LC 0944

LESID Bradley VINCENT Hangel 1 2 INTRODUCED /BY 3 A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTION 4 5 89-885, R.C.M. 1947, BY MAKING THE PUBLIC INTEREST A 6 CRITERIA FOR THE ISSUANCE OF CERTAIN PERMITS TO APPROPRIATE 7 WATER; AND PROVIDING FOR AN IMMEDIATE EFFECTIVE DATE." 8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 9 Section 1. Section 89-885, R.C.M. 1947, is amended to 10 read as follows: 11 "89-885. Criteria for issuance of permit. The 12 department shall issue a permit if: 13 (1) there are unappropriated waters in the source of 14 supply; 15 (2) the rights of a prior appropriator will not be 16 17 adversely affected; (3) the proposed means of diversion or construction are 13 19 adequate; (4) the proposed use of water is a beneficial use; 20 (5) the proposed use will not interfere unreasonably 21 with other planned uses or developments for which a permit 22 has been issued or for which water has been reserved; and 23 (6) if the application involves the use of ten 24 25 thousand (10,000) or more acre feet of water per year or

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1	fifteen (15) or more cubic feet per second of water, the
2	proposed use must be in the public interest. To determine
3	whether the proposed use would be in the public interest,
4	the department shall consider:
õ	(a) the benefit to the applicant resulting from the
6	proposed use;
7	(b) the effects of the economic activity resulting
8	from the proposed use;
9	(c) the effect of the proposed use upon fish and game
10	resources and public recreation opportunities;
11	(d) the effect of the proposed use on the public
12	health and safety;
13	(e) the effect of the loss of alternative uses of
14	water that might be made within a reasonable time if not
15	precluded or hindered by the proposed use;
16	(f) the intent and ability of the applicant to
17	complete the proposed appropriation; and
13	(g) such other factors as it considers relevant."
19	Section 2. This act is effective upon its passage and
20	approval.

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INTRODUCED BILL

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HB 0491/02

Approved by Committee on <u>Natural Resources</u>

SECOND READING

1	HOUSE BILL NO. 491
2	INTRODUCED BY JAMES MOORE, BRADLEY, VINCENT, HARPER
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4	A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTION
5	89-885, R.C.M. 1947, BY MAKING THE PUBLIC INTEREST A
6	CRITERIA FOR THE ISSUANCE OF CERTAIN PERMITS TO APPROPRIATE
7	WATER; AND PPOVIDING FOR AN IMMEDIATE EFFECTIVE DATE."
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9	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
10	Section 1. Section 89-885, R.C.M. 1947, is amended to
11	read as follows:
12	"69-865. Criteria for issuance of permit. The
13	department shall issue a permit if:
14	(1) there are unappropriated waters in the source of
15	supply;
16	(2) the rights of a prior appropriator will not be
17	adversely affected;
18	(3) the proposed means of diversion or construction are
19	adeguate;
20	(4) the proposed use of water is a beneficial use;
21	(5) the proposed use will not interfere unreasonably
22	with other planned uses or developments for which a permit
23	has been issued or for which water has been reserved; and
24	(6) if the application involves the use of ten
25	thousand (10,000) or more acre feet of water per year or

1	fifteen (15) or more cubic feet per second of water, the
2	proposed use must be in the public interest. To determine
3	whether the proposed use would be in the public interest,
4	the department shall consider:
5	(a) the benefit to the applicant resulting from the
6	proposed use;
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8	from the proposed use;
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10	resources and public recreation opportunities;
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12	health and safety:
13	(e) the effect of the loss of alternative uses of
14	water that might be made within a reasonable time if not
15	precluded or hindered by the proposed use;
16	(f) the intent and ability of the applicant to
17	complete the proposed appropriation; and
18	(g) such other factors as it considers relevant."
19	SECTION 2. THIS ACT SHALL APPLY TO APPLICATIONS
20	PENDING AND NOT YET ACTED UPON BEFORE THE EFFECTIVE DATE.
21	Section 3. This act is effective upon its passage and
22	approval.

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HB 491

HB 0491/02

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THIRE READING

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HB **49**1