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Senate BILL NO. 399
Boyle

INTRODUCED BY _____

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE REMOVAL OF WHOLESALE AND RETAIL MILK PRICE CONTROL FROM THE MONTANA MILK CONTROL ACT WHILE RETAINING FLEXIBLE PRICE CONTROL FOR PRODUCERS ONLY; AMENDING SECTIONS 27-401, 27-403 THROUGH 27-405, 27-407 THROUGH 27-411, 27-413, 27-414.2, 27-415 THROUGH 27-417, 27-420 THROUGH 27-422, 27-424, 27-426, 27-428, 27-429, R.C.M. 1947; REPEALING SECTIONS 27-414, 27-414.1 AND 27-418, R.C.M. 1947."

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

Section 1. Section 27-401, R.C.M. 1947, is amended to read as follows:

"27-401. Declaration of policy relating to milk. It is hereby declared:

(a) That milk is a necessary article of food for human consumption;

(b) That the production and maintenance of an adequate supply of healthful milk of proper chemical and physical content, free from contamination, is vital to the public health and welfare;

(c) That the production, transportation, ~~processing,~~ ~~storage,~~ ~~distribution~~ and sale of milk, in the state of

1 Montana, is an industry affecting the public health and
2 interest;

3 (d) That unfair, unjust, destructive and demoralizing
4 trade practices have been and are now being carried on in
5 the production, transportation, ~~processing,~~ ~~storage,~~
6 ~~distribution,~~ and sale of milk, ~~and--products--manufactured~~
7 ~~therefrom,~~ which trade practices constitute a constant
8 menace to the health and welfare of the inhabitants of this
9 state and tend to undermine the sanitary regulations and
10 standards of content and purity of milk;

11 (e) That health regulations alone are insufficient to
12 prevent disturbances in the milk industry and to safeguard
13 the consuming public from further inadequacy of a supply of
14 this necessary commodity;

15 (f) That it is the policy of this state to promote,
16 foster and encourage the intelligent production and orderly
17 marketing of milk and cream ~~and--products--manufactured~~
18 ~~therefrom;~~ to eliminate speculation and waste, and to make
19 the distribution thereof between the producer and consumer
20 as direct as can be efficiently and economically done, and
21 to stabilize the marketing of such commodities;

22 (g) That investigations have revealed and experience
23 has shown that, due to the nature of milk and the conditions
24 surrounding the production and marketing of milk, and due to
25 the vital importance of milk to the health and well-being of

1 the citizens of this state, it is necessary to invoke the
 2 police powers of the state to provide a constant supervision
 3 and regulation of the milk industry of the state to prevent
 4 the occurrence and recurrence of those unfair, unjust,
 5 destructive, demoralizing and chaotic conditions and trade
 6 practices within the industry, which have in the past
 7 affected the industry and which constantly threatened to be
 8 revived within the industry and to disrupt or destroy an
 9 adequate supply of pure and wholesome milk to the consuming
 10 public and to the citizens of this state;

11 (h) That milk is a perishable commodity, which is
 12 easily contaminated with harmful bacteria, which cannot be
 13 stored for any great length of time, which must be produced
 14 and distributed fresh daily, and the supply of which cannot
 15 be regulated from day to day, but, due to natural and
 16 seasonal conditions, must be produced on a constantly
 17 uniform and even basis;

18 (i) That the demand for this perishable commodity
 19 fluctuates from day to day and from time to time making it
 20 necessary that ~~the producers and-distributors~~ shall produce
 21 ~~and-carry-on-hand~~ a surplus of milk in order to guarantee
 22 and insure to the consuming public an adequate supply at all
 23 times, which surplus must of necessity be converted into
 24 by-products of milk at great expense and oftentimes at a loss
 25 to the producer ~~and-distributor~~;

1 (j) That this surplus of milk, though necessary and
 2 unavoidable, unless regulated, tends to undermine and
 3 destroy the milk industry, which causes producers to relax
 4 their diligence in complying with the provisions of the
 5 health authorities and oftentimes to produce milk of an
 6 inferior and unsanitary quality;

7 (k) That investigation and experience have further
 8 shown that, due to the nature of milk and the conditions
 9 surrounding its production and marketing, unless the
 10 ~~producers, distributors, and others engaged in the marketing~~
 11 of milk are guaranteed and insured a reasonable profit on
 12 milk, both the supply and quality of milk are affected to
 13 the detriment of, and against the best interest of the
 14 citizens of this state whose health and well-being are
 15 thereby vitally affected;

16 (l) That, where no supervision and regulation are
 17 provided for the orderly and profitable marketing of milk,
 18 past experience has shown that the credit status of ~~both~~
 19 ~~producers and-distributors~~ of milk is adversely affected to
 20 a serious degree thereby entailing loss and hardship upon
 21 all within the community with whom these producers ~~and~~
 22 ~~distributors~~ carry on business relations;

23 (m) That, due to the nature of milk and the conditions
 24 surrounding its production ~~and-distribution~~, the natural law
 25 of supply and demand has been found inadequate to protect

1 the industry in this and other states, and in the public
2 interest it is necessary to provide state supervision and
3 regulation of the milk industry in this state.

4 (n) That the majority of milk marketed at wholesale
5 and retail within this state is sold by multistate chain
6 creameries and supermarkets or milk distributors and stable
7 cooperatives of significant size so that control of
8 wholesale and retail prices is no longer necessary to assure
9 an adequate supply of pure, wholesome milk and such control
10 of wholesale and retail prices actually tends to further or
11 encourage the concentration of marketing power in the hands
12 of a few, to the economic detriment of consumers."

13 Section 2. Section 27-403, R.C.M. 1947, is amended to
14 read as follows:

15 "27-403. Definitions. As used in this act, unless the
16 context otherwise requires, "board" means the state agency
17 created by this act, to be known as the Montana-milk-control
18 board of milk control.

19 "Department" means the department of business
20 regulation.

21 "Division" means the division of milk control.

22 "Person" means any person, firm, corporation or
23 co-operative association.

24 "Producer" means any person who produces milk for
25 consumption within the state, selling same to a distributor.

1 "Distributor" means any person purchasing milk from any
2 source, either in bulk or in packages, and distributing same
3 for consumption within the state. Said term includes what
4 are commonly known as jobbers and independent contractors.
5 Said term, however, excludes all persons purchasing milk
6 from a dealer licensed under this act, for resale over the
7 counter at retail, or for consumption on the premises.

8 "Producer-distributor" means any person both producing
9 and distributing milk for consumption within the state.

10 "Retailer" means any person selling milk in bulk or in
11 packages over the counter at retail, or for consumption on
12 the premises, and includes, but is not limited to, retail
13 stores of all types, restaurants, boarding-houses,
14 fraternities, sororities, confectionaries, public and
15 private schools, including colleges and universities, and
16 both public and private institutions and instrumentalities
17 of all types and description.

18 "Dealer" means any producer, distributor,
19 producer-distributor, jobber or independent contractor.

20 "Licensee" means any person who holds a license from
21 the board.

22 "Association" means any organized group of dealers in a
23 community or marketing area which has been constituted under
24 regulations satisfactory to the board.

25 "Market" means any area of the state designated by the

board as a natural marketing area.

"Consumer" means any person or any agency, other than a dealer, who purchases milk for consumption or use.

"Producer prices" means those prices at which milk owned by a producer is sold in bulk to a distributor.

~~"Wholesale prices" means those prices at which milk owned by a distributor is sold, in bulk or in packages, to a retailer.~~

~~"Jobber prices" means those prices at which milk owned by a distributor is sold, in bulk or in packages, to a jobber or independent contractor.~~

~~"Retail prices" means those prices at which milk owned by a retailer is sold, in bulk or in packages, over the counter at retail, or for consumption on the premises.~~

"Milk" means the lacteal secretion of a dairy animal or animals, including such secretions when raw and when cooled, pasteurized, standardized, or homogenized, recombined, concentrated fresh or otherwise processed and all of which is designated as grade A by a duly constituted health authority, and also includes such secretions which are in any manner rendered sterile or aseptic, notwithstanding whether they are regulated by any health authority of this or any other state or nation.

Class I milk shall include all milk ultimately bottled or packaged milk, as whole, low fat, buttermilk, chocolate

milk, whipping cream, commercial cream, half and half, skim milk, fortified skim milk, skim milk flavored drinks, and any other fluid milk not specifically classified in this act, whether raw, pasteurized, homogenized, sterile or aseptic.

Class II milk shall include milk ultimately used in the manufacture of ice cream and ice cream mix, ice milk, sherbet, eggnog, cultured sour cream, cottage cheese, condensed milk, and powdered skim for human consumption.

Class III milk shall include milk ultimately used in the manufacture of butter, cheddar cheese, process cheese, livestock feed, powdered skim other than for human consumption, and skim milk dumped.

The board shall have power and authority to assign milk products hereafter developed to the class which in its discretion it determines to be proper."

Section 3. Section 27-404, R.C.M. 1947, is amended to read as follows:

~~"27-404. Milk control board~~ Board of milk control.
There is hereby constituted a ~~milk control~~ board of milk control to consist of five (5) members, who shall be appointed by the governor, consistent with section 82A-112.
~~with the consent of the senate, for terms of office as herein provided, and with the following qualifications:~~ No appointee shall be connected in any way with the production,

1 processing, distribution, or wholesale or retail sale of
 2 milk or dairy products in any manner whatsoever; no
 3 appointee shall have held elective or appointive public
 4 office during the period of two years immediately preceding
 5 his appointment and no appointee shall hold any other public
 6 office, either elective or appointive, during his term of
 7 office as a member of the ~~milk-control~~ board of milk
 8 control; and not more than three (3) members of the said
 9 ~~milk-control~~ board of milk control shall, at the time of
 10 appointment or thereafter during their respective terms of
 11 office, be members of the same political party or residents
 12 of the same congressional district.

13 ~~The members of said milk control board shall be~~
 14 ~~appointed within thirty (30) days after passage and approval~~
 15 ~~of this act. The term of office of one member shall expire~~
 16 ~~on July 1, 1960; the term of office of one member shall~~
 17 ~~expire on July 1, 1961; the term of office of one member~~
 18 ~~shall expire on July 1, 1962; the term of office of one~~
 19 ~~member shall expire on July 1, 1963; the term of office of~~
 20 ~~one member shall expire on July 1, 1964; and each succeeding~~
 21 ~~member shall hold his office for a term of five (5) years~~
 22 ~~and until his successor shall have been appointed and~~
 23 ~~qualified. Any vacancy shall be filled by appointment by the~~
 24 ~~governor, with the consent of the senate as hereinbefore~~
 25 ~~provided, for the unexpired term.~~

1 Consumer members of the existing milk control board at
 2 the time of the passage of this act may be reappointed by
 3 the governor at his discretion. ~~for any of the terms~~
 4 ~~above mentioned and persons whom he shall appoint for those~~
 5 ~~initial terms expiring in 1960, 1961, and 1962 shall be~~
 6 ~~eligible for reappointment to full five-year terms on the~~
 7 ~~board; provided, however, that after 1962 no member other~~
 8 ~~than one who is appointed to fill a vacancy shall be~~
 9 ~~appointed to succeed himself on said board.~~

10 ~~Three (3) members of the board shall constitute a~~
 11 ~~quorum for the regular transaction of business.~~

12 The board shall choose one (1) of its own members as
 13 the chairman, who shall hold office as chairman for one
 14 year; provided, election as chairman shall not interfere
 15 with that member's right to vote on all matters before the
 16 board.

17 Each member of the board shall receive twenty-five
 18 dollars (\$25.00) per diem for each day actually spent in the
 19 performance of his official duties, plus his actual
 20 necessary traveling and other expenses in going to,
 21 attending and returning from meetings of the board and his
 22 actual and necessary traveling and other expenses incurred
 23 in the discharge of such duties as may be requested of him
 24 by a majority vote of the board, is entitled to compensation
 25 consistent with section 82A-112(e), but in no event shall a

1 member's per diem payments exceed fifteen hundred dollars
2 ~~(\$1500.00)~~ (\$1500) in any one year.

3 The board may employ necessary assistants and appoint
4 agents and instrumentalities but all expenditure under this
5 act shall be paid from the receipts hereunder.

6 ~~The board shall have the power and it shall be its duty~~
7 ~~to designate an executive secretary who shall serve under~~
8 ~~the direction and at the pleasure of the board and who~~ The
9 division administrator shall have charge of the
10 administration of the board's orders, rules, and
11 regulations, and who shall also serve as financial officer
12 of the board and who shall be authorized to accept or
13 receive money paid or to be paid to the board, either as
14 license fees or fines as provided by this act.

15 Meetings of the board shall be had at least every sixty
16 (60) days at the call of the chairman or a majority of the
17 board. The salary of the secretary is to be fixed by the
18 board and the state board of examiners. ~~The board shall so~~
19 ~~enforce the act that there shall be no discrimination~~
20 ~~against any dealer or consumer."~~

21 Section 4. Section 27-405, R.C.M. 1947, is amended to
22 read as follows:

23 "27-405. General powers of the ~~milk control board~~
24 department of business regulation. (1) The ~~board~~ department
25 is hereby vested with the powers, and it shall be its duty

1 to supervise, regulate and control the milk industry of the
2 state of Montana, including the production, transportation,
3 ~~processing, storage, distribution~~ and sale of milk in the
4 state of Montana for consumption within the state, providing
5 however, that nothing contained in this act shall be
6 construed to abrogate or affect the status, force or
7 operation of any provision of public health laws or the law
8 under which the ~~Montana livestock sanitary~~ board of
9 livestock is constituted together with the ~~Montana livestock~~
10 ~~sanitary~~ board of livestock regulations or county board of
11 health regulations, or municipal ordinances for the
12 promotion or protection of the public health, but the ~~board~~
13 department shall have the power to co-operate with the state
14 board of health and environmental sciences, the ~~Montana~~
15 ~~livestock sanitary~~ board of livestock or any county or city
16 board of health or the state department of agriculture and
17 industry in enforcing the provisions of this act.

18 (2) The ~~board~~ department shall have the power and it
19 shall be its duty to investigate all matters pertaining to
20 the production, transportation, ~~processing, storage,~~
21 ~~distribution~~ and sale of milk in the state of Montana and to
22 conduct hearings upon any subject pertinent to the
23 administration of this act. The ~~board~~ department shall have
24 the power to subpoena milk dealers, their records, books and
25 accounts, and any other person from whom information may be

1 desired or deemed necessary to carry out the purposes and
 2 intent of this act, and may issue commissions to take
 3 depositions of witnesses who are sick or absent from the
 4 state or who cannot otherwise appear in person before the
 5 ~~milk-control-board~~ department at its offices in the state
 6 capitol, provided at least ten (10) days notice is given to
 7 the proposed witness.

8 (3) It shall be the duty of any sheriff of any county
 9 of the state, when requested to do so by the board
 10 department, to execute any summons, citations or notice
 11 which the board department may cause to be issued, for which
 12 such sheriff shall be authorized to charge the same fee
 13 against the funds provided for the ~~milk--control~~ board of
 14 milk control as he might lawfully charge for the same
 15 service of such a document if issued from any district court
 16 of the state of Montana. Any person, other than a dealer who
 17 is cited for violation of the provisions of this act, or
 18 cited to show cause why his license should not be revoked,
 19 shall receive for his attendance before the ~~milk--control~~
 20 board department or its duly designated agent the same
 21 compensation as is provided for a witness subpoenaed to
 22 appear before the district court, which shall be charged
 23 against the funds provided for the operation of the ~~milk~~
 24 ~~control~~ board.

25 (4) Any duly designated agent of the board department

1 may administer oath to witnesses, may call and give notice
 2 of price hearings when the board department is not in
 3 session and may conduct hearings or investigations and any
 4 such duly designated agent of the board department may sign
 5 and issue subpoenas requiring witnesses to appear before him
 6 or the board department, and in addition to the manner
 7 provided above for the execution of subpoenas, summons and
 8 citations issued by the ~~milk-control-board~~ department to
 9 witnesses or dealers, the board department, through its
 10 designated agent shall have the power to serve said
 11 subpoenas, summons or citations upon any person by sending a
 12 copy of such subpoena, summons or citation, through the
 13 United States mail, postage prepaid, which said mail shall
 14 be registered with return receipt attached and such service
 15 shall be complete when said registered mail shall be
 16 delivered to said person and such receipt returned to the
 17 board department or its designated agent, signed by the
 18 person sought to be summoned, subpoenaed, or cited.
 19 Obedience to a subpoena, summons or citation, issued by the
 20 board department or any person authorized and designated by
 21 the board department to issue said subpoena, summons or
 22 citation, may be enforced by application to any judge of the
 23 district court of the county in which such subpoena, summons
 24 or citation was issued or to any judge of the district court
 25 of the county in which such person subpoenaed, summoned or

1 cited resides and said court shall order compliance with
 2 said subpoena, summons or citation and upon failure of the
 3 witness to attend, to testify, or to produce such books or
 4 papers or records as the board department may have
 5 commanded, such witness may be punished for contempt of
 6 court as for failure to obey a subpoena issued by or to
 7 testify in a case pending before said court.

8 ~~(5) The board may act as mediator or arbitrator to~~
 9 ~~settle any controversy or issue pertaining to milk among or~~
 10 ~~between producers, distributors, producer-distributors~~
 11 ~~and/or consumers.~~

12 The operation and effect of any provisions of this act,
 13 conferring a general power upon the milk control board of
 14 milk control, shall not impair or limit any specific power
 15 or powers granted to the milk control board of milk control
 16 by this act.

17 The board shall so enforce the act that there shall be
 18 no discrimination against any dealer or consumer."

19 Section 5. Section 27-407, R.C.M. 1947, is amended to
 20 read as follows:

21 "27-407. Establishment of minimum prices. The board
 22 shall fix minimum producer, ~~wholesale, jobber, and retail~~
 23 prices for class I milk, and ~~minimum producer prices only~~
 24 ~~for~~ class II and class III milk in all areas of the state,
 25 by adopting rules in a manner prescribed by the Montana

1 Administrative Procedure Act.

2 The board shall establish such prices by means of a
 3 flexible formula or formulas which shall be devised so that
 4 it or they bring about such automatic changes in all minimum
 5 prices as are justified on the basis of changes in
 6 production ~~costs--and--supply,--processing--and--distribution~~
 7 ~~costs,--and--retailing--costs.~~

8 The board shall consider the balance between production
 9 and consumption of milk, the costs of production and
 10 distribution, and producer prices in adjacent and
 11 neighboring areas and states, so that minimum prices which
 12 are fair and equitable to producers, ~~distributors, jobbers,~~
 13 ~~retailers,~~ and consumers may result.

14 The board shall, when publishing notice of proposed
 15 rule making under authority of this section, set forth the
 16 specific factors which shall be taken into consideration in
 17 establishing the formulas and in particular in determining
 18 costs of production ~~and--distribution~~ and of the actual
 19 dollars and cents costs of production ~~and--distribution~~ which
 20 preliminary studies and investigations of auditors or
 21 accountants in its employment indicate will or should be
 22 shown at the hearing, so that all interested parties will
 23 have opportunity to be heard and to question or rebut such
 24 considerations as a matter of record.

25 Such specific factors may include, but shall not be

1 limited to, the following items:

2 (1) Current and prospective supplies of milk in
3 relation to current and prospective demands for such milk
4 for all purposes;

5 ~~{2}--The--ability--and--willingness--of--consumers---to~~
6 ~~purchase, which shall include among other things, per capita~~
7 ~~disposable--income--statistics,--consumer-price-indices, and~~
8 ~~wholesale-price-indices;~~

9 ~~{3}~~ (2) The cost factors in producing milk, which shall
10 include among other things the prices paid by farmers
11 generally (as used in parity calculations of the United
12 States Department of Agriculture), prices paid by farmers
13 for dairy feed in particular and farm wage rates in this
14 state;

15 ~~{4}~~ (3) The alternative opportunities, both farm and
16 nonfarm, open to milk producers, which shall include among
17 other things, prices received by farmers for all products
18 other than milk, prices received by farmers for beef cattle,
19 and the percentage of unemployment in the state and nation
20 as determined by appropriate state and federal agencies;

21 ~~{5}~~ (4) The prices of butter-nonfat dry milk, and
22 cheese;

23 ~~{6}--The-cost-factors-in-distributing-milk, which shall~~
24 ~~include among other things the prices paid--by--distributors~~
25 ~~for--equipment--of--all-types-required-to-process-and-market~~

1 ~~milk-and-prevailing-wage-rates-in-this-state,~~

2 ~~{7}--The-cost-factors--in--jobbing--milk,--which--shall~~
3 ~~include among other things raw product and ingredient costs,~~
4 ~~carton--or--other--packaging--cost, processing cost and that~~
5 ~~part--of--general--administrative--costs--of--the--supplying~~
6 ~~distributor--which may properly be allocated to the handling~~
7 ~~of milk to the point at which such milk is at the--supplying~~
8 ~~distributor's--dock,--equipment--of--all--types--required-to~~
9 ~~market-milk-and-prevailing-wage-rates-in-the-state;~~

10 ~~{8}~~ (5) The need, if any, for freight or transportation
11 charges to be deducted by distributors from producer prices
12 for bulk milk;

13 ~~{9}~~ (6) A reasonable return on necessary investment to
14 all ordinarily efficient and economical milk ~~dealers~~
15 producers.

16 If the board at any time proposes to base all or any
17 part of any official order establishing or revising any milk
18 pricing formulas upon facts within its own knowledge, as
19 distinguished from evidence which may be presented to it by
20 the consuming public or the milk industry, the board shall,
21 when publishing notice of proposed rule making under
22 authority of this section, cause notice to be given to the
23 consuming public and the milk industry of the specific facts
24 within its own knowledge which it will consider, so that all
25 interested parties will have opportunity to be heard and to

1 question or rebut such facts as a matter of record.

2 The board, after consideration of the evidence produced
3 shall make written findings and conclusions and shall fix by
4 official rule:

5 ~~(a) The the formula or formulas~~ whereby minimum
6 producer prices for milk in classes I, II, and III shall be
7 computed.

8 ~~(b) The formula whereby minimum wholesale prices for~~
9 ~~milk in class I shall be computed.~~

10 ~~(c) The formula whereby minimum jobber prices for milk~~
11 ~~in class I shall be computed.~~

12 ~~(d) The formula whereby minimum retail prices for milk~~
13 ~~in class I shall be computed.~~

14 This section shall not be construed as requiring the
15 board to promulgate any specific number of formulas, but
16 shall be construed liberally so that the board may adopt any
17 reasonable method of expression to accomplish the objective
18 set forth in ~~(a), (b), (c), and (d)~~ above. ~~If the evidence~~
19 ~~presented to the board at any public hearing for the~~
20 ~~establishment or revision of milk pricing formulas is found~~
21 ~~by the board to require the establishment of separate and~~
22 ~~varying wholesale prices for any particular uses, the board~~
23 ~~shall designate the reasons therefor and establish such~~
24 ~~separate formulas.~~

25 ~~Each rule establishing or revising any milk pricing~~

1 ~~formulas shall classify milk by forms, classes, grades or~~
2 ~~uses as the board may deem advisable and shall specify the~~
3 ~~minimum prices therefor.~~ Prices resulting from the
4 application of the formula or formulas shall apply and be
5 enforceable regardless whether the milk is ultimately sold
6 out of state or on federal enclaves.

7 No distributor who owns a dairy farm may give the milk
8 from that dairy farm a use classification which exceeds the
9 use classification accorded other producers supplying such
10 distributor.

11 The milk produced in one natural marketing area and
12 sold in another natural marketing area shall be paid for by
13 a distributor or dealer in accordance with the pricing order
14 of the area where produced at the price therein specified of
15 the class or use in which it is ultimately used or sold.

16 No allowance for freight, other than freight for
17 transportation of milk from the farm to plant, shall be
18 charged to a producer by a distributor or dealer unless it
19 is found and ordered by the board, after notice and hearing
20 in the manner hereinbefore specified, that such an
21 additional freight allowance is necessary to permit the
22 movement of milk in the public interest.

23 All milk purchased within a natural marketing area by a
24 distributor shall be purchased on a uniform basis. The basis
25 to be used shall be established by the board after the

1 producers and the distributors of the area have been
2 consulted.

3 The board may amend any official rule in the same
4 manner provided herein for the original establishment of
5 milk pricing formulas; provided, further, the board may in
6 its discretion, when it determines the need exists, notice
7 and hold state-wide public hearings affecting establishment
8 or revision of milk pricing formulas in all market areas of
9 the state.

10 Upon petition of a distributor or a majority of his
11 producers, the board shall hold a hearing to receive and
12 consider evidence regarding the advisability and need for a
13 base or quota plan as a method of payment by that
14 distributor of producer prices; and if the board finds that
15 the evidence adduced at such hearing warrants the
16 establishment of a base or quota plan, the board shall
17 proceed by official order to establish the same.

18 Upon petition by any producer, producer-distributor or
19 distributor in any marketing area, the board shall hold a
20 hearing to receive and consider evidence regarding the
21 advisability and need for an area-wide or state-wide pooling
22 arrangement as a method of payment of producer prices,
23 provided that at such hearing the board shall among other
24 things specifically receive and consider evidence concerning
25 production and marketing practices which have historically

1 prevailed in the area concerned or state-wide, as the case
2 may be; and if the board finds that the evidence adduced at
3 such hearing warrants the establishment of such an area-wide
4 or state-wide pooling arrangement, the board shall proceed
5 by official order to establish the same, but such official
6 order shall be of no force or effect until it is approved in
7 a referendum conducted by the board among affected
8 producers, ~~producer-distributors, and distributors.~~

9 The requirements hereinabove set forth concerning
10 notices of hearings for the establishment of milk pricing
11 formulas shall apply to any hearings regarding base or quota
12 plans or area-wide or state-wide pooling arrangements, or
13 abandonment thereof."

14 Section 6. Section 27-408, R.C.M. 1947, is amended to
15 read as follows:

16 "27-408. Licenses to producers, producer-distributors,
17 distributors and jobbers. In any market, where the
18 provisions of this act apply, it shall be unlawful for any
19 producer, producer-distributor, distributor, import
20 distributor or import jobber to produce, transport, process,
21 store, handle, distribute, buy or sell milk unless such
22 dealer be duly licensed as provided by this act. It shall be
23 unlawful for any such person to buy, sell, handle, process,
24 or distribute milk which he knows or has reason to believe
25 has been previously dealt with or handled in violation of

1 any provision of this act. The ~~board~~ department may decline
2 to grant a license, or may suspend or revoke a license
3 already granted, upon due cause and after hearings."

4 Section 7. Section 27-409, R.C.M. 1947, is amended to
5 read as follows:

6 "27-409. Licenses -- disposition of income. No
7 producer, producer-distributor, or distributor ~~or jobber~~
8 shall engage in the business of producing or selling milk
9 subject to this act in this state without first having
10 obtained a license from the department of livestock, animal
11 health division or, in the case of milk entering this state
12 from another state or foreign nation, without complying with
13 the requirements of the Montana Food, Drug and Cosmetic Act,
14 and without being licensed under this act by the ~~department~~
15 ~~of--business--regulation~~ board of milk control. The ~~annual~~
16 fee for such license from the ~~department--of--business~~
17 ~~regulation~~ board of milk control shall be ~~two five~~ two ~~dollars~~
18 ~~{2} (\$5), shall be due and payable on or before--the--first~~
19 ~~day--of--July,~~ and shall be deposited by ~~said department~~ the
20 board to the credit of the general fund.

21 In addition to such annual license fee, the department
22 shall, in each year, on or before the first day of April,
23 for the purpose of securing funds to administer and enforce
24 this act, levy an assessment upon producers, and
25 ~~producer-distributors,--and-distributors-as-follows:~~

1 ~~{a}--A fee per hundredweight on the total volume of all~~
2 ~~milk--subject--to--this--act--produced--and--sold--by--a~~
3 ~~producer-distributor.~~

4 ~~{b}--A fee per hundredweight on the total volume of all~~
5 ~~milk--subject--to--this--act--sold--by--a--producer.~~

6 ~~{c}--A fee per hundredweight on the total volume of all~~
7 ~~milk--subject--to--this--act--sold--by--a--distributor,--excepting~~
8 ~~that--which--is--sold--to--another--distributor.~~

9 ~~The department shall adopt rules fixing the--amount--of~~
10 ~~each--fee.--The--amounts--may--not--exceed--levels--sufficient--to~~
11 ~~provide--for--the--administration--of--this--act.--The--fee--assessed~~
12 ~~on--a--producer--or--on--a--distributor--may--not--be--more--than~~
13 ~~one-half--(1/2)--the--fee--assessed--on--a--producer--distributor; a~~
14 ~~fee of not more than ten cents (10¢) per hundredweight on~~
15 ~~the total volume of all milk subject to this act produced~~
16 ~~and sold by a producer, an out-of-state distributor and/or~~
17 ~~import jobber.~~

18 Said assessment upon ~~producer-distributors,~~ producers,
19 and out-of-state distributors and import jobbers shall be
20 paid quarterly on or before the fifteenth [15th] day of
21 July, October, January and April of each year, and the
22 amount of such assessment shall be computed by applying the
23 fee designated by the department to the volume of milk sold
24 in the calendar quarter immediately preceding.

25 Failure of any producer, ~~producer-distributor,--or~~

1 out-of-state distributor or import jobber to pay said
 2 assessment when due shall constitute violation of this act
 3 and his license under this act shall thereupon automatically
 4 terminate and be null and void and of no effect.
 5 Reinstatement of a license so terminated shall be affected
 6 by payment of a delinquency fee equal to thirty per cent
 7 (30%) of the assessment which was due.

8 All assessments hereinbefore required to be paid shall
 9 be deposited by the department of business regulation in the
 10 earmarked revenue fund; and all costs of administering this
 11 act, including the salaries of employees and assistants, per
 12 diem and expenses of board members, and all other
 13 disbursements necessary to carry out the purpose of this
 14 act, shall be paid out of department of business regulation
 15 moneys in such fund.

16 The department may, if it finds the costs of
 17 administering and enforcing this act can be derived from
 18 lower rates, amend its rules to fix the rates at a less
 19 amount on or before the first day of April in any year."

20 Section 8. Section 27-410, R.C.M. 1947, is amended to
 21 read as follows:

22 "27-410. Application for licenses. An applicant for
 23 license to operate as a producer, ~~producer-distributor,~~
 24 ~~distributor,--or--jobber~~ import distributor or import jobber
 25 shall file a signed application upon a blank prepared under

1 authority of the board, and an applicant shall state such
 2 facts concerning his circumstances and the nature of the
 3 business to be conducted as in the opinion of the board are
 4 necessary for the administration of this act. Such
 5 application shall certify the applicant to be the holder of
 6 all licenses required by the ~~Montana--livestock--sanitary~~
 7 board of livestock for the conduct of his business or, in
 8 the case of milk entering this state from another state or
 9 foreign nation, compliance with the requirements of the
 10 Montana Food, Drug and Cosmetic Act, and such application
 11 shall be accompanied by the license fee required to be
 12 paid."

13 Section 9. Section 27-411, R.C.M. 1947, is amended to
 14 read as follows:

15 "27-411. Declining, suspending and revoking licenses
 16 -- penalties in lieu of suspension or revocation. (1) The
 17 board may decline to grant a license or may suspend or
 18 revoke a license already granted for due cause upon due
 19 notice and after hearing. The violation of any provisions
 20 of this act or of any lawful order or regulation of the
 21 board, the failure or refusal to make required statements or
 22 reports, and aggravated delinquency in the payment of
 23 license or assessment fees, or any of them, shall be deemed
 24 causes for which the board may, at its discretion, suspend
 25 or revoke a license, ~~provided that no license shall be fully~~

58399

1 ~~revoked except upon the approval of a majority of all~~
 2 ~~members of the board.~~

3 (2) In lieu of a suspension or revocation of a license
 4 the board may assess a civil penalty not to exceed five
 5 hundred dollars (\$500) per day for each daily failure to
 6 comply with or each daily violation of the provisions of
 7 this act or of any lawful order or regulation of the board;
 8 and if the person against whom such civil penalty is
 9 assessed fails or refuses to pay such civil penalty
 10 forthwith, the board department is empowered and directed to
 11 collect such civil penalty by a civil proceeding in the
 12 district court of the first judicial district. Such civil
 13 penalties shall be construed as civil and not criminal in
 14 nature. Any moneys received by the board as a result of
 15 collection of civil penalties shall be paid into the state
 16 general fund."

17 Section 10. Section 27-413, R.C.M. 1947, is amended to
 18 read as follows:

19 "27-413. Rules and orders. The board and the
 20 department may adopt and enforce all rules and all orders
 21 necessary to carry out the provisions of this act. Every
 22 rule or order shall be posted for public inspection in the
 23 main office of the board for thirty (30) days, and a copy
 24 filed in the office of the board department, also a copy
 25 sent by registered letter to the secretary ~~of each area~~ of

1 state, excepting an order, directed only to a person or
 2 persons named therein, which shall be served by personal
 3 delivery of a copy, or by mailing a copy, in the United
 4 States mails, with postage prepaid and properly addressed to
 5 each person to whom such order is directed, or, in the case
 6 of a corporation, to any officer or agent of the corporation
 7 upon whom a summons may be served in accordance with the
 8 provisions of the statutes of Montana. Such posting, in the
 9 main office of the board department, of any rule and of any
 10 order, not required to be served as above provided, and such
 11 filing in the office of the board department shall
 12 constitute due and sufficient notice to all persons affected
 13 by such a rule or order. A rule or order when duly posted
 14 and filed or served, as provided in this act, shall have the
 15 force and effect of law."

16 Section 11. Authority to conduct butterfat tests. In
 17 order to assure that producers licensed hereunder receive
 18 the proper prices for their milk, the board is hereby
 19 authorized and empowered to establish and conduct a
 20 butterfat testing program and its representatives and agents
 21 shall have the power and authority to enter upon the
 22 premises of all licensees at all reasonable times in order
 23 to take milk samples; provided, however, this power shall
 24 not modify, alter, amend or in any way infringe upon the
 25 power and duties of the department of livestock or its

1 successor to test milk for sanitation purposes.

2 Section 12. Section 27-414.2, R.C.M. 1947, is amended
3 to read as follows:

4 "27-414.2. Financing prohibitions -- producer and
5 retailer. ~~No producer, producer-distributor, distributor, or~~
6 ~~jobber--licensed--under--this--act--shall--hereafter--advance--or~~
7 ~~loan--money--or--credit--to,--or--furnish--money--or--credit--for,--or~~
8 ~~refinance--or--cosign--or--guarantee--promissory--notes,--security~~
9 ~~agreements,--conditional--sales--contracts--or--other--commercial~~
10 ~~paper--for--or--on--behalf--of--any--retailer,--and--no--producer,~~
11 ~~producer-distributor,--distributor,--or--jobber--shall--be~~
12 ~~financially--interested,--either--directly--or--indirectly,--in~~
13 ~~the--conduct--or--operation--of--the--business--of--a--retailer,--and~~
14 ~~no~~ No producer-distributor, distributor, or jobber licensed
15 under this act shall hereafter advance or loan money or
16 credit to, or furnish money or credit for, or refinance or
17 cosign or guarantee promissory notes, security agreements,
18 conditional sales contracts or other commercial paper for or
19 on behalf of any producer, and no ~~producer-distributor,~~
20 ~~distributor, or jobber~~ shall be financially interested,
21 either directly or indirectly, in the conduct or operation
22 of the business of a producer; provided, however this
23 section shall not be construed so as to prohibit any
24 producer from belonging to, participating in, or patronizing
25 a co-operative corporation or a producer, or

1 producer-distributor, ~~--distributor, or jobber~~ from operating
2 his own wholly-owned dairy products or other retail store or
3 home-delivery retail routes.

4 This section is not to be construed to prohibit a
5 producer from requesting and a distributor from granting an
6 advance payment for milk prior to the regular date of
7 payment therefor or to limit in any way the right of a
8 producer to assign part or all of moneys which are or may
9 become due to him from a distributor."

10 Section 13. Section 27-415, R.C.M. 1947, is amended to
11 read as follows:

12 "27-415. Entry, inspection and investigation. The
13 board department, or any person designated for that purpose
14 by the board department, shall have access to, and may
15 enter, at all reasonable hours, all places where milk is
16 produced, processed, bottled, handled or stored, or where
17 the books, papers, records, or documents relative to such
18 transactions are kept and shall have the power to inspect
19 and copy the same in any place within the state, and may
20 administer oath, and take testimony for the purpose of
21 ascertaining facts, which, in the judgment of the board, are
22 necessary to administer this act."

23 Section 14. Section 27-416, R.C.M. 1947, is amended to
24 read as follows:

25 "27-416. Reports of dealers -- accounting system --

1 records. The board department shall have the power to
 2 require all distributors and other persons holding licenses
 3 under it to file with the board department such reports at
 4 such reasonable or regular time as the board department may
 5 require, showing such person's production, sale, or
 6 distribution of milk, and any information deemed by the
 7 board department necessary which pertains to the production,
 8 sale or distribution of such milk, either under oath or
 9 otherwise, as the board department may direct, and failure
 10 or refusal to file such reports when directed to do so by
 11 the board department or its duly designated agent shall
 12 constitute grounds for the revocation of such person's
 13 license and shall constitute a violation for which such
 14 person may be fined as hereinafter provided, one or both, at
 15 the discretion of the board department.

16 The board department shall adopt a uniform system of
 17 accounting to be used by the distributor to account for the
 18 usage of all milk received by the distributor.

19 Every distributor and producer-distributor shall keep
 20 the following records:

21 (a) A record of all milk, cream or dairy products
 22 received, detailed as to location, names and addresses of
 23 suppliers, prices paid, and deductions or charges made, and
 24 the use to which such milk or cream was put.

25 (b) A record of the quantity of each kind of milk or

1 dairy product manufactured and the quantity and price of
 2 milk or dairy products sold.

3 (c) A full and complete record of all milk, cream or
 4 dairy products sold, classified as to kind and grade,
 5 showing where sold, and the amount received therefor.

6 (d) A record of the wastage or loss of milk or dairy
 7 products.

8 (e) A record of the items of handling expense.

9 (f) A record of all refrigeration facilities rented or
 10 sold for storage purposes to any person, showing types and
 11 sizes of the same, the location of said facilities, and the
 12 original, or duplicate original, of all agreements covering
 13 rental charges therefor.

14 (g) A record of all conditional sales of equipment or
 15 other property, the location of said property, and the
 16 original, or duplicate original, of all conditional sales
 17 contracts pertaining thereto.

18 (h) A record of all moneys loaned to wholesale
 19 customers, the terms and conditions of said loans, and the
 20 original evidence of the indebtedness based on said loans.

21 (i) Such other records as the board department may
 22 deem necessary for the proper enforcement of the act."

23 Section 15. Section 27-417, R.C.M. 1947, is amended to
 24 read as follows:

25 "27-417. Disposition of fines. All fines assessed in

1 any court for violation of the provisions of this act shall
2 be paid over by the court to the ~~milk--control-board~~
3 department or its properly designated agent.

4 All fines received by the ~~board~~ department shall be
5 deposited with the state treasurer and shall be placed by
6 him in the earmarked revenue fund. All such fines assessed
7 for violations of this act, are hereby earmarked for the
8 purposes of this act."

9 Section 16. Section 27-420, R.C.M. 1947, is amended to
10 read as follows:

11 "27-420. Hearings -- fees. Each officer, other than an
12 employee of the ~~board~~ department, who serves any subpoena of
13 the ~~board~~ department, shall receive the fees legally
14 provided for such service and each witness who appears in
15 obedience to a subpoena, before the ~~board~~ department or a
16 member or its agent, shall receive for his attendance the
17 fees and mileage provided for witnesses in civil cases in
18 district courts, which fees shall be audited and paid in the
19 same manner as other expenses are audited and paid upon the
20 presentation of proper vouchers, approved by the board.

21 No witnesses subpoenaed at the instance of a party
22 other than the board, or one of its members, or its agent,
23 shall be entitled to compensation unless the board shall
24 certify that his or her testimony was material to the matter
25 investigated."

1 Section 17. Section 27-421, R.C.M. 1947, is amended to
2 read as follows:

3 "27-421. Co-operation with other governmental
4 agencies. In order to secure a uniform system of milk
5 control, the ~~board~~ department is hereby vested with power,
6 and it shall be its duty to confer and co-operate with the
7 legally constituted authorities of other states and of the
8 United States, including the secretary of agriculture of the
9 United States, and, for the foregoing purposes, the ~~board~~
10 department shall have the power to conduct joint hearings,
11 issue joint or concurrent orders and exercise all its powers
12 under this act."

13 Section 18. Section 27-422, R.C.M. 1947, is amended to
14 read as follows:

15 "27-422. Violations made misdemeanors -- penalties.
16 (a) Any person, required by this act to be licensed, who
17 shall produce, sell, distribute, or handle milk in any way,
18 except as a consumer, without first having obtained a
19 license, as required of him by this act, shall be deemed
20 guilty of a misdemeanor, and, upon conviction thereof, shall
21 be punished by a fine not exceeding six hundred dollars
22 ~~(\$600.00)~~ (\$600). Each day's violation of this provision
23 shall constitute a separate offense. A violation of any
24 provision of this act or of any lawful rule or order of the
25 ~~board~~ department, including a failure to answer subpoena or

1 to testify before the board department, shall be deemed a
 2 misdemeanor punishable by a fine not exceeding six hundred
 3 dollars ~~(\$600.00)~~ (\$600), and each day during which such
 4 violation shall continue shall be deemed a separate
 5 violation.

6 (b) The district courts shall have original
 7 jurisdiction in all criminal actions for violations of the
 8 provisions of this act, and in all civil actions for the
 9 recovery or enforcement of fines, provided for in this act,
 10 and all such actions, both criminal and civil, shall be
 11 instituted, prosecuted and tried in the district court.

12 (c) It shall be the duty of the county attorneys and
 13 deputy county attorneys, in their respective counties,
 14 diligently to attend all inquisitions held under the
 15 provisions of this act and diligently to prosecute all
 16 violations of the laws of the state relating to the
 17 provisions of this act."

18 Section 19. Section 27-424, R.C.M. 1947, is amended to
 19 read as follows:

20 "27-424. Additional remedies. The board department or
 21 its authorized agent may institute such action at law or in
 22 equity as may appear necessary to enforce compliance with
 23 any provision of this act or to enforce compliance with any
 24 order, rule or regulation, of the board department pursuant
 25 to the provisions of this act or to obtain a judicial

1 interpretation of any of the foregoing, and in addition to
 2 any other remedy, the board department after-unanimous
 3 ~~consent-of-all-members--of--the--board~~, may apply to the
 4 district court of the district wherein the action arises,
 5 for relief by injunction, mandamus or any other appropriate
 6 remedy in equity without being compelled to allege or prove
 7 that an adequate remedy at law does not otherwise exist, nor
 8 shall the board department be required to give or post bond
 9 in any action to which it is a party whether upon appeal or
 10 otherwise. All legal actions may be brought by or against
 11 the board in the name of the ~~Montana-milk-control~~ board of
 12 milk control and it shall not be necessary in any action to
 13 which the board is a party that such action be brought by or
 14 against the state of Montana on relation of the ~~Montana-milk~~
 15 ~~control~~ board of milk control. The board or department shall
 16 have the power to institute action by its own attorney or
 17 counselor, but it shall have the right, if it deems
 18 advisable, to call upon any county attorney to represent it
 19 in the district court, of the county in which the action is
 20 taken, or the attorney general to represent it on appeal to
 21 the supreme court of Montana, or it may associate its own
 22 counselor with either in any court."

23 Section 20. Section 27-426, R.C.M. 1947, is amended to
 24 read as follows:

25 "27-426. Bonds required of distributors -- amounts --

1 forms and conditions. Every distributor before purchasing
 2 any milk from a producer shall execute and deliver to the
 3 milk control board a surety bond in the minimum sum of one
 4 thousand dollars (\$1,000), executed by the applicant as
 5 principal and by a surety company qualified and authorized
 6 to do business in this state as surety. Said bond shall be
 7 upon a form approved by the board department and shall be
 8 conditioned upon the payment in the manner required by this
 9 act, of all amounts due to producers for milk purchased by
 10 such licensee or applicant during the license year. Said
 11 bond shall be to the state in favor of every producer of
 12 milk. In case of failure by a distributor to pay any
 13 producer or producers for milk in the manner required by
 14 this act, the board department shall proceed forthwith to
 15 ascertain the names and addresses of all producer-creditors
 16 of such distributor, together with the amounts due and owing
 17 to them and each of them by such distributor, and shall
 18 request all such producer-creditors to file a verified
 19 statement of their respective claims with the board.
 20 Thereupon the board department shall bring an action on the
 21 bond on behalf of said producer-creditors. Upon any action
 22 being commenced upon said bond, the board department may
 23 require the filing of a new bond; and immediately upon a
 24 recovery in any action upon such bond, such distributor
 25 shall file a new bond; and upon failure to file same within

1 ten (10) days in either case, such failure shall constitute
 2 grounds for the revocation or suspension of the license of
 3 such distributor. In the event that recovery upon the bond
 4 is not sufficient to pay all of the claims as finally
 5 determined and adjudged by the court, any such amount
 6 recovered shall be divided pro rata among said
 7 producer-creditors.

8 The minimum bond of one thousand dollars (\$1,000) shall
 9 be required of distributors purchasing an average daily
 10 quantity of milk of less than one hundred gallons;
 11 distributors purchasing an average daily quantity of one
 12 hundred gallons and less than two hundred gallons during any
 13 calendar month during a license year shall post a bond in
 14 the amount of two thousand dollars (\$2,000); distributors
 15 purchasing an average daily quantity of two hundred gallons
 16 and less than three hundred gallons during any calendar
 17 month during a license year shall post a bond in the amount
 18 of three thousand dollars (\$3,000); distributors purchasing
 19 an average daily quantity of three hundred gallons or more
 20 during any calendar month during a license year shall post a
 21 bond in the sum of five thousand dollars (\$5,000).

22 In the event that any distributor so increases his
 23 purchases of milk during the license year that said
 24 purchases exceed the amount for which said distributor is
 25 bonded, said distributor shall forthwith post such

1 additional bond or bonds as may be required to comply with
2 the provisions of this section.

3 The ~~board~~ department is authorized to require any
4 distributor to furnish a bond or bonds in addition to those
5 specified above if, after notice and hearing and upon good
6 cause shown, it determines such additional bond or bonds are
7 required to assure payment of all amounts due or to become
8 due to producers.

9 Failure of any distributor who purchases milk from
10 producers to execute and deliver the bond as herein provided
11 and required shall constitute a violation of this act;
12 failure of any such distributor to post such additional bond
13 or bonds as may be required to comply with the provisions of
14 this act shall likewise constitute a violation of this act."

15 Section 21. Section 27-428, R.C.M. 1947, is amended to
16 read as follows:

17 "27-428. Judicial review of orders. Any person or
18 persons, jointly or severally, aggrieved by any decision or
19 order of the ~~milk--control~~ board or the department may
20 present to a court of record a petition, duly verified,
21 setting forth that such decision or order is illegal, in
22 whole or in part, specifying the grounds of the illegality.
23 Such petition shall be presented to the court within twenty
24 (20) days after the filing and posting of the decision or
25 order in the office of the board as required by section

1 27-413.

2 Upon presentation of such petition, the court may allow
3 a writ of certiorari directed to the board or department to
4 review such decision or order of the board or department and
5 shall prescribe therein the time within which a return
6 thereto must be made to the court and served upon the
7 relator's attorney, which shall not be less than ten (10)
8 days and may be extended by the court. The writ shall
9 command the board or department to certify fully to the
10 court, at a specified time and place, a transcript of the
11 record and proceedings, describing or referring to them with
12 convenient certainty; that the same may be reviewed by the
13 court, and may command the board or department to desist
14 from further proceedings in the matter to be reviewed.

15 The board or department shall not be required to return
16 the original papers acted upon by it, but it shall be
17 sufficient for the board or department to return certified
18 or sworn copies thereof, or of such portions thereof, as may
19 be called for by such writ.

20 If, upon the hearing, it shall appear to the court that
21 testimony is necessary for the proper disposition of the
22 matter, it may take evidence or appoint a referee to take
23 such evidence as it may direct and report the same to the
24 court with his findings of fact and conclusions of law,
25 which shall constitute a part of the proceedings upon which

1 the determination of the court shall be made.

2 When any such writ is granted, the cause shall have
3 precedence upon the calendar of the court, and judgment and
4 decree shall be entered therein as expeditiously as
5 possible. The court shall affirm, modify, or reverse the
6 decision or order of the board in accordance with law."

7 Section 22. Section 27-429, R.C.M. 1947, is amended to
8 read as follows:

9 "27-429. Service of process upon board. When any
10 petition or complaint is filed in any court naming the ~~milk~~
11 ~~control~~ board as a party, process may be served upon said
12 board by delivering to, and leaving with, the executive
13 secretary of said board, at his office, at the state
14 capitol, a true copy of the summons, writ, or order, as the
15 case may be, and a true copy of the complaint, petition, or
16 application upon which such summons, writ, or order was
17 based. In case of the absence of the executive secretary
18 from his office, the assistants, clerks, auditors,
19 accountants, or other personnel in his said office shall
20 accept and receipt for such service."

21 Section 23. Sections 27-414, 27-414.1 and 27-418,
22 R.C.M. 1947, are repealed.

23 Section 24. This act does not affect rights and duties
24 that matured, penalties that were incurred, or proceedings
25 that were begun before the effective date of this act.

1 Section 25. It is the intent of the Legislature that
2 if a part of this act is held invalid, all valid parts that
3 are severable from the invalid part remain in effect. If a
4 part of this act is invalid in one or more of its
5 applications, the part remains in effect in all valid
6 applications that are severable from the invalid
7 applications.

-End-