

## MINUTES

### MONTANA SENATE 55th LEGISLATURE - REGULAR SESSION

#### COMMITTEE ON AGRICULTURE, LIVESTOCK & IRRIGATION

Call to Order: By CHAIRMAN KEN MESAROS, on February 17, 1997, at  
3:25 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. Don Hargrove (R)  
Sen. Reiny Jabs (R)  
Sen. Greg Jergeson (D)  
Sen. Walter L. McNutt (R)  
Sen. Linda J. Nelson (D)  
Sen. Bill Wilson (D)

Members Excused: None

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: HB 392 - 02/13/97  
Executive Action: HB 392, HB 269, SB 284

#### HEARING ON HB 392

Sponsor: REPRESENTATIVE ROD BITNEY, HD 77, KALISPELL

Proponents: Bruce Tutvedt, MT Mint Committee  
Harold Clarke, MT Mint Growers Association  
Will Kissinger, MT Department of Agriculture

Opponents: None

##### Opening Statement by Sponsor:

REPRESENTATIVE ROD BITNEY, HD 77, KALISPELL: Submitted and read  
written testimony. (EXHIBIT 1)

Proponents' Testimony:

**Montana Mint Committee and Montana Mint Growers Association:**

REP. BITNEY submitted written testimony for them. (EXHIBIT 2)

**Will Kissinger, MT Department of Agriculture:** Submitted and read written testimony. (EXHIBIT 3)

Questions From Committee Members and Responses:

**SEN. REINY JABS:** How many acres of mint is there in Montana now? I know it's new industry that started up not long ago.

**Mr. Kissinger:** There are approximately 7,500 acres planted at the present time. These are located primarily in Flathead, Lake, Ravalli and Rosebud although there is potential for future production in Gallatin, Sidney and Glendive area because it's high value crop.

**SEN. JABS:** You said this is funded by the fees on this.

**Mr. Kissinger:** The fees are similar to what the wheat and barley check-off is. There is a check-off of two and a half cents per pound of oil produced in Montana.

**SEN. LINDA NELSON:** Where is the out of state meeting they have?

**Mr. Kissinger:** The meeting, I believe, is in Portland each year because most of the mint produced in the United States is in the northwest region.

**SEN. GERRY DEVLIN:** How much funding is put in from fees all together? Are they building up a little surplus or not?

**Mr. Kissinger:** At the end of Fiscal Year 1996, the revenue was \$40,250.

**SEN. DEVLIN:** Has that been building up through the years?

**Mr. Kissinger:** Yes. I'm not very familiar with the program or the budgeting of it, but as of the end of Fiscal Year 1996 they expended \$29,152 for research at Montana State University in Bozeman and MIRC and approximately \$372 of outside expenses, meeting costs and so on of the Committee.

Closing by Sponsor:

**REP. BITNEY:** The mint business is a growing business. There is about a \$6 Million cash crop being produced every year. It is a unique industry. The mint industry members have requested the additional board member. Their fees do pay for the additional board member and it will help enhance their communication and effectiveness. I ask for your support on HB 392.

{Tape: 1; Side: A; Approx. Time Count: 3:33 p.m.}

EXECUTIVE ACTION ON HB 392

Motion/Vote:

SEN. TOM BECK: MOTION TO CONCUR ON HB 392. MOTION CARRIES UNANIMOUSLY.

EXECUTIVE ACTION ON HB 269

Motion:

VICE CHAIRMAN RIC HOLDEN: MOTION TO CONCUR ON HB 269.

Motion:

VICE CHAIRMAN HOLDEN: MOTION TO ADOPT SEN. TOEWS AMENDMENT HB026901.ADS. (EXHIBIT 4)

Amendments:

VICE CHAIRMAN HOLDEN: Amendment 1 talks about rate per acre. I have had drafted, an amendment to modify that language to consider tillable acres. We'll be dealing with tillable acres as they apply to the formula outlined in part 2 of the Toews Amendment HB026901.ADS.

Doug Sternberg: That would be amendment number 1 of the amendments requested by VICE CHAIRMAN HOLDEN dated February 13, 1997, HB026903.ADS. (EXHIBIT 5) On amendment number 1 we've inserted "rate per tillable acre".

VICE CHAIRMAN HOLDEN: I am not supporting the House Bill as it has come here in any way. SEN. TOEWS and I went over the Department of Agriculture's formula in part 2 of his amendment. On page 3 of SEN. TOEWS handout is an example of how this works. He has a list of all the soil types in Daniels County and the types of wheat and bushels per acre that soil will produce. On page 2 he implements the soil survey production formula into the Department's formula. On the top it's broken down into bushels times management times price times a percentage of crop share equals the rent per acre. That formula is written out in part 2 of the amendment.

The actual computation of how that works is on the second page. Say you have State Land that's dealing with soil type of plot number 57. You go to the map and find that. That's all charted for each county. You get the bushel per acre. The first figure is your bushel per acre yield. The second part of the formula is management and 0.7 is the standard management factor that the USDA has established. The next in his example is the price at \$4.00. That comes from a five year rolling average of spring or winter wheat. Currently we give the state 25 percent of the crop

as a standard basis. If you want to formulate that into a math problem, you would use .125 which takes into consideration that some of the land you would be renting lies idle and some of it is in production. If you multiply those together you'll see that the soil type will come out with a different price per rental acre. For his example he used soil type number 57 and it came to \$9.10. Soil type number 38 was just across the fence and it came out to \$14.00.

Discussion:

**SEN. DEVLIN:** What if it's one over on both sides of the fence and it's in the same section of land?

**VICE CHAIRMAN HOLDEN:** By passage of the law, you would be following the soil type so you would be paying the state based on the soil type and the yield production that it yields.

**SEN. DEVLIN:** Aren't we going through a lot of exercise all over the state?

**VICE CHAIRMAN HOLDEN:** No, I don't think so. You would be establishing a fair cash value for the land that you are operating on rather than trying to find pitfalls in the system and trying to undercut your neighbor. This would sincerely take into consideration the soil type that you farm and if you are farming good soil you are getting more bushels per acre so it would fall in line in that respect.

**CHAIRMAN MESAROS:** If you have three different soil types in a half section, how are you going to administrate this under one ownership?

**VICE CHAIRMAN HOLDEN:** Each field has a different yield and that's all reported.

**SEN. TOM BECK:** Each 40 acres has a different yield, possibly.

**VICE CHAIRMAN HOLDEN:** Right. That's why this formula becomes so much more attractive than trying to figure out a county wide cash value and apply it across the entire county. That's why this bill is flawed in that respect.

**SEN. DEVLIN:** I believe the flaw in this bill is that it puts all these lands in cash lease and leaves no room for share. That's the problem.

**VICE CHAIRMAN HOLDEN:** What do you mean, in a share?

**SEN. DEVLIN:** Sharing of a quarter of a crop like they've been doing. Most of them up in that NE corner do that. Better land is certainly a bigger yield so there's more value to the state.

**VICE CHAIRMAN HOLDEN:** The realistic flaw with that is that farmers are not reporting the bushel per acre to the state that they probably should be. We had testimony here that we have no compliance measures for the current system. We don't have the staff to go out and measure bins and they don't. So we've got the problem of people not reporting what they're producing on their acreage. Then we have another problem of neighbors coming in and overbidding; telling the state that they'll give them 30 or 35 percent of the crop share, but they don't.

**SEN. DEVLIN:** There's an avenue of escape for spite bids. You appeal it to the Land Board. In most cases, if they can prove the guy is above the average in that area, they reduce it.

**SEN. BECK:** Nothing in this bill will prevent that anyway.

*{Tape: 1; Side: A; Approx. Time Count: 3:46 p.m.}*

**SEN. DON HARGROVE:** We need to consider any good idea, but I wonder if there's enough support for the bill to go through all of the amendments if the bill is going to be TABLED anyway. I don't know if we want to think about that right now or not.

**CHAIRMAN MESAROS:** Has the Department had a chance to review these amendments and would they respond as far as the administration of this?

**Jeff Hagener, Trust Land Administrator, Department of Natural Resources and Conservation:** Yes, we have reviewed the amendments. Would you like me to go through each one of them?

**CHAIRMAN MESAROS:** How are you going to administrate this? Is it going to create problems and costs? Are the costs going to be recovered?

**Mr. Hagener:** My answer would be yes. The way I read it, in **SEN. TOEWS'** amendment, is you could have the possibility of 16 different rates for a 640 acre section. Yes, it would be more administration. What **SEN. HOLDEN** said was correct as far as compliance. With agricultural leases we do very little as far as administration. They pay the crop share on an honor system. We don't do any auditing unless there's something that shows up as a very obvious discrepancy or something in rental rates. Our administration on crop leases right now is pretty minimal.

**SEN. JABS:** Once you get it all set up for each field, then it would be a lot less work wouldn't it?

**Mr. Hagener:** I would agree. It would be over a 10 year cycle of doing each one of those renewals. It would take that long to put them all in effect. Agricultural leases that would come up for renewal and require that would average about 300 to 350 per year.

**SEN. BECK:** How would you handle it if somebody came in and challenged the lease? One guy has that whole section, but he only raises the bid on 40 acres in that section.

**Mr. Hagener:** Now, we only accept one bid for the section. If you did break it down into multiple rates, that would add a question we haven't dealt with before. At the current time, grazing rates and crop share are bid for the whole lease.

**SEN. BECK:** That's the way I understood it.

**SEN. NELSON:** After the Daniels County folks went home, they called me and said they had been thinking about it and realized that a cash lease was probably going to be inevitable. They offered, as a personal responsibility, to work on this during the interim to come up with something for the next legislative session. They're asking in this letter that we instruct the Department of Natural Resources to work with them. **(EXHIBIT 6)** They would like to work with the other ag organizations and not have a large cumbersome thing. They really feel like they're on to something and could come up with something and bring it back. In essence, what they're asking is if we will wait.

**SEN. BECK:** In **SEN. TOEWS** formula, how did he come up with the 0.7 percent capitalization rate?

**VICE CHAIRMAN HOLDEN:** I'll direct that to the Department. They can explain it better.

**Mr. Hagener:** That is the potential yield average. Every seven to eight years out of ten, you are capable of getting that production. In other words, that's the highest yield you'd expect to get out of it under normal weather and precipitation conditions.

**SEN. BECK:** Interesting. I would think it would be five out of ten years to be honest. You'd be above it and you'd be below it.

**CHAIRMAN MESAROS:** Are there any further questions to the amendments that have been moved?

**SEN. JABS:** If you have 16 - 40's in a section, they would average out so it could be kept as one section instead of dividing it all up.

**SEN. GREG JERGESON:** The addition of administrative responsibilities would be somewhat equivalent to the field people who are supposed to check the crops every year and determine whether or not it's a decent crop. This is so they can see if there is proper compliance on the part of the farmer who is turning in a crop report. Those field people wouldn't have to do that anymore under a cash lease because the cash lease would be paid. Grazing lands are like a cash lease. I believe **SEN. TOEWS** is trying to use an analysis similar to a grazing lease on his

amendment. You arrive at AUM capacity on a state lease for grazing and, because of soil type, you would arrive at some sort of a carrying capacity for raising crops. I like **SEN. TOEWS** amendment.

**SEN. DEVLIN:** There are several classes of grazing land within the same section. From time to time, they come look at grazing leases. They send a few men out, especially on renewals, to look at that land. If it looks like it's been abused or run down in any way, they put you on a program where you gradually let that section of grass recover to where it has some cover and you're using good grazing practices. If there are abuses, they come out a lot more.

Motion/Vote:

**SEN. BECK:** SUBSTITUTE MOTION TO TABLE HB 269. MOTION CARRIES UNANIMOUSLY.

{Tape: 1; Side: A; Approx. Time Count: 3:55 p.m.}

EXECUTIVE ACTION ON SB 284

Motion:

**SEN. JERGESON:** MOTION TO ADOPT **SEN. HALLIGAN'S** AMENDMENT SB028404.ADS. (EXHIBIT 7)

Discussion:

**SEN. JERGESON:** It looks like he's tightened this bill down so it will only apply to one irrigation district in the state without mentioning any particular city by name. Apparently some of the other irrigation districts are feeling some urban pressure. I believe the next smallest is 20 acres so this bill would not affect other irrigation districts with this amendment.

**SEN. DEVLIN:** There is a little irrigation in Billings. Aren't they bigger than the 55?

**SEN. JERGESON:** They're probably bigger than the 55 and, in the district itself, the average parcel is probably not less than 20 acres at this time. There are still numerous agricultural parcels in that district.

**SEN. DEVLIN:** Helena grew in size out here in the Valley. Could that happen here?

**SEN. JERGESON:** Only if we change 1990 census to the next census number, probably.

**SEN. JABS:** What do you mean by 55?

**SEN. HARGROVE:** 55,000 population.

**SEN. JABS:** In our district we have it clear down to five and, in fact, we have lots.

**SEN. JERGESON:** The average parcel size is in excess of three acres.

**SEN. JABS:** Oh, you're saying average. Okay.

**SEN. DEVLIN:** I hope this doesn't affect anyplace else. We've got the population in here, but I would sure hate to see it affect Butte Silverbow.

**Doug Sternberg:** My indication for **SEN. HALLIGAN**, in putting these amendments together, was avoiding some kind of specialized intent in this Legislation, but drawing it narrow enough to address the Missoula situation. I think the population insert is going to be the closest trigger. According to the information given to me by the Missoula Deputy County Attorney, Missoula County is the only one that will fit in this particular formula at this time.

**SEN. HARGROVE:** It seems like every time we try to do something like this we get ourselves in trouble. I'm going to be carrying Big Sky things as long as I'm here as we started that almost 20 years ago. I don't object to the amendments or the bill, probably.

**SEN. BECK:** It's a better bill if the amendments go in.

**SEN. HARGROVE:** Yes.

**CHAIRMAN MESAROS:** They have a problem and there are going to be more problems down the road. I'm not quite sure if this is the correct way to address it or not, but it certainly narrows the focus to address one particular issue. I have some reservations about this being the proper long term direction to go.

**SEN. JABS:** This should be done locally, but I can see why they couldn't with that attorney they have.

**VICE CHAIRMAN HOLDEN:** I'm not convinced this is going to apply only to Missoula and the problems they have there. Even if it does, there are viable agricultural farms and ranches in that Missoula valley. The people that bought property can find out what the taxes are going to be before they buy. No one is hiding that information. If it's \$22 per acre and there are five of them in there, as a local issue, they should probably figure out how to divide \$22 by five people that sit on one acre. This is not something that State Legislature needs to solve.

**Motion:**

**VICE CHAIRMAN HOLDEN:** SUBSTITUTE MOTION TO TABLE SB 284.



**Discussion:**

**SEN. NELSON:** It does seem like a little bit of special interest stuff, but it doesn't specifically name Missoula. I think we all come here with some sort of special things that our constituents bring forward from our local area. Whether or not we come in and address them as such, it certainly is relevant to a particular area. It isn't fair for it to be tabled because of that. They obviously were not getting anywhere the way they were.

**SEN. JABS:** On the matter of procedure, if something is tabled can anybody bring it off the table?

**CHAIRMAN MESAROS:** Anybody can.

**SEN. JABS:** Billings must have the same problem because they're growing into the old irrigated land around the Yellowstone. How do they handle these things?

**SEN. DEVLIN:** You're really setting a precedent with the amendments. Are you ready to face, in the future, that there will be another community come in with a like problem? The amendment fixes the problem for Missoula.

**SEN. HARGROVE:** I agree with **SEN. NELSON** that we do things for constituents and local areas, but we do get ourselves into problems. There are going to be other areas that fit that and if they don't fit it, they fit the problem right now so we're excluding rather than including them. We're supposed to do legislation for the whole state. I believe I would go along with the motion to table.

**SEN. JERGESON:** I suppose the Committee could table this and think that somehow or another we're avoiding doing damage to somebody, but this problem is not going to go away. In fact, it's going to get worse. Right now, you have one irrigation district that has a population sufficient enough to cause their legislators to come here with a bill that takes fairly dramatic action. By tightening the bill down the way these amendments do, it puts a lot of folks on notice that we have to come up with a long term solution. They're subdividing in the Milk River Valley, believe it or not, with all the mosquitoes. Eventually that population will grow so you can imagine what it will do in the Helena Valley, Billings, Great Falls or Flathead area.

By passing this bill and amending it down so tight that it only applies to one irrigation district where there are 400 acres of agricultural land involved out of a total 2,748 acres, a whole lot of people, from irrigation districts to county planning boards, are going to have to start looking at what we're going to do about this problem as it starts washing over the state. If we table this and say we don't have any idea what should be done about it and think that somehow or another somebody is going to come up with an idea on how to fix things in the future, the

problem is only going to get worse and there are going to be more Legislators demanding that we do something about it. I worry that you're going to have a large urban population saying they cannot achieve justice and blaming agriculture for it. They are not going to be inclined to have a positive image of agriculture on a whole lot of issues if we just table this bill, say too bad and duck the issue by tabling it. I know it's a tough one.

{Tape: 1; Side: B; Approx. Time Count: 4:08 p.m.; Comments:  
Turned tape over.}

SEN. JABS: Does this solve the problems for Missoula? I'm sure the irrigation district isn't happy with this so it may create more problems as far as litigation goes and so forth.

SEN. JERGESON: It solves the problem for one group of people in Missoula and probably foretells some pretty significant damage for the others. If the urbanization trends in Missoula continue and that last 403 acres of agricultural land is subdivided down to say only 10 or 20 acres and the rest is all paying in the irrigation district, I think there is a fundamental problem there that won't go away. Frankly, I don't see that other agricultural land surviving there very long even if we kill this bill. What happens when it's down to one or two growers with a small amount of acres left? That process may be inevitable no matter what we do with this bill. By passage of this bill, irrigation districts around the state better start figuring out what they're going to do for a long term solution otherwise we're all in trouble.

SEN. JABS: Are there only 400 acres left for farming in that whole thing?

SEN. JERGESON: Yes.

SEN. DEVLIN: I think this would make a great hammer. If I was assured that this thing would kind of linger in the House, maybe into a Conference Committee, maybe the irrigation district owners would get their heads together with these people and make some sort of deal with them.

SEN. MCNUTT: I have to be careful because I sit right in the middle of a big irrigation district. In the testimony regarding this situation, they have been fighting this problem for, I think they said 20 years, with the gentleman attorney and it's very obvious he's not going to budge. I wouldn't even consider this if they were assessing them \$22 per acre and, when they subdivided that acre into five lots, would divide \$22 by five. He's not doing that. He's charging every one of them \$22 and needs a hammer. I don't like the thought of doing something special for one spot in the state, but after 20 years maybe they're entitled to it because it's not going to get resolved unless something is done here.

**SEN. DEVLIN:** The hammer this attorney is using is that he's hoping all the other irrigation districts in the state come flying in here right on top of us because it's difficult not to affect them. The amendments, of course, narrow it. He's using the other irrigation districts to back him up. If he had to stand alone, I don't think he'd stand there that long or that others who are actually irrigating and/or the Board of Directors, would allow him to do that. I think they would get spooked.

**VICE CHAIRMAN HOLDEN:** It's very important that this bill get tabled. We are dealing with federal water contracts across Montana. We are dealing with people's rights to water and property rights. Once you start deteriorating each water district in the state, you're going to have problems with the economy and agriculture. These guys have a problem, they can work it out. The district I live in has a way of working it out. There are methods a Board can adopt.

Vote:

MOTION TO TABLE SB 284 FAILS. ROLL CALL VOTE 6-4.

Vote:

MOTION CARRIES UNANIMOUSLY. ADOPT AMENDMENT SB028404.ADS.

Motion:

**SEN. JERGESON:** SB 284 DO PASS AS AMENDED.

Discussion:

**SEN. BECK:** The reason I'm going like I am is because this does not involve any federal water. This is strictly adjudicated water coming out of the Clark Fork River. The people in this irrigation district are not getting any benefit of that water whatsoever, but they're helping pay for the maintenance of the system. It's a fairness issue. The people that benefit from the water are the ones that should be paying for the irrigation district. If they had gotten adjudicated water out of that stream when they bought that property, I would say hold it right here. I don't think they do get any of that. When they acquired the property they didn't get any water rights, they only got the bill. That's where the fairness issue comes in.

**VICE CHAIRMAN HOLDEN:** I would not agree. We had testimony from the irrigation district saying if they wanted a lateral they could have one at that time. These people didn't want a lateral. They wanted to drill a well, use a shallow well which is filled by the existence of the irrigation project. If they want to put a pipeline in, they are entitled to it because they pay for that water. They don't want to use a pipeline because it's not that big of a deal. They knew when they bought the property what their taxes were going to be. If they didn't like the \$22 per

year, they could have chosen to build elsewhere. When you start to deteriorate agriculture and the right to water and their ability to maintain these irrigation projects that have to be paid by each acre under the project, you're creating problems. This is not just going to key in on these people. You know as well as I do that next Session there will be another group in here ready to look for their exception to the law.

*{Tape: 1; Side: B; Approx. Time Count: 4:17 p.m.}*

**SEN. BECK:** They have been using it as a money raiser for their irrigation district. That's not a fair issue to the people that aren't involved with the water. That's where I'm coming from. It might be a precedent we don't want to set and I hope we don't have to come back and adjust it later, but in that particular district, I think it is something that needs done. I don't like to pay for something I'm not getting any use from.

**SEN. JABS:** I can't believe there are only 440 acres of users left in the district and that they can hold all those people hostage.

**SEN. BECK:** Was there much over 700 acres to start with in the irrigation district?

**SEN. JERGESON:** This says the parcel acreage inside the district is 2,748 acres. I don't know the maximum number of agricultural acres that were ever irrigated at one time or another.

**SEN. JABS:** Only 440 is left now.

**SEN. JERGESON:** Only 403 according to this diagram and there are 491 acres of lawns irrigated from it. Even if you put those together, that is 891 acres making use of the water out of 2,748.

**CHAIRMAN MESAROS:** I come up with 408 acres by multiplying 15 percent times the total. A little over 400 acres are considered ag/truck/farm/nursery use out of 2,748 acres.

**VICE CHAIRMAN HOLDEN:** Do you deal primarily with the Helena Valley?

**Mike Murphy, MT Water Resources Association:** Yes.

**VICE CHAIRMAN HOLDEN:** I would like to know what your organization thinks about how this could grow to impact Helena.

**Mr. Murphy:** I am a member of the Helena Valley Irrigation District and irrigate out of the water that we receive. I've talked quite a bit with **Jim Foster**, the manager of the project, in regards to this Legislation. At this point, with these amendments, it wouldn't impact the Helena Valley Irrigation District. We have dealt with similar concerns. Just recently, for example, we moved almost 350 acres that wanted to be

petitioned out of the district, but we had to be able to bring 350 acres back in that wanted to come into the district in order to maintain our status with the federal contract. That was effectively accomplished. There are additional acres in this Helena Valley Irrigation District that would like to get. Over time, as we identify other acres that want to come in, which there are, then the petition process can be once again initiated and I assume we'll go through the same process. It is a lengthy process and takes some time to get it done, but from the Helena Valley's irrigation standpoint, we have accomplished it.

**SEN. BECK:** In this Missoula Irrigation District, I am under the assumption that there were no federal contracts and no federal mandates. Is that correct?

**Mr. Murphy:** That's correct. That district is private.

**CHAIRMAN MESAROS:** For clarification, will this affect any federal funding?

**Doug Sternberg:** With the amendments on it, no.

**CHAIRMAN MESAROS:** That was my understanding.

**Doug Sternberg:** As other districts grow to fit within the three acre or less average and the population grows to fit the parameters here, that same question could be raised in the future. If a local district is in a cooperative agreement with the federal irrigation project, that question may come into play. It's my understanding in drafting these that, for this particular situation, a state and federal conflict is not a problem.

**SEN. DEVLIN:** It sounds like there are some Boards of Directors in some irrigation districts that aren't afraid to get their heads together with the people to let them opt out if at all possible and if the federal law does not intercede. These people are absolutely not doing a thing and won't budge. I don't want to shove this down anyone's throat who are trying to accomplish this very thing within their district and are happy. I have a problem with that and don't want to come back in two years.

**CHAIRMAN MESAROS:** I share your concern. I think we all do.

**SEN. MCNUTT:** Coming from an irrigation district the size that I do, I agree but can't vote for this. I have talked to our people and they don't want any fuss. They have let people out and have no problem with, if you have two acres and want out, letting them out. They said we understand and if you want back in or you need a little water, we'll assess you a little bit. They work very hard with all those people.

**SEN. JERGESON:** As far as dealing with this in the future, if land in an irrigation district is going to be subdivided, at the time of that subdivision they should deal with it as if the land

will potentially be land that's going to be petitioned out. They would have to identify other land or acreage that's going to come into the district to help pay for the O & M costs. Obviously, if this keeps going and you get down to just a couple of landowners, it's going to make a lot of irrigation districts inviable. It's too bad there wasn't some additional land to come into the district to replace that which was potentially to go out of it.

**SEN. BECK:** There is a lot of concern about this affecting things down the road. What if we sunsetted this for two years? It will serve its purpose and put a hammer on those people. I don't think this is a problem in all districts.

**SEN. DEVLIN:** I could support that. We could take a look at this in two years and if it's not working by then, take the sunset off and let it go.

**SEN. BECK:** That would make us all feel a little better.

**Doug Sternberg:** It's drawn. **SEN. HALLIGAN** was thinking of that.

**SEN. JABS:** Would that take the hammer off of what **SEN. DEVLIN** is talking about?

**SEN. BECK:** No. It won't take it off because they have the opportunity to get out. It will put the hammer to them to maybe sit down and start negotiating with those people, though.

**SEN. JERGESON:** If somebody petitions to get out, are they going to be able to force them back in two years?

**SEN. BECK:** No.

Motion/Vote:

**SEN. BECK:** MOTION TO ADOPT SEN. HALLIGAN'S AMENDMENT  
SB028402.ADS. (EXHIBIT 8) MOTION CARRIES UNANIMOUSLY.

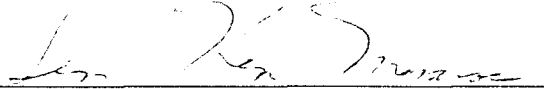
Motion:

**SEN. JERGESON:** RENEW MY MOTION THAT SB 284 DO PASS AS AMENDED AS AMENDED. MOTION CARRIES. SB 284 DO PASS AS AMENDED. **SEN. DEVLIN** AND VICE CHAIRMAN HOLDEN VOTE NO.

**CHAIRMAN MESAROS:** We will take Executive Action on SB 217 on Wednesday, February 19, 1997.

ADJOURNMENT

Adjournment: 4:29 p.m.

  
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SEN. KEN MESAROS, Chairman

  
\_\_\_\_\_  
ANGIE KOEHLER, Secretary

KM/AK