

1 H BILL NO. 342 NATHE
 2 INTRODUCED BY Lawrence M. Conroy, Bengtson
 3 Waldron Day, Johnnie Cooney, Wood, Mack
 4 Bertelsen, Gustafson, Ingot
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE THE STATE TO

6 PAY INDEMNITY OF FULL APPRAISED VALUE IF THE DEPARTMENT OF
 7 LIVESTOCK REQUIRES DESTRUCTION OF A HERD BECAUSE OF
 8 BRUCELLOSIS INFECTION, STATING THE CONDITIONS FOR PAYMENT OF
 9 THE INDEMNITY, AND APPROPRIATING FUNDS FOR THE PAYMENT OF
 10 THE INDEMNITY; AMENDING SECTIONS 46-218, 46-222, AND 46-228,
 11 R.C.M. 1947."

12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13 Section 1. Section 46-218, R.C.M. 1947, is amended to
 14 read as follows:

15 "46-218. Classification of animals as to compensation
 16 for slaughter. Animals, slaughtered under the direction of
 17 the department by order of the board, under this act, are
 18 divided into two classes for the purposes of compensation:

19 (1) Animals determined by the department to be
 20 affected with an incurable disease, which are destroyed by
 21 order of the board, are designated as animals of class 1,
 22 and unless otherwise provided each of the animals shall be
 23 paid for on the basis of ~~seventy five per cent (75%)~~ of its
 24 appraised value. The county in which the animal was owned at
 25 the time it was determined to be affected with an incurable

1 disease, is liable in part, as later provided, for an
 2 indemnity to be paid for the animal. The ownership and
 3 county are determined by an affidavit of the owner of the
 4 animal or his agent. Each animal directed to be destroyed
 5 shall be appraised by a representative or an authorized
 6 agent of the department with the owner agreeing in writing
 7 as to the value of the animal. When appraised, due
 8 consideration shall be given to its breeding value as well
 9 as its dairy or meat value and the condition of the animal
 10 as to the disease and the present and probable effect of the
 11 disease on the animal. In the absence of an agreement, there
 12 shall be appointed three ~~(2)~~ competent, disinterested
 13 parties, one appointed by the department, one by the owner,
 14 and a third by the first two, to appraise each animal,
 15 taking into consideration its breeding value as well as its
 16 dairy or meat value and the condition of the animal as to
 17 the disease and the present probable effect of the disease
 18 on the animal. The judgment of the majority is the judgment
 19 of the appraisers and is binding on both parties as the
 20 final determination of indemnity to be paid for each animal.
 21 The total compensation of each group of appraisers is
 22 limited to ~~five dollars (\$5)~~ for the group appraisal,
 23 one-half ~~(1/2)~~ of which shall be paid by the department. The
 24 total amount of indemnity paid by the state and a county for
 25 an animal may not exceed the actual sound value of an animal

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1 of its class, and the total combined amount of indemnity
 2 paid for the animal by the state and a county may not exceed
 3 the sum of ~~one hundred dollars~~ ~~(\$100)~~ for a registered
 4 purebred animal or the sum of ~~fifty dollars~~ ~~(\$50)~~ for a
 5 grade animal. Animals presented for appraisal as purebreds
 6 shall be accompanied by their registration papers at the
 7 time of appraisal or they shall be appraised as grades. If
 8 purebreds are less than ~~three~~ ~~(3)~~ years old and not
 9 registered, the department may grant a reasonable time for
 10 their registration and presentation of their registration
 11 papers to the appraiser. Registration papers shall accompany
 12 the claim for indemnity.

13 (2) Animals of class 1 shall be paid for on the basis
 14 of their full appraised value as determined in this section
 15 if no evidence of incurable disease is disclosed by autopsy,
 16 bacteriologic, serologic, microscopic, or other findings.
 17 The total combined amount of indemnity paid by the state and
 18 a county for an animal may not exceed the actual sound value
 19 of an animal of its class. The total combined amount of
 20 indemnity paid by the state and a county for the animal may
 21 not exceed ~~one hundred dollars~~ ~~(\$100)~~ for a registered
 22 purebred animal or ~~fifty dollars~~ ~~(\$50)~~ for a grade animal.

23 (3) Animals which are determined by the department to
 24 be affected with or exposed to foot-and-mouth disease,
 25 rinderpest, contagious pleura pneumonia, surra, brucellosis,

1 or other infectious-contagious infectious, contagious,
 2 communicable, or dangerous disease, which is not of its
 3 nature necessarily fatal, and are destroyed by order of the
 4 department as a sanitary safeguard, are designated as
 5 animals of class 2 and each animal shall be paid for on the
 6 basis of its full appraised value. The appraised value shall
 7 be determined in the manner set out in subsection (1) of
 8 this section. The appraisal of the animals shall be based on
 9 the meat, dairy, or breeding value of the animal, but where
 10 appraisal is based on breeding value of the animal, no
 11 appraisal may exceed three ~~(3)~~ times its meat or dairy
 12 value. The total amount of indemnity paid by the state for
 13 an animal may not exceed the actual sound value of an animal
 14 in its class; and no indemnity for a class 2 animal may be
 15 paid by a county. ~~In the case of destruction of an animal~~
 16 ~~afflicted with brucellosis (Bang's disease), no indemnity~~
 17 ~~shall be paid for the animal, unless the board, in its~~
 18 ~~discretion, determines the best interests of this state will~~
 19 ~~be served by payment of an indemnity. In this event, the In~~
 20 ~~the case of brucellosis-infected animals, the total amount~~
 21 ~~of indemnity payments may not exceed the amount appropriated~~
 22 ~~by the legislature for such purpose. The board shall set out~~
 23 standards of indemnity by rules, and except in the case of
 24 brucellosis may not pay in excess of ~~one hundred dollars~~
 25 ~~(\$100) for a registered purebred animal, or ~~fifty dollars~~~~

1 ~~450~~ for a grade animal. In all cases where the federal
2 government, or agency other than the state, compensates the
3 owner in whole or in part for livestock destroyed as a
4 sanitary safeguard, the amount of compensation from the
5 state shall be determined under ~~section~~ 46-229.

6 (4) Animals which are injured or killed while they are
7 being inspected or tested under an order of the department
8 or its agent, and if the animals do not come within either
9 class 1 or class 2 may be paid for at their full appraised
10 value, if the claim for the animal is recommended for
11 payment at a meeting of the department board. Where it is
12 shown that the injury or death of the animal was not
13 proximately due to the negligence of the owner or his agent,
14 the whole claim, when approved, shall be paid out of
15 department funds. The limit of indemnity for an animal paid
16 for by the state may not exceed that fixed by this act for
17 animals of class 2."

18 Section 2. Section 46-228, R.C.M. 1947, is amended to
19 read as follows:

20 "46-228. Persons entitled to indemnity. (1) The owner
21 of an animal or property destroyed under this act, is
22 entitled to indemnity, except in the following cases:

23 ~~(1)~~ (a) Animals belonging to the United States.

24 ~~(2)~~ (b) Animals brought into this state which violate
25 this act, or rules of the department.

1 ~~(3)~~ (c) Animals which the owner or claimant knew to be
2 diseased, or had notice of the disease at the time they came
3 into his possession.

4 ~~(4)~~ (d) Animals which had the disease for which they
5 were slaughtered, or which were destroyed because of
6 exposure to the disease, at the time of their arrival in
7 this state. However, an animal of the second class shipped
8 into this state under department rules and accompanied by
9 the proper certificate of health from a recognized state or
10 federal veterinarian may be paid for when payment is
11 authorized by the department.

12 ~~(5)~~ (e) Animals which have not been in this state for
13 at least ~~one hundred and twenty~~ ~~(120)~~ days before the
14 discovery of the disease; however, animals of the second
15 class which have not been in the state ~~one hundred and~~
16 ~~twenty~~ ~~(120)~~ days may be paid for when payment is authorized
17 by the department.

18 ~~(6)~~ (f) When the owner or agent has not used reasonable
19 diligence to prevent disease or exposure to disease.

20 ~~(7)~~ (g) When the owner or agent has not complied with
21 the rules of the department with respect to animals
22 condemned.

23 ~~(8)~~ (h) No compensation or indemnity will be paid for
24 the destruction of livestock affected with tuberculosis, or
25 other infectious, contagious, communicable, or dangerous

1 disease, unless the entire herd or band of affected
2 livestock is under the supervision of the department for the
3 eradication of the disease.

4 ~~(9)~~ (i) When animals condemned are not destroyed within
5 ~~sixty~~ (60) days after they are determined to be affected
6 with or exposed to a disease which requires them to be
7 destroyed by order of the department.

8 (2) In the case of destruction of an entire herd
9 because of brucellosis, indemnification may not be made
10 unless:

11 (a) in one or more tests for brucellosis conducted
12 within a 90-day period, more than 20% of the herd are
13 determined to be brucellosis reactors; or

14 (b) the herd has remained under quarantine for a
15 period of more than 1 year and has been made available to
16 the department for retesting approximately every 30 days; or

17 (c) the continued presence of the quarantined herd is
18 determined by the department to be a source of exposure
19 presenting an unacceptable risk to surrounding herd owners;

20 and

21 (d) the herd owner and his agents have complied with
22 all applicable state and federal statutes, rules, and orders
23 related to the control of brucellosis."

24 Section 3. Section 46-222, R.C.M. 1947, is amended to
25 read as follows:

1 "46-222. Indemnity for class 2 animals in state less
2 than one hundred and twenty ~~(120)~~ days. Indemnity for
3 animals of class 2, when the animals have not been in this
4 state for at least ~~one hundred and twenty~~ (120) days and the
5 payment is authorized by the department under ~~section~~ 46-228
6 ~~(5)~~, shall be paid out of department funds."

7 Section 4. Appropriation. There is appropriated the
8 sum of \$1,200,000 for the biennium ending June 30, 1979,
9 from the general fund to the state department of livestock
10 for the purpose of making indemnity payments for
11 brucellosis-infected livestock, as required by [section 1
12 and 2 of this act].

-End-

STATE OF MONTANA

REQUEST NO. 497-77

FISCAL NOTE

Form BD-15

In compliance with a written request received February 14, 19 77, there is hereby submitted a Fiscal Note for House Bill 342 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly. Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

House Bill 342 requires the state to pay indemnity of full appraised value if the Department of Livestock requires destruction of herds or individual reactors because of brucellosis infection.

ASSUMPTIONS:

A. Depopulation of Herds

1. Registered herds (purebred) will not be depopulated.
2. Only sexually mature bulls and cows (12 months old or older) will be ordered to slaughter and indemnified.
3. Herds to be depopulated will average 160 cattle each.
4. The appraised (replacement) value of adult beef cattle will be \$275 in FY 78 and \$375 in FY 79.
5. The appraised value of adult dairy cattle will be \$550 in FY 78 and \$650 in FY 79.
6. The salvage market (slaughter) price for cattle depopulated will be \$160 in FY 78 and \$210 in FY 79 (average weight 1,000 pounds).
7. There will be 18 beef herds and 1 dairy herd eligible for depopulation in FY 78 and 10 beef herds in FY 79.
8. Federal funds will not be available for indemnification of depopulated herds either year.

B. Individual Reactors Ordered to Slaughter

1. No more than 5% of the brucellosis reactors will be registered.
2. Federal indemnity will be paid on all reactors.
3. There will be 1,500 cattle classed as reactors in FY 78 and 750 in FY 79.

FISCAL IMPACT:

	<u>FY 78</u>	<u>FY 79</u>
Indemnification payment — current law	\$ 37,500	\$ 18,750
Indemnification payment — proposed law	<u>517,090</u>	<u>455,600</u>
Increased indemnification payments due to proposed legislation	<u>\$479,590</u>	<u>\$436,850</u>

LONG-RANGE IMPACT:

The Department of Livestock indicates that if the proposed legislation is enacted and funded, brucellosis in Montana will be under complete control by June 30, 1979.

Richard L. Tracy for
BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-16-77

Approved by Committee
on Agriculture Livestock
& Irrigation

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