

MINUTES OF THE MEETING OF THE HOUSE AGRICULTURE,  
LIVESTOCK AND IRRIGATION COMMITTEE, FEBRUARY 14, 1983

The meeting was called to order by Chairman Jacobsen on Monday, February 14, 1983 at 12:30pm in Room 129, State Capitol. All members of the Committee were present.

HEARINGS

HOUSE BILL 42. REP. GENE DONALDSON, District 29, Lewis and Clark County, testified as chief sponsor of the bill which was developed over the past six months to protect the producer from grain dealer bankruptcies. He said the bill is one of three addressing the problem, the others sponsored by Representatives Iverson and Manuel, adding he hoped the bills could be coordinated.

REP. DONALDSON explained the bill would provide a lien on all grain sold, advising Section 1 provides definitions, Section 2 a lien law similar to those of Oregon and Illinois for filing a lien with the Secretary of State after 90 days, Sections 5 and 6 priorities for liens and clearing of the liens.

PROPONENTS

MR. GIBSON GOODMAN, Agri-Feeds and Services, Helena, MT, said the bill is self-explanatory and provided the Committee with copies of his testimony (exhibit). He told members there was no control over disposition of assets during bankruptcy proceedings of Coast Trading, in progress for the past 11 months and that the bill would provide control when Chapter 11 proceedings are filed, since the lien ends with the first purchaser of grain.

MR. PAT UNDERWOOD, Montana Farm Bureau stated his support of the bill. He said the Washington State Farm Bureau is supporting similar bills.

MRS. JO BRUNNER, Women Involved in Farm Economics, stated her support of the bill as did MR. BOB STEPHENS, Montana Grain Growers Association, who advised an elevator in Dutton, MT, lost \$495,000 from the Coast Trading bankruptcy.

OPPONENTS

MR. CURT HANSEN, LOBBYIST, Montana Grain Elevators Association, said he did not oppose protection of the producer but the method proposed in the bill. He said the Oregon bill didn't help producers as much as stated, reading from prepared testimony (exhibit). Mr. Hansen told the Committee the bill would create extra costs for elevator owners which would be passed to the producer.

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Mr. Hanson, said he questioned whether the legislation is necessary adding he believes bonding, inspections and licensing are an overreaction to the bankruptcy situation and recommended the bill be given a Do Not Pass motion.

MR. KERRY SCHAEFER, Montana Grain Elevator Association, said the bill would negatively affect many smaller companies and told the Committee the lien law in Washington is quite different from that proposed for Montana. He explained second and third liens could be very dangerous and inhibit the sale of Montana grain.

MR. DAN TREINAN, Peavey Company and Con-Agra, Bozeman, MT, said he had reservations about dealing with independent or small operators because of the lien situation. He commented he thought the bill was vague with regard to protection of the second purchaser.

IN CLOSING, Rep. Donaldson provided committee members with copies of proposed amendments (exhibit), for page 4, line 7 and said his awareness of elevator owner concerns with the bill caused him to believe they were inappropriate since he views the problem as severe and in need of immediate attention.

QUESTIONS

REP. BENGSTON asked who paid for the cost of processing liens. Mr. Goodman replied no paperwork was required and said the lien automatically applied to grain sold. He explained lines existing beyond 90 days could be filed with the Secretary of State.

REP. SCHULTZ asked Mr. Hanson if he felt comfortable with the check-off system and what alternative grain elevator operators could provide to the bill. Mr. Hanson replied the costs would be absorbed by the producer, since there is no such thing as free lunch.

REP. KOEHNKE asked how the program worked in Oregon. Mr. Goodman said the potential return rates were listed on the exhibit with funds going to producers. He said \$7 million was lost, primarily in attorney expenses, adding payment could be called for immediately if the bill were strongly worded.

REP. ELLERD asked how ownership of grain was determined. There was no response to his question.

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REP. LYBECK asked if Oregon producers were satisfied with the program. Mr. Hanson responded, saying only two producers were affected by the Coast Trading bankruptcy, both of whom were satisfied.

REP. SPAETH asked why the lien would be in doubt when the grain is available to the borrower while it isn't paid for. Mr. Hanson replied bankers would have problems in determining the exact amount of a lien. Rep. Spaeth commented bankers could be informed of amounts of grain on hand with bills of lading. Mr. Treinen responded, saying contracts change hourly because of buying and selling and it would be an unworkable situation to show assembly sheets to a banker.

MR. SCHAEFER said it's difficult for a banker to ascertain who actually holds the lien on grain which goes through several buyers.

CHAIRMAN JACOBSEN asked Mr. Treinen if he had an agreement with the elevator when grain was purchased. Mr. Treinen replied rail cars pay 90% in advance and grain shipped by truck is paid in full in 20 days. He told the Committee exported grain is sold by destination rates and grades with a 10% variable for problems such as derailment or germ damage.

REP. SPAETH asked why a lien was not established at the lending institution creating a second lien to the original lien, rather than risking harm to the producer. Chairman Jacobsen advised a producer loses complete control of his grain after it's hauled to the elevator. Mr. Schaefer agreed with Chairman Jacobsen.

REP. SPAETH asked if it were not a free lunch to elevator owners to borrow against grain which is not paid for.

REP. BLISS asked Mr. Goodman what his reaction would be to Rep. Speath's statement, who said the situation in Oregon was handled exactly as stated in testimony. He said the amendments proposed by Rep. Donaldson state bank liens are not superceded by the original lien.

MR. SCHAEFER asvised the Committee grain elevator owners earn interest on grain included in contracts with producers.

REP. ROUSH asked if the bill protects producers who sell grain outside Montana. Mr. Goodman advised there is a problem with Uniform Commercial Codes and liens as the

Uniform Commercial Codes prevail for grain shipped outside the State, according to an attorney representing Coast Trading in its bankruptcy proceedings.

REP. ROUSH asked about mid-western states and Mr. Goodman replied the uniform laws were needed for Uniform Commercial Code protection.

REP. SPAETH asked if the lien problem would be resolved by stating "immediate" payment in bank liens. Rep. Donaldson said there is no centralized lien filing process in Montana with the Secretary of State. He said the secret lien would eliminate this need for the time being.

MR. TREINEN said the problem is difficult to administer since a line must be tracked through each county, adding to producer costs.

The hearing was closed on House Bill 42.

HOUSE BILL 673. REP. DENNIS IVERSON, District 9, Liberty County, testified as sponsor of the bill, providing committee members with a statement of intent (exhibit). He said the bill was written by the Department of Agriculture for better bonding, insurance and security, and that some existing sections were either combined or rewritten.

REP. IVERSON told the Committee subsection 4, page 3 provides a definition of a contract; Section 5, page 6 sets maximum bonding amounts; Section 10, page 8 provides authority for investigation; Section 13, page 11 sets certain requirements for credit sale contracts; subsection 3, relates to warehouse license suspension; Section 17, page 14 addresses county attorney duties; lines 3-5, page 15 establish penalties; subsection (f), page 17 addresses financial statements; Section 24, page 18 establishes a fee schedule; subsection 4, page 19 addresses investment fees, which he said may need to be discussed.

REP. IVERSON further explained Section 26, page 20 establishes a bonding amount; page 21 addresses assets; Section 29, page 23 states licensing prerequisites; page 36 deals with commodities to be kept on hand; subsections (f) and (g), page 41 refer to the commodities dealer license; lines 1-13, page 43 relate to license fees; Section 50, page 44 sets bonding requirements; subsection 2, page 51 provides information on protein lab testing.

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REP. IVERSON said language had been stricken from pages 58 and 59 and that he questions raising the bond level and whether or not bonds would be available, adding the concepts proposed within the bill were necessary.

MR. KEITH KELLY, Director, Department of Agriculture said the Department worked in conjunction with grain elevator owners, farmers and bankers in writing the bill. He told the Committee the bonds were never intended to pay a producer off fully but the bonding company would have looked into the financial credibility of the grain dealer prior to bonding.

MR. KELLY said new language in the bill cleans up existing statutes regarding storage, merchandising and with proposed licensing, budget requirements would increase from the present \$18,000 level to \$60,000 in FY85. He advised revenue generated would almost cover necessary costs, presently \$17,000 and projected to increase to \$50-60,000 by Fiscal Year 1985.

MR. KELLY explained license fees were consolidated into a graduating schedule with regard to the size of the facility and that page 20 of the bill relates to surety bonds for which a certified financial statement is required. He said the new section on bankruptcy requires minimum net assets of \$50,000 and a Certified Public Accountant prepared financial statement. Mr. Kelly told the Committee page 11 pertains to credit sale contracts and payment of purchase price at 90% upon demand, adding page 52 sets standards for testing protein levels in grain.

MR. KELLY said the estimated cost of bonding and licensing for \$100,000 or 1 million bushels annually would be \$600 or \$225 respectively or 1/20 of 1 cent per bushel for dealers and warehouses. He explained costs for a mid-size elevator would be approximately \$1,768 for bonding and \$265 for licensing.

MR. FRITZ JOHANSON, Montana Farmers Union urged the Committee to support the bill.

MR. PAT UNDERWOOD, Montana Farm Bureau stated his support of the bill and commended the Department of Agriculture on its work.

MRS. JO BRUNNER, Women Involved in Farm Economics requested committee support of the bill in prepared testimony (exhibit).

MR. CURT HANSEN, Montana Grain Elevators Association, stated his support of the bill.

MR. BOB STEPHENS, Montana Grain Growers told the Committee he supported the bill but was concerned with language regarding the 90% purchase price.

#### OPPONENTS

There were no opponents of the bill.

#### QUESTIONS

REP. ELLERD asked what bonding companies would require for \$1 million in assets, to which Mr. Kelly replied the cost would range from \$3-4 per \$1,000 to \$11-12 per \$1,000.

REP. ELLERD asked if anyone licensed in Montana could be audited. Mr. Kelly replied they could be and said the bond for small elevators would be \$65,000 and that for large elevator companies, such as GTA, \$1 million, with \$130,000 for mid-sized operations, adding the biggest problem would be for the small owner.

REP. BLISS asked Mr. Hansen what the position would be of grain companies which are required to hold escrows. Mr. Schaefer responded, telling him General Mills would not object and it would be up to the individual producer.

REP. SPAETH, referring to page 46, "upon delivery and demand", asked if the 90% provision would apply if demand for payment was not made. Mr. Kelly said a producer could demand 90% at delivery but could also contract for deferred payment if he chose to do so.

REP. LYBECK asked if the producer were protected when a unit train was fully loaded, under the \$1 million bonding capacity. Mr. Kelly said in his estimation the bond would cover 25% of outstanding grain, adding the bill is not intended to completely remunerate the producer for losses.

REP. SPAETH told the Committee he wondered when delivery took place under a forward contract.

REP. KOEHNKE, referring to Section 54 of the bill, asked if 90% payment upon delivery and the balance within 10 days were automatic. Mr. Kelly said it would be if the producer so requested.

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REP. KOEHNKE asked if Section 54 would address the grain situation he alluded to on February 11. Mr. Kelly replied it would.

REP. JENSEN asked if a bond would be required for a farmer with substantial net worth who went into the seed business or whether his assets would allow him to operate without a bond. Mr. Kelly replied the farmer must be licensed and bonded since he is dealing in a commercial business.

REP. IVERSON explained assets could be deducted from those required and subtracted from bonding requirements if the farm is incorporated, solely owned or a partnership.

The hearing was closed on HOUSE BILL 673.

EXECUTIVE SESSION

CHAIRMAN JACOBSEN appointed a subcommittee to study House Bill 42 and report its findings to the Committee. Rep. Holliday was appointed Chairman with Representatives Spaeth, Lybeck, Schultz and Bliss serving as members. Rep. Ellerd offered to provide the subcommittee with bonding information for its report on February 18, 1983.

HOUSE BILL 667. REP. SAUNDERS moved the bill Do Pass. Rep. Spaeth seconded the motion.

REP. SCHULTZ moved amendments to the bill be approved (exhibit). Rep. Ryan seconded the motion, which was unanimously approved by the Committee.

REP. ERNST told the Committee he thought there was a problem with Section 8 of the bill pertaining to confidentiality. He moved the remainder of line 5 after "confidentiality" be stricken along with all of lines 6-10. Rep. Spaeth seconded the motion which met with unanimous committee approval.

REP. SPAETH suggested the Committee move toward centralization of crimestoppers' programs next session.

REP. SAUNDERS moved House Bill 667 Do Pass as Amended. The motion was seconded by Rep. Roush and unanimously approved by the Committee.

HOUSE BILL 617. REP. UNDERDAL moved the bill Do Pass. Rep. Hanson seconded the motion.

CHAIRMAN JACOBSEN read proposed amendments to the bill, which would reinstate language stricken on page 2, lines 5-7

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and insert new section' (5) on page 3, following line 14. He told the Committee if lines 21-22 on page 1 of the bill were stricken, the language would already be covered by reinsertion of lines 5-7 on page 2 and recommended lines 13-14 (new language only) on page 3 be stricken.

REP. SPAETH asked Rep. Underdal if he were trying to move crop dusters up on the priority list and advised priorities are established in the lien provisions of the bill. Rep. Underdal advised this was his intent.

CHAIRMAN JACOBSEN told Rep. Underdal he would allow a few more days to correct proposed amendments to the bill. Mr. John MacMaster, Legislative Council advised there is a need to clarify changes in the bill.

REP. ROUSH informed committee members his subcommittee would meet Wednesday, February 14 at 7pm or upon adjournment of the House.

The meeting was adjourned at 2:42pm.

  
REP. GLENN JACOBSEN, CHAIRMAN

Joann T. Gibson, Secretary



# STANDING COMMITTEE REPORT

FEBRUARY 14

19 83

MR. **SPEAKER:**

We, your committee on **AGRICULTURE**

having had under consideration **HOUSE** Bill No. **667**

**FIRST** reading copy (**WHITE**)  
color

**A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A LIVESTOCK  
CRIMESTOPPERS PROGRAM WITHIN THE DEPARTMENT OF LIVESTOCK;  
APPROPRIATING FUNDS FOR THE PROGRAM; AND PROVIDING AN  
EFFECTIVE DATE."**

Respectfully report as follows: That **HOUSE** Bill No. **667**

**Be amended as follows:**

**1. Page 4, line 5.**

**Following: "confidential"**

**Strike: remainder of line 5 through "confidentiality" on line 10**

**2. Page 4, line 11.**

**Following: "instruction. Section"**

**Strike: "2"**

**Insert: "3"**

**3. Page 4, line 16.**

**Following: "1985;"**

**Strike: "\$10,000"**

**Insert: "\$20,000"**

**AND AS AMENDED**

**DO PASS**

**REP. GLENN JACOBSEN**

Chairman.

STATEMENT OF INTENT  
House Bill No. 673 [LC 266]

A statement of intent is required for this bill because of the general rulemaking authorization in section 3 and various other specific authorizations located throughout the remainder of the bill.

The Legislature intends that under the general authorization the Department of Agriculture have authority to adopt any rules it may from time to time consider necessary to properly implement the general provisions and the respective sections relating to public warehousing, commodity dealing and grain standards.

The Legislature further intends in those sections containing specific rulemaking authorization that rules will be adopted implementing the language, requirements, and procedures stated therein.

## VISITOR'S REGISTER

HOUSE Agriculture

COMMITTEE

BILL 673DATE 2-14-53SPONSOR Ingersoll

NAME	RESIDENCE	REPRESENTING	SUP- PORT	OP- POSE
K. Kelley	Helena	Dept of Agriculture	X	
Pat H. H. H.	Bozeman	MT. Farm Bureau	X	
Robert D. D.	Helena	Agri. Exch. Serv.	X	
Robert H. H.	Stevensonville	Stevensonville Food & Fuel	X	
Chris H. H.	Grt. Falls	Mont. Farmers Union	X	
Robert Stephens	Dutton	Mont. Livestock Raisers	X	
K. H. H.	Helena	W.I.F.E.	X	
John H. H.	Helena	Farmer	X	
John H. H.	Helena	Farmer	✓	
C. B. HANSEN	HELENA	M. B. E. A.	✓	
KERRY SAWYER	GREAT FALLS	M. B. E. A.	✓	
Jim Stephens	Boz	M. I. F. U.	✓	

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

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

# WIFE Women Involved In Farm Economics



NAME JO BRUNNER BILL NO. HB 42  
HB 673  
ADDRESS 563 3rd ST. HELENA DATE Feb 14  
REPRESENT WOMEN INVOLVED IN FARM ECONOMICS  
SUPPORT X OPPOSE        AMEND       

## COMMENTS:

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE, FOR THE RECORD, MY NAME IS JO BRUNNER AND I REPRESENT THE WOMEN INVOLVED IN FARM ECONOMICS ORGANIZATION HERE TODAY.

MR. CHAIRMAN, OUR ORGANIZATION IS VITALLY CONCERNED WITH THIS PROBLEM WE ARE DISCUSSING HERE TODAY. MANY OF OUR MEMBERS HAVE LOST ENTIRE CROPS TO RECENT BANKRUPTCY PROCEEDINGS. WE ARE CONCERNED THAT THIS WILL HAPPEN AGAIN AND AGAIN, AND WE FEEL THAT WE NEED PROTECTION.

WE ARE HOWEVER, NOT WILLING TO JUMP INTO JUST ANYTHING THAT PRESENTS ITSELF WITH OUR BACKING, THEREFORE, WE SUPPORT EFFORTS TO STUDY VERY THOROUGHLY THESE TWO BILLS, MAKE EFFORTS TO COORELATE THEM FOR THE BEST PROGRAMS FOR OUR PRODUCERS AND TO WORK OUT ANY PROBLEMS THAT THEY MAY HAVE NOW, INSTEAD OF WAITING UNTIL SITUATIONS ARISE WHERE WE THOUGHT WE MIGHT BE COVERED AND WERE NOT.

WE KNOW THAT YOU AS A COMMITTEE REALIZE THE IMPORTANCE TO THE ECONOMY OF MONTANA, NOT ONLY IN PRIOR INCIDENTS, BUT IF THIS SHOULD HAPPEN AGAIN, AND ARE HOPEFUL THAT YOU, TOO, WILL SUPPORT OUR EFFORTS TO PRESENT TO YOU A WORKABLE BILL.

THANK YOU,

*We ask that you understand we are not saying we support  
or are on the side. It is our opinion that these two bills  
you are hearing today - Rep. Donahoe's & Rep. Brown and Rep. Mansel  
bill can do be beneficial to our producers and we ask that  
you do not look at them both in a preference manner.*

*We realize that there is a chair but we would support  
a sub-committee to look deeper into these bills in order for  
and that the end result would be protection for the our  
producers in a bankruptcy proceeding.*

"Hell has no fury like a woman scorned"

WITNESS STATEMENT

Name Pat Underwood Date FEB 14, 83

Address 5195 19th Bozeman Support ? \_\_\_\_\_

Representing \_\_\_\_\_ Oppose ? \_\_\_\_\_

Which Bill ? HB 42- / HB 673 / HB 545 / Amend ? \_\_\_\_\_

Comments:

THE MONTANA FARM BUREAU  
SEES MERIT IN EACH OF THESE  
BILLS AND WOULD LIKE TO SEE  
THEM PUT IN A SUB-COMMITTEE  
WHERE THE BEST COULD BE  
KEPT AND PROBLEMS ADDRESSED

Pat Underwood

Please leave prepared statement with the committee secretary.

WITNESS STATEMENT

Name Chris Johansen Committee On Agriculture  
Address P.O. Box 2447 - Ft. Falls, mt Date 2-14-83  
Representing Montana Farmers Union Support X  
Bill No. 673 Oppose \_\_\_\_\_  
Amend \_\_\_\_\_

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. Realizing the grain laws need to be updated & after having several meetings prior to introduction of H.B 673, ~~the~~ Montana Farmers Union urges you to
2. Act favorably on this bill -

3.

4.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

STATEMENT OF INTENT  
House Bill No. 667 [LC 2027]

A statement of intent is required for this bill because it grants rulemaking authority to the Department of Livestock for the purpose of administering the Livestock Crimestoppers Program.

It is contemplated that the Department establish rules for instituting an award program, including criteria to be used in determining who will receive the rewards and the amount of the rewards in order to guarantee that the rewards be granted through a reasonable and consistent procedure.

It is also contemplated that the Department delineate rules for guaranteeing the confidentiality of persons providing crime-related information. These rules must be in accordance with the constitutional right to know and the right of privacy, so that confidentiality will be maintained only when "the demand of individual privacy clearly exceeds the merits of public disclosure".

It is further intended that, to facilitate the transmitting of crime-related information from the public to the Department, the Department establish a toll-free telephone number throughout the state. This toll-free number should be publicized statewide on the radio and in the press.

Testimony given by: Gibson G. Goodman  
4506 Helberg Drive  
Helena, Montana 59601

In Support of: HB 42,

House Bill 42 is introduced for the purpose of protecting agricultural producers and grain dealers in the event of a purchaser of grain filing bankruptcy prior to paying all accounts due. It is not intended as a cure-all; however, it will provide protection that is currently non-existent. For example, using the Coast Trading Company Chapter 11 proceedings, the present position of producers and dealers is at the bottom of priorities to be paid out of debtor proceeds. The following is a re-cap of the position as it would have been at the date of filing of the bankruptcy and as it stood at the date eight months later at the time a trustee was appointed:

Coast Trading Company financial statement listed:

	Date of Filing	Date Trustee appointed
Secured Short Term Debt	\$8,000,000.00	\$3,200,000.00
Unsecured Short Term Debt	16,500,000.00	16,500,000.00
Priority Claims, (attorney fees, taxes, administrative costs, etc.)	-0-	1,750,000.00
TOTAL OWED	\$24,500,000.00	\$21,450,000.00
Current Assets	\$17,000,000.00	4,600,000.00
Potential recovery from current assets	69%	21%
Net from sale of facilities allowing for sale at 60% of book value	1,600,000.00	1,600,000.00
Total Potential recovery	71%	25%

End result, approximately \$7,000,000.00 in assets disipated in six months of Chapter 11 proceedings and losses of \$300,000 per month are still incurring while the company is being liquidated.

Please recognize that these figures are summarized for ease of understanding. Because unsecured creditors are the last to be paid upon settlement of a bankruptcy, in many cases the time span for receipt of any payment can be 1-3 years because payment will not be advanced until all priority claims have been settled.



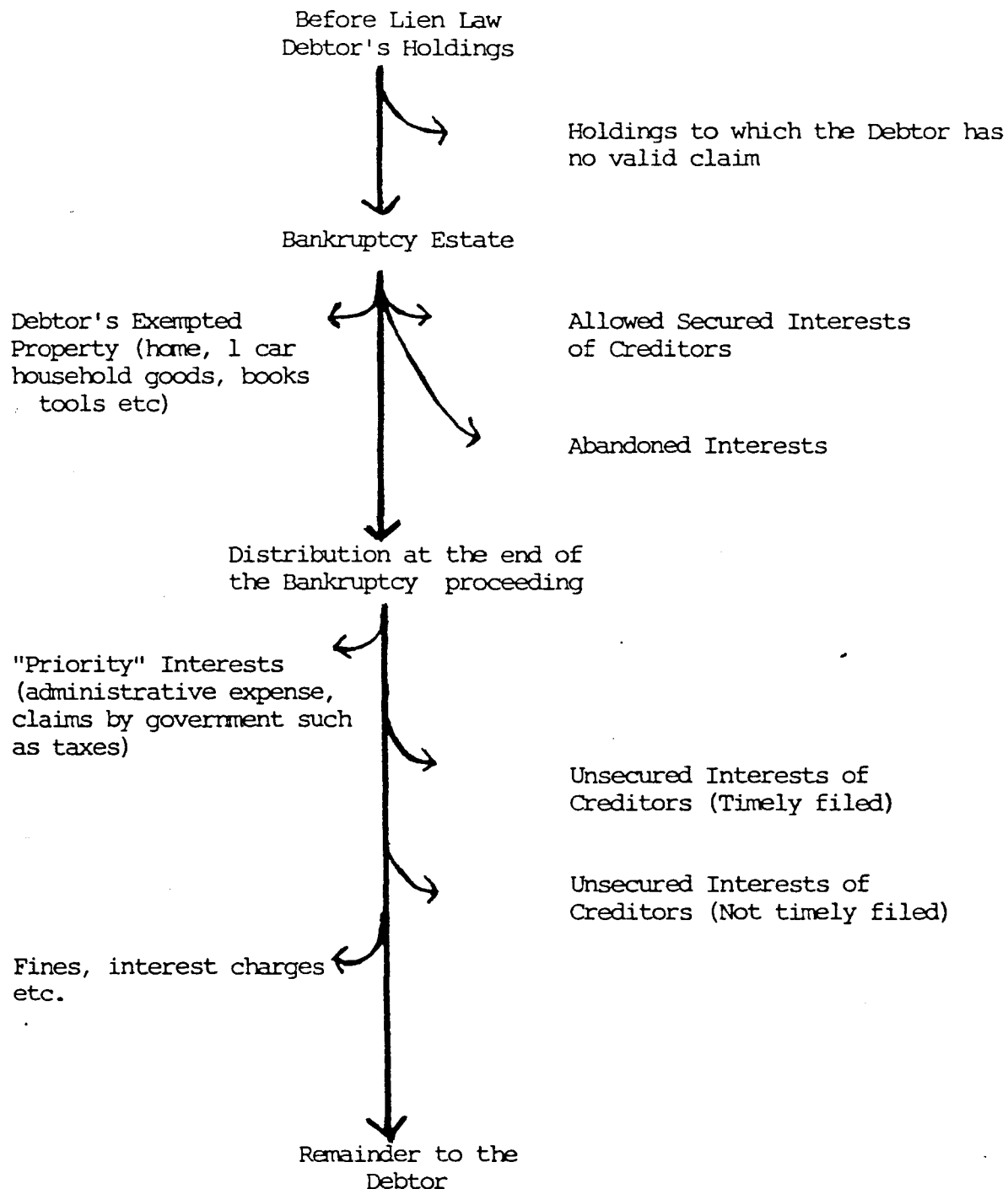
HB 42 if passed, will place producers and dealers in a position of priority behind banks that have perfected security interests. presently, when grain is sold, title goes with possession. This fact enables the purchasing company and their banker to claim that grain even though payment has not been made. In a typical Chapter 11 case, the debtor is allowed to use those assets for administrative expense which have a high priority, with the end result of them using unpaid assets to continue operating, virtually at the expense of unsecured creditors.

Objections used by opponents:

1. Lien would carry beyond the first purchaser. This is a valid concern; however I have obtained opinions from two attorneys who both agree that the lien ends with the first purchaser.
2. Lien would create excess paper work. Not correct, this lien is automatic and does not require filing notice of the lien unless payment has not been received within 90 days. After 90 days, a notice of lien is filed with the Secretary of State. In the grain business, if payment has not been received by 90 days, there is definitely a problem and it would be advisable to file. Most payments are made within 30 days when sold to an out of state company. Any delay over 30 days can be a real indication of problems. Lien automatically releases when payment is made.

In conclusion, I support this bill for the following reasons:

1. Seller will be able to claim his grain or proceeds from his grain as a priority behind the secured bank. Without this lien, sellers lose control immediately on delivery to buyer. In the Coast Trading Company case, two producers in Oregon received payment during the second month. By the time unsecured creditors receive payment, interest costs will have totally wiped out any recovery.
2. It is a law that will require virtually no administration. If the grain trade will accept the lien, I cannot see why it will disrupt any transactions between buyer and seller. The only time it would be utilized would be when a buying company closed their doors or attempted to operate under a Chapter 11.



After Lien Law  
Debtor's Holdings

Holdings to which debtor has no claim:

1. Court approved reclamation claims. This represents grain delivered within 10 days of filing & claimed to court by 10 days after filing.
2. Grain held in storage under warehouse receipts.
3. Grain producers with proven claim under new lien law.

Bankruptcy Estate

Debtor's Exempted  
Property

Allowed secured interests of creditors (Banks, construction liens)

Distribution at end of  
the Bankruptcy Proceeding

"Priority"  
Interests

Unsecured Interests of creditors

Remainder to the  
Debtor

BEFORE THE HOUSE AGRICULTURE, LIVESTOCK & IRRIGATION  
COMMITTEE

IN OPPOSITION TO:

HOUSE BILL NO. 42

Mr. Chairman and members of this committee - My name is Curtis Hansen, I am the registered Lobbyist for the Montana Grain Elevator Association.

I appear here today in opposition to House Bill No. 42. We are not opposed to the concept of protection of the producer's interest in grain and/or those protections needed as evidenced by the Coast Trading Bankruptcy.

However we do object to this ways and means of providing that type protection.

Contrary to what you have heard the "Oregon Lien Law" did not reduce the losses to Oregon Producers to the magnitude beleived. Their losses were reduced mostly due to the price the contracts were obtained at. It was anvantagous to Coast Trading to honor and complete those contracts.

We also must remember that regardless of what we do here, we are not going to supersede Federal Bankruptcy Law. Federal Bankruptcy proceedings are still going to depend, in large part, on the interpetations of the individual Bankruptcy Judge.

This bill would, However, severly limit abilities of Grain Elevators. Because of the lien that would exist, the ability of the elevator operation to borrow money at lending institutions would be limited. This arises because the lending institution cannot ascertain ehether the lien is in effect or whether it has been discharged, and how much of the grain, therefore, is still covered by the lien. This means company owned stocks cannot be used for collateral since they will be needed to secure the position of the producer should a bankruptcy occur. The banks have admitted that adjustments will be made should this type of lien go into effect. These adjustments come in the form of less money available for the company to borrow and higher interest rates paid for that money. This in turn comes off the net price the producer would normally realize.

It is difficult to understand why a producer should be treated any differently than any other business in that he has avenues available to him at the present time to guarantee a better position in a bankruptcy. These avenues include the filing of Uniform Commercial Code papers on the elevator company at the time of deposit.

Further, I think we must look at the position we now seem to be in, and not where we were some time ago. We must remember, "IF IT AINT BROKE DON't FIX IT" and " IF IT AINT NEEDED DON'T PASS IT"

Since the Coast bankruptcy; Producers are much more aware of protective avenues already available to them under existing law..... There appears to be a good chance that Rex Manual's Grain Producer's indemnity bill will become law..... The Agricultural Commodities Act is being completely rewritten. Bonds for elevators have been increased from about \$20,000 to 2 million dollars, Licensing restrictions have become much more stringent. Licensure fees have increased dramatically. Inspections of Books, assets, liabilities and operations have been rewritten to assure, as much as possible, that elevator operations are financially sound.

There has been a lot of very good actions and reactions resulting from the Coast Bankruptcy. However, let's not over react and damage one segment of the industry which would in turn damage those we are attempting to protect.

Within the provisions of the Agricultural Commodities Act is a requirement that the producer be paid 90% of the total sale price of the grain delivered to an elevator upon delivery and demand. This is the best protection ever available to any producer "cash on delivery". If, However, the producer wishes to take the risk of a deferred payment or deferred price contract, he must be sure who he is dealing with and provide himself with the protections now available under existing law.

We feel, for the reasons as stated herein, that this law would be an unnecessary burden on the Grain Elevator Companies which would be passed on to the producer. That such protections as provided by this bill would be limited and not worth the problems caused for the industry as a whole. We question just how effective these provisions would be in the case of another bankruptcy.

We, therefore, respectfully suggest that this committee recommend a "DO NOT PASS" for House Bill No. 42, and that we wait and look at what we have to work with after this session and then see what, if anything, additional is needed and properly address those needs after thorough examination and review.

Thank You,

Curtis B. Hansen  
for  
The Montana Grain Elevator Association

## AMENDMENT TO HOUSE BILL NO. 42

Amend House Bill No. 42, introduced bill, Section 5, page 4, line 7, following the ., insert the following sentence:

"Nothing set forth herein in any way affects the status or priority of the lien of a creditor of the agricultural commodity producer."