

**MINUTES**

**MONTANA SENATE  
53rd LEGISLATURE - REGULAR SESSION**

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

**Call to Order:** By Senator Rea, on March 3, 1993, at 3:00 p.m.

**ROLL CALL**

**Members Present:**

Sen. Jack "Doc" Rea, Chair (D)  
Sen. Francis Koehnke, Vice Chair (D)  
Sen. Gary Aklestad (R)  
Sen. Tom Beck (R)  
Sen. Betty Bruski-Maus (D)  
Sen. Jim Burnett (R)  
Sen. Gary Forrester (D)  
Sen. Mike Halligan (D)  
Sen. Bob Pipinich (D)

**Members Excused:** Sen. Devlin

**Members Absent:** None

**Staff Present:** Doug Sternberg, Legislative Council  
David Martin, Committee Secretary

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

**Committee Business Summary:**

Hearing: HB 290, HB 213, HB 366  
Executive Action: HB 290, HB 213, HB 366

**HEARING ON HB 290**

**Opening Statement by Sponsor:**

Rep. Chase Hibbard, District 46, said HB 290 would remove the sunset clause on sheep permit legislation enacted by the 1989 legislature. The original legislation was intended to deter sheep theft. It required that a permit be obtained for sheep being transported from one county to another which is similar to the system in place for the transportation of cattle and horses. He said since the inception of this legislation sheep loss has decreased from 3,836 reported in 1990, to 2,784 in 1991, to 1,083 in 1992. The program, still in infancy, is expected to be even more successful as it matures. He said HB 290 is supported by the sheep industry and passed overwhelmingly in the House.

**Proponents' Testimony:**

Cork Mortensen, Department of Livestock, supported HB 290 (Exhibit #2).

Gary Graves, Montana Wool rowers Association, presented testimony supporting HB 290 (Exhibit #1).

Bob Gilbert, Montana Wool Growers Association, supported HB 290.

Nancy Espey, Vice-Chairman, Board of Livestock, said the decision to remove the sunset should be a producers' decision and the producers strongly support HB 290.

**Opponents' Testimony:**

None

**Questions From Committee Members and Responses:**

Sen. Halligan asked what the cost of the permit would be. Rep. Hibbard said \$1.

Sen. Aklestad asked if the permit could be obtained at the local sheriff's office. Mr. Mortensen said yes, the permit could be obtained at any place which had local brand inspection books.

**Closing by Sponsor:**

Rep. Hibbard closed and said Sen. Beck would carry the bill.

**HEARING ON HB 213**

**Opening Statement by Sponsor:**

Rep. Rose, District 11, said HB 213 would clear up issues concerning voting rights in relation to irrigation districts.

**Proponents' Testimony:**

Jo Brunner, Executive Director of Montana Water Resource Association, said HB 213 was introduced at the request of some irrigation districts. She said a problem exists when a landowner cannot vote in an irrigation district in which they own property unless they are a resident of the county in which the land exists.

**Opponents' Testimony:**

None

**Questions From Committee Members and Responses:**

Sen. Aklestad asked if the land was leased, would the lessee and the owner both have a vote. Rep. Rose said no, each forty acre parcel only had one vote attached. This legislation would allow an owner to vote in an irrigation district in which they were not a resident.

Sen. Halligan asked if he owned 80 acres in Cascade County and 80 acres in Teton County and lived in Cascade County, would he be able to vote in Teton County (under the old law). Rep. Rose said no he would not be able to vote in Teton County. The residency change would be to make the residency in Montana.

Sen. Beck asked if there was a legal proxy for a lessee to vote. Rep. Rose replied affirmatively.

**Closing by Sponsor:**

Rep. Rose closed. Sen Aklestad volunteered to carry HB 213.

**HEARING ON HB 366**

**Opening Statement by Sponsor:**

Rep. Rose said HB 366 would repeal the surcharge on field rodenticides. He said many of the rodenticides are outlawed and are no longer sold. Presently it costs more to collect the surcharge on these rodenticides than is produced in revenue. He referred to the fiscal note and said there is \$2,000 left in the rodenticide account, and it would be carried over and expended in 1994. The Department of Agriculture will also receive \$5,000 in grants from a company to conduct field studies, most of which concern underground poisons.

**Proponents' Testimony:**

Ralph Peck, Department of Agriculture, read a letter for Leo Giacometto, Director of Department of Agriculture (Exhibit #3).

**Opponents' Testimony:**

None

**Questions From Committee Members and Responses:**

Sen. Beck said that rodents are a tremendous problem and almost all means have been lost to combat this problem. He supported HB 213 because the current legislation no longer served it's original purpose.

Sen. Aklestad asked what the department was going to do with extra funds reflected by the fiscal note. Rep. Rose said that \$2,000 will be retained in the account. Gary Gingery, Department

of Agriculture, said the money will be used for research even though not much money was represented. The \$5,000 will be provided by a company which will study a rodenticide that may be used in the future in Montana.

Sen. Aklestad asked if the \$5,000 grant was a one-time contribution. Mr. Gingery said it could involve one company donating the total sum or several smaller grants combined to do the initial field work. He said it would be an on-going effort.

**Closing by Sponsor:**

Rep. Rose said that rodents create a large problem in Montana and closed. It was decided that Sen. Beck would carry the bill.

**EXECUTIVE ACTION ON HB 366**

**Motion/Vote:** Sen. Pipinich MOVED HB 366 BE CONCURRED IN. The motion CARRIED UNANIMOUSLY.

**EXECUTIVE ACTION ON HB 290**

**Motion/Vote:** Sen. Pipinich MOVED HB 290 BE CONCURRED IN. The motion CARRIED UNANIMOUSLY.

**EXECUTIVE ACTION ON HB 213**

**Motion:** Sen. Pipinich MOVED HB 213 BE CONCURRED IN.

**Discussion:**

Sen Halligan asked if it was possible for a landowner to have property in several irrigation districts, if so, would the owner be able to vote in each irrigation district whether that person lived in the district or not. Rep. Rose said there may be isolated cases of this situation, under HB 213, an owner would be able to vote in different irrigation districts as long the person owned the property.

Sen. Beck asked if a person under the "old law" could vote in an irrigation district regardless of county residence. Rep. Rose said no and gave an example near Great Falls.

Doug Sternberg, Legislative Council, said in subsection 1A defined an elector which is similar to the laws governing county or general elections. HB 213 would exclude county residency as a requirement to vote in an irrigation district.

Sen. Forrester asked if an out-of-state land owner could control the voting within an irrigation district in which case local control would be lost. Mr. Sternberg said no, on line 20, page

1, "state" was stricken and "county" inserted. He said this would exclude county residency as a condition for voting in irrigation districts but that general election laws would still apply.

Sen. Forrester said that "state" and "county" residency seemed to not be required which would allow an out-of-state land owner to control an irrigation district. Mr. Sternberg said the general election laws would still apply except for cases of distinguishing between county residencies.

Sen. Pipinich asked if an out of state land owner, like Ted Turner, could control the water rights if he owned the land because of the stricken language about state and county. Rep. Rose said he had checked into this issue because of the "Broken O" operation, owned by Kelly Moore Paint Company in Teton County. He said there are restrictions within an irrigation district to prevent this situation.

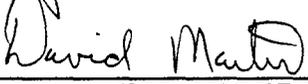
**Vote:** The motion HB 213 Be Concurred In CARRIED UNANIMOUSLY.

**Motion/Vote:** Sen. Aklestad MOVED HB 290 AND HB 213 BE PLACED ON THE CONSENT CALENDAR. The motion CARRIED UNANIMOUSLY.

**ADJOURNMENT**

**Adjournment:** Meeting adjourned at 2:35 p.m.

  
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SENATOR REA, Chair

  
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DAVID MARTIN, Secretary

JR/dm



SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
March 4, 1993

MR. PRESIDENT:

We, your committee on Agriculture, Livestock, and Irrigation having had under consideration House Bill No. 290 (first reading copy -- blue), respectfully report that House Bill No. 290 be concurred in and unanimously recommend that it be placed on the Consent Calendar.

Signed: Jack 'Doc' Rea  
Senator Jack "Doc" Rea, Chair

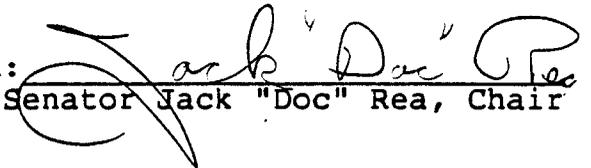
SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
March 4, 1993

MR. PRESIDENT:

We, your committee on Agriculture, Livestock, and Irrigation having had under consideration House Bill No. 213 (first reading copy -- blue), respectfully report that House Bill No. 213 be concurred in and unanimously recommend that it be placed on the Consent Calendar.

Signed:

  
Senator Jack "Doc" Rea, Chair

 m- Amd. Coord.  
Sec. of Senate

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Senator Carrying Bill

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SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
March 4, 1993

MR. PRESIDENT:

We, your committee on Agriculture, Livestock, and Irrigation having had under consideration House Bill No. 366 (first reading copy -- blue), respectfully report that House Bill No. 366 be concurred in.

Signed:

  
Senator Jack "Doc" Rea, Chair

SENATE AGRICULTURE

EXHIBIT NO. 1

DATE 3-3-83

BILL NO. HB 290

TESTIMONY OF GARY GRAVES  
President, Montana Wool Growers Association  
Roundup, Montana

SENATE AGRICULTURE COMMITTEE, March 3  
HB 290, Chase Hibbard, Helena

For the record, I am Gary Graves of Roundup and I am serving as President of the Montana Wool Growers Association. I am here representing our membership in support of HB 290, which removes the sunset provisions on the law known as the sheep permit.

This industry was experiencing much complaint about stolen sheep which led us to establishing legislation that made it mandatory to have in your possession a sheep permit whenever sheep were transported across county lines. The permits are issued by Department of Livestock inspectors or at many businesses which issue livestock transportation permits. The most important element in this permit system is that it gives law authorities the "just cause" to stop and inquire about sheep ownership. Without that "just cause" law officers had no lawfull reason to question sheep movement, and if stolen sheep were found there becomes the legal challenge toward finding that stolen livestock without probable cause.

We had a lively discussion of this issue at our annual convention last December and I can tell you that some people who raise sheep are not 100% behind this effort. However, they could offer no better solution as to how we can address the problem and investigation into sheep theft. We want the Department of Livestock investigators to be able to find persons who steal sheep and this permit is a good tool.

I trust that this committee will follow the House in voting 100% in favor of HB 290, and give it a DO PASS. Thank You.

Senate Agriculture Committee HB 290

SENATE AGRICULTURE

EXHIBIT NO. 2

DATE 3-3-93

BY HB 290

Reported sheep losses in Montana have presented problems for local law enforcement and Department of Livestock personnel for years.

Hundreds of sheep are reported lost, strayed or stolen every year. The actual number of sheep that are in the stolen category may never be known, however there is definitely a serious theft problem in some areas of the state.

Recovering or even locating stolen sheep is an extremely difficult task. This is primarily do to the lack of permanent identification. Paint brands and ear tag identification are the primary source of sheep identification. Both means of identification can readily be removed and the identity of the sheep changed quickly. Within hours of a theft, sheep can be transported hundreds of miles to their destination.

Prior to the enactment of the sheep transportation permit system during the 1989 legislative session, there were no statutory requirements to transport sheep. The permit system allows law enforcement personnel the ability to stop and examine all vehicles transporting sheep and request proper documentation regarding the shipment.

Without the permit system officers may have been hard pressed to find probable cause to stop the vehicle and question the ownership of the sheep being transported. In the past little attention by officers was given to the movement of sheep when knowing they had little or no legal ground to question the ownership of the sheep being transported.

The sheep permit system is creating an information resource or data bank that was not available in the past. In the case of a loss or theft, information on the permit shows who was transporting sheep within the time frame of the loss. As in the case of any livestock theft, the brand inspection certificate or sheep permit can establish; someone in possession of the animals being transported.

While the sheep transportation permit system is far from perfect, it does give officers a new investigative tool to work with.

In a recent sheep theft and fraud case filed in an eastern Montana county, information obtained from the sheep permit system allowed investigators to trace the movement of sheep and resulted in criminal charges being filed against three individuals. The County Attorney had favorable comments about this permit system and urged sheep producers to renew the system.

Sheep losses reported to the Department of Livestock since 1988 through 1992 are decreasing. This could possibly be do to overall sheep populations decreasing or it may be that the sheep transportation permit system is a deterrent to theft.

The sheep transportation permit system is just in it's infancy and there are problems that need to be worked out. If allowed it could evolve into an effective system to help prevent or deter sheep theft.

*Testimony of E. G. "Bob" Mortensen  
Ex. Sec. Board of Livestock -  
2-3-93*



MARC RACICOT  
GOVERNOR

STATE OF MONTANA  
DEPARTMENT OF AGRICULTURE

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SENATE AGRICULTURE  
EXHIBIT NO. 3  
DATE 3-3-93  
BILL NO. HB 366

MARCH 3, 1993

HOUSE BILL 366

SENATE AGRICULTURE, LIVESTOCK AND IRRIGATION COMMITTEE

MONTANA DEPARTMENT OF AGRICULTURE

LEO A. GIACOMETTO, DIRECTOR

Chairman Rea and members of the Committee. For the record, I am Leo Giacometto, Director of the Montana Department of Agriculture.

House Bill 366 was requested by the Department based upon our commitment to the 1991 Legislature to review the rodenticide surcharge in the 92-93 biennium and to present our recommendations to the 1993 legislature.

The reasons the Department is recommending repeal of this surcharge have been expressed by Representative Rose, the sponsor of HB 366. Low revenues, loss of 1080 and strychnine as field rodenticides, and the burden on industry and the department for tracking and collecting the surcharge revenues are the primary reasons for recommending the surcharge repeal.

The department will continue to work with producers, the industry and others on field rodent and rodenticide issues and may at times receive industry contracts for special field studies. Gary Gingery, Administrator of the Agricultural and Biological Sciences Division, is here to answer any technical questions you may have.

Mr. Chairman and members of the Committee, I request that you support and vote for the passage of House Bill 366.

DATE 3-3-93

SENATE COMMITTEE ON AGRICULTURE

BILLS BEING HEARD TODAY: HB 290, HB 213, HB 366

Name	Representing	Bill No.	Check One	
			Support	Oppose
Gary Graves	Mont. Wool Growers	290	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Clark Mortensen	Dept. of Livestock	290	<input type="checkbox"/>	<input type="checkbox"/>
Ralph Peck	Dept. of Agriculture	366	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Nancy Epp	MT Board of Livestock	290	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Bob Gilbert	MT Woolgrowers Assn	<sup>HC</sup> 290	<input checked="" type="checkbox"/>	<input type="checkbox"/>

**VISITOR REGISTER**

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY