

MINUTES OF THE MEETING
AGRICULTURE, LIVESTOCK AND IRRIGATION
STATE CAPITOL BUILDING

February 22, 1985

The Agriculture, Livestock and Irrigation Committee meeting was called to order on the above date in Room 415 of the State Capitol Building at 1:00 p.m.

ROLL CALL: All members present.

SB 360: Senator Kolstad said there were some people present who will explain the bill one more time.

Norm Johnson, Regional Office Manager, Harvest States Cooperative, said he had brought along two people, Steve Curtis, their lab manager in Great Falls and William Fennings, truck dispatcher, who was their grain inspector and is a licensed grain inspector in the State of Montana.

Senator Boylan asked John MacMaster, Legislative Researcher, if he had any new amendments. John said he had Senator Tveit's amendments. One amendment said the warehouse or owner may request reinspection which was fine but it also said they can request a federal board appeal and the State can't mandate that the federal government give an appeal to someone. Also, it said an official grade protein certificate must be issued by a US Grain Standards Act designated official inspection agency. Again, they can't require the US government to issue this type of thing. Other than that, the amendments are worked in.

Senator Kolstad said Senator Tveit told him he would like to have the bill tabled.

Senator Hammond didn't want to lose the State lab.

Senator Kolstad agreed because it is extremely important not only to the Triangle area, but all grain producing areas but if you are going to fund the lab you should fund the lab.

Senator Aklestad didn't think the lab would close up in two years. He thought if they were really in trouble, the Department will, in some way, try to keep them open or go to the Finance Committee with a proposal to keep them open. He did not feel this bill was the way to do it. Under existing law an individual not satisfied with the test can demand the elevator send a sample to the State lab.

DISPOSITION OF SB 360: Senator Aklestad moved SB 360 BE TABLED.

Steve Curtis, Harvest States, said this bill would eliminate their lab and all other private labs. It would not increase State business by 10% as said on Monday. It would expand the State lab to 25 people, but put his lab out of business. The State lab is in a dry year. He said his lab has a very low

volume going through and they have laid off one person. They should have laid off two. The State lab may have to reduce their force more but they aren't going to go under with the staff they have now. They should be holding their own.

Senator Kolstad suggested we add in the amendments before tabling the bill. Revised amendments, Exhibit A.

Senator Conover asked if the committee saw anything wrong with amendment 4, line 2, page 2. It says you may appeal to the Department if you are unsatisfied with your sample. Senator Kolstad said you can do that right now.

John MacMaster said amendment 4 puts back into the bill language deleted from the bill on p. 1, lines 21 through 25 and on p. 2, lines 1 and 2. It is worded better.

Senator Aklestad asked why it was taken out. Curtis - In this bill you have eliminated the private labs. You have said they have to send it to the State lab, that's it. You obtain a waiver from the farmer giving up his right to appeal the test. Nobody would want to do that, so you have eliminated us. The other section says you can do that.

Senator Aklestad - If we are going to amend this bill we should amend it back to its original form. If the producer is not happy with the test he will be able to send the test into the State lab.

Senator Kolstad did not think we should be passing this bill at this time.

Senator Aklestad - If we table SB 360, the language on line 21 through 25 in the old law remains.

A vote on Senator Aklestad's motion that SB 360 BE TABLED was called for. Motion carried. For the record, Senators Conover, Lane and Williams voted NO.

SB 448: Senator Ray Lybeck, SD 4, told the committee the bill authorizes a Board of County Commissioners to license and regulate horse riding stables. The bill gives counties the option to go ahead and institute these regulations if such is their desire. The reason is that there are not over a dozen counties in the state that have horse rental stables. It is left up to the individual counties. The situation that prompted this bill was brought to his attention by a very unfortunate and untimely accident that occurred in Flathead County a year ago last summer. A young boy was dragged to death by a horse. He told the committee that the parents of the boy were here today, having flown in from the Seattle/Tacoma area, to testify in regard to the need for this bill.

PROPONENTS: Garry Eddings, 3035 Whisper Drive, Bremerton,

Washington, read his testimony to the committee. Within his testimony were some amendments he provided for the county commissioners. Exhibit #1.

Anita Eddings, address as above, mother of the young boy who died, gave her testimony. Exhibit #1.

Gordon Morris, Executive Director, Montana Association of Counties, gave the committee written testimony in support of the bill. Exhibit #3. He went on to question the terms "may" prevalent throughout the bill, as on line 10, "may license" and again on line 17, "may require". He thought the "may" permissive and if the Board did not adopt regulations controlling stables and riding academics, or worse, if they did adopt a resolution or ordinance that set up regulatory mechanisms then as a condition of the "may require", would they render themselves viable. It was a major concern. He thought the only way you could address that would be to say "shall" instead of "may".

Committee questions: Senator Bengtson - Where it says the Board may further define horse riding stables and it refers to a stable as such, there is a place in her area that has a lot of horses. People come there by the hundreds and ride these horses. There is a roping arena and maybe they are regulated under some other section of the law. What sort of flexibility and latitude does this give the individual counties? It is not described too clearly in this bill what a horse riding stable is. There are also a lot of stables where people take care of horses, feed them, etc. Morris - What you would end up with would be a patchwork quilt of city ordinances or resolutions attempting to individually address the problem, rather than a uniform standard. Bengtson - You indicate you like this local flexibility, yet you admit it is a patchwork approach. Morris - You are correct on both counts. We do adhere to local flexibility but, in this particular case, there may be a better authority for governing these cases.

Senator Aklestad - Are establishments like this required to have a business license? Morris - I am not absolutely certain.

Senator Lybeck - To my knowledge there is no requirement for them as of today to have any type of license or inspection.

There are no rules and regulations covering that. Senator Aklestad - We do have rules and regulations covering dude ranches. Would they fall under that category and criteria?

Senator Lybeck - The researcher working on this bill looked into that and considered it. He understood that dude ranches and outfitters are regulated through Fish Wildlife and Parks. That would not be applicable to this area because they wouldn't fall under the same category. The people who use them would be a different clientele than ones using a back country outfitter taking hunters in. This type of legislation would be better handled through the county commissioners. Senator Aklestad - This individual did not have liability insurance?

Eddings - Yes, he did. Senator Aklestad - If this Board had been formed, how often would it have to inspect this individual to prevent that accident from happening. Senator Lybeck - Flathead County has an animal warden who was well acquainted with this operator. Before they arrested him on 9 counts on cruelty to animals, they were up there on numerous other complaints. There was nothing there to give that animal warden any authority to inspect the animals and equipment.

Senator Williams - When was he charged with the 9 counts of cruelty? Senator Lybeck - Following the accident in late August. The county attorney did investigate the establishment after the accident and found several cases where the equipment and several of the horses were not suitable to this type of use or operation. It was poorly run.

Senator Bengtson - Do you think this would correct the situation? Would you be willing to go back and put in some additional language? She didn't think the bill had any teeth in it. Senator Lybeck - In discussing this with the county commissioners the animal warden and the Flathead sheriff's office, they wanted this type of language. It would give them enough teeth that they could adopt an ordinance to cover this and it had the flexibility they needed.

Senator Hammond - Isn't it true a county can pass an ordinance or law on a county basis to do this now? Do they need this law? John MacMaster, Legislative Researcher, was not sure but understood there are two types of local governments. One, basically the county can only do those things the State law specifically grants them, like this bill here. Two, the other type of local government is the type where they can exercise those powers unless State law prohibits it. He thinks counties are the former type but he would have to check. He thought they have to have specific statutory authority to do so. Senator Hammond - If the first is true, they need the bill, if the latter is true, then this bill really doesn't help because they already can do it. John - correct.

Senator Kolstad suggested John research this before the committee acted on it.

Senator Williams asked Gordon Morris to comment on this. Morris-John is correct. Counties in Montana do not have ordinance making powers. This law grants them ordinance making power in the area of regulating riding stables. There is only one other area where we currently have county commissioners empowered to pass ordinances to regulate an activity at the local level and that is dog control. They have licensing authority in the law right now. They can license itinerant vendors, dance halls, billiard halls and bowling alleys. So they have limited licensing authority. This bill would add this as one additional area covering a county resolution mandating or establishing criteria.

Senator Aklestad - If we pass this bill as is with the "may's" in, the county who does not go ahead and form a Board could possibly be liable then if they had an accident? Morris - That was his initial question to the committee. If the Board of County Commissioners, under the "may" provision opt to establish criteria with the licensing, but in the criteria did not establish the liability considerations, would they become liable from a legal standpoint. He thought they would in so far as their licensing authority as set forth in the law. If they did not also include the liability consideration, they may in fact end up being liable. Senator Aklestad asked John to check into that further. John - As far as the county powers, if they have organized themselves under self government with a charter, then they would have any power not prohibited by the Constitutional statutes. If they haven't, then they could only do those things the statutes permit. He thinks it would depend on the type of county you are talking about. The county would have had to organize itself as a self government charter county. If it has not, then it has powers provided or applied by law, under the Constitution.

Senator Lybeck, in closing said the county commissioners are making decisions daily. Decisions where, according to Mr. Morris, they can be liable. They understand and realize their job and responsibility and can handle this if we give them the opportunity to do it. He did not think legislators want to pass laws that mandate that counties have to establish a licensing board. He said we should give them an opportunity to do some of these things that are needed and maybe we can prevent a tragedy such as they had in Flathead county.

Senator Boylan asked Senator Lybeck if he was comfortable with the bill in its present form or did he think it should be amended. Senator Lybeck - From what he got from the researcher who did the work on it, plus the district judge, Michael Keedy where the original idea originated, he felt comfortable with it.

DISPOSITION OF SB 448: Senator Conover moved SB 448 DO PASS.

Senator Conover did not see the bill as mandating the county commissioners and the "may" states if they wish. They are not putting them behind the 8 ball and they can go ahead.

Senator Williams had a problem in determining what we were telling them.

Senator Conover - You may have a riding stable in your county. This doesn't make it mandatory.

Senator Severson wondered what we were getting into. He had the greatest sympathy for the parents and the child but, after listening to the story and what happened, the horse didn't kill, the equipment did. If you have a small child riding in tennis

shoes there should be covered stirrups. There must be some uniform rules as far as a child's riding academy but he didn't know what we were asking. Maybe the State should write some rules. There has to be some regulations that are uniform.

Senator Aklestad wanted some research done. He would like to know if FWP has any jurisdiction under this type of situation.

Senator Lybeck - As I said before, from what the researcher told me, he looked into that. They are covered under them and regulated by them, but what we are trying to accomplish here would be better handled by going through the counties with their ordinances. I think we have responsible people on the county level and they can come up with workable situations to provide inspection and safety for the consuming public coming along to rent this type of equipment. The county commissioners would welcome this. They have been frustrated to no end as has the county attorney, sheriff's office, animal warden and so on. They have gone up there repeatedly trying to correct the situation. They knew they were having trouble but didn't have the law or ability to go in and shut him down or inspect him.

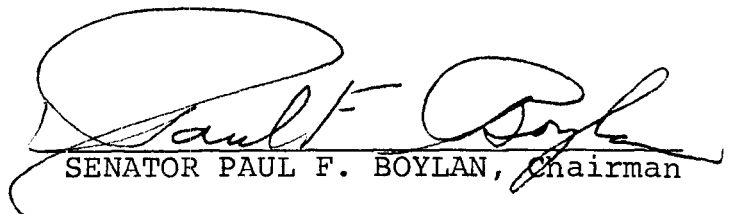
Senator Bengtson - There is flexibility here. She couldn't see it would do any harm and maybe it would do some good.

Senator Hammond - This is an enabling act allowing the county commissioners to do something. I wouldn't vote for this if it said "shall". There are different needs in different counties.

John said he had called Lee Hyman, staff attorney, who works a lot with county law. If the bill passes with the word, "may", the county does not regulate. If an accident does occur, the county would not be liable. If they think there is a problem with one of the horse riding stables they would use this law to regulate and go after the guy. If there was no problem, maybe they would regulate and maybe they wouldn't. If they never regulated them there would be no problem.

Senator Boylan called for a vote on Senator Conover's motion that SB 448 DO PASS, in its original form. Motion carried.

There being no further business, the meeting adjourned.



SENATOR PAUL F. BOYLAN, Chairman

ROLL CALL

AGRICULTURE, LIVESTOCK & IRRIGATION COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date 2/22/85

SENATE
SEAT
#

	NAME	PRESENT	ABSENT	EXCUSED
1	SENATOR GARY AKLESTAD	✓		
27	SENATOR ESTHER BENGSTON	✓		
35	SENATOR JACK GALT	✓		
34	SENATOR H. W. (SWEDE) HAMMOND	✓		
10	SENATOR ALLEN KOLSTAD	✓		
38	SENATOR LEO LANE	✓		
48	SENATOR RAY LYBECK	✓		
31	SENATOR ELMER SEVERSON	✓		
39	SENATOR BOB WILLIAMS	✓		
29	SENATOR MAX CONOVER, V. CHMN.	✓		
50	SENATOR PAUL BOYLAN, CHAIRMAN	✓		

Each day attach to minutes.

DATE. Feb. 22, 1995

COMMITTEE ON

VISITORS' REGISTER

[illegible]

(Please leave prepared statement with Secretary)

Exhibit A.
2/22/85
SB 260

AMENDMENTS TO SENATE BILL 360

page 1, line 11

"80-4-710 Official grade and protein test

page 1, line 16

container with the owner's name on it. A ~~1-pint~~ 2-quart
portion of

page 1, line 21 --page 2-line 5

(2) If either the warehouseman or owner is dissatisfied with the results of the grade and/or protein tests, he may request a reinspection, federal appeal, or a federal board appeal to the department. An official grade and protein certificate must be issued by a United States Grain Standards Act designated official inspection agency for all grain delivered to a warehouse, unless the producer or owner of the grain waives, in writing, the right to an official test. Preprinted waivers attached to grain contracts of sale shall be printed in bold type and require an additional signature of the seller. This preprinted waiver must be approved by the department.

page 2, line 10

with the cost of each grade and/or protein test must be deducted and paid

Exhibit #1
SB448
22 Feb. 1985

I would like to take this opportunity to thank the members of this committee for allowing my wife, Anita and myself testify at this hearing. I realize that your obligation is to the citizens of this state and not necessarily to outsiders, however your consideration of this Bill before you today pertains to any person or family who wishes to enjoy a family outing on rented horses and ponies, citizens or tourists alike.

My family has reason to be interested in this Bill because on August 8th, 1983, we were at a horse rental establishment in Columbia Heights, north of Kalispell. We rented three ponies for our three children at the time and were leading them through a pasture. The pony that my oldest son, Joshua, was riding raised his head, lowered his ears and bolted. My son became entangled in the lead rope and was drug to his death over a rock-covered pasture.

At the time we rented the ponies, we did not know that Josh's pony was only 15 months old. We did not know that the saddle he was sitting upon was unsafe for use. We did not know that this type of establishment would treat thier animals cruelly. We did not know that we would lose our precious, oldest son in a setting that should have ended with excitement and joy, instead of terror and death.

I am convinced that, if my son had not been killed during this outing, I would not be here before you today, nor would there be a piece of legislation such as this submitted for your consideration. However, my son did die and thank God that there are those of you in this State who are not willing to let this type of irresponsibility continue. I believe this is the type of legislation that will be a silent sentry to all in your state and tourists as well who are not horse enthusiasts, but wish to enjoy a relatively safe, pleasurable ride for the enjoyment of their children from time to time.

While I favor the intent of the Bill, I am not so naive as to believe that each county commissioner will be inclined to pursue this authorization by the State, since many are ^{SYMPATHETIC} representatives of constituents that this Bill would impact. Therefore I propose that there be stronger language imposed so as to MANDATE licensure and regulation by the counties of Montana.

I believe that the great majority of professional horsemen in this field would welcome this quality assurance for the protection of their business and their clientele. I believe this Bill would help further the cause of humane treatment to the animals through increased spot inspections as provided by our proposed amendments. And, Foremost, I believe I have an obligation as a father to try my very best to provide another child a safe and happy ride that I was not able to provide for my own son.

I would strongly urge your committee to consider the following additions to the proposed legislation:

SECTION 1

Line 11 - An authorized agent of the board of county commissioners shall be authorized to perform spot inspections to insure compliance to regulations.

SECTION 2

Line 16 -and shall establish minimum age and training requirements for rental animals. Likewise, age, training and supervision requirements for employees shall be established.

SECTION 5 (New Section)

Revocation of license for violation of regulations shall require suspension of operations until said violations are rectified and license reissued.

While your weigh these additions to this legislation, I would ask you to envision your own young child, first being dragged and screaming in terror, and then being thrown around lifelessly, bouncing off rocks and the horse's hooves. Would you consider yourself a very good parent if you did not stand up and try to prevent another child's unnecessary harm?

I am sure that this legislation will cost someone money. I pray that the people of the State of Montana are as caring as they have led my family to believe. I pray that they hold life and safety above the inconvenience of licensing and inspection to the horse rental industry. Thank you.

NAME: Arula Eddings DATE: 2-22-84

ADDRESS: 3035 Whipple Dr NW, Rumson, NJ 08312

PHONE: 1-201-830-4874

REPRESENTING WHOM? myself

APPEARING ON WHICH PROPOSAL: SB 448

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENT: I'm here on behalf of my son, Arula Eddings, killed June 2nd at Motor View
Highway. I was advised by Elder Hansen, Columbia
North, Rutgers & Newark. I am a parent and
the son of a police officer. I would like to
the age of the ^{SPENDING} but that a national
and I have been told that this is possible
& I am, I am plus to receive a fair trial
to it. Elder Hansen wasn't present when he tested the
situation. He was the witness in claim of a young
unmarried girl, Arula, who was a rooming house
girl. Shouldn't be a girl that long - that long
but a rooming house. I don't want to. I don't want to
& please someone use the house. I don't want to
PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

happened to our family. On 5 years the time will
then I see you. I don't want to see the house
closed down. He is a victim of a great crime.
Arula Eddings. The house. Arula Eddings.

been closed & our son's horrible death prevented,
Why did our 6/8 yr. son have to die?

Exhibit # 3
SB 448

**MONTANA
ASSOCIATION OF
COUNTIES**

1802 11th Avenue
Helena, Montana 59601
(406) 442-5209

February 22, 1985

TO: Senator Paul Boylan, Chairman
Senate Agriculture Committee

FROM: Gordon Morris, Executive Director

The Montana Association of Counties has reviewed SB 448, sponsored by Sen. Ray Lybeck. The proposed legislation would allow counties to license and regulate horse riding stables.

Insofar as the bill is permissive, the Association is in support of the purpose of the legislation. We view this as a local issue, and when the residents of a county have identified a problem they wish to have solved at the local level, we applaud the legislature's intent to allow the board of county commissioners to respond to those local concerns.

MACo

STANDING COMMITTEE REPORT

February 22

85

19.....

MR. PRESIDENT

We, your committee on **AGRICULTURE, LIVESTOCK & IRRIGATION**

having had under consideration..... **SENATE BILL** No. **448**

first

reading copy (**white**)
color

AUTHORIZE BOARDS OF COUNTY COMMISSIONERS TO LICENSE HORSE RIDING STABLES

Respectfully report as follows: That..... **SENATE BILL** No. **448**

DO PASS

~~DO NOT PASS~~

.....
PAUL F. BOYLAN,

Chairman.