



Utah Farm Bureau Policy Watch 2009

Volume 35 - Number 7

End of Session - Final Report

2009 Utah General Legislative Session End of Session – Final Report

In the waning hours of the 2009 session as you, watch your bills sit on the board and hope they pass. You can help but ponder, is there enough time left? Another thought comes to mind. What were they thinking?

Overall, Farm Bureau had a very successful session. We were able to get more protections for trespass, push a discussion on priority of water rights to the interim session for further discussion and pass a bill that adds further protections for a farmer's right to operate.

The heartbreak of the session was the loss of HB 187 and the issue of stream access. This issue will be discussed heavily in the interim as we attempt to find a more amicable compromise on the issue. This is a very complex issue and one with a lot of emotion attached to it. Many of the issue that Farm Bureau follows tend to be that way. These types of issues are more difficult to pass because of the many constituents that get involved in the process. While this is sometimes frustrating it is also part of the process and the critical part that makes our process the most effective in the world.

As I begin the rounds across the state to discuss the session with many of you, I look forward to hearing your thoughts on what occurred as well as suggestions as to how we deal with other issues that are developing in your various counties.

The Policy Watch is sent weekly to members at the end of the calendar week. Should you wish

to receive the report electronically please contact Brenda Barnes at 801-233-3040 or Brenda.barnes@fbfs.com.

(* (asterisk) denotes action has been taken on the bill during the week)

HOUSE BILLS

HB 18 WATER RIGHT APPLICATIONS AND RECORDS (PAINTER)

This bill defines terms and requires the state engineer to extend the time in which to complete an application if the applicant meets certain requirements; it clarifies the calculation of time for extension of an application and deletes redundant provisions relating to an extension of certain applications. It deletes provisions relating to when a state engineer shall deny or approve an application and authorizes, and in some cases requires, the extension of time on a water right application held by a public water supplier or a wholesale electrical cooperative. It authorizes the segregation of a water right or an application. It deletes the requirement to deny segregation for certain reasons; authorizes the consolidation of a water right or application. FB is monitoring this bill. This bill passed the Executive Water Task Force and the State Water Development Commission. **Passed House and Senate. Awaiting Enrollment.**

HB 19 WATER RIGHTS INFORMAL ADJUDICATION (MCIFF)

This bill allows the court to consider failure to prosecute a suit to final judgment within a certain time period lack of diligence, rather than requiring the court to dismiss the action. This bill was recommended by the

Interim Natural Resources, Agriculture and Environment Committee. FB supports this bill. **Bill Passes. Awaiting Enrollment.**

HB 27 PROTECTIONS FOR AGRICULTURAL PRACTICES (MORLEY) This bill eliminates the presumption that agricultural operations are conducted in accordance with sound agricultural practices and provides that agricultural operations are not nuisances. FB supports this bill. **Awaiting Enrollment.**

1SHB 62 STATE WATER DEVELOPMENT COMMISSION AMENDMENTS (GIBSON) This bill allows more than two senators from the same political party to serve on the State Water Development Commission in certain circumstances. FB supports this bill. **Passed Both House and Senate. Awaiting Enrollment.**

***HB 68 DEVELOPMENT EXACTIONS (PAINTER)** This bill enacts a definition of "water interest" and places limitations and restrictions on a county or municipality's imposition of an exaction for a water interest; and requires culinary water authorities to provide the basis for its calculations of projected water right requirements. *FB supports this bill.* **Awaiting Enrollment.**

***HB 73 VEHICLE OPERATOR TURN OFF REQUIREMENTS (HUNSAKER)** This bill defines slow moving vehicle; requires an operator of a slow-moving vehicle causing a line of five or more vehicles behind the operator's vehicle on a highway with one lane in each direction to turn off the roadway where a safe turn-out exists; and permit the following vehicles to pass; provides that the operator of certain vehicles is exempt from the requirement to turn off the roadway and permit the vehicles following behind the operator's vehicle to pass. FB is monitoring this bill. **House Filed.**

HB 85 MUTUAL BENEFIT CORPORATIONS JUDICIAL LIENS (PAINTER) This bill modifies the Utah Revised Nonprofit Corporations Act and lien provisions to address the execution of a judicial lien against the water rights and related assets of a mutual benefit corporation. FB supports this bill. It protects liens against a water

company and applying it to the water right in lieu of payment. **Passed both Senate and House. Awaiting Enrollment.**

HB 105 DEPARTMENT OF AGRICULTURE AND FOOD AMENDMENTS (MATHIS) This bill allows the Department of Agriculture and Food to approve and make grants and loans to certain individuals under the rural rehabilitation program. FB supports this bill. **Awaiting Enrollment.**

HB 115 COUNTY CONSERVATION AND PRESERVATION FUND (DRAXLER) This bill: amends the Farmland Assessment Act to authorize a county legislative body to deposit certain revenues received under the Farmland Assessment Act into a conservation and preservation fund; establishes the purposes for which revenues deposited into a conservation and preservation fund may be expended; and provides that a conservation and preservation fund is subject to Title 17, Chapter 36, Uniform Fiscal Procedures Act for Counties. FB supports this bill. **Failed in House Vote. Bill is Filed.**

***HB 120 SNAKE VALLEY AQUIFER TEAM AND ADVISORY COUNCIL (WINN)** This bill creates the Snake Valley Aquifer Research Team and creates the Snake Valley Aquifer Advisory Council; establishes council duties; and establishes research team data and information collection and reporting duties. FB is monitoring this bill. **Awaiting Enrollment.**

***HB 153 TRESPASS LAW AMENDMENTS (MATHIS)** This bill creates the offense of criminal trespass on agricultural or range lands and describes the requirements necessary in order for a person to enter these lands lawfully. It provides definitions; and provides a civil penalty. *FB supports this bill.* **Draft Prepared for Enrollment.**

***HB 156 SUBDIVISION APPROVAL AMENDMENTS (WEBB)** This bill authorizes an owner of agricultural land within a county of the third, fourth, fifth, or sixth class to divide from the land one parcel per 100 acres, without complying with subdivision plat requirements or county subdivision ordinances; and prohibits counties of

the third, fourth, fifth, and sixth class from denying a building permit to an owner of a minor subdivision parcel if the parcel meets the county's reasonable standards for health, safety, and access. *FB supports this bill.* **House Concurred Passes awaiting enrollment.**

HB 168 COUNTY AND MUNICIPAL ZONING POWERS (Brown) No language to date. **House enacting clause struck.**

***HB 169 PUBLIC LANDS COORDINATION AMENDMENTS (NOEL)** This bill addresses membership of the Constitutional Defense Council; addresses the council's duties; provides that the Public Lands Policy Coordinating Office assist the Office of the Attorney General in providing staff support to the Constitutional Defense Council; addresses the development and updating of a plan for R.S. 2477 rights; provides for grants to counties for public lands issues with a statewide benefit; requires the Public Lands Policy Coordinating Office to report to and assist the Constitutional Defense Council in carrying out the Constitutional Defense Council's duties; addresses the state planning coordinator's duties; makes certain documents protected records under Title 63G, Chapter 2, Government Records Access and Management Act; allows the Public Lands Policy Coordinating Office to enter into contracts with other state agencies for services. *FB is monitoring this bill.* **Draft prepared for enrollment.**

***HB 183 NATIONAL ANIMAL IDENTIFICATION SYSTEM (BROWN)** This bill defines terms; authorizes the department to participate in a national animal identification system; prohibits the department or a political subdivision from requiring a person to participate in a national animal identification system; authorizes the department to adopt rules; authorizes a person to withdraw from a national animal identification system; and provides a severability clause. *FB supports this bill.* **Passed House and Senate. Awaiting Enrollment.**

***HB 187 RECREATIONAL USE OF PUBLIC WATERS (FERRY)** This bill defines terms; clarifies a provision relating to fencing; establishes

a criminal penalty for cutting a fence; and violating a provision in a part; authorizes a person to engage in certain recreational activities in specified public waters; authorizes a person in certain circumstances to touch certain private beds beneath public waters; specifies the public waters in which a person may engage in a recreational activity; creates a Recreational Access Board; establishes membership and duties for the Recreational Access Board; and establishes procedures for applications to the Recreational Access Board. *FB supports this bill. It attempts to clarify a recent Supreme Court Case on public access.* **Bill is filed. Fails.**

HB 190 STATE ENERGY POLICY RESTRICTIONS (BARRUS) This bill requires legislative approval of certain interstate agreements affecting state energy resources and use. *FB is monitoring this bill.* **House Enacting Clause Struck.**

HB 191 AIR QUALITY BOARD AMENDMENTS (BARRUS) This bill amends a provision relating to the power of the Air Quality Board. *FB is monitoring this bill.* **House Enacting Clause Struck.**

***1SHB 240 WANTON DESTRUCTION OF LIVESTOCK (MENLOVE)** This bill defines terms; establishes penalties for the wanton destruction of livestock; and provides for the seizure and disposition of property used in the wanton destruction of livestock. *FB supports this bill.* **Draft of Enrolled Bill Prepared.**

***HB 241 PRIORITY OF WATER RIGHTS (GIBSON)** This bill repeals a section relating to the priority of water rights in times of scarcity. *FB policy on prior appropriation doctrine supports this bill. The Executive Water Task Force and the State Water Development Commission recommended this bill.* **Draft of Enrolled Bill Prepared.**

***HB 256 LIVESTOCK WATERING RIGHT AMENDMENTS (NOEL)** This bill repeals the authority of the Department of Agriculture and Food relating to a livestock water use certificate;

defines terms; authorizes a beneficial user to file a nonuse application for a livestock watering right; repeals the provision relating to a forage right; clarifies who can apply for a livestock water use certificate; and requires the state engineer to provide an online application for a livestock water use certificate. *FB is monitoring this bill.* **Passed Senate and House. Awaiting enrollment.**

***HB 278 B AND C ROAD FUND AMENDMENTS**

(NOEL) This bill provides that a county or municipality may use up to 30% of the class B and class C roads account funds allocated to the county or municipality to pay the costs of asserting, defending, or litigating state and local government rights under R.S. 2477. *FB is monitoring this bill.* **Awaiting Enrollment.**

***HB 283 ILLEGAL USE OF VEHICLES (NOEL)**

This bill modifies the Motor Vehicles Code by amending provisions relating to illegal motor vehicle use on public and private land. *FB supports this bill.* **Concurred in House. Bill passes. Awaiting Enrollment.**

HB 332 PUBLIC SERVICE COMMISSION POWERS AMENDMENTS (BARRUS) No language to date. **House Enacting clause Struck.**

***HB 366 WATER RIGHTS ADDENDUM TO DEEDS (FERRY)** This bill requires that a person recording a deed conveying title to land or water rights include information on the grantor's water rights. *FB supports this bill.* **House Enacting Clause Struck.**

***HB 379 ENVIRONMENTAL LITIGATION BOND**

(NOEL) This bill requires a plaintiff to post a bond before receiving a preliminary injunction or administrative stay; requires an unsuccessful plaintiff to pay damages to defendants who are harmed by a preliminary injunction or administrative stay; and provides for an immediate appeal of a court's or agency's refusal to require the bond. *FB supports this bill.* **Senate Enacting Clause Struck**

***HB 383 WATER RIGHTS ADJUDICATION**

AMENDMENTS (GOWANS) This bill allows the state engineer to petition the court to amend or substitute a list of claimants in an action to determine water rights; allows the clerk of the court to change an address when the state engineer's records are amended; requires the state engineer to hold public meetings. *FB supports this bill.* **Draft of Enrolled Bill Prepared.**

***HB 389 APPLICATIONS FOR A SMALL AMOUNT OF WATER (PAINTER)**

This bill: defines terms; requires an applicant to meet certain local ordinances; requires the state engineer to notify an applicant when proof is due; authorizes an appropriator of a small amount of water to file an affidavit as proof; provides the time in which an application lapses; authorizes a person to file a request to reinstate a lapsed application; and requires the state engineer to issue a certificate for a reinstated application if the applicant meets certain requirements. *FB is monitoring this bill.* **Draft of Enrolled Bill Prepared.**

***HB 393 AIR QUALITY AMENDMENTS**

(BARRUS) This bill amends and enacts provisions in the Air Conservation Act relating to siting a source of pollution. *FB is monitoring this bill.* **House Enacting Clause Struck.**

HB 403 SALES AND USE TAXATION OF FOOD AND FOOD INGREDIENTS (McIFF) No language to date. **House Enacting Struck Clause.**

***HB 412 ENERGY POLICY AMENDMENTS**

(BARRUS) This bill amends the state energy policy to determine the economic impacts of a proposed legislative or executive action involving climate change; amends the state energy policy to promote and advocate for fair and consistent federal climate change regulation. *FB supports this bill.* **Amended and Passed Senate. Awaiting enrollment.**

***1SHB 413 COUNTY AUTHORITY**

AMENDMENTS (MENLOVE) This bill authorizes counties to regulate the placement and maintenance of fences on agricultural land; and

authorizes counties to designate divisions and apply different fence regulations in different divisions. *FB supports this bill.* **Bill passed Both House and Senate. Awaiting Enrollment.**

***HB 414 EMINENT DOMAIN MODIFICATIONS (FRANK)** This bill defines "litigation expenses"; provides that litigation expenses shall be awarded to the property owner if the final award amount exceeds the written offer by 5%; and specifies who determines the amount of litigation expenses. *FB supports this bill.* The bill has a 4.5 million dollar fiscal note. **House enacting clause struck. Will be heard in interim study.**

***HB 434 AMENDMENTS TO DEPARTMENT OF ENVIRONMENTAL QUALITY (EDWARDS)** This bill adds two members to the Air Quality Board; one is a member of the Health Department and updates the chapters for which a division is responsible for administering. *FB is opposed to this bill.* **House Enacting Clause struck. Recommended for interim study.**

***HB 437 OBSTRUCTION OF NATURAL RESOURCE OR AGRICULTURAL PRODUCTION (NOEL)** This bill defines terms; and establishes a criminal penalty and fine for obstructing a competitive process to lease property for natural resource or agricultural production by placing a bid for a lease with no intent to pay for the lease. *FB supports this bill.* **Passes House and Senate. Awaiting Enrollment.**

HB 441 WATER LOAN AMENDMENTS (GOWANS) No language to date. No action to date. **House enacting Clause Struck.**

SENATE BILLS

***SB 13 ADMINISTERING SUBSTANCES TO WILDLIFE (DAYTON)** This bill defines terms; and prohibits a person from administering a substance to wildlife, except in certain circumstances. *FB supports this bill.* There is an exemption for agriculture as used in normal activities. **Passed Senate and House. Awaiting Enrollment.**

***SB 33 UTILITY TRANSMISSION CORRIDOR SITING TASK FORCE (JENKINS)** This bill creates the Utility Transmission Corridor Siting Task Force; provides for membership of the task force and member compensation; specifies duties and responsibilities of the task force; and specifies the issues that the task force will review. *FB is monitoring this bill.* **House Enacting Clause Struck.**

***4SB 41 SITING OF HIGH VOLTAGE POWER LINE ACT (KNUDSON)** This bill authorizes the Public Service Commission to conduct hearings and designate the siting of certain high voltage power lines that traverse more than one local government entity. *FB is monitoring this bill.* **Passed both Houses. Awaiting Enrollment.**

***SB 75 UTILITY AMENDMENTS (URQUHART)** This bill defines terms; amends the rate-setting process for a public utility, including: authorizes a public utility's complete filing with the Public Service Commission (PSC) to initiate a 240-day time period for rate case decisions; authorizes the PSC to approve or deny an electrical corporation's or a gas corporation's application for cost recovery of a major plant addition; allows the PSC to authorize an electrical corporation or a gas corporation energy balancing account; authorizes the PSC to approve a bill payment assistance program for low-income residential customers of an electrical corporation or a gas corporation. *FB is monitoring this bill.* **Draft of enrolled bill prepared.**

***4SSB 83 CONDEMNATION AMENDMENTS (STOWELL)** This bill authorizes a person whose property is acquired under threat of eminent domain to agree with the condemnor to a reasonable amount of time for commencement of construction and use of all the property that is the subject of the condemnation acquisition; and commence an action to set aside the condemnation acquisition if commencement of construction or use of all the property has not been accomplished within the time specified; requires a condemnor who acquires property under threat of eminent domain to inform the condemnee of those

rights. *FB is evaluating the third substitute of this bil.* **Passes. Awaiting Enrollment.**

***SB 128 RAINWATER HARVESTING (JENKINS)**

This bill provides for the collection and use of precipitation without obtaining a water right under certain conditions. *FB is monitoring this bill for potential water right holder implications.* **House struck the enacting clause.**

***SB 135 LOCAL DISTRICT TAXING AUTHORITY (BRAMBLE)**

This bill prohibits certain local districts that do not have elected boards from levying and collecting a property tax unless the revenue from the tax is already pledged for district obligations; or the tax is approved by district voters or by the county and each municipality with territory included within the local district. *FB is monitoring this bill.* There are some implications on local water districts and their ability to implement taxes for the distribution of water. Supposedly a substitute bill will be presented on the floor. *FB supports the substitute.* **Draft of Enrolled Bill Prepared.**

***SB 136 DIESEL-POWERED MOTOR VEHICLE EMISSIONS INSPECTION PROGRAM**

AMENDMENTS (BELL) This bill provides that an implement of husbandry and a farm truck that has a gross vehicle weight rating of 12,001 pounds or more is exempt from the diesel-powered motor vehicle emissions opacity inspection and maintenance program; provides that a legislative body of a county shall exempt a pickup truck with a gross vehicle weight rating of 12,000 pounds or less from the diesel-powered motor vehicle emissions opacity inspection and maintenance program if the registered owner of the pickup truck provides a signed statement to the legislative body that the pickup truck is used by an owner or operator of a farm on agricultural land exclusively for the purposes of operating the farm; requires the legislative body of a county to issue a certificate of exemption to certain pickup trucks that are used by an owner or operator of a farm. *FB supports this bill. It closes a loophole that was unintended from previous legislation.* **Awaiting Enrollment.**

***SB 171 ANNEXATION AMENDMENTS**

(JENKINS) *The provides that a municipality may annex an area without a property owner annexation petition if the area is 50 acres or less and the municipality and county agree it should be annexed. FB worked to get the language removes from the bill. FB is monitoring the bill.* **Draft prepared for enrollment.**

***SB 178 CLASS B AND C ROAD AMENDMENTS (VANTASSELL)**

This bill increases the bid limit from \$125,000 to \$500,000 for construction and certain maintenance contracts for class B and C roads. *FB is monitoring this bill.* **Senate Enacting Clause struck.**

Resolutions

***HR 1 HOUSE RESOLUTION SUPPORTING THE NARROWS WATER PROJECT IN CENTRAL UTAH (WINN)**

This resolution of the House of Representatives urges Congress and the United States Bureau of Reclamation to support development of the Narrows Water Project in Central Utah. *FB is monitoring this resolution.* **Passed House, awaiting enrollment.**

***HR 3 RESOLUTION ON ENERGY POLICY**

(NOEL) This resolution of the House of Representatives of the state of Utah urges that Utah withdraw from the Western Climate Initiative. *FB policy on energy supports this bill.* **House to Lieutenant Governor.**

***HCR 6 CONCURRENT RESOLUTION EXPRESSING OPPOSITION TO CONGRESSIONAL EFFORTS TO EXPAND THE JURISDICTION OF THE CLEAN WATER ACT**

(BROWN) This resolution expresses strong opposition to any federal legislation that would expand the reach and scope of the Clean Water Act and a strong commitment to the goals and objectives of the original Act; asserts that, given the scope of what could be construed as "waters of the United States," it is not in the nation's interest to subject these waters to all of the requirements of federal regulation; and urges Congress to preserve the traditional power of states over land and water use and avoid

unnecessary alterations to the regulatory reach of the proposed Clean Water Act amendments. *FB supports this bill.* **House to Governor.**

***HCR 7 CONCURRENT RESOLUTION EXPRESSING OPPOSITION TO THE CONGRESSIONAL ENACTMENT OF THE NATIONAL LANDSCAPE CONSERVATION SYSTEM (BROWN)** This concurrent resolution of the Legislature and the Governor expresses strong opposition to any congressional action that unnecessarily restricts and reduces public access to federal lands and expresses specific opposition to the National Landscape Conservation System. *FB supports this bill.* **Senate Enacting Clause Struck.**

***HJR 7 EQUINE RESOURCES JOINT RESOLUTION (WINN)** This resolution urges the United States Congress to oppose federal legislation that would interfere with a state's

authority to direct the transport or processing of horses. *FB supports this resolution.* **House to Lieutenant Governor.**

***SR 002 Senate Resolution Supporting the Narrows Project in Central Utah (Okerlund)**

This resolution of the Senate urges Congress and the United States Bureau of Reclamation to support development of the Narrows Water Project in Central Utah. **Senate to Lieutenant Governor.**

If you have questions, concerns or comments in regards to a bill or issue, please contact Todd Bingham at (801) 440-6510 or email to tbingham@fbfs.com. Also, if you have access to the Internet, a good source for action on all bills and legislative activities is on the legislative website at www.le.utah.gov you can also access this site through the Utah Farm Bureau Federation Website at <http://utfb.fb.org>

Legislative Action Legend

House or Senate to standing committee – The Rules Committee recommends to the presiding officer of the standing committee to which the bill should be referred. The standing committee, in an open meeting, reviews the bill and receives public testimony. The committee may amend, hold, table, substitute, or make a favorable recommendation on the bill.

Passed Committee – The bill has been heard and has been sent back to the house it came from to be heard on the floor and voted on. The bill will then be forwarded onto the other body to follow the same similar process.

House or Senate Reading Calendars – The bill is on the board to be heard for the second or third time and then either referred to Governor for signature or sent to the other house for consideration. Bills in the Senate are heard for the second and third time before passing the body. Bills in the House are heard first to be read in, secondly after they come back from committee and then a third time before they go to the other body. The third time is when they are voted on while on the floor. Debate is heard and discussion is had prior to action being taken on the bill.

Circled- Action taken when there is potentially debate on a bill or not enough votes to pass. The bill is essentially frozen until the sponsor moves to un-circle and take further action.

Sent to Rules Committee – After a bill is heard in committee it is sent to the rules committee to determine when it will be put on the board and sent to the floor to be heard.

Passed awaiting enrollment – Bill passes and awaiting the signature of the governor and to be enrolled into law.

Consent Calendar – Calendar on the floor where a bill is passed through committee with no opposition. Bills on the consent calendar do not require a debate on the floor. They are voted on based on a committee recommendation and then passed to the other house for further consideration.

House or Senate Enacting Clause Struck – This means that a bill was on either board in the final hours and the House and/or Senate made a motion to “strike the enacting clause” having the effect of killing the remaining bills on the board.

HOW AN IDEA BECOMES A LAW

- **An Idea Is Developed.** A legislator draws from numerous sources in deciding what should be introduced in the Legislature as a bill. Major sources of ideas come from constituents, government agencies, special interest groups, lobbyists, the Governor, and the legislator.
- **The Bill is Drafted.** The idea is submitted to the Office of Legislative Research and General Counsel, a nonpartisan legislative staff office, in the form of a bill request. The assigned bill drafting attorney reviews existing law, researches the issues, and prepares the bill in proper technical form. The bill is given a number. A fiscal review is conducted and a "Fiscal Note" is attached. The bill is also reviewed for statutory or constitutional concerns.
- **The Bill is Introduced.** The bill is introduced into the Legislature and referred to the Rules Committee.
- **The Bill Receives Standing Committee Review and Public Input.** The Rules Committee recommends to the presiding officer the standing committee to which the bill should be referred. The standing committee, in an open meeting, reviews the bill and receives public testimony. The committee may amend, hold, table, substitute, or make a favorable recommendation on the bill.
- **The Bill Is Returned to the Floor.** Following the committee hearing the bill is returned to the full house with a committee report. The committee reports the bill out favorably, favorably with amendments, substituted, or that the bill has been tabled.
- **The Bill is Debated in Open Session.** The bill is debated in open session. During floor debate, the bill can be amended or substituted. It can be held (circled). In order for a bill to pass the House of Representatives, it must receive at least 38 votes. The bill must receive at least 15 votes in the Senate in order to pass.
- **The Bill Passes Both Houses in the Legislature.** After the bill has gone through both houses, it is signed by both presiding officers (the Senate President and the Speaker of the House).
- **The Bill is Prepared for the Governor's Action.** The Office of Legislative Research and General Counsel prepares the bill in final form. This is called the "enrolled" bill.
- **The Bill Receives the Governor's Action.** The enrolled bill is sent to the Governor for his action. He can either sign the bill, veto it, or allow it become law without his signature.
- **The Bill Becomes Effective.** A bill enacted by the Legislature is effective 60 days following adjournment, unless another date is specified in the bill.

