

MINUTES

MONTANA SENATE 55th LEGISLATURE - REGULAR SESSION

COMMITTEE ON AGRICULTURE, LIVESTOCK & IRRIGATION

Call to Order: By CHAIRMAN KENNETH "KEN" MESAROS, on January 22, 1997, at 1:02 p.m., in Room 413/415.

ROLL CALL

Members Present:

Sen. Kenneth "Ken" Mesaros, Chairman (R)
Sen. Ric Holden, Vice Chairman (R)
Sen. Thomas A. "Tom" Beck (R)
Sen. Gerry Devlin (R)
Sen. Don Hargrove (R)
Sen. Reiny Jabs (R)
Sen. Greg Jergeson (D)
Sen. Walter L. McNutt (R)
Sen. Linda J. Nelson (D)
Sen. Bill Wilson (D)

Members Excused: None

Members Absent: None

Staff Present: Doug Sternberg, Legislative Services Division
Angie Koehler, Committee Secretary

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

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 183, 01/16/97
Executive Action: None

CHAIRMAN MESAROS: Turned the gavel over to VICE CHAIRMAN HOLDEN.

HEARING ON SB 183

Sponsor: SENATOR KEN MESAROS, SD 25, CASCADE

Proponents: Jim Hagenbarth, MT Board of Livestock
Dick Raths, MT Stockgrowers Association
Brian Severin, Rancher
Bill Garrison, MT Stockgrowers Association, Rancher
John Smith, DVM, MT Veterinary Association
Alan Evans, AL-MT Livestock
Dean Peterson, MT Farmers Union

Ken Maki, MT Farmers Union, Rancher
Lorna Frank-Karn, MT Farm Bureau
Candace Torgerson, Women Involved in Farm Economics
Larry Brown, Agricultural Preservation Association
Jim Peterson, MT Stockgrowers Association
Ralph Peck, MT Department of Livestock

Opponents: None

Opening Statement by Sponsor:

SENATOR KEN MESAROS, SD 25, CASCADE: (EXHIBIT 1) I have for your consideration today, SB 183. It repeals two statutes and gives rulemaking authority to the Department of Livestock. There is a technical error in the bill. Section 81-02-802 should be Section 81-02-805.

This bill addresses the changing times. We will be discussing an industry issue that is sensitive and emotional by all of us that are involved in agriculture and specifically livestock enterprise. With the changing times and testimony that will be presented today, I hope we can focus on the facts for the best interest of the industry. We should keep two very basic principles in mind. The cattle industry has fallen on hard times in the marketplace. We need to be absolutely sure that we protect the animal health standards within the state. Yet we need to take every opportunity to increase the market and market availability for cattle within the state and across the borders. I believe this bill will allow for both.

This bill will change the statute requirements for vaccination of females for *brucellosis* before they can cross state lines into Montana. This would give the authority for vaccination requirements to the Board of Livestock for rulemaking and hearing process for vaccination of females entering Montana. Montana has been *brucellosis* free since 1985, North Dakota since 1982, Idaho since 1990 and Wyoming since 1983. This is why we are discussing this bill at this time. The USDA estimates that by 1998 the United States should be *brucellosis* free with one exception. We're all aware that is Yellowstone Park.

Montana law does not currently require mandatory vaccination of calves. It is only a management decision. I continue to vaccinate my heifer calves as do most producers in the state. Montana is a major source of nonvaccinated cattle and could be a source for neighboring states if they could cross state lines. Presently they cannot because of the rigid restrictions within the current statute. The inflexible current law requires that nonvaccinates must be vaccinated upon arrival in Montana and nonvaccinates are not allowed into Montana sell yards from other states. It's estimated that there will be a movement by all states after 1998 to eliminate the vaccination requirement and costly discriminates against states that do vaccinate. This is already occurring in Canada. I feel that the Department of

Livestock has the authority and can review the needs to build in the flexibility to accommodate what I prefaced earlier, the *brucellosis* free status and allowing nonvaccinates to enter Montana. It will give the Department the flexibility to manage that in such a way to maintain our health standards within the state and open up some markets in doing so. The vaccination, in its origin, was designed to be a disease prevention issue and not a trade restriction between the states or other countries.

Canada was declared *brucellosis* free in 1985 and changing this statute would allow flexibility for Canadian trade to go forth with the passage of NAFTA and other agreements. We may not agree with that, but it is here. We need the change so we can accommodate the trade and be assured that the trade goes both ways. The original intent of the *brucellosis* vaccination program was to clean up the disease, achieve *brucellosis* free status in each state and throughout the United States and ultimately reach the point where vaccination is not necessary. Changing this law allows the Department of Livestock to establish rules to maintain and manage Montana's *brucellosis* free status. It allows beef producers more market alternatives for other states and other countries. There are a number of people here to testify that can go into much more detail than I can at this time.

{Tape: 1; Side: A; Approx. Time Count: 1:11 p.m.}

Proponents' Testimony:

Jim Hagenbarth, Chairman, Board of Livestock: I think it's important to realize that the Board of Livestock is made up of seven livestock producers from this state. We direct the Department of Livestock. The bylaws say the Board shall establish policy for the Department. It shall be the sole rulemaking body of the Department, making such rules as are necessary and consistent with law and shall establish departmental priorities and goals which best serve the needs of the livestock industry. We have a real job in front of us. Over the years we've proven that we can do this job. It's important to protect the industry from disease, yet give us the flexibility whereby we can achieve the markets needed to sell our product.

Balancing this with all the other things that come into play is not an easy task. For many years we all fought *brucellosis*. Our particular family, even though we've never had disease in our herd, since 1972 has expended over \$250,000 vaccinating against this disease. This is a cost of disease, not a cost of business. There are only about 40 herds left in the United States. We're about ready to defeat this disease in the livestock industry. To continue to require vaccination, where it's clearly not needed to protect our herds and protect the general public from undulant fever, is not economically viable. For the last 15 years, since we've cleaned up our class free status, we've softened how we manage this rule and have allowed some cattle to come in on import to be quarantined, vaccinated and released. In light of

the current situation in the Park, we believe that managing this law that way is not acceptable. We're determined, as a board, not to be bureaucratic. We want to look at the situation, analyze it, use the resources of our state veterinarian and the resources of the seven members of the Board to dialogue with the industry and make those kinds of decisions. We ask that this law be changed to give us that flexibility. Our record in keeping on top of the disease and protecting our industry cannot be matched. We take this authority seriously and feel it is very important that we move forward as an industry and have the flexibility to allow us to market in areas which are safe. That's why we ask for this change from statute to rule to give us this flexibility. This is the proposed vaccination rule as the state veterinarian proposes to regulate it. (EXHIBIT 2) Here is the law as it is now. (EXHIBIT 3) If you have any questions, Dr. Siroky is here as an informational resource. Thank you for your attention.

Dick Raths, DVM; Chairman, MT Stockgrowers Cattle Health Committee; Chairman, National Cattlemen's Beef Association Cross-Border Subcommittee with Canada: Submitted written testimony. (EXHIBIT 4 & 5)

{Tape: 1; Side: A; Approx. Time Count: 1:25 p.m.}

Brian Severin, Rancher: I have been involved with trying to get this project moving for several years now. I want to confine my comments to the economic side. On the scientific side, I'm absolutely convinced from what I've learned, that we have nothing to fear from Canada. They actually have a far better *brucellosis* control system than we do because they don't vaccinate. At 23 months of age 100 percent of cattle are sampled at slaughter. By not vaccinating, any positive titer they see is a disease reactor and they haven't had one for years.

The person you want to worry about is me, for example. I have several hundred cattle next to Yellowstone Park. We vaccinate all the heifers that we keep, but the vaccine is only 60 percent effective. If the heifer calves we're wintering near Yellowstone Park happened to mix with the bison and one gets diseased and I move it to my Belt place, I've just created a real problem for my neighbors even though my cattle are vaccinated. The point is, this is not a simple problem. The Department of Livestock are the best people to make the judgements on this. They currently have a good program for Yellowstone by keeping the cattle separate. They realize that vaccination doesn't necessarily make them immune to the disease. They're certainly not going to open our borders to nonvaccinated cattle unless they're absolutely convinced that those cattle are disease free.

The economic impacts are very significant and some of the opponents are going to say this isn't a fair deal. That the Canadians are getting a better deal because they're going to bring their unBangs vaccinated cattle into the state and we don't get the same choice going to them. First off, we have a

reservoir of *brucellosis* in Montana and they don't in Canada. It wouldn't be a quid quo pro if we wanted to have it both ways. Secondly, if you look at the numbers last year, less than 5,000 head of Canadian cattle came into Montana. We have sent probably 30,000 to 40,000 Montana feeder calves north despite the difficulties. Let's just say that Canadian trade coming in as a result of the removal of the requirement to have those heifers Bangs vaccinated would triple. We'd still be talking only 15,000 head. Some economic analysts are looking at the demand for feeder cattle in Canada. Alberta and Saskatchewan export 90 percent of the grain they produce and much of it is feed grain. It's a much better use of that grain to feed it locally than to put it on a train, haul it to the west coast and ship it to the Pacific rim.

There is going to be a tremendous demand for cattle. So we could see 250,000 head of Montana cattle going north. The potential to increase our trade by 200,000 head versus maybe increasing the incoming cattle by 100,000. Who comes out on that deal? This is significantly in our favor. It will also have some less significant impacts and would also simplify trade with North and South Dakota. We have many producers that can't cross into North or South Dakota to buy replacement heifers even though it may only be 40 miles away because of the *brucellosis* requirements. Overall, the benefits from changing this law completely overwhelm anything else. I'm convinced there are no dangers whatsoever.

I was asked to make some testimony on behalf of Stephen and Lisbeth Paige from Garneill, Montana. They have real evidence of what the impact of this is. Two years ago a feed lot in High River, Alberta wanted to buy 600 steers. They bid them two and a half cents over what they were getting from local buyers. That's roughly \$15.00 a head, so we're talking a significant amount of money, about \$7,500.00. They had to pass on the deal because when they started checking on the requirements they found they couldn't sell those cattle. So they left \$15.00 a head on the table and sold them locally. That's the kind of thing we're dealing with. It's time to put ourselves on the footing where the Department of Livestock is responsible for the animal health and safety issues. Let them do their job, but also let them react to the possibilities to improve the trade so we can make an improvement in profit.

Bill Garrison, MT Stockgrowers Association, 2nd Vice President:

This is not something new. We have been throwing this around for a couple of years now. It kind of started with the Canadian pilot project. When that was voted on, the room in Billings was as full of people as you could get it. There were a lot of producers there that were concerned about it. When it was voted on, probably 95 percent of producers voted to go along with this idea. It would be very beneficial to our industry if it was regulated through the Department of Livestock rather than statute. The cattle business is changing awfully fast like a lot of other businesses are.

John Smith, DVM, Montana Veterinary Medical Association:

Submitted written testimony. (EXHIBIT 6) My personal statement is that I've practiced for 30 years in Montana. For the last six years I've been our professions's liaison to the Board of Livestock so I have attended most all of their meetings. My father contracted undulant fever through the Strain 29 vaccine in the programs of the 50's. One of my partners contracted it through working on a diseased horse. I have had some experience with it. I certainly feel that the Board of Livestock and our state veterinarian can make the decisions that will have to be made in an unbiased way. They are very open to comments and discussion.

Alan Evans, AL-MT Livestock, LLC: Submitted written testimony. (EXHIBIT 7)

{Tape: 1; Side: A; Approx. Time Count: 1:39 p.m.; Comments: Turned tape over.}

Dean Peterson, MT Farmers Union: Submitted written testimony. (EXHIBIT 8)

Ken Maki, MT Farmers Union: Submitted written testimony. (EXHIBIT 9)

Lorna Frank-Karn, MT Farm Bureau: We support SB 183. You have heard all the reasons why from the other people that have testified. I thank you and recommend you give this a DO PASS.

Candace Torgerson, Women Involved in Farm Economics: Submitted written testimony. (EXHIBIT 10)

Larry Brown, Agricultural Preservation Association: We would like to go on record as supporting SB 183. Our producers, both in the dairy and general feeder cattle business, think this is an opportunity to improve the business on behalf of the state as well as our producers.

Jim Peterson, Executive Vice President, MT Stockgrowers Association: I will pass out an outline in support of SB 183 that has been referred to by many of the previous proponents. I don't need to add to that. (EXHIBIT 11 and 12)

Ralph Peck, Director, Department of Agriculture: The livestock industry has worked very hard on this issue and we commend them for that work and have a lot of confidence in the Board of Livestock so please support SB 183.

Mr. Peterson: I have letters from Jim Courtney, a rancher from Alzada, the Carter County Sheep and Cattle Growers Association and the Fallon County Stockgrowers and Landowners Association. They all support the bill. (EXHIBIT 13, 14 and 15)

VICE CHAIRMAN HOLDEN: These people called me earlier and wanted to be on record in favor of the bill. We'll do that at this time by way of their correspondence.

Opponents' Testimony: None

Proponents' Written Testimony:

Mark Norem Enterprises (EXHIBIT 16)
Leo Solf, Cattle Rancher (EXHIBIT 17)

Opponents' Written Testimony:

Southeastern MT Livestock Association (EXHIBIT 18)
Beef Producers in SD 22 (EXHIBIT 19)
Beef Producers in Custer, Rosebud and Fallon County (EXHIBIT 20)

Written Information:

Brucellosis Affected Herd Report (EXHIBIT 21)
Import Totals FY96 (EXHIBIT 22)

{Tape: 1; Side: B; Approx. Time Count: 1:48 p.m.}

Questions From Committee Members and Responses:

SEN. TOM BECK: I think it's a great start and the object is to get something working with Alberta and across the Canadian border and showing our good faith. Is there any plan by Alberta to reciprocate? Does anyone have any knowledge if that is going to come about?

Clarence Siroky, State Veterinarian, MT Department of Livestock:
Part of this bill does address the Canadian issue, but that is not the whole intent of this bill. It's important to realize that we have some other problems with this bill. To answer your question, under the Northwest Pilot Project and the NCBA's efforts on trying to develop trade, we are communicating with Canada to change their regulations for admitting cattle to their country without a test for *brucellosis* and *tuberculosis* under that arrangement. They have discussed, in that arrangement, decreasing the dollars that are involved with moving those cattle north as well as moving cattle south. All of this goes together with trying to put together a pilot project and take it as that. It's going to be evaluated to see how applicable it is and how it works as far as trade is concerned. It is our hope that, when we put this together, you're going to see a net benefit to Montana because of movement of livestock. From the way cattle movement has taken place recently, you're going to see more of a net increase going north than you will going south.

SEN. BECK: How many regulations do we have regarding *blue tongue*? I've heard that we have to document through bleeding. Can we alleviate some of those things?

Dr. Siroky: That's the whole intent of this. There is actually a cross-Canadian group that's made up of the Canadian Cattlemen's Association, NCBA and the agencies involved with that. They were strongly advocating reducing some of these requirements going north as well as south.

SEN. BECK: I think it would be to Canada's advantage also to have those restrictions lifted. In the event that we don't seem to be getting anywhere, would there be any merit to putting a sunset into this bill for four years time. It would say, "Hey, if things don't come to pass, should we go back to what we have right now."

Dr. Siroky: Other states also have requirements and we have to be able to respond to that. Trying to make this just a Canadian bill would be unfair to other states. You'll notice there is some flexibility in the proposed rule. It gives the Department of Livestock the ability to say, "Whoa, things aren't working and we can do some changes." The Department of Livestock and Board of Livestock are not going to compromise the health of our state. There is a good history of that.

SEN. DON HARGROVE: I'm trying to think of a scenario whereby this would not be good for us. Say we were operating under this for a couple of years and all of a sudden there was an outbreak. It either just happens or is something somebody was trying to export or ship across the border. Is there any reason why that would make people nervous in other states or Canada and maybe set us back where we would have to go back to square one and start all over again?

Dick Raths, MT Stockgrowers Association: Is there a downside? The ultimate downside is Montana losing its *brucellosis* free status. I'm sure a lot of you are aware that there are some new things in *brucellosis* in the last year. The RB-51 vaccine is one. **(EXHIBIT 23)** It is a vaccine that does not show a serological blood titer. It does not confuse disease with vaccination. It is being used on wildlife and domestic stock and has the potential for being a vaccine that can be used as an adult vaccination in areas that are around the disease area. It has a lot more potential. As far as studying *brucellosis*, disease transmission and epidemiology, I cannot see a downside to changing the legislation to a rulemaking process. The upside is that the rulemaking process is a lot more responsive.

The cross-border working Committee is working on a lot of issues. Three years ago I was involved in the *blue tongue* regulation changes as they exist now. They loosened up a lot of laws so that during the nonvector season, *blue tongue* being spread by an insect, we do not have to test Montana cattle from October to March. That allows us a real window. The Canadians have agreed to take those that are positive up there. They are in the process of studying them. They are going to report to us in Kansas City what they're study is. Under this Pilot Project

you've heard about, the Canadians will accept Montana feeder calves without testing for *brucellosis*, *anaplasmosis* and *tuberculosis* with the idea that they will go into registered feedlots and not contact Canadian cattle. That saves us about \$25.00 to \$30.00 testing per animal and that saves us a lot of health fees. Those will be written out on a local health certificate and will save us about \$5.00 or \$6.00 per animal.

SEN. GERRY DEVLIN: Did I hear you say there is only a 60 percent rate of immunization in the calves?

Mr. Rath: Yes, I understand that the RB-51 does not exceed that by very much either.

SEN. DEVLIN: How did we ever eradicate the disease in this state?

Mr. Rath: The primary eradication is through blood testing. The science of *brucellosis* is that in order to effectively slow the tumbling of it through a population you must have approximately 90 percent vaccination compliance. It was a tool that slowed it down, but it was not as effective of tool as we thought when we were using it.

SEN. DEVLIN: We've talked about North and South Dakota. How about some of the other states like Nebraska, Wisconsin, etc.? What is on their books as far as shipping cattle there?

Mr. Rath: As you can see on the handout from **Jim Peterson**, there are 14 states requiring vaccination to move cattle into their state. Of those, some have various requirements. The majority of them are at the discretion of the Board of Livestock in those states. Basically, when you're dealing with *brucellosis* you have federal regulations and state regulations. The state regulations deal with the back and forth between states. The federal regulations deal with eradication of the disease and the classification of the states.

SEN. DEVLIN: Could you tell us some states that, unless I vaccinate, I couldn't go into?

Mr. Peterson: North Dakota has agreed to take cattle without vaccination, but because of the Montana requirement, they won't reciprocate unless we can.

SEN. DEVLIN: Do you have something on paper to that effect?

Dr. Rath: Yes, I do. (Referring to (EXHIBIT 5).)

SEN. DEVLIN: What other states are we talking about?

Dr. Rath: I can show you the health requirements for all 50 states in terms of *brucellosis*. ?EX?

SEN. DEVLIN: That would be very interesting to this Committee.

{Tape: 1; Side: B; Approx. Time Count: 2:00 p.m.}

SEN. REINY JABS: You made a statement that, in Montana, cattle are discounted because of the shield in their ear. Other states, like Wyoming and North Dakota, don't vaccinate. Is that true?

Dr. Rath: There are some states surrounding us that have mandatory vaccination. Idaho is one, Washington is another. Wyoming does not have a mandatory vaccination. It is at the producer's discretion.

SEN. JABS: If they don't vaccinate, they won't have that shield.

Dr. Rath: There are two reasons they don't have the shield. They were not vaccinated or it's a black cow and it was the middle of winter when you tried to put it in and it didn't stay.

SEN. JABS: If you remove the requirement for vaccination, they won't have that shield. Therefore they are considered *brucellosis* free. Will buyers recognize that?

Dr. Rath: If we take out the significance of the vaccination shield from a commercial standpoint, that you have to have it to move to another state, vaccinated and nonvaccinated animals will approach the same market value.

SEN. JABS: In this state, some people will still vaccinate because they want a little more.

Dr. Rath: Yes, they will.

SEN. JABS: What happens when they sell breeding stock at market?

Dr. Rath: When they go to the blue ribbon sale, Pat Goggins can discontinue the practice of looking in their ear and marking them on the head if they have a shield.

SEN. JABS: You mentioned there are 500,000 head of cattle coming in from Canada.

Mr. Severin: There are actually only 5,000 head of cattle staying in Montana. There are a lot more cattle in transit through the state, but they don't stay. The actual number of cattle imported from Alberta and Saskatchewan that became residents of Montana are very small. Since virtually all Canadians don't vaccinate, our current rules basically discriminate against Canadian females coming to Montana to be used as replacement females and staying. What I was eluding to was that if we remove the requirement of them having to be *Bangs* vaccinated, then we'll probably see an increase in that trade.

Dr. Raths: Montana imports 131,000 head of livestock from other states on an annual basis. We export 147,000 head annually to markets outside of Montana. We export to pastures outside of Montana 128,000 head annually. During this same year, the importations of cattle from Canada to Montana that stayed in Montana totalled 3,448: 979 steers, 908 spayed heifers, 1,474 bulls, 7 calves. This year we've imported 16 cows from Montana. On the flip side, last year there were 17,000 Montana feeder cattle going to Canadian feedlots.

Mr. Severin: I said less than 5,000 head. We had approximately 3,500. Even if we assume that will triple as a result of this. It would put us at 11,000. It's safe to assume that our exports would increase dramatically. If ours tripled, we'd increase to 35,000. The reports we've seen by different economic analysts and based on what the packers from Canada are telling us, there is going to be an increased market for anywhere from 500,000 to one million head of killer cattle per year. It's unreasonable to expect that the Alberta cow/calf producers will be able to make that up. Obviously, there is going to be some increase. We have a potential market of half a million cattle. You have to offset that against the small increase of what we're bringing in. The economic impacts against this are so far outweighed by the economic impacts for it that it's not even worth considering.

SEN. JABS: I heard there were about one and a half million cattle coming from Canada per year into the United States.

Mr. Severin: Those are killer cattle. They're not coming to Montana. One point we're trying to address is that you hear all this about all these killer cattle coming across the border, but these semi's are going south. I think it's unrealistic to think we're going to stop that. World trade is a fact of life. Even if we close our border, we're going to compete against those cattle overseas. They're going to go someplace. If we don't compete with them here, we'll compete with them in Japan. What bothers us, in the cow/calf industry, is that we're in a great position to compete with the Canadian cow/calf producer to be sending the cattle up there to be fed in the first place. We'd like to see a lot of those trucks going back with our calves on them. Then more of those trucks you see coming south are actually cattle that started off right here in Montana. We need to recognize that Canada is the sixth largest feeding area in North America. It is bigger than Iowa and even with Colorado. If the increase in forecasted feeding capacity takes place, it will be up there with Nebraska. I put my cattle on a truck this year and they went to Iowa. That is a 20 hour ride and I could have them in High River, Alberta in two and a half hours. It doesn't take a rocket scientist to figure out that is a good market for me.

SEN. JABS: We've got a 30 percent difference in our money and they're going to come back here when they're fat.

Mr. Severin: A lot of them are going to come down whether we go there or not. You have to realize it's just the world market. We need to take actions to improve our ability to compete up there. This \$25.00 to \$30.00 a head tariff quota is not a tariff, but it ends up being a tariff, costing us to export cattle. We need to actively do something to remove that because it basically becomes a subsidy for them. They will be able to get that extra money because it's the extra it will cost for those feeders and packers to come down here and buy cattle. If we want to compete, instead of griping about the importation of cattle which we can't do much about, let's get busy and fix it so we can export cattle. I do a lot of business in Canada. It's a pretty rare Canadian cow/calf outfit that can compete with a Montana outfit. They have to feed seven months of the year. I feed my cattle maybe three and a half months of the year. We have a lot of advantages in the cow/calf business. Right now, what's helping them is that they have a lot of advantage in the feeding business due to the tremendous supply of cheap grain. So let's get this border opened up so we can go up there and take advantage of the cheap source of feed, compete with the cow/calf producer and keep his numbers from growing. I would be happy to see these trucks coming down if I know that 60 or 70 percent of the cattle started off in Montana.

SEN. DEVLIN: How many members of your Board are here today?

Mr. Hagenbarth: I'm the only one.

SEN. DEVLIN: Do you think the first thing you're going to do is open it up to nonvaccinated older cattle coming into the state?

Mr. Hagenbarth: You're not going to open up to cattle that aren't vaccination eligible. You vaccinate between four and twelve months of age.

SEN. DEVLIN: It doesn't do any good over twelve months does it?

Mr. Hagenbarth: I'm not a veterinarian. I can't answer that.

SEN. DEVLIN: So you would be relying on Dr. Siroky?

Mr. Hagenbarth: You bet and our own vets in our own communities.

SEN. DEVLIN: It is like two different states between the east side and west side of the river in South Dakota.

{Tape: 1; Side: B; Approx. Time Count: 2:10 p.m.; Comments: End of tape..}

Mr. Hagenbarth: South Dakota is a diverse state in terms of brand laws. I know in Nebraska and I think in South Dakota it's divided down the center of the state as far as having brand laws for livestock in the western part of the state and the eastern part doesn't. There are some differences there.

SEN. DEVLIN: I thought there was something new because they never did get along. I wondered how they ever got a program together good enough to eradicate the disease.

Mr. Hagenbarth: South Dakota has a huge industry with a lot of diversity in it. It's not as livestock oriented as Montana. I would gladly give you a copy of that. Basically, they are interstate health requirements. Those were written by the New York state veterinarian. New York is also *brucellosis* free. There were equine and bovine.

SEN. DEVLIN: Is that the list I asked about a while ago?

Mr. Hagenbarth: Correct, sir.

SEN. BECK: We've been talking a lot about cattle coming out of Canada, after the implementation of NAFTA, and going right on through the state. Can you tell me the percentage of increase, since NAFTA was implemented, of feeder cattle coming out of Canada into Montana and staying in Montana?

Mr. Hagenbarth: To the best of my knowledge, we've seen a decrease in feeder cattle over the last few years. I have figures up until this year. This year, the numbers of feeder cattle coming down have increased by about 243 percent. That's based on an approximate 900 head standard population for the last five to seven years. The fact that their packing plants were not on line caused a bulge of feeder cattle to come down.

SEN. BECK: I heard it was higher than that, but I was wondering if you were aware of that.

Mr. Hagenbarth: 243 percent or whatever is in context with the numbers. We're still talking pretty small numbers.

VICE CHAIRMAN HOLDEN: In my country, I've had quite a bit of uprising to this issue, particularly from Mr. Bickle of Bickle Cattle Company. I was looking at a letter he sent me and it specifically talks about a reservoir of *brucellosis* infection in Yellowstone Park. (EXHIBIT 24) He feels it's imperative that Montana maintain its *Bangs* vaccinated cattle herds because of this reservoir. How would you answer him on that point?

Mr. Peterson: Vaccination for *brucellosis* is not required by statute in Montana. It's a management decision. The statute only requires the *brucellosis* vaccination for cattle that are moving across state lines. Maintaining a *brucellosis* vaccinated herd in Montana has been a management decision by individuals since this statute was put in place. This process works because virtually 100 percent of the cattle around Yellowstone Park are being vaccinated because it's a high risk area. We rely heavily on the Department of Livestock to help manage the Yellowstone Park issue.

VICE CHAIRMAN HOLDEN: Do you feel we are sending a message to the producers of this state, if we pass this bill, that it's not necessary to *Bangs* vaccinate their herd?

Mr. Peterson: The Department of Livestock has proposed a vaccination rule that would require vaccination. (EXHIBIT ?) We can speculate about how long that will last, but under the present conditions, the Department of Livestock continues to require that vaccination. The message being sent is that the statute will change, but the Department of Livestock is going to continue to require vaccination. With the exception of transport cattle that have a 30 day holding time for vaccination, initially nothing will change.

VICE CHAIRMAN HOLDEN: Mr. Bickle's letter talks about feeders going to registered lots. What is a registered lot?

Mr. Peterson: The Canadian Trade Pilot Project involves a process whereby Montana producers would not have to test cattle for *anaplasmosis*, *brucellosis* or *blue tongue*, particularly blue tongue in the nonvector season. We wouldn't have to incur those costs if we went directly to a feed lot in Canada. Basically, a registered feed lot means those cattle will be fed for slaughter and go to slaughter at that feedlot. They wouldn't have to be tested for any of the three diseases I mentioned. The animal health status of diseases in Canada are a little different than the animal health status of diseases in Montana. Therefore, you can't equate them. We're trying to develop a pilot project that would be reviewed extensively by USDA, APHIS and the Department of Livestock so we could free up the movement of these feeder cattle going north, avoid this testing and the cost associated with testing. We could then take advantage of the market referred to earlier.

SEN. DEVLIN: The 60 percent effectiveness of this vaccine really bothers me. These guys are using it around the Park so they don't get it in their herds, but they're only getting a 60 percent success rate. Is that right?

Mr. Peterson: That's correct. The vaccination process is only one leg of a three-legged stool for the elimination of *brucellosis*. There is also a testing and slaughter provision. These three together helped us eliminate *brucellosis*. It's the testing and slaughter provision that maintains a *brucellosis* free status in Canada.

SEN. DEVLIN: What I'm talking about is, if you're only getting a 60 percent success rate or immunization of your cattle, you're going to get it in the herd.

Mr. Peterson: That is possible and precisely why the livestock industry is taking certain measures.

SEN. DEVLIN: How do you keep track of things like that? Who is running the program at the Park now with the animals? How do you track infection if there is any in a herd?

{Tape: 2; Side: A; Approx. Time Count: 2:20 p.m.}

Mr. Hagenbarth: The bison in Yellowstone National Park show a 50 percent titer of blood. As they step over the border, we control them. The program now takes some to slaughter, we shoot some and we haze the bison back into the Park. We keep a spacial relationship between the bison and our cattle.

SEN. DEVLIN: You're keeping a buffer zone, then?

Mr. Hagenbarth: You bet. I live 20 miles west of Yellowstone National Park in Idaho and we bring our cattle back and forth across the border. Six bison have been within a mile of our cattle. I guarantee you, they will never see our cattle. The Department of Agriculture in Idaho has given us the authority to control the bison if they get too close to our herd. As we slaughter our cull cows every year, those cattle are back-tagged and blood tested to see if they have been exposed to *brucellosis*. If there is a problem, they immediately test our cattle.

SEN. DEVLIN: It doesn't matter whether there is a shield in the ear or not?

Mr. Hagenbarth: No, not at all.

SEN. JABS: Are we going to hear the marketing side of this thing? Since it's not mandatory you vaccinate your calves and we're designated *brucellosis* free, why do they put so much emphasis on the shield when they sell breeding stock?

Mr. Peterson: Because of the current Montana statute. The only permanent record the cow has that she's been vaccinated and can cross the border is the shield in the ear. I had buyers calling me from North Dakota wanting to buy cull cows out of the Billings market. Because the shields were either not present or not legible, they were unable to cross the border. Therefore, they were not bidding in the Billings market. The reason for the importance of the shield is because of this statute and the inflexibility of this statute associated with a guarantee that those cows have been vaccinated. The only other way you can go back is to check the health records of those cows and get a vet to certify that they were vaccinated. **Les Graham** can tell you about the markets. He represents the Livestock Market Association in Montana.

Les Graham: The marketing process with some of the states is lack of reciprocal agreements. Through the years, what they have told us in Montana is, "You have a requirement against our animals coming in, therefore we're going to hold a requirement against yours until such time it can be brought equal." **Mr.**

Peterson just handed me a letter from the state of North Dakota which may answer your questions. **(EXHIBIT 5)** It basically says if Montana implements this proposal, it will be similar to North Dakota's law except for provinces. North Dakota will accept Montana's nonvaccinates if Montana will reciprocate. With the present laws on the book, Montana cannot reciprocate. With this letter from the Board of Animal Health and signed by their state veterinarian, North Dakota is telling us that when this law goes off the books they will reciprocate. Animal health laws have been used as trade barriers through the years. My experience with the Board of Livestock since 1974 is that they have stayed away from that. I've always marveled at the Canadians and their tremendous ability to realize that a vector, a mosquito or whatever, turns back at the border. If you tell me that is an animal health protection they're using for *blue tongue* and other things, I don't buy it. Nevertheless, it's a good example of what has happened through the years. A good example is they know we're *brucellosis* free, but until we get rid of this law as it is now, they are not going to reciprocate so the auction markets of cattle are held up.

SEN. NELSON: How can you guarantee that the buffalo aren't going to get within a mile of your cattle unless you're out there 24 hours a day?

Mr. Hagenbarth: Because they have to go 40 miles before they get there.

SEN. NELSON: Couldn't they get within the vicinity and get closer? Isn't there a chance of commingling in the night?

Mr. Hagenbarth: Possibly. All of us ranchers look after one another and they have to go through a lot of tourists and that draws a lot of attention. There is usually no problem.

SEN. DEVLIN: I want to see all the paper I can as far as other states doing exactly what **Mr. Graham** mentioned about putting the rule into effect just to stop things at the border. Are there a lot of those, **Mr. Rath**s?

Mr. Raths: There is a list circulating that gives the requirements for the individual states. As a general rule, in my meetings with state regulatory officials, there is an old philosophy of protectionism involved for states to use whatever means they can to limit the amount of livestock going back and forth. The newer generation of people recognize that free trade is viable to everyone and the newer generation of state veterinarians are recognizing that this costs their producers more money than is of benefit for them. In this case, North Dakota has had an offer to Montana for several years. In any process there is push and shove.

SEN. DEVLIN: What about other states away from our borders?

Mr. Rath: I wrote to the surrounding states. I deal with a large, purebred operation that sent cattle to 36 states. The ones around us are as tough as anybody. Most of the rest don't care.

SEN. BECK: If we vote for this bill, it takes the statute requirement off that all replacement cattle in Montana have to be vaccinated for *brucellosis*. In the event that we pass it, will it still be a rule, through the Department of Livestock, requiring *brucellosis* vaccination so this doesn't start to get away from us.

Dr. Siroky: There is no current law or requirement for you to vaccinate animals in this state. That is purely a management decision. Other states, like Idaho and Washington, have a mandatory vaccination requirement for herd owners. Montana does not have that and has never had that. The philosophy behind that is that managers of livestock and ranches in Montana were given responsibility and felt they were responsible enough to decide for themselves without government interference. This is a prime example of no government interference and things going like they were supposed to. Vaccination has been and always will be a voluntary management decision. This regulation only has to do with imported animals.

SEN. BECK: In the event that *brucellosis* is detected in your herd, will it be on statute or in rule that you have to clean up or eradicate that herd? How will you handle an infected herd?

Dr. Siroky: That has always been in rules. There is no statute for mandatory cleanup within the state. When we go to a suspected herd, whether or not it has *brucellosis*, we don't care at that point in time whether it's vaccinated or not. We just start testing. There are two herds right now that have been exposed to *brucellosis* from bison. One herd from Idaho. That herd went to Idaho and was tested, came back to Montana and was tested and will be tested again when it goes back to Idaho. It will be tested again when it comes back next year. That's how we do our surveillance. When we have exposure, we don't care about vaccination at that point. We had a herd exposed last night. That herd will be tested and after calving will be tested again.

SEN. BECK: The only thing we've been requiring is that imported cattle into Montana have to be vaccinated for *brucellosis*.

Dr. Siroky: You are correct.

{Tape: 2; Side: B; Approx. Time Count: 2:30 p.m.}

SEN. JERGSON: Comparing your proposed rule with what is in current statute, the essential change is the addition of Sub 5: nonvaccinated from classed free states or areas designated by the Board of Livestock. Once you've adopted the rule, how would you identify which states or areas could be designated as free?

Mr. Hagenbarth: You talk to the state veterinarian, **Dr. Siroky**, he talks to his counterparts, you look at the history of the state and counties within that state. For instance, South Dakota is now a class A state. By law you can't transport calves from a class A to a class free without them being vaccinated. We would look at all those. There may be a class free state that has a problem we don't like and won't allow. We're going to have just as many questions about bringing cattle in from other states as they might have about taking our cattle. This is not a free ride. We will look very closely before we make any decisions.

SEN. JERGSON: If you decided to permit livestock to come into Montana from California, would there be public notice? Would producers in Montana know that you're going to open it? Would they have the opportunity to relay knowledge they may have about circumstances and conditions in that state?

Mr. Hagenbarth: I will refer that to **Dr. Siroky**. He is the person that addresses the Board and gives us the guidelines to follow.

Dr. Siroky: Currently the Department of Livestock has a procedure that we use to import animals into this state from a variety of other states. They can change rapidly with changes in disease in other states. We have to react quickly to that and do it by virtue of an order. For argument's sake, let's say North Dakota and Oregon satisfy this Board as being okay to come in so we issue an order. When we issue that order, it is somewhat of a public process as it goes to the Board of Livestock and if they approve it, the order is written and we put that on the bulletin board for the state. Tomorrow that may change. The change is, Oregon found out they had a disease last night and we have to be able to take that off immediately so those animals don't come into our state when that change occurs. Essentially, what we've done with our order system in letting animals come back gives flexibility to protect the health. If we had to do it any other way, we would have a long lag time. This is laid out in fairly good detail so you know why we're doing what we're doing. All we're going to do is identify certain states that can or cannot be a part of the importing.

SEN. DEVLIN: Evidently the Association hasn't been too successful in convincing the Southeastern Stockgrowers of this plan. Do you think you could educate them? They have passed a resolution against this. What do you think can be done? I will have a hard time voting because my district is southeastern.

Mr. Peterson: I think that through the process of communication and education we can communicate the logic behind this. It's evident there is some miscommunication. There has been an assumption all along that the statute required we vaccinate all cattle within this state and that's simply not the case. The statute only applies to cattle crossing borders. We'll have to communicate with and educate producers about that very fact.

I'll do my best. Our process at MT Stockgrowers is to do it by the democratic process and about 95 percent of our members said yes, we'll go with it. I've always felt that if you could get 95 percent to agree in the cattle business, that's pretty good.

SEN. DEVLIN: I know your hierarchy has really approved this. I'm just wondering about the rest, how they fell through the cracks or whatever.

Mr. Peterson: Southeastern did express concern and passed their resolution. Carter and Fallon County did just the opposite.

SEN. DEVLIN: They are part of the Association and must have been there. They didn't have enough votes, I guess.

Mr. Peterson: Mr. Bickle was there and spoke. The majority of the group went for this. It is a process of education. Times are changing and we're attempting to change with those times.

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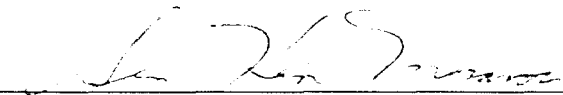
SEN. MESAROS: We've had a good hearing. We've heard a lot of statistics, have a lot of handouts and a lot of documentation on this. Obviously we have to be concerned with two things and that is absolute protection for the animal health standards in the state and also take every opportunity to increase the markets for our cattle. I realize what the livestock industry has gone through with marketing and we have to take every opportunity to increase the markets. There are several things we need to take into account. This proposal has not just surfaced in the last couple months. They have researched this for two years. They feel confident, that if we repeal this statute and give the Department of Livestock rulemaking authority, that they have the efficiency to protect the health and open up some markets. We've heard repeatedly that we need flexibility. I believe the present statute is somewhat outdated and we need to change with the times. The Board of Livestock is responsive to the livestock industry and will insure the protection of our industry, but will open up some markets. I urge you to support SB 183.

VICE CHAIRMAN HOLDEN: That will close the hearing on SB 183. I will turn the chair over the **SEN. MESAROS**.

CHAIRMAN MESAROS: We will not take Executive Action on this. It's only fair that the Committee has time to review all the documentation.

ADJOURNMENT

Adjournment: 2:42 p.m.



SEN. KEN MESAROS, Chairman

ANGIE KOEHLER, Secretary

KM/AK