

MINUTES

MONTANA SENATE 53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON AGRICULTURE, LIVESTOCK, & IRRIGATION

Call to Order: By Senator Rea, on January 6, 1993, at 1:00 p.m.

ROLL CALL

Members Present:

Sen. Jack "Doc" Rea, Chair (D)
Sen. Francis Koehnke, Vice Chair (D)
Sen. Gary Aklestad (R)
Sen. Tom Beck (R)
Sen. Betty Bruski-Maus (D)
Sen. Gerry Devlin (R)
Sen. Gary Forrester (D)
Sen. Mike Halligan (D)
Sen. Bob Pipinich (D)

Members Excused: None

Members Absent: Sen. Burnett

Staff Present: Doug Sternberg, Legislative Council
David Martin, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: SB 30, SB 59
Executive Action: None

HEARING ON SB 59

Opening Statement by Sponsor:

SB 59 was introduced by Sen. Weeding, District 14, at the request of the Department of Livestock. The bill is designed to prevent negligent movement of livestock. It would place the responsibility of knowing which livestock is transferred to the mover.

Proponents' Testimony:

Cort Mortenson, Executive Secretary, Board of Livestock, stated the bill is designed to give county attorneys and department inspectors more flexibility in enforcing these issues to differentiate between negligent and willful use. He stated that it does not happen often but does happen.

Example: In moving cattle from summer range, a rancher accidentally picks up a couple of strays from another rancher. The

department can then go the rancher and look for those strays and have them returned to the owner. This is an example of negligent rather willful movement. This provision gives county attorneys more latitude and does not weaken the original bill. Cort also read definitions of willful and negligent.

Opponents' Testimony:

None

Informational Testimony:

None

Questions From Committee Members and Responses:

Sen. Forrester asked Mr. Mortenson if this could be covered under other statutes such as "Good Neighbor" or other theft statutes. Mr. Mortenson stated that it would cover calves, unbranded cattle and willful situations. This would be a misdemeanor rather than a felony since witnesses are hard to find. The difficulty arises in trying to prove intent. Negligent misdemeanors would keep records for willful prosecution in the future and encourage that ranchers be more attentive as to which stock they possess.

Sen. Devlin asked if this dealt with brand inspected cattle and how many times a year this situation occurs. Mr. Mortenson replied that it did not deal with brand inspected cattle and that it did not apply to cattle that were moved only across one county line which may be exempt from inspection. He further stated that this happens "a few times every year" and this legislation is to encourage more operator awareness as to cattle possession.

Sen. Beck asked if a rancher could be prosecuted for transporting and temporarily holding stray cattle while waiting for the owner to come and get them. This could possibly lead to vindictive prosecution or that a person could still be prosecuted that did not have willful intent. Mr. Mortenson felt this would provide more latitude for officials.

Sen. Aklestad felt the intent was good but the letter of the law could lead to excessive prosecution. He also questioned the absence of livestock at the hearing organizations and wanted to know if the Livestock Board supported it. Mr. Mortenson replied that the board did support it and he took responsibility for not having other support groups there.

Sen. Koehnke asked who requested this legislation. Mr. Mortenson replied it was the field inspectors and the county attorneys. The Sen. Koehnke replied that it was not a problem in his area. Mortenson reemphasized that it covers mainly transportation that does not require inspection.

Sen. Halligan wanted to know if the bill was targeted for willful

offenders. Mortenson replied that it happened too often and referred other questions to Lon Mitchell, staff attorney for the Department of Livestock. Sen. Halligan wanted to know the applicability of other criminal standards to this situation. Mr. Mitchell stated that they reviewed statutes and were trying to deal with the noncriminal or incautious user. This activity also costs the producer, but the penalty will serve as a warning to offenders. Restitution is not a part of this penalty. Sen. Halligan mentioned that perhaps restitution would be as effective since the misdemeanor fine is so low.

Sen. Pipinich told the committee he didn't like bill due to the wording. He felt it might not lead to clear resolutions of disputes.

Sen. Devlin felt that it might be a catch-all proposal and will fine innocent users. Mr. Mortenson stated that the Department of Livestock tries to fairly administer all laws and recognized the concerns of the Committee.

Sen. Beck asked Sen. Halligan to clarify willful and negligent. Sen. Halligan replied that willful implies specific intent to steal, whereas negligence is failure to use reasonable care. In addition, that may not prevent the county attorney from pressing charges and then have defendant prove innocence. Sen. Beck felt the reverse could happen and that discretion should be used in application. This could go too far and be used vindictively by other ranchers.

Sen. Halligan asked Doug Sternberg, Legislative Council, for his opinion. Sternberg stated that this added another tool for enforcement officials. He read the definitions of negligence and knowingly. "Knowingly" implies that person is aware that his actions may have adverse effects.

Sen. Halligan suggested that using "knowingly" in place of "negligently" may take away the specific intent problem that is occurring.

Closing by Sponsor:

Sen. Weeding envisioned the circumstances as somewhat different as presented in the Committee. In his county there is a combination of public and private ownership and that sometimes movers are not as careful as they should be. SB 59 could provide some solution.

HEARING ON SB 30

Opening Statement by Sponsor:

Senator Aklestad, District 6, presented SB 30 which would change collection procedures on wheat and barley assessments. When a bushel of grain is sold the ASCS, Agricultural Stabilization and

Conservation Service, would take approximately a one-cent check off which would go to the Wheat Research and Marketing Committee.

The problem occurs if the farmer sells at the local market rather than to the Commodity Credit Corporation (CCC). On sale day another check-off may be taken if the paperwork does not reach the elevator on the same day. This may also occur if the farmer forgets to bring the proper paperwork or tell the elevator operator that he has already had a check-off. Loans that are taken out on the grain can be affected by this extra check-off.

The current system sometimes permits double check-offs to occur. The intent of this bill is not reduce the amount of money that goes to the Wheat Research and Marketing Committee. Rather, it would cut down on the paperwork and eliminate the double check-off.

Proponents' Testimony:

Leo Giacometto, Director of Department of Agriculture. (Exhibit #1).

Randy Johnson, Executive Vice President of the Montana Grain Growers Association. (Exhibit #2).

Opponents' Testimony:

None

Informational Testimony:

None

Questions From Committee Members and Responses:

Sen. Devlin asked if there was a documentation at the ASCS on the loan form. Sen. Aklestad replied in the affirmative. Sen. Devlin followed by asking if the individual farmer had that proof. Sen. Aklestad said that farmer would have that record filed away but not readily accessible.

Sen. Beck asked if a direct call to the ASCS would supply that information. Sen. Aklestad replied that there is not consistent policy at every elevator. Some will accept phone confirmation and some will not and require documentation. The current rules do not allow for phone confirmation.

Sen. Halligan asked what effect this would have on the Wheat and Barley Committee. Sen. Halligan had conferred with them and felt that there will be a minimal effect. This income should not be derived through an abusive situation. One possible solution would be a higher initial check-off, but only one time.

Sen. Beck stated that most producers would double-pay only through their own negligence.

Sen. Halligan felt that action should be withheld until the

"bugs" could be worked out and the effects fully understood.

Sen. Aklestad feels this bill does not create a great impact since fewer related loans are taken out at this time. This action would correct a problem of this system.

Sen. Beck expressed the concern of the Montana Grain Growers. In the event market prices drops and there is a large volume of loans, what will the effect be.

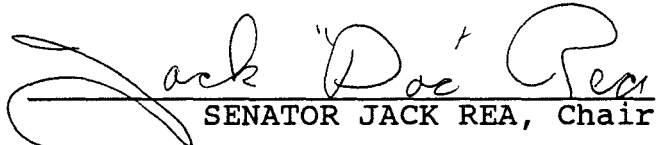
Sen. Aklestad will let legal staff cover that, but referred to page 1 line 23.

Closing by Sponsor:

Sen. Aklestad summarized that SB 30 would eliminate paperwork. He has contacted state and local ASCS offices which are in favor of it. It would reduce paperwork concerning double check-offs and eliminate a burden to the farmers. This proposal would not change the intent of the original legislation and he would like to see it pass.

ADJOURNMENT

Adjournment: Meeting was adjourned at 2:02 PM.


SENATOR JACK REA, Chair


DAVID MARTIN, Secretary

JR/dm

ROLL CALL

SENATE COMMITTEE AGRICULTURE DATE 1-6-93

[illegible]

FC8

Attach to each day's minutes



MARC RACICOT
GOVERNOR

**STATE OF MONTANA
DEPARTMENT OF AGRICULTURE**

OFFICE OF THE DIRECTOR
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EXHIBIT NO. _____
DATE _____
BILL NO. _____

**Wednesday, January 6, 1993
Senate Committee on
Agriculture, Livestock and Irrigation**

Testimony, Senate Bill 30

Chairman Rea, Members of the Committee, for the record I am Leo Giacometto, Director of the Montana Department of Agriculture. The Department of Agriculture supports Senate Bill 30. This bill is introduced for the purpose of preventing the possibility of double check off assessment charges on wheat and/or barley.

A fiscal note has been requested. We are in the process of researching implications of Senate Bill 30 and possible changes in assessment revenue. If double assessment charges are occurring at this time some reduction in assessment revenue would be anticipated.

The Montana Grain Growers Association and others are also here today.

SENATE AGRICULTURE
EXHIBIT NO. 1
DATE 1/6
BILL NO. SB 30

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Testimony of the
Montana Grain Growers Association
before the Senate Agriculture Committee

Senate Bill 30

January 6, 1993

Mr. Chairman, members of the Committee, my name is Randy Johnson. I am the Executive Vice President of the Montana Grain Growers Association. The MGGA supports SB 30. This bill will simplify the assessment procedure and ensure that producers are not assessed twice for the same bushel of wheat or barley.

However, MGGA must point out two problems this bill may create. While we do not have solutions for these problems, we are compelled to point them out and caution that should they develop this matter will need to be addressed at a later date.

The first problem concerns the loss of income to the Montana Wheat and Barley Committee should we get into a situation where producers do not redeem their loan grain, but rather forfeit it to the Commodity Credit Corporation. If loan grain is forfeited to the CCC, rather than being sold into normal market channels, there would be no mechanism to assess that grain should this bill be passed. Certainly, that situation will only come about if wheat and barley prices fall dramatically from current levels, but it could happen. Currently, wheat prices are about 88 cents above the loan rate and barley prices are 22 cents above loan levels.

In 1993, we have additional protection against producer forfeiture of loan grain because the marketing loan provision will be in effect. That provision, mandated because of the failure to reach a GATT agreement, allows a producer to redeem his grain at the current price rather than the loan rate. However, should a GATT agreement not be reached, there are no assurances the marketing loan will remain in effect beyond 1993.

The point is, there is a possibility of loan forfeitures reaching levels again that could harm the on-going programs of the Wheat and Barley Committee and we all need to be aware of that possibility.

The second problem that you need to be aware of is that SB 30 will result in a reduced level of income to the MW&BC. Grain that is used as feed on the farm on which it is produced, grain that is processed and sold as a specialty product and grain that is used for seed will most likely not be assessed under this change. Currently, many producers who use their grain in the above situations rather than selling it into commercial markets, take a CCC loan on the grain and redeem it as they consume it. Therefore, this grain is assessed. If we do not assess loan grain, we would estimate that from five to seven million bushels of grain will slip through the crack and the MW&BC will lose \$50,000 to \$70,000 in revenue.

I would point out that this reduced income is approximately one half the cost of a wheat or barley breeding program at MSU. These are research programs that past Legislatures have chosen not to fund and have asked the MW&BC to fund. Should this Legislature continue to reduce research funding and ask producers to pick up the slack through their grain assessment, we are endangering the future of the agriculture industry in Montana, the state's largest source of income. I would hope you keep this in mind as you struggle through this session.

Thank you for your attention. I would be happy to try to address any of your questions at the proper time.

SENATE AGRICULTURE
EXHIBIT NO. 2
DATE 1/6/93

DATE 1/6/73

SENATE COMMITTEE ON AGRICULTURE

BILLS BEING HEARD TODAY: SB30 SB 59

Name	Representing	Bill No.	Check One	
			Support	Oppose

J. R. Giacometti	Dept. Ag	SB30	✓	
Randy Johnson	Montana Grain Processors	SB30	✓	
Cork Mortensen	Dept. of Livestock	SB59	✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY