

## **MINUTES**

### **MONTANA HOUSE OF REPRESENTATIVES 53rd LEGISLATURE - REGULAR SESSION**

#### **COMMITTEE ON AGRICULTURE, LIVESTOCK, & IRRIGATION**

**Call to Order:** By CHAIRMAN VERN KELLER, on January 14, 1993, at 3:00 p.m.

#### **ROLL CALL**

##### **Members Present:**

Rep. Vern Keller, Chairman (R)  
Rep. Joe Barnett, Vice Chairman (R)  
Rep. Shiell Anderson (R)  
Rep. Bob Bachini (D)  
Rep. Jody Bird (D)  
Rep. Ervin Davis (D)  
Rep. Bill Endy (D)  
Rep. Harriet Hayne (R)  
Rep. Don Larson (D)  
Rep. Gary Mason (R)  
Rep. Bill Rehbein (R)  
Rep. Sam Rose (R)  
Rep. Dore Schwinden (D)  
Rep. Wilbur Spring (R)  
Rep. Wayne Stanford (D)  
Rep. Jay Stovall (R)

**Members Excused:** None

**Members Absent:** None

**Staff Present:** Connie Erickson, Legislative Council  
Jaelene Racicot, Committee Secretary

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

##### **Committee Business Summary:**

Hearing: HB 108, HB 114  
Executive Action: HB 114, HB 108, HB 104-Executive Action delayed.

#### **HEARING ON HB 114**

##### **Opening Statement by Sponsor:**

REP. JOHN COBB, HD 42, Augusta, asked the committee to table HB 114. He indicated the Department of Livestock did not want the definition on the second page. He said the title of the bill

would not allow an amendment to correct the problem. He also said in order to change it, bill the committee needed to table the bill. He asked if the committee would request a committee bill, and he would have one drafted with a different title.

Proponents' Testimony:

John Northey, who raises alpacas, offered EXHIBIT 1 and stated that the purpose of this bill was to include alpacas under the definition of llama. However, the Department of Livestock did not like the placement of the definition in this bill.

Opponents' Testimony: None

Questions From Committee Members and Responses: None

Closing by Sponsor:

REP. COBB thanked the committee and closed.

EXECUTIVE ACTION ON 114

Motion/Vote: REP. DON LARSON MOVED TO TABLE HB 114. The motion carried unanimously.

HEARING ON HB 108

Opening Statement by Sponsor:

REP. ERNEST BERGSAGEL, HD 17, Malta, stated HB 108 allows a cooperative to provide health insurance benefits for members of its board of directors.

Proponents' Testimony:

Ray Cehulski, Missoula Electric Co-op, said HB 108 would allow cooperative board members to receive health insurance benefits. He stated the members donate a lot of time to these co-ops, and deserve to be compensated with health insurance benefits. He noted HB 108 would provide a service which many other states already provide. He urged the committee to pass HB 108.

Bill Berberet, Vigilante Electric Co-op, presented written testimony. EXHIBIT 2

Jay Downen, Montana Electric and Telephone Co-ops, stated they have approximately 35 member cooperatives serving about 300,000 Montanans. He indicated all of these cooperatives voted unanimously to request the placement of this language in the bill.

Wilbur Anderson, Vigilante Electric Co-op, urged the committee give a do pass recommendation on HB 108.

Opponents' Testimony: None

Questions From Committee Members and Responses:

REP. REHBEIN asked REP. BERGSAGEL if many of the directors serving on the boards were 50 years of age or older. He asked if employees who were 30 years of age or younger would be saddled with added financial responsibility. REP. BERGSAGEL stated that the responsibility lies with the consumers. He said HB 108 does ensure every board member will have health insurance benefits; this law merely legitimizes the co-op's ability to provide health insurance. REP. BERGSAGEL stated it was possible that HB 108 would increase costs.

REP. REHBEIN asked if, as members retire, they would keep their health insurance policy. REP. BERGSAGEL replied that when members retire they are generally elderly and are eligible for Medicare.

REP. BACHINI asked if the health insurance would be an option after they retired. REP. BERGSAGEL answered that was correct.

REP. BACHINI asked if the health insurance for a retired member would be paid by the co-op. REP. BERGSAGEL responded that it would be paid by the retired member.

REP. BACHINI asked if there were some figures on what the additional cost would be for the cooperatives to provide health insurance to the retired board members. REP. BERGSAGEL stated that when a member retired, that member would be responsible for paying their health insurance, however, would be allowed to remain in the pool. REP. BERGSAGEL did not know for sure but assumed this was the procedure for most cooperatives. He stressed there would be no additional cost to the membership.

REP. BACHINI asked what the cost would be to the cooperatives before the member retires. REP. BERGSAGEL replied it would be the cost of that particular insurance policy.

REP. BACHINI asked if anyone had any figures regarding the cost to the cooperatives. REP. BERGSAGEL stated it would be very similar to health insurance benefits state employees receive or health insurance benefits legislators receive. He indicated the cost of insurance provided to the board members would be significantly less than what a typical health insurance company would charge. REP. BERGSAGEL added that the board of directors are hired by the people and would not incur a cost they did not believe could be justified. He said what they are doing would be in fairness to them and the people they represent.

REP. STANFORD asked if many of the cooperative directors were covered by insurance now. REP. BERGSAGEL responded that some cooperatives are providing insurance. He indicated they were paying a higher premium than what could be considered normal for

a state-wide average. He stated that what these cooperatives want is a piece of legislation which would not penalize the co-op for providing health insurance benefits since the law was unclear if health insurance benefits could be provided.

REP. ROSE asked if the cooperative members had voted to provide directors with health insurance benefits. REP. BERGSAGEL said he believed the cooperative members would have a voice in deciding if they want the directors to receive health insurance benefits. He stated this bill enables them to provide health insurance legitimately, it does not require them to provide it.

REP. ANDERSON asked if the additional cost of insurance would be included in the annual report. REP. BERGSAGEL stated the board of directors would have insurance costs to review every month and the costs would be included on the balance sheet.

Closing by Sponsor:

REP. BERGSAGEL stated that when he served on the co-op board, members did all types of work above and beyond the general call of duty. He said that serving as a co-op board member was very similar to serving as a legislator; a person does not get paid for the time and effort actually expended. He urged the committee to pass HB 108. REP. BERGSAGEL noted that one of the difficulties the cooperatives were having was attracting young members. One of the reasons for this was not paying enough.

EXECUTIVE ACTION ON HB 108

Motion/Vote: REP. BACHINI MOVED THAT HB 108 DO PASS. The motion carried unanimously.

EXECUTIVE ACTION ON HB 104

Motion: REP. BACHINI MOVED HB 104 DO PASS for the purpose of discussion.

Discussion: Ms. Erickson explained the amendments, EXHIBIT 3, stating these amendments were what the Department wanted drafted.

REP. MASON indicated he had a problem with the funds without having a cap on them. He said that the fund may increase and can be used only for one thing, i.e., training; whereas schools or other areas could use the money.

REP. ANDERSON stated that the dollar amounts the department was talking about should be a major concern on the part of the committee. He said there were rarely large amounts of money and if there happened to be, legislative action could reappropriate

the funds.

REP. BACHINI noted that the amendment dealing with the statutory appropriation would have a lot of trouble being approved on the House floor.

REP. ROSE stated that when they originally started, anything over \$20,000 was to go in a fund to reduce the general fund budget.

REP. ROSE asked Ms. Erickson why the department wanted the change dealing with a statutory appropriation.

Ms. Erickson replied that the first set of amendments received she did not fully understand. She stated the original language said "the department may expend money in the account only for the purpose of personnel training. Any expenditure in excess of \$20,000 each fiscal year requires approval through a budget amendment." Ms. Erickson questioned this language because budget amendments do not apply to spending "in excess". Ms. Erickson said she was not sure what the department wanted. As a result, she called Lon Mitchell--who stated the department wanted to use this money for personnel training and wanted to protect it from legislative appropriation. Ms. Erickson indicated the way to do what the department requested was through statutory appropriation.

REP. ROSE stated that he could not defend the bill on the floor with the statutory appropriation in it. He said that without a clear concept where the money was going, it would be difficult to get the bill passed.

Ms. Erickson suggested that perhaps the department should be here during executive action so the committee would understand specifically what the department wanted.

REP. BIRD asked how the property, after it was seized, would be tracked to determine if it was used properly. Ms. Erickson replied the legislative auditors would be responsible.

REP. LARSON expressed concern about a law enforcement agency confiscating equipment and using the property for the department's personal use. He believed this would not be appropriate.

REP. MASON stated that the Fish and Game in Alaska confiscates boats, airplanes, etc., then use the property for the department's use.

REP. ANDERSON stated there would be no real property involved in drug cases.

REP. LARSON expressed concern about the forfeiture statute. He stated that he checked with a few attorneys to see if Montana had a forfeiture law. He indicated Montana has a forfeiture statute stating the department could take personal equipment and the

property could be forfeited before the owner comes to trial. He stated the person may not even be convicted of the crime and wanted another legal opinion.

REP. BIRD stated that she agreed with REP. LARSON. She also wanted to know when the department would retain forfeited property, would it reduce similar purchases which would have to be paid for from the general fund. She was concerned the department could stock up on property and explained that if the department retained a truck it should not come to the legislature to ask for money to buy another truck.

REP. REHBEIN stated that the equipment would have to be on hold until after the trial was over in order to know if the person was found guilty of a crime.

REP. ANDERSON stated that an attorney should be present to explain the due process concerns of the committee.

REP. ANDERSON asked REP. BIRD about the amendment she discussed and if the amendment included the law enforcement function of the Department of Livestock. He replied he thought that was the intent of the bill. REP. BIRD asked Ms. Erickson to respond.

Ms. Erickson stated that the Department did not specify; it wanted to retain the equipment. She indicated this particular amendment was offered by the department and would allow it to retain equipment if they chose. Ms. Erickson stated they did not say the retained property would be used for law enforcement.

REP. DAVIS said he was confused about the intent of the bill. He asked if it would be possible to have a statement of intent placed in the bill for clarification. Ms. Erickson said that a formal statement of intent applies to rulemaking authority only.

Ms. Erickson said she did some research and there were no legal challenges to the law. She also said there was a legal challenge to the drug confiscation law which was similar to this bill. Ms. Erickson added that the result of the challenge ended with the state being upheld.

Ms. Erickson said that during the entire discussion the committee continued to focus on the person being convicted. She also said the language in the bill did not address the conviction of the person. Ms. Erickson stated the bill addressed the property used in the commission of a crime.

REP. MASON stated he had been involved in drug cases dealing with equipment that was seized. He said the equipment was placed in storage until the defendant was found guilty of the crime. He said it would be the same with this bill.

The Committee agreed that many concerns should be addressed by legal counsel.

ADJOURNMENT

Adjournment: 4:00 P.M.



VERN KELLER, Chair



JAELENE RACICOT, Secretary

VK/jr

# HOUSE OF REPRESENTATIVES

## AGRICULTURE, LIVESTOCK, & IRRIGATION COMMITTEE

ROLL CALL

DATE

JAN 14, 1993

NAME	PRESENT	ABSENT	EXCUSED
REPRESENTATIVE SHIELL ANDERSON	✓		
REPRESENTATIVE BOB BACHINI	✓		
REPRESENTATIVE JOE BARNETT V.C.	✓		
REPRESENTATIVE JODY BIRD	✓		
REPRESENTATIVE ERVIN DAVIS	✓		
REPRESENTATIVE BILL ENDY	✓		
REPRESENTATIVE HARRIET HAYNE	✓		
REPRESENTATIVE DON LARSON MIN. V.C.	✓		
REPRESENTATIVE GARY MASON	✓		
REPRESENTATIVE BILL REHBEIN	✓		
REPRESENTATIVE SAM ROSE	✓		
REPRESENTATIVE DORE SCHWINDEN	✓		
REPRESENTATIVE WILBUR SPRING	✓		
REPRESENTATIVE WAYNE STANFORD	✓		
REPRESENTATIVE JAY STOVALL	✓		
CHAIRMAN VERN KELLER	✓		



HOUSE STANDING COMMITTEE REPORT

January 15, 1993

Page 1 of 1

Mr. Speaker: We, the committee on Agriculture, Livestock, and  
Irrigation report that House Bill 108 (first reading copy --  
white) do pass.

Signed: \_\_\_\_\_  
Vern Keller, Chair

EXHIBIT 1  
 DATE 1/14/93  
 HB 114

HOUSE BILL NO. 114

Family	<u>CAMELID</u>						
	1						1
	1						1
	1						1
Genus	<u>CAMEL</u>			<u>LAMA</u>			
	1				1		
	1				1		
	1				1		
	1	1		1		1	1
Species	Dromedary	Bactrian		Llama	Alpaca	Guanaco	Vicuna

# Directors Compensation Legislation

## Bill Summary:

HB 108 would give cooperatives in Montana the option of providing insurance coverage to cooperative trustees. Trustees would be allowed to receive as compensation ordinary and normal insurance coverages such as that provided to cooperative employees.

## Bill Rationale

- The average value of an electric cooperative in Montana is \$15 million dollars. Each cooperative trustee is entrusted with the task of responsibly managing his or her cooperative on behalf of its members. The liability involved makes mistakes inaffordable in a business of this magnitude.
- In order to ensure that trustees are educated and trained in the multitude of issues facing cooperatives, an immense amount of time and energy is expended. On average, a trustee donates 40 days or a year to his or her cooperative for meetings, training, consumer relations and research. HB 108 would allow at least a measure of compensation for each trustee's great personal investment.
- HB 108 allows cooperatives and their members to attract and elect from a pool of individuals who will be dedicated to their cooperatives and will act responsibly on behalf of their membership.
- HB 108 would bring Montana in line with other states and the insurance coverage provided to trustees. Cooperatives in 43 of the 50 states provide insurance coverage of some kind to trustees.

Amendments to House Bill No. 104  
First Reading Copy

Requested by Rep. Shiell Anderson  
For the Committee on Agriculture, Livestock, and Irrigation

Prepared by Connie Erickson  
January 12, 1993

1. Title, line 7.  
Following: "THE"  
Insert: "THEFT OF LIVESTOCK OR THE"  
Following: " ;".  
Insert: "ALLOWING THE DEPARTMENT OF LIVESTOCK TO RETAIN FORFEITED  
PROPERTY; ESTABLISHING A SPECIAL REVENUE ACCOUNT; PROVIDING  
A STATUTORY APPROPRIATION;".
2. Title, line 10.  
Following: "SECTIONS"  
Insert: "17-7-502,"
3. Page 1, line 16.  
Strike: "to transport"  
Insert: "in theft or transportation"
4. Page 1, line 18.  
Following: "the"  
Insert: "theft or"
5. Page 1, line 24.  
Following: "used for"  
Insert: "the theft or"
6. Page 1, line 25.  
Following: "part to"  
Insert: "the theft or"
7. Page 3, line 7.  
Following: "the"  
Insert: "theft or"
8. Page 4, line 3.  
Following: "auction"  
Insert: "-- retention"  
Following: "."

Insert: "(1)"

9. Page 4, line 4.

Strike: "must"

Insert: "may"

10. Page 4.

Following: line 7

Insert: "(2) The department may retain the vehicles, equipment, and personalty forfeited under 81-5-109 for official use by the department."

11. Page 4, line 9.

Following: "proceeds"

Insert: "-- special revenue account"

12. Page 4, lines 9 and 10.

Strike: "The" on line 9 through "after" on line 10

Insert: "(1) After"

13. Page 4, line 10.

Strike: "keeping"

Insert: "retaining"

14. Page 4, line 13.

Following: "permit,"

Insert: "the officer making the sale or the department, if it retains the vehicle, money, equipment, or personalty,"

15. Page 4, line 18.

Following: "the"

Insert: "theft or"

16. Page 4, line 19 through line 22.

Following: "transportation".

Strike: "and" on line 19 through "training" on line 22

17. Page 4, following line 22.

Insert: "(2) There is an account in the state special revenue fund. The proceeds from the sale of vehicles, equipment, and personalty provided for in 81-5-110 must be deposited in the account. The funds are statutorily appropriated, as provided in 17-7-502, and must be used by the department for personnel training.

Section 5. Section 17-7-502, MCA, is amended to read:

"17-7-502. Statutory appropriations -- definition -- requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-9-202; 2-17-105; 2-18-812; 10-3-203; 10-3-312; 10-3-314; 10-4-301; 13-37-304; 15-1-111; 15-23-706; 15-25-123; 15-31-702; 15-36-112; 15-37-117; 15-65-121; 15-70-101; 16-1-404; 16-1-410; 16-1-411; 17-3-212; 17-5-404; 17-5-424; 17-5-704; 17-5-804; 17-6-409; 17-7-304; 19-5-404; 19-6-709; 19-8-504; 19-9-702; 19-9-1007; 19-10-205; 19-10-305; 19-10-506; 19-11-512; 19-11-513; 19-11-606; 19-12-301; 19-13-604; 19-15-101; 20-4-109; 20-6-406; 20-8-111; 20-9-361; 20-26-1503; 22-3-811; 23-5-136; 23-5-306; 23-5-409; 23-5-610; 23-5-612; 23-5-631; 23-7-301; 23-7-402; 27-12-206; 37-43-204; 37-51-501; 39-71-2504; 44-12-206; 44-13-102; 53-6-150; 53-24-206; 61-5-121; 67-3-205; 75-1-1101; 75-5-507; 75-5-1108; 75-11-313; 76-12-123; 77-1-808; 80-2-103; 80-11-310; 81-5-111; 82-11-136; 82-11-161; 85-1-220; 90-3-301; 90-4-215; 90-6-331; 90-7-220; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 7, Ch. 567, L. 1991, the inclusion of 19-6-709 terminates upon death of last recipient eligible for supplemental benefit; and pursuant to sec. 18, Ch. 748, L. 1991, the inclusion of 22-3-811 terminates June 30, 1993.)"

EXHIBIT 3  
DATE 1/14/93  
B 104

HOUSE OF REPRESENTATIVES  
VISITOR REGISTER

Agriculture

COMMITTEE

BILL NO.

108

DATE 1/14/93

SPONSOR(S) REP. BERGSAGEL

PLEASE PRINT

PLEASE PRINT

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Ray Cebulski	Missoula E/EC Co-op	✓	
Jamy Wiens	Mt. Elec. & Tele. Co-ops	✓	
JAY DOWNEN	Mt Elec. & Tel Co-ops	✓	
Bill Barberet	Vigilante El co-op	✓	
Mike Anderson	Vigilante Electric Co-op	✓	

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