

MINUTES

MONTANA SENATE 55th LEGISLATURE - REGULAR SESSION

COMMITTEE ON AGRICULTURE, LIVESTOCK & IRRIGATION

Call to Order: By **CHAIRMAN KEN MESAROS**, on January 24, 1997, at 1:04 P.M., in Room 413/415.

ROLL CALL

Members Present:

Sen. Kenneth "Ken" Mesaros, Chairman (R)
Sen. Ric Holden, Vice Chairman (R)
Sen. Thomas A. "Tom" Beck (R)
Sen. Gerry Devlin (R)
Sen. Reiny Jabs (R)
Sen. Greg Jergeson (D)
Sen. Walter L. McNutt (R)
Sen. Linda J. Nelson (D)

Members Excused: Sen. Don Hargrove (R), Sen. Bill Wilson (D)

Members Absent: None

Staff Present: Doug Sternberg, Legislative Services Division
Angie Koehler, Committee Secretary

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

Committee Business Summary:

Hearing(s) & Date(s) Posted: **None**
Executive Action: **SB 183**

EXECUTIVE ACTION ON SB 183

Amendments:

CHAIRMAN MESAROS: There is one technical amendment on this bill.

Doug Sternberg: On line 7 and line 24, the reference to 81-2-802 should be changed to 81-2-805.

Motion/Vote:

SEN. LINDA NELSON: MOVED THE VERBAL, TECHNICAL AMENDMENT.
MOTION CARRIES.

Motion:

SEN. NELSON: MOVED SB 183 DO PASS AS AMENDED.

Discussion:

SEN. GERRY DEVLIN: There was some information on what is going on in all the other states as far as *brucellosis* is concerned. I don't like the idea that we're being blackmailed into doing something that we might be sorry for in this Committee. I would like to propose a sunset amendment be put on this bill. This big a step ought to be looked at in two more years.

Motion:

SEN. DEVLIN: MOVED TO SUNSET SB 183 FOR TWO YEARS. (EXHIBIT 1)

Discussion:

VICE CHAIRMAN RIC HOLDEN: What do you want to look at?

SEN. DEVLIN: I want to look at how the Board of Livestock is handling the transfer. If it's running smooth, take the sunset off and let it go. If something has happened or Canada or North Dakota have thrown another roadblock at us, maybe we better go back to where it is now. I would feel a lot more comfortable taking a look at this in two years. They can set it up and get going on it. If it's running good and everybody is happy, I'd be happy. I would even carry the bill to rescind the sunset.

SEN. NELSON: I think that's a fair thing to do. It would give it a chance to work and we can satisfy our people by looking at it again in two years.

SEN. REINY JABS: Are we going to pass it with a sunset on it? That would let them start implementing this.

SEN. DEVLIN: Two years and then we'll take a look at it. It will automatically go off the books in two years and fall right back where it is now.

SEN. JABS: They have the power to let cattle come and go. If the sunset isn't removed, it will go back to old law. So other states won't know what we're doing. We'll start a thing for a while and then we'll stop it for a while, maybe.

SEN. DEVLIN: We'll see how serious those other states are. I don't like the idea of being blackmailed. We've been blackmailed by the federal government enough in this state.

VICE CHAIRMAN HOLDEN: Do you think two years is enough? Should the sunset be four? Two years, the way government works, isn't very long.

SEN. DEVLIN: I said two because I'd carry the legislation to extend it if need be.

SEN. WALT MCNUTT: Can you come back with another bill in two years and change it back if it's not working?

SEN. DEVLIN: This more or less forces the issue that you will look at it two years down the line.

CHAIRMAN MESAROS: Is two enough or should we go to four?

Dr. Clarence Siroky: What we're talking about in the pilot project is a two year mandatory evaluation on how the project is doing and where it's going. We are unable to start that project until fall of this year. It's going to take that long for the government of Canada to change their regulations. We're going to want it to go at least two years to have time to evaluate that and come back. It would work better if it was longer than two. The next logical time is four years. It gives us more time to give the Committee the answers they desire.

VICE CHAIRMAN HOLDEN: The two years would force you into the room to explain why it's good and why we should extend it.

Dr. Siroky: Yes, it's up to the Committee on how they want that handled. We are more than willing to give a full progress report on what we're doing and how the law is working at that time.

SEN. GREG JERGESON: We'll be watching our calves go to Canada, get fed and come back through Montana to go somewhere for slaughter. We need to start addressing what we're going to do about getting the economic benefits that the Canadians apparently think they're going to get by feeding these critters and the economic benefits that somebody else gets by slaughtering them.

SEN. TOM BECK: If it's the intent to have reciprocal agreements, it's a good incentive to put their feet to the fire and get this thing done. If the reciprocal agreements come to pass you can always remove the sunset. If there are no reciprocal agreements, we won't want to open up the borders to nonvaccinated cattle.

CHAIRMAN MESAROS: I agree with the intent of placing the sunset on to give it a trial period. I question whether two years is long enough. I would rather have four.

SEN. BECK: In eighteen months we should have something headed in the right direction. I think it would make a lot more people comfortable if we have a sunset.

SEN. MCNUTT: If you sunset this for two years, could you feasibly come back and sunset it for another two years?

SEN. BECK: Sure you could.

Doug Sternberg: I'm not sure about the actual legal effect of striking a section from the books and then having the repealer drop off in two years.

SEN. BECK: Can it be done?

Doug Sternberg: That's a good question. I think I will check with **Mr. Petesch**, our legal director, on the technicality of that. I don't want to put this Committee in the position where I'm drafting something that is unworkable. I will point out that the repeal of these sections will go into effect October 1, 1997. A two year termination date would take effect on October 1, 1999. That will give the 1999 Legislature an opportunity to revisit the issue during the next regular session.

{Tape: 1; Side: A; Approx. Time Count: 1:20 p.m.; Comments: Doug Sternberg left to verify legality of proposed amendment.}

Mr. Petesch described it as, dead is dead. Once you repeal a section, it's stricken from the books. We cannot reinstate it through a simple termination date. In order to address the Committee's desire to revisit the issue, he suggested a proviso at the beginning of the section that says, "Effective October 1, 1999, the Department shall require that all cattle coming into Montana are inoculated for *brucellosis*." It would leave it on the books, but would suspend it for that period of time. This will allow the Department, in the context of its present rulemaking authority, to do whatever they need to.

SEN. JERGESON: I question the language about adopting rules. The purpose of the bill is to not require vaccination by law, but gives that authority to the Board to determine whether they need vaccinated. What you need is a temporary provision for two years allowing the Board to make the decision whether to require vaccination.

Doug Sternberg: The Department presently has rulemaking authority to make rules and orders that it considers necessary for the control or introduction or spreading of infectious diseases in testing, quarantine, etc. The way Section 801 reads now is "except as provided in two and three, no female cattle over the age of four months may be imported into Montana for any purpose other than immediate slaughter unless they have been officially vaccinated by a licensed veterinarian with *brucella abortus* vaccine." You would put a clause at the beginning of this section that says, "beginning October 1, 1999, no female over the age of four months may be imported into the state of Montana..." That would suspend the legal affect of this law for over two years. The Department, in the context of its present rulemaking authority, will be able to develop the rules and do whatever is needed even though this law is still on the books.

VICE CHAIRMAN HOLDEN: We need a date on there because most of our laws go into effect in October. We need it earlier than that. They're going to be working on it this summer.

SEN. BECK: You could tie it into the fiscal year, July 1, 1997. That's another common date for laws.

Doug Sternberg: We can do that or we can make it effective immediately so the Department can address that specific issue.

SEN. DEVLIN: Is there any way you can use a suspension instead of a repealer?

Doug Sternberg: That is basically what we're doing. We're saying this is the law, but the Department doesn't have to require those vaccinations until October 1, 1999. If we don't deal with it in 1999, that will become law and vaccination will, once again, be required as of October 1, 1999. If we do revisit it, we can repeal it and take those sections off.

CHAIRMAN MESAROS: Is there an interest in this Committee to make it effective with passage upon approval?

VICE CHAIRMAN HOLDEN: I would think so.

Doug Sternberg: It puts that date right in statute.

SEN. BECK: If there are no reciprocal agreements by the 1999 Session, it's going to be a tough sell to not let that sunset stay in place.

Doug Sternberg: The law will already be on the books.

{Tape: 1; Side: A; Approx. Time Count: 1:35 p.m.}

SEN. JABS: Mr. Peterson, what is your feeling on a two year sunset versus a four year sunset?

Jim Peterson, MT Stockgrowers Association: I discussed this with Dick Raths and the Department on how this would impact negotiations with other states and Canada. I was under the impression that the sunset would be considered for four years. No one had any serious objection to four years because that would allow some time to work with the Canadian government. The earliest that we can do anything with the Canadian government is probably fall of this year. Dr. Raths would prefer four years and I just talked with the state veterinarian, Clarence Siroky. We think four years would provide more flexibility. I was thinking we would have about a year and three months, but depending on the dates your talking about now, we would have more time with other states. From the Association's perspective, four years causes us no difficulty because it does provide a review. Two years, to be honest with you, is a bit short. My concern is

that a year and three months is not very long to evaluate a program. It is basically one marketing season.

SEN. JABS: Did you say you've been working on this for three and half years?

Mr. Peterson: We started this project three years ago and the membership actually voted on it in December of 1995. They reviewed it again in December of 1996.

SEN. JABS: It's been an ongoing thing so there should be no gap. You should be able to keep rolling on it.

Mr. Peterson: I know that **Les Graham** talked to **Pat Goggins** about this issue. **Mr. Goggins** suggested three years on the telephone and **Mr. Graham** said the session wouldn't be in for four years.

Motion:

SEN. JABS: SUBSTITUTE MOTION TO SUNSET FOR FOUR YEARS.

Discussion:

SEN. DEVLIN: At the end of two years, in the next session, they will have enough information for this Committee to convince us completely whether to continue or eliminate it. I feel two years is enough.

SEN. BECK: In two years we'll have a real direction to go. I think the sunset will come off and stay off because the reciprocal agreements will come along. It also makes a lot of people more comfortable to know that if something isn't done that we automatically have that going back on the books. I know the Department of Livestock would do something if we wound up getting *brucellosis* in here, but I think it's an image to the agriculture people out there.

Vote: MOTION FAILS.

CHAIRMAN MESAROS: We will vote on the original motion to delay this for two years with an immediate effective date.

Vote: MOTION CARRIES. ALL IN FAVOR. [Amendment SB018302.ADS (EXHIBIT 1) eliminates the need for the verbal, technical amendment that was passed earlier.]

Discussion:

SEN. BECK: The immediate effective date gives them a good period of time. When **Jim Peterson** and the rest come next session, whether any of us are here or not, there will be some direction. I'm sure the Canadian government or the other states will have something in the wind wanting to do reciprocal agreements.

SEN. DEVLIN: Does anyone know when the North Dakota Legislature meets?

SEN. NELSON: They are meeting right now.

SEN. DEVLIN: I see their blackmail scheme is in statute. It's in their law that if free states agree to take North Dakota nonvaccinates, then North Dakota can take nonvaccinates from that state. I thought maybe what they were doing was in rule.

VICE CHAIRMAN HOLDEN: I would like to have **Dr. Siroky** explain because I live by North Dakota.

Dr. Siroky: It's a statute, correct. Through the determination of the state veterinarian, when somebody wants animals to come into their state, he may ask, "Does your state take our nonvaccinates?" If the answer is yes, then they come without any more than that. It's determining what the other states are doing before they do it. As state veterinarians, we say, "What are you doing?" The rule (**EXHIBIT 2**) I handed out to you folks will be pretty close to what we're going to adopt in Montana. We're saying, "We'll take your nonvaccinates since you're a free state." and they'll say, "Okay, then we'll take yours." That will be the end of it. Washington takes nonvaccinates from all states if they're going to a feedlot. Idaho is the same way.

SEN. DEVLIN: That is a confined thing that you're looking at. You couldn't take them and turn them out on pasture.

Dr. Siroky: You could in Washington if they're identified, branded with an F.

SEN. DEVLIN: You have to put a brand on them?

Dr. Siroky: There are states where, if you want to put them on pasture, you have to brand them with F-33 or whatever. That is their registered number. That tells the brand inspector that cow should not have a calf at its side.

SEN. JABS: If none of us are back two years from now, is this going to come up automatically?

Doug Sternberg: It will stay on **SEN. JABS**. The law will revert to its present form on October 1, 1999 unless the next session makes some modification.

Vote: SB 183 DO PASS AS AMENDED. ALL IN FAVOR.

ADJOURNMENT

Adjournment: 1:45 p.m.



SEN. KEN MESAROS, Chairman



ANGIE KOEHLER, Secretary

KM/AK