

House Bill 355

In The House

January 20, 1981	Introduced and referred to Committee on Agriculture.
January 31, 1981	Committee recommend bill do pass as amended.
February 2, 1981	Bill printed and placed on members' desks.
February 3, 1981	Motion to send bill back to Appropriations Rereferred to Committee on Appropriations.
March 26, 1981	Committee recommend bill do not pass.

HOUSE BILL NO. 355

INTRODUCED BY *Linette Roth* *Thurwitz* *McLane*  
*Conroy* *Arlestad* *Bygones* *Arnold* *Beck* *Sales*

A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE THE STATE TO  
PAY INDEMNITY AT FULL APPRAISED VALUE IF THE DEPARTMENT OF  
LIVESTOCK REQUIRES DESTRUCTION OF A HERD BECAUSE OF  
BRUCELLOSIS INFECTION; STATING THE CONDITIONS FOR PAYMENT OF  
THE INDEMNITY; APPROPRIATING FUNDS FOR THE PAYMENT OF THE  
INDEMNITY; AMENDING SECTIONS 81-2-201 AND 81-2-209, MCA."

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

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

"81-2-201. Classification of animals as to compensation for slaughter. Animals slaughtered under the direction of the department by order of the board are divided into two classes for the purposes of compensation:

(1) Animals determined by the department to be affected with an incurable disease, which are destroyed by order of the board, are designated as animals of class 1, and unless otherwise provided each of the animals shall be paid for on the basis of 75% of its appraised value. The county in which the animal was owned at the time it was determined to be affected with an incurable disease is liable in part, as later provided, for an indemnity to be paid for the animal. The ownership and county are determined

by an affidavit of the owner of the animal or his agent. Each animal directed to be destroyed shall be appraised by a representative or an authorized agent of the department with the owner agreeing in writing as to the value of the animal. When appraised, due consideration shall be given to its breeding value as well as its dairy or meat value and the condition of the animal as to the disease and the present and probable effect of the disease on the animal. In the absence of an agreement, there shall be appointed three competent, disinterested parties, one appointed by the department, one by the owner, and a third by the first two, to appraise each animal, taking into consideration its breeding value as well as its dairy or meat value and the condition of the animal as to the disease and the present probable effect of the disease on the animal. The judgment of the majority is the judgment of the appraisers and is binding on both parties as the final determination of indemnity to be paid for each animal. The total compensation of each group of appraisers is limited to \$5 for the group appraisal, one-half of which shall be paid by the department. The total amount of indemnity paid by the state and a county for an animal may not exceed the actual sound value of an animal of its class, and the total combined amount of indemnity paid for the animal by the state and a county may not exceed the sum of \$100 for a registered

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

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

19 (3) Animals which are determined by the department to  
 20 be affected with or exposed to foot-and-mouth disease,  
 21 rinderpest, contagious pleura pneumonia, surra, brucellosis,  
 22 or other infectious, contagious, communicable, or dangerous  
 23 disease, which is not of its nature necessarily fatal, and  
 24 are destroyed by order of the department as a sanitary  
 25 safeguard, are designated as animals of class 2 and each

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

1 81-2-210.

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

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

14 "81-2-209. When no indemnity. (1) The owner of an  
15 animal or property destroyed under this chapter is entitled  
16 to indemnity, except in the following cases:

17 (a) animals belonging to the United States;

18 (b) animals brought into this state which violate this  
19 chapter or rules of the department;

20 (c) animals which the owner or claimant knew to be  
21 diseased or had notice of the disease at the time they came  
22 into his possession;

23 (d) animals which had the disease for which they were  
24 slaughtered or which were destroyed because of exposure to  
25 the disease at the time of their arrival in this state.

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

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

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

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

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

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

25 ~~(3) In the case of the destruction of an entire herd~~

1 because of brucellosis, indemnification may not be made  
2 unless:

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

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

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

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

15 Section 3. Appropriation. There is appropriated  
16 \$1,000,000 for the biennium ending June 30, 1983, from the  
17 general fund to the state department of livestock for the  
18 purpose of making indemnity payments for  
19 brucellosis-infected livestock, as required by [sections 1  
20 and 2].

-End-

Approved by Committee  
on Agriculture Livestock  
& Irrigation

1 HOUSE BILL NO. 355

2 INTRODUCED BY SIVERTSEN, ROTH, HURWITZ, MCLANE,  
3 KOLSTAD, ASAY, CONROY, IVERSON, KEYSER, FEDA,  
4 DONALDSON, SALES, AKLESTAD, ETCHART

5  
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