

1 *Senate* BILL NO. *416*  
 2 INTRODUCED BY *Roberts*

3  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND THE LAW  
 5 RELATING TO FORMATION, CHANGE, AND DISSOLUTION OF HERD  
 6 DISTRICTS; DELETING THE REQUIREMENT OF A PETITION SIGNED BY  
 7 55% OF THE LANDOWNERS AFFECTED AND ALLOWING THE COUNTY  
 8 COMMISSIONERS TO FORM, CHANGE, OR DISSOLVE HERD DISTRICTS;  
 9 AMENDING SECTIONS 46-1501 AND 46-1507, R.C.M. 1947."

10  
 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 Section 1. Section 46-1501, R.C.M. 1947, is amended to  
 13 read as follows:

14 "46-1501. Herd districts -- creation, size, location  
 15 -- dissolution -- exclusion of government land -- records.

16 (a) Herd districts may be created in any county in the  
 17 state of Montana to contain ~~twelve~~(12) square miles or  
 18 more, lying not less than ~~one~~(1) mile in width, outside of  
 19 the incorporated cities; excepting only that herd districts  
 20 may be created containing not less than ~~six~~(6) nor more  
 21 than ~~fifty-four~~(54) square miles, lying not less than two  
 22 ~~two~~(2) miles in width, when such territory joins and is  
 23 contiguous with the boundaries of a city having a population  
 24 of ~~ten-thousand~~(10,000) or more and such territory so to be  
 25 created in a herd district has a suburban population of not

1 less than two-hundred(200) people; upon petition of owners  
 2 or possessors of ~~fifty-five per centum~~(55%) of the land in  
 3 such district; and action of the board of county  
 4 commissioners providing twenty-five per centum(25%) or more  
 5 ~~of the land in such district is in actual cultivation, or~~  
 6 ~~being used for residential purposes.~~

7 In formation of such a district the entire holding of  
 8 any owner or lessee must be included unless such owner or  
 9 lessee consent that less than his entire contiguous holdings  
 10 be included ~~in the petition. And such petition~~ The county  
 11 commissioners shall ~~designate~~ propose the months of the year  
 12 when ~~the~~ herd district is effective, and upon presentation  
 13 ~~and filing of such petition properly signed, giving the~~  
 14 outside boundaries and description of proposed district, and  
 15 the post-office address of the signers ~~thereto, with the~~  
 16 ~~clerk and recorder in the county in which the said district~~  
 17 ~~is being created, owners of land therein, the~~ the county  
 18 commissioners of such county, upon receipt thereof, shall  
 19 set a date for hearing protests and verifying the signatures  
 20 thereto, and shall give not less than ~~twenty~~(20) days'  
 21 notice of the same by three ~~to~~(3) publications in a newspaper  
 22 of general circulation in the county of the proposed  
 23 district. At the hearing held pursuant to such notices the  
 24 county commissioners shall ~~examine the petition and shall~~  
 25 hear testimony and cause a map to be made in order to

1 determine the shape and regularity of the boundaries of the  
 2 proposed district. The said commissioners may then establish  
 3 the district, but such district shall be established only in  
 4 such manner that the district will be reasonably regular and  
 5 symmetrical in shape, or practicable in relation to the  
 6 geographical features of such district.

7 Should it appear to ~~such~~ the county commissioners after  
 8 such ~~the~~ hearing that ~~the signatures attached to such~~  
 9 ~~petition were genuine~~ the herd district is desirable and  
 10 feasible, they shall immediately declare such herd district  
 11 created and established; after which the county  
 12 commissioners must give notice by four ~~(4)~~ weekly  
 13 publications in some newspaper nearest the district of the  
 14 creation of such districts, also stating period such  
 15 districts will be in effect, and such districts shall not be  
 16 in effect until ~~thirty (30)~~ days have expired after the  
 17 order. Upon petition request of any owner or possessor of  
 18 lands lying contiguous and adjoining any herd district  
 19 theretofore created, and upon like hearing and notice as  
 20 hereinabove provided for, such lands shall be included in  
 21 said ~~the~~ herd district and become a part thereof. ~~Should the~~  
 22 ~~signature of lessee appear on the petition creating or~~  
 23 ~~abolishing any herd district, the owner or owners of said~~  
 24 ~~land may appear either in person or agent and enter their~~  
 25 ~~protest. And the board of county commissioners shall remove~~

1 ~~the name of the lessee from said petition, and no person~~  
 2 ~~shall be permitted to withdraw his name after the hour set~~  
 3 ~~for hearing same.~~

4 (b) ~~When a petition praying that any established herd~~  
 5 ~~district be dissolved is filed with the county clerk and~~  
 6 ~~recorder of the county wherein such district has been~~  
 7 ~~established, and it is set forth therein that such petition~~  
 8 ~~is signed by the owners or possessors of fifty-five per cent~~  
 9 ~~(55%), or more of the lands lying within such district, and~~  
 10 Upon request of landowners within an established herd  
 11 district that less than twenty-five per cent (25%) of the  
 12 lands included in such district is in actual cultivation,  
 13 ~~the said county clerk and recorder shall call such petition~~  
 14 ~~to the attention of the board of county commissioners of the~~  
 15 ~~county at its next regular meeting; and at said meeting by~~  
 16 ~~its order the said board shall propose that the herd~~  
 17 district be dissolved and set such petition proposal for  
 18 hearing at a specified time on a day certain of which notice  
 19 shall be given by publication at least once in each week for  
 20 three (3) successive weeks in some newspaper of general  
 21 circulation in the county.

22 At the time fixed for hearing the board of county  
 23 commissioners shall ~~first require proof of publication of~~  
 24 ~~the notice of said hearing to be made and thereafter shall~~  
 25 ~~consider the petition and hear all interested parties. At~~

1 the conclusion of any such hearing if the board of county  
 2 commissioners shall find that notice of hearing has been  
 3 given in the manner and for the time prescribed herein and  
 4 that ~~the owners or possessors of fifty-five per cent (55%)~~  
 5 ~~or more of the lands lying within such herd district have~~  
 6 ~~signed the petition and request that such district be~~  
 7 ~~dissolved and dissolution is desirable that less than~~  
 8 ~~twenty-five per cent (25%) of the lands included in such~~  
 9 ~~district are in actual cultivation~~ then the said board  
 10 shall forthwith spread immediately enter such findings upon  
 11 its minutes and thereupon shall enter an order in terms that  
 12 by reason of such findings and of the proceedings had upon  
 13 such petition the said herd district is thereby dissolved.  
 14 Forthwith upon Upon the making and entry of any such order  
 15 aforesaid the herd district affected thereby shall be  
 16 dissolved for all purposes thereafter.

17 (c) Any tract of land embraced within any established  
 18 herd district and which contains eighteen (18) government  
 19 sections of land or more, so located that at least  
 20 one-fourth (1/4) of the perimeter of such tract coincides  
 21 with the existing boundaries of such herd district, may be  
 22 excluded therefrom upon proceedings had before the board of  
 23 county commissioners of the county wherein the said district  
 24 has been established, after on-a-like-petition notice and  
 25 hearing and by a like order as in the case of proceedings

1 for dissolving herd districts, ~~provided that when~~ when the  
 2 exclusion of any such tract of land from an existing herd  
 3 district is sought and the petition shall describe the tract  
 4 ~~to be excluded with common certainty and shall set forth~~  
 5 ~~that it is signed by the owners or possessors of fifty-five~~  
 6 ~~per cent (55%) or more of the lands lying within the~~  
 7 ~~boundaries of the tract to be excluded and that less than~~  
 8 ~~fifteen per cent (15%) of the lands included in such tract~~  
 9 ~~is in actual cultivation and provided further that in any~~  
 10 ~~such case if the board of county commissioners at the~~  
 11 ~~conclusion of the hearing had shall find~~ finds that the  
 12 tract of land to be excluded conforms to the requirements of  
 13 this section, ~~and that the allegations of the petition are~~  
 14 ~~true~~ its findings to that effect shall be spread entered  
 15 upon the minutes and the board shall thereupon enter its  
 16 order in terms that by reason of such findings and of the  
 17 proceedings had upon such petition held the tract of land  
 18 described in the petition which shall be further set forth  
 19 with common certainty in the order is thereby excluded from  
 20 ~~the herd district for all purposes and shall be~~ forthwith  
 21 upon the making and entry of any such order of  
 22 exclusion the tract of land therein described shall be  
 23 ~~deemed for all purposes thereafter to be excluded from and~~  
 24 ~~to form no part of the herd district affected thereby.~~

25 (d) Herd districts may be created jointly between any

1 two {2} or more counties of the state of Montana where the  
 2 lands to be included in the district meet the requirements  
 3 of this section and either extend across county boundaries  
 4 under one {1} ownership or are contiguous to the land of  
 5 owners in the adjoining county wishing to participate in the  
 6 herd district. The county commissioner boards of each county  
 7 desiring to participate in a joint herd district shall  
 8 comply with all the provisions of this section dealing with  
 9 single-county districts. A joint herd district shall be  
 10 created only after approval by all county commissioner  
 11 boards of participating counties as provided for  
 12 single-county herd districts in this section. Joint herd  
 13 districts may be dissolved in the same manner as  
 14 single-county herd districts.\*

15 Section 2. Section 46-1507, R.C.M. 1947, is amended to  
 16 read as follows:

17 "46-1507. Changing time when herd districts will be in  
 18 effect --petition -- notice -- hearing. The time of year or  
 19 period when any herd district heretofore or hereafter  
 20 created under the provisions of the laws of this state is  
 21 effective or will be in effect may be changed as herein  
 22 provided by the board of county commissioners of the county  
 23 in which such herd district has been created, upon the  
 24 presentation and filing with the clerk and recorder of such  
 25 county, a petition signed by the owners or possessors of

1 ~~fifty-five per centum (55%) of the land in such district.~~  
 2 ~~Such petition shall designate the months of the year when~~  
 3 ~~such herd district is effective and designate the~~  
 4 ~~contemplated change. Upon receipt thereof the county~~  
 5 ~~commissioners of such county. The board shall first set a~~  
 6 ~~date for hearing protests and verifying the signatures~~  
 7 ~~thereof and shall give not less than twenty {20} days'~~  
 8 ~~notice of the same by posting five {5} notices of hearing in~~  
 9 ~~five {5} public places in the county, one {1} of which shall~~  
 10 ~~be at the place such hearing is to be held, and at least two~~  
 11 ~~{2} of such notices to be posted within such herd district.~~  
 12 ~~Should it appear to the board of county commissioners after~~  
 13 ~~such hearing that the signatures attached to such petition~~  
 14 ~~are genuine, they If such change appears desirable, the~~  
 15 ~~board shall immediately make an order changing the period of~~  
 16 ~~time such the herd district will be in effect, as designated~~  
 17 ~~in such petition, after which the county commissioners must~~  
 18 ~~give notice by four {4} weekly publications in some~~  
 19 ~~newspaper in the county, nearest such district, stating the~~  
 20 ~~period such district will be in effect, providing the, the~~  
 21 ~~change of time shall not become effective until such the~~  
 22 ~~notice has been published as herein provided. Upon the~~  
 23 ~~fourth publication of such notice such change of time shall~~  
 24 ~~become effective and violation thereof shall be punished as~~  
 25 ~~provided under the laws of the state of Montana relative to~~

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1 herd districts."

~~-End-~~