

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON AGRICULTURE, LIVESTOCK, & IRRIGATION

Call to Order: By CHAIR LINDA NELSON, on March 21, 1991, at 3:00 p.m.

ROLL CALL

Members Present:

Linda Nelson, Chair (D)
Don Steppler, Vice-Chairman (D)
Bob Bachini (D)
Joe Barnett (R)
Gary Beck (D)
Jane DeBruycker (D)
Roger DeBruycker (R)
Jim Elliott (D)
Marian Hanson (R)
Harriet Hayne (R)
Vernon Keller (R)
Don Larson (D)
Jim Madison (D)
Ed McCaffree (D)
John Phillips (R)
John Scott (D)

Staff Present: Doug Sternberg, Legislative Council
Claudia Johnson, Committee Secretary

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

HEARING ON SJR 23

Presentation and Opening Statement by Sponsor:

SEN. BETTY BRUSKI, Senate District 12, Wibaux, said this is a resolution to call on Congress to reconsider certain sections of the Federal Food Agriculture Conservation Trade Act of 1990 for the purposes of improving net farm income. It will provide a reliable tax base for Montana and a healthy farm economy. It enhances both rural and urban communities. She said if a city goes broke, it will rebuild itself; but if the farms go broke, grass will grow on the city streets. Continued drought, declining commodity prices, and increased production costs have caused a reduction in net farm income. If the income is based on this year's farm policy, Montana will have a reduction of 25% in

its income. This resolution is to encourage the Congressional Delegation to call for the immediate revisiting of the farm bill for the purpose of improving net farm income to allow family farms to stay in business. The new forecast issued by the Department of Economic Research Service shaved \$2 billion from the earlier farm income projections for 1991, while cash receipts are expected to remain near the same level. Direct payments to farmers could drop 5% to 10% from last year's \$9 billion.

Proponents' Testimony:

George Paul, Executive Director, Montana Farmer's Union, said that the Farmer's Union is a farm organization of 4,000-plus rural families across Montana. Agricultural gross income approaches \$2 billion annually, nearly twice that of the next highest industry in the state. It is a major part of Montana's economy, not only in terms of cash income, but in the sense that each dollar spent by agricultural producers is estimated to be respent seven times throughout the rural and urban communities. The vitality of the agricultural economy is directly linked to the strength of the associated economies surrounding it. When the farm economy is strong, so are the other economies. Agriculture is the pillar of Montana economy. This is not only an agricultural interest, but one which should interest everyone working to improve Montana's economy and make it a better place to earn a living. This resolution does not reopen all of the 1990 farm bill. In asking to revisit certain sections of the farm bill, the resolution guards the bill from a wholesale reopening, thereby protecting the interests of those who are satisfied with the status quo of certain commodities. By seeking legislative remedies, the resolution is entrusting the job to elected official members of Congress to do what is right for the people across the country, rather than leaving matters in the hands of some self-serving bureaucrats through a technical correction process. This resolution will pursue improved net farm income through improvement of the Food Agriculture Conservation and Trade Act of 1990. As the farm bill stands now, farm incomes will be reduced by a minimum of 25% this year alone and operating expenses are expected to increase. Better farm incomes inject money into rural and urban communities alike. This resolution sends a message that the needs of the agricultural industry are as critical as any other industry. He urged the committee to support SJR 23.

Kay Norenberg, WIFE, spoke in favor of SJR 23.

Harley Warner, Montana Association of Churches, said if something is not done about the 1990 farm bill, Montana will lose more farmers. He has been informed that when the committee approves this resolution, he will lobby the U.S. Congress regarding this issue.

Neva Hassanein, NPRC, said the 1990 farm bill is expected to drive farmers out of business three times more than that of the

1980s. The effect the current farm policy has and will have on Montana's economy is frightening. She urged the committee to support SJR 23.

Christian Mackay, Montana State AFL-CIO, spoke in favor of SJR 23. He said that union members believe that farmers should receive a decent price for their products. The 1990 farm bill was a disaster for the Montana family farmers. Congressman Pat Williams said that the farm bill would "carve the fate of the family farms in stone, a tombstone". It placed wheat producing states like Montana at a serious disadvantage and favor large producers over small and medium sized farmers. The measure directs farmers to reduce subsidized acres by 15%. According to an October 19, 1990, Great Falls Tribune editorial, more than 90% of the wheat base has been under the umbrella of farm programs. The 15% provision means a serious cut for Montana wheat farmers. It cuts farm subsidies, limits the number of payments each farmer can receive, and freezes target prices. He said this resolution sends a message to Congress that the Montana Legislature is going to stand up for Montana family farmers. Montana will not accept a second-rate solution to a first-rate catastrophe for the family farmer and main street businesses in the rural communities. He urged the committee to give SJR 23 a do concur recommendation.

Opponents' Testimony:

Lorna Frank, Montana Farm Bureau, said they have 4,000 members in the state and the American Farm Bureau has over 4 million farmers throughout the country. She said they do not feel that the farm bill should be opened for fear of Congress becoming involved with everything, instead of one particular issue. Reducing the farming expenditures would hurt the Montana farmers more than they are hurt now. Many of the farmers will probably go out of business because of the farm bill, but if it is opened it would be worse than it is at the present time.

Carol Mosher, Montana Cattlewomen and Stockgrowers, said they oppose SJR 23 on several grounds; the new Secretary of Agriculture, Ed Madigan, is not inclined to reopen the debate on the 1990 farm bill. The administrative director of the ASCS committee, Keith Bjuriki, has said if the farm bill debate is reopened, everyone would lose much more than what would be gained. History confirms that anytime anyone goes back to debate those issues, a big risk is taken of losing more. She urged the committee to not pass SJR 23.

Ron Barnett, Montana State Beekeeper's Association, said he opposes this bill. Once this bill is reopened, he said "Whatever Congress giveth, Congress taketh away". He said Montana should manage what they have for the next 5 years--farms, bees, etc.--and then when the bill is reopened in 1995, go for what needs to be accomplished.

Questions From Committee Members:

REP. DEBRUYCKER (Roger) asked what the specific sections were that need to be reopened. Mr. Paul said the reason it said certain sections is to alleviate some of the fears of the different organizations that were opposed to this resolution. He said it looks like the farm bill may have a wholesale reopening this fall. The Gramm-Rudman bill and several other budget cut bills will be kicking in this fall. The people that do not have Montana interests at heart will be opening the farm bill. He said Farmer's Union supports opening several sections of the farm bill, but not the entire bill. The wool growers and cattle producers are in a good position at this time. There shouldn't be any reason to open those sections up. The wheat and barley growers need the feed and grain part of the bill opened. If this resolution does pass and a letter goes to Congress, and if the Montana delegation is successful in doing something about it, the Montana Farmer's Union will be back at the national level asking Congress to review loan rates to support commodity prices. This would narrow the window of government expenditures in the farm bill and would actually lower the cost of the farm bill if those loan rates were raised.

REP. KELLER asked Mr. Paul how he proposed to limit the opening to specific parts of farm bill. Mr. Paul said that everyone needs to remember the scope of the resolution. This resolution does not have any authority or power; it is just a letter to the Montana Delegation, who are supportive of this type of language. Rep. Marlenee had a delegate attending the Senate Agriculture hearing and complimented those that had put this resolution into place. This bill provides fodder for the delegation to work with. He said Montana has to take faith that the delegation knows what needs to be done. REP. KELLER asked Mr. Paul what parts of the bill he wanted to have amended. Mr. Paul said that Farmer's Union is primarily interested in the loan rate part of the farm bill. By encouraging Congress to increase loan rates, it will support the overall commodity prices. If market prices can be brought up, it will narrow the payments made by government and the government will end up putting less into it. The position the farmers want to be in is to receive their income from the market place and not through the mail box, such as a government check. He said the farmers are losing power and clout throughout the nation. There are less than 2 million farmers left in America. The Congressional Budget Office, the Office of Management and Budget (OMB), and the U.S. Department of Agriculture have all agreed that the nation will lose about 500,000 farmers in the next 5 year period with the way the farm bill is written today. Agriculture supports 20% of the gross national product (GNP), and 1 out of every 5 jobs is related to agriculture. He said agriculture producers receive less than $\frac{1}{2}$ of 1% of the federal budget.

REP. STEPPLER asked if the new Secretary of Agriculture, Ed Madigan will have a better relationship with the farmers by helping them receive better prices. Mr. Paul said Secretary Madigan will be more accessible and seems to be more

knowledgeable in agriculture than the last secretary.

Closing by Sponsor:

REP. BRUSKI asked how Montana farmers will exist 5 years from now. She has National Conservation Reserve Program (NCRP) on her farm, but felt that was the ruination of the country. The farmers are struggling to make ends meet, but will lose 24% each year for the next 5 years. A vote for this resolution is a vote that shows as committee members, they are interested and in favor of the strength of farm income, and thereby supporting the economy of Montana. She urged for a do pass of SJR 23.

EXECUTIVE ACTION ON SJR 23

Motion: REP. MCCAFFREE MOVED SJR 23 BE CONCURRED IN.

Discussion: REP. DEBRUYCKER (Roger) said he was concerned with the government opening up the farm bill. He would like to see the certain sections that are to be opened be limited to grains, but did not know how to do it.

CHAIR LINDA NELSON said this resolution is the vehicle to use. Farm organizations need to band together to do what they can. She said, "If we don't hang together, we'll hang separately".

Motion/Vote: Question was called. Voice vote was taken.

Vote: SJR 23 BE CONCURRED IN. Motion CARRIED 11 to 5 with REP. BARNETT, REP. HANSON, REP. HAYNE, REP. KELLER and REP. STEPPLER voting no.

EXECUTIVE ACTION ON SB 409

Motion: REP. MCCAFFREE MOVED SB 409 BE CONCURRED IN.

Discussion: REP. KELLER moved to adopt amendments. EXHIBIT 1 Mr. Sternberg, addressed the amendments. Section 1 will be taken out and section 2 will be revised. Sections 3, 4, and 5 were recommended for deletion from the bill. He recommended that section 5 be retained in the bill. It is the saving clause. There may be foreclosure proceedings that have already started prior to this law. The new language in amendment 8 requires the plaintiff to file a copy with the department at the same time it is filed with the court. The saving clause will require the plaintiff who files an action after this law goes into effect to concur with the new requirement.

REP. MCCAFFREE asked Mr. North if the drafted amendments satisfy the letter to SEN. JOE MAZUREK. EXHIBIT 2 Mr. North said the amendments were sent to Mr. Karell. He approved the amendments and said they made the bill acceptable.

CHAIR LINDA NELSON asked Mr. North to explain what this bill will

actually do. Mr. North said the department needs to be named in foreclosure notices regarding state leases for two reasons: 1) if the department wasn't named and sometime in the future transfers the lease to someone else, the department could be sued. They need to be named so the department could be bound by the court's judgement. There was nothing in the law that required the department to recognize the court's judgement; 2) the department needed to protect the school trust lands to the extent that they didn't want the court to transfer a lease to someone that wouldn't be qualified to be a lessee.

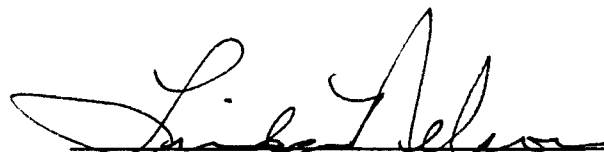
Motion/Vote: Question was called. Voice vote was taken to adopt the amendments. Motion **CARRIED** unanimously.

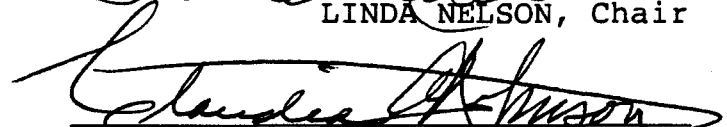
Motion/Vote: REP. DEBRUYCKER (ROGER) MADE A SUBSTITUTE MOTION THAT SB 409 BE CONCURRED IN AS AMENDED.

Vote: SB 409 BE CONCURRED IN AS AMENDED. Motion **CARRIED** unanimously. REP. STEPLER will carry SB 409 on the House floor.

ADJOURNMENT

Adjournment: 5:00 p.m.


LINDA NELSON, Chair


CLAUDIA JOHNSON, Secretary

LN/cj

HOUSE OF REPRESENTATIVES

AGRICULTURE, LIVESTOCK AND IRRIGATION COMMITTEE

ROLL CALL

DATE 3-21-91

NAME	PRESENT	ABSENT	EXCUSED
REP. DON STEPPLER, VICE-CHAIRMAN	✓		
REP. BOB BACHINI	✓		
REP. JOE BARNETT	✓		
REP. GARY BECK	✓		
REP. JANE DEBRUYCKER	✓		
REP. ROGER DEBRUYCKER	✓		
REP. JIM ELLIOTT	✓		
REP. MARIAN HANSON	✓		
REP. HARRIET HAYNE	✓		
REP. VERNON KELLER	✓		
REP. DON LARSON	✓		
REP. JIM MADISON	✓		
REP. ED MCCAFFREE	✓		
REP. JOHN PHILLIPS	✓		
REP. JOHN SCOTT	✓		
REP. LINDA NELSON, CHAIR	✓		

1130
3-22-91
TDB

HOUSE STANDING COMMITTEE REPORT

March 22, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Agriculture, Livestock, and Irrigation report that Senate Joint Resolution 23 (third reading copy -- blue) be concurred in .

Signed: _____
Linda Nelson, Chairman

Carried by: Rep. Jane DeBruycker

HOUSE STANDING COMMITTEE REPORT

March 22, 1991

Page 1 of 2

Mr. Speaker: We, the committee on Agriculture, Livestock, and Irrigation report that Senate Bill 409 (third reading copy -- blue) be concurred in as amended .

Signed: _____
Linda Nelson, Chairman

Carried by: Rep. Stepler

And, that such amendments read:

1. Title, lines 5 through 7.

Following: the second "ACT" on line 4

Strike: remainder of line 4 through "ELIMINATING" on line 7

Insert: "CLARIFYING THE PROCEDURE FOR FORECLOSING ON"

2. Title, line 9.

Strike: "SECTIONS"

Insert: "SECTION"

3. Title, lines 10 and 11.

Strike: "77-6-401," on line 10

Following: "77-6-403,"

Strike: remainder of line 10 through "77-6-402," on line 11

4. Page 1, line 14 through page 2, line 7.

Strike: section 1 in its entirety

Renumber: subsequent sections.

5. Page 2, line 13.

Strike: "the assignee"

Insert: "a person"

6. Page 2, lines 14 and 15.

Following: "conveyance the" on line 14

Strike: remainder of line 14 through "assignment" on line 15

Insert: "pledgor's or mortgagor's leasehold interest"

7. Page 2, line 16.

Strike: "the assignee"

Insert: "that person,"

8. Page 2, line 19.

Following: "lease."

Insert: "To authorize transfer of a lease, a decree of foreclosure must specifically refer to the lease or the leased premises, but neither the board nor the department is required to be named as a party to the action. The plaintiff shall, however, file a copy of the complaint with the department at the time it is filed with the court."

9. Page 2, line 24 through page 3, line 13.

Strike: sections 3 and 4 in their entirety

Renumber: subsequent section

AMENDMENTS TO SENATE BILL 409
(Third Reading Copy)

1. Title, lines 5 through 7.
Following: "ENTITLED: AN ACT"
Strike: remainder of line 5 through "ELIMINATING" on line 7
Insert: "CLARIFYING THE PROCEDURE FOR FORECLOSING ON"
2. Title, line 9.
Following: "AMENDING"
Strike: "SECTIONS"
Insert: "SECTION"
3. Title, lines 10 and 11.
Following: line 9
Strike: "77-6-401,"
Following: "77-6-403,"
Strike: remainder of line 10 through "77-6-402," on line 11
4. Page 1, line 14 through page 2, line 7.
Strike: section 1 in its entirety
Renummer: subsequent sections
5. Page 2, line 13.
Following: "the"
Strike: "assignee"
Insert: "person"
6. Page 2, lines 14 and 15.
Following: "conveyance the"
Strike: remainder of line 14 through "assignment" on line 15
Insert: "pledgor's or mortgagor's leasehold interest"
7. Page 2, line 16.
Following: "person,"
Strike: "the assignee"
Insert: "that person,"
8. Page 2, line 19.
Following: "lease."
Insert: "To authorize transfer of a lease, a decree of foreclosure must specifically reference the lease or the leased premises, but neither the board nor the department need be named as a party to the action. The plaintiff shall, however, file a copy of the complaint with the department at the time it is filed with the court."
9. Page 2, line 24 through page 3, line 17.
Strike: sections 3, 4 and 5 in their entirety

CROWLEY, HAUGHEY, HANSON, TOOLE & DIETRICH

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March 8, 1991

The Honorable Joseph Mazurek
Montana Senate
Capitol Station
Helena, MT 59620

Re: Senate Bill 409

Dear Joe:

I have just seen the amendments made to Senate Bill 409, which you introduced. As an attorney who specializes in agricultural lending and foreclosure, I have dealt a great deal with mortgages on state leases. I think the amendments to your bill create more harm than good and that the bill should be killed.

I firmly believe that the legal concept of mortgaging a lesser's interest in a state lease is far better and more logical than allowing assignments of state leases as security for loans. Here are just a few problems that come to mind with this bill:

- (1) If a lease must be assigned in order to take it as security, how will the Department of State Lands deal with a lessee's request to assign his lease to a purchaser of his ranch who is buying subject to an existing mortgage for which the leasehold has already been assigned?
- (2) What happens if a lender, who has been assigned a lease as security, forecloses, but a third party purchases the property (including the lease) at sheriff's sale? If the assignment has been made to the lender, how will the lease be transferred to the third-party purchaser?
- (3) The amended bill says a lessee MAY NOT mortgage his state leasehold interest. But the encumbrance of state leases are usually described in the mortgage along with

EXHIBIT 2
DATE 3-21-91
HB S.B. 409

The Honorable Joseph Mazurek
Page 2
March 8, 1991

all the other collateral. If the lease cannot be included in the mortgage, what security document will exist to evidence the fact that the lease is to serve as collateral. I do not think the state form of assignment is, by itself, sufficient to satisfy this concern.

Overall, I think existing law is preferable to this bill. Actually, if the Department of State Lands would only recognize a state court judgment of foreclosure covering a state leasehold interest as valid, and process an assignment of that lease signed on behalf of the lessee by the sheriff conducting the foreclosure sale, this legislation would not be necessary at all. I think the Department is misguided and erroneous in its interpretation of existing law. This bill, as amended, will only make the law worse, not better.

If the statutes must be amended, then merely add a section stating that a foreclosure judgment and sale of state lessee's interest must be recognized by the State, but that the State is not bound to transfer the lease to an unqualified purchaser. It can be that simple.

Please do not allow SB409 to become law in its present form. It is bad legislation.

Sincerely yours,

ALLAN KARELL

AK:bm

cc: Linda Nelson, Chair, House Agriculture Committee
Don Stepler, Vice-Chair, House Agriculture Committee

**HOUSE OF REPRESENTATIVES
VISITOR REGISTER**

Agriculture COMMITTEE BILL NO. SJR 23
DATE 3-31-91 SPONSOR(S) Sen. Bruski

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
HARLEY WARNER P.O. Box 745, 59624	MONTANA ASSOC OF CHURCHES	X	
George Paul	MT Farmers Union	✓	
CAROL MOSHER	MT. CATTLEWOMEN		X
" "	MT. STOCKGROWERS		X
CHRISTIAN MACKAY	MT ST AFL-CIO	X	
Kay Norheim	Wife	X	
Cecelia Wankler	WIFE	X	
Neva Hassanein	NPRE	✓	
Lerna Frank	MT. Farm Bureau		X
Garry Fastbinder	Council of Coops	✓	
Ron Bennett	MT. State Beekeepers		X

**PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS
ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.**