



# Montana Board of Livestock Conference Call Minutes

January 23, 2017

Montana Department of Livestock  
Helena, Montana

## Board Members Present

John Scully, Vice-chair (cattle producer) Nina Baucus (cattle producer)  
Lila Taylor (cattle producer) Sue Brown (dairy and poultry)  
Ed Waldner (swine producer)

*John Lehfeltdt and Brett DeBruycker were not present*

## Staff Present

Mike Honeycutt, EO  
Donna Wilham, Adm. Asst. to EO

## Public Present

Krista Lee Evans, Montana Milk Producers Association (MMPA)  
Race King, Montana Stockgrowers Association  
Chelcie Cargill, Montana Farm Bureau Federation  
Jim Brown, Montana Woolgrowers Association  
Dr. Jeanne Rankin, Montana State University Extension

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## MEETING CALLED TO ORDER

**9:03 AM**

Vice-Chairman John Scully called the conference call to order at 9:03 AM

## OLD BUSINESS

**9:03 AM**

### Joint Appropriations Committee Presentation

John Scully reported on the January 4, 2017 presentation by Mike Honeycutt before the Joint Appropriations Committee of the Montana Legislature

- All the other State of Montana Executive Agencies also presented

- Per the Governor's request, the presentation was to identify the Department's purpose and to report on how the DOL would reduce this year's fiscal year budget by 2%-5%
- It was reported during the presentation that the DOL could revert \$50,000 (a little over 2%) general fund DSA dollars to meet the Governor's request

### **Audit Exit Interview**

John Scully reported on the Preliminary Audit Read Out to the Audit Division staff held on January 3, 2017 at the DOL Conference Room

- DOL staff, BOL members and Audit Division staff attended the 2+-hour audit exit interview
- Dr. Marty Zaluski delivered recommendations, clarifications and change requests in regards to the brucellosis general fund dollars
- Mike Honeycutt and Dr. Zaluski will draft the DOL response to the Legislative Audit for presentation during a Legislative Audit Committee hearing the second week of February

### **Department Introductory Presentation to House and Senate Ag Committees**

John Scully reported on Mike Honeycutt's introductory presentation to the Montana House and Senate Ag Committees on January 3, 2017

- Mr. Honeycutt detailed the DOL mission, BOL functions and authorities and budget information for each of the DOL's divisions and bureaus

### **Core-Mark Lawsuit**

Status of the Core-Mark International lawsuit was discussed:

- Rob Stutz, who took over the Core-Mark case after Ben Reed left the Attorney General's office in December, was asked to look at the lawsuit again to make sure that no potential legal issues have arisen, particularly from out-of-state distributors
- Briefs have been presented to the next level court, but no action has taken place yet
- Prepare the chain of events which have taken place in this case leading up to this legislation as part of the informational testimony to the Legislative Committees so they will have info on lawsuits and Supreme Court ruling.

## **PUBLIC COMMENT**

**9:12 AM**

There was discussion on Representative Hertz's dual dating bill for milk that had already been introduced:

- Krista Lee Evans listed reasons MMPA will oppose the bill as it stands
  - Hertz's bill requires that the DOL repeal five rules, which will be pulled into statute, and no further rules can be added to the statute
  - The effective date of passage portion of the bill would require businesses to stamp different dates on their cartons each day

- The Extended Shelf Life (ESL) will still be required to have the 12 days pull requirement listed on it
- Ms. Evans highlighted some of her suggested amendments to the bill she will present at the House Ag Committee hearing on January 31, 2017
  - To reverse the part of Hertz's bill that takes away all of the DOL's rulemaking authority as it relates to dating
  - A "sell by" date be listed on the carton rather than a "last sale date"
  - State in the bill, "and does not exceed the USDA Grade A pasteurized milk ordinance"

## **MOTION/VOTE**

**9:24 AM**

**Ed Waldner moved that if Representative Hertz refuses to incorporate amendments, as presented by Krista Lee Evans, in HB272, that the DOL should oppose the bill. Nina Baucus seconded. The motion passed.**

Discussion about reconsidering the just-passed motion was discussed

- Concern was expressed that the motion is finite and puts the DOL into the position of opposing the bill if the Committee does not accept one or any number of the amendments
- A second motion was suggested to put together a subcommittee of Sue Brown, Ed Waldner and Mike Honeycutt to give the industry an opportunity to coordinate with BOL

## **MOTION/VOTE**

**9:29 AM**

**Lila Taylor moved to have Sue Brown and Ed Waldner work as a committee of two from the BOL, with Mike Honeycutt, to consider Krista Lee Evans' amendments on HB272 and give them the latitude to approve the amendments as the bill progresses or bring it back to the BOL if they feel it is too difficult. Ed Waldner seconded. The motion passed.**

## **NEW BUSINESS**

**9:30 AM**

### **Legislative Issues/Actions**

Mike Honeycutt gave the status of current and upcoming bills in the 2017 Legislature that would affect the DOL:

- **HB157**, a bill that affects Title 50, the Health and Safety Code, would allow people to own domesticated foxes
  - The DOL would consult with HHS if the bill was passed into law
  - The State Veterinarian offered informational testimony
  - Bill was tabled in the House Ag Committee because of too many issues

- **HB 256** revises legal fence laws and adds criteria as to what a legal electric fence should be. First hearing for that bill in front of House Ag is on January 24<sup>th</sup>
  - The bill only covers boundary fencing
  - Farm Bureau will support bill with amendments increasing fence post spacing
- **HB272** is the dual dating bill for milk that was discussed earlier in the conference call
- **HB 286** would add mountain lions to the LLB claims program list. First hearing for that bill in front of House Ag is on January 24<sup>th</sup>, with a request for an added fiscal note
- **SB73** delays sunset of the LLB claims program, loosens up the rollover funds used for mitigation efforts and changes language on the predatory control account that goes to Wildlife Services. The bill had its first hearing in Senate Ag, but no executive action has been taken
- **SB41** changes language in the livestock loss statutes, allowing more flexibility in projects that grant funding and mitigation can be extended to. The second reading in the Senate passed unanimously; 3<sup>rd</sup> reading is scheduled for today
- **LC2190**, which would limit the liability of livestock owners in herd districts, may have been tagged as dead
- **LC2143** is the counties bounty bill that would allow counties to use some of their cattle petition money for bounty programs
- **C1170**, tied with the Montana Food Choice Act and would allow a producer to sell raw milk or meat and poultry products without any inspection, as long as the transaction takes place at the farm gate.
  - Law may jeopardize the DOL's USDA meet and exceed status and the funding received from them
  - No official stance taken by the Governor's office on the raw milk portion
  - There is concern, particularly about raw milk sold in the DSA without inspection

### **Preparation for Appropriations Subcommittee**

Mike Honeycutt reviewed DOL strategies for the February 1-3, 2017 hearings with the Appropriations Subcommittee:

- Each program manager will briefly state to the Committee the need for their program for the State of Montana
  - Managers will break out their program by geography and function, listing their program's legal authority, responsibilities and types of employees and their classifications
  - Managers will present any new decision packages for their program
  - Recent DOL vacancies will not present a risk to losing department FTEs, as they have not been open for a long period of time. However the importance and value of each DOL FTE should be made to the Subcommittee
- The DOL has chosen to operate the State Special Revenue accounts by authority rather than by cash

- The Brands Enforcement Division manager must be prepared to explain the large fund balance and how it is apportioned each year
- In the Milk and Egg Bureau, expenses have come in below authority, but the hope is that the authority is not reduced in case a raw milk program is brought on board or other niche industries
- Key areas to address to the Subcommittee regarding the VDL
  - Present a breakdown between zoonotic, industry-important tests and tests that don't impact the livestock industry, but are services to the public
  - The DOL will be prepared to offer per capita money to offset some funds in the VDL, but the BOL needs to decide if it wants to continue, with Legislative approval, to get general fund dollars for milk
  - There will be a debate relative to matching the fee structures of what we pay out for brucellosis testing vs. labs in Idaho and Wyoming
- Present documentation regarding the direction DOL will go if the Committee moves for department reorganization as suggested by the Fiscal Analyst's Office
  - Mike Honeycutt suggests the DOL could go to three Divisions, Animal Health, Brands and CSD
  - Milk & Egg Bureau, Meat and Poultry Bureau and the VDL share the same mission (eradicating and controlling disease) and funding source
  - Efficiencies in reorganization would be
    - ✓ All general fund monies would be in one Division
    - ✓ The majority of Federal funding would be in one Division, with the possibility of more Federal funding for the VDL
  - Research so far into reorganization does not show efficiencies in staff
  - Some restructuring was done after the 2015 session, including cutting 4.5 FTEs from the DOL staff
  - The restructuring issue will be added to the next BOL meeting agenda for further discussion by the BOL and the public
- Prepare to defend the DOL in-house attorney position request, approved in the Governor's budget
  - Have documentation prepared regarding cost of in-house counsel fees vs. those fees paid to Agency Legal Services during the past five years
  - The in-house attorney position is funded with state special revenue. Fees paid to Agency Legal Services are funded with per capita funds
- Have a BOL director address, from a staff perspective, how the DOL was able to take a 5% general fund cut requested by the Governor
- Be prepared to outline how the DOL has addressed the recommendations given to them in the 2016 financial audit

### **Potential Lab Fee Increases**

John Scully discussed the possibility of raising fees for lab tests at the VDL

- FY16's \$95,000 in "other" tests were done primarily on companion animals – Should the VDL continue doing these type of tests?
- The VDL cost analysis showed that full cost of many tests was not charged and in a cost-comparison analysis comparing to South Dakota, Idaho and Wyoming,

it shows that adjustments need to be made to get the VDL more in line with the market

- A cost structure of the tests done at the VDL needs to be completed for the Appropriations Subcommittee hearings starting on February 1st showing if the price/test charged covers the costs and is competitive with other states and the local market and how to increase those fees if needed
- Although it is not included in the DOL's current budget, the need to have a lab manager should be covered during the Appropriations Subcommittee hearing

### **Discuss Board Training in Personnel Management**

BOL training on the personnel process was discussed:

- The next step of the BOL training on the personnel process since the 2-hour training was held in November 2016 with Mr. Reed on human and civil rights, will tentatively be held during the May 2017 BOL meeting
- Next-step training will be from State HR Division of the Department of Administration, who has already been working with Brett DeBruycker
- The DOL will join the DOA online system for personnel evaluations in March 2017
- The DOL will mimic the DOA structure for personnel evaluations, probably starting with 2017 year-end employee evaluations

Mike Honeycutt commented on DOL employee evaluations:

- Mid-year evaluations are currently being done – Mr. Honeycutt's has been completed with positive results
- A number of employees received Performance Improvement Plan (PIPs) as a result of those evaluations, but many are now off of those

### **December 2016 Financials**

Mike Honeycutt gave a DOL financial overview saying, the department is running right on line in comparison to where it should be at this point of the year and running a little better than in our projections.

- DOL revenue is running ahead compared to this time last year, but Animal Health and Lab fees are running a little behind compared to projections for FY18
- Nearly all per capita has been collected for FY17 and the collection process for FY18 has started
- Personal Services and Operations projections are running ahead for FY end
  - 40% of Personal Services budget is expended
  - 42% of the Operations budget is expended
- 42% of the budget year has elapsed with 40% of the available budget expended and 44% of the pay periods are in the books
- Managers have kept tabs on upcoming employee retirements and so those payouts are included in the projections
- Recent department vacancies will not need to be defended to the Legislature, the 4% vacancy savings for FY18-FY19 were already taken off the top in that budget

**PUBLIC COMMENT**

**11:10 AM**

No public comment was given

**SET DATE FOR NEXT BOARD MEETING**

**11:10 AM**

With Appropriations Subcommittee meetings the first week in February and Executive action the second week of February, the next BOL meeting was scheduled for Wednesday, February 22, 2017 at the Montana Public Service Commission Bollinger Room, if it is available

**MEETING ADJOURNED**

**11:19 AM**

**MOTION/VOTE**

**11:19 AM**

Lila Taylor moved to adjourn the BOL conference call. Ed Waldner seconded. Motion passed.

  
John Scully, Vice-Chairman