

1 H BILL NO. 262  
 2 INTRODUCED BY J. Anderson, Barbara Degeer, Manuel  
 3 Ellis, Edgerson, Larson

4 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A MONTANA  
 5 DAIRY MARKETING COMMITTEE; ESTABLISHING THE POWERS OF THE  
 6 COMMITTEE; AND IMPOSING A 1% ASSESSMENT ON CERTAIN SALES OF  
 7 MILK FOR PURPOSES OF ADMINISTERING THE ACT."

8  
 9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10 Section 1. Purpose. It is the public policy of this  
 11 state to protect and foster the health, prosperity, and  
 12 general welfare of its people by encouraging and promoting  
 13 intensive, scientific, and practical production and  
 14 marketing of fluid milk and dairy products, thereby also  
 15 contributing to the economy of the state through the  
 16 production of wealth, the stabilization of property values,  
 17 and the reliability of public revenues as a result of  
 18 enhanced bases of taxation.

19 Section 2. Definitions. As used in this act, unless  
 20 the context otherwise requires, the following definitions  
 21 apply:

22 (1) "Committee" means the Montana dairy marketing  
 23 committee provided for in the next section.

24 (2) "Producer" means a person who produces milk from  
 25 cows and sells it for human or animal food or for medicinal

1 or industrial uses.

2 (3) "Dealer" means a person who handles, ships, buys,  
 3 processes, and sells dairy products or who acts as sales  
 4 purchasing agent, broker, or factor of dairy products.

5 (4) "Producer-handler" means any person who produces  
 6 milk or milk fat and uses the production or any part of it  
 7 for processing or sale.

8 (5) "Ship" means to deliver or consign milk or cream  
 9 to a person dealing in processing, distributing, or  
 10 manufacturing dairy products for sale, for human or animal  
 11 consumption, or for industrial or medicinal uses.

12 (6) "Person" means and includes individuals,  
 13 corporations, partnerships, trusts, associations,  
 14 cooperatives, and any and all other business units, devices,  
 15 and arrangements.

16 Section 3. Appointment of committee -- duties --  
 17 composition -- districts -- nominees -- terms of office. (1)  
 18 The governor shall appoint the Montana dairy marketing  
 19 committee which shall be composed of five members, each of  
 20 whom is an adult citizen of Montana who is actively engaged  
 21 in producing milk and who has derived a substantial portion  
 22 of his income from the production of milk for a minimum  
 23 period of 5 years. One member of the committee shall be  
 24 appointed from each of the following districts and shall be  
 25 resident of and shall have milk producing facilities in the

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1 district from which appointed:

2 (a) District 1, consisting of the counties of  
3 Flathead, Lake, Lincoln, Sanders, Glacier, and Toole;

4 (b) District 2, consisting of the counties of  
5 Missoula, Ravalli, Mineral, Powell, Silver Bow, Granite, and  
6 Deer Lodge;

7 (c) District 3, consisting of the counties of Cascade,  
8 Lewis and Clark, Teton, Pondera, Liberty, Choteau, Judith  
9 Basin, Hill, Blaine, Phillips, Valley, Daniels, Sheridan,  
10 Fergus, Petroleum, and Roosevelt;

11 (d) District 4, consisting of the counties of  
12 Yellowstone, Sweet Grass, Stillwater, Carbon, Big Horn,  
13 Powder River, Carter, Fallon, Musselshell, Rosebud, Custer,  
14 Wibaux, Dawson, Richland, McCone, Garfield, Prairie, Golden  
15 Valley, and Treasure; and

16 (e) District 5, consisting of the counties of  
17 Gallatin, Park, Madison, Beaverhead, Jefferson, Broadwater,  
18 Meagher, and Wheatland.

19 (2) Committee members shall be appointed for a term of  
20 5 years, except that the terms of office of the committee  
21 members first appointed shall be as follows: district 1 for  
22 5 years; district 2 for 4 years; district 3 for 3 years;  
23 district 4 for 2 years; and district 5 for 1 year. Members  
24 appointed to fill unexpired terms shall be appointed for the  
25 remainder of the unexpired term. Any committee member who

1 discontinues producing milk in this state or who changes his  
2 residence to another district during his term of office  
3 shall forthwith cease to be a member of the committee.

4 (3) A list of nominees for appointment to the  
5 committee may be submitted to the governor by any Montana  
6 trade association, the membership of which is confined to  
7 milk producers, provided that such list shall be submitted  
8 at least 45 days prior to the effective date of this act and  
9 thereafter 45 days prior to the expiration of any member's  
10 term.

11 (4) The committee is allocated to the department of  
12 agriculture for administrative purposes only, as provided in  
13 82A-108.

14 Section 4. Compensation -- per diem. Members of the  
15 committee shall receive and be paid from the committee  
16 account a per diem of \$25 for each day they are actually and  
17 necessarily engaged in the transaction of official business,  
18 plus travel expenses as provided in 59-538, 59-539, and  
19 59-801.

20 Section 5. Election of committee officers -- time of  
21 meetings. At the first meeting and annually thereafter, the  
22 committee shall elect a chairman, vice-chairman, and  
23 secretary from among its members. The committee shall meet  
24 at least once every 3 months and at such other times as  
25 called by the chairman or a majority of the members of the

1 committee.

2 Section 6. Powers of the committee. (1) The committee  
3 may:

4 (a) adopt rules necessary for the administration of  
5 this act;

6 (b) provide, through the department, for the  
7 enforcement of this act;

8 (c) engage in dairy research, education, advertising,  
9 promotion, and publicity;

10 (d) attempt to find new markets for dairy products and  
11 their by-products;

12 (e) promulgate and publicize statistics and other  
13 reliable information showing the value of milk, cream, and  
14 dairy products for any purpose considered useful;

15 (f) encourage the widespread national and  
16 international use of dairy products and by-products produced  
17 in Montana;

18 (g) investigate and participate in studies of the  
19 problems peculiar to the dairy producers in Montana;

20 (h) enter into all contracts necessary or advisable in  
21 the furtherance of this act; sue and be sued; appoint and  
22 employ officers, agents, and other personnel, including  
23 experts in agriculture, dairying, and the publicizing of  
24 dairy products, and prescribe their duties and fix their  
25 compensation; make use of all advertising means and methods

1 as the committee considers advisable and enter into  
2 contracts and agreements for research and advertising within  
3 and without the state; lease, purchase, and own real or  
4 personal property necessary for the administration of this  
5 act; prosecute in the name of the state any suit or action  
6 for the collection of the assessment hereinafter provided;  
7 and

8 (i) accept grants, donations, and gifts from any  
9 source, to be expended for any or all purposes consistent  
10 with this act.

11 (2) The committee shall keep books and records and  
12 accounts of all its activities which shall be public  
13 records.

14 (3) None of the powers or duties provided in this act  
15 permit participation in state or federal political action by  
16 the committee.

17 Section 7. Assessments. (1) Beginning July 1, 1977,  
18 there is assessed upon the producer a levy of 1% of the  
19 gross dollar periodic settlements for the sale of all milk  
20 and cream produced in the state of Montana and sold or  
21 contracted for sale through commercial channels, which  
22 assessment shall be due on or before the time when the milk  
23 or cream is first sold or contracted for sale in commercial  
24 channels, and it shall be paid by the first purchaser or  
25 producer-handler to the department of agriculture not later

1 than the 25th day of the month next succeeding the month in  
2 which the milk or cream is sold or contracted for sale in  
3 commercial channels.

4 (2) If a purchaser or a producer-handler fails to  
5 remit any money so collected or fails to make deductions for  
6 assessments, a penalty of 20% shall be added to the amount  
7 of any assessments which are unpaid when due, and the  
8 penalty shall be paid by the purchaser or producer-handler.

9 (3) The assessment constitutes a lien prior to all  
10 other liens and encumbrances upon the milk or cream except  
11 liens which are given priority by a statute of this state.

12 (4) A producer may obtain a refund of assessments paid  
13 under this act for the prior calendar quarter upon  
14 submission of a written, verified request therefor to the  
15 committee. The request shall be filed with the committee on  
16 or before the close of the 40th day following the close of  
17 the calendar quarter and shall be accompanied by the  
18 original statements received by the producer from the  
19 purchaser at the times of settlement.

20 Section 8. Purchaser's statements. (1) The purchaser  
21 or the producer-handler at the time of each settlement shall  
22 make and deliver separate statements for each purchase to  
23 the producer, and these statements shall be delivered at the  
24 time of each monthly or bimonthly payment date.

25 (2) The statements shall be on forms and in such

1 numbers as prescribed and approved by the committee and  
2 shall show at least:

3 (a) the names and addresses of the producer and  
4 purchaser or producer-handler;

5 (b) the dollar value of the milk and cream sold;

6 (c) the amount of the assessment collected in  
7 accordance with this act; and

8 (d) the date of the purchase.

9 (3) The statements shall be legibly written or typed  
10 and shall be free of any corrections or erasures on the face  
11 thereof.

12 (4) Any person who shall alter any part of any  
13 statement shall be guilty of a misdemeanor and, upon  
14 conviction thereof, shall be punished as provided herein.

15 Section 9. Persons required to remit assessments --  
16 dairy products research and marketing account. (1) The  
17 assessment levied in this act shall be remitted by the first  
18 purchaser or producer-handler to the department of  
19 agriculture for deposit in the dairy products research and  
20 marketing account.

21 (2) The proceeds of all assessments, penalties, gifts,  
22 grants, and donations shall be deposited in the federal and  
23 private revenue fund for the use of the committee as  
24 provided in this act.

25 (3) The dairy products research and marketing

1 committee account shall be maintained for the purposes of  
 2 this act and shall be separate from all other accounts of  
 3 the department.

4 (4) The committee may be assessed costs by the  
 5 department only for those services requested by the  
 6 committee.

7 Section 10. Inspection of records. The committee  
 8 through its authorized agents may enter and inspect the  
 9 premises and records of any dealer or producer-handler for  
 10 the purpose of enforcing this act.

11 Section 11. Contracts for research, promotion, and  
 12 marketing. The committee may not set up research units or  
 13 agencies of its own but shall cooperate and may enter into  
 14 contracts with lawful and proper local, state, or national  
 15 organizations, public or private, in carrying out all phases  
 16 of research, education, promotion, advertising, and  
 17 marketing contemplated by this act.

18 Section 12. Violations -- penalty. Any person  
 19 violating any of the provisions of this act is guilty of a  
 20 misdemeanor and punishable by fine or imprisonment, or both,  
 21 as provided in 95-2206.3.

22 Section 13. Severability. If a part of this act is  
 23 invalid, all valid parts that are severable from the invalid  
 24 part remain in effect. If a part of this act is invalid in  
 25 one or more of its applications, the part remains in effect

1 in all valid applications that are severable from the  
 2 invalid applications.

-End-

## STATE OF MONTANA

REQUEST NO. 117-77

## FISCAL NOTE

Form BD-15

In compliance with a written request received January 20, 19 77, there is hereby submitted a Fiscal Note for House Bill 262 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly.

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

## DESCRIPTION OF PROPOSED LEGISLATION:

House Bill 262 will create the Montana Dairy Marketing Committee.

## ASSUMPTIONS:

1. Quantity of milk and cream subject to provisions of this bill will be basically stable through FY 79.
2. Price received by producers for milk and cream, subject to this bill, will rise approximately five (5) percent per year.
3. Total gross dollar revenue subject to the assessment will increase approximately five (5) percent per year.
4. Total gross dollar requested refunds are estimated at five (5) percent of gross revenue collected.
5. Number of dealers and producer-handlers will remain stable; 1977 - 40, 1978 - 40, 1979 - 40.
6. Committee business will require an average of five (5) meetings each year.
7. An administrator and a secretary will be hired by the committee.

## FISCAL IMPACT:

	<u>FY 78</u>	<u>FY 79</u>
Estimated collections under proposed legislation	<u>\$245,085</u>	<u>\$257,334</u>
Estimated additional expenditures:		
For operations		
Personal services	\$ 32,683	\$ 34,970
Operating expenses	21,280	21,280
Equipment	<u>4,825</u>	<u>0</u>
Total operating costs	58,788	56,250
Available for research and miscellaneous	<u>186,297</u>	<u>201,084</u>
	<u>\$245,085</u>	<u>\$257,334</u>

*Richard D. Deary for*  
BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1-26-77

Comm. on Agriculture recommend Bill do not pass  
as amended. Objection Raised to Adverse Committee  
Report.

HOUSE BILL NO. 262

INTRODUCED BY J. GUNDERSON, ROBBINS,

AAGESON, MANUEL, ELLIS, E. GUNDERSON, SEVERSON

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6 this act;

7 (b) provide, through the department, for the  
8 enforcement of this act;

9 (c) engage in dairy research, education, advertising,  
10 promotion, and publicity;

11 (d) attempt to find new markets for dairy products and  
12 their by-products;

13 (e) promulgate and publicize statistics and other  
14 reliable information showing the value of milk, cream, and  
15 dairy products for any purpose considered useful;

16 (f) encourage the widespread national and  
17 international use of dairy products and by-products produced  
18 in Montana;

19 (g) investigate and participate in studies of the  
20 problems peculiar to the dairy producers in Montana;

21 (h) enter into all contracts necessary or advisable in  
22 the furtherance of this act; sue and be sued; ~~appoint--and~~  
23 ~~employ--officers--agents--and--other--personnel--including~~  
24 ~~experts-in-agriculture--dairying--and--the--publicizing--of~~  
25 ~~dairy--products--and--prescribe--their--duties--and--fix--their~~

1 ~~compensation~~ make use of all advertising means and methods  
2 as the committee considers advisable and enter into  
3 contracts and agreements for research and advertising within  
4 and without the state; lease, purchase, and own real or  
5 personal property necessary for the administration of this  
6 act; prosecute in the name of the state any suit or action  
7 for the collection of the assessment hereinafter provided;  
8 and

9 (i) accept grants, donations, and gifts from any  
10 source, to be expended for any or all purposes consistent  
11 with this act.

12 (2) The committee shall keep books and records and  
13 accounts of all its activities which shall be public  
14 records.

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21 and cream produced in the state of Montana and sold or  
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23 assessment shall be due on or before the time when the milk  
24 or cream is first sold or contracted for sale in commercial  
25 channels, and it shall be paid by the first purchaser or

1 producer-handler to the department of agriculture not later  
 2 than the 25th day of the month next succeeding the month in  
 3 which the milk or cream is sold or contracted for sale in  
 4 commercial channels.

5 (2) If a purchaser or a producer-handler fails to  
 6 remit any money so collected or fails to make deductions for  
 7 assessments, a penalty of 20% shall be added to the amount  
 8 of any assessments which are unpaid when due, and the  
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 11 other liens and encumbrances upon the milk or cream except  
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-End-