

MINUTES

**MONTANA SENATE
55th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON AGRICULTURE, LIVESTOCK & IRRIGATION

Call to Order: By **CHAIRMAN KEN MESAROS**, on February 14, 1997, at
3:00 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 326 - 02/11/97
HB 105 - 02/07/97
Executive Action: HB 105 & SB 326

HEARING ON SB 326

Sponsor: SENATOR GERRY DEVLIN, SD 2, TERRY

Proponents: Jason Campbell, MT Assoc. of State Grazing Districts
Jim Raths, MT Assoc. of State Grazing Districts
Mons Teigan, Teigan Land & Livestock Company
Steve Schmitz, Dept. of Natural Resources & Cons.

Opponents: None

Opening Statement by Sponsor:

SENATOR GERRY DEVLIN, SD 2, TERRY: I bring before this Committee a bill to establish a Montana Grass Conservation Advisory Committee. With all the changes and everything that we have in the federal law on grazing lands and also, state laws, changing things on grazing, that the grazing districts of this state are pretty hard put to keep up with all of this. This bill is to establish a Grass Conservation Advisory Committee. That's all it does and I think there's quite a few here that would have a few words to say about this. I reserve the right to close.

Proponents' Testimony:

Jason Campbell, Executive Director, MT Association of State Grazing Districts: I have some handouts on this legislation. (EXHIBIT 1 & 2) It's kind of a single user group. Grazing district members pretty much fund our program within the Department of Natural Resources. I will briefly go through some history about grazing districts and what they're all about and then go through some of the problems we're having. We would appreciate a DO PASS on this bill.

Jim Raths, President, MT Association of State Grazing Districts: I would like to add that we feel it's very important at this time that the districts continue to function. We feel that this study is important. We need to look at the best possible way of implementing this. In 1935, when the grazing districts were formed, they were formed through the range conservation and to facilitate the administration and cooperation between the permittee and the federal government to protect the permittee's rights. We've done a good job of improving the range. Cooperation with the federal government and protecting the permittee's rights are probably the most important thing that the districts are going to continue with, but at the same time we will continue to try to do the best job of range management possible. If the districts were needed in 1935, they are just as vital and necessary now. I urge you to adopt this.

Mons Teigan, Teigan Land & Livestock Company: I was the Executive Officer of the Grass Conservation Committee from 1949 to 1961. During that time we were establishing preferences and holding surveys and negotiating with the federal government and holding horse roundups. The second year I was there I spent the whole summer supervising horse roundups. For those of you that are old enough to remember, there were a lot of bangtails running loose on the range in Montana. We got rid of quite a few. It was one of the prestigious things to do. You were really helping the country. I would hate to try to hold a horse roundup today. You would have everybody down on your neck. After I left, they started using part-time help because the problems they had to start with were pretty well eliminated. You still need an organization to coordinate with the federal government. Now it's just the BLM. At the time I was in there, there was the Soil

Conservation Service, the Forest Service and the BLM and we had to negotiate agreements with them. It worked well to have the commission made up of ranchers and county commissioners. This bill looks like something that should be done. It's too bad that when executive reorganization came to pass it wiped out the Commission. The law is still there, but the Commission who is responsible for making sure that the laws operate properly is no longer there. I would assume after a year or two an advisory group will come up with some arrangement so they can get a commission structure in there. I urge a DO PASS.

{Tape: 1; Side: A; Approx. Time Count: 3:15 p.m.}

Steve Schmitz, Bureau Chief, Conservation Districts Bureau at Department of Natural Resources & Conservation: My work group is responsible, under the agency, to carry out the powers provided to us under the current statute in providing assistance to the grazing districts and in some cases, supervision. The grazing districts themselves and land management practices over the years have evolved as you've heard in previous testimony. As a result of that, we've seen a number of organizational and operational issues arise with the grazing districts out there. They really do need to collectively evaluate these issues and problems and collectively and cooperatively develop some effective solutions that will work for them. We want to go on record as supporting this bill and we'll work with the Committee to go through this process if you pass it.

Questions From Committee Members and Responses:

SEN. GREG JERGESON: I like your bill, but I'm wondering who is going to be paying for the per diem and mileage for the Committee members? Is there a state special revenue account to cover that?

SEN. DEVLIN: There is an assessment on all the cattle within the grazing districts in the state of \$.10 per animal unit per year. I don't think they would run up an awful lot of expenses. It would come out of there, I would think.

SEN. JERGESON: Does a portion of that come to the DNRC?

SEN. DEVLIN: Yes.

SEN. JERGESON: It's not retained locally in each district?

SEN. DEVLIN: No. That's their levy for the support they get out of the conservation in the DNRC.

SEN. REINY JABS: Was this Committee in existence before reorganization?

SEN. DEVLIN: Not that I know of. There has never been a Committee like this before. There was a Grass Commission, but it's gone now.

SEN. JABS: Is this mainly for grazing districts?

SEN. DEVLIN: Yes. It's just like this Legislature. It becomes so complicated that various districts throughout the state run into more and more problems because of the changes in federal and state law. They have to have a lot of questions answered. Sometimes it stretches the personnel in the DNRC pretty thin. Are you the only one who handles this across the state?

Mr. Schmitz: Myself and we have a staff member in Miles City that helps occasionally.

SEN. JABS: It is printed in block fees from the grazing district.

SEN. DEVLIN: Yes, it talks about the fees in the handout. It's \$.10 per animal unit per year.

Closing by Sponsor:

SEN. DEVLIN: I mentioned earlier that things have gotten very complicated out there. I'm a member of a grazing district in Prairie County and things have gotten very hairy there because all of sudden we had a case where Burlington Northern or Glacier Park Company offered up lands for sale and we had a person go into another allotment, one person refused to buy so another neighbor bought that and now there's a rumble that gets very complicated and is close to being in court. We're trying to avoid those types of situations. I don't know whether we can avoid them all. At one time grazing districts were all open range. Nobody got paid anything. The Northern Pacific Land outfit couldn't collect any money because everybody just ran random. They couldn't catch up with anybody to pick up any money. There were a few near range wars, but they finally developed these grazing districts and as such, started to put together allotments for folks that was comprised of private, federal, state and any land of an absentee landowner that wasn't getting any pay and was still paying the taxes. I hope you will see your way clear to pass the bill.

{Tape: 1; Side: A; Approx. Time Count: 3:21 p.m.}

HEARING ON HB 105

Sponsor: REPRESENTATIVE JOE BARNETT, HD 32, BELGRADE

Proponents: Will Kissinger, MT Department of Agriculture
John Venhuizen, MT Potato Improvement Assoc.
Glenn Droge, Droge Seed Potatoes, Manhattan
Dale Venhuizen, Manhattan
SEN. CHUCK SWYSGOOD, SD 17, DILLON

Opponents: None

Opening Statement by Sponsor:

REPRESENTATIVE JOE BARNETT, HD 32, BELGRADE: Submitted and read written testimony. (EXHIBIT 3)

Proponents' Testimony:

Will Kissinger, MT Department of Agriculture: This bill is primarily a housecleaning bill based on our history of administering this particular act and also through contact and input through the Montana seed potato growers. Page 1, line 20 - definition of commercial purpose was put in here since the verbiage in the remaining part of the law refers to commercial purpose. Page 2, line 2 - seed potatoes may not be imported into the state for any commercial purposes. That means any potatoes planted for the purpose of selling, grading or otherwise exchanging for profit. Page 2, line 6 - prior law required that any potatoes imported into Montana must be inspected. It was felt that, due to logistics, need, and so on, it's subject to inspection so we may randomly inspect potatoes as they come in on an as-needed basis.

Page 2, line 13 - moved down to line 19 of page 2. It was just rearranged and it did one other thing. Line 14 specified which diseases were to be controlled or we were to be concerned with. The major change said we can specify certain diseases and other diseases designated by Department rule like *late blight* and some of these diseases that we currently didn't have or don't have. We need some authority to regulate at the time these diseases occur rather than have diseases hard coded into the act itself. Page 2, line 17 - had quarantine authority in it. We felt it was more appropriate to put it into the enforcement penalty part. Page 3, line 25 - basically reintroduces quarantine concept in a more appropriate section of the law.

Page 2, line 24 - prohibits and restricts planting noncertified seed potatoes in certain counties. The wording was stricken on "certain counties". This is somewhat of a conceptual change because, before the act, we could take enforcement action and place restrictions in the counties where seed potatoes were grown. In the last five years the potato industry is expanding and going into other counties and certain soilborne diseases like *nematodes* and *mint wilt*, viruses and so on can be in the soil for a very long time. This amendment says we can enforce this act in other counties where seed potatoes may be grown. Any seed potatoes imported into the state must be certified seed potatoes so these diseases can be controlled from spreading. Page 3, lines 7-11 - takes out some verbiage specifically related to a particular county. That goes along with the other amendment.

John Venhuizen, President, MT Potato Improvement Association: Submitted and read written testimony. (EXHIBIT 4)

Glenn Droge, Droge Seed Potatoes, Manhattan: I would like to reiterate what was said about how important this is to the seed industry. There are increasing areas of potatoes being grown. We, as seed producers, are slowly using chemicals we can use to control aphids and viruses. As these new areas bring potatoes in, we can't control whether they spray or control their environment for insects. It would help if the seed they're putting in originally is clean, certified seed. That will help for the viruses that can travel in the air and the *blights* would at least be minimal. Thank you.

Dale Venhuizen, Manhattan: In the seed potato business, freedom from disease is everything. That's our advantage in Montana and why our seed is in demand throughout the country. If we don't have that freedom from disease, we're in trouble. This bill will help us continue to do that and provide that type of seed. There are some new diseases that continue to pop up. If this *late blight* disease that was mentioned were to get in our programs on our farms, it would devastate our operations. It's a very serious disease. We take a lot of steps on each of our own places to prevent that.

SEN. CHUCK SWYSGOOD, SD 17, DILLON: I come to you in support of the bill you have before you. We have worked on this. We had concerns about the spread of *late blight* disease that is happening in states around us. Over the years, this industry has worked not only with this Legislature in research, but also on their own contributing from their production. The research and development that went into this industry has made the seed potatoes in Montana one of the world renowned seed potato growing areas. Unless we enhance the Department's ability to control the disease and because seed potatoes are now being grown in more areas than were originally in the bill, we have concerns that this industry could be devastated. I ask this Committee to look favorably upon the Legislation you have before you today because it's very important to this industry.

{Tape: 1; Side: A; Approx. Time Count: 3:36 p.m.}

Questions From Committee Members and Responses:

SEN. REINY JABS: You mentioned that you were widely recognized as being the best program. Are you more accomplished than Idaho?

John Venhuizen: Montana has a lot better certified seed potato program than Idaho. That's recognized across the nation. Part of our advantage in Montana is our climatic conditions and our isolation from a lot of commercial areas. I'm not saying Idaho and others aren't good growers. They have excellent people, but we have some things going here that help us.

SEN. JABS: You say it's growing. Is the industry of seed potatoes growing and does it have more potential in the future?

Mr. Venhuizen: Around 10 years ago we had about 8,000 acres in the state and now we're around 10,000 acres. If people continue to eat potatoes then there's a demand for more seed all the time. I don't think it's a program that's going to double or triple in size, but I do expect to see continued growth.

SEN. DON HARGROVE: Under the penalty it says if potatoes are found to be in violation, one of the things you can do is require other disease prevention or suppression measures. I was wondering how extensive that could be. Could that be something like a pesticide for a field or just processing or shipping procedures?

Steve Baryl, Chief of Field Services Bureau, MT Department of Agriculture: I believe that's fairly general, but we would try to make sure that people, who had diseases that were of concern to potato growers, take proper management or precautions for those diseases.

SEN. HARGROVE: Such as?

Mr. Baryl: For *late blight* we've had cases where we have required growers to make sure they controlled their culls, that they destroyed any potatoes they threw away because of their grading. That they made sure that those potatoes were disposed of so that those potatoes wouldn't grow diseased potatoes which could potentially spread.

SEN. HARGROVE: Any other things that come to mind?

Mr. Baryl: I believe it would be whatever was acceptable disease prevention measures, whether it called for destruction of certain plants or a quarantine or proper management to dispose of diseased potatoes or plants.

SEN. TOM BECK: I'm kind of curious. We have certified seed potatoes grown in the Deer Lodge valley, too. I'm wondering how many people grow potatoes for commercial purposes only and not certified seed? Everything I know of is certified. Are there very many commercial potato growers in Montana?

Mr. Baryl: I don't really know. We know of several growers, but I don't know how many there are. There aren't as many commercial growers as there are seed growers in terms of acreage.

SEN. BECK: For commercial purposes, I don't see any size limit here, but a person can still grow potatoes in their garden can't they? I'm wondering if they have to purchase certified seed each year to plant in their garden.

Mr. Baryl: If they're growing for a commercial purpose, in other words, if they're growing the potatoes to sell then yes, they would have to plant certified seed.

SEN. GREG JERGESON: There are a few growers in my area that grow potatoes. They dig and we pick. Are those commercial growers? How do you know that they're observing the law that requires them to buy certified seed or how will you make sure that they observe the law requiring them to buy certified seed?

Mr. Baryl: I assume the people you are referring to are growing potatoes to sell. Our primary enforcement or administration would have to be education, trying to educate these small growers about the law and about the need for this law and responding to any complaints that we have about people who are not complying.

SEN. JERGESON: Would you say this area of controlling diseases in the seed potato industry is an example where it is beneficial to have government involvement and government regulation?

Mr. Venhuizen: That's kind of a loaded question. I think that's important at this point. A grower can do all in his own power to take care of his own operation, but if you have a disease like *late blight*, it spreads quite far and very fast on rainstorms and windstorms. It takes moisture, but it can go miles. If you have a person that's five miles away from you and he's not doing his job, a person has no power over their neighbor.

SEN. LINDA NELSON: Are your seed potatoes grown on irrigated acres?

Mr. Venhuizen: Just about entirely in Montana.

SEN. NELSON: When I go in the grocery store and purchase my bag of seed potatoes for planting my garden, then I can assume that these are certified.

Mr. Baryl: Yes, under this law those potatoes would meet the definition of being sold for a commercial purpose and they would need to be certified.

SEN. NELSON: You're saying for this law, but previously I didn't know that, right? Is something going to change?

Mr. Baryl: Under current law they're required to be certified as well.

{Tape: 1; Side: B; Approx. Time Count: 3:45 p.m.}

SEN. HARGROVE: Could you explain what extent you go through for the overall disease control program and your relationship with the University?

Mr. Venhuizen: The University at Bozeman takes care of our certification. It's under the Department of Plant Pathology and **Dr. Mike Sun** is the Executive Director of the Potato Certification Program. He happens to be in Oceanside, California this week reading what we call our winter plots which is one step

of our certification program. Every year at harvest time we take tubers out of every load that we harvest and send them to California and they grow them there. We test and visually observe those plants the same as we do here in the summer time to see what may have been bypassed during the summer time to insure that we have a clean product that we're going to sell. He could answer some of these more technical questions so I'll do the best that I can. All of our potatoes are inspected three times by University personnel or people that they have trained. That's a visual observation. All of our potatoes are leaf tested for certain viruses every summer. In the early stages we start with what we call tissue cultured plants which are little plantlets that we put in the field. We grow them and it's a generation procedure so that we can increase enough over three or four years to sell what we sell into the other states as certified seed potatoes for commercial use. The seed that goes into Washington is used to grow potatoes so they can make french fries and hashbrowns or into Idaho for baked potatoes or whatever they do with them.

In the early generations of seed potatoes, every plant is tested. We run up huge lab bills. The potato lab in Bozeman hires 40-50 young people every summer and they spend their summer picking and testing leaves. That's all part of the process to ensure this whole thing is clean. Then we have the visual observations or field inspections we call them. Then we have a storage or cellar inspection which happens in December or January to insure there is nothing the matter in each grower's storage. This whole thing is very involved. Every grower has not only a lot of time and money spent in his own operation, but our potato certification budget is approximately \$800,000 a year. That's coming out of our pockets. We cover the whole thing from lab space rental down to paying the leaf pickers.

SEN. BECK: Maybe I'm a little confused. I'm under the assumption that those potatoes sold in the bin at Safeway's store are not certified seed and yet I got the impression in your answer that you could get some of those potatoes out of that bin and go home and plant them as certified seed. Are they all certified that are sold out of grocery stores in Montana?

Mr. Kissinger: If they are potatoes out of the bin in a grocery store that are going to be cooked, they are not certified and do not have to be. If the grocery store is selling potatoes out of a separate bin and are selling them as seed potatoes for planting purposes, then they have to be certified.

SEN. JABS: Are most of the potatoes grown as seed potatoes?

Mr. Venhuizen: Yes. I don't think we have a 1,000 acres of commercial potatoes grown in Montana. I really don't know the exact number, but it is small. The biggest commercial or noncertified seed potato growers that I know grow less than 50 acres and I only know of three of them.

Closing by Sponsor:

REP. BARNETT: For this to be successful, it has to be part of an education program to the growers out there. Even those that are involved in the commercial growing of potatoes, if the *late blight* disease gets started, they're not going to have any potatoes to sell either. I think it's important in that respect. If you recall, in our study of American history a lot of people came to America from Ireland and the primary reason they came was they had the *late blight* problem over there and it wiped out the potato crops and starvation set in and they came to America. We're past that stage I hope.

CHAIRMAN MESAROS: There are a couple Senators signed onto this. Do you have a preference who carries this if we pass it out?

REP. BARNETT: They both have seed potato people in their district.

SEN. HARGROVE: I will do it.

EXECUTIVE ACTION ON HB 105

Motion/Vote:

SEN. DEVLIN: MOVED TO CONCUR ON HB 105. MOTION CARRIES UNANIMOUSLY.

EXECUTIVE ACTION ON SB 326

Amendments:

Motion: **SEN. BECK:** MOVED DO PASS ON SB 326.

Discussion:

SEN. JABS: Do we have to go through the State to do this? Can't they do their own without the approval of the Legislature?

SEN. DEVLIN: They want to work with the Department of Natural Resources because the Department is trying to help them, only they don't have an advisory set up to have any input and that's what they want.

SEN. HARGROVE: What is the difference between a Commission and an Advisory Board and a Council and all this?

SEN. BECK: Do you think there needs to be a Fiscal Note with this or is one going to be drafted?

SEN. DEVLIN: Not that I know of. You could ask for one, but it would be the end of next week before a Fiscal Note would show up. I don't think it would amount to that much and our money is already being levied.

SEN. BECK: Wouldn't it be special revenue accounts, too?

SEN. DEVLIN: I'm reasonably sure that's what it goes into.

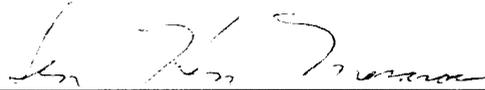
SEN. HARGROVE: We, in the State Administration Committee, can tell you there are about 80 of those around the state already working like that. Probably more than that. They don't cost much and there are a whole bunch of them.

Doug Sternberg: To answer your question, an Advisory Council is a very distinctive creation of government. The Department head or the Governor creates an Advisory Council. They are attached to departments generally for administrative purposes. It's 2-15-122 and is a lengthy section. It describes what a formal advisory council is. Of course, private individuals can form committees to look at various issues. There are a lot of those private kinds of things. There is nothing that can preclude people from getting together on a private, personal basis to deal with this, but by attaching it to the Department they're going to access some of the information there and work together.

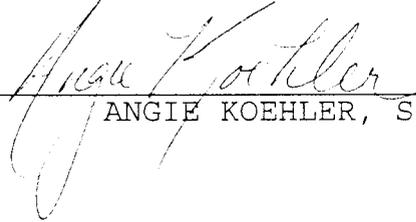
Vote: MOTION CARRIES UNANIMOUSLY. SB 326 DO PASS.

ADJOURNMENT

Adjournment: 3:57 p.m.



SEN. KEN MESAROS, Chairman



ANGIE KOEHLER, Secretary

KM/AK