

**1999 SENATE AGRICULTURE**

**SB 2048**

1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2048

Senate Agriculture Committee

Conference Committee

Hearing Date 1/15/99

Tape Number	Side A	Side B	Meter #
1	X		0-END
Committee Clerk Signature <i>Cecilia Jorgensen</i>			

Minutes:

Senator Wanzek called the meeting to order. Roll call was taken, Senator Kinnoin was absent.

Senator Wanzek opened the hearing on SB 2187.

Senator Solberg, sponsor of the bill, explained it. He stated that in the case against the North Dakota Stockmen's Association basically says that the way the NDSA was doing the brand inspections and brand recordings via the authority of the century code all funds had to be deposited into the State Treasury of the state of North Dakota. So that basically is what the bill pertains to. He also commented on SB 2048 stating that the only differences in the bills is the last sentence in section 7 on SB 2187, it was added after conferring with the council of the North Dakota Stockmen's Association and Attorney General's Office. He stated that section 7 was basically the "meat" of the bill. It states that all funds collected by the Stockmen's Association will be deposited in the Treasurer's office. He mentioned that there was also a Repealer that

repeals the section of law that says all moneys for estray cattle must be deposited in a separate account.

Senator Sand: Are the employees of this group going to be part of the state program or are they going to part of a separate program?

Senator Solberg: No, they will stay as they are now, which is employees of the NDSA.

Senator Wanzek: It seems awkward that two bills should be so similar. Are you saying that SB 2187 is more specific than SB 2048.

Senator Solberg: Yes they are generally the same except for that one sentence.

Senator Bowman, sponsor of the bill, also spoke in favor of the bill. He agreed with everything Senator Solberg had said but also mentioned that when they met with Kathy Gilmore, the State Treasurer, she said she is willing to do the work.

Vonette Richter spoke to explain SB 2048. Testimony enclosed.

Senator Wanzek: Did the Supreme Court ruling on this case present problems for other entities in other areas as well?

Richter: I'm not sure if that was addressed in the opinion but I know that the attorney generals office reaches that issue when they presented the testimony before the committee.

Senator Wanzek: Are you aware of how they are addressing the situation?

Richter: I'm not sure.

Senator Klein: How do we handle this, do we just with draw it?

Richter: I think that's right, I think it can just be killed on the floor.

Wade Moser from the NDSA spoke in support of SB 2187. He also recommended that SB 2048 not be passed. Clarified certain things in the bill so people would know why they were done.

Section 1 Line 10- crosses out “commissioner who will get you registered feedlot numbers”, they are not taking away any authority from the commissioner of agriculture. The repealer was a recommendation, that there was no need to have two separate accounts.

Senator Mathern: Why did all this take place, the lawsuit?

Moser: I can only tell you my side but basically because there were some hard feelings that just escalated to this.

Senator Urlacher: Was there any effort to package a bill that would correct all these problems together?

Moser: Yes there was but it got to be too long and it was confusing, people didn't know what category they fell into.

Wayne Carlson from the ND Department of Agriculture gave testimony. Testimony enclosed.

Jack Chase from the NDSA spoke in support of SB 2187. He made the comment that ND has the simplest, most efficient brand inspection program around and it should be kept that way.

Larry Schuler, State Veterinarian, spoke in support of SB 2187. Testimony enclosed.

Larry Schnell from the ND Livestock Marketing Association spoke in support of SB 2187. Said he agreed with Jack Chase that the brand inspection program is one of the best and that it would be a shame to encumber it.

Ken Halvorson, sheriff of Montrail County, spoke in support of SB 2187. Said the guys for the NDSA were all very trustworthy men.

Senator Wanzek asked Wade Moser to come back to the podium for more questions.

Senator Wanzek: On pg. 3 line 25, there might be some question about that sentence and the ramifications of that.

Moser: We do not place a statute of limitations on a claim. There was, however, a suggestion that there be a limit of six years.

Senator Wanzek: Would you still have the authority to distribute the claim after six years?

Moser: Yes.

Senator Wanzek: The Stockman's Association would not be offended if we try to clarify that?

Moser: No.

Senator Wanzek closed the hearing on SB 2187 and SB 2048.

Discussion was held. Senator Klein made the motion for a Do Not Pass on SB 2048. Senator Mathern seconded. Motion was carried.

ROLL CALL VOTE: 6 yes, 0 no, 1 absent and not voting.

CARRIER: Senator Mathern

**FISCAL NOTE**

(Return original and 10 copies)

Bill/Resolution No.: SB 2048 Amendment to: \_\_\_\_\_

Requested by Legislative Council Date of Request: December 10, 1998

1. Please estimate the fiscal impact (in dollar amounts) of the above measure for state general or special funds, counties, cities, and school districts.

**Narrative:** The bill will create a special fund to which feed lot registration fees, brand recording and inspection fees and estray inspections are remitted regularly to the state treasure for deposit to the North Dakota Stockmen's Association fund. The Stockman's Association has developed this budget projection.

This bill will not impact the Department of Agriculture. The Board of Animal Health which is part of the Department will maintain its role as the agency that will set fee rates and adopt rules to insure compliance with this law.

2. **State** fiscal effect in dollar amounts: SEE ADDENDUM

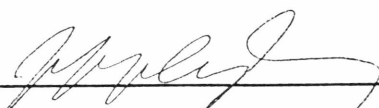
	1997-99 Biennium		1999-2001 Biennium		2001-03 Biennium	
	General Fund	Special Funds	General Fund	Special Funds	General Fund	Special Funds
Revenues:		324,870		1,800,000		1,800,000
Expenditures:		324,870		1,800,000		1,800,000

3. What, if any, is the effect of this measure on the appropriation for your agency or department:
  - a. For rest of 1997-99 biennium: 0
  - b. For the 1999-2001 biennium: 0
  - c. For the 2001-03 biennium: 0

4. **County, City, and School District** fiscal effect in dollar amounts:

1997-99 Biennium			1999-2001 Biennium			2001-03 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
0	0	0	0	0	0	0	0	0

If additional space is needed, attach a supplemental sheet.

Signed 

Typed Name JEFF WEISPFENNING

Date Prepared: 12-24-1998

Department AGRICULTURE

Phone Number 328-2231

ADDENDUM FOR FISCAL NOTE ON SB 2048

	1997-99 BIENNIUM	1999-2001BIENNIUM	2001-03 BIENNIUM
BRAND RECORDING	9,000.00	50,000.00	50,000.00
INSPECTION FEES	288,870.00	1,600,000.00	1,600,000.00
ESTRAY FUNDS	27,000.00	150,000.00	150,000.00
TOTAL	324,870.00	1,800,000.00	1,800,000.00

Date: 4/15/99  
Roll Call Vote #: 21

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. SB 2048

Senate Agriculture Committee

Subcommittee on \_\_\_\_\_  
or  
 Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Not Pass

Motion Made By Klein Seconded By Matheru

Senators	Yes	No	Senators	Yes	No
Senator Wanzek	✓				
Senator Klein	✓				
Senator Sand	✓				
Senator Urlacher	✓				
Senator Kinnoin					
Senator Kroeplin	✓				
Senator Mathern	✓				

Total (Yes) 6 No 0

Absent Senator Kinnoin

Floor Assignment Senator Mathern

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



REPORT OF STANDING COMMITTEE (410)  
January 21, 1999 12:17 p.m.

Module No: SR-13-0969  
Carrier: D. Mathern  
Insert LC: . Title: .

**REPORT OF STANDING COMMITTEE**

**SB 2048: Agriculture Committee (Sen. Wanzek, Chairman) recommends DO NOT PASS**  
(6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2048 was placed on the  
Eleventh order on the calendar.

1999 TESTIMONY  
SB 2048

VONETTE KICHTAU

***Billey v. North Dakota Stockmen's Association - Recommendation***

The committee received testimony regarding the North Dakota Supreme Court decision *Billey v. North Dakota Stockmen's Association*, 579 N.W.2d 171 (N.D. 1998), in which the court declared unconstitutional those portions of North Dakota Century Code Sections 36-09-18 and 36-22-03 which direct payment of fees into the general fund of the North Dakota Stockmen's Association. The issue before the court in *Billey* was whether four types of fees the Stockmen's Association collected and retained were "public moneys" required by Article X, Section 12 of the Constitution of North Dakota to be deposited with the state treasurer and be paid out only pursuant to appropriation. North Dakota Century Code Sections 36-09-18 and 36-22-03 specifically authorized the Stockmen's Association to collect these fees and to deposit them in the general fund of the Stockmen's Association. The court concluded that the Stockmen's Association acts as an agent of the state when performing brand inspection and recording services and the fees generated from those services are public moneys under the Constitution. The supreme court affirmed the decision of the district court and held that the order is stayed until the end of the 1999 legislative session.

The committee recommended S.B. 2048 which provides that fees collected for certain services of the North Dakota Stockmen's Association must be remitted to the state treasurer for deposit in the North Dakota Stockmen's Association fund. The bill draft further provides that the moneys in the fund are to be appropriated on a continuing basis to the North Dakota Stockmen's Association.

**Testimony of Wayne R. Carlson  
Livestock Services Coordinator  
North Dakota Department of Agriculture  
Senate Bill 2187 and 2048  
January 15, 1999  
Agriculture Committee  
Roosevelt Room**

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Chairman Wanzek and Committee members, for the record, my name is Wayne R. Carlson, I am the Livestock Services Coordinator.

The protection provided by the brand law is important to North Dakota cattlemen. Any disruption of the service provided by the Stockmen's Association may create hardships for some producers. We ask that the committee and the Legislative Assembly take appropriate measures to correct what the Supreme Court has ruled unconstitutional. The Department of Agriculture will be ready to assist in any way to help correct the problem at hand.

Thank you.

If any questions, I would be glad to answer them.