

THE MINUTES OF THE MEETING OF THE AGRICULTURE COMMITTEE
March 9, 1981

The meeting of the Agriculture Committee was called to order by CHAIRMAN SMITH at 12:30 p.m., March 9, 1981 in Room 431 of the Capitol.

All members of the Committee were present.

SENATOR HAZELBAKER presented SENATE BILL 146, "AN ACT TO REVISE APICULTURE PROVISIONS RELATING TO DEFINITIONS, REGISTRATION OF APIARIES, AND THE INCREASE IN THE NUMBER OF HIVES ON AN APIARY", and stated that this is from a part of Agriculture that you wouldn't hear from often but that is very important. (EXHIBIT A)

There has been administrative rules from the Department of Agriculture that should now be put into the codes for the reason that the bill provides the three mile distance between apiaries.

County attorneys were unwilling to prosecute due to the uncertainty of the rule.

The need of the distance between apiaries is to stop the spread of disease.

SENATOR HAZELBAKER presented NORMAN ROBB, attorney, and the Bee Keepers' Association member. MR. ROBB presented the Committee with a prepared statement listed as a Information and Fact Sheet (Attached as EXHIBIT B).

MR. ROBB stated that the landowners are not subject to the three mile law. SENATE BILL 146 enacts the existing rule into law that regulates the commercial bee keeper that his apiaries have to be registered and planted three miles apart to prevent diseases.

The bill is so written that it is a misdemeanor not to register the apiaries that the law already requires. If the three mile rule is violated, that will be a misdemeanor. Landowners are exempt from the three mile law, as are hobbyists.

TOM HARRISON, of the Montana Bee Keepers Association, stated that as a lobbyist, he was here all the time to answer any questions he could. He said that this is not a punitive law, but a positive tool to get the apiaries out that are not registered.

ROY BJORNSON of the Montana Department of Agriculture, asked for the support of this bill.

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Other PROPONENTS and members of the Montana Bee Keepers' Association, stated their names and residence and asked for support of SENATE BILL 146. (Witness sheets attached) Some of these people were second and third generation bee keepers.

REPRESENTATIVE SHONTZ asked to speak in behalf of John Barrow of Ekalaka, and Russell and Norma Mutral of Missoula, and John Springs from Hamilton, who also favor this bill.

There being no Opponents, SENATOR HAZELBAKER closed by asking for full support and added: "I want to thank you for supporting this little honey bee, because the product of his labor makes the food taste good to me; however, I would caution you to treat him as a friend, cuz while he deals in sweetness, there is lightening in his end".

The meeting was opened for questions by the committee.

It was asked if verbal permission was acceptable as far as putting bees on owners fields. MR. ROBB stated that it was, and when the farmer wants them removed, he just makes a request.

A question was asked regarding new language, "registering under conditions" shown on page 12, line 20. MR. ROBB stated that the reason for this was that there are certain times of the year that there is bad weather and crops of bees must be moved. Some move them into California to winter them and others move them into one area. Another problem they have is with predators, such as bears and skunks. It is not a violation of the law to winter bees in these ways.

The cost of registering bees is according to hives. The cost can go as high as \$150 per year. Reregistering is just a matter of paperwork.

REPRESENTATIVE ROBBINS asked about saturation, as far as bee keeping is concerned. MR. ROBB said it depended on the year and whether there were alot of blossoms, etc.

REPRESENTATIVE MANUEL was chosen to carry this bill to the floor of the House.

The meeting was closed on S.B. 146.

CONSIDERATION OF S.B. 156. SENATOR TOM HAGER presented this bill "AN ACT CREATING A MONTANA DAIRY MARKETING COMMITTEE; ESTABLISHING THE POWERS OF THE COMMITTEE: AND IMPOSING A 1/2 of 1% ASSESSMENT ON CERTAIN SALES OF MILK FOR PURPOSES OF ADMINISTERING THE ACT."

SENATOR HAGER said that this is important for research. The beef and pork check off has worked very well in Montana.

He pointed out that it will not increase the price of milk.

SENATOR HAGER read the Statement of Intent, saying that it was one of the best he had read. (S.B. 156 and Statement of Intent Attached as EXHIBIT C)

AL DOUGHERTY, registered lobbyist and representing the Montana Dairymen Association, producers of grade "A" milk, spoke saying, this is a voluntary organization. They have found themselves in the position the wheat farmers did so many years ago when they had to come to the legislature in order to form a commission.

MR. DOUGHERTY said that the majority of milk producers in the Billings, Bozeman, Great Falls-Fairfield and Ravalli and Flathead areas support this legislation. That the only area that does not is Lake County.

Assessment is 1/2 of 1 percent of the gross value of the milk sold and the processor will deduct that from the producer, and the producer will pay a 20% penalty if this money is not remitted, because this money belongs to the producer.

MR. DOUGHERTY pointed out that page 3, paragraph 1 should say "Department of Livestock", and the 2nd paragraph should show "Department of Livestock" also. He asked for the support of this bill by the Committee.

KENT HENDRICKSON, part-time manager of the Dairy Association of Montana, asked for support of this bill and submitted and read testimony in support of Senate Bill 156. (EXHIBIT D)

DR. GLOSSER of the Department of Agriculture, said that the Department gives its full support to this bill, providing that there is minimal or no fiscal impact on this bill.

There being no more proponents, CHAIRMAN SMITH called for opponents.

REPRESENTATIVE JENSEN spoke as an opponent, stating that he felt that the dairymen were not actually aware of this bill at this time, and that those in representation were lobbyists or associated with American Dairymen's Association.

REPRESENTATIVE JENSEN also stated that this bill was presented about four years ago and has been well debated.

REPRESENTATIVE JENSEN said that after some calculating, it is said that the state is now raising approximately \$35,000 a year from contributions to the American Dairy Association, and that this bill would raise \$175,000, and collects about half of the percent on the gross income. The contribution they are collecting asks for a percent, therefore, about 10% of the dairymen in Montana are voluntarily paying into this organization.

There are alot of dairymen in the state and it was Representative Jensen's guess that about 50% would oppose this legislation.

There being no more opponents, Discussion was asked for.

REPRESENTATIVE ELLERD made the statement that he had heard much opposition prior, but has not heard any opposition this time.

The Bozeman representative stated that the Dairy Gold Producers know about this bill.

REPRESENTATIVE HOLLIDAY asked about the federal order that was referred to. MR. HENDRICKSON said that in many states the price paid to the dairmen is regulated by a federal market; in other words, the federal government, through the Department of Agriculture, has the national marketing organization. These people can petition the organization to base the price and class two and class three.

In Montana, we have what has been created with the Montana Milk Marketing Committee.

REPRESENTATIVE JACOBSEN asked about 'inspection of records' stated on page 9, section 10, and if this meant the inspection of records in the home.

MR. DOUGHERTY said the handler would be a cooperative dairy like Dairy Gold, and there are only about 12 or 14 in the State of Montana, and they do have their offices in their place of business.

REPRESENTATIVE SCHULTZ asked if it were not possible that dairymen would forget, after a length of time, that they did want a refund.

MR. HENDRICKSON said that they put in the three month time because they believed that if the dairyman had to wait until the end of the year, he would forget.

REPRESENTATIVE SCHULTZ also stated, that one woman in the dairy business said that it would cost her about \$1,200 a year.

MR. HENDRICKSON stated that it would be a large producer in that case.

REPRESENTATIVE SCHULTZ questioned the Statement of Intent giving rulemaking authority to the Department and asked if it were not a cop-out for the legislature to turn this over to them since they already have that rulemaking authority

MR. DOUGHERTY stated that the rulemaking authority is given to the Committee, not the Department.

REPRESENTATIVE ROUSH asked Representative Jensen why the producers were opposed to this.

REPRESENTATIVE JENSEN said that due to the research program the producers believe the distributors should be paying for this.

REPRESENTATIVE ROBBINS asked about the paper work involved for the farmer.

MR. HENDRICKSON said that the paperwork is mostly done by the buyer, and that the paper work was simple. Farm sales is the matter of filling out a simple form.

REPRESENTATIVE HOLLIDAY questioned Mr. Dougherty about page 6, subsection 3, in regards to politics.

MR. DOUGHERTY stated that the members, as individuals, could participate in politics, but not the committee itself.

SENATOR HAGER closed by saying that Mr. McOmber, Director of the epartment of Agriculture, came to the Senate and favored this bill. He pointed out that there are no federal funds involved, and that some of the studies have increased the producers sales, referring to the study of cholesterol in eggs and butter and disproving the harm.

REPRESENTATIVE SCHULTZ said that he had to admire their desire to take so much out of their own pocket, as they are taking out more than the pork producers, wheat producers or the alfalfa seed producers.

The hearing was closed on Senate Bill No. 156.

The meeting was called into EXECUTIVE SESSION:

MOTION was made by REPRESENTATIVE HOLLIDAY to 'pass' S.B. 146. MOTION PASSED UNANIMOUSLY.

The meeting adjourned at 2:30 p.m.



CARL SMITH, CHAIRMAN

lmw

SENATE BILL NO. 146

INTRODUCED BY HAZELBAKER, AKLESTAD, E. SMITH, MANUEL

A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE APICULTURE PROVISIONS RELATING TO DEFINITIONS, REGISTRATION OF APIARIES, AND THE INCREASE IN THE NUMBER OF HIVES IN AN APIARY; AMENDING SECTIONS 80-6-101 THROUGH 80-6-103, MCA."

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

Section 1. Section 80-6-101, MCA, is amended to read:

"80-6-101. Definitions. Unless the context requires otherwise, in this chapter the following definitions apply:

(1) "Apiary" means a place where one or more colonies of bees are kept or one or more hives containing honeycombs or bee combs are kept.

(2) "Bee diseases" means American or European foulbrood, sacbrood, bee paralysis, or other disease or abnormal condition of egg, larval, pupal, or adult stages of bees.

(3) "Bees" means any stage of the bees in the genus

Apis.

(4) "Colony" means the hive and all equipment used in connection with the hive.

(5) "Department" means the department of agriculture, provided for in 2-15-3001.

(5)(6) "Equipment" means hives, supers, frames, veils, gloves, or any apparatus, tools, machines, or other devices used in the handling and manipulation of bees, honey, wax, and hives and includes containers of honey and wax which may be used in an apiary or in transporting bees and their products and apiary supplies.

(7) "Family unit" means two or more persons living together or residing in the same dwelling, house, or other place of residence.

(8) "General apiary" means any apiary other than a pollination apiary, landowner apiary, or hobbyist apiary except the term includes any apiary of 21 or more hives.

(9) "Hive" means a frame hive, box hive, box, barrel, log gum, skep, or other receptacle or container or a part of a container, natural or artificial, which may be used as a domicile for bees.

(10) "Hobbyist apiary" means an apiary owned by a hobbyist beekeeper.

(11) "Hobbyist beekeeper" means a person who owns a total of no more than five hives.

(12) "Landowner" means the person who has the actual use and exclusive possession of the land upon which a landowner apiary is to be registered. However, a person leasing or renting land for the primary purpose of locating or establishing an apiary thereon is not considered a

1 landowner.

2 (13) "Landowner apiary" means an apiary owned by a
3 landowner as defined in this section.

4 (14) "Persons" means individuals, associations,
5 partnerships, or corporations.

6 (15) "Pollination apiary" means an apiary operated for
7 pollination of a commercial seed, fruit, or other commercial
8 agricultural product as provided in [section 4].

9 (16) "Queen apiary" means an apiary or premises in
10 which queen bees are reared or kept for sale or gift."

11 Section 2. Section 80-6-102, MCA, is amended to read:
12 "80-6-102. Registration. (1) A person who owns or
13 possesses an apiary in the state shall, before April 1 each
14 year, register the apiary. There are four classes of apiary
15 registration. The conditions under which the department may
16 issue certificates of registration for each class are
17 specified in [sections 3 through 7].

18 (2) Applications shall be made to the department for
19 registration application blanks.

20 (3) Registration application blanks shall be furnished
21 by the department. The applicant shall provide the following
22 information:

23 (a) a statement of the name and place of residence;
24 (b) the number of colonies of bees, hives, and
25 equipment in the apiary;

1 (c) the location of the apiary, setting forth
2 specifically the location by sectional division to the
3 nearest quarter section, and the township and range and, if
4 within the corporate limits of a town or city, the number of
5 the lot and block in the town or city;

6 (d) the name of the owner, renter, or occupant of the
7 land on which the apiary is located and, when the
8 application is for a new apiary being registered for the
9 first time, the application must also show that the owner,
10 renter, or occupant of the land has consented to the apiary
11 being located on his land;

12 (e) the date when the apiary was first established;
13 and

14 (f) the class of apiary registration for which
15 application is being made; and

16 (19) other information the department may require
17 under rules adopted by it for the protection, safety, and
18 welfare of the public and the beekeeping industry.

19 (4) Upon receipt of the application and payment of the
20 fees prescribed, the department may issue a certificate of
21 registration for an apiary, setting forth the name of the
22 owner, the specific location, and the number of colonies of
23 bees or size of the apiary authorized under the
24 registration, and the class of apiary authorized by the
25 registration.

1 (5) In issuing certificates of registration for
2 apiaries, if there is a conflict between applicants with
3 respect to location, the department shall give preference to
4 the applicant having the oldest continuous registered
5 apiary.

6 (6) Certificates of registration may not be issued for
7 new apiaries which are within such close proximity to
8 established registered apiaries that there is or may be
9 danger of spread of disease or that the proximity will or
10 may interfere with the proper feeding and honey flow of
11 established apiaries.

12 (7) Before registering new apiaries, the department
13 shall give at least 10 days' notice by certified mail to all
14 registered apiarists likely to be affected by the proposed
15 new apiary so that any party affected may file written
16 protests with the department against registering the new
17 apiary. If a written protest is filed, the department may
18 require a hearing. Notice of the time and place of the
19 hearing shall be given all parties interested by certified
20 mail at least 10 days before the date set for the hearing.

21 (8) Suitable evidence of registration furnished by the
22 department shall be posted by the apiary registrant in a
23 conspicuous place at or near the apiary. If an owner has
24 more than one apiary, suitable evidence of registration
25 furnished by the department shall be posted at each apiary.

1 (9) A registration not applied for by April 1 of each
2 year is a late registration and incurs an added penalty of
3 10% of the regular registration fee. Registrants who fail to
4 apply for reregistration by April 1 of each year shall be
5 notified of their delinquency by the department. The
6 notification shall be by certified mail and is sufficient if
7 deposited in a United States post office or mail box and
8 addressed to the registrant at his last address appearing in
9 the apiary registration files of the department at least 10
10 days before May 1. The registration of an apiary for which
11 application for reregistration is not made by May 1 of each
12 year is forfeited and all rights under the registration
13 terminate.

14 (10) Any person who owns or possesses any bees, hives,
15 colonies, or beekeeping equipment in this state or who owns
16 or possesses an apiary in this state and who fails or
17 refuses to register the same as provided in this part is
18 guilty of a misdemeanor and upon conviction thereof is
19 subject to the penalties set forth in 80-6-303.

20 (11) Nothing contained in this section or in sections
21 3 through 7 shall be construed as invalidating, canceling,
22 amending, terminating, or extending any certificate of
23 registration issued by the department prior to the
24 effective date of this act. All such previously issued
25 certificates of registration remain in effect for the period

1 for which they were issued; subject, however, to forfeiture,
 2 lapse, abandonment, and termination in the manner provided
 3 by law."

4 NEW SECTION. Section 3. General apiary registrations.

5 (1) In order to control, limit, and prevent the spread of
 6 bee diseases and other contagious or infectious diseases
 7 among bees, hives, and apiaries and to control, limit, and
 8 prevent interference with the proper feeding and honey flow
 9 of established apiaries, general apiaries registered to
 10 different persons on [the effective date of this act] must
 11 be located 3 or more miles apart, except as otherwise
 12 provided in this part. The department shall not register or
 13 issue a certificate of registration for any general apiary
 14 that is located less than 3 miles from a general apiary
 15 registered to another person, except as otherwise provided
 16 in this section.

17 (2) A person may register a general apiary that is
 18 situated less than 3 miles from another general apiary he
 19 has registered so long as the location of the general apiary
 20 being applied for is 3 or more miles from general apiaries
 21 registered to other persons.

22 (3) A general apiary may be registered even though it
 23 is less than 3 miles from any registered pollination apiary,
 24 landowner apiary, or hobbyist apiary.

25 (4) A person with an existing apiary that is located

1 less than 3 miles from an existing general apiary registered
 2 to another person may register his apiary as a general
 3 apiary under the following conditions:

4 (a) his apiary was established and registered with the
 5 department as a general apiary under the department's rules
 6 in effect prior to July 1, 1981;

7 (b) his apiary is registered with the department as a
 8 general apiary as of July 1, 1981; and

9 (c) the registration of his apiary has not been
 10 forfeited or abandoned under the provisions of
 11 ~~80-6-102(3)(g)~~ 80-6-102(9) or 80-6-104.

12 NEW SECTION. Section 4. Pollination apiary
 13 registrations. (1) The department may grant pollination
 14 apiary registrations to commercial seed and fruit producers
 15 or other commercial agricultural producers under the
 16 following conditions:

17 (a) (i) the applicant must own, lease, or rent the
 18 land upon which the pollination apiary is to be located and
 19 the applicant must use the land for the purpose of growing a
 20 commercial seed, fruit, or other crop which is dependent
 21 upon bees or other insects for pollination;

22 (ii) the applicant does not own the bees or the hives
 23 which are to be placed upon the pollination apiary; and

24 (iii) the only purpose of the apiary is to pollinate a
 25 commercial agricultural crop.

1 (b) The applicant shall provide the department with
 2 all pertinent information necessary to determine if
 3 pollination apiaries are needed to pollinate the applicant's
 4 crop adequately.

5 (c) The department may refuse to register a
 6 pollination apiary based upon its own investigation of the
 7 matter, but if the department approves the application, it
 8 shall specify the number and location of pollination
 9 apiaries needed for the purpose of pollinating the
 10 applicant's commercial agricultural crop adequately.

11 (2) A pollination apiary registration is valid only
 12 for the time period specified by the department, and all
 13 pollination apiaries must be removed within 2 weeks after
 14 the full bloom period of the crop to be pollinated.

15 (3) ~~A registered pollination apiary--which--is--sold--~~
 16 ~~leased--rented--or--transferred--to--another--person--must--be~~
 17 ~~reregistered--by--the--lessee--renter--or--transferee. NO~~
 18 ~~CERTIFICATE OF REGISTRATION OF A POLLINATION APIARY MAY BE~~
 19 ~~LEASED, ASSIGNED, OR TRANSFERRED AND NO PERSON OTHER THAN~~
 20 ~~THE POLLINATION APIARY REGISTRANT MAY EXERCISE ANY RIGHTS OR~~
 21 ~~PRIVILEGES, DIRECTLY OR INDIRECTLY, AUTHORIZED BY THE~~
 22 ~~CERTIFICATE OF REGISTRATION.~~

23 NEW SECTION. Section 5. Landowner apiary
 24 registrations. (1) The department may grant landowner apiary
 25 registrations under the following conditions:

1 (a) The applicant must be a landowner, as defined in
 2 80-6-101 and must own the land upon which the apiary will be
 3 located.
 4 (b) The applicant must own the bees and the hives that
 5 will be placed on the apiary.
 6 (c) The bees and the hives must be personally managed
 7 and operated by the applicant.

8 (2) ~~A--registered--landowner--apiary--which--is--sold--~~
 9 ~~leased--rented--or--transferred--to--another--person--must--be~~
 10 ~~reregistered--by--the--lessee--renter--or--transferee. NO~~
 11 ~~CERTIFICATE OF REGISTRATION OF A LANDOWNER APIARY MAY BE~~
 12 ~~LEASED, ASSIGNED, OR TRANSFERRED AND NO PERSON OTHER THAN~~
 13 ~~THE LANDOWNER APIARY REGISTRANT MAY EXERCISE ANY RIGHTS OR~~
 14 ~~PRIVILEGES, DIRECTLY OR INDIRECTLY, AUTHORIZED BY THE~~
 15 ~~CERTIFICATE OF REGISTRATION.~~

16 NEW SECTION. Section 6. Hobbyist apiary
 17 registrations. (1) The department may grant hobbyist apiary
 18 registrations to hobbyist beekeepers under the following
 19 conditions:

20 (a) The applicant must not own a total of more than
 21 five hives, and all of the hives must be placed on the
 22 hobbyist apiary.

23 (b) The applicant must own the bees and the hives and
 24 must personally manage and operate the bees and the hives.

25 (c) Only one hobbyist registration is allowed an

1 applicant and only two hobbyist apiary registrations are
2 allowed a family unit.

3 (d) If the department determines that too many
4 hobbyist apiaries are being registered within too close
5 proximity of each other or of other established apiaries so
6 that there is or may be danger of the spread of bee diseases
7 or other contagious or infectious diseases among bees or
8 apiaries or that there will be interference with the proper
9 feeding and honey flow of established apiaries, the
10 department may refuse to grant any further hobbyist
11 registrations in the locality and area of the danger, in
12 accordance with 80-6-102(6).

13 (2) ~~A registered hobbyist apiary which is sold,~~
14 ~~leased, rented, or transferred to another person must be~~
15 ~~reregistered by the lessor, renter, or transferee. NO~~
16 ~~CERTIFICATE OF REGISTRATION OF A HOBBYIST APIARY MAY BE~~
17 ~~LEASED, ASSIGNED, OR TRANSFERRED AND NO PERSON OTHER THAN~~
18 ~~THE HOBBYIST APIARY REGISTRANT MAY EXERCISE ANY RIGHTS OR~~
19 ~~PRIVILEGES, DIRECTLY OR INDIRECTLY, AUTHORIZED BY THE~~
20 ~~CERTIFICATE OF REGISTRATION.~~

21 NEW SECTION. Section 7. Restrictions on apiary
22 locations. Pollination apiaries, landowner apiaries, and
23 hobbyist apiaries may be located less than 3 miles from
24 pollination apiaries, landowner apiaries, hobbyist apiaries,
25 and general apiaries registered to other persons. General

1 apiaries may be located within 3 miles of one another only
2 under the provisions of [section 3].

3 Section 8. Section 80-6-103, MCA, is amended to read:
4 "80-6-103. Changing locations -- enlarging or selling
5 apiaries. (1) An owner of an established registered apiary
6 may not change the location of the apiary without first
7 receiving from the department authorization to establish the
8 new apiary. In making the application, he shall specify the
9 location of the apiary with the same particularity as in the
10 application for original registration. If the new apiary is
11 not used within 60 days after a new certificate of
12 registration is issued, the certificate of registration
13 lapses and all rights under the registration terminate.
14 Registrations for new apiaries may not be issued for greater
15 areas than the applicant can show are reasonably necessary
16 for his needs consistent with good beekeeping practice.

17 (2) A registered apiary may be sold or transferred to
18 a purchaser subject to this chapter, if all bees and
19 equipment on the apiary are sold to the purchaser.

20 (3) No person may increase the number of hives on an
21 apiary to exceed the number of hives authorized by his
22 certificate of registration for that apiary, except that a
23 person may increase the number of hives on a general apiary
24 beyond the number authorized by the certificate of
25 registration in order to protect his bees during adverse

1 weather or crop conditions or to protect his bees and hives
2 from bears or other predators. A person may also enlarge a
3 general apiary during the spring buildup and in the fall
4 after the end of the honey season in order to gather his
5 bees for shipment out of the state or to winter his bees on
6 that apiary.

7 ~~that~~ A person enlarging an apiary so as to exceed
8 the number of hives authorized under a certificate of
9 registration herein allowed is guilty of a misdemeanor and
10 is subject to the penalties set forth in 80-6-303."

11 Section 9. Codification instruction. Sections 3
12 through 7 are intended to be codified as an integral part of
13 Title 80, chapter 6, part 1, and the provisions of Title 90,
14 chapter 6, apply to sections 3 through 7.

-End-

1 SENATE BILL NO. 146
2 (Beekeepers Bill)

3 INFORMATION AND FACT SHEET

4 ITEM ONE. GENERAL PURPOSE OF S. B. NO. 146.

5 I. The General Purpose of the bill is to make statutory (enact
6 into law) what is commonly known among beekeepers as the THREE-
7 MILE RULE on the location and proximity of apiaries, that is,
8 how far apart apiaries must be located.

9 A. An "apiary" is defined by law (§80-6-101 (1), M.C.A.)
10 as the "place where one or more colonies of bees are kept or one
11 or more hives containing honeycombs or bee combs are kept". In
12 short, an "apiary" is the place or location where the beehives
13 are situated.

14 B. By law, apiaries must be registered each year with the
15 Montana Department of Agriculture. The Department is charged
16 with the duty of registering the apiaries, issuing certificates
17 of registration for them and generally administering the Montana
18 Apiculture (Bee) Law.

19 II. Montana's Apiculture Law is set forth in Section 80-6-101
20 through 80-6-303, M.C.A. 1979.

21 A. Subsection (6) of Section 80-6-102 of the present law
22 provides that "[c]ertificates of registration for apiaries may
23 not be issued for new apiaries which are within such close prox-
24 imity to established registered apiaries that there is or may be
25 danger of the spread of disease or that the proximity will or may
26 interfere with the proper feeding and honey flow of established
27 apiaries".

28 Bees are social insects and, as such, bees from different
29 apiaries will co-mingle with one another. Bees also are subject
30 to certain contagious and infectious diseases. Infected or di-
31 seased bees can spread their disease to healthy colonies, if the
32 infected bees get into a healthy colony. As a general rule, bees
will travel up to three miles in search of food (pollen and nectar).
Therefore, maintaining proper distance between apiaries is an im-
portant tool in helping to prevent the spread of diseases from
an infected apiary to a healthy apiary.

Bees also need a certain amount of area in which to forage for
food. In other words, they need "pasturage" to maintain themselves.
Too many bees too close together will "overstock" or "overgraze"
the area just as too many cattle will overgraze a limited area.
This is what the statute (§80-6-102(6) means when it says apiaries
are not to be "within such close proximity ... that the proximity
will interfere with the proper feeding and honey flow of established
apiaries".

III. The Present Administration Rule. Section 80-6-201(1)(e)
gives the Department of Agriculture authority to promulgate rules
to carry out the bee law. Pursuant to this authority, the Depart-
ment has adopted an administrative rule with respect to the
registration and location of apiaries. This is Rule No. 4.12.101
of Administrative Rules of Montana and it is referred to as the
"Three-Mile Rule".

1 A. In general terms, this "Administrative Three-Mile Rule"
2 does the following:

3 1. It provides for four classes of apiary registration,
4 to-wit: (1) General Apiaries, (2) Pollination Apiaries, (3) Land-
5 owner Apiaries and (4) Hobbyist Apiaries. The rule then sets
6 forth the conditions upon which the Department will issue certi-
7 ficates of registration for each class of apiary.

8 2. The "General Apiary" classification is the type of
9 apiary registration used by those beekeepers who make their living
10 by producing and selling honey and beeswax. The administrative rule
11 provides that general apiaries registered to different persons must
12 be located three or more miles apart. This is to carry out the
13 provisions of §80-6-102(6), M. C. A., to prevent the spread of
14 disease and interference with the proper feeding and honey flow
15 between general apiaries.

16 3. The "Landowner Apiary", "Hobbyist Apiary" and "Polli-
17 nation Apiary" classes were set up in the administrative rule to
18 make provision for the registration of apiaries for those people
19 who do not make their living by producing honey but who want to (a)
20 run some bees on their own land, (b) run a few bees as a hobby or
21 (c) who need an apiary in order to pollinate their commercial
22 agricultural crop. These three classes of apiaries are not subject
23 to the three-mile limitation in that these may be located less than
24 three miles from each other and less than three miles from general
25 apiaries. This was done to protect landowner rights, the rights of
26 hobbyists and the rights of a commercial agricultural seed or crop
27 producer to get his crop pollinated.

28 ITEM TWO. WHAT SENATE BILL NO. 146 DOES.

29 I. In general, S. B. No. 146 incorporates the provisions of the pre-
30 sent administrative rule into the present Montana Apiculture Law so
31 as to make the three-mile rule statutory.

32 A. The Three-Mile Rule. Under S. B. 146, the "Three-Mile
Rule" applies to general apiaries. That is, those apiaries regis-
tered to those who make their living by keeping bees for the pro-
duction and sale of honey and beeswax. Under S. B. 146, the
Three-Mile Rule does not apply to Landowner, Hobbyist or Pollination
apiaries. In short, the bill does the same thing the present
administrative rule does. Thus, the rights of Landowner, Hobbyist
and Pollination apiaries are fully protected.

1. Under S. B. 146, the Three-Mile Rule applies to general
apiaries registered to different persons. This is the same as the
present administrative rule. There are some exceptions to this.
These exceptions are: (a) General apiaries registered to the same
person may be located less than three miles apart, so long as such
apiaries are three or more miles from general apiaries registered to
other persons. (b) Provision is made to protect existing registered
general apiaries which are less than three miles apart. This excep-
tion is to protect existing rights. It applies to old apiaries of
long standing that were located and registered before the adoption of
the administrative rule. These exceptions are contained in the
present administrative rule and are carried over into S. B. 146.

2. S. B. 146, like the present administrative rule, also
provides that general apiaries may be located less than three miles
from landowner apiaries, hobbyist apiaries and pollination apiaries.
The reason for this is that landowner apiaries may be located less

1 than three miles from general apiaries. This being so, general
2 apiaries should have the same right. These same provisions are
3 contained in the administrative rule.

4 B. Enforcement. One of the primary reasons for making the
5 Three-Mile Rule statutory is to obtain better enforcement of the law
6 with respect to registering apiaries and the Three-Mile Rule. We
7 have found a reluctance on the part of county attorneys to enforce
8 the present administrative rule because it is a rule and not a law.
9 By making the rule statutory, we believe we will obtain better
10 enforcement of it because a violation will then constitute the
11 violation of a statute and county attorneys will thereby have a
12 sound legal foundation upon which to prosecute a breach of the
13 Three-Mile Rule.

14 1. To carry this out, S. B. 146 contains a provision making
15 it a misdemeanor for any person who owns or possesses any bees or
16 any apiary in Montana to fail to register the same. (See Subsec-
17 tion (10) of Section 1 of S.B. 146.) This will help prevent out-
18 of-state beekeepers from coming into Montana and placing bees in
19 locations that are less than three miles from a registered general
20 apiary. This has been one of the enforcement problems that led to
21 the Beekeepers having S. B. 146 introduced into the legislature.

22 II. Other Changes Made By S. B. 146. S. B. 146 also amends §80-6-103,
23 M.C.A. by allowing the number of hives on a general apiary to be
24 increased beyond the number set out in the certificate of registra-
25 tion in order that the owner of the bees may protect his bees during
26 adverse weather or crop conditions, or to protect his bees from
27 predators, or to gather up his bees during the spring buildup season
28 and in the fall to get them ready for shipment out of the state or
29 to winter them. (See Subsection (3) of Section 8 of S. B. 146.)

30 ITEM THREE. OTHER STATES WITH LAWS THAT REGULATE THE PROXIMITY OF
31 APIARIES.

32 I. Montana is not the only state that regulates the proximity of
apiaries. South Dakota, North Dakota, New Mexico, Oklahoma and
Wyoming all have statutes (laws) that regulate how close or far apart
apiaries may be located. Many of the other honey producing states
regulate the proximity by a rule of their state department that
administers their spiculture law.

II. The Beekeepers believe there is ample legal precedent for
making Montana's rule on proximity a law.

ITEM FOUR. INFORMATION WITH RESPECT TO BEEKEEPING IN MONTANA AND
NATIONALLY.

I. Montana Beekeeping.

A. Number of Registered Beekeepers and Apiaries.

1. Registered Beekeepers. According to the records of the
Montana Department of Agriculture there are a total of 552 registered
beekeepers in the state. This number breaks down as follows:

Type of Beekeeper	Number
(a) General Beekeepers (251 or more colonies)	59
(b) Part time Beekeepers (10 to 251 colonies)	100
(c) Hobbyist Beekeepers (1 to 5 colonies)	393
Total -----	552

2. Registered Apiaries. There are 4,364 registered apiaries per
the Department's records

B. Number of Colonies of Bees. There are nearly 100,000 colonies
of bees in Montana registered with the Department.

1 Ninety-three percent (93%) of these are registered to beekeepers
2 who have 300 or more colonies. Hence, the general beekeepers have
approximately 93,000 colonies.

3 C. Honey And Beeswax Production And Value In Montana.

4 1. In Top Ten Honey Producing States. Montana is one of
5 the ten top honey producing states in the nation.

6 2. Type of Honey Produced. Montana produces a premium
quality honey. It is low in moisture content and light in color.

7 3. Average Production. In an average year, Montana
8 produces 10 Million pounds of honey and 170,000 pounds of beeswax.
The value of the average crop is approximately 5 million dollars

9 4. 1979 Production. In 1979 Montana produced 13.2
10 million pounds of honey worth 6.95 million dollars and 224,000
11 pounds of beeswax worth \$337,000.00. These are the latest figures
available and they come from the United States Department of
Agriculture.

12 D. Crop Pollination In Montana. The figures on the value
13 of the crops in Montana that are pollinated by bees are not
available. However, pollination is of tremendous value to the
14 farmers, ranchers and fruit growers in Montana. Honeybees are
one of the better, if not the best, pollinating insects. The
15 pollination service provided to Montana agriculture by beekeepers
is a service which is almost always provided free to the crop or
16 fruit producers. Beekeepers want the honey and they seldom
charge for the indirect pollination service their bees provide to
17 crop and fruit growers. However, the benefit to the crop and
fruit growers is a direct benefit because without the honeybees
18 their crops either would not be pollinated or would not be
adequately pollinated. See the discussion below on the value
19 of honeybee crop pollination on a national scale.

20 The Pollination Apiary provision in S. B. 146 is a new thing
in Montana. So far there have not been very many pollination
21 apiaries registered in the state. As discussed in this outline,
the purpose of pollination apiaries is for the benefit of com-
22 mercial agriculture seed, crop and fruit producers.

23 In addition to the pollination service provided by honeybees
to the Montana agricultural industry, these bees also provide a
24 service to the public at large. These bees also help pollinate
many of our wild or national grasses and plants as well as local
25 flower gardens, fruit trees, etc. Again, this is a service the
beekeepers provide free of charge.

26 E. Value Of Out-of-State Pollination By Montana Beekeepers.
27 Some of Montana's general beekeepers take their bees to California
or the Southwest in the winter and use them to pollinate fruit and
28 produce crops. Montana beekeepers earn about 1.5 million dollars
per year doing this.

29 F. The Average General Beekeeper In Montana. This relates to
30 the Montana beekeepers whose sole source of livelihood is the
production and sale of honey and beeswax.

31 1. He produces an average of 250,000 pounds of honey
32 and 2,500 pounds of beeswax per year with a combined total value
of about \$85,000.00.

1 2. He has 1,500 colonies of bees on 50 different
2 registered apiaries.

3 3. In addition to himself, he employs one full time and
4 one part time employee for an average payroll of \$25,000.00 to
5 \$35,000.00. (Keep in mind we are talking about an "average"
6 general beekeeper. Overall, the general beekeepers as a group
7 in Montana employ 250 to 300 people per year on a full time basis
8 and another 250 to 300 on a seasonal - part time basis.)

9 4. He pays about \$3,500.00 per year in property taxes
10 and fees. This does not include his federal and state income
11 taxes.

12 5. It is a family business in that many cases the
13 business has been handed down from one generation to another clear
14 back to great-grandparents. Out of the 59 full time general
15 beekeepers in Montana, I know that 27 of them are a family business
16 that has been passed down from father to son and the grandchildren
17 are now involved in the business. We talk a great deal in Montana
18 about protecting our local businesses and preserving the family
19 farm. This piece of legislation is a prime example of a situation
20 where the legislature can help a local family industry by passing S. B.
21 146 in the form and content the beekeepers want.

22 6. He pays his taxes, supports his church and local
23 chamber of commerce, obeys the law and votes. In short, he is a
24 solid citizen running a Montana business that is being threatened
25 by out-of-state beekeeping interests. One of the reasons Montana
26 beekeeping has been successful is the laws and rules under which
27 it operates. It is now time to up-date that law so Montana's bee-
28 keeping industry will continue to operate on a solid foundation.

29 III. Beekeeping On A National Level.

30 1. According to the latest available figures, there were
31 4.15 million colonies of bees in the United States in 1979. (U.S.
32 Department of Agriculture.)

1 2. In 1979 the total national honey production was 237
2 million pounds with an average yield of 57.2 pounds per hive.
3 (Note: The average in Montana is 100 pounds per hive. This is why
4 out-of-state beekeeping interests move into Montana.) The National
5 production of beeswax in 1979 was 3.73 million pounds. The value
6 of the honey was 140 million dollars and the beeswax 4.5 million
7 dollars for a total of 144.5 million. (U. S. Department of
8 Agriculture figures.)

9 3. In 1971, the value of crops produced in the United States
10 that are dependent upon insect pollination was \$3,343 million dollars.
11 (This is 3.34 billion). Twenty-eight crops fall into this category
12 and include everything from alfalfa seed to watermelons. These
13 1971 figures are the latest ones I could find. If we allow for an
14 inflation rule of six percent per year these figures would be half
15 again as much.

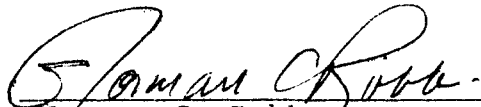
16 4. In 1971, the value of other crops which benefit
17 from insect pollination was 4.328 million dollars. (This is 4.33
18 billion.) This combined with the 3.3 billion value on crops
19 dependant on insect pollination gives a total of 7.67 billion dollars.
20 It cannot be denied that honeybees are a tremendous factor in the
21 success of our national agricultural industry.

1 5. One-third of the total American diet is derived
2 directly or indirectly from insect pollinated plants and crops.
3 The honeybee is the primary insect pollinator.

4 ITEM FIVE: CONCLUSION:

5 The foregoing outline of Senate Bill 146 and the foregoing
6 facts and figures should be ample data for the legislature to
7 pass the bill into law in the content sought by the Beekeepers.

8 Dated this 3rd day of March, 1981.

9 

10 Norman C. Robb
11 515 Savings Center Bldg.
12 Missoula, Montana 59801
13 Attorney for Montana State
14 Beekeepers Association
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NAME NORMAN C ROBB TITLE Senate Bill 146
BILL NO. SB 146
ADDRESS 515 S. Main St. Bldg DATE 3/4/81
representing Montana
WHOM DO YOU REPRESENT Montana State Teachers Assn.
SUPPORT X OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

NAME James C. Hill BILL No. 145

ADDRESS _____ DATE 5/9/61

WHOM DO YOU REPRESENT Senators Henry, Mac

SUPPORT ✓ OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

NAME Morris K Dahle BILL No. S.B. 146
ADDRESS Box 974 Sidney, MT DATE 3/9/21
WHOM DO YOU REPRESENT Myself
SUPPORT X OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments: NO

NAME William Mitchell BILL No. SB 146
ADDRESS 344 W. Main St. Phila. Mt DATE Mar 9 81
WHOM DO YOU REPRESENT Mitchell Bros. Plowage
SUPPORT X OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

RONALD & MRS JOE BARNETT

NAME BARNETT APIARIES BILL No. SB. 146

ADDRESS Box 501 DATE 3-9-81

WHOM DO YOU REPRESENT BARNETT APIARIES

SUPPORT SB 146 OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

We are in definite support of
SB. 146.

NAME Boyd D. H/c BILL No. SR 146

ADDRESS 405 1st St DATE

WHOM DO YOU REPRESENT

SUPPORT OPPOSE AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

NAME W.D. CURRIE BILL No. 196
ADDRESS P.O. Box 306 CHOTEAU MT. DATE 3-9-81
WHOM DO YOU REPRESENT JOHN M. HONEY
SUPPORT YES OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

W.D. Currie

NAME Cok. Cunniff BILL No. 146
ADDRESS P.O. Box 306 Pocatemo, ID DATE 3-9-81
WHOM DO YOU REPRESENT Script M. Honey
SUPPORT Yes OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

NAME M. R. Currier BILL No. 146
ADDRESS R.R. 2 Chatam N.C. DATE 3-9-81
WHOM DO YOU REPRESENT Wright M. Hazzey
SUPPORT Yes OPPOSE no AMEND no

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

NAME Dolly Anderson BILL No. 176
ADDRESS Bx 306 DATE 3-9-81
WHOM DO YOU REPRESENT Script M. Honey
SUPPORT yes OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

NAME Marjorie M Baines BILL No. SB 146
ADDRESS 24 N Walnut DATE 3-9-81
WHOM DO YOU REPRESENT Beaverhead Honey Co
SUPPORT yes OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

I am 100% in favor of SB 146.
The Honey industry of Montana needs this!

NAME Robert V. Daines BILL No. SB-146
ADDRESS 24 N Walnut - Dillon DATE 3-9-81
WHOM DO YOU REPRESENT Beaverhead Honey Co
SUPPORT yes OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

NAME P. J. Anderson BILL No. S 13 146
ADDRESS Valley Mount DATE March 9, 1981
WHOM DO YOU REPRESENT _____
SUPPORT X OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

NAME Marian Mendelsohn BILL No. SP 146
ADDRESS Committee MT DATE March 481
WHOM DO YOU REPRESENT M. J. C.
SUPPORT X OPPOSE AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

I support this Bill.

NAME Gene Seelman BILL No. 146
ADDRESS 210 Highway Rd DATE 3-9-81
WHOM DO YOU REPRESENT Montana Beekeepers Assn & self
SUPPORT X OPPOSE ~~Q~~ AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

As president of the Montana State
Beekeepers Assn. I would like to go
on record as being in support of
SB 146 as it was passed in the Senate
More Than \$6 million agricultural
business in Montana.

NAME Paul Petersen BILL No. SB 146
ADDRESS Deer Lake DATE 3-9-81
WHOM DO YOU REPRESENT Arrowhead Properties
SUPPORT X OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

*We are in full support of this Bill
as a business necessity.*

NAME _____ BILL No. _____

ADDRESS _____ DATE 5-9-81

WHOM DO YOU REPRESENT _____

SUPPORT _____ ☒ OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

VISITORS' REGISTER

HOUSE

Agribusiness

COMMITTEE

BILL

SB-146Date 3-9-81

SPONSOR

NAME	RESIDENCE	REPRESENTING	SUPPORT	OPPO
Ronald A. Barnett	Box 1042, BELGRADE, MT.	BARNETT APIARIES	SB146	
Mrs. JOE BARNETT	Box 501, Belgrade, MT.	" "	SB146	
Russell Gense	Box 304 Belgrade	Gense Bros	SB146	
Donald Gense	Box 304 Belgrade	"	SB146	
Russell Gense	Box 304 Belgrade	"	SB146	
Chris Kirkling	Box 22 Belgrade	Kirkling Bros	SB146	
Norman Mitchell	Rt #1 Box 71A	Florence MT	SB146	
Lashlea Mitchell	Rt #1 Box 71A	Mitchell Bros Florence MT	SB146	
William R. Mitchell	Box 4 White Mts A	Mitchell Bros	SB146	
Marion M. Power	24 N. Walnut	Arrowhead Honey Co	SB146	
Robert V. Barnes	24 N. Walnut	Arrowhead Honey Co	SB146	
Russ Jensen	Three Forks MT	Sorenson Bros	SB146	
RJ Sorenson	"	"	"	
Bob Mendenhall	HAMILTON MONT	Mendenhall	SB146	
Marion Mendenhall	Hamilton "	Mendenhall	SB146	
Dave Castleberry	GLASGOW	Northern Bloem Honey	SB146	
RG Anderson	Valin	Glenis Honey	SB146	
Esther Anderson	Valin	Glenis Honey	SB146	
Bob Davis	Valin	Clower Bee Honey	SB146	
Don Sweet	Powder	Sweet Honey Co	SB146	
Paul Peterson	Deer Lodge	Arrowhead Apiaries	SB146	
Rita Peterson	Deer Lodge	Arrowhead Apiaries	SB146	
Paul Peterson	Deer Lodge	Arrowhead Apiaries	SB146	

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

HOUSE

AGRICULTURE

COMMITTEE

BILL

57 146

Date _____

23-9-81

SPONSOR

[illegible]

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

HOUSE Agriculture COMMITTEE

DTLL 073 151

Date 3-9-87

SPONSOR _____

[illegible]

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

HOUSE

COMMITTEE

FTLL

SD 146

Date

3-9-81

SPONSOR

[illegible]

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

TESTIMONY IN SUPPORT OF
SENATE BILL No. 156

MEMBERS OF THE HOUSE COMMITTEE ON AGRICULTURE:

I'm happy to be here today representing the American Dairy Association of Montana.

My name is Kent Hendrickson and I presently serve as the part time manager of ADA of Montana. I have held this position for the past five years. At the time I began working in this capacity I was the Administrator of the Utah Dairy Commission, a very successful program similar to the one the dairy farmers of Montana are desirous of establishing as outlined in Senate Bill 156 which we are discussing today.

First, let me give you a little background on what the ADA of Montana is. ADA of Montana is an organization of local Montana Diarmen working together to try and improve their market for the sale of milk and dairy products. This is accomplished through a coordinated program of advertising, public relations, merchandising, nutrition education, nutrition research, and dairy research. In order to do this and be effective it takes money. At the present time about 12% of the dairymen in Montana participate in the program at a rate of 1% of the producer gross pay from the sale of milk and cream. With this type of participation about \$35,000.00 is generated annually, which is just not adequate to do the job that is needed in todays inflationary market.

In order to accomplish the goals of the ADA of Montana the local leadership started planning a way to raise more funds to finance the program. In doing this they looked to other states where successful programs were functioning and found that in the majority of the areas there was some type of enabling legislation established to provide a check-off to raise funds. In the states where there was not legislation the milk was controlled principally by one large cooperative and a check-off was made by action of the board of directors. They also found that there were only two states in the entire Continental United States that did not have some type of a successful well-funded program. Those states are Nevada and Montana.

Let us look for a minute at the type of funding being used by some of our neighboring states.

The following have state legislation:

Washington	Oregon	California
Utah	Idaho	South Dakota
North Dakota	Minnesota	

The following have Federal Order Legislation:

Texas	New Mexico	Iowa
Kansas	Nebraska	Arkansas
Oklahoma	Illinois	Missouri
Louisiana		

The following have programs which are each dependent upon large cooperatives:

Wyoming	Colorado	Arizona
Wisconsin		

Obviously some type of program is needed to provide the necessary funding for an effective program. This is the reason we appear before you today to seek your support in establishing the Montana Dairy Marketing Committee.

Senate Bill 156 would create the Montana Dairy Marketing Committee whose purpose would be to establish a public policy to protect and foster the health, prosperity and general welfare of the state's people by encouraging and promoting intensive, scientific and practical production and marketing of fluid milk and dairy products, thereby also contributing to the economy of the state through the greater production of wealth, the stabilization of property values, and the reliability of public revenues as a result of enhanced bases of taxation. This would be accomplished by the following items:

1. Engage in dairy research, education, advertising, promotion and publicity.
2. Attempt to find new markets for dairy products and their by-products.
3. Promulgate and publicize statistics and other reliable information showing the value of milk, cream, and other dairy products considered useful.
4. Encourage the widespread national and international use of dairy products and by-products produced in the state of Montana.
5. Investigate and participate in studies of the problems peculiar to the producers of Montana.
6. Accept grants, donations and gifts from any source to be expended for any or all of the purposes previously mentioned.

Now let me take a minute and briefly outline how the Montana Dairy Marketing Committee would be organized. Initially the

committee would be composed of five members each of whom is an adult citizen of Montana actively engaged in the production of milk for a minimum of five years. This committee would be appointed by the Governor and each member must be a resident of a particular district as outlined in the bill. Terms of office would be for five years with the initial appointments being for staggered terms as specified in the bill. The Governor would receive his list of nominees for appointment from any producers, provided such list is submitted at least 45 days prior to the effective date of this legislation and thereafter at least 45 days prior to the expiration of any members term. The committee would be allocated to the Department of Livestock for Administrative purposes only. Committee members would receive compensation of \$30.00 for each day they are actually engaged in the transaction of official business plus travel expenses as provided in 2-18-501 through 2-18-512. They would organize with a chairman, vice chairman, and a secretary at the first meeting and annually thereafter. They shall meet at least once every three months and at such other times and places as called by the Chairman or a majority of the committee.

The Montana Dairy Marketing Committee would be funded by a levy being assessed upon each producer of $\frac{1}{2}$ of 1% of the gross dollar periodic settlements for the sale of milk and cream produced in the State of Montana and sold or contracted for sale through commercial channels, which assessment is due on or before the time when the milk or cream is first sold or contracted for sale in commercial channels. The assessment shall be paid by the first purchaser to the Department of Agriculture not later than the 25th day of the next succeeding month in which the milk or cream is sold or contracted for sale. Penalties are provided for those who do not comply.

There is also a provision for a producer who for any reason does not desire to participate in the program to receive a refund of monies paid. This is done quarterly.

This pretty well sums up what we are requesting in the bill now before you. Now let me briefly explain some successes which which can come from the bill.

As indicated earlier, I administered a similar program in Utah so I will refer to what happened there. In 1970 Utah had a program called ADA of Utah. Under this program about 45% of the dairymen in the state were participating at a rate of two cents per hundred weight of milk produced. This generated a fund of approximately \$60,000.00 per year which was not adequate to provide an effective program in a state with just over one million people. At that time the ADA of Utah board decided to seek legislation providing for an assessment of $\frac{1}{2}$ of 1% of the producers' gross pay when the 1971 legislature met. The bill was drafted and passed both houses of the legislature with only three dissenting votes being cast in the process. The program

was then established and we saw milk and dairy product sales begin to increase. In fact we were able to average just over 5% per year increase in sales of milk and dairy products after adjusting for the population increases we were experiencing.

This year the commission decided to return to the legislature and seek an increase to one percent. At this time the bill is moving through the legislative process with no apparent opposition.

To give you an idea of the support we had, the first year of the program we refunded to producers who did not wish to participate just under \$8,000.00 of a total income of around \$325,000.00; and in 1979 there were requests for only \$1,879.00 in refunds from an income in excess of \$470,000.00! I conclude that this speaks well for the success of the Utah program and the support of the dairy farmers there.

I want to emphasize S.B. 156 does not create any additional burden for state government financially or otherwise. It is directed only to the unification of a commodity group whose members are trying to improve themselves and at the same time enhance the future of agriculture in Montana. Also the principle is not something new in Montana. There are presently other commodity groups now doing the same thing as we propose for the dairy industry.

We solicit your support in passing Senate Bill 156 for the best interests of the Montana dairy industry.

Thank you for your attention.


G. KENT HENDRICKSON

STATEMENT OF INTENT

SENATE BILL 156

Senate Agriculture, Livestock and Irrigation Committee

1 A statement of intent is required for this bill because
2 it grants rulemaking authority to the Montana dairy
3 marketing committee for the administration of this act. It
4 is the intent of the legislature that the committee adopt
5 rules relating to the awarding of contracts and research
6 grants, and establish priorities, one of which should be
7 nutritional education. The committee should also prescribe
8 the form for applications for reports and refund
9 applications. The legislature intends that the rules
10 adopted by the committee be primarily procedural in nature
11 and govern the workings of the committee.

12 First adopted by the Senate Agriculture, Livestock and
13 Irrigation Committee on the 6th day of February, 1981.

1 SENATE BILL NO. 156

2 INTRODUCED BY HAGER, B. BROWN

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A MONTANA
5 DAIRY MARKETING COMMITTEE; ESTABLISHING THE POWERS OF THE
6 COMMITTEE; AND IMPOSING A 1/2 OF 1 PERCENT ASSESSMENT ON
7 CERTAIN SALES OF MILK FOR PURPOSES OF ADMINISTERING THE
8 ACT."

9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Purpose. It is the public policy of this
12 state to protect and foster the health, prosperity, and
13 general welfare of its people by encouraging and promoting
14 intensive, scientific, and practical production and
15 marketing of fluid milk and dairy products, thereby also
16 contributing to the economy of the state through the
17 production of wealth, the stabilization of property values,
18 and the reliability of public revenues as a result of
19 enhanced bases of taxation.

20 Section 2. Definitions. As used in [this act], unless
21 the context otherwise requires, the following definitions
22 apply:

23 (1) "Committee" means the Montana dairy marketing
24 committee provided for in [section 2 3].

25 (2) "Dealer" means a person who handles, ships, buys,

1 processes, and sells dairy products or who acts as sales
2 purchasing agent, broker, or factor of dairy products.

3 (3) ~~"DEPARTMENT"~~ MEANS THE DEPARTMENT OF LIVESTOCK.

4 ~~§3(4)~~ "Person" means an individual, corporation,
5 partnership, trust, association, cooperative, or any other
6 business unit, device, or arrangement.

7 ~~§3(5)~~ "Producer" means a person who produces milk
8 from cows and sells it for human or animal food or for
9 medicinal or industrial uses.

10 ~~§3(6)~~ "Producer-handler" means any person who
11 produces milk or milk fat and uses the production ~~or~~ of any
12 part of it for processing or sale.

13 ~~§3(7)~~ "Ship" means to deliver or consign milk or
14 cream to a person dealing in processing, distributing, or
15 manufacturing dairy products for sale, for human or animal
16 consumption, or for industrial or medicinal uses.

17 Section 3. Appointment of committee -- composition --
18 districts -- nominees -- terms of office. (1) The governor
19 shall appoint the Montana dairy marketing committee which
20 shall be composed of five members, each of whom is an adult
21 citizen of Montana actively engaged in producing milk who
22 has derived a substantial portion of his income from the
23 production of milk for a minimum period of 5 years. One
24 member of the committee shall be appointed from each of the
25 following districts and must be a resident of and must have

1 milk producing facilities in the district from which
2 appointed:

3 (a) district 1, consisting of the counties of
4 Flathead, Lake, Lincoln, Sanders, Glacier, and Toole;

5 (b) district 2, consisting of the counties of
6 Missoula, Ravalli, Mineral, Powell, Silver Bow, Granite, and
7 Deer Lodge;

8 (c) district 3, consisting of the counties of Cascade,
9 Lewis and Clark, Teton, Pondera, Liberty, Chouteau, Juwith
10 Basin, Hill, Blaine, Phillips, Valley, Daniels, Sheridan,
11 Fergus, Petroleum, and Roosevelt;

12 (d) district 4, consisting of the counties of
13 Yellowstone, Sweet Grass, Stillwater, Carbon, Big Horn,
14 Powder River, Carter, Fallon, Musselshell, Rosebud, Custer,
15 Wibaux, Dawson, Richland, McCone, Garfield, Prairie, Golden
16 Valley, and Treasure; and

17 (e) district 5, consisting of the counties of
18 Gallatin, Park, Madison, Beaverhead, Jefferson, Broadwater,
19 Meagher, and Wheatland.

20 (2) Committee members shall be appointed for a term of
21 5 years, except that the terms of office of the committee
22 members first appointed shall be as follows: district 1 for
23 5 years; district 2 for 4 years; district 3 for 3 years;
24 district 4 for 2 years; and district 5 for 1 year. Members
25 appointed to fill unexpired terms shall be appointed for the

1 remainder of the unexpired term. Any committee member who
2 discontinues producing milk in this state or who changes his
3 residence to another district during his term of office
4 shall forthwith cease to be a member of the committee.

5 (3) A list of nominees for appointment to the
6 committee may be submitted to the governor by any Montana
7 trade association, the membership of which is confined to
8 milk producers, provided that such list must be submitted at
9 least 45 days prior to [the effective date of this act] and
10 thereafter 45 days prior to the expiration of any member's
11 term.

12 (4) The committee is allocated to the department of
13 agriculture for administrative purposes only, as provided in
14 2-15-121.

15 Section 4. Compensation -- per diem. A member of the
16 committee is entitled to compensation of \$30 for each day he
17 is actually and necessarily engaged in the transaction of
18 official business, plus travel expenses as provided in
19 2-18-501 through 2-18-503, incurred while on official
20 business.

21 Section 5. Election of committee officers -- time of
22 meetings. At the first meeting and annually thereafter, the
23 committee shall elect a chairman, vice-chairman, and
24 secretary from among its members. The committee shall meet
25 at least once every 3 months and at such other times as

1 called by the chairman or a majority of the members of the
2 committee.

3 Section 6. Powers of the committee. (1) The committee

4 may:

5 (a) adopt rules necessary for the administration of
6 [this act];

7 (b) provide, through the department, for the
8 enforcement of [this act];

9 (c) engage in dairy research, education, advertising,
10 promotion, and publicity;

11 (d) attempt to find new markets for dairy products and
12 their byproducts;

13 (e) promulgate and publicize statistics and other
14 reliable information showing the value of milk, cream, and
15 dairy products for any purpose considered useful;

16 (f) encourage the widespread national and
17 international use of dairy products and byproducts produced
18 in Montana;

19 (g) investigate and participate in studies of the
20 problems peculiar to the dairy producers in Montana;

21 (h) enter into all contracts necessary or advisable in
22 the furtherance of [this act]; sue and be sued; appoint and
23 employ officers, agents, and other personnel, including
24 experts in agriculture, dairying, and the publicizing of
25 dairy products, and prescribe their duties, and fix their

1 compensation, make use of all advertising means and methods
2 as the committee considers advisable and enter into
3 contracts and agreements for research and advertising within
4 and without the state; lease, purchase, and own real or
5 personal property necessary for the administration of [this
6 act]; prosecute in the name of the state any suit or action
7 for the collection of the assessment provided for in
8 [section 7] and

9 (i) accept grants, donations, and gifts from any
10 source to be expended for any or all purposes consistent
11 with [this act].

12 (2) The committee shall keep books, records, and
13 accounts of all its activities, which shall be public
14 records.

15 (3) None of the powers or duties provided in [this
16 act] permit participation in state or federal political
17 action by the committee.

18 Section 7. Assessments -- refunds. (1) Beginning on
19 [the effective date of this act], there is assessed upon the
20 producer a levy of 1/2 of 1% of the gross dollar periodic
21 settlements for the sale of all milk and cream produced in
22 the state of Montana and sold or contracted for sale through
23 commercial channels, which assessment is due on or before
24 the time when the milk or cream is first sold or contracted
25 for sale in commercial channels. The assessment shall be

1 paid by the first purchaser or producer-handler to the
2 department of agriculture not later than the 25th day of the
3 month next succeeding the month in which the milk or cream
4 is sold or contracted for sale in commercial channels.

5 (2) If a purchaser or a producer-handler fails to
6 remit any money so collected or fails to make deductions for
7 assessments, a penalty of 20% shall be added to the amount
8 of any assessments that are unpaid when due, and the penalty
9 shall be paid by the purchaser or producer-handler.

10 (3) The assessment constitutes a lien prior to all
11 other liens and encumbrances upon the milk or cream, except
12 liens that are given priority by a statute of this state.

13 (4) A producer may obtain a refund of assessments paid
14 under [this act] for the prior calendar quarter upon
15 submission of a written, verified request to the committee.
16 The request must be filed with the committee on or before
17 the close of the 40th day following the close of the
18 calendar quarter and must be accompanied by the original
19 statements received by the producer from the purchaser at
20 the times of settlement.

21 Section 8. Purchaser's statements. (1) The purchaser
22 or the producer-handler at the time of each settlement shall
23 make and deliver separate statements for each purchase to
24 the producer, and these statements shall be delivered at the
25 time of each monthly or bimonthly payment date.

1 (2) The statements shall be on forms and in such
2 numbers as prescribed and approved by the committee and
3 shall include at least the following:

4 (a) the names and addresses of the producer and
5 purchaser or producer-handler;

6 (b) the dollar value of the milk and cream sold;

7 (c) the amount of the assessment collected in
8 accordance with [this act]; and

9 (d) the date of the purchase.

10 (3) The statements shall be legibly written or typed
11 and shall be free of any corrections or erasures on the face
12 thereof.

13 (4) Any person who alters any part of any statement is
14 guilty of a misdemeanor and upon conviction shall be
15 punished as provided by [section 12].

16 Section 9. Dairy products research and marketing
17 account. (1) There is an account in the federal and private
18 revenue fund known as the dairy products research and
19 marketing account. The following shall be placed in the
20 account:

21 (a) the proceeds of all assessments and penalties
22 collected under [this act]; and

23 (b) the proceeds from all gifts, grants, and donations
24 to the department of agriculture for activities authorized
25 under [this act].

1 (2) The dairy products research and marketing
2 committee account shall be maintained for the purposes of
3 [this act] and shall be separate from all other accounts of
4 the department.

5 (3) The committee may be assessed costs by the
6 department ~~only---for---those---services---requested---by---the~~
7 ~~committee FOR THE SERVICES IT PROVIDES UPON REQUEST OF THE~~
8 ~~DEPARTMENT OR PURSUANT TO 2-15-121. HOWEVER, THE COSTS~~
9 ~~CHARGED MUST HAVE A SUBSTANTIAL RELATIONSHIP TO THE COST OF~~
10 ~~THE SERVICES PROVIDED.~~

11 Section 10. Inspection of records. The committee
12 through its authorized agents may enter and inspect the
13 premises and records of any dealer or producer-handler for
14 the purpose of enforcing [this act].

15 Section 11. Contracts for research, promotion, and
16 marketing. The committee may not set up research units or
17 agencies of its own but shall cooperate and may enter into
18 contracts with lawful and proper local, state, or national
19 organizations, public or private, in carrying out all phases
20 of research, education, promotion, advertising, and
21 marketing contemplated by [this act].

22 Section 12. Violations -- penalty. Any person
23 violating any provision of [this act] is guilty of a
24 misdemeanor and punishable by fine or imprisonment, or both,
25 as provided in 46-18-212.

1 Section 13. Severability. If a part of this act is
2 invalid, all valid parts that are severable from the invalid
3 part remain in effect. If a part of this act is invalid in
4 one or more of its applications, the part remains in effect
5 in all valid applications that are severable from the
6 invalid applications.

-end-

STATE OF MONTANA

REQUEST NO. 132-81

FISCAL NOTE

Form BD-15

In compliance with a written request received January 19, 19 81, there is hereby submitted a Fiscal Note for Senate Bill 156 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA).

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

Description of Proposed Legislation

Senate Bill 156 provides new legislation creating a Montana Dairy Marketing Committee and specifies committee powers and duties.

Assumptions

1. This act will be effective July 1, 1981.
2. Funding sources for this act will be derived from assessments levied milk producers.
3. The assessment levied is $\frac{1}{2}$ of 1% on first sale of milk with provisions for refunds.
4. That requests for refunds to be 1% of assessment value levied.
5. The Governor appoints 5 committee members to meet at least every three months.
6. The meetings will encompass $1\frac{1}{2}$ days for each member for each meeting.
7. That the committee requests agency to be recipient and disbursing of assessment funds.
8. The department will assist in adoption of rules, collections, enforcement, activities, and contract review.
9. Two FTE will be required to administer the act.

<u>Revenue Impact</u>	<u>FY 1982</u>	<u>FY 1983</u>
$\frac{1}{2}$ of 1% of \$30,800,000	\$154,000	\$154,000

Fiscal Impact

<u>Total Expenditures of Proposed Law</u>		
Personal Services	\$ 42,052	\$ 42,052
Operations	106,408	110,408
Equipment	4,000	0
Refunds	<u>1,540</u>	<u>1,540</u>
	\$154,000	\$154,000

Fund Information

Earmarked Fund	\$154,000	\$154,000
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The net effect of this measure is \$0 because the additional revenues collected will be offset by additional expenditures.

Daniel M. Lewis

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1-21-81

VISITORS' REGISTER

HOUSE

COMMITTED

ROLL S.B. 156

Date 3-9-81

SPONSOR

[illegible]

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

HOUSE COMMITTEE

BILL *55-152*

Date 3-2-50

SPONSOR Seamus Heaney

[illegible]

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

NAME Jo Brunner Bill No. SB 156
ADDRESS Helena DATE 3/9-5
WHOM DO YOU REPRESENT W. I. F. E.
SUPPORT X OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

Women Involved in Farm Economics
wishes to go on record ^{in support} of Senate Bill
156.

We support the rich industry's willingness
to assess themselves for ^{the} marketing and
research necessary to see their product.