

THE MINUTES OF THE MEETING OF THE AGRICULTURE COMMITTEE
January 23, 1981

The meeting was called to order by CHAIRMAN CARL SMITH at 12:30 p.m. on January 23, 1981 in Room 431 of the Capitol.

Roll call was taken with all members present except REPRESENTATIVE JENSEN. REPRESENTATIVE CONROY was excused.

CHAIRMAN SMITH called upon REPRESENTATIVE ELLISON to introduce HOUSE BILL 265, (EXHIBIT A), A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR THE CREATION AND OPERATION OF RODENT CONTROL DISTRICTS: REPEALING SECTIONS 7-22-2201 THROUGH 7-22-2206, MCA".

REPRESENTATIVE ELLISON testified that in his opinion, and others, the present rodent law is not working because the rodents are increasing at an alarming rate across the state.

REPRESENTATIVE ELLISON called on CRAIG SWICK, Department of Livestock, to testify in favor of this bill. Referring to the Richardson ground squirrels, pocket gophers, prairie dogs and how much damage they do, he said, in 1973 the Extension Service, with the Rural Development Committees, conducted a survey that showed about \$10,000 worth of damage by rodents in Montana.

REPRESENTATIVE ELLISON said they have used 1080 on 50,000 acres in western Montana and found 1.4 million dollars were saved just on that program. Range land has been excluded. The cyclone seeder and a dispenser attached to motorcycles are two means of scattering the bait allowing a thinner distribution and thus less chance of the birds being effected.

LENIX BADGER of Livingston, Montana, testified in favor of HOUSE BILL 265. Mr. Badger said that they were ordering gopher poison in by the tons, but now are ordering by semi-loads. He fully supports this bill.

REPRESENTATIVE RYAN of Eastern Montana witnessed his concern about the Ft. Peck game range and the fear that it will allow the prairie dogs to come out.

BOB GILBERT, Secretary for the Wool Growers, asked for the support of HOUSE BILL 265.

These were all the witnesses REPRESENTATIVE ELLISON had, but the following witnesses came forward.

ALYN O'HAIR, (EXHIBIT B), Livingston, asked for support of HOUSE BILL 265.

LES GRAHAM, (EXHIBIT C), Department of Livestock, testified that they are responsible for control along with the Department of Agriculture for the registration of any rodenticides. This is an opportunity for the Legislature to get programs off the state level and back into the hands of the people in their areas. He stated that the state would still be available for expertise.

DONALD JOHANNSEN, National Farmers Organization, urged a 'do pass". (EXHIBIT D)

NO OPPONENTS came forward.

DISCUSSION was called for.

It was asked, if a district was created by 51% of the land-owners within the proposed district, would it make all the other landowners liable? The answer was that it would.

LES GRAHAM stated that use of various types of poisons are being studied.

GARY GINGERY, Department of Agriculture, reported the EPA ruling on strichine and other poisons they are studying. They have the EPA ruling to use 1080 on Columbian Ground squirrels in western Montana, but not on the Richardson Ground squirrels.

LES GRAHAM stated, that in case of a breakout there was a budget of \$58,000 for 1982 and \$57,000 for 1983 for rodent control.

There being no more questions, the meeting was closed on H.B. 265.

HOUSE BILL 345 was taken into consideration. HOUSE BILL 345 is A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING CERTAIN DEFINITIONS IN THE LIVESTOCK MARKETING ACT; AMENDING SECTION 81-8-112, MCA." (EXHIBIT E)

REPRESENTATIVE ELLERD, Sponsor of H.B.345, presented it to the Committee. He remarked that he was sorry the NFO (National Farmers Organization) unnecessarily alarmed so many farmers on this bill. Representative Ellerd stated that this bill was written for the good of the industry.

This Bill will be introduced to the U.S. Congress. Representative Ellerd stated, that he, in no way, is putting the finger on the NFO. The description of a Livestock Broker and other definitions were the purpose of writing this Bill.

LES GRAHAM, of the Department of Livestock, witnessed, that when House Bill 800 was passed in the 1979 Session, that it had been very effective, especially where penalties were concerned. He said that they have had no problems with H.B. 800.

The Letter of Intent on H.B. 800 helped clarify interpretations which was a problem with the county attorney's office a few times. It has worked well. Mr. Graham remarked that they have not been questioned as far as definitions go.

There were no proponents on this bill.

The Chairman asked for Opponents, and the following testified.

DONALD JOHANNSEN, President of the National Farmers Association, passed out Minutes of the Agriculture, Livestock & Irrigation, Montana State Senate Meeting and attached to it the Letter of Intent, presented by the Department of Livestock, and agreed upon by REPRESENTATIVE ELLERD, with his signature on the Letter of Intent, (EXHIBIT F).

It was the opinion of the NFO, that the matter now had been laid to rest. The NFO did not see why this Letter of Intent was not attached to H.B. 345, which replaces H.B. 800. In fact, Mr. JOHANNSEN stated, that the NFO recommended a 'do not pass' on H.B. 345, and failing that, Mr. ELLERD's agreement to attach a Letter of Intent to H.B. 345, and if REPRESENTATIVE ELLERD agrees to that, they will conclude testimony from further witnesses at this time.

REPRESENTATIVE ELLERD responded by saying that he did not intend to sign anything that had no meaning, so they could go on with their testimony.

DONALD JOHANNSEN continued with his opposition by saying, the NFO feels threatened by the competition by ranchers trying to work together to place a price on their production. The NFO believes the present system was designed to benefit the trade and not the rancher, (see Witness statement, EXHIBIT G). Mr. Johannsen read an opposition statement from JOHN ASAY, of the Montana Cattle Feeders Association, (EXHIBIT H).

AN OPPOSITION statement was read from the MONTANA CATTLEMEN'S ASSOCIATION, signed by ALICE FRYSLIE (EXHIBIT I). The recommend a 'do not pass'.

TOM W. PALMER, Raynesford, Montana, member of the NFO, spoke as an opponent and very strongly agains REPRESENTATIVE ELLERD suggesting he wants to license the NFO, (EXHIBIT K).

Opponenet PAT UNDERWOOD, representing MONTANA FARM BUREAU, presented his opposition to H.B. 345 (EXHIBIT L).

JO BRUNNER, representing W.I.F.E. (MONTANA WOMEN INVOLVED IN FARM ECONOMICS) went on record as supporting the NFO and other farm organizations in defeating H.B. 345 (EXHIBIT M).

EDWARD B. BUTCHER, Winifred, Montana, expressed his opposition to H.B. 345 (EXHIBIT N).

Other opponents that did not express themselves verbally, did sign the register as to their opposition of H.B. 345 (EXHIBIT O).

REPRESENTATIVE ELLERD'S closing statement was to clarify his position, saying that he is an Associate Manager of the Livestock Marketing Association, which is a national trade association of the livestock industry in the United States, Canada, Mexico and Central America. They have 1600 members that are dealers, brokers, terminal markets and auction markets.

REPRESENTATIVE ELLERD said that the NFO had a federal bond of \$300,000 and are registered with the Packers and Stockyards Division of the U.S. Department of Agriculture in Washington, D.C., thus come under the same regulations as he does, but in the State of Montana, the NFO does not feel they should be considered a dealer.

DISCUSSION was opened to the Committee.

REPRESENTATIVE JENSEN asked if this H.B. 345 would make it necessary for the NFO to get a license to deal in cattle. REPRESENTATIVE ELLERD stated that it would not.

REPRESENTATIVE FEDA questioned the bill and where it states, "An act to amend certain definitions of a livestock marketing act", and if it is not specifically for that purpose as some people seem to think. Representative Feda asked what the purpose of the changing the definition was.

REPRESENTATIVE ELLERD said the definition was more to the industry itself.

REPRESENTATIVE FEDA asked MR. JOHANNSEN about his interpretation of the changing of the livestock market, and if it excludes the NFO from operating the way they do now.

MR. JOHANSEN stated that they were concerned about the definition of "market" and "broker".

A question was asked regarding the P & S Act, referred to in attachment and EXHIBIT J.

REPRESENTATIVE JACOBSEN referred to the definition "person" and asked its definition.

DAVE COGLEY, Legal Counsel, explained by saying that the definition "person" would include NFO, but that it did not affect whether the NFO was a "broker" or "dealer" or "market" subject to license requirements of the marketing act.

REPRESENTATIVE HOLLIDAY asked Mr. Graham if he felt H.B. 345 would tighten up H.B. 800 or restrict the type of losses that have been incurred in the selling transaction referred to.

LES GRAHAM stated he did not think it would tighten up the restrictions. He also stated that the concern over the definition of "market" could be alleviated over the fact that there are so many restrictions in getting a market place. It would take a lot of money to set up a market place. He also stated that a production sale is exempt under the law. You can have a production sale with your own production and with up to two guest consignors without a license or bond. You cannot have an open consignment sale in the State of Montana without a permit from the Department, and they must have a bond and consignors must be paid immediately. In order to get that permit, you must be a Livestock Association Sale.

ROB McNAB, Secretary for 17 auction markets, answered a question and referred to testimony that this bill was an effort to get all cattle sold through the auction market. Since H. B. 800 was passed, they have had six meetings with the association, including one since the Legislature started. Mr. McNab said that since no mention of this bill has been made to him, he believes that it was designed just to clear up definitions.

There being no other questions, the meeting closed on House Bill 345.

HOUSE BILL 309, sponsored by REPRESENTATIVE HURWITZ and REPRESENTATIVE ROTH was presented by REPRESENTATIVE ROTH.

REPRESENTATIVE ROTH stated that H.B. 309, A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTION 81-8-301, MCA, TO REQUIRE ANNUAL RENEWAL OF NOTICES OF SECURITY AGREEMENTS AND ANNUAL RENEWAL OF ASSIGNMENTS OF SECURITY INTERESTS WITH THE DEPARTMENT OF LIVESTOCK" (EXHIBIT P), is a bill to establish an annual filing requirement instead of a five year requirement. This is to eliminate confusion that occurs within the Department that must handle the renewals (EXHIBIT Q).

TIM GILL, a proponent with the MONTANA LIVESTOCK, and PCA, said that they support this bill as it serves a need in timely filing of these financial statements. The concern is with the increased costs of the fees for those who have several active brands. They want a standard filing time in June or July.

WALLY EDLUND, representing the FHA in Montana, asked that he be put on record as a proponent of H.B. 309.

A question was asked as to the dollar amount generated on an annual basis, compared to the rail inspection.

LES GRAHAM stated that there are about 9,000 brands on file with security and these are in a constant state of renewal and termination, but the law states they can charge up to \$15, although \$7 has been the charge. In regards to annual fees, since 1977, 3,400 have expired without notice to the lending institutions.

REPRESENTATIVE HOLLIDAY asked if they would have any objections to amending the bill, using June or July as filing dates.

REPRESENTATIVE ROTH said there was no objection but the Department said that it would add a lot of confusion and that other lenders have different filing deadline dates. Also, that the Department of Livestock would not set a date without consulting all the lending institutions.

REPRESENTATIVE AUDREY ROTH closed by urging the passage of HOUSE BILL 309, unamended.

The meeting was called into EXECUTIVE SESSION

REPRESENTATIVE ROUSE made a MOTION that House Bill 309 be passed unamended. REPRESENTATIVE BRIGGS seconded the motion. The MOTION PASSED with all in favor.

THE MINUTES OF THE MEETING OF THE AGRICULTURE
COMMITTEE
January 23, 1981

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MOTION was made that the meeting adjourn at 3:00 p.m.

Carl Smith
CARL SMITH, CHAIRMAN

lmw

HOUSE BILL NO. 265
Elmer Ryon

1 pocket gopher (*Thomomys*, various species), field mice
2 (*Microtus*, various species) and prairie dogs (*Cynomys*
3 *ludovicianus*).

4 Section 2. Application to state lands. [Sections 1
5 through 19] apply to lands owned by the state.

6 Section 3. Rodent control districts authorized. The
7 governing body of a county may create a district as provided
8 in [sections 1 through 19]. A district may not contain any
9 city or town.

10 Section 4. Petition to create district -- hearing. (1)
11 The creation of a district may be initiated only by a
12 petition:
13 (a) signed by at least 5% of the owners of land
14 within the proposed district;
15 (b) submitted to the governing body of the county; and
16 (c) accompanied by sufficient funds to defray the cost
17 of giving notice as required by [section 5].
18 (2) The petition shall set forth the boundaries of the
19 proposed district.
20 (3) Upon receipt of the petition, the governing body
21 shall set a date for a hearing on the petition. The hearing
22 must be held within 3 weeks of receipt of the petition.
23 Section 5. Notice of hearing. Upon setting a date for
24 the hearing, the governing body shall give notice of the
25 hearing in the following manner:
26 (6) "Rodent" means *Columbia ground squirrel* (*Citellus*
27 *californicus*), *Richardson ground squirrel* (*Citellus*
28 *richardsoni*), *Arizonian ground squirrel* (*Citellus arizonus*),
29 thirteen-striped ground squirrel (*Citellus tridecemlineatus*),

EXHIBIT A

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1 (1) notice is to be sent by certified mail to each
2 owner of land within the proposed district at the last-known
3 address as shown in the county records;

4 (2) notice is to be posted in at least three public
5 places within the proposed district; and

6 (3) notice is to be published in at least two issues
7 of a newspaper of general circulation in the proposed
8 district, with at least 7 days between publication, and the
9 first publication must be at least 10 days before the
10 hearing date.

11 Section 6. Objection to district. (1) At any time up
12 to and including the date of the hearing, a landowner may
13 file written objection to the creation of the district with
14 the county clerk. The county clerk shall note the time of
15 receipt on the written protest and shall compute the
16 percentage of land in the proposed district represented by
17 the protesting landowner.

18 (2) If the owners of at least 51% of the land in the
19 proposed district file written objections with the county
20 clerk, the district may not be created.

21 Section 7. Hearing -- decisions. (1) On the date set
22 for the hearing, the governing body shall hear comments on
23 the proposed district. If objections have been filed by
24 owners of at least 51% of the land within the district, the
25 governing body shall deny the petition request and may not

1 create the district. Prior to creating a district, the
2 governing body shall make a finding that creation of the
3 district is in the best interests of the district lands and
4 residents. Except as provided in subsection (3), the
5 decision on whether to grant or deny the petition request
6 shall be made within 10 days of the hearing.

7 (2) The decision is to be made by an order recorded in
8 the minutes of the governing body. If the district is to be
9 created, the order shall state the name of the district,
10 describe the district boundaries, and provide any other
11 information needed to describe the land included within the
12 district.

13 Section 8. Rodent control board. The county weed board
14 appointed under 7-22-2103 shall serve as the rodent control
15 board.

16 Section 9. Board powers. The board may:

17 (1) develop and administer a program for the abatement
18 and alleviation of rodent pest conditions within the
19 district;

20 (2) employ such assistants and employees as are
21 necessary;

22 (3) purchase or lease such equipment, material, or
23 services as are considered necessary for an effective
24 control program;

25 (4) sell or lease such equipment, material, or

1 services to district landowners or residents as are
 2 considered necessary to implement the rodent abatement
 3 program;

4 (5) cooperate with any corporation, association,
 5 group, individual, or state or federal agency in rodent
 6 abatement programs;

7 (6) receive gifts or grants for the implementation of
 8 a rodent abatement program; and

9 (7) enter district lands in order to survey and study
 10 conditions and to implement a rodent abatement program.

11 **Section 10. Rodent control fund.** (1) The governing
 12 body shall establish a special fund, to be known as the
 13 rodent control district fund, for each district in the
 14 county. Money in the fund may be expended only for district
 15 administrative costs and the expenses of establishing and
 16 implementing a rodent abatement program.

17 (2) The county treasurer is the administrator of the
 18 fund and shall draw warrants on the fund by order of the
 19 governing body. Warrants shall be ordered by the governing
 20 body when so requested by the board.

21 **Section 11. Mill levy authorized.** To administer and
 22 implement a rodent abatement program, the governing body may
 23 levy a tax, not to exceed 2 mills, on the taxable value of
 24 the horticultural, farming, grazing, forest, and railroad
 25 lands within the district. The proceeds of the levy are to

1 be placed in the district fund.

2 **Section 12. Financial operation.** (1) Material,
 3 equipment, and services purchased or leased by the board are
 4 to be paid for by warrants drawn on the fund.

5 (2) Payment received for material, equipment, and
 6 services supplied by the board is to be deposited in the
 7 fund. Reimbursement payments as provided for in [section 14]
 8 and penalties collected under [section 15] are to be
 9 deposited in the fund.

10 **Section 13. Implementation of rodent control.** (1)
 11 Whenever the board has reason to believe a rodent control
 12 problem exists, it shall inspect the affected land and may
 13 issue an order to the landowner to take the appropriate
 14 action.

15 (2) If the order is not obeyed in the time specified
 16 in the order, the board shall take the necessary steps to
 17 control the rodent problem. The expenses of the board in
 18 carrying out these measures shall be paid from the fund by
 19 the governing body.

20 **Section 14. Reimbursement of fund.** (1) Whenever the
 21 board has undertaken rodent control pursuant to [section
 22 13], the landowner shall reimburse the fund for the expenses
 23 related to rodent control on his land. The board may, by
 24 written contract with the landowner, agree to extend the
 25 reimbursement over a period not to exceed 5 years.

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(2) The agreement may provide for the reimbursement of payments to be collected with property taxes, and in this case, the board shall inform the county clerk of the lands to be charged and the amount to be placed on the tax notice. Upon receipt of the payment, the county clerk shall deposit it in the fund.

7 Section 15. Penalty. (1) Any person who interferes with the board or its employees or agents is subject to a civil penalty not to exceed \$100. The board may institute a court action to recover the penalty.

8 (2) Penalties assessed under this section are to be deposited in the fund.

9 Section 16. Enlargement of district. A district may be enlarged upon presentation of a petition signed by at least 51% of the owners of the land in the area proposed to be annexed to the district. The provisions of [sections 4 through 7] apply to the annexation petition, with the term "district" in those sections taken to mean the area proposed to be added.

10 Section 17. Dissolution of a district. (1) Upon receipt of a petition signed by the owners of at least 51% of the land in the district and after a hearing on the petition, a district may be dissolved by order of the governing body. Notice of the hearing is to be given by posting notice in at least three public places in the

district and by publishing notices at least once in a newspaper of general circulation in the district. If the governing body finds it to be in the best interest of the district lands and residents to terminate the district, the governing body shall so order.

(2) The dissolution order shall provide for a termination date and for liquidating the district assets and liabilities. Any money remaining in the district fund after all assets and liabilities have been liquidated shall be transferred to the county general fund.

Section 18. Multicounty districts. A multicounty district may be created by interlocal agreement, as provided in Title 7, chapter 11, part 1, between the governing bodies of the counties involved.

Section 19. Leased land. Lessees of land within the district are liable for assessments and levies for rodent control and must comply with [sections 13 and 14] unless the lease specifically forbids rodent control through chemical or other means.

Section 20. Severability. If a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

| | | | | | |
|---|-----------------|---------------|----------|-----------|---------|
| 1 | Section 21. | Repealer. | Sections | 7-22-2201 | through |
| 2 | 7-22-2206, NCA, | are repealed. | | | -End- |

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ADDRESS _____ DATE 1-23-81

WHOM DO YOU REPRESENT _____

SUPPORT OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

Chase Stair - Livingston, HB 265

Jim Sargent Livingston, Box 4272 Pt 85

Slip Olson Milsall Mart
~~Lyde Erickson~~ ~~Reinhardt, mt.~~

Levi Bridger Livingston

Ernest Green Clyde Park, mt.

Carl Ruttan Livingston

Brian Maest Mont. Leek Market Center
late Aug - 587-4193 *HB*

Bob Gilbert Montana Wool Growers Support 265

Mons Tergen Mont Stockgrowers & Cattlemen's " "

Alex Triplett Montana Cattlemen's Assoc. Support 265

Mike Triplett National Farmers Organization support 265

NAME Lee Graham - Aug Surch BILL NO. 309 + 265

ADDRESS 11600 DATE

EXHIBIT

C

WHOM DO YOU REPRESENT Mont Ewestock & P

SUPPORT OPPOSE AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

Favor

NAME Spud Johnson BILL NO. 265
ADDRESS P.O. Box 543 Nelson DATE 12-2-81
WHOM DO YOU REPRESENT Montana Farmers Organization
SUPPORT ✓ OPPOSE AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

The economic base to Montana
through recent (groundswell) population
is such that it cannot be ignored or
allowed to erode. We support
any measure which will allow satisfactory
and efficient elimination of the rural
population upon agricultural lands - both
cropland and pasture.

Spud Johnson

Spud Johnson
President
Montana Farmers Organization

HOUSE BILL NO. 345
introduced by
ellard

1 (5) "Livestock dealer" means a business conducted in
2 such facilities utilized as are necessary for the receiving,
3 handling, and care of livestock purchased by it in commerce
4 for its own account for resale, for the account of any
5 principal for delivery to him it, or for slaughter. It does
6 not include a farmer or rancher who buys or sells livestock
7 in the ordinary course of his farming or ranching operation.

8 (6) "Livestock market" means a place where a person
9 for compensation assembles livestock for sale except
10 for a place used solely for a dispersal sale of the
11 livestock of a farmer, dairyman, livestock breeder or
12 feeder who is discontinuing business and at which no other
13 livestock is sold or offered for sale

14 (b) a farm, ranch, or place where livestock either
15 raised or kept thereon for the grazing season or for
16 fattening is sold and to which no other livestock is brought
17 for sale or to be offered for sale

18 (c) "The premises of a butchery or processor
19 who receives animals exclusively for immediate sale
20 for the premises of a person engaged in the raising of
21 livestock for breeding purposes only who items his sale to
22 livestock of his own production

23 (d) a place where a breeder or an association of
24 breeders of livestock of any class assembles and offers for
25 sale and sets under his or its own management any

1 A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING CERTAIN
2 DEFINITIONS IN THE LIVESTOCK MARKETING ACT; AMENDING SECTION
3 81-3-213, MCA."

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

5 Section 1. Section 81-3-213, MCA, is amended to read:

6 "81-3-213. Definitions. As used in this part, the
7 following definitions apply:

8 (1) "Board" means the board of livestock provided for
9 in 2-15-3102.

10 (2) "Department" means the department of livestock
11 provided for in Title 2, chapter 15, part 31.

12 (3) "Livestock" means cattle, calves, hogs, pigs,
13 horses, mules, sheep, lambs, and goats.

14 (4) "Livestock broker" means a business, not including
15 facilities, conducted for the receiving, handling, and care
16 of livestock and involving livestock purchased or sold by it
17 in commerce for its own account for resale, for the account
18 of any principal for delivery to him it, or for slaughter.

19 It does not include a farmer or rancher who buys or sells
20 livestock in the ordinary course of his farming or ranching
21 operation.

-2- INTRODUCED BILL
HB 345

1 livestock--when--the--breeder--or--association--of--breeders
2 assumes--all--responsibility--for--the--sale--and--the--title--of
3 livestock--sets a business--conducted in--such--facilities--as
4 are--necessary--for--the--receiving--handling--and--care--of
5 livestock--consigned--to--it--for--sale--and--sold--competitively--in
6 commerce--through--the--marketing--and--merchandising--services--it
7 renders--or--through--the--facilities--it--provides--or--both.

8 (7) "Person" means an individual, firm, association,
9 partnership, or corporation.

10 (8) "Test station sale" means the sale of livestock
11 from a place where livestock is taken to measure rates of
12 gain under uniform feeding conditions when that place is not
13 owned by the owner of the livestock."

-End-

STATEMENT OF INTENT - RE: HB 345

A statement of intent is attached to this bill by request of the Agriculture, Livestock, and Irrigation Committee of the House of Representatives.

House Bill 345 is intended to provide technical clarification of the Livestock Marketing Act passed by the 46th Legislature by redefining the terms "livestock broker", "livestock dealer", and "livestock market". It is the intent of the legislature that no substantive change is being made by the redefinition of these terms, and that the new definitions do not extend or apply to any person or organization not included in the former definitions.

First adopted by the House Committee on Agriculture, Livestock, and Irrigation on January 28, 1981

MINUTES OF THE MEETING
AGRICULTURE, LIVESTOCK & IRRIGATION
MONTANA STATE SENATE

March 23, 1979

The twenty-seventh meeting of the Agriculture, Livestock and Irrigation Committee was called to order on the above date in Room 442 of the State Capitol by Chairman Galt at 9:00 a.m.

ROLL CALL: All members were present with the exception of Senator Graham.

CONSIDERATION OF HOUSE BILL 800: Representative Ellerd had introduced this bill which generally revises the livestock marketing laws in Montana. Some of the definitions are changed from the current law and it also increases the penalties for fraud by changing them from a misdemeanor to a felony. He said the industry is growing and the price of livestock is at the highest it has ever been and the amount of fraud has increased. This bill has been several years in the drafting process. It was originally drafted by the Livestock Marketing Association and was not in good shape when he received it. The Legislative Council and Charles Brown from the Department of Livestock worked on the bill and made the necessary changes and he had agreed with the changes. The statement of intent came up in the House Committee on the last day before transmittal and he was opposed to one part of the statement and an attempt to amend the statement failed. He presented a resolution to the committee, attachment #1, from the Board of Livestock and signed by Representative Ellerd and Terry Murphy, lobbyist for the NFO. The objection to the bill came from the NFO because there were some misunderstandings as to the NFO's position under the bill. Under the present bill they are exempt from buying a license to deal in cattle and it was his intention that they be exempt under this bill. The Attorney General cannot make a ruling on this until it becomes law. This attached resolution would make it clear that the NFO be exempt under this bill and that the department goes on record that they would not attempt to license the NFO. He also had a proposed amendment to the statement of intent see attachment #2. This amendment would strike the last sentence lines 17 through 23 of the statement of intent.

Terry Murphy, representing the NFO, said they did have a problem with the bill as it was originally presented because they felt the NFO's position was not clearly spelled out in the bill. He said currently the NFO is exempt from the licensing provision under the present law and this came from an Attorney General's opinion. They wanted it made clear in the new law that it was the intent of the bill that the NFO's position was

still to be exempt. He said the NFO has agreed to this bill with the resolution and the amendment to the statement of intent in a spirit of compromise to support a new law primarily because of the increase in cattle prices. With the resolution endorsed by the Board of Livestock and Representative Ellerd and in print, if anyone, in the future, tries to challenge the Board to try to get the NFO to purchase a license there would be evidence that it was not the intent of the Legislature or the Board to have the NFO buy a license.

Charles Brown, Department of Livestock, said the department had been involved with the bill during its preparation and they now felt they could support the bill and felt it would provide some much needed protection.

Alice Frysle, Montana Cattlemen's Association, commended the NFO and Representative Ellerd in resolving the problems that had occurred as a result of the bill and the statement of intent. She felt the final result was a good bill and felt the penalties should be more stringent and they supported the bill with the amendment and the resolution.

Mons Teigen, Montana Stockgrowers and Woolgrowers, said this had been a frustrating piece of legislation and felt the statement of intent had been the problem. They now support the bill.

Chris Johanson, Montana Farmers Union, had no objection with House Bill 800 with the proposed amendments.

Representative Ellerd in closing said the livestock dealers license had been increased to a \$50 fee and this would probably generate enough money for the department to enforce the act. He thanked all the people that had been involved in getting this bill satisfactory to all concerned.

Senator Conover moved that the proposed amendment be adopted. Motion carried.

DISPOSITION OF HOUSE BILL 800: Senator Conover moved that House Bill 800 BE CONCURRED IN As Amended. Motion carried. Senator Graham absent.

Senator Galt will carry the bill on the floor.

Senator Hager moved that if the bill could go through the Senate faster that it be placed on the Consent Calendar. Motion carried.

The meeting was then adjourned.


SENATOR JACK E. GALT, Chairman

THOMAS L. JUDGE, Governor

ANIMAL HEALTH DIVISION

Glenn C. Holver, D.V.M.

Administrator

BRANDS-ENFORCEMENT DIVISION

James L. "Les" Graham

Administrator

#1



BOARD OF LIVESTOCK

Robert G. Barthelmeiss, Miles C
Chairman
Robert L. Deschamps, Jr., Bonner
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Fred A. Johnston, Great Falls
Vernon V. Keller, Fishtail
Ralph J. Parker, Fort Shaw
Robert M. Simons, Turner

STATE OF MONTANA
DEPARTMENT OF LIVESTOCK
HELENA, MONTANA 59601

(406) 449-2043

March 15, 1979

TO WHOM IT MAY CONCERN:

Impact of HB 800 on NFO Type Marketing Activities

It is the opinion of the attorney of the Department of Livestock that the definitions of livestock dealer, livestock broker, and livestock market, as contained in House Bill 800, do not require the licensing of the NFO for the kinds of marketing in which it presently is engaged. The Department therefore goes on record that should HB 800 become law it will not seek to license the NFO as a dealer for the kinds of livestock marketing activities presently engaged in by the NFO.

ROBERT G. BARTHELMESS, Chairman
Board of Livestock

Les Graham
by LES GRAHAM, Administrator

Brands-Enforcement Division

March 23, 1979

I agree with and endorse the above resolution as a true representation of my intent, as sponsor of HB 800.

Representative Robert A. Ellerd
Representative Robert A. Ellerd

W. A. Ellerd
Henry Murphy NFO. Jobbing

1/23/81

Testimony of the National Farmers
Organization before the
House Agriculture Committee

Re: HB 345 - Ellerd.

Mr. Chairman.

I am Donald J. Hauensen
State president of the National Farmers
Organization.

HB 345 represents a matter
which we thought had been laid to
rest at the last session of this
Legislature.

You have before you a copy
of the minutes relating to the
agreed upon disposition of HB-800
at that time. This includes the
Statement of Intent as attached and
signed by Representative Ellerd.

We feel that in light of the fact
that Mr. Ellerd has asked in HB 345
only for clarification of certain terms
relating to the definition of "dealer",
"market" and "broker", that there

NFO

should be no reason that the "Statement of Intent" first given in an opinion by the Attorney General in 1974 and presented by the Department of Livestock in 1979 should not be carried forward and again made a part of this proceeding. In fact we recommend a "do not pass on the bill as unnecessary" or if the Honorable Mr Ellerd will agree to such attachment at this time - this will end our testimony. If not Mr. Chairman, then I should like your permission to continue with supporting testimony.

Donald D. Hansen

President Montana NFO

3) Testimony HB-345 1/23/81

Continued

As I understand it —

Mr. Ellerd is an employee or representative of the National Livestock Markets Assn? I'm not sure which is correct.

This group evidently feels threatened by the competition represented by ranchers trying to work together to place a valid price on their production.

NFO members feel that the present system was designed to benefit the trade - not the interests of the rancher.

We are constrained by our By-Laws from handling any except our members production. NFO never takes title to such production but acts only as a bargaining agent.

The act before us is designed to protect the rancher from default or bankruptcy of a buyer or packer through minimum bonding requirements.

Mr. Chairman: I should like to have Mr. Phil Olson of Belgrade one of our National Directors, explain to this committee the operation of our Reserve Fund and insurance programs for livestock.

④

NFO

with your permission -

Phil

NAME Donald Farmer BILL NO. HB-345
ADDRESS Box 0-26 Holbrook mt. DATE 1/23/81
WHOM DO YOU REPRESENT National Farmers Organization
SUPPORT OPPOSE ✓ AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

This bill is unnecessary. The
variations proposed do not materially
affect the administration of the bill and
will, if strictly adhered to, include any
combination of producers who wish to
join together in selling their livestock.

Further, it is clearly aimed at eliminating the previously attached "Statement of Intent" exempting marketing by bargaining type organizations.

We ask a "do not pass".

Donald Danner
President
Montana National Farmers
Organization

NAME John ASAY BILL NO. HB-345
ADDRESS 800 5th St., Deerlodge DATE 1/23/81
WHOM DO YOU REPRESENT Mont. Cattle Feeders Ass'n
SUPPORT _____ OPPOSE oppose AMEND _____
PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

The Montana Cattle Feeders Association
considers the existing law adequate in
defining markets, brokers and dealers. H.B. 345
has the potential for detriment to commercial
feeders and individual livestock producers
who might wish to jointly sell their
products. The bill contains no positive
benefit potential for the state or individual
operators and we strongly oppose its
passage.

John Asay
Registered Lobbyist
for the Montana Cattle
Feeders Ass'n.

NAME Alice Fryslie BILL NO. HB345
ADDRESS Helena DATE 1/23/81
WHOM DO YOU REPRESENT Montana Cattlemen's Assoc.
SUPPORT OPPOSE ✓ AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

In the 1979 legislative session HB3850 was introduced by Rep. Elford and was carried through a tortuous series of discussions among the livestock producer organizations. The MCA was a part of the mediation team who finally received the issue of whether the NFO should be included or excluded in a matter of intent of Rep. Elford. Rep. Elford signed an agreement to a "block and file" of intent signed by the MCA.

The "block and file" of intent, Dealer, and "Broker" was finally signed and was to protect the individual rights of cattle dealers, operators, and organizations.

We feel that it is the best service of the livestock people of Montana by having this law as it is. We urge you to support and pass this bill.

NAME: Phil Olson BILL NO. 345

ADDRESS 1300 Dry Creek School Road, Belgrade, MT DATE Jan 23, 1981

WHOM DO YOU REPRESENT National Farmers Organization

SUPPORT OPPOSE X AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

Trust - simple

[Redacted]

NATIONAL Farmers Organization members meat custodial acct.

Livestock buyers must have credit approved by the trust
info credit dept. & be licensed & bonded & comply to all state
laws & regulations.

The buyer deposit the purchase price of livestock into
the members trust acct. then the member
producer is paid by the trust

there is a reserve acct. within the trust
that guarantees payment to the producer should
a buyer default on a contract or passed check etc.

example's

6-13-75 Paid or assignments received
Coast Packing Co. Portland - 9-24-75 settled 12-17
\$181,000 ^{100%} _{100%} bonding
members paid in full
for

9 variety teams - member dogs - member paid day of delivery
Frosty Moon Meat Inc. - Kingston N.C. Ch board 11-13-77
claim filed P.S. for \$18,482.57, 12-23-77 - claim settled, bonded
court 2-5-78 claim approved by court against P.S. bond
11-14-78 - payment in full by trust at 12-78 - received
\$15,710.18 - 12-19-78

Letter from State of Washington
Dept. of Agriculture, Olympia, Wash.
To the N.F.O.

Gentlemen:

We are pleased that the N.F.O. members caught in The Coast Packing Company debacle will receive full payment from the trust fund as set up by their association. We have a deep interest in anything which accords ~~to~~ such economic protection to the agricultural industry. We would appreciate being advised just how this system operates. As you know, we probably give more protection to producers than any other state, but your protection to sellers of livestock far exceeds ours; or any other such agency, further we would appreciate a list of producers and their payments when completion is possible.

Our sincere thanks to you for your assistance.

Sincerely, L.R. Armstrong, Chief Counsel,
Merchants Commission of
Regulatory Service

I was chief of the P & S Division of the Agriculture Department for several years before practicing law. It was after I became General Counsel of NFO that the question was raised in the Department of Agriculture in Washington

of whether NFO might be subject to the P & S Act. We discussed the subject for about a year with no decision. NFO was at that time so thoroughly engrossed in other activities, including legal matters, that there was little time and money to continue the argument with U.S.D.A. on the question, especially if a trial were to be had. I recommended that NFO file under protest and test the matter at a later time. U.S.D.A. agreed to register NFO in a category of dealers agent which is a category never used before or since for registration under the P & S Act. This category is not defined in the P & S Act and so no one knows what it is for sure and thus its non use. So this was done under protest with the intent to come to grips with the question at a more convenient time. This NFO wishes to test out but it hasn't been done as yet. So this registration and bond supplied under protest to U.S.D.A. is no admission by NFO that it is a dealer or subject to the P&S Act.

The argument is sometimes made that inasmuch as NFO has a bond on file with the P & S Administration which the State or the Livestock Commission will accept as sufficient, no expense would be placed on NFO to get a license in the State except the \$25 fee which is nothing. So why not get a license as a dealer in Montana. First NFO is not a dealer and to get a license as one is certifying to an untruth. Secondly, if NFO is not a dealer why should the State Agency seek such a license. Thirdly, its not true that such a license would not cause NFO any problem. There are 48 states where NFO has members who market livestock. If one state has an NFO License all states will learn of it almost immediately through the grape-vine, through normal communication channels or through area or annual meetings of Secretary's of Agriculture and Livestock Regulatory Agencies. I have attended such meetings and know that this information is generally distributed and discussed.

The one statement made by those who seek to bond register NFO as a dealer is that NFO has something to hide. If the flat statement isn't made then a query is made about the matter. What have you got to hide? The answer is nothing. The whole answer is so simple that it should be readily understood. NFO does not engage in dealing speculating or otherwise own, take title to/or have a financial interest in livestock. NFO cannot truthfully state that it is a dealer and to register as a dealer is to state an untruth. NFO does not receive the proceeds of sale so has no funds belonging to anyone in connection with a sale. NFO owns no livestock facilities.

Very truly yours,

Lee D. Sinclair
Lee D. Sinclair

3/kd

NAME Tom W Palmer BILL No. 345
ADDRESS Reynesford, MT DATE 1/23/81
WHOM DO YOU REPRESENT Montana NFC, T-F Ranch
SUPPORT _____ OPPOSE X AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

I am opposed to the
Licensing of the Montana National
Farmers Organization Meat Department
for the purpose of Selling

NAME Pat Umhoefer BILL NO. BB-345
ADDRESS P.O. Box 1207 Bozeman, MT. 59715 DATE Jan
WHOM DO YOU REPRESENT Mont. Farm Bureau
SUPPORT OPPOSE AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments: In light of the action of Representative Ellerd in accepting and approving the Statement of Intent authored by the Montana Department of Livestock and attached to SB-800 during the 1979 Legislative Assembly, (and which statement specifically exempts the National Farmers Organization from incorporation under the law) we see no just reason why this same Statement of Intent should not be made a part of this amended version of the same bill now known as HB-345

We recommend that the bill as proposed be given a "do not pass".

NAME Jo Brunner BILL NO. 345-
ADDRESS 531 S OAKS Helena DATE Jan. 23/81
WHOM DO YOU REPRESENT W. I. F. E
SUPPORT _____ OPPOSE X AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments: The more than 500 members of

Montana Women Involved in Farm
Economics wish to add their support to
the National Farm Organization and
other Agricultural Organizations in
requesting the defeat of House

BILL no. 345-

NAME Edward B. Butcher BILL NO. 345
ADDRESS Wingfield, Me. DATE 1/23/79
WHOM DO YOU REPRESENT Pulling Hills Ranch + NFC
SUPPORT _____ OPPOSE AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

This legislation is an effort to hamper the former bargaining effort by the National Farmers Organization and is unnecessary since 380 last session with the attached statement. I hope the NFC is working very satisfactorily. This bill should be killed.

HB 345

Ch Smith -

Ladies & Gentlemen ^{of Ag Committee} - Ed Butcher -

Rolling Hills Ranch Winfield, Mont

2-3 ^{individual} ^{would} ^{to have a} production sale ^{have} rubber ~~listed~~ Island.

I feel it is unfortunate that we have legislation such as this introduced which is completely contrary to the enterprise. There is no need and appears to me to be an effort to eventually force all livestock to be marketed through livestock auction facilities.

I have been marketing the Rolling H. R. livestock through WFO for 10 yrs and feel it provided the competitive structure needed in the industry and its function should not be hampered by bureaucratic intrusion. My farman would have to have a license to find my livestock a buyer.

A law is made to correct a problem - gentlemen I see no problem in Mont since passage of 800 last session.

signed

Ed Butcher

NAME

BILL NO. 345

EXHIBIT O

ADDRESS DATE 1-23-81

WHOM DO YOU REPRESENT

SUPPORT OPPOSE AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

Sabu Mather *Montana Leeches Inc.*
Mather, G...

VISITORS' REGISTER

HOUSE COMMITTEE

ILL ~~110-265~~ 345
NSOR

Date _____

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

HOUSE

COMMITTEE

HILL H 345

Date

VISOR

| NAME | RESIDENCE | REPRESENTING | SUPPORT | OPPOSE |
|--------------------|----------------|------------------------------|---------|--------|
| Tom (D) Palmer | Paynesford Mt | NFC + T-F Ranch | | X SP |
| Bill Evans | Paynesford Mt | NFO | | X |
| Frank Kline | Paynesford Mt | NFO | | X |
| W. M. (D) McDaniel | Rogers City Mt | NFO | | X |
| E. L. (B) Lohr | Winona Mt | Allen, N. T. Ranch | | X |
| Frank E. Pusk | Gilford Mt | NFO | | X |
| Small Shaver | Townsend | NFO | | X |
| George P. Bellamy | Cathedral Mts. | N.F. ORANG | | X |
| John Bryan | 5315 O'Farrell | W.I.F.F. | | X |
| Ally Ogle | 5860 Heloland | NFO | | X |
| James D. Lemo | Townsend Mt | Rancher 220 | | X |
| David N. Spire | Townsend | NFO | | X |
| Joe Jaborac | DeLave | NFO | | X |
| Larry Shearer | Townsend | NFO | | X |
| Patty Shaver | Townsend | N.F.O. | | X |
| Robert Spire | Silver Stone | NFO | | X |
| Keith Wickes | Moore | NFO | | X |
| W. Lynn W. Foster | Highwood Mt. | NFO Foster Ranch & Cattle | | X |
| Phil Olson | Bozeman Mt | NFO | | X |
| William R. Cox | Foot Horse Mt | NFO | | X |
| John Reichen | Manhattan Mt. | NFO | | X |
| John Blakeman | Bozeman Mt | NFO | | X |
| John Blakeman | Manhattan Mt. | NFO | | X |

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

1 HOUSE BILL NO. 309
2 INTRODUCED BY *Bob Shantz, Rep.*
3 BY REQUEST OF DEPARTMENT OF LIVESTOCK
4
5 A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTION
6 31-8-301, MCA, TO REQUIRE ANNUAL RENEWAL OF NOTICES OF
7 SECURITY AGREEMENTS AND ANNUAL RENEWAL OF ASSIGNMENTS OF
8 SECURITY INTERESTS WITH THE DEPARTMENT OF LIVESTOCK."
9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
11 Section 1. Section 81-8-301, MCA, is amended to read:
12 "81-8-301. Notices of security agreements --Renewals
13 --assignments. 111 The department of livestock shall accept
14 and file notices of security agreements, renewals,
15 assignments, and satisfactions covering livestock owned by a
16 person, firm, corporation, or association and bearing its
17 records brand and shall list the notices on the official
18 records of marks and brands kept by it. The department shall
19 also list the notices in the offices of the stock inspectors
20 employed by the department and stationed at the central
21 livestock markets where records are kept of marks and
22 brands. All forms on which the notices are given shall be
23 prescribed by the department and furnished by the secured
24 party who gives the notice. A livestock market to which
25 livestock is shipped may not be held liable to any secured

EXHIBIT

5

-2-

INTRODUCED BILL
HB 309

Audrey Kotke
Re: Action #15-14
7/7/87 EAC 309

use of
How used per month this year

EXHIBIT Q

HISTORY

Since 1935, under Montana Law 81-8-301 through 315, financial lending institutions have had the option of filing a security interest with the Department of Livestock against the brand of the borrower.

The Department in turn is obligated to file this information in each brand office at the central livestock auction markets in Montana and advise the auction market management of the security.

Under Montana law this is a service provided by the Department of Livestock. It is voluntary and not mandatory. Lending institutions do not have to use this service.

CURRENT PROCEDURES

Currently the lending institution files the security with the Department. It is held in good standing for 5 years. At that time, the law provides that the lending institution must file again. In the interim, if the borrower satisfies the security, it is the obligation of the lending institution to release the security with the Department.

According to law, the Department may charge a fee of not to exceed \$15.00 per security, but based on actual cost. At the present time, we are charging \$10.00 per filing, renewal and release. This fee is charged for each recorded brand. Securities cannot be filed on the borrower's name.

WHY THE NEED TO CHANGE

As mentioned previously, each security filing is in good standing for a 5 year period. This means that we are in a constant state of renewals and satisfactions and constantly changing our records.

Add to this the fact that during the 5 year period, the brand owners may change the names on the brand recording; they many times register a new brand and don't use the secured one; the borrower may pay off his loan and the lending institution neglects to satisfy the security with us; our inspectors end up being glorified bookkeepers; lending institutions may change Ag lenders and the new personnel will be unaware of the need for renewal and/or satisfactions.

This past year, the Department of Livestock was involved in a lawsuit that ultimately cost us over \$15,000 (total). Had the Department had more current records, etc., it is possible that it may have avoided this costly error.

Page - 2 -

Right now, the Department is in the process of computerizing all of its brand records. By going to annual renewals, they will be better able to keep Department records current.

In all, the situation as it now stands creates some serious administrative problems for the Department. We feel this change is necessary.

It should be strongly emphasized that this is not a case of the state forcing requirements on the private sector.

This program is not mandatory - it is not required of the lending institution. They are covered under UCC mortgage codes without this added service. Montana is the only State offering this service.

[Herrwitz - Roth]

NAME Tim Gill BILL NO. H.B. 309
ADDRESS Box 4549 Helena DATE 1/22/81
WHOM DO YOU REPRESENT Montana Livestock P.C.A.
SUPPORT OPPOSE AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

- Concerned with Timeliness of printouts, do we July Reg. costs?