

MINUTES

MONTANA SENATE 52nd LEGISLATURE - REGULAR SESSION COMMITTEE ON BUSINESS & INDUSTRY

Call to Order: By Chairman J.D. Lynch, on January 22, 1991, at 10:00 a.m.

ROLL CALL

Members Present:

J.D. Lynch, Chairman (D)
John Jr. Kennedy, Vice Chairman (D)
Betty Bruski (D)
Eve Franklin (D)
Delwyn Gage (R)
Thomas Hager (R)
Jerry Noble (R)
Gene Thayer (R)
Bob Williams (D)

Members Excused: None

Staff Present: Bart Campbell (Legislative Council).

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

Announcements/Discussion: None

EXECUTIVE ACTION ON SB 89

Discussion:

Senator Williams asked Senator Gage if his questions were answered well enough.

Senator Gage answered yes.

Senator Thayer moved that SB 89 do pass.

SB 89 passed on a 8 to 1 vote.

EXECUTIVE ACTION ON SB 48

Discussion:

Senator Lynch commented that executive action was not scheduled for SB 48 today, but that is not a requirement. It was held up for a technical amendment on request of department of agriculture.

Bart Campbell, staff researcher, explained the amendment (See amendments to senate bill 48 copy attached).

Senator Noble asked if Senator Nathe was shown the amendment.

Senator Lynch replied yes, and that he agrees with it.

Senator Williams moved that SB 48 be amended.

Senator Thayer explained the reason for the original language on SB 48 was because some of the people had individual feeding lots on their own farm. The farmers mounted a lobby against having licenses. They compromised with some language that ended up so that they didn't have to buy a bond in the amount of grain that they were buying from other licensed dealers. The elevators themselves already had those types of bonds. The result was a trucking type dealer was buying grain from individual elevators, and because of this law when he went out of business they couldn't come back on his bond. This is correcting this.

The amendments for SB 48 passed unanimously.

Senator Williams moved that SB 48 do pass as amended.

SB 48 passed unanimously with amendments.

EXECUTIVE ACTION FOR SB 21

Discussion:

Senator Lynch commented that he had admitted several letters opposing the bill as well as several supporting the bill. He commented that this one adds Senator Gage's suggested amendments reducing it to two rather than three.

A five minute recess was taken so Senator Gage could pick up a fax that was to be delivered to him.

Senator Gage pointed out that in Washington, two members of the commission there are involved in racing. Those people are allowed to participate in racing as opposed to Montana's statute that does not allow board members to participate in racing (See Exhibit 1).

Senator Gage moved that SB 21 be amended, and stated that what the amendments do is reduce the number who can the owner/breeder or owner, breeder from three to two so that the owners or breeders that might be on that would not have the majority of the board representation. It also takes Lewis and Clark county out of the second district, and puts it in the first district in order that that representative from that district wouldn't have a conflict between the Helena track and the Great Falls track as far as representing both counties.

Senator Thayer asked if the opposition to this bill has any quarrel with switching Lewis and Clark county with the other district.

Senator Lynch answered that he didn't know other than right now it is not a problem, because we're not talking about owners being on the board. When talking about owners being on the board, than it would make sense not to have a total conflict.

Senator Gage commented that he hadn't heard one way or the other of any opposition in changing those counties.

Senator Lynch commented that if this bill passes the senate, there will be plenty of time to analyze the final bill before it is heard in the house of representatives.

The amendments to SB 21 passed by 8 to 1 vote with Senator Hager voting no.

Senator Noble moved that SB 21 do pass as amended.

Senator Gage commented that Mr. Brazier came in and gave testimony with regards to comments that have been made, and clarification of testimony that's been given. From the testimony that Mr. Brazier gave that he was representing HBPA. There are two horse breeding associations one being the Horse Benevolent Protective Association which is national with local chapters, and the other being the Horse Breeders Protective Association in the state of Montana. After talking with Mr. Bell, who presented testimony on the bill, has done considerable amount of checking on people who are members of the horse benevolent protective association. There are eleven directors and that it requires a vote of a majority of the board to uphold action of the board. They have checked with seven of those people who are directors, and four are in favor of the bill, two are neutral, and one has indicated opposition to the bill. They could not get a majority vote opposing the bill. That could well be irrelevant to Mr. Brazier's testimony in that he may be representing the horse breeders protective association. It does not necessarily reflect that his testimony was in error, assuming testifying for the horse breeders protective association. Senator Gage went on to say that the only other comment that he has is that some that he has talked to were not aware of nor have heard of some of the organizations that were mentioned as being opposed to the bill. It is his opinion that you get a lot better work out of people when they're interested in something than you do with people who may be there because of political aspirations, or political favors.

Senator Williams asked if Senator Gage was involved before the board was made up of non horse race owners.

Senator Gage responded yes.

Senator Williams asked what were some of the problems at that time. What caused the divisions to exempt out the race horse owners.

Senator Gage responded that his speculation was that they felt like there was too much conflict of interest. They had people who were involved in the racing industry making rules and regulations for the racing industry. In this case there would not be a majority. Reading the section of the code dealing with horse racing board, one of their charges is to do those things that are for the best interest of racing in the state of Montana. Senator Gage went on to say that he has a difficult time thinking that horse breeders and horse owners would do anything that would not be in the best interest with the state of Montana.

Senator Lynch responded that some of the letters he has been receiving along with one from Chuck O'Rielly, who is presently the sheriff, but was the former chairman of the horse racing board in opposition to the bill. Some of the scandals of yesteryear, not suggesting that they be deeded, but there is a basic fundamental difference. If there are people on the board who directly hire the executive secretary, who in turn directly hires the stewards. The stewards are the ones who determine if a horse is fouled. How good is it that strong representation on the board who's very horses are the ones that the stewards have

to determine if a foul occurs, are the very ones that are directly or indirectly hiring them. The reason they kept off owners was to worry about any tint of scandal ever occurring in horse racing again in Montana. Speaking in opposition, Senator Lynch went on to say that the letters in opposition are from fairs in western Montana from a former chairman of the board, they say that the horse racing industry is doing well in Montana. It is his understanding that if there is a hint of conflict of interest than that is the basis for not wanting owners on the board.

Senator Williams asked if the existing board supports this simocasting.

Senator Gage replied as far as he knows, he hasn't talked to anyone in regards to that.

Senator Williams asked if the simocasting is cutting into the gate.

Senator Gage replied that there are those that indicate that there is, others say that it is too early to tell.

Senator Noble commented that it seemed odd to him that there would be people on the board who are not experienced in that industry. Is there any other boards that are set up in this manner.

Senator Gage replied that there are people on the board that are experienced in that area. Some people have discontinued activity in the racing industry so that they would qualify to serve on the board. There are veterinarians, administrators of state fairs on the board. The stewards are making foul calls on all of the owners. There is a degree of suspicion about racing just as you would for any gaming that is happening in the state of Montana or anywhere else.

Senator Franklin commented that this is an isolated area of interest. There is no real compelling argument made. She has no strong feelings that there are any major problems.

Senator Noble asked if the committee could hear some of the testimony from the hearing on 1/16/90. It would seem that they were changing their minds, and making a decision on one thing and flip flopping.

Senator Noble commented that as he had recalled the current board had held a meeting and more or less discussed and agreed upon certain dates, and later had a second hearing and awarded some dates to Helena who hadn't even requested the dates. The people in Great Falls had thought they had been given earlier dates and all that switched around.

Senator Lynch replied that he had understood that the reason they were given the dates that they didn't want was because they were denied the dates that they did want.

With permission of the committee, Mr. Murfitt, executive secretary of the board responded to Senator Noble's question.

Mr. Murfitt stated that in that situation, the dates that were requested were actually taken away and there were no dates left for the requestor to give them. One of the problems with the dates is that there are only so many prime racing dates in Montana. Montana has a short season, there are just so many Saturdays and Sundays. It is a difficult decision for any board

to make, who is going to get those prime Saturdays and Sundays.

Senator Thayer asked if Murfitt was here the day that Mr. Bell gave his testimony.

Murfitt answered yes.

Senator Thayer commented that he had thought that what Mr. Bell had said was at this hearing it was more or less agreed that Great Falls would receive these dates.

Murfitt replied that the way the process works is none of the dates are counted until the final order has gone out by the staff attorney. Up until thirty days the board has the authority to reconsider. They may reconsider if one of the members of the board would bring it up for reconsideration, and that is what happened in this situation.

Senator Franklin asked if this would be a problem that would be impacted by whether or not those two owner breeders were on that board, or will it be a general systems problem that any administrative system or body might have in administrating competitive dates.

Murfitt replied that he would like to stay as close to the middle of this issue as he could, since he could potentially be working for either group. As far as the statutory authority goes any board would have the ability to reconsider.

Senator Lynch submitted the letters that he has received in regards to SB 21. They cover both sides of this issue. He also submitted the minutes from the meeting on January 16, 1991.

Senator Kennedy spoke in opposition of this based on entirely and simply off of that he had contacted people at metrapark, western Montana fair in Kalispell, the manager of the Missoula fair, plus one owner that is known personally in Kalispell. It is one of those, if it's not broke don't fix it. The compound is that we're going backwards in a system that was broken in the first place.

Senator Hager asked if there was a division notice given for those people so they could appear in the second hearing.

Brazier replied yes.

Senator Gage commented that it is natural that there be a difference in opinion. The operators of horse racing facilities are going to want as much as they can get from this, and naturally their opinion is if you have owners and breeders on the board there is more opportunity for input that will be detrimental to the boards that are operating the tracks. If you drive the owner/breeders out of Montana, those tracks those tracks are gone. Without those, there will be an impact on some of the economic providers in some of those areas because there will be no more racing in the state of Montana. In his opinion, the people on the board do not pay much attention to what is going on in Montana. Montana does not have a healthy situation. Board members who don't have any reason to be enthusiastic about racing are not following those kinds of things in the northwest. They are not concerned of what may happen in Montana racing as a result of things that are happening around us.

Senator Noble commented that he has seen the numbers on the amount of the horse racing has gone down in Montana in the last three or four years, it is considerable. Possibly this is a step

to help this industry to get going.

Senator Williams asked how many breeder/owners there are in the state of Montana.

Senator Gage replied that he did not know.

Senator Williams asked if a lot of horses are brought in for the racing season.

Mr. Murfitt replied that historically there has been. At the present time, worker's compensation is a major factor in limiting out of state horses currently coming into Montana.

Senator Williams asked if this was more of a worker's compensation problem rather than the make up of the board.

Mr. Murfitt that worker's compensation is a problem.

Senator Bruski commented that she is a niece of a lady who owned horses in Nebraska. She raced all around Canada, Washington, South Dakota, and very seldom in Montana because of the high cost of doing business in Montana.

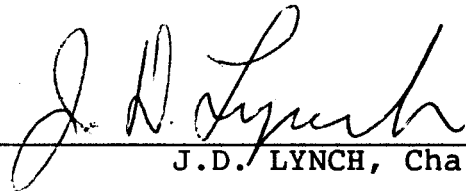
SB 21 as amended failed 5 to 4 votes.

Senator Hager moved that SB 21 do not pass as amended.

The vote was reversed, SB 21 failed with amendments 5 to 4 votes as an adverse committee report.

ADJOURNMENT

Adjournment At: 10:45 a.m.



J.D. LYNCH, Chairman



DARA ANDERSON, Secretary

JDL/dia

Handicap was the feature race of the day, a \$40,000 added race which Table Fifteen just nipped Captain Condo at the wire.

The interesting thing about this race is that Table Fifteen was owned by Longacres President Michael Alhadeff. To people in Washington this is probably not a significant point, but in Montana this would not be possible because of the law that prohibits anyone in management from racing a horse in that state. Checking into this a little more I found two of the three State Racing Commissioners own and race horses. For one commissioner it is a sideline, while the other owns and operates a major breeding and training farm in Washington. Only one commissioner on the board is not involved in racing.

On the national level it is split as to the states that allow commissioners and management to be involved in racing.

It seems to me that in a state the size of Montana where racing is such a special interest sport and business, that to eliminate anyone involved in the racing from the administration of the sport is to eliminate many of the most qualified people in the state.

To have a law that says absolutely NO conflict of interest is too strong. I think this should be changed so that many qualified people that are interested in racing and have a stake in it, should be allowed to be involved in its administration.

There is much talk about having a meeting in the fall some place in Montana to discuss some of the major problems involved with racing and

H.B.P.A., M.T.B.A., M.Q.H.R.A., M.B.O.H.R., M.S.P. and any other group involved in racing.

Simulcasting seems to be getting the blame for the decrease in handle across the state. Some people tell me, "It's killing live racing in the state," and others tell me, "Simulcasting is great, I get to watch and bet on the races when I can't get to the live races."

Simulcasting, like any new program needs to have the bugs worked out of it. Give it time and if it doesn't work change it or get rid of it. It wouldn't be the first program in the state that failed and it would not be the last.

Something must be done with Workers Compensation. The program that we have is good for the people that live and race in Montana, but for the out of state people that only race for a few weeks in Montana the cost seems to be too much, so they are not coming to Montana to race. This is hurting places like Miles City, Kalispell and Missoula.

Short fields, fewer races were caused by not having the usual number of out of state horsemen attending these meets. To try to supplement the card with simulcast races is not the answer. We need these horsemen and their horses back in the state, and we need to do this now, before they find other places to race.

If you have any comments on these or any other issues, I would be very interested in printing them in *The Racing Journal*. Don't just call

SENATE BUSINESS & INDUSTRY

EXHIBIT NO. 1

DATE 1/22/91

BILL NO. SB 21

Amendments to Senate Bill No. 48
First Reading Copy

Requested by Senator Nathe
For the Committee on Business and Industry

Prepared by Bart Campbell
January 21, 1991

1. Title, line 6.

Following: "DEALER;"

Insert: "REVISING BONDING REQUIREMENTS;"

2. Title, line 7.

Following: "AMENDING"

Strike: "SECTION"

Insert: "SECTIONS"

Following: "80-4-402"

Insert: "and 80-4-604"

3. Page 5, line 25

Following line 24

Insert: "Section 2. Section 80-4-604, MCA, is amended to read:

"80-4-604. Bonding requirement amounts -- cancellation. (1) An applicant for a license to operate as a commodity dealer shall, before a license may be issued, file with the department a surety bond or its equivalent, as established by department rule, payable to the state. The aggregate annual liability of the surety may not exceed the sum of the bond.

(2) Unless set by department rule, the bond for a commodity dealer may not exceed 2% of the value of the agricultural commodities purchased by the commodity dealer ~~from the producer~~ during the previous 12-month period. The bond for all new applicants is 2% of the estimated value of all agricultural commodities to be purchased during the coming 12-month period. The department may by rule require a greater percentage in each instance. The minimum amount of bond required by any commodity dealer is \$20,000, and the maximum is prescribed in 80-4-405.

(3) A surety shall notify the commodity dealer and the department by certified mail at least 60 days prior to the cancellation of the bond. The liability of the surety covers purchases made by the commodity dealer during the time the bond is in force. A commodity dealer's bond filed with the department is continuous until canceled by the surety upon 60 days' notice; however, such cancellation does not terminate any liability of the surety incurred prior to the date of cancellation."

ROLL CALL VOTE

SENATE COMMITTEE Business and Industry

Date 1/22/91 Bill No. SB89 Time 10:00

NAME	YES	NO
Senator Bruski	X	
Senator Franklin	X	
Senator Gage		X
Senator Hager	X	
Senator Noble	X	
Senator Thayer	X	
Senator Williams	X	
Senator Kennedy	X	
Senator Lynch	X	

Dara Anderson
Secretary

JD Lynch
Chairman

Motion: SB89 Do Pass

ROLL CALL

Business&Industry COMMITTEE

DATE 1/22/91

LEGISLATIVE SESSION

NAME	PRESENT	ABSENT	EXCUSED
Senator Bruski	X		
Senator Franklin	X		
Senator Gage	X		
Senator Hager	←	Showed X 10:15	
Senator Noble	X		
Senator Thayer	X		
Senator Williams	X		
Senator Kennedy	X		
Senator Lynch	X		

Each day attach to minutes.

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ROLL CALL VOTE

SENATE COMMITTEE Business and Industry

Date 1/22/91 Bill No. ^{SB}48 Time 10:00

NAME	YES	NO
Senator Bruski	X	
Senator Franklin	X	
Senator Gage	X	
Senator Hager	X	
Senator Noble	X	
Senator Thayer	X	
Senator Williams	X	
Senator Kennedy	X	
Senator Lynch	X	

Dara Anderson

Secretary

JD Lynch

Chairman

^{WILLIAMS}
Motion:

SB48 AMENDMENTS

ROLL CALL VOTE

SENATE COMMITTEE Business and Industry

Date 1/22/91 Bill No. SB48 Time 10:00

NAME	YES	NO
Senator Bruski	X	
Senator Franklin	X	
Senator Gage	X	
Senator Hager	X	
Senator Noble	X	
Senator Thayer	X	
Senator Williams	X	
Senator Kennedy	X	
Senator Lynch	X	

Dara Anderson
Secretary

JD Lynch
Chairman

Motion: Do PASS SB 48 W/ AMENDMENTS

ROLL CALL VOTE

SENATE COMMITTEE Business and Industry

Date 1/22/91 Bill No. SB21 Time 10:00

NAME	YES	NO
Senator Bruski	X	
Senator Franklin	X	
Senator Gage	X	
Senator Hager		X
Senator Noble	X	
Senator Thayer	X	
Senator Williams	X	
Senator Kennedy	X	
Senator Lynch	X	

Dara Anderson

Secretary

JD Lynch

Chairman

GAGE
Motion: TO AMEND SB21

ROLL CALL VOTE

SENATE COMMITTEE Business and Industry

Date 1/22/91 Bill No. SB21 Time 10:00

NAME	YES	NO
Senator Bruski		X
Senator Franklin	X	
Senator Gage	X	
Senator Hager		X
Senator Noble	X	
Senator Thayer	X	
Senator Williams		X
Senator Kennedy		X
Senator Lynch		X
		X

Dara Anderson

Secretary

JD Lynch

Chairman

Noble
Motion:

DO PASS AS AMENDED - No

ROLL CALL VOTE

SENATE COMMITTEE Business and Industry

Date 1/22/91 Bill No. SB 21 Time 10:00

NAME	YES	NO
Senator Bruski	X	
Senator Franklin		X
Senator Gage		X
Senator Hager	X	
Senator Noble		X
Senator Thayer		X
Senator Williams	X	
Senator Kennedy	X	
Senator Lynch	X	

Dara Anderson
Secretary

JD Lynch
Chairman

Motion: DO NOT PASS SB 21 AS AMENDED
ADVERSE COMMITTEE REPORT

SENATE STANDING COMMITTEE REPORT

Page 1 of 2
January 22, 1991

MR. PRESIDENT:

We, your committee on Business and Industry having had under consideration Senate Bill No. 48 (first reading copy -- white), respectfully report that Senate Bill No. 48 be amended and as so amended do pass:

1. Title, line 6.

Following: "DEALER;"

Insert: "REVISING BONDING REQUIREMENTS;"

2. Title, line 7.

Following: "AMENDING"

Strike: "SECTION"

Insert: "SECTIONS"

Following: "80-4-402"

Insert: "and 80-4-604"

3. Page 5, line 25

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cancellation of the bond. The liability of the surety covers purchases made by the commodity dealer during the time the bond is in force. A commodity dealer's bond filed with the department is continuous until canceled by the surety upon 60 days' notice; however, such cancellation does not terminate any liability of the surety incurred prior to the date of cancellation."

Signed: _____


John "J.D." Lynch, Chairman

 1/22/91
And. Coord.

SRB/12/91 1:00
Sec. of Senate

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
January 22, 1991

MR. PRESIDENT:

We, your committee on Business and Industry having had under consideration Senate Bill No. 89 (first reading copy, -- white), respectfully report that Senate Bill No. 89 do pass.

Signed: _____


John "J.D." Lynch, Chairman

 1/22/91
And. Coord.

SB 1/22 100
Sec. of Senate

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
January 22, 1991

MR. PRESIDENT:

We, your committee on Business and Industry having had under consideration Senate Bill No. 21 (first reading copy - white), respectfully report that Senate Bill No. 21 be amended and as so amended do not pass.

1. Title, line 4.

Following: "THAT"

Strike: "THREE"

Insert: "TWO"

2. Page 2, lines 1 through 4.

Following: qualifications

Strike: the rest of line 1 through "members" on line 4

Insert: "two members who are owners, breeders, or owner-breeders of racehorses and three members from each of the districts listed in subsections (3)(a) through (3)(c) who"

3. Page 2, line 12.

Following: "Lake"

Insert: "Davis and Clark"

4. Page 2, lines 16 and 17.

Following: "Judith Basin"

Strike: "Davis and Clark"

Signed: 

John "J.D." Lynch, Chairman

SB 1/22/91

And, Coord.

SB 1/22/91

Sec. of Senate

1411185C.Sj1