### MINUTES

## MONTANA SENATE 53rd LEGISLATURE - REGULAR SESSION

### COMMITTEE ON AGRICULTURE, LIVESTOCK, & IRRIGATION

Call to Order: By Senator Koehnke, on January 29, 1993, at 1 p.m.

### ROLL CALL

### Members Present:

Sen. Francis Koehnke, Vice Chair (D)

Sen. Gary Aklestad (R)

Sen. Tom Beck (R)

Sen. Betty Bruski-Maus (D)

Sen. Jim Burnett (R)

Sen. Gerry Devlin (R)

Sen. Gary Forrester (D)

Sen. Mike Halligan (D)

Sen. Bob Pipinich (D)

Members Excused: Sen. Rea

Members Absent: None

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 254

Executive Action: HB 58

### **HEARING ON SB 254**

### Opening Statement by Sponsor:

Sen. Gage, District 5, stated that a call from a constituent prompted him to investigate the function of the Milk Control Board (MCB). He concluded that the board did not set milk prices, but rather a floor for those prices.

Sen. Gage said that he checked with the legislative auditor. He stated that his first impulse was to abolish the Milk Board, but after talking with producers, he decided that a system of pricing was needed at the producer level. Sen. Gage said that a federal system could be set up if there was not a state system, but that it could take 2 to 3 years.

Sen. Gage said that one of his most disturbing discoveries was that of a quota system. If a person is not currently a producer, does not have an outlet for their milk and is not willing to buy someone else's quota, then it is difficult to enter the milk producing business. Sen. Gage said that this is analogous to liquor licenses, which are limited. He said that he was going to try and educate the Committee about the Milk Board, regardless of SB 254's outcome.

Sen. Gage cited information from a 1976 - 77 Legislative Auditor's Report. Sen. Gage said Milk Boards were created in the 1930's to insure a stable supply of safe milk as an emergency measure. Sen. Gage is now asking the Committee to repeal that measure.

Sen. Gage stated that Montana milk control laws are among the most comprehensive and stringent in the nation. The current law requires the state to fix the minimum price at every level from the producer to resale, including dairy farmers, processors, distributors, and jobbers, as well as the price of milk in the local dairy case.

Sen. Gage stated that distribution methods have not changed radically in recent years. There is no incentive in Montana for and efficient, cost-effective distribution systems.

Sen. Gage said when compared to surrounding non-controlled states, Montana has the highest distributor gross margin, the difference of what the distributor pays for the milk and what he receives for it. In general, states with milk resale controls have higher distributor gross margins, while non-controlled states have lower distributor gross margins.

Sen. Gage said he did not feel that SB 254 would cause massive dairy closings. Other dairy closings have occurred, but are not related to this bill, evidenced by the absence of small dairies. This is a consumer bill, and the consumer should not be expected to pay the existing milk prices in Montana. Sen. Gage said that this pricing control costs the citizens of Montana a large amount of money, possibly up to \$4 million a year.

### Proponents' Testimony:

None

Opponents' Testimony:

Tim Huls, President - Montana Dairymans Association, stated that the issue of deregulation comes up periodically. He acknowledged that the Milk Board sets the price at wholesale producer and retail level, thus stabilizing the industry and providing a quality product. There have been recent modifications to the pricing system.

Mr. Huls stated that he would prefer state control over federal because of flexibility and accessibility. He added that Washington and Oregon are converting from a federal to state control price system.

Concerning the quota system Mr. Huls said that in the United States in general, milk is produced without regard to demand, with the assumption being the federal government would purchase any surplus. The state-controlled Montana system recognizes that there is a limited market. The quota system does not prohibit new producers from entering the market. The Milk Control Board has nonindustry members serving on the board to watch out for the concerns of consumers. The Board is funded by the milk producers, not the taxpayers.

Mr. Huls said that Montana producers have tried to improve their distribution systems. The retail price system keeps Montana producers in the market. Without this system, Montana producers could be undercut by out-of-state producers.

Mr. Huls said that Wyoming deregulated their dairy industry and lost the industry. Their needs are met by improved distribution systems from other states.

Consumers would not benefit from a price standpoint by deregulation. The industry is united behind this issue, it works for processors, producers and consumers.

Keith Nye, General Manger of Country Classics Dairy Incorporated, (also known as DairyGold) is opposed to SB 254. (Exhibit #1.) He presented evidence to compare consumer prices to other states, which shows that prices are similar. Mr. Nye compared the retail price and consumer prices of a half gallon of milk for the past 7 1/2 years. There has been a 10% increase in the cost of a one-half gallon of milk, which Mr. Nye stated was not excessive. The producers cost has increased 14% in that same time period. The raw milk industry is estimated at \$40 million per year. The processors contribute \$200 million per year, excluding the impact of jobs. Elimination of the Board would require the dairymen to fund regulation themselves and would double what they currently pay to support regulation.

Jock Anderson, MeadowGold Dairy, which processes over 53% of all raw milk in Montana, said that the state has managed the milk industry well. SB 254 would not affect his company's market participation in the long run, but he feels that the current system works well.

Ed McHugh, Cloverleaf Dairy - Helena, said his company has wholesale, retail, and jobbers in Montana. Mr. McHugh opposes SB 254. He reiterated that the Milk Control Board is consumer, not industry, related. He thought that the Legislative Auditor's report that Sen. Gage referred to was at least 10 years old.

Since that time, the Board has updated policy to meet current needs. Montana has the special consideration of serving few people over a large area. There has been a 14% price increase in the cost of milk in the last 7 1/2 years, an increase less than the cost of living.

Steve Gibson, President of Montana Jobbers Association, stated that jobbers are independent businessmen and are opposed to SB 254. Jobbers buy raw milk and sell it to someone else. SB 254 would be devastating to the 66 jobbers in the state. These are low overhead/low profit margin companies that service rural communities often ignored by larger producers. Mr. Gibson's company previously owned a route in Wyoming. The price of milk in urban Wyoming is slightly higher than rural Wyoming, but lower than Montana. The current milk control system is working. Passage of SB 254 would devastate the milk industry in this state.

Larry Kaufmann, Billings, MT, said that a stable market was needed in Montana to protect the investment and the industry. He opposes SB 254.

Lorna Frank, Montana Farm Bureau, opposes SB 254.

### Questions From Committee Members and Responses:

Sen. Halligan asked Mr. Huls to explain how the quota system worked, specifically in terms of locking out new producers. Mr. Huls explained that a producer would be paid on the basis as if he owned 20% of quota during the months in which there is an ample supply of milk. During the other months he would be paid 30%. This would give this operator an opportunity to look for quota to purchase. Prices for quota are based on a daily pound. If a person produced 1000 pounds per day, that would be their quota. Prices for daily pounds range from \$16 to \$20. For example:

A 100 cow dairy would have roughly 20,000 pound quota, a 50 pound average.

Sen. Halligan asked as a practical matter if many people buy and sell quota. Mr. Huls said yes. Producers both buy and sell quota. A committee in the milk producing system oversees these actions.

Sen. Halligan asked Sen. Gage what effect deregulation would have in relation to jobs and quality of milk. Sen. Gage said that the market would open up.

Sen. Beck asked if the MCB offered new quota at any time. Mr. Huls replied that there was an unassigned quota pool. 10% of any quota marketed from one producer to another is placed into the unassigned quota pool, which then allows producers to be paid as if they had quota. When the market expands, the unassigned quota is reassigned to credit growth in the market.

Sen. Beck asked if the quota had ever expanded. Mr. Huls said there was the 10% pool of forfeited quota, but that it did not expand the quota. Mr. Huls said they would not expand the quota base for additional dairies in the state. The quota is designed to tie production to the market. Expansion of the quota would defeat this purpose.

Sen. Beck asked the price for a unit of that quota. Mr. Huls replied \$16 per daily pound. A 100 cow dairy producing an average of 50 pounds per day per cow would be 5,000 pounds per day production. 5,000 pounds times \$20(the value of the quota) would be \$100,000 for that quota. This \$100,000 would be valuable in obtaining a loan based on the allotted quota.

Sen. Beck asked about milk imported into the state and why the quota was not raised to protect these markets. Mr. Huls replied that the two are not related. Currently there is enough milk to meet those needs and there are negotiations in progress to meet additional need.

Sen. Beck asked if the money received for excess quota was less. Mr. Huls said that it was probably \$4 less than the quota price.

Sen. Koehnke asked if a population increase, i.e. to 1.5 million people, would mean an increase in the quota as well. Mr. Huls replied affirmatively.

Sen. Beck asked if the new quota money would go to the Milk Control Board. Mr. Huls replied that it would be distributed to the current producers on a pro rata basis. No monetary value would be attached to the increase unless it was sold by the producer.

Sen. Burnett asked how the amount of surplus is determined by milk price. Mr. Huls replied that each quota was based on plant performance and that it could be all or a portion of that quota. The system went from individual plant pools to a state market pool. If a producer's quota was below production, then that producer would look to buy other quota. This allowed the producers to stabilize their own market.

Sen. Halligan asked how price increases were determined. Jim Kembel, Milk Control Board, said that formulas were used. He listed a number of factors that effect the formula on both the producer and consumer side. Sen. Halligan asked if public input was allowed. If the public objected, did it have any effect. Mr. Kembel replied if there was public outcry over the formulas, then the formulas could be reviewed.

Mr. Huls explained further how the amount of surplus was determined. Every month the amount of each type of milk that is sold is determined by processing records and then sent to the Milk Control Board to determine price.

### Closing by Sponsor:

Sen. Gage said that his first reaction is that he was dealing with a closed industry. The milk industry wishes to keep the status quo because it is to their benefit. The consumer is being hurt by this process.

Sen. Gage also admitted the Legislative Auditor's information was out of date, but the principles still remain valid. The prices in urban areas will always be lower than rural areas, regardless of product. Even though testimony has been brought forward that SB 254 would be devastating to Montana industries, Montana industries continue to survive.

Sen. Gage said, regarding bank loans on quotas, that the banking industry at present is not healthy. One problem is that they loan on escalated land values, ores which are now becoming valuable, and that loaning on the escalated values of assets is unwise. Sen. Gage said loans are being based on the ability to pay, i.e. cash flow. Having quota and a place to sell your product may have been used as collateral in the past, but banks know the operation and if you have quota.

Sen. Gage made an analogy comparing milk production to OPEC, the oil cartel which tries to control the price of oil. The difference is that OPEC is a voluntary group.

Sen. Gage concluded that it is strange Montana is involved in trying to control prices. Montana should not try to control prices, but rather let free market prevail. Good operators will survive and poor operators should not; that is the history of business. Sen. Gage said the educational aspect of learning about this milk pricing system was important.

### EXECUTIVE ACTION ON HB 58

Motion: Sen. Aklestad moved that HB 58 BE CONCURRED IN.

<u>Discussion</u>: Sen. Halligan said that there will be floor discussion about the one-time occurrence provision.

Vote: The motion that HB 58 Be Concurred In CARRIED UNANIMOUSLY.

# SENATE AGRICULTURE, LIVESTOCK, & IRRIGATION COMMITTEE January 29, 1993 Page 7 of 7

### **ADJOURNMENT**

Adjournment: Meeting adjourned at 2 p.m.

SENATOR FRANCIS KOEHNKE, Vice Chair

DAVID MARTIN, Secretary

FK/dm

## **ROLL CALL**

SENATE COMMITTEE AGRICULTURE DATE 1-29-93 NAME PRESENT ABSENT EXCUSED REA\_ KOEHNKE AKLESTAD BECK DEVLIN BURNETT HALLIGAN PIPINICH FORRESTER Bruski-Maus

### SENATE STANDING COMMITTEE REPORT

Page 1 of 1 January 29, 1993

### MR. PRESIDENT:

We, your committee on Agriculture, Livestock, and Irrigation having had under consideration House Bill No. 58 (first reading copy -- white), respectfully report that House Bill No. 58 be concurred in.

January 29, 1993

Attny. Ted Doney

I regret that I am unable to be at the Senate hearing today at 1:00pm. With such late notice, I would like you to submit this testimony to the Committee. (Via Fax)

My name is James L Fleming- I am the manager of Equity Supply Co. Quality Chekd Dairy in Kalispell Montana. I reside at 140 Sherry Lane in Kalispell, Montana.

Equity Supply Company would like to be put on record as being Strongly Opposed to Senate Bill-254.

Whole sale and Retail price decontrol initiatives have been voted down twice recently by the majority of the people in Montana. We believe we have a fare and reasonable Milk Control law which stabilizes the milk industry in Montana. If Retail & Wholesale price controls are eliminated it will create kayos within the dairy industry, therefore we strongly oppose Senate bill 254

James Fleming

Mgr. Quality Chekd Dairy

Kalispell

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### CONSUMER PRICE SURVEY - SPOKANE

Information gathered by U.R.M. Stores, Inc., a grocery warehouse located in Spokane. The competitive price check for the Spokane market was dated January 14, 1992. The information on prices was faxed to Keith Nye at DARIGOLD in Bozeman on January 28, 1992 by Dean Sonnenberg at U.R.M., phone number (509)467-2620.

* *	Half Gallons	Safeway	Albertson's	Tidyman's
	Homo Homo 2nd Label	\$ 1.49	\$ 1.61 \$ 1.54	\$ 1.50 \$ 1.45
	2% 2% 2nd Label	\$ 1.45	\$ 1.55 \$ 1.49	\$ 1.44 \$ 1.39

### CONSUMER PRICE MINIMUMS, JANUARY 1993 AS MANDATED BY MONTANA REGULATIONS

1	gallon	Homo	=								•						 			. \$	1	 43	3
	gallon																						

Conclusion: Montana consumers are paying a fair competitive price for their milk.

Jeth 3 1/28/93

## CONSUMER PRICE SURVEY - WYOMING 1/27/93

1. Ramshorn Food - DuBois - (307)455-2402 Panda = employee contacted	
Cohen = employee contacted  ½ gallon Meadow Gold Homo =	\$ 1.40
Jay = employee contacted ½ gallon DARIGOLD Homo =	\$ 1.49
Rod = employee contacted  igallon DARIGOLD Homo =	\$ 1.50
Loren = employee contacted  ½ gallon Meadow Gold Homo =	\$ 1.41
Carey = employee contacted  ½ gallon Meadow Gold Homo =	\$ 1.63
2 yarron meddow bord 25 1.34	\$ 1.59
7. Albertson's - Laramie - (307)742-3731  Tim = employee contacted  ½ gallon Meadow Gold Homo =	\$ 1.54
CONSUMER PRICE MINIMUMS, JANUARY 1993 AS MANDATED BY <b>MONTANA</b> REGULATIONS	•
½ gallon Homo =\$ 1.43 ½ gallon 2% =\$ 1.41	
Phone survey by Keith Nye - Darigold Bozeman, Montana (406)586-5425	Jent Se 1/21/93

Conclusion: Montana Retail (consumer) prices are Not out of Line As compared to Wyoming.

DATE 1-29-93			
SENATE COMMITTEE ON AGR	ICULTURE		
BILLS BEING HEARD TODAY:	/		
	(		
Name PRINT	Representing	Bill No.	Check One Support Oppose
KETTH NYE	DARIBORD FARMS	254	X
DAN SMITH	Danigold Rangs	254	×
Jegry LEEP	Dairy FARMER	254	X
Michael Cok	County Chissic Dain	254	
Dick C. FLikkema	DAIRY FARINER	254	
C-lever Hanton	MSP Dains	254	X
LARRY KAUTINAU	DAIRCITARMER	254	1
Robert Knaft	Dairy Farmer	24	X
Ben Kleinsasser	Dairy Farmer :	184	X'
Ed Kleinsasser	Dairy Earmer	254	X
Jack Hofer	Dairy Farmer	254	X
Tel J. Darrey	Mont Dailymon's ASTA.	254	X
Tim Huls	Mont. Dairymens Assn	254	X
Wm. of Klainsanse	Doiry Farmer	254	X
1) ,	Dainy Zarmer	254	X

VISITOR REGISTER

DATE Jan. 29 190 SENATE COMMITTEE ON BILLS BEING HEARD TODAY:	13 griculture B 254 Gage	,	<del></del>	
Name PLEASE PRINT	Representing	Bill No.	Check Support	t Oppose
David J. Kleinsasser	East End Colony	254		
David J. Kleinsasser David D.Kleinsasser	East End Colony Hilldale Colony	254		
Ed Mc/mal	Clover Leaf Raing	254		1
Warner Kambel	Doc /	754	Infa	mate
Long Andrew	M. G. Dinas	254		
Firme Mayin	11. L Slivery	2.54		
		,		

## VISITOR REGISTER

DATE	/29/93		•		
SENATE C	OMMITTEE ON AGRI	CULTURE			
BILLS BEI	NG HEARD TODAY:	SB 254			
Name	PLEASE PRINT"	Representing	Bill No.	Check	
STEVEN	O. GIBSON	MT. MILIK TOBBERS ASSAL	254		X
LORNA	FRANK	MT. Farm Bureau	354		X
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			***		
<u> </u>					

## VISITOR REGISTER

NAME Big Sky Colony Paul & Wight
ADDRESS Box 147- Cut Bank Mont 59427-
HOME PHONE 336-3690 WORK PHONE
REPRESENTING Produces.
APPEARING ON WHICH PROPOSAL?
DO YOU: SUPPORT OPPOSE AMEND
COMMENTS:

NAME Hilldale Colory In Dwie DKlimenser
NAME Hilldale Colory In Dwiel DKlimmerser  ADDRESS Box 628 Have 911 59501
HOME PHONE 398-5342 WORK PHONE
REPRESENTING footner
APPEARING ON WHICH PROPOSAL?
DO YOU: SUPPORT OPPOSE AMEND
COMMENTS:

NAME <u>East</u> End Colony of David Je Kleimson
ADDRESS By 1/29 Have Mt. 5-950/
HOME PHONE 398-5355 WORK PHONE
REPRESENTING Producer
APPEARING ON WHICH PROPOSAL?
DO YOU: SUPPORT OPPOSE AMEND
COMMENTS:

NAME Edward & Doldner Rivervin Colon
NAME <u>Edward</u> P Doldner Rwewin Colong ADDRESS <u>Chester</u>
HOME PHONE <u>456-3338</u> WORK PHONE
REPRESENTING Footsuces
APPEARING ON WHICH PROPOSAL?
APPEARING ON WHICH PROPOSAL?  DO YOU: SUPPORT OPPOSE AMEND
COMMENTS:
·

NAME Soye Creek Calony
ADDRESS Chests MT
HOME PHONE 292-3590 WORK PHONE
REPRESENTING Produces
APPEARING ON WHICH PROPOSAL?
DO YOU: SUPPORT OPPOSE AMEND
COMMENTS:
·
<u> </u>

NAME Willey & Wunt
NAME Willing & Winty  ADDRESS Engle Crick Colony Church Mont  HOME PHONE 432-25-81 WORK PHONE
HOME PHONE WORK PHONE
REPRESENTING Eggle Cuel Col
APPEARING ON WHICH PROPOSAL?
DO YOU: SUPPORT OPPOSE AMEND
COMMENTS:
·

NAME Jim Hulo
ADDRESS 1851 Cojote RS
HOME PHONE 961-3801 WORK PHONE 961-3801
REPRESENTING MONTANA Dairymens Association
APPEARING ON WHICH PROPOSAL? 5/3 254
DO YOU: SUPPORT OPPOSE AMEND
COMMENTS:
fixed

NAME STEVEN GIBSON
ADDRESS BOX 20382 BILLINGS, MT. 59104-0382
HOME PHONE 696-4839 WORK PHONE 256-6455
REPRESENTING MONTANA MICK JOBBERS ASSIV.
APPEARING ON WHICH PROPOSAL?
DO YOU: SUPPORT OPPOSEX AMEND
COMMENTS:
THIS PROPOSAL NOUSO PUT MOST JOBBERS
OUT OF BUSINESS. WE Provide Service to MANY
Rural Areas AND TO Smaller Stops which Are
MOT VIMBLE FOR LOTSER DISTRIBUTORS, WE BELIEVE this
'IN THE STATE,

f
NAME - HRRY RAUIMAN
NAME LARRY KAUTMAN ADDRESS 1817 Dover Rd. 13-1/195 Mt- 59105
HOME PHONE <u>159-7773</u> WORK PHONE <u>54me</u>
REPRESENTING Montana Dairy Mens ASSN.
APPEARING ON WHICH PROPOSAL?
DO YOU: SUPPORT OPPOSE AMEND
COMMENTS:
·

NAME Um Chleinsager
NAME Um & Kleinsager  ADDRESS Mieford Colony Wolf Creak Int.
HOME PHONE 565-353 WORK PHONE
REPRESENTING Milford Colony
APPEARING ON WHICH PROPOSAL?
DO YOU: SUPPORT OPPOSE AMEND
COMMENTS:
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NAME DELPERT D. KONNOR
ADDRESS 2300 NINTL STOUTH FROM ARLINGTON VINGINIO 27
HOME PHONE (763) 845-1260 WORK PHONE (763) 920-9480
REPRESENTING AMERICAN MANADED CARE PARMARY ASSOCIATION
APPEARING ON WHICH PROPOSAL? 53218
DO YOU: SUPPORT OPPOSE _X AMEND
WISD TO SUBMIT PRESONED STATEMENT AND BY A WITHISG