

MINUTES

**MONTANA SENATE
54th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON AGRICULTURE, LIVESTOCK & IRRIGATION

Call to Order: By **CHAIRMAN CHUCK SWYSGOOD**, on January 25, 1995,
at 1:00 P.M.

ROLL CALL

Members Present:

Sen. Charles "Chuck" Swysgood, Chairman (R)
Sen. Gerry Devlin, Vice Chairman (R)
Sen. Thomas A. "Tom" Beck (R)
Sen. Don Hargrove (R)
Sen. Ric Holden (R)
Sen. Reiny Jabs (R)
Sen. Greg Jergeson (D)
Sen. Linda J. Nelson (D)
Sen. Bob Pipinich (D)

Members Excused: None

Members Absent: None

Staff Present: Doug Sternberg, Legislative Council
Jennifer Gaasch, Committee Secretary

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

Committee Business Summary:

Hearing: HB 107
Executive Action: HB 107, SB 11, SB 92, and SB 111

{Tape: 1; Side: A; Approx. Counter: ; Comments: .}

HEARING ON HB 107

Opening Statement by Sponsor:

REPRESENTATIVE DEBRUYCKER, HD 87, Floweree, introduced HB 107.
REP. DEBRUYCKER stated that this bill would eliminate the Montana
pork research and marketing committee and it would no longer be a
checkoff. He urged the committees support.

Proponents' Testimony:

Cork Mortensen, representing the Board of Livestock, stated that there was no longer a need for the statutes. He submitted a handout including a letter from the president of the Montana Pork Producers Council (EXHIBIT #1).

Fred Happel, representing Montanans for a Better Government, stated that they support HB 107.

Opponents' Testimony:

None

Informational Testimony:

None

Questions From Committee Members and Responses:

None

Closing by Sponsor:

REP. DEBRUYCKER declined to add anything further.

EXECUTIVE ACTION ON HB 107

Motion/Vote: SENATOR GREG JERGESON MOVED TO CONCUR IN HB 107. The MOTION CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON SB 11

Discussion:

SENATOR PIPINICH asked Doctor Jack Rea, DVM, for his view on SB 11. Doctor Rea stated that he personally felt that the bill does not need action until being discussed further.

SEN. JERGESON asked SENATOR TERRY KLAMPE to determine what the bill would accomplish. SEN. KLAMPE stated that page 3, line 13, was essential to the veterinarians. On page 4, line 20 referring that the advisory committee be eliminated. On page 7, line 1-5, he stated that the students need to be under immediate supervision when working under a veterinarian. On page 6, line 1-8, he stated that a person should be able to use their transcripts instead of their diploma to get a license. Page 1,

SENATE AGRICULTURE, LIVESTOCK & IRRIGATION COMMITTEE

January 25, 1995

Page 3 of 8

line 26, was put in to protect the public. The most controversial piece of information was on page 5, line 8, the words "full-time". Perhaps that could be amended out of the bill. He stated that the points he made were simple and very important.

SENATOR DON HARGROVE asked **Bob Sager, representing the Montana Veterinarians Association** to give his opinion on SB 11. He stated that there are many good ideas in the bill and there were also some problems in the bill. They would like to see SB 11 tabled.

SENATOR GERRY DEVLIN asked **SEN. KLAMPE** who in the Department of Commerce wanted SB 11 and why did they not get in touch with the practicing veterinarians? **SEN. KLAMPE** replied that it came from the Board of Veterinarians in the Department of Commerce and there was a lack of communication between them and the practicing veterinarians.

Motion/Vote: **SENATOR TOM BECK** MOVED to TABLE SB 11. The MOTION CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON SB 111

Discussion:

Doug Sternberg stated that the requested amendments were as follows: page 1, line 20 and line 22 in reference to cattle would change the reference to "9 months or older"; page 2, line 14 and line 19 the phrase "assessment rolls" would be changed to "property tax record".

Motion: **SEN. DEVLIN** MOVED the amendment.

Discussion:

SENATOR RIC HOLDEN asked **Bob Gilbert** if he knows about the 9 months. **Mr. Gilbert** stated that this was a per capita per head fee and all of them are 9 months and this would help the counties be more consistent and the Stockgrowers Association does not oppose it.

SEN. BECK asked **Bob Gilbert** if there was a cow-calf operation, the rancher would be paying for both the cow and the calf? **Mr. Gilbert** stated that this was true and it makes more sense because the calf would be the animal that needed to be protected.

SEN. JERGESON stated that the cow-calf operator would not be paying more because they are sold before the form was filled out. If a person is a yearling operator they will be included.

SEN. DEVLIN stated that the base of the per capita was 9-24 months .

Bob Gilbert stated that this was a per capita fee.

Vote: The MOTION CARRIED UNANIMOUSLY.

Motion: SEN. DEVLIN MOVED SB 111 DO PASS AS AMENDED.

Discussion:

SENATOR LINDA NELSON asked SEN. DEVLIN if the elk ranchers wanted to be a part of SB 111. SEN. DEVLIN stated that it would take extensive amendments to include them on SB 111.

CHAIRMAN SWYSGOOD stated that in a past session they were put on a per capita tax on their animals and he does not know why SB 111 could not somehow be included.

Bob Gilbert replied that the Department of Livestock preferred to keep the bill strictly to cattle. This would alleviate complications.

Vote: The MOTION CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON SB 92

Discussion:

SEN. BECK asked Bob Sager what the association's concerns would be on SB 92. Mr. Sager stated that the veterinarians are concerned because it allows unexperienced people to pregnancy test animals and there was a concern for the spreading of disease. He also stated that there are people who have come in from out of state to perform these duties and they do not know the local concerns. There have been animals that were sold and misdiagnosed. The association was opposed to SB 92.

SEN. BECK asked SENATOR JAMES BURNETT if there was an individual coming in from Wyoming to pregnancy test cattle at a lower price than those veterinarians in Montana. SEN. BURNETT replied that he was not aware of such an individual.

SEN. DEVLIN asked SEN. BURNETT if he had ever charged for pregnancy testing? SEN. BURNETT stated that he had only traded services.

SENATE AGRICULTURE, LIVESTOCK & IRRIGATION COMMITTEE

January 25, 1995

Page 5 of 8

SEN. NELSON stated that she visited with her own veterinarian about the issue and he knows that this goes on. She stated that if it was legal, the rancher was more apt to report disease. **SEN. BURNETT** stated that he has sent blood samples to the lab himself and he has had a disease free herd.

Doug Sternberg clarified that the bill as introduced did not include pregnancy testing.

SEN. BECK asked **SEN. BURNETT** about the sale of the cattle on the grounds that they were pregnant. **SEN. BURNETT** stated that he has tested them and not signed the certificate.

SEN. HOLDEN stated that on page 3 of SB 92 the only new language was with artificial insemination. If the bill does not pass there is nothing in existing statute that says a person can go out and artificially inseminate their own farm animals.

SEN. JERGESON asked **Mr. Sager** if they object to the bill as introduced or to the amendment. **Mr. Sager** stated that they objected to the amendment.

SEN. JABS stated that the amendment read "or pregnancy testing that is incidental to artificial insemination". If you are artificial inseminating, the cow should not be pregnant so why would pregnancy testing be in the bill? **CHAIRMAN SWYSGOOD** stated that was how the amendment reads and it has not been put into the bill. **CHAIRMAN SWYSGOOD** stated that he was having trouble understanding why pregnancy testing was needed with artificial inseminating. **Mr. Sager** replied that there are artificial insemination technicians that do a heat detection and then can do a pregnancy test a few days later.

SEN. JERGESON stated that it was his inclination the advisory committee be done away with and clean up that language and language in existing law of full-time. The act of performing artificial insemination should be allowed so that a person does not have to always call a veterinarian.

SEN. BECK stated that a person does not have to call a veterinarian out to perform artificial insemination, it can be done by the rancher. The only need for the bill was with pregnancy tested included.

SEN. HOLDEN asked **SEN. BECK** where it states where artificial insemination was permissible? **SEN. BECK** replied that there was no language that states that a person cannot perform artificial insemination.

SEN. NELSON asked **SEN. BURNETT** if the law asked him to not perform artificial insemination and it was listed in the exemptions.

Doctor Diana Scollard, representing the district **SEN. BURNETT** presides in, she stated that a complaint was received of a layman pregnancy testing after asking the man to quit performing pregnancy testing, there were cancelled checks to this man and the ranchers did not cooperate in disclosing any information. The county attorney addressed **SEN. BURNETT** and another representative and stated that they were not upholding the laws they were making. They do not have a problem with people pregnancy testing their own cattle or helping others to pregnancy test. They do have a problem with out-of-state persons coming in to pregnancy test at a lower rate when they do not reside in the county or even in the state.

SEN. BECK asked if that particular incident had anything to do with artificial insemination. **Ms. Scollard** replied that it did not and as far as artificial insemination, a person could do as they pleased.

SEN. HOLDEN asked what is to prevent the sheriff from coming out to his ranch and stating that the county attorney has determined to his review of the laws that he was not allowed to artificially inseminate their cow unless it was in statute that he was permitted. **CHAIRMAN SWYSGOOD** replied that his interpretation was that if there was nothing in reference to statute as it related to an article, then there was no law to cover that. **Doug Sternberg** replied that SB 92 it was a clarification of the law. Presently Montana codes determine what constitutes veterinary medicine. It was not clear whether artificial insemination was a legal procedure on a person's own animals. Generally any type of procedure done on an animal for compensation was considered to fall into the veterinary code.

SEN. JERGESON referred to SB 11 which has another section from the same chapter. On page 2, the uncertainty may arise under subsection (C) in 37-18-102, where veterinary medicine defined. There may be some confusion that artificial insemination was a procedure of veterinary medicine.

Doug Sternberg replied that a county attorney had made that assumption and **SEN. BURNETT** wanted that clarified.

CHAIRMAN SWYSGOOD stated that if the committee wanted to clarify the law relating to artificial insemination then the bill can be passed.

SEN. JERGESON stated that if the committee wanted to use it as a vehicle and take the words "full-time" out of the existing statute, SB 92 can be used.

CHAIRMAN SWYSGOOD stated that the amendment did not have to be put on the bill as it was offered by **SEN. BURNETT**.

Motion : SEN. HOLDEN MOVED to make an amendment to strike the words "full-time" from the bill, page 3, line 6.

SEN. DEVLIN asked why the amendment would help SB 92. SEN. HOLDEN stated that it would allow any employee to help in the process.

Doug Sternberg replied that the amendment was not within the scope of that piece of legislation. This was just a bill to clarify the law.

SEN. JERGESON stated that these rules are subject to interpretation.

SEN. HOLDEN CLOSED on the amendment.

Doug Sternberg stated that the title would also have to be changed in the bill in order to put in the amendment proposed by SEN. HOLDEN.

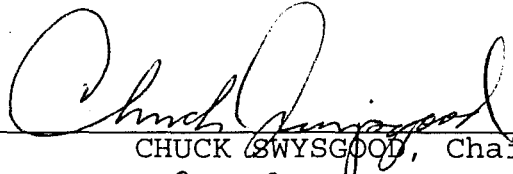
SEN. JABS stated that if the words "full-time" are not done this time, then it will have to be done in the next session, so why not take care of it now?

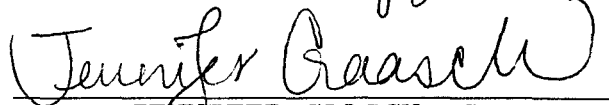
Motion/Vote: SEN. DEVLIN MOVED to TABLE SB 92.

Roll call vote was taken with SENATORS, DEVLIN, BECK, HARGROVE, PIPINICH, and SWYSGOOD, voting aye and SENATORS HOLDEN, JABS, JERGESON, and NELSON voting no. The MOTION CARRIED with a 5 to 4 vote.

ADJOURNMENT

Adjournment: 2:05 p.m.


CHUCK SWYSGOOD, Chairman


JENNIFER GAASCH, Secretary

CS/JG

MONTANA SENATE
1995 LEGISLATURE
AGRICULTURE COMMITTEE

ROLL CALL

DATE 1-25-95

[illegible]

SEN:1995
wp.rollcall.man
CS-09

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
January 25, 1995

MR. PRESIDENT:

We, your committee on Agriculture, Livestock, and Irrigation having had under consideration SB 111 (first reading copy -- white), respectfully report that SB 111 be amended as follows and as so amended do pass.

Signed: 
Senator Chuck Swysgood, Chair

That such amendments read:

1. Page 1, lines 20 and 22.

Strike: "1 year"

Insert: "9 months"

2. Page 2, lines 14 and 19.

Strike: "assessment rolls"

Insert: "property tax record"

-END-

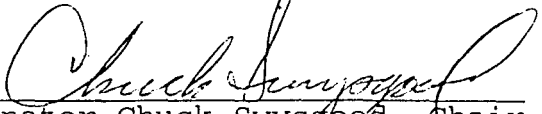
SENATE STANDING COMMITTEE REPORT

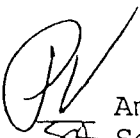
Page 1 of 1
January 25, 1995

MR. PRESIDENT:

We, your committee on Agriculture, Livestock, and Irrigation having had under consideration HB 107 (third reading copy -- blue), respectfully report that HB 107 be concurred in.

Signed:


Senator Chuck Swysgood, Chair


Amd. Coord.
Sec. of Senate


Senator Jorgeson
Senator Carrying Bill

211440SC.SPV

MONTANA SENATE
1995 LEGISLATURE
AGRICULTURE COMMITTEE
ROLL CALL VOTE

DATE 1-25-95 BILL NO. SB 92 NUMBER _____

MOTION: Table SB 92

[illegible]

AGRICULTURE
EXHIBIT NO. 1
DATE 1-25-95
BILL NO. HB 107

House Bill 107

This bill is being introduced for the Department of Livestock as a corrective action recommended by the Legislative Auditor's Office.

We are attempting to repeal the laws related to the Montana Pork Research and Marketing Act because these laws are no longer applicable to the department.

Title 81, Chapter 8, part 6, MCA, requires the department to administer the Montana Pork Research Act. Section 2-15-3103, MCA, provides for a committee that shall be appointed by the Governor. Currently, there is no Montana Pork Research and Marketing committee and the department has not collected the 0.3 percent assessment on the sale price of all swine sold since 1986.

With the passage of this legislation, the department would be in better compliance with state laws and regulations.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15

House BILL NO. 107

INTRODUCED BY

Roger DeBrunner

BY REQUEST OF THE DEPARTMENT OF LIVESTOCK

A BILL FOR AN ACT ENTITLED: "AN ACT ELIMINATING THE MONTANA PORK RESEARCH AND MARKETING COMMITTEE; REPEALING THE MONTANA PORK RESEARCH AND MARKETING ACT; AND REPEALING SECTIONS 2-15-3103, 81-8-601, 81-8-602, 81-8-603, 81-8-604, 81-8-605, 81-8-606, 81-8-607, 81-8-608, 81-8-609, 81-8-610, 81-8-611, AND 81-8-612, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Repealer. Sections 2-15-3103, 81-8-601, 81-8-602, 81-8-603, 81-8-604, 81-8-605, 81-8-606, 81-8-607, 81-8-608, 81-8-609, 81-8-610, 81-8-611, and 81-8-612, MCA, are repealed.

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0107, as introduced

EXHIBIT 1

DATE 1-25-95

HB 107

DESCRIPTION OF PROPOSED LEGISLATION:

An act eliminating the Montana Pork Research and Marketing Committee and repealing the Montana Pork Research and Marketing Act.

FISCAL IMPACT: There will be no fiscal impact to the Department of Livestock.

Dave Lewis 1-9-95
DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

Roger DeBruycker 1-9-95
ROGER DEBRUYCKER, PRIMARY SPONSOR DATE

Fax Transmittal Memo

of Pages

1

To: <i>Cork Mortensen</i>	From: <i>Sue Huls</i>
Co.: <i>Dept Livestock</i>	Co.: <i>MPPC</i>
Dept.:	Phone # <i>994-3595</i>
Fax # <i>444-1929</i>	Fax #

Montana Pork Producers Council

409A LINFIELD HALL, MONTANA STATE UNIVERSITY,
BOZEMAN, MT 59717
406 994-3593

January 10, 1995

RCFX14

**Statement of Support from State Swine Industry for
House Bill 107 introduced by Representative Roger DeBruycker**

To Members of the House Agriculture Committee

HB 107 is a bill supported by the Department of Livestock, the Board of Livestock (including its swine member), and Montana Pork Producers Council.

The bill is a housekeeping measure to eliminate responsibilities from the Montana Codes assigned to the Department of Livestock for administering the Pork Research and Marketing Act, since these duties are no longer performed.

A federal marketing order requiring a checkoff on hogs administered by USDA nullified Montana's Act when it was legislated by the U.S. Congress in 1986. Two years later a producer referendum established the order permanently with a recall provision. Montana pork producers supported the national checkoff and worked to encourage a positive vote from Montana in the 1988 referendum.

The Montana Pork Research and Marketing Act has remained on the books without observance since that time.

On May 25, 1994, the Board of Directors of Montana Pork Producers Council voted to support legislation to remove the Act. MPPC publications have carried this message to its members and to Montana's swine industry and invited comment. There has been no dissent.

A national producer recall could result in repeal of the national marketing order on hogs. In that case Montana pork producers could consider a state legislative program based on the realities of that time. Producers believe this should be a new effort and not based on legislation lying dormant for years. They see no valid reason for retaining the Montana Pork Research and Marketing Act at this time and respectfully request your support of HB 107.

Jim Drga
President

Sue Huls
Executive Director

Montana Pork Producers Council is Montana's only organization providing educational programs solely for pork producers and consumers.

DATE January 25, 1995

SENATE COMMITTEE ON Agriculture

BILLS BEING HEARD TODAY: HB 107

Executive Action on SB 11, and SB 92

< ■ > PLEASE PRINT < ■ >

Check One

Name	Representing	Bill No.	Support	Oppose
Please Print !!				
Stuart Daggett	MT Veterinary Medical Assoc	SB 11 SB 92		X
Bob Sager	MVMA	SB 11 SB 92		X
Diana Scollard	MVMA	SB 11 92		
Cork Mortensen	#1 Bld. of Livestock	HB 107	X	
Fred Appel	MT. for Better Govt.	107	X	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY