

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON AGRICULTURE, LIVESTOCK, & IRRIGATION

Call to Order: By CHAIRMAN VERN KELLER, on February 2, 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 285, SB 97
Executive Action: SB 97, SB 88, HB 193,

HEARING ON HB 285

Opening Statement by Sponsor:

REP. CARLEY TUSS, HD 35, Black Eagle, stated that the prison manufactures agriculture and livestock products in excess of what is needed for the state institutions. HB 285 requires that when the excess product goes on the open market, the prison will

receive the prevailing market price.

Proponents' Testimony: None

Opponents' Testimony: None

Questions From Committee Members and Responses:

REP. MASON stated that in his area there is an office supply store which buys products from the prison and sells them at retail. He questioned if HB 285 would eliminate this transaction. REP. TUSS replied she thought it would not affect the business at all.

REP. DAVIS asked if HB 285 dealt with agriculture products. REP. TUSS stated it did.

REP. LARSON asked about profits from the sale of prison agriculture and livestock products. REP. TUSS stated that a portion of the money is used to support the prison ranch and the balance goes to the general fund.

REP. STOVALL asked what the operating costs were in the fiscal note. REP. TUSS stated that the costs were operation costs, building materials, upkeep on the buildings, and machinery.

REP. SCHWINDEN asked Ron Page, Montana State Prison ranch manager, how HB 285, if passed, would affect the prison's ranch. Mr. Page stated he was not familiar with the content of the bill and therefore could not comment.

REP. SCHWINDEN asked Mr. Page if HB 285 would help subsidize some of the operations of the prison ranch since it will be given fair market value for the products. Mr. Page stated that it may help subsidize but he did not think this was a major issue. Mr. Page added that the prison ranch is profitable and they have made contributions to the general fund and building projects at the prison.

REP. LARSON asked if HB 285 would stimulate it production at the prison ranch. Mr. Page stated that HB 285 would have no effect on the ranch's production. Mr. Page said he was confused by the word surplus mentioned in the bill. He said the dairy would not have a surplus.

Closing by Sponsor:

REP. TUSS closed.

HEARING ON SB 97

Opening Statement by Sponsor:

SEN. JOHN HERTEL, SD 15, Moore, stated that the purpose of SB 97 was to transfer a water canal project or a ditch project from the Department of Natural Resources and Conservation to the private users of a ditch or canal. Under the current law, the department will attempt to dispose of eleven different canal projects by June 30, 1995. SEN. HERTEL stated that the Lewistown project was not included in current statutes, SB 97 just includes the Lewistown project.

Proponents' Testimony:

Gary Fritz, Department of Natural Resources, stated that Melvin McBeath was in charge of administration of state owned water projects and he has worked for the state for 29 years. Mr. Fritz referred to a bill passed last session, HB 814, which instructed the Department of Natural Resources to transfer these projects to the users. He said there were currently eleven projects that were being disposed of and the Lewistown project would be the twelfth project added to the list. EXHIBIT 1.

Jo Brunner, Montana Water Resource Association, urged the committee to support SB 97.

Opponents' Testimony: None

Questions From Committee Members and Responses:

REP. ROSE asked if the water users purchase the projects or if they were given to them. Mr. Fritz said that the state and federal government built these projects and now the federal government has now dropped out of these projects. The water users still owe the state for construction of the projects. Currently, the Lewistown project still owes approximately \$1,000 to the state of Montana. Mr. Fritz referred to HB 814 which was passed during the 1991 Legislative Session.

REP. MASON asked about the water project in the Bitterroot Valley. Mr. McBeath, Department of Natural Resources, said the Daily Ditch Project had many lawsuits as a result of people being included or excluded from the water district. Mr. McBeath stated the department has completed the Daily Ditch Project.

REP. ANDERSON asked about the sale of the projects and how the process works. Mr. Fritz stated that the sale of the ditches varies dramatically from one project to another due to the status of the land and easements. Mr. Fritz said that the department was required to get fair market value for the land transferred. An appraisal was required before the transfer of the projects.

REP. LARSON asked how the water rights are adjudicated among the

users along the ditch. Mr. Fritz stated that the water rights would go to the Water Users' Association and would be held as a block; the rights would not be apportioned among the owners.

Closing by Sponsor:

SEN. HERTEL closed.

EXECUTIVE ACTION ON SB 97

Motion: REP. BACHINI MOVED SB 97 BE CONCURRED IN for the purpose of discussion.

Discussion: REP. LARSON stated he was concerned because there was controversy over the adjudication of water rights with the instream flow. He wondered how the department could pass down these rights and maintain an instream flow for fisheries.

REP. ROSE asked if a governmental entity preempted any other water rights. Ted Doney, Water Rights attorney, stated that the government would not have precedence.

Motion/Vote: SB 97 BE CONCURRED IN. The motion carried unanimously.

EXECUTIVE ACTION ON HB 88

Motion: REP. DAVIS MOVED SB 88 BE CONCURRED IN for the purpose of discussion.

Discussion: REP. DAVIS asked Ted Doney to address some of the concerns he had. Mr. Doney, Montana Dairymen's Association, stated that the Association had no problem with the licensing of the prison dairy. Mr. Doney said that there are concerns that some farmers have with the prison being in the dairy business. He wanted to work out a provision in the law to put a cap on the amount of milk the prison ranch can produce. No specific poundage of milk has been agreed upon by the ranch, SEN. BECK, and the dairymen.

REP. DAVIS asked Dave Decker, dairy farmer from Charlo, if they had a concern with the excess milk. Mr. Decker stated that the excess milk was milk produced above the amount needed for the institutions. Currently, 25% of the milk was produced for the institutions and 75% was sold to County Classic Dairy in Bozeman.

Mr. Decker stated that the excess milk sold in the milk pool costs the average Montana dairyman \$700 a year. Mr. Decker suggested that a cap be placed on prison ranch milk production.

REP. REHBEIN stated that the purpose of SB 88 was to give the prison ranch a license.

REP. DAVIS asked if a cap could be incorporated in SB 88. Connie Erickson stated that a cap might be better if it was incorporated in HB 285. HB 285 dealt with market prices and the actual sale of the prison goods.

REP. BACHINI stated that the Montana Dairymen's Association had no problem with the licensing of the prison's ranch and that the cap could be placed in HB 285.

Motion/Vote: SB 88 BE CONCURRED IN.

Vote: The motion carried unanimously.

EXECUTIVE ACTION ON HB 285

Motion: REP. LARSON MOVED HB 285 DO PASS.

Discussion: REP. DAVIS asked the committee to hold executive action on HB 285.

REP. BIRD asked where the money goes from the sale of prison furniture. CHAIRMAN KELLER asked REP. BARDANOUVE to answer REP. BIRD's question. REP. BARDANOUVE stated that the money was used to fund the prison industries' program. However, in fiscal year 1992, there was a \$600,000 surplus which was transferred to the general fund. This was the first time any money had come from the prison to help operate state government.

REP. BARNETT asked if the money from sales goes into an account that is withdrawn as needed by the state or does some money go to the general fund every year. REP. BARDANOUVE said that in future years, if a surplus exists, a portion of the surplus could go to the general fund.

REP. MASON asked if the money helps pay for the ranch operations. REP. BARDANOUVE stated that the money pays for the entire operation of the prison ranch. REP. BARDANOUVE said he would give a history of the prison ranch after the meeting was adjourned.

Motion/Vote: REP. LARSON withdrew his motion.

Executive action on HB 285 would be acted on at a later date.

EXECUTIVE ACTION ON HB 193

Motion: REP. STANFORD MOVED HB 193 DO PASS for the purpose of

discussion.

Motion: REP. MASON moved the amendments. EXHIBIT 2.

Discussion: REP. MASON explained the amendments. EXHIBIT 2.

Vote: The motion on the amendments to HB 193 passed.

Connie Erickson stated that there was one amendment discussed at the hearing on HB 193 regarding the definition of produce. There was concern that the current definition was going to cover poultry, apiary products, dairy products, and grain products. Ms. Erickson said that REP. TUSS was agreeable to the amendment. The amendment would state that the term "produce" does not include livestock and its byproducts, poultry and its byproducts, apiary products, dairy products or grain.

Motion: REP. MASON moved the amendment.

REP. ANDERSON stated that he was not in favor of the amendment; the department needed the flexibility to determine what is "produce".

REP. MASON asked Mr. Kissinger to comment on the amendment. Mr. Kissinger stated that the Department of Agriculture had no objection to the amendment.

REP. ROSE agreed with REP. ANDERSON and he was not in favor of the amendment.

Motion: REP. ANDERSON MADE A SUBSTITUTE MOTION OF DO NOT PASS ON THE AMENDMENT.

Vote: The motion carried unanimously.

Motion: REP. MASON MOVED HB 193 DO PASS AS AMENDED. The motion carried unanimously.

ADJOURNMENT

Adjournment: 4:28 P.M.



VERN KELLER, Chairman



JAELENE RACICOT, Secretary

VK/jr

HOUSE OF REPRESENTATIVES

AGRICULTURE, LIVESTOCK, & IRRIGATION COMMITTEE

ROLL CALL

DATE

2/2/93

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

February 3, 1993

Page 1 of 1

Mr. Speaker: We, the committee on Agriculture, Livestock, and Irrigation report that Senate Bill 97 (third reading copy -- blue) be concurred in.

Signed: _____
Vern Keller, Chair

Carried by: Rep. Grinde

Committee Vote:
Yes ____, No ____.

271319SC.Hpf

HOUSE STANDING COMMITTEE REPORT

February 3, 1993

Page 1 of 1

Mr. Speaker: We, the committee on Agriculture, Livestock, and Irrigation report that Senate Bill 88 (third reading copy -- blue) be concurred in .

Signed: _____
Vern Keller, Chair

Carried by: Rep. Grady

Committee Vote:
Yes ____, No ____.

271320SC.Hpf

HOUSE STANDING COMMITTEE REPORT

February 4, 1993

Page 1 of 2

Mr. Speaker: We, the committee on Agriculture, Livestock, and Irrigation report that House Bill 193 (first reading copy -- white) do pass as amended .

Signed: _____
Vern Keller, Chair

And, that such amendments read:

1. Page 8, lines 12 and 13.

Strike: second "by" on line 12 through "produce" on line 13

r

2. Page 8, line 13.

Following: "unit"

Insert: "or equivalent poundage"

3. Page 8, line 18.

Page 9, line 4.

Page 9, line 22.

Page 10, line 2.

Strike: "\$10,000"

Insert: "\$15,000"

4. Page 8, lines 21 and 22.

Strike: "if" on line 21 through "paid" on line 22

Insert: "unless the grower has paid for a produce dealer license or has made available to the produce dealer a written form provided by the department stating that the assessment fees are being paid"

5. Page 10, lines 15 through 18.

Strike: "New" on line 15 through "license." on page 18

Committee Vote:

Yes . No .

28132480.Tpf

February 4, 1993
Page 2 of 2

6. Page 10, lines 18 and 19.

Strike: "who" on line 18 through "year" on line 19

7. Page 10, line 20.

Following: "nonrefundable"

Insert: "license"

-END-

TESTIMONY OF THE
DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
ON SENATE BILL 97

BEFORE THE HOUSE AGRICULTURE COMMITTEE

FEBRUARY 2, 1993

*A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING THE CANAL
PRIVATIZATION PROGRAM TO INCLUDE THE LEWISTOWN DITCH;
AMENDING SECTION 85-1-211, MCA; AND PROVIDING AN IMMEDIATE
EFFECTIVE DATE."*

The department supports this bill amending the canal privatization program to include the Lewistown Ditch. The Lewistown Ditch is one of 33 active irrigation projects that are owned by the department, and managed and operated by water users' associations. These projects consist of either reservoirs, a combination of canals and reservoirs, or ditches that convey water directly from a river or stream to nearby agricultural lands. The Lewistown Ditch falls within this latter category.

This water project disposal program is the outgrowth of a recommendation by the Montana Ambassadors, a group of businesspeople from around Montana who were charged by Governor Stephens with suggesting areas where the state could privatize some of its functions. Among their recommendations was that of having the department turn over the ownership of its active irrigation canal projects to the private sector.

Responding to this recommendation, the 1991 Legislature passed a bill that named eleven department-owned canal projects as candidates for transfer into private ownership, giving a preference to the existing water users' associations. At the time, the Lewistown Ditch was not among the canal projects slated for the transfer effort. Recently, however, all of the water users associated with the project have requested the department to work with them in transferring the project's ownership. The proposed legislation, if enacted, will provide the department the legal basis for honoring that request.

Under the canal privatization program, the department must notify the water users of its intent to pursue transferring the ownership of their project. If, by petition, the water users respond positively to the notice, the department works with them to develop a project transfer plan. Following completion of the plan, the water users vote on whether to conclude the transfer. If they do not elect to accept the transfer of the project by June 30, 1995, the law provides that the department will charge the association for its costs associated with administering the project.

Currently, water users associated with the Lewistown Ditch owe the state about \$1,000 as repayment for the initial project construction cost. However, as an incentive to participate in the canal transfer effort, the law provides that the department may allow a severance payment equal to one year's expense of operating and maintaining the project. In the case of the Lewistown Ditch, this payment has been estimated to be about \$800 and would be applied toward retiring the debt owed the state. The total cost to the state of transferring the project to private ownership would be about \$900 -- the \$800 severance payment plus a \$100 expense for an appraisal of the project.

AMENDMENT TO HOUSE BILL 193

1. Page 8, line 12 and 13.
Strike: "by number of produce units per type of produce"
2. Page 8, line 13.
Following: "unit"
Insert: "or equivalent poundage"
3. Page 8, line 18.
Strike: "10,000"
Insert: "15,000"
4. Page 8, line 21 and 22.
Following: "fee"
Strike: remainder of lines 21 through 22 in their entirety
Insert: ", unless the grower has already paid for a produce dealer license and/or has made available to produce dealer, written form provided by the department assuring assessment fees have been paid periodically (i.e. weekly/monthly)."
5. Page 9, line 4.
Strike: "10,000"
Insert: "15,000"
6. Page 9, line 22.
Strike: "10,000"
Insert: "15,000"
7. Page 10, line 2.
Strike: "10,000"
Insert: "15,000"
8. Page 10, line 15 through line 17.
Following: "issuance."
Strike: "New" on line 15 through "license" on line 18
9. Page 10, line 18 through line 19.
Following: "dealer"
Strike: "who" on line 18 through "year" on line 19
10. Page 10, line 20.
Following: "nonrefundable"
Insert: "license"

HOUSE OF REPRESENTATIVES
VISITOR REGISTER

Agriculture COMMITTEE BILL NO. SB 97
DATE Feb. 2, 1993 SPONSOR(S) Shertel
PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
<u>J. B. Brown</u>	<u>MAR</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

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