water plan all by himself."

Senator Beck-"Senator Jergeson, do you have an amendment that you want to propose?" Senator Jergeson-"No, I don't."

Amendments and Votes: None

Recommendation and Vote: Senator Galt moved SB 386 DO PASS; Senator Devlin seconded the motion. The motion carried with Senator Williams and Senator Jergeson voting against the motion.

#### DISPOSITION OF SENATE BILL 416

Discussion: Bob Thompson-"I think they do work extremely well together.(SB 416 with SB 166, SB 167, SB 168, SB 169) The only comment I guess I could make one way or the other about SB 416, it would affect the adjudication process both in regard to the existing one or to the new one, is that if the court accepts late claims 30 days after the issuance of the preliminary decree, I would suspect that the court would have to then reissue the decree so that people would have a chance to see and object to the late claims as contained in the reissued decree. I think it would probably put into the process a bit of an extra step or at least require a renote, if not by mail perhaps by newspaper publication."

Senator Galt-"Another 180 days?" Bob Thompson-"Possibly."

Senator Galt-"We should give the courts a chance to handle this before we interject more."

Senator Devlin-"I'm at the same opinion. You open this up once and then a couple of years down the line somebody else comes in and 'Hey, we forgot ours, too'. You could go on and on."

Amendments and Votes: None

Recommendation and Vote: Senator Galt moved SB 416 be placed on the table; the motion was seconded by Senator Aklestad. The motion carried unanimously.

#### HEARING ON SENATE BILL 447

Presentation and Opening Statement by Sponsor: Senator Yellowtail, District 50, stated "I apologize for the

lateness of this. I had the draft request in for a good length of time but pending final action of the Board of Natural Resources on the Montana water plan, which is the source of these issues, the two bills that are before you. It was important to wait and see what the board would do. You're aware of that effort that has gone on for about the last year or more than a year now, according to the law that the legislature set up requiring the Department of Natural Resources to establish this plan. The board adopted the plan a few days ago. Today we will address issues that arose from two sections of the plan. SB 447 relates to the in-stream flow protection part of this plan. One element of the plan was the discussion of in-stream flow protection. SB 447 addresses a technical concern having to do with water reservations for in-stream flow purposes. This arises from the finding that perhaps there is not adequate consideration in the law for reservations for in-stream flow, particularly in relation to water use permits. I have given you my entire understanding of this whole business. I would like Gary Fritz to explain this bill further."

List of Testifying Proponents and What Group They Represent:

Gary Fritz representing the Department of Natural Resources

List of Testifying Opponents and What Group They Represent:

None

Testimony:

Proponents:

Gary Fritz-"This bill is a product of the state water planning process that was approved by the Board of Natural Resources last week. The water plan elements will be submitted to the water policy committee probably today or tomorrow. SB 447 was one of the recommendations that came out of the state water plan advisory council, was recommended for adoption by the department and approved for adoption by the board.

Water reservations work differently than permits. When somebody applies for a water use permit, their priority date is the date in which the application is received by the department. So if you apply for a water right permit, you put 80 acres of land under irrigation, then your priority date is the day we get your application. That's not the way it works for water reservations. Water reservations can only be submitted by public entities. They submit the

application to the Board of Natural Resources and the priority date is not established until the board actually acts on those reservations, which may be years later. Now the legislature has changed that process in the Missouri. As you know, the legislature established a Missouri water reservation system two sessions ago. They decided that the priority date for all water reservations in the Missouri should be July 1 of 1985. The board has not made a decision on those applications and won't be making the decision on those applications until 1990--There are a couple different priority dates, one for the upper Missouri and one for the lower Missouri.

Basically, this bill does two things. The first thing it does, it indicates that the priority date for water reservations would be established by someone filing a notice of intention to apply for a water reservation. So it's consistent with the legislature. It means that the priority date ought to be established up front in the process rather than at the tail end of the process. The second thing that this bill does is--The world doesn't stop when these water reservations are applied for. So on the Missouri the priority date there is 1985, the board won't make a decision on some of those until 1991. People come in to us and ask for permits during that time between 1985 and 1991, so there's 6 years of water right permits that the department has issued. What this bill would do, they would allow the board to subordinate those water reservations to the permits that are issued in the interim."

Questions From Committee Members: Senator Bengtson--"So then priority dates don't mean anything?" Gary Fritz--"Ya, that's the bottom line. Let me explain. The priority date might not mean anything. See, the board has to make a finding that the applicant's permit will not interfere with the purposes of the reservation."

Senator Galt--"Senator Yellowtail indicated that this was for in-stream flow only and that's not true, it's for any reservation?" Gary Fritz--"That's correct."

Closing by Sponsor: Senator Yellowtail closed.

#### HEARING ON SENATE BILL 450

Presentation and Opening Statement by Sponsor: Senator Yellowtail, District 50, stated "SB 450 arises from another element from the state water plan, that being

the agricultural water use efficiency portion of the plan. This bill relates to the manner--the use of permitting or allowing a water user to reallocate the use for his own purposes of salvage water. This then defines what salvage water is."

List of Testifying Proponents and What Group They Represent:

Gary Fritz representing the Department of Natural Resource  
Jo Brunner representing Montana Water Resource Association

List of Testifying Opponents and What Group They Represent:

None

Testimony:

Proponents:

Gary Fritz-"It's a state water plan proposal. It's a proposal that went through a lot of discussion in the water plan. It was eventually approved by the state water plan advisory council and proposed for adoption by the department to the Board of Natural Resources. The board approved it last Thursday and wanted it to be submitted to the legislature. One of the plans submitted to the department was ag water use efficiency. The question was, how can the state provide incentive to water users to improve the efficiency of their operation? This was one means the water plan provided for additional incentive for improving irrigation efficiency use. Bob Thompson provided an amendment for SB 450 and he will explain it." See exhibit 1.

Jo Brunner wanted to go on record as supporting SB 450.

Questions From Committee Members: Senator Beck asked if the problem that Mr. Fritz addressed needed a bill to solve it. Mr. Fritz indicated that it was necessary to have the bill to do so.

Closing by Sponsor: Senator Yellowtail closed.

DISPOSITION OF SENATE BILL 447

Discussion: None

Amendments and Votes: None

Recommendation and Vote: Senator Thayer moved that SB 447 DO PASS. The motion carried with Senator Aklestad voting against the motion.

DISPOSITION OF SENATE BILL 450

Discussion: None

Amendments and Votes: Senator Galt moved the amendments to SB 450; the motion was seconded by Senator Devlin. The motion carried.

Recommendation and Vote: Senator Galt moved SB 450 DO PASS AS AMENDED; the motion was seconded by Senator Bengtson. The motion carried unanimously.

DISPOSITION OF SENATE BILL 111

Discussion: Doug Sternberg discussed the amendments to SB 111. See exhibit 2.

Amendments and Votes: Senator Jergeson moved the amendments. The motion carried.

Recommendation and Vote: Senator Jergeson moved SB 111 DO PASS AS AMENDED. The motion carried. Senator Galt was recorded as not voting on the motion.

DISPOSITION OF SENATE BILL 28

Discussion: Senator Thayer moved SB 28 off the table. The motion carried with Senator Galt voting no.

Doug Sternberg discussed the amendments to SB 28. See exhibit 3.

Amendments and Votes: Senator Jergeson moved the amendments to SB 28. The motion carried.

Recommendation and Vote: Senator Thayer moved SB 28 DO PASS AS AMENDED. The motion carried with Senator Devlin, Senator Galt and Senator Aklestad voting against the motion.

ADJOURNMENT

Adjournment At: 8:05 a.m.

  
TOM BECK, Chairman

TB/jj

ROLL CALL

AGRICULTURE COMMITTEE

DATE 2/16/89

51st LEGISLATIVE SESSION 1989

NAME	PRESENT	ABSENT	EXCUSED
SENATOR HUBERT ABRAMS	✓		
SENATOR GARY AKLESTAD			
SENATOR ESTHER BENGTSON	✓		
SENATOR GERRY DEVLIN	✓		
SENATOR JACK GALT	✓		
SENATOR GREG JERGESON	✓		
SENATOR GENE THAYER			
SENATOR BOB WILLIAMS	✓		
SENATOR TOM BECK			

Each day attach to minutes.

SENATE STANDING COMMITTEE REPORT

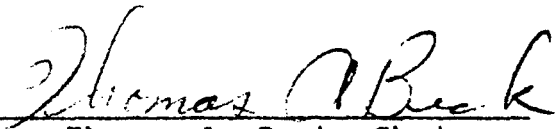
February 16, 1989

MR. PRESIDENT:

We, your committee on Agriculture, Livestock, and Irrigation, having had under consideration SB 390 (first reading copy -- white), respectfully report that SB 390 do pass.

DO PASS

Signed:



Thomas A. Beck, Chairman

H. C.  
2/16/89  
1:02  
p.m.



SENATE STANDING COMMITTEE REPORT

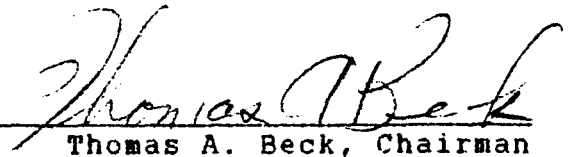
February 16, 1989

MR. PRESIDENT:

We, your committee on Agriculture, Livestock, and Irrigation, having had under consideration SB 386 (first reading copy -- white), respectfully report that SB 386 do pass.

DO PASS

Signed:

  
Thomas A. Beck, Chairman

4/10/89  
2/16/89  
1:02 PM

scrsb386.216

SENATE STANDING COMMITTEE REPORT

February 16, 1989

MR. PRESIDENT:

We, your committee on Agriculture, Livestock, and Irrigation, having had under consideration SB 450 (first reading copy -- white), respectfully report that SB 450 be amended and as so amended do pass:

1. Page 3, line 13.

Following: "be"

Insert: ": (a)"

2. Page 3, line 17.

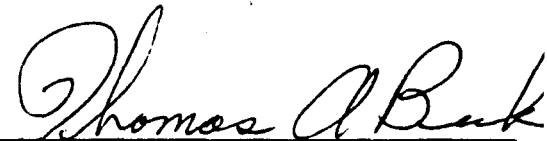
Following: "unusable"

Insert: "; or

(b) lost to the use of the appropriator and not beneficially used by another appropriator from the source of supply after the water returns to the source of supply"

AND AS AMENDED DO PASS

Signed:



Thomas A. Beck, Chairman

SENATE STANDING COMMITTEE REPORT

February 16, 1989

MR. PRESIDENT:

We, your committee on Agriculture, Livestock, and Irrigation, having had under consideration SB 111 (second reading copy -- yellow), respectfully report that SB 111 be amended and as so amended do pass:

1. Title, line 12.

Following: "MCA;"

Insert: "PROVIDING FOR APPLICABILITY;"

2. Page 13, line 7.

Following: line 6

Insert: "NEW SECTION. Applicability. The provisions of [this act] clarify existing authority of the board of veterinary medicine to regulate veterinary practices. The provisions of Title 2, chapter 8, part 2, and 5-4-207 do not apply to [this act]."

Renumber: subsequent section

AND AS AMENDED DO PASS

Signed: 

Thomas A. Beck, Chairman

2/16/89  
2:10  
2:10 p.m.

Possible Amendment to Senate Bill No. 450  
First Reading Copy

February 16, 1989

1. Page 3, line 13.

Following: "otherwise be"

Insert: ": (a)"

2. Page 3, line 17.

Following: "unusable"

Insert: "; or (b) lost to the use of the appropriator and not  
beneficially used by another appropriator from the source of  
supply after the water returns to the source of supply"

Amendments to Senate Bill No. 28  
Introduced Reading CopyRequested by Senator Jergeson  
For the Committee on Senate AgriculturePrepared by Doug Sternberg, Committee Staff  
February 15, 1989

## 1. Title, line 6.

Following: "PRACTICE"

Insert: "FOR ENFORCEMENT PURPOSES UNTIL JULY 1, 1991"

## 2. Page 2, line 12.

Following: "~~pregnancy~~"

Insert: "pregnancy"

Following: "sterility"

Insert: ", "

## 3. Page 2, line 14.

Following: "~~transfer,~~"

Insert: ", ova or embryo transfer,"

## 4. Page 2, line 25.

Following: line 24

Insert: "(2) Nothing in subsection (1)(e) of this section shall in any way be construed to prohibit the pregnancy testing by any person of his own farm animals or by his employees regularly employed in the conduct of his business or by other persons whose services are rendered gratuitously."

Renumber: subsequent subsection

## 5. Page 3, lines 3 through 12.

Strike: subsection (3) in its entirety

Insert: "(4)(a) There is a moratorium on board enforcement of laws and rules relating to pregnancy testing and ova or embryo transfers. The board may not enforce any laws or rules regulating pregnancy testing and ova or embryo transfers by persons who provide an affidavit to the board that they have at least 3 years of either experience or education or both in the practice of pregnancy testing or ova or embryo transfers.

(b) This subsection (4) terminates July 1, 1991."

Amendments to Senate Bill No. 111  
Second Reading Copy

Requested by Senator Jergeson  
For the Committee on Senate Agriculture

Prepared by Doug Sternberg, Committee Staff  
February 15, 1989

1. Title, line 12.

Following: "MCA;"

Insert: "PROVIDING FOR APPLICABILITY;"

2. Page 13, line 7.

Following: line 6

Insert: "NEW SECTION. Applicability. The provisions of [this act] clarify existing authority of the board of veterinary medicine to regulate veterinary practices. The provisions of Title 2, chapter 8, part 2, and 5-4-207 do not apply to [this act]."

Renumber: subsequent section

ROLL CALL VOTE

SENATE COMMITTEE AGRICULTURE

Date 2/16/89 Bill No. SB386 Time \_\_\_\_\_

NAME	YES	NO
Senator Hubert Abrams #8	✓	
Senator Gary Aklestad #1	✓	
Senator Esther Bengtson #27	✓	
Senator Gerry Devlin #47	✓	
Senator Jack Galt #46	✓	
Senator Greg Jergeson #48		✓
Senator Gene Thayer #23	✓	
Senator Bob Williams #39		✓
Senator Tom Beck #44	✓	

7 2

Jaelene Johnson  
Secretary

Tom Beck  
Chairman

Motion: OO PASS SB 386 -pass

ROLL CALL VOTE

SENATE COMMITTEE AGRICULTURE

Date 2/16

Bill No. SB28

Time 8:00 A

NAME	YES	NO
Senator Hubert Abrams #8	✓	
Senator Gary Aklestad #1		✓
Senator Esther Bengtson #27	✓	
Senator Gerry Devlin #47		✓
Senator Jack Galt #46		✓
Senator Greg Jergeson #48	✓	
Senator Gene Thayer #23	✓	
Senator Bob Williams #39	✓	
Senator Tom Beck #44	✓	
	6	3

Jaelene Johnson  
Secretary

Tom Beck  
Chairman

Motion: DO PASS AS AMENDED SB 28  
pass