

MINUTES

**MONTANA SENATE
54th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON AGRICULTURE, LIVESTOCK & IRRIGATION

Call to Order: By **CHAIRMAN CHUCK SWYSGOOD**, on February 15, 1995,
at 12:35 p.m.

ROLL CALL

Members Present:

Sen. Charles "Chuck" Swysgood, Chairman (R)
Sen. Gerry Devlin, Vice Chairman (R)
Sen. Thomas A. "Tom" Beck (R)
Sen. Don Hargrove (R)
Sen. Ric Holden (R)
Sen. Reiny Jabs (R)
Sen. Greg Jergeson (D)
Sen. Linda J. Nelson (D)
Sen. Bob Pipinich (D)

Members Excused: None

Members Absent: None

Staff Present: Doug Sternberg, Legislative Council
Jennifer Gaasch, Committee Secretary

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

Committee Business Summary:

Hearing: SB 364 and SB 389
Executive Action: SB 364

{Tape: 1; Side: A}

HEARING ON SB 364

Opening Statement by Sponsor:

SENATOR MIKE SPRAGUE, SD 6, Billings, stated they were trying to see the consumer benefited. He said SB 364 addressed as many of the concerns as possible. SB 364 would help resolve a serious problem.

Proponents' Testimony:

Ward Shanahan, representing Meadow Gold Dairies, stated they drafted the bill as a request of the producer groups and the principle provisions are to establish a right to meet the price

contained on page 3, subsection (10), which provide "Notwithstanding the establishment of minimum wholesale prices as provided in this section, a distributor may offer a customer a price that is below the minimum wholesale price if the offer was made in good faith to meet an equally low price of a competitor." The second provision was subsection (11), which states that distributors who have processing facilities in the state shall whenever possible purchase milk from Montana producers for the processing of products to be sold in the state, provided that milk is available from Montana producers. They have also participated in some compromise amendments, which the committee has. The bill would be amended to state that "at a price set by the Board of Milk Control, but the bid would be of the meeting the low price of the competitor would be passed on to the consumer." The language they approved was the reduction in the cost of milk at the wholesale level would be reflected in the price to the consumer. That would be under the control of the Board of Milk Control and the Board would decide what portion of the price reductions would be taken by the processor and what price would be passed on to the consumer. They also agreed with the amendment in respect to a study being done by the Auditor's office. The study would be on the effects of decontrol of milk on every level of the sales.

Laurie Ekanger, representing the Governor's office, the Governor's original position was SB 116, which was tabled in the Agriculture Committee. The Governor's revised position was to keep the Board of Milk Control, keep price control at the producer level and to keep the quota system. Their revised objectives were to eliminate the trucking of milk across the border and back into Montana. The second objective was to pass the wholesale savings on to the consumer. To do that they worked with SB 364. They proposed on page 3, to strike (b), (c), and (d). That proposal was not acceptable to the industry. The industry agreed to the amendments proposed by **Ward Shanahan** and they agreed with having the interim study by the Auditor's office.

Les Graham, stated he agreed with what **Laurie Ekanger** had said.

Opponents' Testimony:

Mike Cok, representing Dairygold, stated that Dairygold represented 87 of the 174 farmers and they were not part of the industry that agreed to the compromise. They have been against SB 364 from the beginning. SB 364 says they can meet the competition? If Meadow Gold was going out-of-state and back and selling it to a store and Dairygold met that competition, who would be the competition. Can they still sell below minimum? Can Meadow Gold go back and forth from in-state to out-of-state? It would be a disaster to enforce. Whatever the savings are will be passed on to retailer and they will be different from one store to the next. He stated it would not work. He said if they

were going to do something like that they should change subsection (10) on page 3, where it talks about wholesale prices, to lower the wholesale price to a price that was not to be below cost. If they have set one low wholesale price, the milk would not go in and out-of-state. He stated SB 364 would not stop the out-of-state transporting of milk.

Informational Testimony: None

Questions From Committee Members and Responses:

SENATOR RIC HOLDEN asked **Mike Cok** to write down on a piece of paper what his suggestions were so they could be discussed later.

SENATOR TOM BECK asked what the wholesale price was?

Mike Cok replied that price would be what the processor was selling to retailers. It is the processor's price to the retailers.

SEN. BECK replied that **Mike Cok** said they wanted to set the value at the processors price but not below cost. Would he say then that the Board of Milk Control should determine that cost?

Mike Cok replied that would be a proper thing for them to do, to make sure there was not unfair competition.

SEN. BECK asked if there was a problem at the present time with the amount of money the processor seems to be getting setting the retail price. There seemed to be a lot of Montanans that think there was a variation from the actual producer all the way to the retailer.

Mike Cok said he was not sure.

SEN. BECK replied there seemed to be a lot of mark-up from the point of production to the point of retail. There seemed to be some concern in the state about that difference. If they did what he had earlier proposed would that drop the price of milk at the retail level?

Mike Cok replied that by lowering the wholesale price would not affect the retail price.

SEN. BECK asked if that would not affect the retail price.

Mike Cok replied that would not be the effect by simply lowering the wholesale price. They would have to make some adjustments to the retail price or the Board itself could make some adjustments to the retail price. He said their percentage of profit would be about 1 ½% on their final sales.

SENATOR DON HARGROVE said their main concern was the out-of-state trucking of milk. With the bill the way it was now, would that stop happening?

Laurie Ekanger replied she was not sure how the language in SB 364 would stop that.

SEN. HARGROVE asked if **Ward Shanahan** could answer that question.

Ward Shanahan replied that was a bill which was drafted by them at the request of the producer groups. The meeting competition provision was put in SB 364. He stated he had talked to **Mr. Cok** several times and asked for suggested language which he had not suggested. He stated they had to put general language in the bill with the rulemaking authority of the Board of Milk Control so they could address the problem. He said they had to leave it up to the Board of Milk Control. They are dealing with the large contracts where milk is being taken out-of-the-state and being brought back in state to circumvent price regulation. He said the Board would have to address that. The person who is meeting the competition is blocking the transportation of milk into the state for the purpose of upsetting an existing contract.

SEN. HARGROVE asked **Mike Cok** to address the same question.

Mike Cok stated he did not believe SB 364 addressed preventing milk from going out-of-state and back. There will still have to be a loop to get into the competition. The competition was not being set by two distinct people, the milk is being set by one that can be bought by the large warehouses out-of-state. That is why the process started. He said what would happen was either Meadow Gold or Dairygold will have a list of some suppliers outside of the state where milk can be bought and sold at wholesale and they will meet those prices in-state. They would be decontrolling the wholesale price, but not doing it cleanly. It would be a lot of hassle.

CHAIRMAN SWYSGOOD asked which one of them, **Ward Shanahan** or **Mike Cok**, were shipping their milk out of the state.

Mike Cok replied they both were shipping out-of-state.

Ward Shanahan replied they made their first contract to do that in April 1994.

SENATOR REINY JABS said that the producer was receiving about \$1.20 per gallon and the stores were \$2.90 per gallon and there is \$1.60 that someone was receiving.

Laurie Ekanger said the producer would still get \$1.20. The processors are cutting their margin by going out-of-state at a lower price than the state controlled price for wholesale. The

extra margin was being captured by the grocery stores. (EXHIBIT #1) was passed out.

SEN. JABS said that if they go by the bill it would cause a lot of law suits.

Mike Cok said SB 364 would lead to litigation because the principals of what meeting the competition change everyday and it would be easy to say who your competition was. There would be a lot of problems for someone trying to meet the competition or if they were trying to take over another person's account.

SEN. JABS said if they were to set the wholesale price it would stop all of that.

Mike Cok replied it would be a clean price. They would have a price and they would know if they were in violation or not.

SEN. JABS said the Board of Milk Control would have to do that.

Mike Cok replied yes.

CHAIRMAN SWYSGOOD asked Mr. Cok to give the committee his proposed language.

SEN. JABS said he got a letter that read "Dear Senator Jabs, I hope this is of interest to you." signed "Dave Ashley, President of Citizens against Weasel Wording" He asked him to explain that because it was offensive to him.

Dave Ashley, representing the Department of Administration, replied that referred to the Dairygold letter which indicate the wording in SB 364 was "weasel wording" and suggests if they were going to decontrol pricing at the retail and wholesale level that they do it straight out.

SEN. JABS apologized to Dave Ashley and said he could see that Dairygold had started that.

SENATOR GERRY DEVLIN asked Ward Shanahan who were their competitors besides Dairygold.

Ward Shanahan replied that Dairygold was their primary competitor.

SEN. DEVLIN said they already were in constant competition.

Ward Shanahan replied that was the reason they wanted to keep everything before the Board of Milk Control.

SENATOR GREG JERGESON said they could study things a lot and it may not accomplish anything. He said he did not know what their reaction would be to eliminate the Board of Milk Control pricing

at (b), (c), and (d) and sunset that. Then in 2 years if it did not work, they could change the situation.

Ward Shanahan said that was the Governor's proposal. He said their problem was that it does violence to the intent of the bill. If they were to do that they would need to strike subsections (10) and (11) from SB 364. He said they were hoping to design a system that would work them toward the free market.

Les Graham said if they look at page 3, lines 10 and 11, his intent was to protect the producers. If they are not protected then Idaho and California would take over. He said he hoped that would not be done.

SEN. JERGESON said he was suggesting that they were to leave the producer prices controlled.

Les Graham said if they were going to go beyond this bill he would have to say the producer would have to be protected.

Mike Cok said a better way would be to study it and then act on it instead of taking action and then studying it. He said it was hard for them to speak if the retailer and jobber prices are correct. They can speak on that issue.

SEN. BECK asked if there was anyone who represented the retail end. He said one of the small retailers in Deer Lodge said if they deregulated the milk they would be driven out of business. He asked if that was true or not.

Bill Stephens, representing the Montana Food Distributors Association, said his opinion was that if they deregulated the whole industry the large cooperations would take over, but eventually it would seek its own level. He said if they were going to deregulate they should start at the ground up.

SEN. BECK asked if that was producer all the way.

Bill Stephens replied his membership did not agree with that. He said that would probably hurt them.

SEN. JERGESON wondered how the sponsor of the bill would feel about decontrolling (b), (c), and (d) and putting a sunset on that.

Laurie Ekanger replied that was the Governor's proposal. They think it would stop the interstate trucking of milk and it would pass the savings on to the consumer. She said there were only five states in the nation who control at all levels; there were ten states who control at the producer level; and all of the rest do not control milk at all. Their preference would be that it would not have the sunset provision because if it was not working they would have to address it anyway, and if it was working they would have to deal with the sunset provision.

John Noel, the Director of the Department of Commerce, said that was a positive suggestion. He said that milk at the wholesale level was not be sold below cost and that was already a state law. He said if they decontrol at the wholesale level they would not have to sell at cost or higher. SB 364 does make some progress. He asked if the amendment talked about having the retail price set the wholesale price. Does that mean each retail price would be matched to the specific wholesale transaction that put the milk in the store or does that mean they were to take an average wholesale price or the lowest wholesale price? He said if the amendments were to come out that way, they would have a hard time interpreting it.

Closing by Sponsor:

SEN. SPRAGUE said they could do nothing else but expose the problem. He said eliminating (b), (c), and (d) would be a cleaner way to handle the problem. He said it was not an experiment and a sunset provision would not be needed. There are around 40 states that already do that. He said that everybody was making a fair margin and everyone was protected. He said they needed to look out for the consumer.

HEARING ON SB 389

Opening Statement by Sponsor:

SENATOR DON HARGROVE, SD 16, Belgrade, said there were two bills and SB 389 was a committee bill that contained a little bit of both of those two bills. He said this bill will help address those problems that arose in the past. He said both the Department of Livestock and the Department of Fish, Wildlife, and Parks (FWP) have responsibilities. The responsibilities were based on the perimeter fence. FWP was concerned with the animals outside the perimeter fence. They are concerned if they escape and what happens to them if they do. The construction of the fence along with that the certification and the handling of the violations would go to FWP. The Department of Livestock is in control of the quarantine facilities, disease control, and transportation. He said they have also defined the members of the advisory committee.

Proponents' Testimony:

SENATOR LARRY TVEIT, SD 50, Fairview, said he supported SB 389. On page 2, lines 3-5, concerning DNA, was to be left to the Department of Livestock. It was in the statement of intent under identification, but on page 1, line 28, their primary authority would be the transportation and identification of game animals. He said that should be under the authority of the Department of Livestock. He said on page 5, lines 16-19, it read "The Department of Livestock may quarantine any game farm animal pending inspection and health certificate". The Department of

FWP shall advise the Department of Livestock about what the Department of Livestock did in the transportation of the game animal that the department reasonably believes to be infected. He said the departments are wrong there. The Department of Livestock should advise the Department of the FWP regarding the importation and transportation that the Department of Livestock reasonably believes may be infected with a disease specific to wildlife. He said those were two areas he had for consideration. He said he rejected the amendments offered by **SENATOR TERRY KLAMPE** because they are not needed.

Les Graham, said he supported the testimony by **SEN. TVEIT** and urged the committee's support on SB 389.

Pat Graham, representing the Montana Fish, Wildlife, and Parks, read his written testimony in support to SB 389. (**EXHIBIT #2**) He addressed amendments which were technical corrections. (**EXHIBIT #3**)

Janet Ellis, Montana Audubon Legislative Fund, stated they were in support of SB 389. They were not sure if the industry could be regulated in a way that adequately protect the elk and deer populations, but if it is going to be regulated they have to try. They also feel that the game farm license fees should cover more of the costs of licensing and enforcement of the industry.

Cork Mortensen, representing the Board of Livestock, stated they were committed to making this work for the benefit of both agencies and the industry.

Opponents' Testimony:

Jim Richard, representing the Montana Wildlife Federation, stated the duties have been improved. They did not believe the game farm industry was paying sufficient fees to pay for the cost of the administration and enforcement. He said SB 389 could be improved on page 3, line 18, by changing the word "department" to "applicant" and then reinstating the language on page 3, line 21-23, which specifically deletes language giving the applicant responsibility for paying for the capture. He said they supported **SENATOR TERRY KLAMPE'S** amendment. The licensee should be able to post a bond, a letter of credit, or some other security to cover the costs of disease outbreaks. He said the game farm industry should be paying more of the costs.

{Tape: 1; Side: B}

SENATOR TERRY KLAMPE, he said he was speaking for his amendment. In Alberta, Canada, they had a \$16 million loss as a result of having to depopulate over 2,500 elk. The loss was incurred by the province of Alberta. He said he did not think Montana could afford those types of problems. If the committee feels confident they have written a bill that would prevent that type of problem then he does not see where the committee would feel they could

not include the amendment. He said he was speaking against the bill for section 9 and section 5, containing duties given to the Department of Livestock and yet the duty remains to FWP. He said the fees were not changed, which leaves the duty of subsidizing game farms in the hands of the hunters. That was not right and should be changed. A five-member advisory committee has been appointed with no real function. It will not work. It was a mistake.

Jim Bradford, representing the Montana Bow Hunters Association, said he did not know how he wanted to testify on the bill. He said they were concerned with the license fee. They do not feel the industry was taking care of their costs. They did not like the idea of commercializing wildlife. The wildlife always lose. If the animals are truly wild, then they should remain that way.

Mike Vashro, read his written testimony. (EXHIBIT #4)

Stan Fraiser, representing the Prickly Pear Sportsman Association, said SB 389 was an improvement over SB 215. There really was not much change over what was currently being done. He said they have not seen any improvement in inspections, regulations, or watching the game farms. The fee issue needs to be addressed. The subcommittee said as long as the Department of Livestock had the authority to set fees to cover the cost, that was fine. **Stan Fraiser** said they could not possibly trust FWP to do the same thing. He would like the committee to recommend that no further permits be issued; permits not be transferable for any reason, including inheritance; fees should be assessed to cover the costs; double fencing should be required to prevent transmission of disease to the wild animals; and also a marking system so the animals can be identified from a distance if they were to escape. The way to do that would be with a large colorful collar. The FWP could see that when they were in an aircraft counting the animals.

Harry Lafriniere, representing the Ravalli County Fish and Wildlife, Florence, Montana, said there are five game farms and there have been a lot of violations. FWP has not been able to cope with those violations. One violation was no ear tags and there was an escape, and the third was a game farmer failing to notify of the escaped animal. There have not been any tickets of any action taken at all on those three violations. He said the people in the community opposed that game farm. The first application was rejected. The second application was immediately approved. They were bothered by the fact the FWP was not able to cope with the problems. If they did not spell it out in the bill then nothing would change. They would like a ban on importation of deer and elk. He said he had livestock and he is a sportsman. Disease is important. One of the game farms has buffalo and two albino elk. He did not know how he got the albino elk. They were worried about the fact that FWP was not doing their job and he was not sure that SB 389 was going to make the difference. He asked who was going to pay. He said the sportsman should not pay

those costs. The game farm industry should support their own costs.

Informational Testimony:

None

Questions From Committee Members and Responses:

CHAIRMAN SWYSGOOD asked **Mr. Vashro** where he was coming from when he said they needed to be concerned about animals traveling from different parts of the United States to Montana? He said he was assuming he was talking about importation of wildlife.

Mike Vashro said it was concerning the disease factor from animals coming from different parts of the United States to Montana. The animals we have in Montana are not necessarily protected from diseases coming from places in Georgia. He said he was not a disease expert. When there are animals traveling across the United States into areas where animals have acquired immunities to diseases and they bring another animal in.

CHAIRMAN SWYSGOOD asked if his concern was with all wildlife that would be traveling, including the wolf.

Mike Vashro replied yes.

CHAIRMAN SWYSGOOD replied he was trying to find out the distinction they draw between wildlife and the rational he was using as it was relating to disease and if it was elk and deer and those animals raised by game farmers or whether it was actually a bona fide concern as it related to wildlife transferring disease by being imported from other parts of the country.

Mike Vashro said science was not perfect entity. He said they did not know what was out there.

SEN. DEVLIN asked **SEN. KLAMPE** talked about his amendment, did that require the $\frac{2}{3}$ vote of both houses.

SEN. KLAMPE replied yes.

SEN. DEVLIN said no other part of SB 389 required that until the amendment would be put on and that would require 100 people voting in favor of the bill.

SEN. KLAMPE replied that was correct. He said it was a severability clause.

SEN. JABS asked if **Jim Bradford** would like to respond to the question by **SEN. SWYSGOOD**.

Jim Bradford said biologists recognize 17 different subspecies of whitetail deer that live within North America. He said if the whitetail was brought from a different subspecies, that animal would be breeding with their herds. Whether where he came from was going to have any affect or damage to the herd, he did not know. He said there are those possibilities.

SEN. JABS asked **SEN. HARGROVE** on page 3, lines 17 and 18, "the department may remove the base number of animals from the game farm at the expense of the department." He asked if those animals were there, would they be there illegally.

SEN. HARGROVE replied those were the animals that were there when they built the fence around a piece of land. There might be some wild animals on it and so they would still be on that land. It was the responsibility of the landowner to drive them out and if they cannot there might be some left.

SEN. JABS said the owner was not violating anything at that time.

SEN. HARGROVE replied that was correct.

SEN. BECK asked **Pat Graham** about the (EXHIBIT #2) and the second amendment which goes in on page 4, line 8. Why is the "or prior to January 1 of each year" in the amendment and not just within the 30-day limit?

Pat Graham asked if he could refer the question to **Paul Sihler**.

Paul Sihler replied that when an animal was imported, it would be in quarantine for 30 days and at the end of that 30 days it was being handled so they would then tag the animal. Any other animal then would get tagged by that point in January. In the new language on page 6, subsection 2, there is a reporting requirement that says "within 2 weeks after January 1" and it might make more sense to tie it with that language rather than "by January 1". He said they wanted to tie identification to the beginning of the reporting year.

SEN. BECK replied his concern was if someone happened to import an animal on December 30, that would only give them 1 day to do that work.

Paul Sihler replied that was not what it was intended to do. The quarantine would constitute the 30 days, and any other animal not a quarantined animal would have to be tagged by the beginning of the reporting year for the next year.

SEN. BECK asked **Mike Vashro** if whirling disease was started by a fish farm.

Mike Vashro replied he did not say that.

SEN. BECK said he was referring to game farms as creating disease in SB 389.

Mike Vashro said he was saying how little they knew about diseases and how they affect animals.

SEN. PIPINICH said he would like to do something for the fees of game farms. He asked if it was \$200 for a new license.

Pat Graham replied that was correct.

SEN. PIPINICH said for an annual renewal it was \$50. How would they feel if the new license was charged by the head and for renewal if they went by acreage.

Pat Graham said in setting the fees it difficult because the work load varied. He said the cost in the new permit is because of size because there are no animals at the time the permit was asked for. He said it may actually be the reverse of what he suggested.

SEN. PIPINICH replied they should charge by the acreage and by the animal. He said maybe by acreage for the new license and by the head for renewal.

SEN. JERGESON said on page 6, section 7, line 16, they have stricken "a reasonable time" and inserted "10 days of notification". He asked why they put that in there?

SEN. DEVLIN stated the discussions with the representatives of FWP it seemed like 10 days was considered to them as being a reasonable amount of time. They decided to write it in instead of having such a broad time.

SEN. JERGESON stated if he had a herd of registered black angus cattle and the neighbor's scrub, four-way cross bull gets in with his cattle, 10 days was not very reasonable.

SEN. DEVLIN replied the laws on livestock are quite a bit different.

SEN. JERGESON asked the Department of Livestock about animals getting from one neighbor to another, what is considered a reasonable time period in that instance?

Mark Bridges, representing the Brands Enforcement Division of the Department of Livestock, said under Part 4 of Title 81, 81-2-417, if an animal breaks into an inclosure surrounded by a legal fence or is wrongfully on the premises of another, it is immediately impounded. The person who impounded the animal has to notify the person who owns the livestock within 24 hours.

SEN. JERGESON replied he did not have to let his neighbor's bull in with his cattle for 10 days. The FWP cannot really do much under the terms of SB 389. He asked if they had to wait 10 days before they can do anything about an animal who was illegally trespassing.

Pat Graham replied under current law they have to allow the operator a reasonable time for notification before making the capture. That was a subjective determination as to what "reasonable time" was and so the suggestion was made to define that time to alleviate the confusion as to what was reasonable or unreasonable. There was some more immediate concern about a diseased animal. That would be addressed through the Department of Livestock.

SEN. JERGESON asked if a wild elk was to get into the game farm fence, how soon would the game farmer have to deal with that animal.

Pat Graham said he did not believe the statute addressed that.

SEN. JERGESON asked **Mark Bridges** to answer the same question that was asked to **Pat Graham**.

Mark Bridges stated it depended on if it was in the general law structure.

SEN. JERGESON asked if there were two game farms next to each other, would they be covered by the same laws which apply to cattle between two neighbors? Does the neighbor have to wait 10 days or can he act on it as soon as the trespass occurs on his property.

Mark Bridges replied as SB 389 was written he believed without the definitions entered into the Livestock definitions they would only address transportation, identification, and disease control, and they would have to look at that for consideration.

Closing by Sponsor:

SEN. HARGROVE said if an animal broke into the game farm pen they would know where the animal was and they could catch it and get rid of it right away. He said the reason for the 10 days was to delineate a time when the animal could be killed. It is the game farmer's responsibility to try to get the animal the minute it breaks out. It would be the responsibility of the Department of Livestock to test for the diseases and respond. If the animals are found with tuberculosis (TB), the herd will be killed. The rules are strict. He said the process has brought out a reasonable bill. He said SB 389 was not going to solve all of the problems.

EXECUTIVE ACTION ON SB 364

Discussion:

Doug Sternberg said there are other sections in the milk pricing code that refer to wholesale, retail, and jobber. pricing of milk. In order to make those sections uniform they would also have to draw in several other sections of the milk code and make them consistent. If they did decontrol those aspects there would be several other sections that would need to be drawn into the bill.

SEN. BECK asked if it would be possible to do that and get the bill out by the transmittal deadline.

Doug Sternberg replied he would give it his full attention.

CHAIRMAN SWYSGOOD said the question had been by SEN. BECK about eliminating (b), (c), and (d) if decontrolled in those areas, what would happen on subsections of (10) and (11) in the bill. It was stated those would have to be removed because they specifically refer to keeping the subsections in the bill. Subsection (11) could stay in the bill.

CHAIRMAN SWYSGOOD asked Les Graham if (b), (c), and (d) were taken out, and subsection (11) remained in the bill, does he feel that the producers would be protected.

Les Graham replied yes.

SEN. PIPINICH said that was his amendment two weeks ago. He stated he supported that.

CHAIRMAN SWYSGOOD replied they were trying to find out about the amendments because what they do on either of the bills they heard today would satisfy everybody. He said if the concern was for the producer and protecting the producer. His concern would be that the producer would have a place to sell his milk if he was protected. Subsection (11) would protect them to the degree that would be possible. He was not sure if the consumer would see any of the benefits. The processors have created some of the problems themselves by circumventing the law.

Motion:

SEN. BECK MOVED the amendment. He stated he would also take the study out because it was not necessary at the present time. He recommended that they take (b), (c), and (d) out of the bill along with subsection 10 and they request the legal staff to make that an appropriate amendment into the bill.

Discussion:

SEN. JABS replied he was told today that if they passed SB 364 as it is currently it would be cause a lot of law suits in the future. He said they should pass the amendment offered by SEN. BECK.

CHAIRMAN SWYSGOOD stated with the amendment they would be taking (b), (c), and (d) out on page 3, and subsection (10) out, which would leave milk control prices on the producer, that he would be guaranteed the price he was currently getting. Subsection (11) states "Those distributors shall whenever possible purchase milk from the Montana producer for the processing of products to be sold in the state of Montana." That section was staying in the bill.

Vote:

The MOTION CARRIED UNANIMOUSLY.

Motion:

SEN. BECK MOVED to DO PASS SB 364 AS AMENDED.

Discussion :

CHAIRMAN SWYSGOOD stated they would have to have instructions to staff to address the statutes as they relate to the item and make sure that the bill contains all the pertinent eliminations in statute as it refers to price controls on those three areas.

Vote:

The MOTION CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON SB 389

Motion:

SEN. PIPINICH MOVED an amendment to have a \$1,000 fee for a new license and a fee of \$500 for renewal of a license.

Discussion:

SEN. BECK asked what it was now.

SEN. PIPINICH replied it was \$200 and \$50 respectively.

SEN. HARGROVE said in his opinion the biggest thing they have to address is to leave the emotion out of it.

SEN. JABS said this was going to hurt the smaller game farms.

SEN. PIPINICH said he wanted to go by the acreage and by the head, but that was too difficult. It has to be a fixed fee.

SEN. DEVLIN asked how much money that was going to amount to.

SEN. PIPINICH said it would be \$46,000. It would be \$93,000 for the new license and it would be \$46,500 for renewals.

SEN. DEVLIN asked what they were spending currently.

SEN. PIPINICH replied the \$50 renewal fee was not enough to go out there and inspect the game farms.

Vote:

The MOTION FAILED.

Motion:

SEN. PIPINICH MOVED an amendment to increase the license from \$200 for new and \$50 for renewal to \$400 for new and \$200 for renewal.

Discussion:

SEN. JERGESON said in all of the other professions they license they generally establish a fee system that would cover the cost of the administration of the program.

SEN. BECK asked if SEN. PIPINICH had any statistics of what the cost is now.

SEN. BECK asked to explain the cost versus the amount of revenue that comes in to offset the cost.

Karen Zackheim, the game farm coordinator for the FWP, said the revenue for FWP in 1994 was approximately \$3,050 and the expenditure in 1994 was approximately \$109,649. Those costs include the costs of doing the licensing and the costs of inspecting the game farms.

{Tape: 2; Side: B}

SEN. DEVLIN asked how they were going to make the fee split because there was going to be a reduction in the FWP. How much was the Department of Livestock going to need out of the fees.

Karen Zackheim replied they get their revenue for regulating game farms from the per capita tax and inspection fees?

SEN. DEVLIN asked Cork Mortensen if that was going to cover their costs.

Cork Mortensen replied no, the per capita was not going to cover their costs. He stated they received \$5 per animal for the per capita fee. There are around 3,000 animals.

SEN. PIPINICH said that was the reason he wanted to increase the fee.

SEN. DEVLIN replied he wanted to give some of the fees to the Department of Livestock. He said there might have to be an amendment to make it more realistic.

CHAIRMAN SWYSGOOD replied they could hold the bill until Friday to give people a chance to review the fee information. They would send SB 389 out of the Agriculture Committee the best they can. He asked both of the departments to come up with that information so they can have some idea of what it takes to administer the programs.

SEN. PIPINICH replied if they went with the \$400 and the \$200 respectively, that would only be \$18,600 for renewal license which most of them are. They spend \$109,000 and they were not even coming close to meeting their needs. That was also without giving any of the fees to the Department of Livestock.

CHAIRMAN SWYSGOOD asked **SEN. PIPINICH** to withdraw his amendment so they did not have to take the vote until there were some figures.

SEN. PIPINICH withdrew the amendment.

SEN. BECK asked FWP about the regulations, which were rulemaking authority. They may require an Environmental Impact Statement (EIS), they may require a Environmental Assessment (EA), or they may not.

Paul Sihler said the Montana Environmental Policy Act requires them to do an environmental review when evaluating a new license. They do EA's whenever there is a new license or an expansion. In a few cases where they have determined there will be significant impacts, they would then do and EIS. There is some agency discretion.

SEN. JERGESON said relating to the fees there was the language on page 3 that creates an additional expense obligation for the department. The committee may have to look at the fees commensurate with that cost or going back to the old language which states the special activities to get wild game out of the enclosed areas has to go back to being the responsibility of the applicant. It is related to the fees.

SEN. DEVLIN said that was a one-time thing. They would clean out the enclosure one time.

SEN. JERGESON said it should not relate to the fees paid for by renewal, but it should probably should relate to the fees paid for by an applicant.

SEN. DEVLIN it would be one time and it would not stay in the licensing framework after that.

CHAIRMAN SWYSGOOD said they were referring to lines 17 and 18 on page 3.

SEN. JERGESON replied also lines 22 and 23.

CHAIRMAN SWYSGOOD said it started at line 17 where "the department may remove a base number of game animals from a game farm at the expense of the department". The suggestion has been made that they change "department" to "applicant".

SEN. JERGESON replied the amendment on line 18 was also part of the amendment on lines 21-23 where existing language has been stricken. Current law provides that the applicant is responsible for the cost of removing the animals from the enclosed space.

SEN. HARGROVE said on page 2, the applicant was going to do everything he could to get them out of there anyway. If they were going to change that to "applicant" then they would not need that paragraph (2).

SEN. JABS asked why they had number 18 if that was taken care of? Another reason to put the applicant down, is because if he has to pay for it, he might run them out himself.

CHAIRMAN SWYSGOOD replied they could look at it a few different ways, such as if he owned the land, he could say it was his land and if he wanted to put a game farm on it and because there were wild game grazing on private land, whose responsibility is it to get the wild game off of the private land? He said it should not be his responsibility to get rid of the state's animals that are on his private land. They do not do that in hunting issues. It is the department's responsibility.

Motion:

SEN. HARGROVE said if they could strike paragraph (4), and in paragraph (2), leave "to the extent possible" out, they would be giving the applicant the responsibility for doing it.

Discussion:

CHAIRMAN SWYSGOOD asked if it would then read "before the fencing surrounding such land covered by a game farm may be closed, all game farm animals must be driven from the land by the applicant at the applicant's expense and under direction of the representative of the department." The underlined part would be stricken. "To the extent possible" will be stricken.

Vote:

The **MOTION CARRIED** 6 to 3 with **SENATOR'S DEVLIN, SWYSGOOD, and BECK** voting no.

Motion:

SEN. DEVLIN moved the amendment proposed by **SENATOR KLAMPE** which would address indemnity in case there is disease transmitted to the wild herds and it takes $\frac{2}{3}$ of the vote of both houses. He said the staff had the language.

Discussion:

Doug Sternberg replied the committee could reference SB 173 because it was on that bill also.

CHAIRMAN SWYSGOOD said that **SENATOR LARRY TVEIT** had a few minor adjustments, on page 5, line 17 where it says " The Department of Fish, Wildlife, and Parks shall advise the Department of Livestock regarding the importation." It should not be the Department of Livestock advises the Department of Fish, Wildlife, and Parks.

Doug Sternberg replied that was present code.

CHAIRMAN SWYSGOOD said if they were in charge of the transportation and disease control then do you not think it would be proper they would inform the Department of Fish, Wildlife, and Parks if they believed that an animal was infected.

Doug Sternberg said he thought there was a dual purpose here. The way he read it, initially the Department of Livestock was in charge of the quarantine of the animals pending the health certification. The second sentence refers to FWP advising Livestock if there is an incidental importation or transportation of a game farm animal that FWP may believe to be infected. It is true that if the animals were to imported, the Department of Livestock would be the agency that would be controlling them, but that language was presently in the code.

Motion:

SEN. DEVLIN said that he said he would bring SEN. KLAMPE'S amendment before the committee. He said he would have to move that amendment.

Discussion:

SEN. BECK replied he thought it changed the context of the bill. It takes a ⅔ vote for the bill.

CHAIRMAN SWYSGOOD replied it would not take a ⅔ vote. Only that section of the bill, if it was adopted, would require the ⅔ vote. It would be severed from the bill if it did not gain the ⅔ of the legislature and would not become law.

Doug Sternberg replied the total third reading vote would be taken on the bill. If it achieved the ⅔ of both chambers then that section would be included as a part of the law. If the bill as whole does not achieve that ⅔ then only that new section would be void.

SEN. HOLDEN replied he would not support that amendment. It would cause too many problems.

SEN. JERGESON replied he would support it. The challenge was valid. He said there would not be any risk that it could ever be effectively used. If in fact they were wrong, then people have an opportunity to take care of the problem in court. He said the state would then not be responsible.

SEN. BECK replied he could not disagree more with the statements made by SEN. JERGESON. He said that it was a back door attempt to get rid of game farms in the state of Montana. If a disease was located out there some place and they tell the state of Montana that they are not liable but they are going to get the game farmer, who is going to prove which game farm started the disease? It will be a class action suit to get rid of everybody.

SEN. JERGESON said in this case as in any other it would be the burden of proof. It would be on the plaintiff and the person who would suggest that a case of TB was related to a particular game farm would have to prove that.

SEN. BECK replied that would make the game farm go broke.

Vote :

The MOTION FAILED 8 to 1 with SEN. JERGESON voting yes.

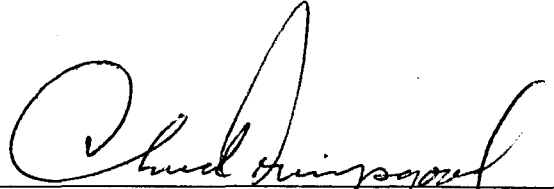
Discussion:

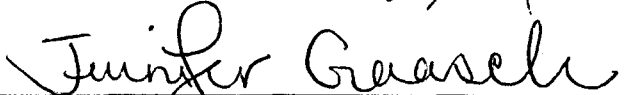
CHAIRMAN SWYSGOOD replied they would discuss the rest of the amendments at the next meeting.

SEN. BECK replied Pat Graham had an amendment to be looked at at that time.

ADJOURNMENT

Adjournment: 2:55 p.m.


SENATOR CHUCK SWYSGOOR, Chairman


JENNIFER GAASCH, Secretary

CS/jg

MONTANA SENATE
1995 LEGISLATURE
AGRICULTURE COMMITTEE

ROLL CALL

DATE 2-15-95

[illegible]

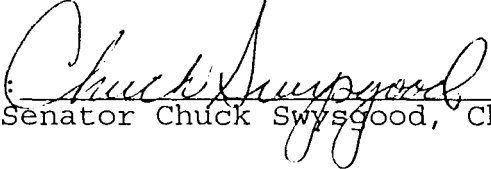
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SENATE STANDING COMMITTEE REPORT

Page 1 of 8
February 16, 1995

MR. PRESIDENT:

We, your committee on Agriculture, Livestock, and Irrigation having had under consideration SB 364 (first reading copy -- white), respectfully report that SB 364 be amended as follows and as so amended do pass.

Signed: 

Senator Chuck Swysgood, Chair

That such amendments read:

1. Title, lines 5 and 6.

Strike: "ALLOWING" on line 5 through "CONTROL" on line 6

Insert: "REMOVING THE AUTHORITY OF THE BOARD OF MILK CONTROL TO
FIX THE FORMULA ESTABLISHING MINIMUM WHOLESALE, JOBBER, AND
RETAIL PRICES OF MILK"

2. Title, line 11.

Following: "SECTIONS"

Insert: "81-23-101, 81-23-102, 81-23-202,"

Following: "81-23-302"

Insert: ", "

3. Page 1, line 13.

Insert: "WHEREAS, the Legislature finds it appropriate to
decontrol minimum wholesale, jobber, and retail milk prices;
and"

4. Page 1, line 21.

Insert: "Section 1. Section 81-23-101, MCA, is amended to read:

"81-23-101. Definitions. (1) Unless the context requires
otherwise, in this chapter, the following definitions apply:

(a) "Board" means the board of milk control provided for in
2-15-1802.

(b) "Class I milk" includes all bottled or packaged milk,
low fat, buttermilk, chocolate milk, whipping cream, commercial
cream, half-and-half, skim milk, fortified skim milk, skim milk
flavored drinks, and any other fluid milk not specifically
classified in this chapter, whether raw, pasteurized,
homogenized, sterile, or aseptic.

(c) "Class II milk" includes milk used in the manufacture
of ice cream and ice cream mix, ice milk, sherbet, eggnog,
cultured sour cream, cottage cheese, condensed milk, and powdered
skim for human consumption.

(d) "Class III milk" includes milk used in the manufacture
of butter, cheddar cheese, process cheese, livestock feed,
powdered skim other than for human consumption, and skim milk

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dumped.

(e) "Consumer" means a person or an agency, other than a dealer, who purchases milk for consumption or use.

(f) "Dealer" means a producer, distributor, producer-distributor, jobber, or independent contractor.

(g) "Department" means the department of commerce provided for in Title 2, chapter 15, part 18.

(h) "Distributor" means a person purchasing milk from any source, either in bulk or in packages, and distributing it for consumption in this state. The term includes what are commonly known as jobbers and independent contractors. The term, however, excludes a person purchasing milk from a dealer licensed under this chapter, for resale over the counter at retail or for consumption on the premises.

~~(i) "Jobber prices" means those prices at which milk owned by a distributor is sold, in bulk or in packages, to a jobber or independent contractor.~~

~~(j)~~ "Licensee" means a person who holds a license from the department.

~~(k)~~ (j) "Market" means an area of the state designated by the department as a natural marketing area.

~~(l)~~ (k) "Milk" means the lacteal secretion of a dairy animal or animals, including those secretions when raw and when cooled, pasteurized, standardized, homogenized, recombined, concentrated fresh, or otherwise processed and all of which is designated as grade A by a duly constituted health authority and also includes those secretions ~~which~~ that are in any manner rendered sterile or aseptic, notwithstanding whether they are regulated by any health authority of this or any other state or nation.

~~(m)~~ (l) "Person" means an individual, firm, corporation, or cooperative association or the dairy operated by the department of corrections and human services at the Montana state prison.

~~(n)~~ (m) "Producer" means a person who produces milk for consumption in this state, selling it to a distributor.

~~(o)~~ (n) "Producer prices" means those prices at which milk owned by a producer is sold in bulk to a distributor.

~~(p)~~ (o) "Producer-distributor" means a person both producing and distributing milk for consumption in this state.

~~(q) "Retail prices" means those prices at which milk owned by a retailer is sold, in bulk or in packages, over the counter at retail or for consumption on the premises.~~

~~(r)~~ (p) "Retailer" means a person selling milk in bulk or in packages over the counter at retail or for consumption on the premises and includes but is not limited to retail stores of all types, restaurants, boardinghouses, fraternities, sororities, confectioneries, public and private schools, including colleges and universities, and both public and private institutions and instrumentalities of all types and description.

~~(s) "Wholesale prices" means those prices at which milk owned by a distributor is sold, in bulk or in packages, to a retailer.~~

(2) The department may assign new milk products, not expressly included in one of the classes defined in this section, to the class which in its discretion it determines to be proper."

Section 2. Section 81-23-102, MCA, is amended to read:

"81-23-102. Policy. (1) It is hereby declared that:

(a) milk is a necessary article of food for human consumption;

(b) the production and maintenance of an adequate supply of healthful milk of proper chemical and physical content, free from contamination, is vital to the public health and welfare;

(c) the production, transportation, processing, storage, distribution, and sale of milk in the state of Montana is an industry affecting the public health and interest;

(d) unfair, unjust, destructive, and demoralizing trade practices have been and are now being carried on in the production, transportation, processing, storage, distribution, and sale of milk and products manufactured ~~therefrom~~ from milk, which trade practices constitute a constant menace to the health and welfare of the inhabitants of this state and tend to undermine the sanitary regulations and standards of content and purity of milk;

(e) health regulations alone are insufficient to prevent disturbances in the milk industry and to safeguard the consuming public from further inadequacy of a supply of this necessary commodity;

(f) it is the policy of this state to promote, foster, and encourage the intelligent production and orderly marketing of milk and cream and products manufactured ~~therefrom~~ from milk and cream, to eliminate speculation and waste, and to make the distribution ~~thereof~~ of milk and cream and products manufactured from milk and cream between the producer and consumer as direct as can be efficiently and economically done, and to stabilize the marketing of ~~such~~ those commodities;

(g) investigations have revealed and experience has shown that, due to the nature of milk and the conditions surrounding the production and marketing of milk and due to the vital importance of milk to the health and well-being of the citizens of this state, it is necessary to invoke the police powers of the state to provide a constant supervision and regulation of the milk industry of the state to prevent the occurrence and recurrence of those unfair, unjust, destructive, demoralizing, and chaotic conditions and trade practices within the industry which have in the past affected the industry and which constantly threaten to be revived within the industry and to disrupt or

destroy an adequate supply of pure and wholesome milk to the consuming public and to the citizens of this state;

(h) milk is a perishable commodity ~~which~~ that is easily contaminated with harmful bacteria, ~~which~~ that cannot be stored for any great length of time, ~~which~~ that must be produced and distributed fresh daily, and the supply of which cannot be regulated from day to day but, due to natural and seasonal conditions, must be produced on a constantly uniform and even basis;

(i) the demand for this perishable commodity fluctuates from day to day and from time to time making it necessary that the producers and distributors shall produce and carry on hand a surplus of milk in order to guarantee and ~~insure~~ ensure to the consuming public an adequate supply at all times, which surplus must of necessity be converted into byproducts of milk at great expense and ~~ofttimes~~ often at a loss to the producer and distributor;

(j) this surplus of milk, though necessary and unavoidable, unless regulated, tends to undermine and destroy the milk industry, which causes producers to relax their diligence in complying with the provisions of the health authorities and ~~ofttimes~~ often to produce milk of an inferior and unsanitary quality;

(k) investigation and experience have further shown that, due to the nature of milk and the conditions surrounding its production and marketing, unless the producers, ~~distributors, and others engaged in the marketing of milk~~ are guaranteed and ~~insured~~ ensured a reasonable profit on milk, both the supply and quality of milk are affected to the detriment of and against the best interest of the citizens of this state whose health and well-being are thereby vitally affected;

(l) where no supervision and regulation are provided for the orderly and profitable marketing of milk, past experience has shown that the credit status of both producers and distributors of milk is adversely affected to a serious degree, thereby entailing loss and hardship upon all within the community with whom these producers and distributors carry on business relations;

(m) due to the nature of milk and the conditions surrounding its production and distribution, the natural law of supply and demand has been found inadequate to protect the industry in this and other states and in the public interest it is necessary to provide state supervision and regulation of the milk industry in this state.

(2) The general purpose of this chapter is to protect and promote public welfare and to eliminate unfair and demoralizing trade practices in the milk industry. It is enacted in the exercise of the police powers of the state."

Section 3. Section 81-23-202, MCA, is amended to read:

"81-23-202. Licenses -- disposition of income. (1) A producer, producer-distributor, distributor, or jobber may not engage in the business of producing or selling milk subject to this chapter in this state without first having obtained a license from the department of livestock or, in the case of milk entering this state from another state or foreign nation, without complying with the requirements of the Montana Food, Drug, and Cosmetic Act and without being licensed under this chapter by the department. The annual fee for the license from the department is \$2 and is due before July 1 and must be deposited by the department to the credit of the general fund. The license required by this chapter is in addition to any other license required by state law or any municipality of this state. This chapter applies to every part of the state of Montana.

(2) In addition to the annual license fee, the department shall, in each year, before April 1, for the purpose of securing funds to administer and enforce this chapter, levy an assessment upon producers, producer-distributors, and distributors as follows:

(a) a fee per hundredweight on the total volume of all milk subject to this chapter produced and sold by a producer-distributor;

(b) a fee per hundredweight on the total volume of all milk subject to this chapter sold by a producer;

(c) a fee per hundredweight on the total volume of all milk subject to this chapter sold by a distributor, excepting that which is sold to another distributor.

(3) The department shall adopt rules fixing the amount of each fee. The amounts may not exceed levels sufficient to provide for the administration of this chapter. The fee assessed on a producer or on a distributor may not be more than one-half the fee assessed on a producer-distributor.

(4) In addition to the fees established in subsections (1) through (3), the department shall assess a fee of 14.97 cents per hundredweight on the volume of class I milk produced and sold by a producer to be used for the administration of the milk inspection and milk diagnostic laboratory functions of the department of livestock. The board shall include this fee in its formulas for fixing by rule the minimum producer, ~~wholesale,~~ ~~jobber,~~ and retail prices for class I milk in 81-23-302.

(5) The assessments upon producer-distributors, producers, and distributors must be paid quarterly before January 15, April 15, July 15, and October 15 of each year. The amount of the assessments must be computed by applying the fee designated by the department and the fee established in subsection (4) to the volume of milk sold in the preceding calendar quarter.

(6) Failure of a producer, producer-distributor, or distributor to pay an assessment when due is a violation of this chapter, and a license under this chapter automatically terminates and is void. A terminated license must be reinstated by the department upon payment of a delinquency fee equal to 30% of the assessment which was due.

(7) Except for the assessment provided for in subsection (4), all assessments required by this chapter must be deposited by the department in the state special revenue fund. All costs of administering this chapter, including the salaries of employees and assistants, per diem and expenses of board members, and all other disbursements necessary to carry out the purpose of this chapter, must be paid out of the board money in that fund.

(8) The assessment provided for in subsection (4) must be deposited by the department in an account in the state special revenue fund. Money in the account must be used to carry out the purposes of Title 81, chapter 22.

(9) The department may, if it finds the costs of administering and enforcing this chapter can be derived from lower rates, amend its rules to fix the rates at a less amount on or before April 1 in any year."

Renumber: subsequent sections

5. Page 1, lines 23 and 24.

Following: "producer" on line 23.

Strike: remainder of line 23 through "retail" on line 24

6. Page 1, line 24.

Following: "class I"

Strike: "milk and minimum producer prices only for"

Insert: ", "

Following: "class II"

Insert: ", "

7. Page 2, line 1.

Following: "producers"

Strike: ", distributors, jobbers, retailers,"

8. Page 2, line 5.

Strike: "and distribution"

9. Page 2, line 6.

Strike: "and distribution"

10. Page 2, lines 12 and 13.

Strike: subsection (b) in its entirety

Renumber: subsequent subsections

11. Page 2, lines 22 through 29.
Strike: subsections (f) and (g) in their entirety
Renumber: subsequent subsection
12. Page 3, line 10.
Following: "minimum"
Strike: ":"
13. Page 3, line 11.
Strike: "(a)"
14. Page 3, lines 11 through 14.
Following: "computed" on line 11
Strike: remainder of line 11 through "computed" on line 14
15. Page 3, lines 17 through 21.
Strike: "If" on line 17 through "formulas." on line 21
16. Page 3, lines 25 through 28.
Following: "(10)" on line 25
Strike: remainder of line 25 through "(11)" on line 28
Renumber: subsequent subsections
17. Page 4, lines 5 and 6.
Following: "regarding" on line 5
Strike: remainder of line 5 through "regarding" on line 6
18. Page 4, line 7
Strike: "(11)"
Insert: "(10)"
19. Page 5, line 9.
Strike: "(15)"
Insert: "(14)"
20. Page 5, line 20.
Strike: "(16) (a)"
Insert: "(15) (a)"
21. Page 6, lines 3 and 4.
Following: "regarding" on line 3
Strike: remainder of line 3 through "regarding" on line 4
22. Page 6, line 5:
Following: "in 81-23-302"
Strike: "(11)"
Insert: "(10)"
Following: "81-23-302(10)"

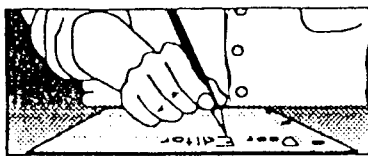
Strike: "and (11)"

23. Page 6, lines 14 through 16.

Strike: subsection (4) in its entirety

Renumber: subsequent subsection

-END-



Write us at P.O. Box 5468,
Great Falls, MT 59403
or fax us at 791-1431

OPIN

SENATE AGRICULTURE

EXHIBIT NO. 1

DATE 2-15-95

Questions or suggestions? Call Eric Newhouse

BILL NO. SB 364

Our view

Quit propping up state milk prices

The issue: Montana senators need to save consumers money by deregulating the dairy industry.

Our opinion: Don't compromise. Help the consumer this time.

The Montana Senate Agriculture Committee is considering a compromise to legislation abolishing the Milk Control Board.

Can the compromise. It's awful.

Essentially, the compromise would leave the Milk Control Board in place to regulate all the state but the fringes.

Across Montana, farmers would still be guaranteed \$1.20 for a gallon of 2 percent milk. In Great Falls and other central Montana points, processors would be guaranteed \$1.43 for pasteurizing and bottling the milk. And grocery stores would get the remaining 27 cents of the state-regulated \$2.90 price.

But in cities like Billings, where unregulated Wyoming dairies are able to sell milk substantially cheaper, processors would be free to offer a lower price — as long as that reduction in wholesale price was reflected in the retail price.

That does raise a certain fairness issue. How can it be legal for the state to require some residents to pay an inflated milk price, but allow others to take advantage of



out-of-state, competitive prices?

Montana should get out of the business of inflating milk prices altogether. In Twin Falls, Idaho, a gallon of 2 percent milk cost \$2.19 last month, but the same gallon of milk cost \$2.90 here by order of the Milk Control Board.

That's 70 cents a gallon, and the average Montanan drinks 28 gallons of milk per year.

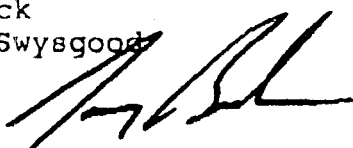
Deregulate it completely and let the price of milk find its free-market value. Ending the protection will be healthy for the state's dairy industry — and will save Montana milk drinkers an estimated \$14 million a year.

Montana Republicans ran last fall on a pledge of getting government off the backs of the people. What better way to do it?

February 10, 1995

MEMORANDUM

TO: Senator Tom Beck
Senator Chuck Swysgood

FROM: Gary Buchanan 

Milk decontrol is a free market, less government issue.

I don't think the Subcommittee compromise goes near far enough. As Chairman of the Governor's Task Force to Renew Montana Government, I would propose the following compromise.

- I. Continue to protect the producer.
- II. Deregulate at wholesale and retail level.
- III. Make the daily dairy bootleg scams illegal! Shipping milk by truck to Wyoming and Idaho is an embarrassment and flaunts State law. Extract a commitment from the industry to immediately stop this practice which delivers less fresh milk, wastes fuel and makes a mockery of Milk Control.
- IV. Wait until next session to see if this compromise lowers milk prices to a competitive level. If it doesn't, decontrol the entire system.

Thanks for your consideration. This is the right Legislature to get government out of the free market place.

cc: Governor Marc Racicot

SENATE AGRICULTURE

EXHIBIT NO. 2

DATE 2-15-95

BILL NO. SB 364

TSB389.SP

Senate Bill No. 389

February 15, 1995

Testimony presented by Pat Graham

Montana Fish, Wildlife & Parks

before the Committee on Agriculture, Livestock and Irrigation

Mr. Chairman, I wish to commend the work of Senator Devlin and the members of the subcommittee in developing SB 389. While no party got everything they wanted, I believe that you have carefully evaluated the respective strengths and expertise of the Department of Fish, Wildlife & Parks and the Department of Livestock and developed a balanced framework for game farm regulation.

There is no question in my mind that we will be watched very closely over the next two years--the agencies and the industry. Communication will be important, and I believe the advisory board will ensure that communication is more consistent and productive than in the past.

I assure you that Fish, Wildlife & Parks is committed to working with the Department of Livestock to implement SB 389 and to developing a regulatory framework that both meets the game farmers' concern for an efficient and effective permitting process and concern about protecting Montana's native wildlife.

I understand the Committee's reluctance to raise fees to cover a portion of the Department's cost, and I am aware of the concern by the industry that we would raise fees too high. You may want to consider allowing the Commission to set fees but establish a cap on the amount to address industry fears.

Amendments to Senate Bill No. 389
First Reading CopyRequested by Fish, Wildlife and Parks
For the Committee on AgriculturePrepared by Paul Sihler
February 15, 1995

1. Page 2, line 30.
Strike: "farm"

2. Page 4, line 8.
Following: "that"
Insert: "within 30 days of importation or prior to January 1 of
each year

3. Page 5, line 5.
Strike: "and"
Insert: ", "
Following: "sex"
Insert: ", and individual identification numbers"

5. Page 6, line 20.
Following: "of"
Insert: "game farm"

SENATE AGRICULTURE

EXHIBIT NO. 4

DATE 2-15-95

BILL NO. SB 389

Senate Bill 389

Testimony by Mike Vashro

February 15, 1995

Senate Agriculture Committee

Mr. Chairman and Committee Members:

I am here today opposing Senate Bill 389 which would split authority between the Department of Fish, Wildlife, & Parks and the Department of Livestock. I believe that the Department of Fish, Wildlife, & Parks should keep overall authority with the duties split as is the case right now. No matter which side of the fence you stand on, what we are dealing with is wildlife and our native wildlife stand the most to lose. I personally feel that we are playing Russian roulette with our state's wildlife. The issue of disease needs to go beyond the more publicized diseases such as tuberculosis and look at the diseases that we do not know very much about. A year ago who had heard of whirling disease? there are too many unknowns out there. We need to be very concerned about animals traveling from different parts of the United States to Montana. There are many other issues that have been raised during the testimony over the past couple of weeks concerning Game Farming. It is my opinion that this bill misses the point by not addressing the widening gap between all sides involved. We need to step back and take a good look at these issues by implementing a moratorium on all expansions and have all interested parties sit down and hash these issues out civilly. We need to start a programatic EIS to answer the questions everyone keeps posing. Would this end the polarization between the groups involved? I don't know, but it's a start. Thank you.

DATE February 15, 1995

SENATE COMMITTEE ON Agriculture

BILLS BEING HEARD TODAY: SB 364 & SB 389

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PLEASE PRINT

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Check One

Name	Representing	Bill No.	Support	Oppose
Stan Frazier	self	389		X
Les Graham		389	X	
" "	MDP	364	✓	
Diana Bridgewater	MCBA	389	✓	
ACK BRIDGWATER	MCBA	389	✓	
Geri Backes	MCBA	389	✓	
Jim Bradford	Montana Bowhunters Assoc	389		
Bob Spoklio	Montana Horn Bunch	389	✓	
Mike Cok	Danigole	364		✓
Ward Hannah	Meadowgold	364	✓	
Jim Richard	MT. Wildlife F	389		
HARRY A. LAFRANIERE	RAVALLI COUNTY	389		
Linda Huback	Self	389		
LARRY Brown	Ag. Pres. Assoc	389 364		

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE February 15, 1995

SENATE COMMITTEE ON Agriculture

BILLS BEING HEARD TODAY: SB, 364 & SB 389

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PLEASE PRINT

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Check One

Name	Representing	Bill No.	Support	Oppose
WIFE Maureen Cleary Schwinden	WIFE	364	X	
Dik Stevens	MT Food Diet	364		
JACK Schubarth	MGBA	389	X	
Pat Graham	FWP	389	X	
Mike (Asher)	SELF	389		X
Leslie Ornel	self	389		X

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY