

MINUTES

MONTANA SENATE 55th LEGISLATURE - REGULAR SESSION

COMMITTEE ON AGRICULTURE, LIVESTOCK & IRRIGATION

Call to Order: By **CHAIRMAN KEN MESAROS**, on March 19, 1997, at
3:09 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: None
Executive Action: HB 390 & HB 480

EXECUTIVE ACTION ON HB 390

Amendments:

CHAIRMAN MESAROS: It was my understanding that **REP. JOHN COBB**
was going to contact **Doug Sternberg** as far as some official
amendments, but that did not happen. I think most of the
concerns were relatively simple so we'll go ahead and discuss it.

Discussion:

SEN. TOM BECK: This practice is probably going on a little bit right now in some areas, but rather than get it into the law and make it an example or anything, I'm going to move to TABLE the bill. I've been talking to some people who are nervous about this bill.

Motion: **SEN. BECK:** MOTION TO TABLE HB 390.

Discussion:

VICE CHAIRMAN RIC HOLDEN: The Stockgrowers and some ag groups came in supporting the bill. Have you heard anything from the agricultural industry on this issue other than the testimony in favor of the bill?

CHAIRMAN MESAROS: The only thing I heard is what was offered in testimony at the hearing. The Stockgrowers' and **Mike Murphy's** testimony was that they were a proponent with some concerns and reservations. Most of the proponents had some concerns. They supported the bill, but thought there were some problems with it.

SEN. REINY JABS: It says to allow voluntary pooling of irrigation water. Is it illegal if they're doing it now?

SEN. BECK: I don't say it's illegal, but what you have to be careful of is if you get somebody who wants to pool his water and another water right holder two miles down the stream wants to pool with that, you'll affect other water rights on that stream. Most generally, any pooling that's done right now is within the same ditch that's already out of a adjudicated stream. I know it happens in my area a little bit. My neighbor and I each have 150 inches of water so we pool the two water rights and each run it for three days. It doesn't affect anybody else's adjudicated water right. It is strictly on our ditch and is strictly a gentlemen's agreement between us. If you get this in the law, I'm afraid somebody will say it's my legal right to pool the water with somebody. It could interfere with other water rights.

Motion:

SEN. GERRY DEVLIN: SUBSTITUTE MOTION TO CONCUR.

Discussion:

VICE CHAIRMAN HOLDEN: I don't understand this voluntary thing. I want to know, practically, when your neighbor and you decide to take water out, why you do it and how does it work?

SEN. BECK: On an adjudicated stream, such as a small creek like I'm on, you have rights on that creek. What it amounts to is we each have half of number five water right. Our ranches were split way back and when they split the ranches they gave them

each half of the water right. 150 inches of water is a lot harder to irrigate with on flood irrigation than 300 inches of water. So we made a gentlemen's agreement between us that we'll each take the water for three days and we'll irrigate with it. It works good in that particular instance. What I don't want to have happen is some guy down the creek that has number four water right or whatever and wants to pool with somebody up the creek that has number three or four water right and I'm number five in between and they affect my water right. The water goes to the head of the creek and there's not enough flow coming down the creek to help sustain that water right. I think it could create a court problem. That's an adjudicated water right. On irrigation districts it's probably a whole different ball game. You have a certain amount of water that you're entitled to. If you want to give your water right to somebody, can you do that?

VICE CHAIRMAN HOLDEN: Not that I know of.

Vote: MOTION TO CONCUR FAILS UNANIMOUSLY.

Vote: HB 390 IS TABLED UNANIMOUSLY.

EXECUTIVE ACTION ON HB 480

Motion:

SEN. DON HARGROVE: MOTION TO CONCUR.

Discussion:

SEN. HARGROVE: I think this is a way to help these people out. What they want to do is get rid of this stuff without having to go to a landfill. If we can help them do that a little bit, it's a good idea and no big deal.

SEN. GREG JERGESON: That intent I don't have any problem with. The problem I have is people, in their business and farmers and ranchers primarily, are already able to purchase this stuff and deduct it. Since I'm living in town now, I should like this because I could purchase this and put it on my lawn and deduct it. There is no fiscal note on it and we're adding another little complication to the tax code. I suspect **SEN. DEVLIN** and his crew on Taxation Committee are probably always tearing their hair out about complications in the tax code. Since it has no fiscal impact, I'm not sure who in the heck would be using it. I think what they need to be doing is marketing this byproduct to the agricultural industry, the nursery industry and all the others that can make use of that product. I think that's the better solution than trying to get people to buy a five pound bag of it and put it on their lawn.

VICE CHAIRMAN HOLDEN: That's a good lead-in to who else could use this. I found out that, in Stillwater County outside of Columbus, Stillwater Mine produces a product that can be used for

agriculture so here's another mine that has a potential product for use for agriculture dealing with alkali and reducing alkali in the soil. With passage of this bill, this is another mine that might be able to market this to agriculture. I will support the bill.

SEN. DEVLIN: It only gets deducted one time and you only get one credit. If you've already deducted it, you can't take this. For that reason, I can support it. There isn't any double dip here.

SEN. JABS: This can be deducted as an expense in agriculture if you put it on farm land or a nursery. This is for people to put it on their lawns and who itemize deductions. Is it a big deal?

SEN. BECK: If somebody itemizes their deductions as a household, they can use this as a deduction. Otherwise they're going to take the standard deduction and it's no use to them. Am I saying that correctly?

SEN. DEVLIN: Yes.

SEN. BECK: I would say about 80 percent of the people take the standard deduction.

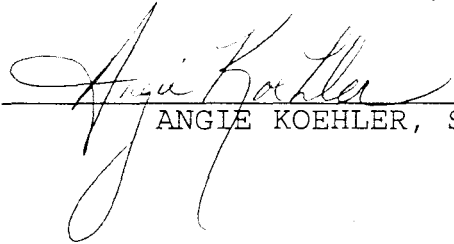
SEN. DEVLIN: The main thing is it's just getting the stuff out there where it might do some good and out of the tailing pond or whatever it's in.

Vote: MOTION CARRIES. CONCUR WITH HB 480. SEN. JERGESON VOTES NO.

ADJOURNMENT

Adjournment: 3:20 p.m.


SEN. KEN MESAROS, Chairman


ANGIE KOEHLER, Secretary

KM/AK