

HOUSE BILL 271

IN THE HOUSE

January 19, 1979

Introduced and referred to
Committee on Agriculture,
Livestock and Irrigation.

February 7, 1979

Committee recommend bill,
do not pass.

1 *HOUSE* BILL NO. *271*
 2 INTRODUCED BY *Edie Munnick Donaldson L. Hinds*
 3 BY REQUEST OF THE DEPARTMENT OF LIVESTOCK

4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE THE STATE TO
 6 PAY INDEMNITY AT 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 81-2-201 AND 81-2-209,
 11 MCA."

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

14 Section 1. Section 81-2-201, MCA, is amended to read:

15 "81-2-201. Classification of animals as to
 16 compensation for slaughter. Animals slaughtered under the
 17 direction of the department by order of the board 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 75% of its appraised value. The
 24 county in which the animal was owned at the time it was
 25 determined to be affected with an incurable disease is

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

-2- *HB 271*
 INTRODUCED BILL

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

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

21 (3) Animals which are determined by the department to
 22 be affected with or exposed to foot-and-mouth disease,
 23 rinderpest, contagious pleura pneumonia, surra, brucellosis,
 24 or other infectious, contagious, communicable, or dangerous
 25 disease, which is not of its nature necessarily fatal, and

1 are destroyed by order of the department as a sanitary
 2 safeguard, are designated as animals of class 2 and each
 3 animal shall be paid for on the basis of its full appraised
 4 value. The appraised value shall be determined in the manner
 5 set out in subsection (1) of this section. The appraisal of
 6 the animals shall be based on the meat, dairy, or breeding
 7 value of the animal, but where appraisal is based on
 8 breeding value of the animal, no appraisal may exceed three
 9 times its meat or dairy value. The total amount of
 10 indemnity paid by the state for an animal may not exceed the
 11 actual sound value of an animal in its class. No indemnity
 12 for a class 2 animal may be paid by a county. ~~in the case of~~
 13 ~~destruction of an animal afflicted with brucellosis (contagious~~
 14 ~~disease), no indemnity shall be paid for the animal unless~~
 15 ~~the board in its discretion determines the best interests~~
 16 ~~of this state will be served by payment of an indemnity. In~~
 17 ~~this event, the~~ In the case of brucellosis-infected
 18 exposed animals, the total amount of indemnity payments may
 19 not exceed the amount appropriated by the legislature for
 20 this purpose. The board shall set out standards of indemnity
 21 by rules and, except in the case of brucellosis, may not pay
 22 in excess of \$100 for a registered purebred animal or \$50
 23 for a grade animal. In all cases where the federal
 24 government or agency other than the state compensates the
 25 owner in whole or in part for livestock destroyed a

1 sanitary safeguard, the amount of compensation from the
2 state shall be determined under 81-2-210.

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

14 Section 2. Section 81-2-209, MCA, is amended to read:

15 "81-2-209. When no indemnity. (1) The owner of an
16 animal or property destroyed under this chapter is entitled
17 to indemnity, except in the following cases:

- 18 (a) animals belonging to the United States;
19 (b) animals brought into this state which violate this
20 chapter or rules of the department;
21 (c) animals which the owner or claimant knew to be
22 diseased or had notice of the disease at the time they came
23 into his possession;
24 (d) animals which had the disease for which they were
25 slaughtered or which were destroyed because of exposure to

1 the disease at the time of their arrival in this state.
2 However, a class 2 animal shipped into this state under
3 department rules and accompanied by the proper certificate
4 of health from a recognized state or federal veterinarian
5 may be paid for when payment is authorized by the
6 department.

7 (e) animals which have not been in this state for at
8 least 120 days before the discovery of the disease; however,
9 class 2 animals which have not been in the state 120 days
10 may be paid for when payment is authorized by the
11 department;

12 (f) when the owner or agent has not used reasonable
13 diligence to prevent disease or exposure to disease;

14 (g) when the owner or agent has not complied with the
15 rules of the department with respect to animals condemned;

16 (h) when animals condemned are not destroyed within 60
17 days after they are determined to be affected with or
18 exposed to a disease which requires them to be destroyed by
19 order of the department.

20 (2) No compensation or indemnity will be paid for the
21 destruction of livestock affected with tuberculosis or other
22 infectious, contagious, communicable, or dangerous disease
23 unless the entire herd or band of affected livestock is
24 under the supervision of the department for the eradication
25 of the disease.

HB 271

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

4 (a) in one or more tests for brucellosis conducted
5 within a 90-day period, more than 20% of the herd is
6 determined to be brucellosis reactors; or

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

10 (c) the continued presence of the quarantined herd is
11 determined by the department to be a source of exposure
12 presenting an unacceptable risk to surrounding herd owners;
13 and

14 (d) the herd owner and his agents have complied with
15 all applicable state and federal statutes, rules, and orders
16 relating to the control of brucellosis."

17 Section 3. Appropriation. There is appropriated
18 \$1,000,000 for the biennium ending June 30, 1981, from the
19 general fund to the state department of livestock for the
20 purpose of the making indemnity payments for
21 brucellosis-infected livestock, as required by [section 1
22 and 2].

-End-

STATE OF MONTANA

REQUEST NO. 157-79

FISCAL NOTE

Form BD-15

In compliance with a written request received January 29, 1979, there is hereby submitted a Fiscal Note for House Bill 271 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:

The proposed legislation will appropriate General Fund monies to compensate stockgrowers' whose herds are destroyed because of brucellosis infection.

ASSUMPTIONS:

- 1. Salvage on 1,000 to 1,100 pound cows will average \$485, with the present market value average \$625 per head. At this rate indemnity will be \$140 per head.
2. 1,764 head will go to slaughter on total herd depopulation.
3. One half of the depopulation will occur each year of the biennium.

Table with columns: State Impact, Expenditures, Existing Law, Proposed Law, Increase, FY80, FY81, Existing Law, Proposed Law, Increase. Row: Benefits & Claims, \$10,500, \$123,480, \$112,980, \$10,500, \$123,480, \$112,980.

The additional cost must be funded from the State General Fund.

LONG-TERM IMPACT:

After FY 1981 indemnity payments will, barring unforeseen circumstances, taper off significantly.

TECHNICAL NOTE:

The proposed legislation appropriates \$1,000,000 for the 1981 Biennium from the General Fund for indemnity payments. The above indicates that indemnity costs will approximate \$226,000 during the biennium.

Richard L. Young for

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1/17/79