

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON AGRICULTURE, LIVESTOCK, & IRRIGATION

Call to Order: By CHAIRMAN VERN KELLER, on March 16, 1993, at 3:00 P.M.

ROLL CALL

Members Present:

Rep. Vern Keller, Chairman (R)
Rep. Joe Barnett, Vice Chairman (R)
Rep. Shiell Anderson (R)
Rep. Bob Bachini (D)
Rep. Jody Bird (D)
Rep. Ervin Davis (D)
Rep. Bill Endy (D)
Rep. Harriet Hayne (R)
Rep. Don Larson (D)
Rep. Gary Mason (R)
Rep. Bill Rehbein (R)
Rep. Sam Rose (R)
Rep. Dore Schwinden (D)
Rep. Wayne Stanford (D)
Rep. Jay Stovall (R)

Members Excused: Rep. Spring

Members Absent: None

Staff Present: Dave Bohyer, Legislative Council
Jaelene Racicot, Committee Secretary

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

Committee Business Summary:

Hearing: None
Executive Action: SB 98, SB 334

EXECUTIVE ACTION ON SB 98

Motion: REP. BACHINI MOVED TO RECONSIDER THE ACTION ON SB 98.

Discussion: None

Vote: The motion carried unanimously.

Motion: REP. ROSE MOVED THE COMMITTEE AMENDMENTS ON SB 98.

Discussion: None.

Vote: The motion carried unanimously.

Motion: REP. BACHINI MOVED SB 98 TO BE CONCURRED IN.

Motion: REP. BACHINI moved to adopt the amendments for SB 98. EXHIBIT 1.

Discussion: REP. MASON asked how these amendments differed from the other amendments the committee passed in January.

REP. ROSE asked if someone could explain the amendments. Will Kissinger, Department of Agriculture, said that the amendments before the committee were the same as those before the committee in January. EXHIBIT 1. Mr. Kissinger said that now this allows for a two tier license and it has the language to be incorporated into the bill.

REP. SCHWINDEN asked if now they can use the word advertise. Mr. Kissinger replied yes. Mr. Kissinger also said that with amendment #8, they no longer need a license to get certified seed. The maximum fee of \$200 would be lowered to \$150.

REP. DAVIS asked Mr. Kissinger if certified seed would include potatoes. Mr. Kissinger said it would not.

REP. ROSE asked if the maximum fee of \$200 that would be reduced to \$150 would affect the income generated. Mr. Kissinger said that this only sets a cap and it would not affect income.

REP. BARNETT wanted to clarify that a farmer can sell all of the seed he wants as long as he does not advertise by variety and as long as he does not sell over \$5,000 worth of seed. If those criteria are met, he would not be required to get a license.

REP. SCHWINDEN stated the way it is done today, if a farmer has seed left over from seeding, he advertises by variety and sells it over the radio.

REP. BACHINI stated that he prefers the varietal identification allowed in the bill. He agreed with the amendments and would like to see a sunset clause placed in the bill.

REP. STOVALL asked Mr. Kissinger if they were talking about certified seeds or any kind of seeds. Mr. Kissinger stated that they were talking about both.

Dave Bohyer was asked by the committee to clarify the bill at his discretion.

REP. STOVALL asked Mr. Kissinger if a farmer sells without identifying variety, then does the farmer need a license? Mr. Kissinger stated only in some circumstances.

REP. BIRD asked Mr. Kissinger about amendment #12 and what he envisions the minimum license fee to be. Mr. Kissinger stated that \$50 will be the minimum fee.

Motion/Vote: The motion was made to adopt the amendment contained in EXHIBIT 1. The motion carried with REP. STOVALL voting no.

Motion: REP. BACHINI moved to amend the bill to have a two-year sunset clause added.

Vote: The motion carried unanimously.

Motion: REP. ANDERSON MOVED SB 98 TO BE CONCURRED IN AS AMENDED.

Vote: The motion carried with REP. SCHWINDEN AND REP. STOVALL voted no.

REP. BARNETT was assigned to carry SB 98 on the House floor.

EXECUTIVE ACTION ON SB 334

Motion: REP. LARSON MOVED SB 334 TO BE CONCURRED IN for the purpose of discussion.

Discussion: REP. LARSON stated that the committee had four options. He distributed EXHIBIT 2 and asked the committee to discuss the options they had before them. He added that SB 334 has some validity.

REP. BACHINI asked REP. LARSON which option out of the four did he believe to be the best. REP. LARSON stated that option four was probably the best.

REP. BACHINI asked Leo Giacometto which of the four options the Department of Agriculture would favor. Mr. Giacometto stated that option two would be the most favorable. The bill could be improved by preparing amendatory language to the Statement of Intent stating that it is the intent of the legislature to limit the potential for problems resulting from section 2. At the present time, the state is more liable with the way the situation is handled.

Sanna Kiesling stated that she was worried about section four and how it might affect school children. Her primary concern was the situation where farmers sprayed chemicals right by Montana's school yards. If the school wants to stop the farmer from spraying the chemical, the school has to petition the Department of Agriculture and department can take up to 30 days to respond.

Gary Gingery, Department of Agriculture, was asked to respond to the concerns of Ms. Kiesling. He said that the school can contact the Department of Agriculture immediately to stop the spraying.

REP. DAVIS asked Gary Gingery if the Department of Agriculture had the power to take action against the applicator. Mr. Gingery stated that the department has that authority right now.

Motion: REP. SCHWINDEN MOVED TO STRIKE SECTION 10 FROM SB 334.

Discussion: REP. ANDERSON stated that Section 10 came about in the Senate and that the section specifically addresses the local concerns.

REP. ANDERSON asked Pam Langley about Section 10. Ms. Langley stated that this section was developed and accepted by the Senate. She said that it is important to have the same regulations throughout the state of Montana. She added that the proposed Section 10 is more liberal than most states.

REP. ANDERSON stated that Section 10 may not be perfect, but asked the committee to allow this bill with the amended section 10 a chance to work.

Motion/Vote: TO STRIKE SECTION 10 FROM SB 334.

Vote: A roll call vote was called. The motion failed.

Motion: REP. SCHWINDEN MOVED TO TABLE SB 334.

Vote: A roll call vote was called. The motion failed.

Motion: REP. LARSON moved to adopt an amendment allowing the Department of Agriculture to consult affected local governments before implementing the collection program under this section. EXHIBIT 3.

Discussion: REP. REHBEIN asked REP. LARSON if the Department of Agriculture had that right at the present time. REP. LARSON stated that they did not.

Motion/Vote: TO ADOPT THE AMENDMENT CONTAINED IN EXHIBIT 3.

Vote: A roll call vote was called. The motion carried.

Motion: REP. ANDERSON moved to adopt the amendment requested by SEN. BECK. EXHIBIT 4. The motion carried unanimously.

Motion: REP. ANDERSON MOVED SB 334 TO BE CONCURRED IN AS AMENDED.

Vote: A roll call vote was taken. The motion carried.

ADJOURNMENT

Adjournment: 4:11 P.M.



VERN KELLER, Chairman



JAELENE RACICOT, Secretary

VK/jr

HOUSE STANDING COMMITTEE REPORT

March 17, 1993

Page 1 of 2

Mr. Speaker: We, the committee on Agriculture, Livestock, and Irrigation report that Senate Bill 98 (third reading copy -- blue) be concurred in as amended .

Signed: _____
Vern Keller, Chair

And, that such amendments read: Carried by: Rep. Barnett

Amend House Committee on Agriculture, Livestock, and Irrigation report dated February 1, 1993, as follows:

Strike: House Committee on Agriculture, Livestock, and Irrigation report, sponsored by Rep. Schwinden, in its entirety.

Further amend Senate Bill No. 98, third reading copy, as follows:

1. Title, line 10.

Following: "DATE"

Insert: "AND A TERMINATION DATE"

2. Page 1, line 14.

Following: "granted in"

Insert: "80-5-202(8) and in"

3. Page 1, line 17.

Following: "laws"

Insert: "and rules establishing a seed dealer's license fee"

4. Page 1, line 22.

Following: "violations."

Insert: "It is further intended that the department establish a two-tiered license fee schedule under which a licensee with gross annual sales of \$5,000 or less shall pay a lower fee than a licensee with gross annual sales in excess of \$5,000."

5. Page 2, line 7.

Following: "~~media~~."

Insert: "(1) Advertise means to offer seed or grain for sale by means of newspapers, magazines, pamphlets, signs, or other printed media or by radio, television, or other

Committee Vote:

Yes 15, No 1.

601359SC.Hpf

12 1. 210000
electronic media."

Renumber: subsequent subsections

6. Page 2, line 19.

Strike: "varietal identification,"

Following: "guaranty"

Strike: ","

7. Page 3, line 5.

Strike: "(4) (A)"

Insert: "(5) (a)"

8. Page 8, line 4.

Strike: "and"

9. Page 8, line 6.

Following: ", and"

Insert: "a Montana-certified seed grower when selling certified seed from the grower's own production; and"

10. Page 8, line 7.

Following: "(c)"

Insert: "(c)"

Following: "seed"

Insert: "seed"

11. Page 8, line 8.

Following: "advertised"

Insert: "that are not advertised by varietal identification;

(d) a person, who at the conclusion of planting, sells less than 200 bushels of treated seed; and

(e) a Montana seed grower when selling seed from the grower's own production to a licensed seed dealer"

12. Page 8, line 17.

Strike: "\$200"

Insert: "\$150"

13. Page 8, line 18.

Following: "year."

Insert: "The department shall establish by rule a lower license fee for a seed dealer with gross annual sales of \$5,000 or less."

14. Page 12.

Following: line 7

Insert: "NEW SECTION. Section 6. Termination. [This act] terminates June 30, 1995."

-END-

HOUSE STANDING COMMITTEE REPORT

March 17, 1993

Page 1 of 1

Mr. Speaker: We, the committee on Agriculture, Livestock, and Irrigation report that Senate Bill 334 (third reading copy -- blue) be concurred in as amended.

Signed: _____
Vern Keller, Chair

And, that such amendments read:

Carried by: Rep. Keller

1. Title, line 17.

Following: "PESTICIDES;"

Insert: "ALLOWING FOR CERTAIN LOCAL GOVERNMENT REGULATION OF
PESTICIDES;"

2. Page 10.

Following: line 7

Insert: "(6) The department shall consult affected local
governments before implementing the collection program under
this section."

3. Page 23, line 19.

Strike: "annual"

-END-

Committee Vote:
Yes 12, No 3.

601418SC.Hpf

HOUSE OF REPRESENTATIVES

AGRICULTURE, LIVESTOCK, & IRRIGATION COMMITTEE

ROLL CALL

DATE

5/16/93

NAME	PRESENT	ABSENT	EXCUSED
REPRESENTATIVE SHIELL ANDERSON	✓		
REPRESENTATIVE BOB BACHINI	✓		
REPRESENTATIVE JOE BARNETT V.C.	✓		
REPRESENTATIVE JODY BIRD	✓		
REPRESENTATIVE ERVIN DAVIS	✓		
REPRESENTATIVE BILL ENDY	✓		
REPRESENTATIVE HARRIET HAYNE	✓		
REPRESENTATIVE DON LARSON MIN. V.C.	✓		
REPRESENTATIVE GARY MASON	✓		
REPRESENTATIVE BILL REHBEIN	✓		
REPRESENTATIVE SAM ROSE	✓		
REPRESENTATIVE DORE SCHWINDEN	✓		
REPRESENTATIVE WILBUR SPRING			✓
REPRESENTATIVE WAYNE STANFORD	✓		
REPRESENTATIVE JAY STOVALL	✓		
CHAIRMAN VERN KELLER	✓		

HOUSE OF REPRESENTATIVES

AGRICULTURE, LIVESTOCK, & IRRIGATION COMMITTEE

ROLL CALL VOTE

DATE 3/16/93 BILL NO. SB334 NUMBER

MOTION:

REP SCHWINDEN MOVED TO TABLE
SB 334.

NAME	AYE	NO
REPRESENTATIVE SHIELL ANDERSON		✓
REPRESENTATIVE BOB BACHINI		✓
REPRESENTATIVE JOE BARNETT VICE CHAIRMAN		✓
REPRESENTATIVE JODY BIRD		✓
REPRESENTATIVE ERVIN DAVIS	✓	
REPRESENTATIVE BILL ENDY	✓	
REPRESENTATIVE HARRIET HAYNE		✓
REPRESENTATIVE DON LARSON, MINORITY VICE CHAIR.	✓	
REPRESENTATIVE GARY MASON		✓
REPRESENTATIVE BILL REHBEIN		✓
REPRESENTATIVE SAM ROSE		✓
REPRESENTATIVE DORE SCHWINDEN	✓	
REPRESENTATIVE WILBUR SPRING		✓
REPRESENTATIVE WAYNE STANFORD	✓	
REPRESENTATIVE JAY STOVALL		✓
CHAIRMAN VERN KELLER		✓

HOUSE OF REPRESENTATIVES

AGRICULTURE, LIVESTOCK, & IRRIGATION COMMITTEE

ROLL CALL VOTE

DATE 3/16/93 BILL NO. SB 334 NUMBER _____

MOTION:

REP. SCHWINDEN MOVED TO STRIKE
SECTION 10 FROM SB 334

NAME	AYE	NO
REPRESENTATIVE SHIELL ANDERSON		✓
REPRESENTATIVE BOB BACHINI	✓	
REPRESENTATIVE JOE BARNETT VICE CHAIRMAN		✓
REPRESENTATIVE JODY BIRD		✓
REPRESENTATIVE ERVIN DAVIS	✓	
REPRESENTATIVE BILL ENDY	✓	
REPRESENTATIVE HARRIET HAYNE		✓
REPRESENTATIVE DON LARSON, MINORITY VICE CHAIR.	✓	
REPRESENTATIVE GARY MASON		✓
REPRESENTATIVE BILL REHBEIN		✓
REPRESENTATIVE SAM ROSE		✓
REPRESENTATIVE DORE SCHWINDEN	✓	
REPRESENTATIVE WILBUR SPRING		✓
REPRESENTATIVE WAYNE STANFORD	✓	
REPRESENTATIVE JAY STOVALL		✓
CHAIRMAN VERN KELLER		✓

HOUSE OF REPRESENTATIVES

AGRICULTURE, LIVESTOCK, & IRRIGATION COMMITTEE

ROLL CALL VOTE

DATE 3/16/93 BILL NO. SB 334 NUMBER

MOTION: REP. ANDERSON MOVED SB 334
TO BE CONCURRED IN AS AMENDED.

NAME	AYE	NO
REPRESENTATIVE SHIELL ANDERSON	✓	
REPRESENTATIVE BOB BACHINI	✓	
REPRESENTATIVE JOE BARNETT VICE CHAIRMAN	✓	
REPRESENTATIVE JODY BIRD	✓	
REPRESENTATIVE ERVIN DAVIS	✓	
REPRESENTATIVE BILL ENDY	✓	
REPRESENTATIVE HARRIET HAYNE	✓	
REPRESENTATIVE DON LARSON, MINORITY VICE CHAIR.		✓
REPRESENTATIVE GARY MASON	✓	
REPRESENTATIVE BILL REHBEIN	✓	
REPRESENTATIVE SAM ROSE	✓	
REPRESENTATIVE DORE SCHWINDEN		✓
REPRESENTATIVE WILBUR SPRING	✓	
REPRESENTATIVE WAYNE STANFORD		✓
REPRESENTATIVE JAY STOVALL	✓	
CHAIRMAN VERN KELLER	✓	

HOUSE OF REPRESENTATIVES

AGRICULTURE, LIVESTOCK, & IRRIGATION COMMITTEE

ROLL CALL VOTE

DATE 3/16/93 BILL NO. SB 334 NUMBER _____

MOTION: REP LARSON MOVED EXHIBIT #3

NAME	AYE	NO
REPRESENTATIVE SHIELL ANDERSON		✓
REPRESENTATIVE BOB BACHINI	✓	
REPRESENTATIVE JOE BARNETT VICE CHAIRMAN	✓	
REPRESENTATIVE JODY BIRD	✓	
REPRESENTATIVE ERVIN DAVIS	✓	
REPRESENTATIVE BILL ENDY	✓	
REPRESENTATIVE HARRIET HAYNE	✓	
REPRESENTATIVE DON LARSON, MINORITY VICE CHAIR.	✓	
REPRESENTATIVE GARY MASON		✓
REPRESENTATIVE BILL REHBEIN		✓
REPRESENTATIVE SAM ROSE		✓
REPRESENTATIVE DORE SCHWINDEN	✓	
REPRESENTATIVE WILBUR SPRING	✓	
REPRESENTATIVE WAYNE STANFORD	✓	
REPRESENTATIVE JAY STOVALL	✓	
CHAIRMAN VERN KELLER	✓	

AMENDMENT TO SENATE BILL 98

1. Page 1, line 14.
Following: "granted in"
Insert: "80-5-202(8) and in"

2. Page 1, line 17.
Following: "laws"
Insert: "and rules establishing a seed dealer's license fee."

3. Page 1, line 22.
Following: "violations."
Insert: "It is further intended that the department establish a two-tiered license fee schedule under which a licensee with gross annual sales of \$5,000 or less shall pay a lower fee than a licensee with gross annual sales in excess of \$5,000."

4. Page 2, line 7.
Following: "~~media.~~"
Insert: "(1) 'Advertise' means to offer seed or grain for sale by means of newspapers, magazines, pamphlets, signs, or other printed media or by radio, television, or other electronic media."

Renumber: Subsequent sections.

5. Page 2, line 19.
Strike: "varietal identification,"
Following: "guaranty"
Strike: "L"

6. Page 3, line 5.
Strike: "(4)(A)"
Insert: "(5)(a)"

7. Page 8, line 4.
Strike: "and"

8. Page 8, line 6.
Following: "~~, and~~"
Insert: "a Montana certified seed grower when selling certified seed from his own production, and"

9. Page 8, line 7 and 8.

Following: "~~(e)~~" on line 7

Insert: "(c)"

Following: "seed"

Insert: "seed"

Following: "~~advertised~~" on line 8

Insert: "that are not advertised by varietal identification"

10. Page 8, line 9.

Insert: "(d) a person, who at the conclusion of planting, sells less than 200 bushels of treated seed; and

(e) a Montana seed grower when selling seed from the grower's own production to a licensed seed dealer."

11. Page 8, line 17.

Strike: "\$200"

Insert: "\$150"

12. Page 8, line 18.

Following: "year."

Insert: "The department shall establish by rule a lower license fee for a seed dealer with gross annual sales of \$5,000 or less."

-End-

STATE OF MONTANA
ENVIRONMENTAL QUALITY COUNCIL

STATE CAPITOL
HELENA, MONTANA 59620
(406) 444-3742

EXHIBIT 2
DATE 3/16/93
SB 334



Deborah B. Schmidt, Executive Director

GOV. STAN STEPHENS
Designated Representative
Art Wittich

HOUSE MEMBERS
Jerry Driscoll, Chairman
Ed Grady
David Hoffman
Bob Raney

SENATE MEMBERS
Jerry Noble, Vice Chairman
Steve Doherty
Dave Rye
Bill Yellowtail

PUBLIC MEMBERS
Doug Crandall
John Fitzpatrick
Mona Jamison
Helen Waller

March 15, 1993

TO: Rep. Larson
FROM: Michael S. Kakuk, Staff
RE: SB 334 Potential State Liability Issues

This memo is in response to your research request regarding SB 334 and its potential for increased state liability. As I said during our Monday meeting, after a quick, and by no means thorough, review of the issue it appears that the state would increase its share of responsibilities for damages that occur as a result of the collection, recycling, or disposal of waste pesticides and waste pesticide containers under the provisions of Section 2 of SB 334. However, as we discussed, there would also be a probable decrease in the current potential state liability from the improper disposal of these materials under SB 334 as compared to existing law. Again, the assumption is that with a collection program, the incidence of improper disposal will decrease.

As you requested, I have prepared the following options to reduce potential state liability under SB 334 for your review and consideration:

Option 1. Do not pass SB 334, or amend Section 2 out of the bill.

Issues: While this would eliminate the potential for liability for the operation of the collection program under Section 2 - because the program would not be established - it would not alter the current potential liability resulting from the improper disposal of waste pesticides.

Option 2. Prepare amendatory language for the Statement of Intent stating that it is the intent of the legislature to limit the potential for problems resulting from Section 2 collection activities by instituting the following measures: identifying acceptable pesticides; establishing a thorough contractor review process; requiring the contractor to assume liability for damages; etc.

Issues: The Montana Department of Agricultural has the authority under SB 334 to accomplish these tasks through rulemaking, and the Department has stated that it is their intent to adopt rules such as these that limit the potential for problems. However, if a problem does occur, the measures referenced above do not limit the potential state liability.

Option 3. Prepare amendatory language in the statute itself that requires the Department to implement the measures identified under Option 2.

Issues: Apart from the issues already discussed under Option 2, it may be difficult at this stage of the session to research and prepare the exact language that would accomplish the intent of the legislature. It could be argued that these measures should be developed through the rulemaking process to ensure that a thorough analysis of the issues can be accomplished.

Option 4. Prepare amendatory language that clearly limits the state's liability to instances of willful or wanton misconduct or gross negligence on the part of the state.

Issues: This language is a limitation of the state's liability and is viewed as falling under the Montana Constitution, Article II, Section 18, requirement for a 2/3's vote in each chamber to be effective. It must be noted however, that even with 2/3's vote, the courts may disregard the liability limit by finding that it violates the equal protection or full redress provisions of the constitution.

In closing, it appears that the state may incur some additional liability by instituting the collection program in Section 2 of SB 334. The fundamental public policy issues that must be addressed include:

- * Do the benefits of the Section 2 collection program outweigh the potential increased state liability?
- * How would the state justify its attempts to limit its liability for a program mandated, funded, and controlled by the state?
- * If the state is not liable for this program, who is?

If I can be of further assistance, please contact me.

Amendments to Senate Bill No. 334
Third Reading Copy

Requested by Rep. Larson
For the Committee on Agriculture

Prepared by Michael S. Kakuk
March 16, 1993

1. Page 10.

Following: line 7

Insert: "(6) The department shall consult affected local
governments before implementing the collection program under
this section."

EXHIBIT 4
DATE 3/16/93
SB 334

Amendments to Senate Bill No. 334
Third Reading Copy

Requested by Senator Tom Beck
For the Committee on Agriculture, Livestock, and Irrigation

Prepared by Dave Bohyer
March 11, 1993

1. Page 23, line 19.
Strike: "annual"

!! A WOLF IN SHEEP'S CLOTHING !!
SB 334: PESTICIDE "RECYCLING" ACT

EXHIBIT 10
DATE 5/16/93
SB 334

...A POORLY DISGUISED SHAM WHICH DUMPS THE RECYCLING COSTS ONTO THE BACKS OF MONTANA FARMERS AND RANCHERS and CUTS THE LEGS OUT FROM UNDER LOCAL GOVERNMENTS!

DON'T BUY INTO IT !!!

SB 334, SECTION 10 VIOLATES THE VERY INTENT OF THE UNANIMOUS U.S SUPREME COURT DECISION, WISCONSIN VS MORTIER, JUNE 1991, WHICH UPHELD THE RIGHTS OF LOCAL GOVERNMENT !

SB 334, SECTION 10 VIOLATES ARTICLE II, SECTION 3 OF THE MONTANA STATE CONSTITUTION WHICH GUARANTEES CITIZENS THE RIGHT TO PURSUE HEALTH IN LAWFUL WAYS. THE MONTANA DEPARTMENT OF AGRICULTURE DOES NOT HAVE THE RIGHT TO TAMPER WITH THAT GUARANTEE !

SB 334 VIOLATES THE PRINCIPLE OF "HOME RULE." MONTANA IS A HOME RULE STATE!

SB 334 WOULD INTERFERE WITH THE FOLLLOWING LOCAL GOVERNMENTS AND UNITS OF LOCAL GOVERNMENT AS DEFINED UNDER MONTANA CODES ANNOTATED:

MUNICIPALITIES, COUNTIES, CITIES, ANY MUNICIPAL CORPORATION OR POLITICAL SUBDIVISION OF THE STATE INCLUDING WITHOUT LIMITATION ANY CITY OR TOWN, COUNTY SCHOOL DISTRICT, OTHER SPECIAL TAXING DISTRICT OR THE BOARD OF THE U. OF M., PUBLIC HOSPITAL DISTRICTS, AIRPORT AUTHORITY DISTRICTS, PUBLIC HOSPITAL DISTRICTS, HOUSING AUTHORITIES, IRRIGATION DISTRICTS, MOSQUITO DISTRICTS, COUNTY WEED CONTROL DISTRICTS, PORT AUTHORITIES, RURAL IMPROVEMENT DISTRICTS, URBAN TRANSPORTATION DISTRICTS, SOIL CONSERVATION DISTRICTS, EMERGENCY DISASTER AGENCIES, PUBLIC ENTITIES, WHETHER GOVERNED BY THE LEGISLATIVE BODY OF THE LOCAL GOVERNMENT, WHICH ARE REQUIRED BY LAW TO CONDUCT FINANCIAL AFFAIRS THROUGH THE FINANCE OFFICE OF THE CITY OR COUNTY. ANY POLITICAL SUBDIVISION OF THE STATE AND ITS AGENCIES.

DEPARTMENTS OF AGRICULTURE ARE ALREADY SHORT STAFFED AND UNDER FUNDED AND HAVE NOT BEEN ABLE TO ADEQUATELY PROTECT CITIZENS IN THE PAST, ACCORDING TO THE U.S. GOVERNMENT ACCOUNTING OFFICE. UNDER SB 334 THE MONTANA DEPARTMENT OF AGRICULTURE WOULD ASSUME AN EVEN GREATER BURDEN!

SB334 SECTION 10 WOULD FORCE LOCAL GOVERNMENTS TO FIGHT THROUGH 40 PAGES OF DEPARTMENT RULES BEFORE BEOMG GRANTED THE RIGHT TO BE HEARD!

SB 334 SECTION 10 WOULD REQUIRE THE DEPARTMENT OF AGRICULTURE TO MAKE RULES IN CASES OF IMMEDIATE THREAT TO HUMAN HEALTH! IN OTHER WORDS, A LOCALITY WOULD BE STOPPED FROM TAKING IMMEDIATE REMEDIAL ACTION AND WOULD HAVE TO WAIT FOR THE DEPARTMENT OF AGRICULTURE TO RESPOND, THROUGH A RULE MAKING PROCESS!

OVER.....

CURRENTLY, THE DEPARTMENT OF AGRICULTURE DOES NOT HAVE RULES TO ADDRESS SPECIFIC LOCAL PROBLEMS WHICH NOW EXIST!

WORSE YET, THE DEPARTMENT OF AGRICULTURE DOES NOT EVEN HAVE A POLICY DEVELOPED FOR THE REVIEW AND APPROVAL OF LOCAL GOVERNMENT REQUESTS!

"FEDERAL AND STATE GOVERNMENTS DO NOT PROTECT AND CANNOT PROTECT, LOCAL PROPERTY, DRINKING WATER SUPPLIES, SURFACE WATERS, SCHOOL GROUNDS, EATING ESTABLISHMENTS, AND PUBLIC AREAS FROM PESTICIDE USE ACTIVITIES IN WAYS THAT ONLY LOCAL GOVERNMENTS CAN. THE FEDERAL REGULATORY SCHEME RECOGNIZES THIS, AND THEREFORE MAKES ACCOMMODATION FOR LOCAL REGULATION. MOREOVER, FEDERAL AND STATE REGULATIONS ARE NOT ADEQUATE TO PROTECT CITIZENS." (TOM DAWSON, PUBLIC INTERVENOR, STATE OF WISCONSIN, DEPARTMENT OF JUSTICE, LETTER TO THE PRESIDENT, DEC 16, 1991)

PROMPT LOCAL ACTION PROTECTS WHERE STATE AND FEDERAL POWERS HAVE FAILED TO PROTECT.

CITIZEN'S RIGHT TO KNOW LAW, ENACTED AT THE LOCAL LEVEL, IS NOT A TECHNICAL ISSUE. THE PROTECTION OF MONTANA CHILDREN, THROUGH LOCAL COMMUNITY RIGHT TO KNOW ORDINANCES, DOES NOT REQUIRE SCIENTIFIC OR TECHNICAL EXPERTISE. COMMUNITIES WHICH WISELY CHOOSE TO ENACT PROTECTIVE MEASURES SHOULD NOT BE REQUIRED TO JUMP THROUGH DEPARTMENT OF AGRICULTURE PAPERWORK HOOPS IN ATTEMPTING TO EXERCISE THEIR LOCAL RIGHTS! THAT RIGHT IS THEIRS, GRANTED BY LAW AND THE UNITED STATES SUPREME COURT!

SB 334, WITH ITS PREEMPTION LANGUAGE ORIGINALLY WRITTEN UNDER SECTION 4, REPRESENTS AN ATTEMPT TO STIFLE LOCAL CONTROL AND DUMP DISPOSAL COSTS ONTO OUR FARMERS AND RANCHERS. AS AMENDED, WITH ITS NEW "SECTION 10" SB 334 REMAINS A TRANSPARENT SHAM. THE LANGUAGE HAS BEEN CHANGED BUT THE INTENT REMAINS; TO HAMSTRING LOCAL GOVERNMENT UNDER THE PRETENSE OF "RECYCLING" WHILE FORCING MONTANANS TO PAY THE COSTS.

SB 334 IS OPPOSED BY CITIZENS AND ELECTED LOCAL OFFICIALS OF THIS STATE AS IT REPRESENTS AN OFFENSE TO THE PRINCIPLES OF LOCAL GOVERNMENT, HOME RULE, DEMOCRACY, AND THE SPIRIT OF THE PEOPLE OF MONTANA.

WILL SNODGRASS

A handwritten signature in cursive script, reading "Will Snodgrass", with a horizontal line drawn underneath it.

Amendments to Senate Bill No. 334
Third Reading Copy

For the Committee on Agriculture, Livestock, and Irrigation

Prepared by Dave Bohyer
March 16, 1993

1. Title, line 17.

Following: "PESTICIDES;"

Insert: "ALLOWING FOR CERTAIN LOCAL GOVERNMENT REGULATION OF
PESTICIDES;"

2. Page 10.

Following: line 7

Insert: "(6) The department shall consult affected local
governments before implementing the collection program under
this section."

3. Page 23, line 19.

Strike: "annual"

Amendments to Senate Bill No. 98
Third Reading Copy

For the Committee on Agriculture, Livestock, and Irrigation

Prepared by Dave Bohyer
March 16, 1993

Amend House Committee on Agriculture, Livestock, and Irrigation
report dated February 1, 1993, as follows:

Strike: House Committee on Agriculture, Livestock, and Irrigation
report, sponsored by Rep. Schwinden, in its entirety.

And that Senate Bill No. 98, third reading copy, be further
amended as follows:

1. Title, line 10.

Following: "DATE"

Insert: "AND A TERMINATION DATE"

2. Page 1, line 14.

Following: "granted in"

Insert: "80-5-202(8) and in"

3. Page 1, line 17.

Following: "laws"

Insert: "and rules establishing a seed dealer's license fee"

4. Page 1, line 22.

Following: "violations."

Insert: "It is further intended that the department establish a
two-tiered license fee schedule under which a licensee with
gross annual sales of \$5,000 or less shall pay a lower fee
than a licensee with gross annual sales in excess of
\$5,000."

5. Page 2, line 7.

Following: "media."

Insert: "(1) "Advertise" means to offer seed or grain for sale
by means of newspapers, magazines, pamphlets, signs, or
other printed media or by radio, television, or other
electronic media."

Renumber: subsequent subsections

6. Page 2, line 19.

Strike: "varietal identification,"

Following: "guaranty"

Strike: "1"

7. Page 3, line 5.

Strike: "(4)(A)"

Insert: "(5)(a)"

8. Page 8, line 4.

Strike: "and"

9. Page 8, line 6.

Following: "~~, and~~"

Insert: "a Montana-certified seed grower when selling certified seed from the grower's own production; and"

10. Page 8, line 7.

Following: "~~(e)~~"

Insert: "(c)"

Following: "~~seed~~"

Insert: "seed"

11. Page 8, line 8.

Following: "advertised"

Insert: "that are not advertised by varietal identification;

(d) a person, who at the conclusion of planting, sells less than 200 bushels of treated seed; and

(e) a Montana seed grower when selling seed from the grower's own production to a licensed seed dealer"

12. Page 8, line 17.

Strike: "\$200"

Insert: "\$150"

13. Page 8, line 18.

Following: "year."

Insert: "The department shall establish by rule a lower license fee for a seed dealer with gross annual sales of \$5,000 or less."

14. Page 12.

Following: line 7

Insert: "NEW SECTION. Section 6. {standard} Termination. [This act] terminates June 30, 1995."