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2003 SENATE AGRICULTURE

SB 2209

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2209

Senate Agriculture Committee

❑ Conference Committee

Hearing Date 01/24/03

Tape Number	Side A	Side B	Meter #
1	x		45 - 2770
Committee Clerk Signature			

Minutes:

Chairman Flakoll called the meeting of the Senate Agriculture Committee to order. All members were present.

Chairman Flakoll opened the hearing on SB 2209.

Wade Moser, Executive Director of the North Dakota Stockman's Association, testified in favor of the bill. He went through the bill and explained the changes. The bill will clean up a lot of language regarding brand inspection, brand recording and the estray law as well as changing the fee charged to record a brand. Some wording in the bill was recommended by the legislative council.

Page 1, line 18 is new language. The industry has been changing and the flow of cattle between states has increased. If someone from another state has a brand recorded in that state and wants to record that identical brand in North Dakota, the bill would give the North Dakota Stockmen's

Association authority to deny the request. The North Dakota Stockmen's Association wants to be able to trace the origin of cattle.

Page 2, line 5 would not allow dots in brands, it's a poor brand. The rest of that section is language clean up and doesn't change intent.

Section 2 is all language clean up.

Section 3 is a companion to section 1. If someone tries to circumvent our system and records a brand in North Dakota and tries to record the identical brand in another state, the North Dakota Stockmen's Association can cancel their brand in North Dakota. The North Dakota Stockmen's Association works cooperatively with brand inspectors in other brand states. Mr. Moser expects other brand states to adopt similar legislation to enable them to ascertain state of origin.

Section 4 is current language that requires a 10 year period for brand recording and section 5 provides for changing the recording period to five years. Since the North Dakota Stockmen's Association still has to honor the 10 year brands, there is an effective date. Anita Thomas thought this was the cleanest way to make the change.

Section 6 is a change of title only to reflect the change from 10 to 5 years.

Section 7 changes the fee from $15 to $25. Mr. Moser distributed a comparison of brand recording fees among the states. (handout attached) (meter # 490) Most states are moving to a shorter recording period and even at the $25 level, North Dakota's brand recording fee is among the lowest in the country.

Section 8 adds a penalty for someone who places a brand that has not been recorded so out of state people can't place their brand on cattle in North Dakota because the brand may be recorded to a North Dakota producer.

Section 9, lines 23 and 24 requires a witness. It has never been in the statute but has been done in practice.

Sections 10 and 11 add a penalty for tampering.

Section 12 is a major change. Currently North Dakota has the following open markets: Sidney, Glendive and Baker in Montana; McLaughlin and Lemmon west of the river in South Dakota where those states do inspections for us; and Herried, Sisseton and 2 markets in Aberdeen east of the river in South Dakota. Currently, when a North Dakota stockman goes to an open market in one of these states, he has to complete a form to inform the North Dakota Stockmen's Association that he is going. The North Dakota Stockmen's Association has decided this is not necessary and this requirement will be repealed in section 12 since North Dakota has inspectors at those markets. The North Dakota Stockmen's Association will set up some rules with the Board of Animal Health.

The next several sections have to do with the estray laws. This bill ties the sheriff and the brand inspectors closer together so both entities are notified in the case of an estray.

Sections 15 and 16 address the same process. Some work for the sheriff's department is eliminated by the bill. The chief brand inspector met with the sheriff's association on the matter and there is no problem.

Sections 18, 19 and 20 are language clean up, and to assure the liability of a producer ends if they notify the sheriff and brand inspector an estray has been found. It also sets up a mechanism for reimbursement for care and feeding and transportation of the estrays.

Section 23 allows for interest earned to remain in estray account. Occasionally, a producer does not want to immediately prove ownership on an estray, due to a pending divorce or legal

proceeding or involvement of a creditor. When they are ready to prove ownership, they also want interest. This would permit the North Dakota Stockmen's Association to keep the interest in the account and use it to pay feed bills or transportation costs associated with the estrays.

Section 24 repeals two sections of the law. The first, 36-09-03, is the poultry recording section which has been in place since 1891, last amended 1943. It is unclear who ever branded chickens. 36-13-03 ties in with clean up of sections 14 -20 .

Section 25 provides an effective date for the new 5 year brand recording period and section 26 provides an expiration date for the old 10 year brand recording period. (meter # 1217)

Senator Urlacher asked if a notification is sent out for the brand recording renewal?

Mr. Moser said there is a requirement that the North Dakota Stockmen's Association notify all brand owners of the impending renewal date for their brand. They also run notices in papers and press releases. The last time of 25,000 were sent out and 6,000 came back with bad addresses.

Senator Urlacher asked how long after the deadline before a brand becomes available to other producer?

Mr. Moser said the statute requires waiting one year after the brand recording expires.

Senator Urlacher said in the past some North Dakota cattle went into a feedlot situation in Nebraska and the Nebraska brand inspectors did not recognize the North Dakota brands and the cattle lost their identity. Is this very widespread?

Mr. Moser said most of the western states do. Nebraska is a split state with brand inspection in the west and not in the east. North Dakota has good working relationships with the feedlot states and our investigators have gone to many states, including non brand states, to find cattle.

Senator Seymour asked what kind of computer information system the North Dakota Stockmen's Association has to keep track of brands.

Mr. Moser said they have a specialized system that allows them to scan in a brand. Its quite complicated and sophisticated. The North Dakota Stockmen's Association system is not available on the internet nor coordinated with other states at this time but he assumes it will be at some time. The North Dakota Stockmen's Association prints a brand book that is sent to the other states.

Senator Klein said the estray issue has come up in previous sessions. What does this do that we didn't deal with last session?

Mr. Moser said last session the issue was lost and abandoned animals, i.e. dogs and cats, not cattle and horses.

Senator Nichols said if the income were the same, 5 years at $25 vs. 10 years at $50, why is it better to go with a 5 year recording period?

Mr. Moser said this keeps the system current. With a ten year period, many good brands are kept in the book and aren't used. Also, mailing list will be more current.

Senator Nichols asked with regard to brands recorded in other states, how often are brands found that are recorded in other states?

Mr. Moser said it is getting to be a bigger and bigger problem. The North Dakota Stockmen's Association works closely with other states, especially with South Dakota, Montana and Wyoming. With the drought in Montana, we have a lot of Montana cattle in North Dakota.

Senator Urlacher asked how duplicate brand situations are resolved?

Mr. Moser said it takes some extra research. They work with the Board of Animal Health to see if health papers were issued for the cattle.

Senator Flakoll asked if the members of the North Dakota Stockmen's Association was asked about the fee change for brand recording?

Mr. Moser said the North Dakota Stockmen's Association has a brand board that is responsible for the administration of the brand program. They determine a recommendation and it is taken to the membership for approval.

Senator Flakoll asked what happens when someone records a brand in the middle of the recording period?

Mr. Moser said that brand is good only until the end of the recording period. This system helps keep the brand book current.

Senator Flakoll asked if South Dakota is still a split state in regards to brand inspection.

Mr. Moser said the western half of South Dakota has brand inspection and the eastern half does not. However, anyone in South Dakota can record a brand.

Senator Flakoll asked how long an estray is held before it is sold?

Mr. Moser said they ask the finders to keep the estrays for 30 days if it is breeding stock. An investigator will get involved. Even if an animal is sold, they can track where an animal went if the owner is found.

Senator Flakoll asked if they ever use bangs tattoo or ear tattoo to find ownership?

Mr. Moser said yes. The bangs tattoo is often a good starting point for an investigation. Also unique eartags, ear tattoos are helpful.

Senator Urlacher asked if blotched brands are proved with a bill of sale?

Mr. Moser said yes or an affidavit for a blotched brand can be used.

Senator Urlacher asked if there should be an option for a 5 or 10 year period for the brand.

Mr. Moser said they hadn't considered it but it could pose a problem with the brand book.

Senator Flakoll asked about chicken branding. What was the procedure?

Mr. Moser read the section, it would make a good research project to see why it was ever included in law. (meter #2747)

Chairman Flakoll closed the hearing on SB 2209.

Senator Klein said he thinks the bill is an attempt to clean up a few issues.

Senator Urlacher said he has no objection to the bill. He thinks it is a very serious bill because it deals with ownership. He thinks the North Dakota Stockmen's Association is doing a very good job and uses common sense.

Senator Seymour hopes the system will become more automated.

Senator Urlacher hopes the states will become more consistent with each other.

Senator Nichols likes the 10 year recording period. He understands the problem with the brand book and brand availability.

It was moved by Senator Klein, seconded by Senator Seymour and passed on a roll call vote that the Senate Agriculture Committee take a Do Pass action on SB 2209. Voting yes were Senator Flakoll, Senator Erbele, Senator Klein, Senator Urlacher, Senator Nichols and Senator Seymour. No negative votes were cast. Senator Nichols will carry the bill to the floor.

Chairman Flakoll moved on to other business of the Senate Agriculture Committee.

Date: 1/24/03
Roll Call Vote #: 1

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2209

Senate Agriculture Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken Do Pass

Motion Made By Sen Klein Seconded By Sen Seymour

Senators	Yes	No	Senators	Yes	No
Senator Tim Flakoll, Chair	✓		Senator Ronald Nichols	✓	
Senator Robert S. Erbele, V. Chair	✓		Senator Tom Seymour	✓	
Senator Jerry Klein	✓				
Senator Herb Urlacher	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Sen Nichols

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
January 24, 2003 12:29 p.m.

Module No: SR-14-1049
Carrier: Nichols
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2209: Agriculture Committee (Sen. Flakoll, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2209 was placed on the Eleventh order on the calendar.

(2) DESK, (3) COMM

SR-14-1049

2003 HOUSE AGRICULTURE

SB 2209

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2209

House Agriculture Committee

☐ Conference Committee

Hearing Date 2--27--03

Tape Number	Side A	Side B	Meter #
ONE	A		00 TO 15.2
Committee Clerk Signature	Edward D Olson		

Minutes:

CHAIRMAN NICHOLAS: Committee members we will open the hearing on SB 2209.

WADE MOSER: Stockman's Association. I think the easiest thing to do is go down the Bill section by section. There are changes be made in the Bill. There has been rewording in the Bill. Several years have gone by since they made any changes so apparently they are making there dramatically changes or what ever they call it. The first section of the bill has got two changes. The first one is on line 18 page one and what this dose it allows the chief brand inspector to do. Please {{{{Read Bill and sections}}}} as to changes. Line 18 second page line one

Should not record a brand that has been recorded in another state. What the intent is that we are running into problems with people from outside North Dakota, mainly Nebraska, Montana are coming in and they may have a brand recorded in Montana. They want the identical brand recorded in North Dakota. We think that is not hood policy. A lot of it is animal health reasons.

It seems like where ever that animal is that is the origin. If we run into a health problem and it is traced back and it has a North Dakota brand on it, all of a sudden it is a North Dakota problem we can have our status jerked by the Feds. And we run into problems. The other thing is just moving those cattle. We want to make sure that the origin is defined. We will record a brand from Montana but it is going to be a unique brand. We will record a brand for the person from Montana but it won't be the identical brand. The only other change to this section is on page two, line five. Section three of the bill ties in with the section I talked about the out of state'ers recording the brand. That is on line 22 and line 23 where he may cancel a recorded brand if is determined that that brand has been recorded in another state. In the next two sections it may be a little confusing because the wording is identical except the dates are different. We are proposing that we are changing the recording period from the ten year period to a five year period. Section four leaves the language in for the ten year period which expires in the year 2006. The very last part of the bill we have expiration dates and effective dates and they refer to these sections. Section five is the language that will go into effect starting January 2006 where we will then have a five year recording period. Section six has language changes. It takes out 10 years because we are looking at a five year recording period. In section seven is the fee change. We are looking at look at changing the fees from fifteen dollars to twenty five dollars. Wade did a hand out as to some comparisons as to where we are at and where other states and provinces are at that have brands. You can see where we sit in the mix of things. The bottom line is why we want a raise in fees is we cannot run on fifteen dollars. Over all cost make it prohibitive with the fifteen dollar fee. We are still cheaper then other states. We think we can do the program for twenty five. Section eight talks about

penalties. Section nine of the bill where we have to have a witness on a bill of sale. On section ten and eleven are compatible in fact that we have never had a penalty for false proof of ownership or alter an official document. The next section has to do with what we call open market status section twelve. We have open markets. Brand inspection is done at every market in North Dakota plus markets in markets in South Dakota. We have inspection in markets in Montana also. We will have inspectors at these open markets. This will eliminate a lot of paper work. Section thirteen is a provision that will set up a rule for these markets that I have been talking about. The next several sections all have to do with the estray law. An estray is an animal whose ownership is not determined. Unknown at the time. There are many procedures, you can notify our office or our chief brand inspector or sheriff. The sheriff will notify us. They have a procedure to dispose of it, we have a procedure what we want is one procedure. Section eighteen deals with reimbursement. Section is a clean up section. Section 22 the horses and mules are included in that definition of estray. Brand inspection covers horses, mules and cattle. In section twenty three we do not pay interest on money that is setting in a account. It is in there lap to prove ownership. Section 24 repeals two sections. Sections 36-09-03 and 36-13-03. Section sets the new effective date on July 1, 2006.

CHAIRMAN NICHOLAS: Any additional testimony?

REPRESENTATIVE UGLEM: Bufflow, are they branded. Aren't there enough out there and should'ent they be branded.

WAD MOSER. Bufflow are not required to be branded.

REPRESENTATIVE KINGSBURY: Are other states adopting these same rules.

WADE MOSER: Most of he states do not do this.

CHAIRMAN NICHOLAS. Any additional testimony on SB 2209.

COMMITTEE TOOK ACTION ON SB 2209.

REPRESENTATIVE WRANGHAM MOVED FOR A DO PASS

REPRESENTATIVE KREDIT SECONDED THE MOTION.

THE ROLL WAS TAKEN.

THERE WERE 11 YES 0 NO 2 ABSENT

REPRESENTATIVE UGLEM CARRIED THE BILL.

SB 2209
2-27-03

Date:
Roll Call Vote #:

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO.

House AGRICULTURE COMMITTEE

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken DO PASS

Motion Made By Wrangham Seconded By Kreidt

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN NICHOLAS	✓				
VICE CHAIRMAN POLLERT	✓				
REPRESENTATIVE BELTER	✓				
REPRESENTATIVE BOEHNING	✓				
REPRESENTATIVE KELSCH	✓				
REPRESENTATIVE KINGSBURY	✓				
REPRESENTATIVE KREIDT	✓				
REPRESENTATIVE UGLEM	✓				
REPRESENTATIVE WRANGHAM	✓				
REPRESENTATIVE BOE	✓				
REPRESENTATIVE FROELICH					
REPRESENTATIVE MELLER					
REPRESENTATAIVE ONSTAD	✓				

Total (Yes) 11 No 0

Absent 2

Floor Assignment Uglem

REPORT OF STANDING COMMITTEE (410)
February 27, 2003 12:22 p.m.

Module No: HR-35-3577
Carrier: Uglem
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2209: Agriculture Committee (Rep. Nicholas, Chairman) recommends **DO PASS** (11 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). SB 2209 was placed on the Fourteenth order on the calendar.

(2) DESK, (3) COMM

HR-35-3577

2003 TESTIMONY

SB 2209

State	New Brand	Renewal	Transfer Brand	Length	Brand Book
Alberta	$220.00	$0.00	$25.00	Lifetime	$35.00
Arizona	$75.00	$50.00	$35.00	5 years	none
British Columbia	$107.00	$70.00	$80.00	4 years	none
California	$50.00	$50.00	$50.00	2 years	$50.00
Colorado	$25.00	$125.00	$25.00	5 years	$30.00
Idaho	$50.00 +	$50.00	$25.00	5 years	$24.00
Kansas	$45.00	$45.00	$15 00	5 years	$40.00
Montana	$100.00	$100.00	$100.00	10 years	none
Nebraska	$25.00	$25.00	$25.00	4 years	$33.00
Nevada	$100.00	$100.00	$100.00	4 years	$30.00
New Mexico	$50.00	$50.00	$50.00	3 years	$50.00
North Dakota	$15.00	$15.00	$15.00	10 years	$15.00
Oregon	$60.00	$35.00	$25.00	2 years	$30.00
Saskatchewan	$25.00	$25.00	$25.00	4 years	$40.00
South Dakota	$55.00	$50.00	$25.00	5 years	$30.00
Utah	$50.00	$30.00	$30.00	5 years	$25.00
Wyoming	$100.00	$80.00	$50.00	10 years	$27.00
Averages	**$68.00**	**$53.00**	**$41.00**	**5 years**	**$27.00**